

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
November 19, 2012**

A special meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on November 19, 2012. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Jim Bandura; John Braig; Larry Zarletti and Judy Juliana (Alternate #1). Andrea Rode (Alternate #2) was excused. Also in attendance were Mike Pollocoff, Village Administrator; Tom Shircel, Assistant Village Administrator; and Jean Werbie-Harris, Community Development Director.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CITIZEN COMMENTS.**

Tom Terwall:

If there's anybody wishing to comment on an item that appears on the agenda that's for public hearing we would ask that you hold your comments until the public hearing is held. However, if you're here for Items either A or D we would ask that you step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments?

- 4. OLD BUSINESS.**
  - A. Consider the Settlement Agreement between the Village of Pleasant Prairie and VIDHYA Corp, VIII, Inc. for the BP Amoco located at 10477 120th Avenue related to the remedial activities and conditions to correct the illicit discharges at the property.**
  - B. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE INCLUDING SITE AND OPERATIONAL PLANS for the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc. that would allow BP Amoco to operate the gasoline station and AM/PM convenience store and to expand the facility for the installation of a carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site located at 10477 120th Avenue.**
  - C. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc. to amend the BP-Amoco Planned Unit Development Ord. No. 01-32 to reflect the proposed new site conditions and business operations of the BP Amoco gasoline station and AM/PM convenience store located at 10477 120th Avenue.**
  - D. CONTINUED CONSIDERATION OF A REVOCATION OR SUSPENSION OF CONDITIONAL USE PERMIT #01-11 that was approved by the Village Plan**

**Commission on June 25, 2001 that allows BP Amoco to operate the gasoline station and convenience store located at 10477 120th Avenue. This matter specifically relates to the written complaint filed by the Village Zoning Administrator regarding BP Amoco's noncompliance with the terms of said Conditional Use Permit and their violation of Village Ordinance Section 420-145 G., as it relates to "standards for conditional uses" and specifically Section 420-38 D., Water Quality Protection performance standards.**

**5. NEW BUSINESS.**

**A. Consider approval of the Digital Security Imaging System Agreement and associated Access Easement for the BP Amoco gasoline station and AM/PM convenience store located at 10477 120th Avenue.**

Jean Werbie-Harris:

I'm not sure if this was tabled since the last meetings because it's been so long. So if we could just have a motion to bring all four of these items up just to make sure.

Michael Serpe:

So moved.

John Braig:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY JOHN BRAIG TO BRING ITEMS A THROUGH D FROM TABLED TO THE ACTIVE AGENDA. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, we have four items under Old Business and actually one under new business. The four items pertain to the settlement agreement between the Village of Pleasant Prairie and VIDHYA Corp., Inc. for the BP Amoco located at 10477 120<sup>th</sup>. This is related to the remedial activities and conditions to correct the illicit discharges on the property.

The second item, Item B, is a public hearing consideration of a conditional use including site and operational plans. Again, this is for the operation of the gasoline station and the AM/PM convenience store and to expand the facility for the installation of a carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site located at 10477 120<sup>th</sup> Avenue.

The third item is Item C which is also a public hearing and consideration of a zoning text amendment. And this is for a planned unit development to reflect the proposed new site conditions and business operations for that same BP Amoco gasoline station and AM/PM convenience store located at 10477 120<sup>th</sup> Avenue.

And D, the continued consideration of a revocation or suspension of the conditional use permit, and this was initiated due to noncompliance and outstanding violations.

Under new business, the item that we have on the agenda is the digital securing imaging system agreement and associated access easement. Again, this is a security system for the BP gasoline station and AM/PM convenience store.

As part of the public hearing comments and as part of the public hearing record this evening, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request. They're presented and described below and are included as part of the record this evening.

Under findings of fact:

1. The petitioner is requesting the following approvals for the BP Amoco gasoline and AM/PM convenience store located at 10477 120<sup>th</sup> Avenue, known as Lot 14 of CSM 1489 located in a part of U.S. Public Land Survey Section 30, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 92-4-122-302-0130. And as I read into the record, there are four different items:
  - a. Consider the Settlement Agreement between the Village of Pleasant Prairie and VIDHYA Corp, VIII, Inc. for the BP Amoco.
  - b. Conditional Use Permit including Site and Operational Plans that would allow BP Amoco to operate the gasoline station and AM/PM convenience store and to address the installation of a carbon treatment system that will treat the existing contaminated ground water from several reported hazard substance releases at the site located at the site.
  - c. Zoning Map Amendment to amend the BP Amoco Planned Unit Development Ordinance No. 01-32 to reflect the proposed new site conditions and business operations of the BP Amoco gasoline station.
  - d. Digital Security Imaging System Agreement and associated Access Easement for the BP Amoco gasoline station and the convenience store. Again, the property is located at 10477 120<sup>th</sup> Avenue.

2. VIDHYA Corp, Inc., known as Vidhya, is the current owner of a property located at 10477 120th Avenue, Pleasant Prairie Wisconsin with the following Tax Parcel number: 92-4-122-302-0130. The property contains the BP Amoco gasoline station #3789 and AM/PM convenience store to be referred to as the Station.
3. In June 1993, August 1993, December 22, 1998, September 1999, May 2006 and February 2001, separate hazardous substance releases, referred to as prior releases, at the property were reported to the Wisconsin Department of Natural Resources, known as the Wisconsin DNR, for which the DNR identified BP as the responsible party. The Wisconsin DNR closed the site with Geographic Information Service Registry on December 20, 2006. Refer to Exhibit A of Exhibit 1 for information regarding historical releases on the property.
4. On April 26, 2011, the Village of Pleasant Prairie reported to the Wisconsin DNR what it claimed was a hazardous substance release at the property. The Wisconsin DNR subsequently identified Vidhya as the RP or responsible party. In addition, on or about June 9, 2009, We Energies and the owner of an adjacent property reported a strong gassy smell and a possible spill in a ditch line area along the south side of Highway 165 adjacent to the property.
5. The station operates at the property under Conditional Use Permit #01-11, approved by the Village Plan Commission on June 25, 2001 known as the CU Permit.
6. On February 22, 2012, the Village issued a compliance order to Vidhya to eliminate the alleged illicit discharge at the property; cease and desist the alleged discharges, practices, or operations; and/or to abate or remediate the alleged stormwater pollution or contamination hazards and restore any affected property.
7. Vidhya is of the opinion that because the site is situated in clay, the pipeline and the utility trenches with granular backfill serve as a collection system for the multiple petroleum releases which occurred during BP's ownership. Some tests results have contained high concentrations of contaminants, including diesel range organics and benzene which may indicate a more recent discharge of petroleum products on the property which could be contributing to the alleged illicit discharge at the property.
8. From April, 2011 to November 5, 2012, several remedial activities have been conducted by Vidhya. See Exhibit A of Exhibit 1.
9. The Village has alleged that Vidhya has not met the order's required actions, and has issued several citations to Vidhya and is also alleging that Vidhya is noncompliant with the terms of the Conditional Use Permit due to illicit discharges or petroleum releases into the drainage ditch adjacent to the property that have occurred and continue to occur from the property, which also drain onto the adjacent property impacting the water quality and resulting in potentially both soil and water contamination.

The citations include potential fines totaling \$84,500. The Village has also threatened to suspend or revoke the Conditional Use Permit and use of the property as a gas station until or unless there is compliance with the standards, regulations and condition imposed with said permit. Even though the Village alleges that Vidhya has not met the order's

required actions, the Village stopped issuing citations as of July 22, 2012. A public hearing was held before the Village Plan Commission on August 10, 2012 and at that time evidence and testimony were submitted and the hearing was closed. The Plan Commission made no findings and did not act on the petition of the Village to revoke or suspend the Conditional Use Permit and has since adjourned the meeting to November 19, 2012.

10. Vidhya disputes that it is responsible for the releases at the property or for the environmental condition of the property. Nonetheless, Vidhya has spent approximately \$300,000 to date to address the releases and has agreed to take additional actions to further address the releases.
11. Illicit discharges at the property which violate Village ordinances continue, and Vidhya has agreed to perform remedial activities for stopping said illicit discharges from the property, and Vidhya further agrees to comply with all Village ordinances.
12. In return for Vidhya's agreement to complete and fulfill performance of certain remedial activities at the property to further address the releases, and to bring the property into compliance with Village ordinances, the Village has agreed to the terms of the Settlement Agreement and to allow the Conditional Use Permit, amended as provided below, to continue into effect.
13. In accordance with the Settlement Agreement, again provided as Exhibit 1, Vidhya and/or Vidhya's consultants or contractors on Vidhya's behalf, shall complete the following remedial activities, in accordance with applicable law:
  - a. By October 1, 2012, conduct interim remedial activities by installing a 21,000 gallon frac water holding tank, which was delivered September 17, 2012, for pump out and ground water level control of the underground storage tank field to eliminate from the north storm water ditch discharges of petroleum impacted ground water subject to reasonable permit issuance by the controlling governmental agencies. Pumping of the tank field started September 20, 2012;
  - b. Prepare and submit to the Village a written plan for sampling, and analytical testing of the storm water discharge, to include at a minimum PVOC, lead, naphalene and PAH analysis during the initial startup phase. See Exhibit B of Exhibit 1. Depending on the results of testing, additional parameters may be added or subtracted from the sampling regimen, reasonably acceptable to the Village, by November 16, 2012. In addition, the Village or its contractors shall be entitled to perform similar sampling and analytical testing, at Vidhya's expense, for purposes of confirmation of testing results and compliance monitoring;
  - c. Beginning on November 9, 2012, prepare a daily inspection log to be delivered to the Village Engineer weekly and complete daily inspections of the property, to include the storm water discharge culvert and the road ditch and weekly checks of the tank sumps. By November 26, 2012, Vidhya agrees that the liquid level in the diesel tank sumps and the gasoline tank sumps shall be maintained at a level

of eight feet or greater below the ground surface to the top of the water level in the sumps;

- d. Work with the Wisconsin DNR to prepare a Preliminary Site Investigation Plan based on the information and sampling results developed during implementation of the Remediation Plan which Site Investigation Plan will be completed and a copy delivered to the Village by November 16, 2012;
- e. By December 7, 2012, install ground water monitoring wells and soil probes pursuant to the Preliminary Site Investigation Plan;
- f. Prepare and submit to the Village a Preliminary Remediation Plan, reasonably acceptable to the Village, by November 16, 2012; said Remediation Plan to include testing and remediation in compliance with all local, state and federal laws, rules, regulations and ordinances, including without limitation, those contained in Chapter 292 of the Wisconsin Statutes;
- g. Contain any contaminated materials at the property, including but not limited to maintaining and replacing, as necessary, surface water skimmer booms and/or additional materials to capture any sheen in the road ditch area;
- h. By December 19, 2012, install a system of blocking/recovery wells near the storm water outfall and near the sanitary lateral. Also submit and obtain Village Erosion Control Permit and install a carbon treatment system on the property by January 18, 2013 to treat and control groundwater level in the tank field and construct a heated and insulated small structure that will prevent equipment from freezing. All parties acknowledge prior to construction of any recovery system Vidhya shall provide plans and elevations to the Village for Village review, and to obtain any necessary temporary or permanent amendments or changes to the Conditional Use Permit and the Planned Unit Development Ordinance affecting the property. Exhibit C of Exhibit 1 shows the location for the carbon treatment system for ground water treatment;
- i. Consult with the Wisconsin DNR and obtain Wisconsin DNR comments on the planned remedial activities;
- j. Replace the northerly outfall manhole by December 7, 2012 and to properly dispose of any contaminated soils that may have to be excavated during said storm sewer repairs or any future repairs;
- k. Re-sod and restore the property disturbed by implementation of remedial activities;
- l. Consent to the amendment of the Conditional Use Permit and the PUD Ordinance affecting the property, to provide that any violation of the terms of this Settlement Agreement will be a violation of the terms of the Conditional Use Permit, to authorize the construction of the carbon ground water treatment system and structure;

- m. Comply with the performance standards and reporting requirements of the Wisconsin DNR WPDES Permit and with Wisconsin DNR regulatory requirements for the investigation and remediation of any onsite and offsite discharges or releases incorporated herein by reference;
- n. Substantial completion and operation of all remedial activities shall take place on or before April 1, 2013, and final completion of all remedial activities shall take place on or before May 1, 2013 which is the compliance date;
- o. Vidhya agrees to pay all reasonable costs and expenses incurred by the Village arising out of, or relating to, the alleged illicit discharges at the property or the enforcement of this agreement, including without limitation, reasonable attorneys' fees, environmental consultant fees, fees for the Village Engineer and other Village staff, testing, sampling, and all similar costs. The Village estimates that its costs up to the September 27, 2012 date are approximately \$39,099.40 as shown in Exhibit E of Exhibit 1 attached hereto and incorporated by reference. Vidhya agrees to pay the amount of \$39,099.40 on or before December 31, 2012 and to pay any other invoices from the Village for such expenses within fourteen days following the date they have been notified by the Village in accordance with Paragraph 17 of the settlement agreement of amounts owed.
- p. The Village agrees not to issue any new citations regarding anything covered in this agreement, subject to the ability of the Village to issue new citations if Vidhya violates any terms or provisions of this agreement or Village ordinances after the date of this agreement, and allow the Conditional Use Permit, as amended, to continue in effect. Nothing contained in this agreement shall affect the rights of the parties regarding any citations and fines issued prior to the date of this agreement. All such existing citations and fines shall be the subject of the pending legal action in the Village Municipal Court.
- q. Vidhya shall apply for and obtain all local, state and federal permits that are required for Vidhya to undertake the remedial activities, including but not limited to the Wisconsin DOT Work-in-the-Right-Of-Way Permit and the Village erosion control permit collectively, the Remedial Activities Permits. All parties acknowledge that the Conditional Use Permit and PUD ordinance affecting the property will need to be amended to allow the construction of the carbon ground water treatment system and structure.
- r. The Village agrees to reasonably support and facilitate the review and approval of Vidhya's applications for the Remedial Activities Permits.
- s. Except as specifically set forth in the Settlement Agreement, Vidhya agrees to indemnify and to hold harmless the Village and all of its elected officials, officers, directors, employees, agents, shareholders, attorneys, subsidiaries, successors and assigns from any and all claims, causes of action, loss, costs, expense, damage, injury, obligation, liability, penalty, fine, suit, including without limitation attorney and consultant fees and expenses, of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related

to or arising out of the remedial activities and where founded upon or growing out of the acts or omissions of Vidhya.

- t. Except as specifically provided in the Settlement Agreement, there are no representations, covenants, warranties, promises, agreements, conditions, or undertakings, oral or written, between the Village and Vidhya, as to the subject matter hereof. Except as specifically provided in the Settlement Agreement, all Village ordinances apply to Vidhya and the property.
14. If Vidhya does not complete any of its obligations under the Settlement Agreement by the due date, which is referred to as the delayed completion, Vidhya agrees to pay liquidated damages to the Village in accordance with Exhibit F of Exhibit 1 and incorporated herein by reference, known as the Liquidated Damages, provided however, that Vidhya will not pay Liquidated Damages if the delayed completion is substantially caused by any of the following: (a) the Village; (b) a delay in Vidhya' s Remedial Activities which delay is beyond Vidhya' s reasonable control; or, (c) a Force Majeure Event. For purposes of the Settlement Agreement, a Force Majeure Event means an event or occurrence occurring without limitation, drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, explosion, strike, lockout or other labor dispute which is beyond the reasonable control of, and not due to the fault or the negligence of the party affected, and which could not have been avoided by due diligence and use of reasonable efforts. If Vidhya violates any provisions of the Settlement Agreement, the Village may also exercise all rights and remedies allowed pursuant to the Settlement Agreement and applicable law including without limitation issuing additional citations, seeking the suspension or revocation of the Conditional Use Permit, seeking injunctive relief and collecting its actual damages from Vidhya. The use of any remedy shall not preclude the use of any other remedies.
15. The property is zoned B-4, PUD which is Freeway Service Business District with a Planned Unit Development Overlay, and a gasoline station requires a Conditional Use Permit in the B-4 District.
16. The Conditional Use Permit #91-001, Exhibit 2, approved by the Village on August 5, 1991 allowed for the construction and operation of a gasoline station/convenience store.
17. Conditional Use Permit #01-11, known as Exhibit 3, approved by the Village on June 24, 2001 allowed the owner to re-develop the property and to construct and operate a 4,200 square foot gasoline station and convenience store with ten fuel dispensers. Diesel fuel is allowed to be sold at the new facility only to automobiles and light trucks. The gasoline station and convenience store was allowed to be open 24 hours and to provide the following customer services: a quick service restaurant and bakery, convenience store, self-service coffee bar and soda fountain and an e-commerce area for computerized assistance with weather and traffic information.
18. PUD Ordinance #01-32, Exhibit 4, approved by the Village on July 2, 2001 allowed for the new 4,200 square foot building to be constructed 13 feet from the rear property line; allowed the north parking lot/paved maneuvering areas adjacent to 104th Street to be setback minimum of 15 feet to the north property line, and allowed for the total Aggregate Permitted Background Commercial Sign to be increased to 181 square feet.

The flexibility provided in the PUD was allowed provided that the development comply with all other federal, state and Village ordinances; the development comply with the LakeView Corporate Park Declaration of Development Standards and Protective Covenants and Modifications; and the cross-access easement agreement between this property and the property to the east, which is the Culver's Restaurant. See Exhibit 5 for a copy of the Cross-Access Easement.

19. Conditional Use Permit #03-13 approved by the Village on July 28, 2003, it's known as Exhibit 6, allowed for a 203 square foot restroom addition to the facility.
20. On November 5, 2012, the Village Board conditionally approved a Class A fermented malt beverage license application to sell prepackaged malt beverages until November 20, 2012. The license provides that certain conditions must be satisfied including but not limited to the Plan Commission approval of a Conditional Use Permit and Site and Operational Plans, no outstanding building, fire and zoning violations and a valid occupancy permit. The petitioner is currently operating under a Class A fermented malt beverage license and a license for the sale of tobacco products.
21. In 2008, Vidhya began operating BP Amoco gasoline and convenience store under the existing Conditional Use Permit 01-11 and C.U. Permit #03-13 and PUD Ordinance. #01-32.
22. Pursuant to the terms of the Settlement Agreement, Vidhya has submitted a request to amend the Conditional Use Permit and the PUD Ordinance. Pursuant to the application and they've made the following statements. See Exhibit 7.
  - a. BP Amoco Gas Station and Convenience Store located at 10477 120th Avenue is a self-service gasoline and diesel station, selling petroleum products to consumers of passenger vehicles and light trucks. It does not service or sell petroleum products to over-the-road trucks, cabs or other specialized commercial or construction vehicles. In addition, BP operates a convenience store under the brand name AM/PM that provides various grocery store and automobile supplies and accessories, along with a quick service restaurant, bakery, self-service coffee bar and soda fountain, and an e-commerce area for computerized assistance with weather and traffic information. The quick service restaurant provides seating for approximately 12 people and quick food selections of bakery items, sandwiches, soups and salads. The facility also provides separate men's and women's washrooms and various other related convenience service amenities including but not limited to vacuum cleaners and compressed air for automobile maintenance, automated teller machine, along with the sale of alcohol and tobacco products as authorized by its license.
  - b. Due to several reported hazardous substance releases at the BP gas station dating back to 1993, the owner's consultants are developing and installing a carbon treatment system that will treat contaminated ground water. This system needs to be installed in an enclosed and heated facility. As a result, the southeast corner of the building is being expanded in order to house the filters and the pumps that are necessary to operate the carbon treatment system. This system is detailed in a Settlement Agreement being entered into between the property owner and the

Village, and the property owner will obtain all applicable permits before installing said system.

- c. The expansion of the building will measure approximately 450 square feet, 30 feet by 15 feet, and will simply square off the footprint of the building. The same exterior building materials, brick and trim, will be used in order to match the expansion to the existing building.
- d. The carbon treatment system will not create any disturbance to the surrounding property owners as it will be housed in an enclosed and insulated expansion of the building. It is anticipated that the system will operate off and on for several years, dependent on the rise of ground water due to the changes in the weather.
- e. This system will not require any additional staff to manage and operate, as it will be automated and will only occasionally require the replacement of the carbon filters that will be disposed of using sealed drums provided and retrieved by qualified environmental disposal companies.
- f. Moreover, the system will not alter existing operations of the gasoline station and convenience store, as those operations will continue as normal.
- g. BP is currently open for business between the hours of 6:00 a.m. through 11:00 p.m., seven days a week, but has maintained expanded hours up to 24 hours a day during the Thanksgiving-black Friday time period with a Village Temporary Use Permit. During this expanded time, additional staff is maintained in order to service the increase in customers.

Pursuant to the Village Zoning Ordinance, businesses in the B-4 District are allowed be open when the public is allowed to enter or remain on site for business purposes, except for hotels, uses requiring a Village liquor license or restaurants or gasoline stations whose hours are established by conditional use permit. So the typical hours are 5:00 a.m. to 12:00 midnight maximum; for hotels there is no limit; for uses requiring a Village liquor license as provided in § 125.68(4) of the statutes; and for gasoline stations and restaurants: up to 24 hours pursuant to a conditional use permit by the Plan Commission.

Village staff recommends that the BP station hours of operation when the public is allowed to enter or remain on site for business purposes be limited to 5:00 a.m. to 12:00 a.m. which is 12 midnight. A Temporary Use Permit may be issued for 24-hour operations during any holiday period subject to approval of the Village Police Chief. In addition, a 24-hour holiday operation may require the owners to enter into an agreement and pay for overtime services of the Police Department, as determined by the Police Chief. Pursuant to the zoning ordinance and liquor license requirements, the store is allowed to be open until midnight; however, Class A Beer is only allowed to be sold from 8:00 a.m. to midnight and Class A Intoxicating Liquor is only allowed to be sold from 8:00 a.m. to 9:00 p.m.

- h. Currently, deliveries and shipments occur during the time that BP is open to the public. Staff recommends that the BP station delivery hours or any other

activities outside the principal building that might cause a disturbance to the neighboring areas, except for snow removal, to be allowed from 6:00 in the morning until 10:00 at night.

- i. Currently, there are seven full-time and three part-time employees, but additional seasonal help is retained during those peak holiday seasons. Currently, there are only two shifts of employees, but a third shift has been added when the hours are expanded during the Midnight Madness hours, Thanksgiving evening and black Friday. There are currently 23 parking spaces on the site, but with the expansion of the building, two parking spaces will be eliminated, leaving only 21 parking spaces, one handicapped access parking space, and 20 conventional parking spaces. The number of parking spaces excludes the cars that can be parked at the pumps.

Pursuant to the Village Zoning Ordinance the minimum parking for a gasoline station with a convenience store is five spaces per each 2,000 square feet plus 1 space for each employee on the largest shift plus the required handicapped accessible parking space according to state code. Therefore, a minimum of 13 spaces plus their required handicapped accessible parking spaces is required, 5 spaces plus 3 plus 5 assuming no more than five workers on site. So they meet the requirements.

- j. 

It is anticipated that traffic volumes of 500 to 1,000 daily trips will continue, and

there will be no truck trips other than deliveries of goods to the BP. The main products being sold at the BP include, but are not limited to: gasoline and diesel fuels, related automobile supplies and parts, along with food and beverages, all of which are currently being sold at BP, which will continue after the expansion. Aside from the installation of the carbon treatment system, all of the existing equipment will continue to be utilized in the operation of the BP.

- k. Aside from the disposal of the carbon filters, the BP only has normal household cleaners used in the maintenance of the business in order to clean the food preparation and service areas, floors and bathrooms. The only waste that is disposed of at the BP is spoiled food and drink products, grey water waste and sanitary waste from the bathrooms.

- 23. The owners have installed and maintained a fully functioning and operational security camera system. However, the facility and site shall be equipped with fully functioning and operational security cameras both inside and outside the facility at each entrance and exit, and a Digital Security Imaging System, per the Village, will be required to be installed in accordance with the requirements of Chapter 410 of the Village Municipal Code. The required DSIS Agreement, Exhibit 11, was drafted by the Village for review and approval of the Village Board. The location and number of security cameras shall be provided and approved by the Village Police Chief. At a minimum the DSIS Agreement will also require the following:

- a. The security cameras shall be inaccessible to employees. Conspicuous signs shall be posted at the entrance stating that security cameras with an inaccessible recording device is in place on the premises. Said system shall be maintained in working order at all times, and the Village of Pleasant Prairie Police Department shall be promptly provided with any requested video. The recording shall be kept in an archive for a minimum of two weeks, and the Pleasant Prairie Police Department shall have remote access to the system to monitor and download video. Specifically, internet access shall be provided which would allow the Police Department to have live time monitoring of the BP store and site.
  - b. The parking lot shall be illuminated to provide sufficient lighting for the public's safety and for the security cameras to operate effectively per the Village's satisfaction.
  - c. A clear and unobstructed view of the cash registers and transaction areas shall be maintained from the internal 30-foot wide on-site circulation access roadway.
  - d. The building shall be equipped with and shall use an inaccessible drop safe.
  - e. Between the hours of 10:00-12:00 p.m. and 5:00-7:00 a.m. at least two employees shall be working on-site unless the business has taken measures to protect a lone clerk such as an installation of bullet resistant glass or other equipment as approved by the Police Department, making the lone employee inaccessible.
  - f. Installation and full operation of a hold-up alarm, which is monitored by a UL listed central station with functioning telephone service, shall be used at the BP station building.
  - g. The cash register shall not be left unattended for periods of time when the convenience store is open to the public.
  - h. A height strip shall be located at each doorway entering and exiting the convenience store.
  - i. The owners retain landscapers to regularly maintain, replace and upgrade the landscaping that surrounds the property, including the removal of snow and ice from the parking lots, driveways and sidewalks. In addition, employees shall walk the property on a regular basis to pick up the debris, empty garbage cans, restock self-service washer fluids and paper towels, and to monitor the entire property in order to maintain it in a first class condition.
  - j. The owner maintains all permits and licenses required to operate its businesses. Those permits and licenses allow for the sale of petroleum, alcohol, tobacco, food, and related items sold in the business issued from the various government agencies.
24. The Village has received numerous complaints relating to the operations of the station site in the past including litter and garbage on the site; broken light standards and signs;

inoperable pumps; pumps that don't issue receipts; dead landscaping; violation of security protocol; interior building damage to walls, floors , painting, counters; garbage overflowing; illegal outside storage of product; allowing products to be stored outside; allowing a pothole to remain in the drive area causing damage to cars. These ongoing complaints must be addressed on a daily basis by the owners as a responsible business owner in the Village. The Village zoning staff will conduct inspections on a semi-annual basis to ensure compliance with these issues.

25. In an email dated October 25, 2012, the Village requested additional information to be submitted by November 6, 2012. That's Exhibit 8.
26. On November 6, 2012, additional information was submitted as Exhibit 9 and reviewed by the Village. Upon review of the additional information, more information was still required a requested in an email dated November 9, 2012 shown as Exhibit 10.
27. On November 12, 2012, the Village staff met with the petitioner and other representatives to discuss the outstanding items. Revised plans will be submitted related to the changes of the building and written responses will be provided to the Village related to the additional information requested by the Village as noted in Exhibit 10. All of this information has since been provided to the Village staff for our review.
28. Notices were sent to adjacent property owners via regular mail on September 28, 2012 and notices were published in the *Kenosha News* on October 1 and 8, 2012 related to the upcoming October 15, 2012 Plan Commission meeting.
29. Then at the October 15, 2012 Plan Commission meeting, the Plan Commission tabled the request until the November 12, 2012 Plan Commission meeting.
30. At the November 12, 2012 Plan Commission meeting, the Plan Commission then tabled the requests until a special Plan Commission meeting this evening on November 19, 2012 at 5:00 p.m.
31. The petitioner was e-mailed a copy of this draft memo on November 9, 2012, was provided a copy of the revised memo on November 12, 2012 and was emailed a copy of this updated memo for the November 19<sup>th</sup> for the hearing on November 19, 2012.
32. According to the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit until and unless they find after viewing the findings of fact, the application and the related materials and the information presented this evening that the project as planned, will not violate the intent and purpose of all ordinance and it will meet all the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with the satisfaction of any conditions of approval, will comply with all Village ordinance requirements and all other federal, state or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer and water service, noise, storm water management, streets and highways and fire protection.

With that I'd like to continue. We do have a public hearing because we have at least two items that require the public hearing this evening. There were two items that were provided to you initially. One was an email that was provided to you from the attorney for Culver's, and that's Lisa Wood. I don't think Lisa is here this evening, but she asked that this be read into the record.

This is from Lisa Wood, again, from the Law Firm McNally, Maloney & Peterson on behalf of Culver's. It says, Jean in speaking with Ed Rich this morning, he indicated that he spoke with your assistant to let her know that he would be unable to attend this evening's meeting relating to the BP contamination.

Ed requested that a statement be read into the record, and Jan indicated that that would be possible. And this is the statement: My name is Ed Rich, and I'm the managing member of OMA, LLC, the entity which owns the real estate east and adjacent to the gas station. As I have previously stated, I'm concerned about the soil contamination on my property. The contamination originated from the gas station to the west. The owners have yet to address how my property would be cleaned up. While there has been some discussion relating to the cleanup of the water, thus far there's been no discussion requiring the gas station owners to remediate the contaminated soil on my property. While I understand the Wisconsin DNR, Village of Pleasant Prairie and the current owner of the gas station are attempting to determine the origin of the contamination, I am obviously concerned about the impact on my property. At this point I am requesting that the Village require as a part of the issuance or continuation of the conditional use permit that the gas station owner be required to provide a plan for remediation of the soil and ground water on my property. The DNR required pursuant to an impermeable barrier maintenance plan dated May 9, 2006 that a surface barrier inspection and maintenance checklist was to be maintained: 1) for 30 years following the date of the deed restriction; 2) until the soil is actively remediated and removed and disposed of according to application laws; or 3) until it can be demonstrated that the soil was naturally degraded to levels below the direct contact standards at which time a request can be made to extinguish the restriction. I question whether the gas station owner has provided this information to the Village of Pleasant Prairie. I ask the Village of Pleasant Prairie to take into consideration the damage the contamination has caused not just to the gas station property but to the surrounding owners, and that cleanup of the surrounding properties may be considered as part of any mandated plan required of the gas station property owners in maintaining their conditional use permit.

With that, I'd like to continue the public hearing.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Mr. McTernan? Give us your name and address for the record.

John Michael McTernan:

Attorney John Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin. I'm here with my client, Sophia and Dixit Patel, Don Gallo, the environmental attorney, and Pat Patterson our environmental engineer. And we have spent the time in the last couple months addressing all the issues that we feel are appropriate to gain your approval tonight to support the documents and the requests that we have before you. If you have any questions we're here to answer them. But I thank you for your time.

Tom Terwall:

Thank you.

Wayne Koessl:

While he's up there, Chairman, I have a question.

Tom Terwall:

Mr. McTernan, a question directed to you.

Wayne Koessl:

On the letter that Jean just read into the record regarding the adjacent properties, is that going to be addressed?

John Michael McTernan:

The issue that is being addressed is, and to give you some history on it, what has been discovered by Don Gallo and Pat Patterson in connection with reviewing the file is prior to Culver's acquiring their property they had obtained all the information in connection with this environmental contamination that occurred on BP's site. It has occurred, as the record shows, years prior and prior to their purchase and use of the property. They knew of the issues that occurred on the site that my client now owns years later.

In connection with that, what my client and worked with the Village Engineer and the Village consultants and our consultants, the area that we understand that we have seen a discharge in the ditch that runs adjacent to the State highway, our client and the Culver's is going to be reviewed, analyzed, and whatever steps are necessary to address where that water has flowed we will address. I don't know what contamination is on his property, that it was there prior to their ownership, but as the consultants all understand that's something that each property owner has responsibilities for. And we're not changing whatever law there is there or whatever obligations there are to the parties. What we have focused and addressed is where we have knowledge that there has been -- the ground water contamination has gone through the culvert in the ditch line we will address that.

Wayne Koessl:

To the staff, can we have his comments be part of the minutes in the record of the meeting?

Jean Werbie-Harris:

Absolutely.

Wayne Koessl:

And then I have a couple other comments. There was mention of \$300,000 that your client has paid. Were those bills ever showed to the Village that those were actual -- okay.

John Michael McTernan:

We've provided copies. After the last hearing I gave copies of what we have spent up to that point. And then since then I blush but I'm certain my client has probably either spent or is about to spend an additional \$200,000 addressing this problem.

Wayne Koessl:

Okay, thank you. And I have three other comments. Under the agreement which is Exhibit 1, Settlement Agreement, we go down to agreement 1 and the parties agree that this agreement is a compromise of a dispute without admission of fault or liability, the parties agree to the resolution contained herein. I don't think there was any dispute in my opinion. They just were violating the law. Am I wrong? [Inaudible] their conditional use permit.

And then we go onto Item 4 in the same agreement that the Village agrees not to issue any new citations. Is that giving the owner a blank check? Is this to the staff.

Timothy Geraghty:

I'd be happy to address that.

Wayne Koessl:

Could you please? Because I'm just a lay person and I get confused easily.

Tom Terwall:

Give us your name and address, sir, for the record please.

Timothy Geraghty:

Timothy Geraghty, 6301 Green Bay Road, Kenosha, Wisconsin. I'm the attorney for the Village in this matter. The citations that were issued last spring totaled about \$84,000. Part of our goal was to move forward to make sure that the property is cleaned up and that we stop the discharges. And so part of the agreement is that as long as they abide by this settlement agreement we won't issue any new citations. But if they do violate the terms of this settlement agreement the Village would certainly be allowed to issue citations at that time.

--:

Backwards, too?

Timothy Geraghty:

Well, just from the date of any violation moving forward.

Wayne Koessl:

And then while you're up here, one thing. Item 7 on the same agreement, except as specifically set forth herein you agree to identify and to hold harmless to the Village and all of its elected officials, officers, directors. Why? They haven't done anything wrong. It just falls under ordinance.

Timothy Geraghty:

That's their agreement to indemnify and hold the Village harmless. So that if in part of their remedial activities they cause any damage or create any problems they have to pay for it and not the Village.

Wayne Koessl:

Okay. And then one other item I have and then I'll let the other members talk. Is there a time limit put on the conditional use permit if we extend it?

Timothy Geraghty:

I'd have to defer to the Village on the conditional use permit. I can say in the settlement agreement there are deadlines for them to complete the remediation and then liquidated damages if they don't meet those deadlines. But I'm not sure in a conditional use permit there's any deadline.

Wayne Koessl:

There's no deadline?

Jean Werbie-Harris:

No.

Wayne Koessl:

Okay, then I'm going to put one on when we take the vote. Thank you very much.

Tom Terwall:

This is a matter for public hearing. Is there anybody else wishing to speak?

Jean Werbie-Harris:

I wanted to also mention our Village Engineer gave a copy of Exhibit F to you, the milestone dates for liquidated damages for BP Amoco gas station. At the bottom of that, note number 4,

you received a corrected copy, note number 4 should read includes without limitation testing and remediation as described in paragraph 2f of the settlement agreement. So that's a corrected statement on that particular exhibit.

Also, I just wanted to mention for the record, Mike, we have not yet received any receipts or documentation as to the \$300,000 of expenses that have been incurred out at the site. They possibly have that documentation. We have not seen that information yet.

Wayne Koessl:

Pardon me. Didn't the attorney say that he had given them to you?

John Michael McTernan:

At the public hearing the entire stack of exhibits, about 18 inches, included one stack in there was every copy of every bill that we ever paid is included in that packet, and I delivered it to the Village.

Jean Werbie-Harris:

I stand corrected. I have not looked at that recently.

Wayne Koessl:

Okay, thank you.

John Braig:

You mean you didn't look at the 16 to 18 inches of data?

Jean Werbie-Harris:

No.

Tom Terwall:

Is there anybody else wishing to speak? Anybody else wishing to speak? Seeing none, I'm going to open it up to comments from Commissioners and staff.

Don Hackbarth:

In item number 17, and I don't know what page that is. Page number?

Jean Werbie-Harris:

Six.

Don Hackbarth:

Six, okay. Item number 17, diesel fuel is allowed to be sold at the new facility only to automobiles and trucks.

Jean Werbie-Harris:

Light trucks like passenger trucks.

Don Hackbarth:

Alright, what happens if somebody wants to get a gallon of gas for their tractor or whatever? Is that eliminated.

Jean Werbie-Harris:

No, you'd be allowed to do that as well.

Don Hackbarth:

Alright. And then item number 24, I'm glad that's in there because when I've been in there it's pretty trashy. And I would recommend that rather than twice a year the inspection should be more often because that's representing the Village of Pleasant Prairie.

John Braig:

Following up on what I think was the direction of Mr. Koessler's comments, this has dragged out quite long. It looks like we're approaching a resolution. But I'd like to see some teeth in it in terms of compliance by a fixed date which includes getting the job done, payment of all fees and costs as outlined in this agreement. Failure to do such under the judgment of the Zoning Administrator would result in immediate revocation of the conditional use permit. We don't need further hearings or discussions or delays. Let's get the job done, and let's put some teeth in it.

Jean Werbie-Harris:

There are liquidated damages if they don't comply with the items as set for in the remedial action plan. Exhibit F, that does have very specific dates and liquidated damages per day that they would be responsible for if they don't meet those deadlines. If we're just talking about just specific zoning violations, the staff would need to probably go out there more than twice a year. Then we'd probably have to schedule going out there very month or every couple of months.

John Braig:

What I'm looking at is they've got to pay, make some payments. The Village is in the hole right now. We need to get that money in. They've got some construction activities which are required. They've got to get them done by a fixed date. If they fail to meet either of those two conditions I'm in favor of pulling their conditional use permit without further hearing or further discussion. This is dragging out long enough.

Timothy Geraghty:

Under paragraph 13 of the agreement, if they don't complete any of their obligations within the time lines, the Village has a lot of opportunity to enforce the agreement. In addition to the liquidated damages shown on Exhibit F, they have the right to seek the suspension revocation of the conditional use permit. They have the right to seek injunctive relief. They also have the right to collect their actual damages. And earlier in the agreement the property owner has also agreed to pay all of the Village's attorneys' fees. So any violation of this agreement would allow the Village to do all of those things.

As far as an ability to suspend or revoke the conditional use permit with no further action, my advice would be that it be subject to a petition by the Village and brought back to the Board. I think for due process reasons it would be much more enforceable and I think better for the Village if there is a violation that a petition be brought back before this Commission, and then the Commission could act on that.

John Braig:

Thank you.

Wayne Koessl:

While you're at the microphone can I ask you one question?

Timothy Geraghty:

Sure.

Wayne Koessl:

I have the Item F in front of me, and the final completion of work including site restoration is May 1, 2013. I'm going to make a motion to just extend the conditional use permit to that date, and then it would come back before this Plan Commission.

John Braig:

What you're saying is the conditional use permit expires on that date, and they would have to come back and ask for an extension and show that they've complied with all the conditions in this agreement?

Wayne Koessl:

Yes.

John Braig:

I could go along with that.

Tom Terwall:

I'd be curious to hear what the attorney has to say about it.

Timothy Geraghty:

About doing that?

Tom Terwall:

Yes. Please come back to the mic.

Jean Werbie-Harris:

Actually, if you want to just bring the mic back with you.

Tom Terwall:

Yes, take it with you.

Timothy Geraghty:

I'd have to look at the Village ordinances as far as the ability to give a conditional use permit for a time period, but I believe that that would be allowable.

Jean Werbie-Harris:

I think so. And the second meeting of April is April 22<sup>nd</sup>, so it would have to be on the April 22<sup>nd</sup> meeting because otherwise it will expire.

Wayne Koessl:

I haven't made my motion yet, but I will make that date into it, because I know we can put a time limit on a conditional use permit. I'm being lenient tonight because I've been a no vote from the beginning on this project.

Tom Terwall:

Okay, thank you. Is there anybody else? If not, I'm going to close the public hearing. We need a motion.

Wayne Koessl:

Mr. Chairman --

Tom Terwall:

Go ahead.

Mike Pollocoff:

I'd encourage the Commission just to give us a second to check that. He hasn't made the motion yet, but I guess I'd like to give you that information.

Wayne Koessl:

I'll wait until then. Thank you, Mike.

John Braig:

While the staff is working on this problem, would it be appropriate to review and approve or disapprove Items A, B and C and hold off on Item D until the staff has completed their review.

Tom Terwall:

What I'm looking for now is a motion on Item A only.

John Braig:

Comment from the staff? Jean?

Jean Werbie-Harris:

I'm not seeing anything right now that specifically says that the Plan Commission can or cannot set a specific time frame for a conditional use permit. What I can tell you is we have done that for model homes and a number of other types of uses in the Village. So to be consistent on how we've handled other situations and conditional uses we have issued time frames and/or expirations or periods of time for which they were valid.

Tom Terwall:

Mr. Koessl just pointed out to me that his intention is to include that in Item D. If we're going to take that action --

John Braig:

So we could proceed with A, B and C.

Tom Terwall:

Correct. And Item A is the one I'm looking for a motion on to accept the settlement agreement up or down.

Jean Werbie-Harris:

With the modification to Exhibit F this evening?

Tom Terwall:

Correct. Is there a motion to that effect?

Don Hackbarth:

So moved.

Tom Terwall:

Is there a second?

Michael Serpe:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO APPROVE THE SETTLEMENT AGREEMENT BETWEEN THE VILLAGE AND VIDHYA SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM, AS WELL AS THE REVISION THAT WE RECEIVED TONIGHT. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Item B then is consideration of a conditional use including site and operational plans. We don't need to reopen a public hearing, do we Jean, or do we?

Jean Werbie-Harris:

I would say there needs to be a public hearing scheduled for April 22 of 2013 if you're looking to only have this valid until May 1<sup>st</sup> to give the operator an opportunity to be heard before the Plan Commission. And that would be the second Plan Commission meeting of April.

Wayne Koessl:

Through the Chair to the staff, the motion I make for April 22<sup>nd</sup> is this under Item B?

Jean Werbie-Harris:

Yes.

Wayne Koessl:

Okay. Then, Mr. Chairman, I'd move under public hearing and consideration of a conditional use including site and operational plan that we extend the conditional use permit for Vidhya until April 22<sup>nd</sup> of 2013.

John Braig:

I'll second that.

Tom Terwall:

Just a question. Jean, when a conditional use permit is issued, that will be issued by us, not by the Village Board, correct?

Jean Werbie-Harris:

Correct.

Tom Terwall:

So that date is okay?

Jean Werbie-Harris:

That's correct, because that would be a Village Plan Commission night. It's the fourth Monday of April. There will be two Plan Commission meetings starting in April.

Tom Terwall:

Mr. McTernan, do you have a comment you wanted to make on that item.

John Michael McTernan:

If you didn't mind.

Tom Terwall:

Go ahead.

John Michael McTernan:

We have no objection to the date with the only caveat being is that under the settlement agreement there are substantial completion obligations between the Village and the property owners, and we just want to be understood. I mean who knows what may happen. The WDNR may delay us on something.

Tom Terwall:

Understood.

John Michael McTernan:

And all we ask for is that we are proceeding under the agreement with substantial completion as allowed for under the agreement.

Tom Terwall:

Okay.

John Michael McTernan:

So if we hit that date and there's something that is hung up, we're more than happy to continue that even until those items are completed, because that May 1, 2013 date is our agreed date that we're shooting for, but as we all know there may be something that's outside of the Village's control and our control that may delay that. So that's all I ask.

Tom Terwall:

And if there's an issue that will come up at the April 22 meeting, and we can extend or take whatever extenuating circumstances into account that night. So that's our intent.

John Michael McTernan:

That is fine, and we have no objection to that. Thank you.

Wayne Koessl:

Mr. Chairman, I think this Plan Commission has been pretty responsive to all of the requests, so I can see we'll do the same thing at that date.

Tom Terwall:

Okay.

John Michael McTernan:

Thank you.

Tom Terwall:

Thank you. There's a motion and a second then to extend the conditional use permit -- go ahead, Jean.

Jean Werbie-Harris:

I'm sorry to interrupt. So they would need to make an application to have a conditional use permit beyond April 22<sup>nd</sup>. But what I want to make sure is part of the motion is that this new conditional use permit supersedes all the previous ones.

Tom Terwall:

That's correct.

Jean Werbie-Harris:

And from this point forward we'll be moving forward with just this new and single conditional use permit on the property.

Wayne Koessler:

That is correct.

Tom Terwall:

**UNDERSTOOD? WE HAVE A MOTION BY WAYNE KOESSL AND A SECOND BY JOHN BRAIG THEN TO APPROVE SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Item C is the public hearing and consideration of the zoning text amendment.

Don Hackbarth:

Move approval.

Tom Terwall:

Wait. Jean, go ahead.

Jean Werbie-Harris:

I just want to clarify that they were initially requesting a 24-hour operation as part of the B-4 District. The staff is not recommending 24 hours. They have not technically operated a 24-hour operation since they've taken over in 2008. So we're recommending that their hours of operation, just to clarify in the PUD, are from 5 in the morning until midnight. And with that opportunity, just like the surrounding businesses near Premium Outlets, that they have that opportunity to apply for a temporary use permit to be open 24 hours similar to the other businesses. And they've actually applied for this for this Thursday, Friday already.

Wayne Koessl:

Mr. Chairman I'll approve the Item C subject to the conditions outlined by staff.

Tom Terwall:

Is there a second?

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING TEXT AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Item D, continued consideration of the revocation or suspension of conditional use permit.

Wayne Koessl:

I think that one's almost null and void now, isn't it?

Tom Terwall:

We just need to approve it, though, right? Go ahead, Jean.

Jean Werbie-Harris:

The staff is recommending that Item D based on your previous decisions this evening be withdrawn from the agenda.

Wayne Koessl:

I would so moved.

Michael Serpe:

Second.

Tom Terwall:

**MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO APPROVE  
ITEM D. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Then to New Business, consider the approval of the DSIS system.

Jean Werbie-Harris:

The staff recommends approval of the DSIS system. Our attorney has reviewed it, and I gave their attorney a new version, a couple tweaks of some wording changes this evening. And so we're looking for the Plan Commissions recommendation of approval of the DSIS and the access easement agreement. And, again, the owner will need to work specifically with the police department, IT department and myself in order to get things finalized out there with respect to updating their security system a little bit.

Larry Zarletti:

Mr. Chairman, I would move approval of under New Business A, subject to the terms and conditions outlined by staff.

Jim Bandura:

And I second.

Tom Terwall:

**IT'S BEEN MOVED BY LARRY ZARLETTI AND SECONDED BY JIM BANDURA TO  
APPROVE THE DSIS IMAGING AGREEMENT AND THE ASSOCIATED EASEMENT  
SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF  
MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So carried.

**6. ADJOURN.**

John Braig:

Move adjournment.

Michael Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. We stand adjourned.

**Meeting Adjourned at 6:08 p.m.**