

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
APRIL 17, 2001**

A meeting of the Fayetteville City Council was held on April 17, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Jordan, Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

CONSENT

APPROVAL OF THE MINUTES: Approval of the minutes from the April 3, 2001 meeting.

LSD 01-5.00: A resolution approving a waiver of right-of-way dedication for 15th Street as required by Section 166.10(c) for LSD 01-5.00 submitted by McClelland Consulting Engineers, Inc. on behalf of Randy Salsbury of Allied Storage, LTD for property located at 85 W. 15th Street.

RESOLUTION 49-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK

TCA CABLE: A resolution approving an extension with TCA Cable Partners to temporarily operate the cable communication system until June 30, 2001.

RESOLUTION 50-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK

UNIFORMS: A resolution awarding a contract with Cintas Corporation for Bid No. 01-25 to provide uniforms.

RESOLUTION 51-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK

DOUBLE SPRINGS RD: A resolution approving a city-utility agreement between the City of Fayetteville, and Arkansas Western Gas Co. for the necessary adjustments for the Double Springs Road Bridge over Owl Creek.

RESOLUTION 52-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK

DOUBLE SPRING BRIDGE REPLACEMENT: A resolution approving funding for a bridge replacement on Double Springs Road in the amount of \$229,537; and approval of a budget adjustment.

RESOLUTION 53-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK

AD 01-13.00: A resolution adopting the drainage study for floodplain and floodway delineation for Mud Creek Tributary at CMN Business Park, Phase II, prepared by Holloway, Updike and Bellen, Inc. for Milholland Company, dated September 2000.

RESOLUTION 54-01 AS RECORDED IN THE OFFICE THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

GRADING AND DRAINAGE: An ordinance amending the City's Grading and Drainage Ordinance. This ordinance was tabled on the second reading at the January 2, 2001 City Council meeting.

Alderman Young moved to bring the item off the table and to consider it. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Alderman Young moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance for the third and final time.

Alderman Young stated the item they were discussing under Old Business was the original draft the Ordinance Review Committee and Ad Hoc Committee had come up with. The items under New Business were new and revised from the Ordinance Review Committee.

Alderman Davis stated he had given the revised ordinance to members of the Ad Hoc Committee. They did not see a problem with the new ordinance. He suggested they let this ordinance go and they discuss the revised ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed unanimously.

ORDINANCE FAILED.

NEW BUSINESS

PHYSICAL ALTERATION OF LAND: An ordinance amending §169.03 of the Code of Fayetteville, Physical Alteration of Land.

Mr. Williams read the ordinance for the first time.

Alderman Davis asked they not moved through all three readings tonight to give the public more time.

Mr. Gary Lowery, an area resident, suggested that they when the city amended ordinances to include any other permits required. They should make sure that applicant had all the proper permits and necessary items that were required, not only for city, but state and U.S.

Alderman Young stated the next ordinance on the agenda included some of those concerns. The Grading and Drainage ordinances were tied together. If they passed this, there was a requirement to show proof of the State permits.

ORDINANCE WAS LEFT ON THE FIRST READING.

STORMWATER AND DRAINAGE: An ordinance amending §170.03 of the Code of Fayetteville, Stormwater Management, Drainage and Erosion Control.

Mr. Williams read the ordinance for the first time.

Alderman Davis stated there had been a couple of comments from the Ad Hoc Committee members. The concern had been the word "shall". He suggested they consider the word, "may". The City Engineer would be in a better position to determine if the Stop Work Order should be issued at the time of infraction based on the circumstances better than the City Council is. It should be left to a professional judgement on whether or not a work order needed to be issued. Section C.4. did not mention anything about time.

Mr. Beavers, City Engineer, stated he personally liked "may" so that he could council with the Public Works Director. He might know of circumstances that he did not. The Council needed to determine their intention was. There would not be any physical danger to any adjoining property if they used the word "may". They would not issue a permit if there was. He felt they were only talking about one to two percent of their projects.

Alderman Young asked if there were any grace days.

Mr. Beavers stated there were fifteen days.

Alderman Thiel stated she felt they should leave the "shall" in there because it was more of a directive.

Alderman Young stated if they put "may" in there they would be relying upon good judgement. But, if that did not happen, then what recourse did the public have.

Mr. Beavers stated from his understanding the intent was to limit the number of submittals they got from the engineers. They were not talking about protecting adjacent property owners or citizens. They would not issue the permits to being with if they felt that there was any danger to any property owner or citizen. They were talking about a small percentage of engineers that took multiple reviews to get their plans approved.

Alderman Young stated that while they were reviewing their plans under this ordinance, they were out there grading under the other ordinance. That was the danger to the public.

Alderman Davis stated he felt that they should leave it to their professional judgment. The engineers would know the situation and they did not.

Mr. Beavers stated he thought it would be prudent if they were to combine the grading the drainage ordinances as part of their Phase II Stormwater Program, which they had to have by the fall of 2003. They would be starting that the end of this year or the first of next year. They would be having public meetings. He felt there would be many changes through this process.

Mr. Richard Maynard, an area resident and member of Ad Hoc Committee, stated the intent was never the stop work order. The intent was to cut down on the number of submittals. The stop work order was only there to get the message that they could not use phased permitting to get their grading ordinance and take their time on their drainage. It was not intended to stop someone's work, it was to cut the number of submittals and that was all.

Mr. Gary Lowery, an area resident, stated they needed to make sure that people who purchased a home knew exactly where their responsibility ended and the city's began. His subdivision had problems with a retention pond. He preferred the use of the word "shall".

Ms. Kay DuVal, an area resident and Ad Hoc Committee member, stated she had also worked on the revisions. She suggested the stronger the law was the less work there would be to do two years from now. She had asked for the word, "shall" all along. They did not know what was coming in development. The clearer and more exact the wording was the less room there was for confusion and misinterpretation.

Ms. Coleen Gaston, an area resident (attorney), encouraged the council to delete the language, "the addition of grading, clearing, or filling" from the exception.

In responds to questions, Mr. Williams stated it was his understanding that it had been placed there for home owners who need to clear their property of vines and scrub brush.

Mr. Gary Lowery, an area resident, asked when were individuals to know if they needed a permit or if it was the city's responsibility to take care of it. They had problems with drainage all over this

city. They needed to take of them. Who tells who, who needs a permit. Where did he go if he wanted to clean something up.

Mayor Coody replied if it was a city easement, publicly owned, it was the city's responsibility. If it was on private property, they were very reluctant to spend public money on private property. Citizens had a responsibility to try and keep drainage easements and ways open.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

COMMUNITY DEVELOPMENT BLOCK GRANT: A resolution accepting the 2001 Community Development Block Grant in the amount of \$665,000.00. The mayor congratulated Ms. Yolanda Fields for her work in acquiring the grant. There was no further discussion.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 55-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 01-1.00: An ordinance approving annexation request RZA 01-1.00 as submitted by Michele Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is in the City Planning Area and contains approximately 40 acres. The request is to annex subject property into the City of Fayetteville.

Mr. Williams read the ordinance for the first time.

Alderman Reynolds stated the response time from the Garland Avenue Fire station was seven minutes. In the future there would be a station at Ruppel Road and Wedington and thanked Marion Doss.

Mayor asked for comments from the Council. Alderman Jordan asked if we were going to have good fire protection to build houses, etc stating that was a his concern. It was stated that they require the water be on and the fire hydrants to be placed before constructing the houses.

Wayne Krug represented Michelle Harrington to answer any questions from the Mayor/Council. The Planning Commission vote was 9-0. When looking at annexations to added under the city codes so close to the city limits. Mr. Santos stated we would have to get service reports from the department not just the fire department. There is going to be an increased responsibility put on every department. There is going to be some impacts. It would be nice to have impact fees to pay for them but I guess the rest of us can share the cost for this new development just like we have in the pass. Brenda Thiel stated she didn't know. Mr. Jordan this concerned him that a lot of the large developments going in were already under a lot of stress for city services. Large developments do

concern him that is going to the city. Mr. Young assumed that it would be left the first reading because he was still looking for a sewer plant report. Mr. Jordan said "Yes, exactly". Ms. Thiel stated at the agenda meeting the city attorney said that they should have an acknowledgment or something from these developers that we could not guarantee sewer. Mr. Williams stated he prepared a waiver form that everyone who comes for an annexation, rezoning or whatever to given and sign that they have received a copy of the notice that our sewer plant is at or near capacity and that we can not guarantee a sewer hook up until and less we have a new sewer plant built. Mayor Coody asked Don Bunn if he had any comments on when we might see the sewer plant report. Mr. Bunn stated he hoped that we could have it for the next meeting. He said last year our report said that we had two and half years remaining if we development at the same rate as we have in the past. He also stated that he didn't think that we had the number of housing units nor the apartment units so he would feel confident in saying there is probably a year and half at least left. In terms of this development right now he felt confident that we would be able to provide them with sewer. Ms. Thiel stated she would feel more comfortable did have a report. Mr. Bunn stated he would try to have something for the next meeting and we will have the disclaimer for them to sign before the rezoning is approve. Mr. Williams replied yes if we don't approve it at this meeting it certainly will be there. He stated he already submitted one proposal to Planning and they had been talking and fine tuning it and will have it ready to go. Mr. Jordan stated that he didn't want to approve it until the disclaimer was put on it. Mr. Santos stated it was traditional to go through three readings with annexations and rezonings this size. Young said at least hold it for the next meeting anyway. At least two meetings if not three.

Mayor asked for any other comments from the public.

Fayetteville resident, Gary Lowery, echoed Alderman Jordan's concern about annexing in a lot the LSD. Big scale development projects/subdivision. Because at the current time the City is not able to fulfill all of its obligations to the current citizens at that are already in the city limits. We are not able to provide adequate street maintenance and upkeep of our city streets let alone the curbs, gutters and sidewalks. We're not able to get out there and sweep our streets with our so called street sweepers that are currently most of the time rusting over at Wilson Park. The one that we do have that works most of time is generally there. The other one that is in bits and pieces here and there and once mechanical one if its not broke down might get out into the community. I've never seen go out to some of the outlying subdivisions. Never. I've never seen police patrol my subdivision although we have a policeman living there and several sheriff's deputies living there. I've never seen it patrolling some other subdivisions in Aldermen Reynolds and Thiel's ward. Never. A lot of people around are asking if we keep expanding and we keep growing and we don't have the funds to provide the proper city services to all "all" the residents then we do we keep expanding. We do we keep growing. Well because people keep coming here that's number one. Number two you're worried about what you are going to do and how you're going to increase the budget. We have less than 66,000 people in the City of Fayetteville. A community that is about the same size as the City of Fayetteville has an annual budget of \$46 million dollars. Fayetteville's budget is \$85 million.

That same city has 634 employees. Fayetteville has 636 employees. They are able not only to sweep the streets but to plow the streets if necessary. They're able to go out and do what needs to be done repairing the road, patching the cracks, fixing the sidewalks do what's necessary. Fayetteville is not able. Fayetteville is not able to enforce all of its codes and ordinances. Fayetteville is not able to produce the kind of work ethic that needs to be in a city of this size. Take a look around you and look at what you see. I, for one, see a lot of things going on in this city that needs to be taken care of.

One of them is our garbage collection services. For instance, we want to annex in 40 more acres. So we're going to have a lot more of these purple garbage sitting out there in these streets. First of all Fayetteville is violating a state law. The state law says you cannot have these bags out there on the street. That Act 93 of the state law. The state law says that these garbage containers must be waterproof and have a close fitting lid or cover to keep insects out. These garbage bags don't have a lid or cover. Interruption by alderman, mayor says there is just another thirty seconds. Mr. Lowery says this just a point, we want to annex in another 40 acres when your city can't provide proper city services to the city folks that it has right now. Why do we want to annex in 40 more to make it even more impossible.

The Mayor thanked Mr. Lowery for his comments.

Lou Weiss: I just want to say that I agree with that gentleman wholeheartedly. Thank you.

Unidentified citizen, I have a question, is this a speculative rezoning or annexation? The mayor said the would be question for this gentleman(Wayne Krug). He stated that he wasn't sure what she meant by speculative rezoning or annexation. If mean is it a spot rezoning, absolutely no. She said no that is not what I mean. What I mean is a two-fold question really. Is it the owner that's asking for this to be done. For the area to be annexed and rezoned or it because the owner wants to sell the land to somebody who wants a particular project out there.

The mayor asked Barbara to address her questions to the Council. She apologized. He then told her he thought the question of speculative rezoning is basically when someone rezones a piece of land to sell more than to develop because a rezoning would make the land more valuable they would rezone it speculatively. Hoping that the rezoning would make the valuable go up and sell it to some third party. I think that's the question.

Mr.Krug stated that in this development there are project engineer and the project engineers have already met with both Kim Rogers at the Parks Department and Kim Hesse to survey the project. I guess the answer to questions is once the land is rezoned the development will begin. It is not something that's going to be used down the road. The developer is well aware of the current limitations on the sewer system and they'll willing to proceed with this.

Barbara stated that her question really is, "Is the owner as of this moment in time the developer?". The person who is going to be the owner after the annexation.

The Mayor asked for any other questions or comments. Seeing no I bring it back to City Council. Does the Council have anymore questions or comments on this issue?

Alderman Young says in other words the developer that is going to develop this is going to buy the property right? Contingent upon rezoning or annexation. Mr. Krug answers that's correct. Alderman Davis stated that it was. He also thought Bridgeport was pretty well sold out which adjoins this. So evidently there must be a make in that area since there are very few if any lots left to be built on for an adjoining section to be used for a new development.

Mr. Krug stated that was correct and asked that the Council would consider moving this one to the third reading tonight subject to or contingent upon the signing of the waiver which the developer's are completely aware of.

Alderman Davis stated it was standard procedure to at least have two meetings to pass through an annexation and rezoning so they would like to, if at all possible, hold off tonight and leave it on the first reading and give the people in that area an opportunity to come up here and address this at a later time.

Alderman Jordan agreed. The Mayor asked for any other questions or comments.

Alderman Zurcher mentioned that the governor and several state agencies recently did a poll in urban areas in Arkansas and what citizens were really concerned about in urban areas and the number one concern was sprawl. The way cities were sprawling out and were losing the country sides. We're losing our natural areas because of this growth on the edges of town. I'm willing to keep a open mind and to listen to the discussion and have another meeting on this but I have to say my initial reaction to this is 40 acres on the edge of town for low density residential, I don't think that would be the best investment for us. I don't know if it would be entirely responsible looking at all the infrastructure costs that the city will have to take on if we annex this land. So that's something to think about.

Alderman Thiel says according to the reports from the various departments it doesn't look like there are that many additional infrastructure costs. Alderman Zurcher says we have to do streets to some degree to support the development, water and sewer hookups. Alderman says that comes with development. Alderman Thiel stated that was the developer's costs. Alderman Zurcher asked developers will pay for all that? It was stated that sure. Mr Krug says the costs come with development of the subdivision. Alderman Zurcher stated that he didn't mean the streets inside this development. Alderman Thiel says Wedington had already been widen. She had reservations about taking more property into the town whenever we are having difficulty servicing what we have. However, because of where this is locate and the proximity to our future wastewater treatment plant and the Boys and Girls Club and it's a single family development. I think that's a plus. I think there are some multi-family developments right in this area. Its also adjoins developments that have a

rather large park that we have. There were several parks in these developments and we've rename all these adjoining parks to Red Oak Park. We've got to consider that this could bring in a lot of greenspace money or more greenspace to adjoin the Red Oak Park which would make up a very large park in that area and I'm concerned. She stated she was not opposed to infill but later on tonight when we discuss an issue we are going to be looking at something that is going to be a ongoing problem infill in this city. If we are not allowing—I'm opposed to urban sprawl. I don't know the answer but I know we're seeing more and more development on our hillsides, on these little lots that are left. That really concerns me. That's going to create major drainage and flooding problems down below. You know, so there is no easy answer. Not only that but when this development actually starts we may have some kind of an impact fee as we're going to decide whether to call it a facility fee or a capital recovery fee or something that is a little more palatable than an impact fee. But I know that the city attorney has mentioned that even without paying for additional study with the impact fee study group we could implement fees up to maybe \$1,000 for things that they've already set before us that we could use impact fees on.

Alderman Young One of the questions is development at all. The specific question Randy has raised is urban sprawl. You start about specific roads and this and that and the other. If you just sit back and look at the over all. Every time we start talking about water and sewer and roads and you say we just don't have enough money then you need to look and say maybe development isn't paying. That's the bottom line. If we continuously have these problems that's possibly where to start. But as far as urban sprawl. That's a dilemma. My suspension is the federal government is going to address that in the future years. What we are doing here now hopefully will address it with impact fees. At least that's a start. This a dilemma that you get into whenever somebody requests annexation or even just a rezoning or even an infill. Its all balled together and you look at over all you just say well if all this development is paying its own ways. If all these new people are contributing then why are we having these budget constraints down the road.

Alderman Jordan says that we cannot continue to string out and get as far as Goshen and then all the city trucks and everything out there and then we come back to we don't have enough sewer and the streets are breaking down and we don't have a enough money to fix the streets and it goes on. Some where down the line we've got to learn to fix what we have what is broken and then move on with it.

Alderman Santos stated the argument he always makes with the annexation and rezonings is that of course the development never pays for itself. It's a burden on the rest of who are already here but if we don't have the city regulations enforced out there we are going to have substandard developments. We are going to have a ring of slum around Fayetteville. Until we can come up with a better system to make it pay for itself.

Alderman Young thanked Santos and stated that was part of the dilemma he was talking about.

The Mayor asked for further comments and questions. There being no other closed public comment.

RZ 01-6.00: An ordinance approving rezoning request RZ 01-6.00 submitted by Michele Harrington on behalf of TMC and Associates for property located east of Sunshine Road and north of Highway 16. The property is zoned A-1, Agricultural, and contains approximately 40 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance for the first time.

The Mayor asked Council for any comments on the issue. Alderman Santos pointed out that this goes with the annexation and that it should also be left on the first reading. Alderman Zurcher stated he did not know if there was a precedent or not but seemed that if you are really worried about bad development out in the county then why don't we just go ahead and annexation all of our growth area and just leave it agricultural. Looking at these two proposals I'd be all for leaving it agricultural it's a benefit to the city that way.

Alderman Thiel thought it was good idea and then we could take in the race tracks that way. I'd love to get that into the city limits. Alderman Santos stated he didn't know if the owner could go for that. Alderman Zurcher stated he didn't think we could do that.

The Mayor asked for any other comments from Council and asked the audience for comments. The Mayor stated they would leave this item on its first reading as well.

Citizen Len Williamson with TMC & Associates. I'm the developer desiring to purchase the property. This property is anybody saw it before and after. This property is adjoining Fayetteville city property, the Bridgeport property. This property literally looked like a bomb with off on it. I know the developers aren't well received sometimes but this property was property that we know needed to be cleaned up. He stated it was just debris and stuff. Just stuff that accumulated. Stuff that accumulates on a lot of other properties that are around Fayetteville. I've developed in Elkins. I've developed in Fayetteville, Springdale. But this property unique was just a gross piece of property and it needed help and so in spite the opinion about whether it should be developed or not. I think that if anybody really saw this property before we endeavor to reclaim it if you would. You have to agree that it eventually will far exceed whatever we do. It will far exceed where it was going as it laid in county. Because this property was probably messier than any property I've ever laid my eyes on. I don't mind blow on my own horn a little bit. That is a beautiful piece of property. Fayetteville sewer runs right across the heart of the property. Fayetteville services have already been annexed onto the property. They've cut it directly in two. In a draw with nice trees and greenery and runs to a lift station that we've been lead to believe and that's why we've been confident to move on with the mother of all lift stations is going to replace the lift station at the road to the north of us. We know that there is planned growth out there as it relates to that infrastructure. We know that we are laying right next to as you stated a nice subdivision, Bridgeport and the sewer already on the property it just seems unreasonable that we would let it fall into the county and be developed with septic tanks

with this Fayetteville sewer running right across the property. There are several things to be considered here because this property is a little more unique in that it is more tailored to already have Fayetteville services because of the enjoinment to Bridgeport. Thank you for your time.

The Mayor asked for further comments or questions and there being no others brought it back to the Council and left this ordinance on its first reading.

AD 01-12.00: An ordinance approving an amendment to Chapter 161, Zoning, of the Unified Development Ordinance to include additional multi-family zoning districts, RMF-6, RMF-12, and RMF-18.

The Mayor asked Tim Conklin to speak on this item. Mr. Conklin stated that last summer during the General Plan update they talked about some of the problems we were having between R-1, Low-density Residential, Single Family to the Multi-Family Residence, R-2 which allows 24 units per acre. Some the situations we've had when you do change your zoning from R-1 to R-2 it jumps from 4 units to the 24. In the past we've had developers submit to the city a Bill of Assurance to reduce their density down to more the level that they plan to actual developing. Typically that was around 8 to 12 units per acre. So the staff has brought forth to the Planning Commission. The Planning Commission has recommended to the City Council are three new zoning districts to allow 6 units per acre for multi-family, 12 units per acre, and 18 units per acre. The bulk in density area calculations and ratios are the same as R-2. Basically changes the density and are using the same setback standards and other standards within the zoning districts. I think this going to have a positive impact on the city. Its going to allow staff when meeting with developers to actually plan a better fit for their zoning instead of 4 units per acre to 24. We'll be able to actually discuss with them what they plan on bring forth to the Planning Commission and better fit density for their project

Alderman Davis stated he appreciated what Mr. Conklin has done and thank Planning Commission on the work on this item. Now the citizens will be aware of what they are actually going to be seeing in R-2 development. I know that one person out there that really doesn't like this. Richard he likes the 24 in all R-2 developments. Just kidding Rich. It kind of goes towards the concern that he had last year on development behind his house. So I think this really is good for citizens and I appreciate you stepping forward and bring it before the Council.

Mr. Conklin thanked Alderman Davis and stated for public knowledge that planning was not changing anybody's zoning classification. These are three new zoning districts so when they do bring zoning requests forward they will be able to apply for one of these three new zoning districts. Once again we adopted our General Plan on December 19th. This was a implementation strategy to find a better fit of zoning classifications and this is one of the first ordinances we are bring forward to implement our general plan.

Alderman Davis ask Mr. Conklin what happens to any prior Bill of Assurance that someone had

given to the City and has yet to develop an R-2 area. He asked can they still go with that same Bill of Assurance as far as drainage and if you accept it whether its going to 12 units or 14 units per acre or do you now go back and look at each one individually if we pass this tonight.

Mr. Conklin, Planning Coordinator, stated that if passed Planning would not go back and change what the City Council did in the pass. We still enforce the Bill of Assurances. So once again this will allow, if it this does pass, individuals request these three different zoning districts in City of Fayetteville for a rezoning.

Alderman Davis asked if in the future will have to crawl under the R-2 districts. Mr. Conklin stated that we still had R-2 which is 24 units per acre. This is basically setting up four, three additional multi-family zoning districts. They would have R-2, which is 24 units per acre. Now we'll more options.

Alderman Santos said this will be a great idea. This is really going to help the surrounding neighbors and it just a good idea. I don't think anybody would want to disagree with it. I moved we suspend the rules and good to second reading. The motion was seconded. The mayor moved to second reading.

Upon roll call the motion carried unanimously and the ordinance was read the second time.

Motion to suspend the rules was made and seconded. The ordinance was read the third time.

The Mayor asked for any comments from the public.

Citizen Gary Lowery again spoke. He congratulated Tim Conklin on the endeavor and the city staff for bring the item forward. Because it is an exceptional idea and exceptional plan. It allows a buffer between the lower site properties which are in the R-1 district all the way up to R-24 which is apartment complex. This will be a great buffer from the lower density type establishments to the high density and congratulated the city and the staff for doing so.

Citizen Richard Maynard an R-2 advocate. I feel our neighborhood situation will have to be somewhat responsible for this or not. I dor.'t know if was or not. I also thank Tim Conklin, and staff for coming with this very simple idea. I support it too. I think it keeps everybody honest. Also replaces a Bill of Assurance and certainly gives the Council more options. There's always a *but* with everything. I do want to remind the Council thought that it does ease our concerns. Particularly living in a new built situation like I do about density. But density is not the only questions going from R-1 even to a RMF-6. That's important for the Council to keep in mind. I think Mr. Conklin and his staff has done everything that they possibly can for this situation. But once you do move in even that low of density you are also invading the integrity of that R-1, the integrity of that neighborhood. You are moving into rentals. I was renter for 44 years before I became a homeowner.

I have nothing against renters by any means but I do need the difference. I do understand why people on little plots of land off Sycamore or the one with the 1850 house that they are going to raze. I understand why they were upset. They get dragged into a density argument when the real argument is about neighborhood integrity. I think that's important to keep in mind. That's one that our neighborhood association is very concerned about. I think other neighborhood associations are concerned about. We are not here to say and I want to make it clear we are not going to have the knee jerk reaction saying no to anything that comes up. But we will if we are bypassed. That zoning there is a social contract the city made with us. And yes what the city giveth, the city can taketh a way. We do need to be included. If the city does things that just because of this that we will just accept any rezoning that's just not going to be the case. Thank you.

Jokingly, I want you to change the whole to city to R-2 and R-3 zoning here. So we can just get this over with. I appreciate your joke but please don't minimize what I say because I think it is very important that we do keep in mind that density is not the only issue. The most important rezoning will be the one in the residential will be the one going from R-1 to anything else. My recommend vote for it 8 to 0. It's a good idea. In balance it's a very good idea. Like I said its all the planning office can do for us.

The Mayor asked for further comments from the public and council. Hearing none asked shall the ordinance pass.

Upon roll call the ordinance passed 8 to 0.

RULES OF ORDER: A resolution amending the Rules of Order and Procedures of the Fayetteville Mayor/City Council by adding paragraph D.6. to suspend or waive by two-thirds vote of the membership of the City Council including the Mayor. Therefore a motion to suspend the rules requires six affirmative votes to pass.

City Attorney Williams stated he presents this as he was looking the Rules and Procedure for a couple of other things and I knew that often times we moved to suspend the rules and I wondered at that point in time whether or not the mayor would have a vote in that. So I did some research. I called an attorney who represents the Municipal League and got his information from that and he gave me some cases that he had. Then I looked at the statutes and the reason I wanted to do it at this point in time in case you ever wanted to vote I wanted the rules to be set and agreed upon now when its not controversial one way or the other whether you would vote yes or no or choose not to vote. I think that this should be clear. There is not a direct case specifically on point that says that you have the power. However the statute that grants, that entitles the organization of the city council, subsection b says "the mayor shall have a vote when his vote is needed to pass any ordinance, by-law, resolution, order or motion. And a motion to suspend the rules would be one of those motions. There are a couple exceptions to that which are dealing with the constitutional issues which this would not effect. In other words, you could not vote for an emergency clause. That's a

constitutional issue and also you could not vote if there had been an initiated acts by the citizens. You could not vote to appeal the initiated act. But apart from that I think you can and so I presented this just to get this issue clearly established in case it ever comes or be a time where you would want to suspend to the rules. Thank you.

The mayor asked for any questions from Council.

Alderman Young asks if Mayor Coody brought this forward. City Attorney Williams interrupted and said he had brought this forward. Alderman Young ask the mayor if he was in favor of it and then requested to proceed on to the next issue. The mayor responded by saying he was neutral and ambivalent and deferred to the wish of the Council. Alderman Young states that as Kit mention there is no case law on this and Arkansas Supreme Court has not ruled on this. He is using attorney general opinions on other issue and trying to apply it to this. This proposal, the only purpose for this proposal that I can see is to reduce the public opportunity to speak to issue before this Council. So Mayor if you want to vote on these issues then I suggest you go with these opinions. And if somebody doesn't like the way you vote, they can file a lawsuit, take it to Arkansas Supreme Court and have a decision made. But don't ask for my blessing to thwart the ability if the public to speak to this Council. Not only to speak to it but also the citizens out there to have the right their representative here to vote and if you want to suspend the rules and go through all three readings in one night when someone might not be there then that denies the voters their right to have their elected officials here to vote this issue. I'm opposed to this.

Alderman Davis agreed with Alderman Young. He stated that by suspending the rules it limits what you were voted by the citizens to officiate what we do in the chambers here. And by doing this gives you the opportunity to railroad things through which I don't think is your intention. It could be perceived by the public that that could happen. I don't think we want that perception out there but that could be the case. And I think that we need to make sure that citizens have the opportunity to come up and talk to the Council on any given issue and not have the perception that we could on any given night have three readings on something because we passed this type of ordinance.

Alderman Zurcher responded that we could on any given night have three readings. City Attorney said we just had three readings on the last ordinance. After some discussion Alderman Zurcher said what this would say is that there would have to 5 and mayor. So it would still be a majority of the council but it would be the mayor.

Alderman Davis states that in his opinion I think that if we don't have 2/3 out of the eight of us there is no reason to put the mayor in the position to have to make that decisive vote to make the appearance that we are trying to hurry something on through.

City Attorney Williams states he should advise the council of this. You are allowed to adopted your rules and procedure as along as they are not in violation of the state law. The state law on §14-55-

202 that: "All bylaws and the ordinances of a general or prudent nature shall be fully and distinctly read on three different dates unless 2/3 of the members composing the municipal council shall dispense with the rules." So what does it mean members of the municipal council? There has not been a case directly interpreting that to be the mayor. But if you look at the next section, the next statute, that means that the Supreme Court interpreted the language, the whole number of members elected to the council to mean that the mayor was a member of the council so that that particular council could do it. So that is to me the same thing as members composing the municipal council. Alderman Young state there is also a rule that the mayor is a ex-officio member.

City Attorney says but not for voting purpose. For voting purposes the underlying statute says when his vote—the mayor shall have a vote when his vote is needed to pass any ordinance, bylaw, resolution, order or motion. And so regardless of whether or not this actually is a part of our Rules and Procedures, if it ever came to that and I not recommending that the mayor vote one way or the other, but my interpretation and the Municipal League's attorney is that the mayor has a vote.

Alderman Young and that's what I'm saying. If he wants to vote to suspend the rules and go on your research and opinion, don't ask us to put it in our Rules and Procedures.

Alderman Davis stated that he didn't look at—if you suspend the rules and go to additional readings is the same as an ordinance.

Then it's a motion.

The mayor said he would like to injection something at this point since this centers around the mayor's office. I appreciate your bring this forward. I didn't even know this was an issue until you brought it to me. But in light that it is controversial apparently, I don't have an interest in pursuing this unless it causes some other problem I'm not aware of, I would certainly never do anything to thwart public input and try to pass ordinances just to try to keep the public out of the public's business. But in light of the controversy here I would just as soon have this withdrawn unless there is some other reason that we need to push this forward.

City attorney stated that it certainly does not have to be passed. It's still going to be the law as I interpreted it. You all have one city attorney and that's me and that's my interpretation. I would also say that occasionally its been the rule to put something on the agenda when it wasn't put on there in time. Like the last meeting we had to suspend the rules to place an item on agenda so that we can pass it an emergency situation. So sometimes you need to suspend the rules for those types of situations also.

It prevents having to read an ordinance again that maybe a very long ordinance.

So anyway you don't have to pass this if you don't want to. I surely didn't think it would be

controversial. It is my interpretation that is what the law is. And if – that will be my interpretation whether this is passed and made a part of our formal Rules and Procedures or not.

Alderman Jordan says even if we don't passed this he can still vote on it.

City attorney answers yes.

Alderman Jordan says if its never been done before but that would be a new practice.

City attorney says the way he reads the statutes in the case I think it is clear that the mayor for purposes of motion to suspend the rules-if his vote is needed to pass and only if it is needed to pass can he then vote. If there was five alderman here and we had a quorum and the mayor was also here and everybody votes to suspend the rules the mayor could at that point vote to suspend the rules and without his vote it would not pass.

Alderman Young stated but if it went to the Supreme Court they may not agree with that.

City attorney says they already agreed with it.

Alderman Davis says no they Supreme Court hasn't. They have interpreted it with language very similar by the statute but that have not addressed this particular issue.

Alderman Young says they may agree that the whole purpose of thing is to have at least six alderman here and that would thwart the public. But you don't know what the Supreme Court's going to do.

Alderman Santos states he appreciates that Mr. Williams is trying to tidy up our procedures but it really doesn't seem to me that it matters at all. If there is controversy and you do exercise your right as Mr. Williams claims you have to make that a 2/3 majority. If someone wanted to challenge that they challenge our procedure too.

Alderman Zurcher says lets just make a motion to pass it and vote on it.

The mayor stated he wanted to entertain a motion to deny this resolution.

Alderman Young so moved.

Alderman Santos seconded.

The mayor stated we have a motion and second to deny the resolution. Upon roll call the resolution was denied with Alderman Zurcher voting no.

BAUM BASEBALL STADIUM: An ordinance allowing the University of Arkansas to use

Fireworks for the annual occasion of the celebration of fireworks night marking the end of the Razorback Baseball Season at Baum Stadium.

City attorney read the ordinance for the first time.

The mayor asked for comments from the city council on the ordinance.

Alderman Davis stated we have done this the last three or four years.

City Attorney interrupts to say 5 years.

Alderman Davis thank you. It something we always do. It gives them an opportunity to get recognition from the community. So the people will know when the final game is and be out their for the fireworks display. Its always a very nice fireworks display.

Alderman Thiel says I'm not concerned with the one year event. I think you're absolutely that's a wonderful celebration. But I understand that in the pass we've always just adopted a resolution. No?

City Attorney interrupts to say its always been an ordinance but its been an ordinance just for a single year. This is permanent.

Alderman Thiel says okay. We're just making it permanent. I guess that's the only thing that concerns me. Why not just leave it and that we just redo it each year.

Alderman Santos says To save us the trouble. It just makes it periennial instead an annual.

Alderman Thiel says Well I got some calls about this.

Alderman Jordan said Yes he did too.

Alderman Santos said the calls he got people were more concerned about-this is more of an aerial light display than a noise display. And that the people who complained to me are the people who complain about the cannons-the booming at the football games. It's not the lights in the sky that bothers people it's the booming cannons at the football games.

Alderman Thiel ask And these don't make any explosion when they go off in the air.

Good evening my name is Scott Varady. I am the associate general counsel at the university, and I came tonight to answer any questions you might have. I don't know specifically if there are an shells that will cause a booming sound. Generally they do cause some noise obviously. So that is an issue.

As Mr. Williams said and Mr. Santos pointed out, the purpose for this ordinance was just to grant permission so you won't have to go through this process every year. If it's your preference to do it every year we of course would be happy to request it every year. Because it is not given that it will

happen every single year. It's developed into a tradition. A young tradition. And you know we have cooperated on these kind of things with for a great city interest. For example on First Night Fayetteville, we allow university property to be used to shoot off that set of fireworks for the celebration on New Year's. So we just thought it would be more convenient for the Council to approve it in one shot and not have to worry about it year to year. But we can come back if you prefer.

The mayor asks Mr. Varady is there a way--do you think there might be a way to limit to the fireworks and eliminate the percussive, very booming fireworks the people are concerned about?

Mr. Varady responds with I don't have an answer whether that's technically feasible mayor. We can certainly check on that and request the company with whom we contract to provide the show to try to minimize the effect.

Mayor says I know they make fireworks for colors and they make fireworks for noise. If you could just say we want the ones for the colors leaving the noise ones at home I am sure they would do that. That's the only concern I think that the people have voiced.

Alderman Santos says really is not even for this annual event. It's for the three or four or five football games a year. And I am aware of that people live a lot closer to the football stadium than they do the baseball stadium. So those are the complaints. I'm sure Lioneld had some.

Alderman Jordan stated yes he had the same complaints about the noise at the stadium when a rocket for every point that they scored. Of course, if you don't have a very good team you won't score very much.

Alderman Santos stated those cannons have been taken out. I don't see that there's a place to put them back in.

Alderman Thiel stated she was going to ask that. I mean that's been done away with for the past year. You may not even know the answer to this. Is that something that has been done away with. Scott Varady asks the fireworks at the football games?

Alderman Thiel well yeah the cannon fire.

Scott Varady said the fireworks--you might, Mr. Williams, make the distinction for them. But the fireworks that have been used at the football games have been fired on University property so therefore, technically it is state property and we're not technically obligated to request permission from the city. We did not do them last year in part because of the ongoing renovation and construction to the stadium. I don't know what the plans are moving forward. I was privy to some conversation where we were trying to do fireworks that were powder fireworks that probably

wouldn't have the same effect. I don't know if they decided to go with those or not at this point. I mean I don't know if they've made in plans for fireworks next football season at this point either. Previously those fireworks were launched from mid-field in between the indoor practice facility and the south end zone. Of course you have the south end open and you could fire those fireworks up in that location and they were visible to everybody. The end zone is now enclosed I don't know whether they could do it or not technically. So I'm not sure what the outcome is going to be on that but I would be happy to get an update to the Council if you would like.

Alderman Reynolds addressed the mayor. Baseball to me is a youth program. My family comes in for the celebration because we do baseball more than we do football. They don't shoot this after every homerun like the university does after every touchdown. This is once a year and bet there is 10,000 children come to see this. It's a great event and hate to see us cancel that for once a year.

Mayor said he think it would.

Alderman Reynolds says It like First Night. The kids come for noise. They come for the picture. It's a beautiful thing for once a year.

Mayor states no one wants to deny this.

Alderman Thiel stated she wasn't suggesting that at all.

I certainly appreciate it. I'm president of First Night and if you all have any extra fireworks please let me know. We're on a shoe string budget this year.

Alderman Zurcher said he thought they shot off a great this year.

Alderman Thiel said she would be interested in a report of the progress of whether or not – because there are some constituents that are very interested and very concerned about whether that's going to take place again and I think they like to have input on them not being as loud as they were in the past.

Mr. Varady said he would be happy to do that.

Alderman Jordan made a motion to suspend and go to the second reading.

Alderman Santos seconded.

The mayor stated there was a motion to suspend the rules and seconded. Upon roll call the motion unanimously passed.

The city attorney read the ordinance for the second time.

Alderman Trumbo made a motion to suspend the rules and go to the third and final reading of the ordinance. Alderman Santos seconded.

The mayor stated there was a motion to suspend the rules and several seconds. Upon roll call the motion carried.

The city attorney read the ordinance for the third and final time.

The mayor asked for any other comments.

Alderman Jordan stated that some of the constituents had called him and I know this is going to be at Baum Stadium but I want for the record that the fireworks will be at Baum Stadium and nowhere else.

Mr. Varady stated that technically the fireworks are launched across the street from Baum Stadium on the southwest corner of privately owned property.

Alderman Young asked you mean it's not at Razorback Stadium?

Mr. Varady said right it's not at Baum Stadium. It's not at Razorback Stadium.

Alderman Jordan asks if we pass this then it can be displayed somewhere else or somewhere else on campus.

Alderman Santos said it was for the baseball field.

Alderman Jordan says okay I just want to make that clear. They asked me to.

The mayor asked for any other questions or comments from the Council. Then asked for any questions or comments from the public. The mayor then thanked Mr. Varady and asked shall the ordinance pass. Upon roll call the ordinance passed.

Mayor called for a 7 minute recess and come back.

Alderman Young asks is No. 9 tabled or are we going to come back and discuss that?

Alderman Santos stated he wanted to go ahead and talk about that now so these people don't have to wait.

Alderman Young says let's take a break after we have talked about it.

Mayor agreed to continue.

Alderman Thiel states lets just keep going.

Mayor decides to go on to J.D. China.

J.D. CHINA: An appeal of a Planning Commission decision for Large Scale Development LSD 00-36, J.D. China.

Alderman Davis says that Mayor told him just before the meeting that the petitioner's may want to table this to come back with another plan. Is that correct?

Mayor stated he didn't know but was thinking that might be the case but I wasn't sure if that was the case or not.

Then we will take a break.

The mayor decides to take a 7 minute recess.

The mayor calls the meeting to order after recess.

City attorney advises the Mayor, we do need to have a vote a separate vote on the last fireworks ordinance for the emergency clause.

The mayor asks So we've already started this discussion so do we back out of this or can we just go forward with it.

City attorney advised he would just call for the vote on the emergency clause on the fireworks ordinance.

I second was voice by unidentified alderman..

Mayor asks Kit if that was a motion.

Mayor states there was motion to approve the emergency clause on the Baum Stadium fireworks and seconded. Upon roll call the emergency clause passed.

(Heather I don't think that Kit can make motion can he? If he can't then the emergency clause isn't any good.)

Mayor says thank you and now we can move along with J.D. China appeal! Now this is an appeal so

what's the process here.

When I reviewed the U.D.O. with our city planner, Tim Conklin, my opinion is that we simply hear the appeal. An alderman, and this time Alderman Kevin Santos is given the right under the Unified Development Ordinance to appeal that decision to the city council. And he has done that and therefore, we simply hear the appeal at this point and time. And eventually you all make one of three decisions. You can either deny the appeal and affirm what the Planning Commission has done. You can affirm the appeal and do one of two things. Simply deny their preliminary plat or you can return it to the Planning Commission for further analysis with your input. Certainly I think that that would be a preferable thing than trying to do an outright denial. Because the Planning Commission has a lot of expertise here and you need to rely upon them even if you might disagree with them in one or two issues.

Alderman Santos, so should I start off. I decided to honor the request for this appeal because I'd to see if maybe we could do it better. I know we heard a lot last year about College Avenue and approving the appearance of College Avenue. We have a similar commercial strip developing on west Sixth Avenue and I hate to see a mayor twenty years from now saying we got to do something about Sixth Street when we had this opportunity and let it slip. I just wanted to see if there was any room for negotiation. If we could offer a rezoning for the back lot to allow them to move the restaurant back to save some of the trees and save some of the existing appearance of Sixth Street. That was the only reason he was appealing. There were questions about the rare landmark trees. I have a hard time with this plat. The only one I could find was this one 28" tree so I'd just like the petitioners to explain their position and if they can do any better please make us an offer. If you can't I don't really want to hold up the project I just wanted to have a discussion on it.

Mr. Mayor and members of the Council. My name is Andy Feinstein. I'm with Engineering Design Associates. I'm a project manager and principle designer for this project. We've spent approximately 12 to 13 months trying to prepare this plan to satisfy current city ordinance. As far as the tree preservation in regards to that and I've been several iterations on site design. We changed building shape and size. We have looked carefully at trying to maintain suitable grades throughout the project area to comply with A.D.A. requirements. To have just simple grades that are too steep to allow egress and ingress. We think we prepared an adequate plan to satisfy all the current requirements that planning and zoning requires. We have a 9 to 0 unanimous decision by the Planning Commission. The minutes revealed no discussion by the Planning Commission regarding the tree issue at that time. There was some public comment that is in the record. And I believe we will hear some more of that later tonight if this is a public hearing. I assume it is. And we feel that we have prepared a plan that is adequate to satisfy the needs of our client. Let me explain some of those. We have a facility here that's approximately 6,000 sq. ft. We are proposing to have 191 seats for the patrons here. A conditional use for additional parking was granted to allow a total of 58 parking spaces. So we are looking at approximately 4 patrons per parking space on this type of facility which we don't consider excessive. It was a different site. We do have some rare trees that

are located toward the front of the lot. We have additional, large trees scattered through out the site towards the middle and the back. When we realized that we were going to have difficulty complying with the preservation requirements the client agree to purchase an additional portion of land to maintain that in an intact tree canopy. They've agreed to except an easement to the city. Provide an easement on that area to satisfy the tree ordinance. And now they are very confused as to why we are here tonight. Hopefully we can get some resolve to this.

Alderman Trumbo commends Mr. Feinstein. I'd just like to say I know that you have gone above and beyond. I mean 12 of the 13 months of buying that land in the back and going through a 9 to 0 vote in the Planning Commission. Ms. Hesse, Tree and Landscape Administrator approved the tree preservation plan. Fayetteville is a pain in the rear end to do development. I take that as a complement because we do have nice developments and we are very strict. I am not going to vote for approving this appeal because I think it is a very nice development. You've been very cognizant of the tree and the preservation and so I would thank you and your clients for going above and beyond on this particular development.

Mr. Feinstein stated I have one question of order here. If the appeal is upheld, the one year rule, there seems to be some confusion as to what the condition are on that. My understanding after talking with Mr. Conklin is that if there is a significant change to the plan at some point that would allowed within a 12 month period.

Mr. Conklin stated that the one year rule refers to rezonings and conditional uses not large scale development. So if the Planning Commission denies a rezoning or conditional use they can't come back until after one year. With regard to a large scale development, if they deny that you could reapply for a large scale development and I would assume that it would a different design.

Mr. Feinstein stated that there are no plans to resubmit this with any changes. This is I think our make or breakpoint here tonight as to whether the client has to resources to proceed with an entire redesign and to incur the extra costs that made come in to accommodate the suggested changes.

Alderman Davis commends the firm's clients. The fact that the one lot would not equal or meet the canopy they went out and bought an additional lot to see that they could met the proper amount canopy. That 21% of canopy is going to be less once this building is put in.

Mr. Feinstein stated they are split zoned in there and we comply with both the 25% on the residential portion and 15% on the commercial portion. We are in excess of what would be required for both of tracts.

Alderman Davis stated he applaud them for going in to make sure that they can follow what the ordinance says supposedly by making sure they had adequate canopy. And I'm going to follow Mr. Trumbo on his lead, I'm not going to vote for the appeal either.

Alderman Young questions-Tree easement, do we know what that is.

Tim Conklin answers-Tree and Landscape Administrator has put together language and worked with Planning staff and basically what we are trying to do is to make sure this developer understands that this tree preservation area is going to be preserved to perpetuity. This is a tree preservation plan and this the trees that are going to be saved. That future owners will know that these trees cannot be removed in the future.

Alderman Young stated that was his concern. It goes with the land and that it be looked at and is it legal to do that.

City attorney states I should caution you that when this property was rezoned there was a Bill of Assurance that was passed with this presented by the owner of the land to the City Council at that point in time in order to secure or help secure the rezoning to commercial. And that Bill of Assurance ran with the land and guarantee the preservation of certain values and amenities in the community and binds themselves and their successors and assign to save 60% of all the trees on the land. Later the owner and the buyer of this property sued each other in court to remove this Bill of Assurance. And the judge determined the City was not a party to that suit. But the judge determined that that Bill of Assurance should be declared null and void and held for not leaving the aforesaid property subject to the tree protection and preservation ordinance of the City of Fayetteville, Arkansas. We might have what we think is some sort of forever tree easement, the language in this Bill of Assurance done on September 12, 1990 where it said that the preservation of 60% of the all the existing trees with a caliper of 8" or more would be done has been held null and void. And so I cannot guarantee what might happen in the future to any other legal documents that we have supposedly guaranteed trees on this other lot.

Alderman Young states that the reason he is raising this, mainly, for the people that are considering revising the tree ordinance because I think they have been discussing tree easements and some other mechanisms. Every time they've said that I've been wondering what it is they are talking about. Now if its legal fine. But you know I never have scoped it out but it may or may not be a legal document that will stand in the courts.

Alderman Thiel ask What about conservation easements that are done?

Alderman Young stated that was the same thing.

Alderman Thiel says well they are legal. I mean they are binding aren't they?

Alderman Young says if there's case law to do that. But you know.

City Attorney says that the Bill of Assurance is legal also.

Alderman Young states that that doesn't mean that

City attorney interrupts to state that there was a local chancellor that held that, in a very friendly lawsuit between the owner and buyer of the property. He took it away. He said it no longer had any force and effect. I will note that one of the reasons that the judge gave for that was that in his order and I quote that "the aforesaid property remains subject to any tree protection and preservation ordinance implemented by the City of Fayetteville, Arkansas." And by that he meant not the big lot but the commercially zoned lot which I think under this plan is going to be fully graded and every tree will be gone in that lot.

Alderman Young said I personally can understand what the judge is doing but I think a tree easement might be a little more difficult for a judge to nullify a tree easement. But you did raise a question. Tim they bought an extra lot is that right.

Conklin responds that they did purchased more property.

Alderman Young ask are the lots combined then. Or will they be.

Mr. Feinstein states that they actually are a single lot that's split zoned. They were never separate. Let me back up. There was a lot split approved by this Council sometime in the past. It was never consummated. It was never recorded.

Alderman Young asks this is all one piece of property.

Mr. Feinstein states exactly.

Alderman Young responds which means that the back portion is part of the tree preservation plan which is locked in then.

Alderman Jordan states okay in other words what you are saying is that the R-2 lot and the C-2 lot basically are one lot now.

Feinstein responds exactly. They are covered by the same deed. And they had the option to purchase the rear lot and if that would have been the case they would have consummated the split.

Alderman Jordan responds by saying So basically you are getting your 20% by the two combined lots is that right.

City attorney asks how do we have one lot with two different zonings.

Alderman Jordan responds, yes that was my question.

Conklin states you can have the zoning ordinance, legal description does not split property. We have many situations in this community where people own a piece of property zoned for different zoning districts.

Alderman Reynolds made comments regarding residential and commercial zoning of different tracts.

Alderman Thiel wanted to go back to the conservation easement or the tree easement. This is something we do need to check into and see if we can't find out how legally we can do this. Because whenever we start looking at the Tree and Task Force, we are going to have to find ways to get conservation easements for the trees or whatever we what to get the easement for. It's just a matter of deeding, isn't it?

Alderman Jordan responds, through the federal government some way.

Alderman Thiel says it doesn't have to be through the federal government.

City attorney interrupts to state that the City itself should be a party to anything so that it can't be left out of a court situation and so it's use would not be heard.

Alderman Thiel said she would suggest some kind of a deed with an easement just for the conservation of trees in that particular lot. I mean is that not a legal way of doing this.

Conklin stated that staff along with the landscape administrator a standard type conservation easement that's recorded over at the county courthouse that removes the development rights off that area of land by legal description to save or preservation the trees. I'd have to defer to the city attorney but I can tell you right now the landscape administrator and city planner are trying to make sure that future developers and owners of property are put on notice that these are tree preservation areas that can't be developed.

City attorney states that just like other easements that easement would have to run in favor. We would have to own that easement as a city so that we will be able to then enforce it.

Conklin stated that was what they were kind of looking at right now.

Alderman Santos states as it stands now, you do have approval for that lot split you could sell that back lot again. Somebody could develop that back lot as R-2. It would be very easy for them to say that couldn't reasonably preserve any trees on there or certainly wouldn't have to worry about preserving any landmark trees. You couldn't develop that as R-2 and save any trees. And that's essentially what you did. Was you approval under the tree ordinance it wasn't feasible for you to develop this front lot and save the rare landmark trees. It's the same questions we had with the CMN development was the trees must be preserved unless they cannot be preserved. And that's what Ms.

Hesse has decided and the Planning Commission agree with is that you couldn't develop this lot and preserve any trees. So instead you are going to preserve the trees on the back lot except if a similar case follows as the one Mr. Williams just described, the people who buy the back lot wouldn't be anymore obligated to that tree preservation agreement than you are obligated to the previous tree preservation agreement.

Mr. Feinstein asks, what would be the status at this point since we've already had a plan on the boards, would the current lot split still stand? Or would you ask, would the City expect a resubmittal for a lot split at that point.

Alderman Young states this also raises a more fundamental question. Tim now this is all one lot. The back portion is tied in with the tree preservation plan for this large scale development is that correct?

Conklin responds correct.

Alderman Young states okay and ask can they sell that back portion and still be complying with a large scale development?

Conklin responds we're moving the development rights off.

Alderman Young asks if it just went through any kind of easement.

Conklin responds by saying he can't answer that question.

Alderman Young states the tree committee needs to look it too.

Alderman Davis ask you are deleting the developmental rights of that back portion of property correct?

Conklin responds by saying we are attempting to remove the developmental rights off that back portion of the property that will preserve the trees.

Alderman Davis asks just for the citizens that will do what?

Conklin responds it will preserve the trees. That's what we attempting to do. If there is a legal issue with that I can get with the city attorney but we're

City attorney interrupts by saying we will have to get the consent of any owners for any easement that were provided. They would have to sign a deed based upon granting us the easements rights to that. So we don't take it off their lot. They have to give it in a legal document, a deed, to the City.

Alderman Young states they still own the property it's just that the City has a easement.

Alderman Santos responds which will be much stronger than a Bill of Assurance.

Alderman Young states right, that's my impression.

Mr. Feinstein voiced in reference to the Bill of Assurance. I have the minutes of the 1990 Planning Commission meeting where there was actually six tracts that were contiguous at that area that were under the same situation. It was a condition of rezoning approval to have this Bill of Assurance placed. The Burger King was one of those lots incidentally. And from my understanding talking Kirk Eslaw, the developer at the time, it had a similar force cover at the time. But somehow it was allowed to proceed with its development and there is only one or two trees left standing on that tract.

Alderman Zurcher states Things have changed.

Alderman Davis addressing Kim Hesse states he assumes that through landscaping there will be some tree replacing.

Alderman Reynolds states he had tour on Monday and I was the only alderman on the bus. We had some no shows.

Alderman Zurcher said they called us and told us there wasn't a tour.

Alderman Jordan said they told us not to come.

Alderman Reynolds proceeds. Anyway we toured this site and what I've seen, yes there is some rare landmark tree on this property and we talked about it and we talk about maybe they could do the other lot and not do this lot. But the matter that comes up tonight is it's all one lot and they have followed every instruction that we have asked them to follow. And the other thing is they are cleaning up a blighted piece of property that's been an eyesore out there for a lot of years. And it's not sprawl its infill, or building where we need them. Right where we need them on a bad piece of property. I think that we need to uphold our rules through the Subdivision Committee, the LSD, the variance for the parking, and it went 9 and 0. They followed everything to a 'T' til now. We probably need to uphold our rules and regulations and we probably need to go along with letting the people develop this property. But we still need to go back and redo our tree preservation and we need to redo our laws for future developments. And we probably need to it right away. We're working on it right away. But its not going to cover this project. I mean they are covered. They have passed the rules and passed our laws.

Alderman Santos says You can say that they are complying with the tree preservation ordinance if you truly believe that none of these trees in the front of the lot could possibly have been saved. And

it seems obvious to me that they could be possibly save if you move the commercial development to the back of part of that residential lot in the back. If you slip the whole thing back 20 ft you can leave the front 20 ft and then we are going to have a tree lined Sixth Street instead of the strip. You don't call it sprawl, you call it strip development when you get what we have on 71B.

Alderman Zurcher suggests to ask Kim about it.

My name is Douglas Lee, I'm the applicant of this property. The whole purpose of our-we are right now in a little shopping center in the corner. We want to show our restaurant signs in the front. But if you move our location way to the back, I mean.

Alderman Santos says not way in the back. Just 20 ft I think off a five land road wouldn't be that far removed from the street.

Mr. Lee responds, 20 ft you say. We tried everything. We tried a lot of different ways to get that goal. That's the reason we bought the extra lot in back. Because there is no way around it.

Alderman Santos say he sees an obvious way around it. You bought that extra lot you could use that extra lot. You have to ask for a rezoning but I think we'd be completely supportive of that.

Alderman Zurcher stated he would like to ask some questions of Kim Hesse, our tree and landscape administrator. There isn't anyway that these rare landmark trees could be saved there on the front.

Kim Hesse answers she worked with these applicants for 13 months. This started during the Steele Crossing controversy. And they came to my office asked me to look at the site. I walked out to the site. As we saw the other day on the tour. There are nice trees on that property. This is in the middle of a heated controversial time during Fayetteville. Basically I told them they needed to save 15%. That was the big issue at the time. Save that canopy requirement. That's what I asked them to do. So I went through probably six scenarios myself. Using the footprints that they gave me and the number of parking required. We didn't even have the twenty extra spaces at the time. We just looking at the number that's allowed under the ordinance. You have to understand that this near a lot. You have to understand that there's a constant grade on this site. If you going to put a building in obviously you are going to have to grade for the building. If you are going to put in parking obviously you can't exceed too much of a grade or you have troubles with your doors opening. You have troubles with ADA. Every time I worked around move the parking, move the building, turned the building, changed the way the parking is configured. When I came to the point to trying of trying to grade it, I could not get it to work. What I think is the problem here is people don't understand what it takes to preserve a tree. I will not accept a preservation of a tree if you are inside that rare canopy. If what were talking about--what I did was devise a status picture of the canopy. These are circled of the actual canopy site.

Alderman Santos interrupted to ask Did you look at any options using that back lot though?

Hesse stated that at the time the back lot was not even being considered. But I would like to continue if I could. I want you to look at the canopy spread. If you cut. Just a quick lesson in tree preservation. Trees root are within the top 12 inches of the soil. Ninety percent of the trees roots from the top 12 inches of the soil. You cut six inches, you cut 4 inches, you've cut a lot of roots. Basically that root spread goes beyond the canopy which is the canopy drip line and it doubles that. It can even go up to 5 times that. On a site where its canopy covered, those roots go beyond that because they have competition with the neighboring tree. So automatically the general rule was through tree preservation if you can keep the critical root zone you have a good chance. The crucial root is that root zone directly into the canopy. When you start impeding upon that critical root zone, number one if you're grading around that tree or filling around that tree you've already lost half of the roots automatically. Fill is just as bad as cut. Fill suffocates the roots and it diverts the water away the roots. Without roots, without water, without air the roots don't work the canopy dies, the canopy doesn't, the tree buckles. Especially with large trees it is much more difficult to preserve a large tree. If we go and find that drip line in the canopy I will not can it as preservation. You can do a little bit of fill if you use aeration. This site its not the issue. It's cut. Because it's a sloped up hill.

Even putting a drive--basically if you move that restaurant back, you will have to move it back at least this far which is probably 34 ft. This is going to save about 1, 2, 3, 4 trees. The large tree up there, it's roots go under that house. When the house is removed we're going to already damage that tree. But the house has to be removed. What I would look at is, can we save those rare trees. Is there anyway with the site plan that they give us, with the use that they give it, with the buildings they put and the number of parking, if I can come up with a way have them save trees that's what I ask them to do. I don't ask them to save one tree in the middle of a parking lot. Because you never give them enough room and it is suffocated by the asphalt. I ask them to save trees in groupings. So when I looked at this site I said it can't be done. That's when they came to be and said we're willing to by an additional lot to get the canopy covered. We can save all those trees in a grouping. Those trees are providing some better benefits to wildlife and things like that. There is a better chance that those trees will survive. If we like try to pick around one tree here and one tree there I'm not going to guarantee that we can save those trees. I think we've got to be careful here. If we start asking the developer to spend extra money, I mean you're talking big extra money in construction costs to build retaining walls, to do aeration systems, to do different construction methods to save trees, if you don't do it right we're all just going to sit there with some weird shape lot to try to work around a tree and watch that tree die in five years. To me that is extremely irresponsible. So that's why I made my recommendation. I know how to grade a site. I know what the constraints of this site were and are. And I know what they are asking. The only way to get this to work on the site unless we're going to the extent of really moving it way to the back of the lot you got to really balance what are we saving and what are we giving up then. Are we saving 2 or 3 trees and giving up 10%. You see what I'm saying. You've got to balance what you're saving and what you're losing. The only way I saw to really do it is to really effect the density of this site. And I'm not the person to make that call. I don't believe this ordinance was created to control density. If it is I would like to know that

because it would make my decisions a lot easier. I think we have to be very careful and I absolutely am against saving a tree half way. Just by not cutting it down and working around it maybe we can save it. I'm definitely against that if we're giving up canopy that I know we can save. And I do not want to expect a developer to spend \$5,000, \$10,000 more on a retaining wall and watch that tree die.

Alderman Davis thanked Ms. Hesse.

The mayor ask for any comments from the public.

My name is George Reece. 1614 Swinger Lane. I've a general concern here. There's a piece of property someone will buy it to develop a particular thing. It would seem to me that that person should know—I mean we have this piece and we could save trees on it if it was a different kind of development. That is the kind of thing that I think we ought to be concerned with. Not buy a piece of property and then develop and put something on it that will require taking down all of the trees. This particular piece of property could probably have been if you didn't have a big parking lot and you had some smaller business that required a smaller parking lot you would have preserved a lot more trees. This is what I think in general the City ought to be thinking and the developers would be thinking about. They should know right from the beginning this is a piece of property we want to save so much and if we can do it we don't buy it, we don't build. Thank you.

Barbara Moorman. 3450 Finger Road. I was going to start out by saying pretty much what George just said. You look at the lot, it's narrow, its steep, its covered with trees. Some of them are really old. You look at that lot and you don't decide that you are going to go in with a project that's going to wipe out everything that's there. It's going to require grading. It's going to have to turned sideways cause the lot's so narrow and it's going to require cutting out all the trees. I think that when our tree ordinance says a lot has to be reasonably developed I do not think it's the correct interpretation of that phrase that it has to developed with the specific proposal that a perspective buyer comes up with. I think there has to be some examination of that wording and some serious examination. You have setbacks and other restrictions. You know if somebody comes in on a lot let's say that 150 x 150 and they want to put down a building that's exactly that size they can't do it.

And I think that you ought to interpret your tree ordinance with the same seriousness that you interpret space and arrangement ordinances. I also want to point out that in that Bill of Assurance which was offered by the owner in exchange for the C-2 zoning and the other lots as well that were given a C-2 zoning in exchange for Bills of Assurance. There must of been some sense the city planner at the time was John Merrell, there must of been some sense that something C-2 worthy could be done on those sites and still save a minimum of 50% of the trees. So I don't think that C-2 and saving some of those trees are mutually exclusive. But there are some other things that havent been mentioned and you really have kind of talked about that. I think that this particular plan is not really a question of what our ordinance calls for. Which is either preservation or replacement. This is—since this is another lot that bought to satisfy the requirements, this is really off-site mitigation.

The applicants are being allowed to save it's trees on it's second lot to compensate for the trees being cut on the C-2 lot.

The mayor reminds Ms. Moorman she has about another half minute, sorry.

Moorman says I'm sorry.

The mayor says she has about another half minute and he's sorry.

Moorman says okay then let's talk about your tree easement. I don't think that an impound forest is going to be maintainable. I think the first thing that is going to happen it is going to become a nuisance. Or at least it's going to be called a nuisance. You're going to have people hanging out there. You're going to have trash collecting. You've got to have a management plan. If you're going to do this thing, then you've got have a management plan or a court is to strike down that easement saying that it's a nuisance and it's not appropriate. I've got a conservation easement on my property. I've been studying them for 10 years. I can tell you they can disappear just like those bills of assurance. Thank you.

The mayor thanked Ms. Moorman.

Mayor--Gary Lowery. I'm going to go a different track. I've been listening to our city attorney and I've been listening to our city planner over here. They are talking about Bills of Assurances. They're talking about lot splits. They're talking about recording of documents. They're talking about getting things taken care of. While I'm quite sure I heard Tim Conklin say that this lot split was not recorded.

Tim Conklin states the lot split was approved but they have not come in and had the deed stamped to be recorded.

Mr. Lowery resumes--okay. So then in other words it is still one lot. So now we're back to square one. We still have one lot and don't they have a certain amount of time to make that lot split legal by taking it to the county clerk and recording it. Isn't there a set time?

Conklin responds that we do not give a set time. We grant approval and if they decide not to split the property we never see them again.

Mr. Lowery resumes again--I think that's one thing the City ought to maybe do is give it a set time. Anytime somebody comes in and wants to split a lot, that lot split should be recorded within a certain period of time or that lot split becomes null and void. There's number one. Number two, Kit Williams referred to Bill of Assurances. His predecessor can tell you that Bill of Assurances are not worth the paper they are written on unless its recorded. The City has had a bad practice in the past of

not recording its Bill of Assurances. As a matter of fact it's continuing that practice. We need to record every legal document whether it be an easement, a bill of assurance, or lot split. These things need to be recorded so they are enforceable. The judge saw fit to turn out the bill of assurances and said not that the Architectural Landscape Committee has decided that this is the way to go. But unless you have an easement dedication and filed as in any type of property when you have plat map that's filed with the county recorder. Any document or contract, that's filed with the county recorder's office. These things need to be recorded. I don't see any problem with the property. I don't see any problem with going ahead with the design and layout on it. And I'm in support of it. Thank you.

The mayor asks for any other comments from the public.

My name is Bob Hill, I'm with the Nickel-Hill Group. I represent the owner of this property. And know this have been a lengthy process so I'm going to cut there some of my speech. We already covered a lot of it. I want to talk about something that we don't often talk about in this room. I think it is something that's very important and that's about people that are involved. We have rules and regulations that we have to live by and that are good that we have those. I think that we sometimes forget about the people side of these issues. The applicants, I guess I'm also speaking on behalf of them, have complied with all the city's requirements that you all have acknowledged. They've worked for over 13 months to do that. Agreed to pay an additional price to buy the additional land back there which was, we keep talking about separate lots, but it really isn't. I'm the real estate person involved in that. We got the lot approval but never did it. So they agreed to buy that in order to comply with the canopy. They've gone above and beyond the call of duty to do what they need to do. To fulfill the requirements of not only the planning office but also with the tree and landscaping administrator. Sometime I think that out thoughts in here are always this developer or something is involved in a project like this. And there's no developer here. There's a landowner who is a resident of the City of Fayetteville that's been here. The owner of this property is lived on this site. She lived there with her husband for over 40 years. And when he passed away she still lived there til about 12 months ago and moved into the city hospital. She is a resident. She's lived here forever. She was a school teacher here. The applicants here that want to buy the property are city residents too and have been for a long time. They have a fine restaurant and want to relocate it down to this site. And I think it would be a great addition to that part of time. There are trees there's no question about that. But that's what our city's tree ordinance and landscaping ordinance is all about. It allows people who want to build something the right to mitigate those trees and do something else and that's what they've done by buying the additional land back there. There's always an issue of you can have one tract of land that has no trees on it and another tract that's full of trees. How do you treat those two things? I'm sure that the owner of this property, Fay Sutherland, I'm sure that her and her husband never had a conversation 30 or 40 years ago like Fay maybe we ought to cut some of those trees down. Because when you're 92 years old the city might not let you build something there because there's too many trees. You won't be able to sell your land and so now she is sitting in city hospital worried about whether or not she can pay her bills or not. I don't think that's right. They didn't

make a conscious decision to save the trees or to cut them down. They didn't clear the land to raise crops or grow livestock so they just let the trees go.

The mayor reminded Mr. Hill I'm sorry time's up. Go ahead though and finish up.

Mr. Hill stated he had basically made his point. People, there are property rights involved in this and I think you are diminishing the property rights of the owner and diminishing the property rights of the applicant also if you appeal of the decision of the Planning Commission.

The mayor ask for any other comments or questions from the public. Yes, ma'am, Ms. Hesse.

I would just like to respond to some of the comments and basically. A real important issue was hit on. And that was you know to what extent do we effect the development's proposed use and the proposed development. How do you interpret the ordinance. You know what is reasonably developed. Last Monday we were in front of the Planning Commission. Again, talking tree preservation. It was interesting because someone in the public brought a letter that was written by the Sierra Club back when the ordinance was being written. There were several comments as to have they felt the ordinance-what the intent behind the ordinance was. I probably don't have enough copies here but I'm going to pass this around. The part that is circle is what I want you to look at. And I'll read that. "We propose the following sentence to be added. For the purposes of this paragraph the tree necessary to meeting the requirement of the canopy must be preserved unless doing so would a) result in the violation of local, state and federal law; or b) render the property undevelopable for the applicant's state purposes." They intend for us to allow a stated purpose. To work and try to come up with a way to design the site in a tree friendly way. They didn't ask us to dictate what should be on that property. They didn't ask us to approve or disapprove what's being proposed. Now this was the intent back then. This the intent of the Sierra Club. This is the main question that we have still struggling with in our Ordinance Review Committee. To what extent can we control what's being proposed on a site. I would love for that answer-love for you to vote on answer like that. But nobody wants to do that. That's the big question. That's all I wanted to say.

They mayor asked for any other comments or questions from the public.

My name is David Garcia. I lived at 120 North Block in Fayetteville. I think that this discussion is heading at a much deeper issue. And I'm not sure how we as a city can address. And that's how we can reconcile what would appear to be conflicting interests. The interests of people who want to develop on new property and new commercial developments. The interests of people who want to preserve the quality of life that they see in this area. People that are very committed to saving every possible tree. People that are committed to as much business expansion as we can have. And until we are able to bring all those different people to the table to sit down together and begin talking out some come answer as to how proceed I think we are going to proceed to continue these kind of conflicts. I know speaking for one point of view those who were against the CMN development I

know that a lot of the concern that our voices, our interest were not being heard by the city. Now I hear a lot from the development community. A concern that their voices and their interests are not being heard. I just want to say that I think at some point we need to work some way to bring all the different voices to the table. All of them to sit down together and to begin to work this out. If you don't do that then we will have these battles on every lot, on every large scale development, over every tree in the city of Fayetteville. But I don't think we need to have those so I think there is a better way to go which is let's start bring the development community together with the environmentalist community to sit down and talk to each other about what is reasonable development. What is sustainable development. What is it that we can't agree on. And begin to work these conflicts out. I don't know if you all here are the ones to take the initiative in doing that. I don't know if we as a community need to take the initiative in doing that. But if somebody doesn't do that we are going to back in these battle over and over again. Thank you.

The mayor asked for any other comments from the public. Any other comments from the City Council.

Alderman Jordan says yes and continues. The way I see this thing and we've thrashed this thing around for quite awhile. And we have the tree issue, the developmental issue. If our ordinances said that you are going to save 15% of the trees then that's what they need to say. I think the ordinances need to say what they mean and mean what they say. They don't need to say well let's say "you need to save 15% but however unless" then we go through these controversies and conflicts and problems. And I think we need clear cut ordinances in this city that definitely states what needs to be done on a plot of land. If the applicants had known that they need to save 15% on that plot of land to begin with and it was clear cut they probably would have said well okay maybe we'll build somewhere else. If it only said that. But it said "unless" so they buy another plot of land and now they are within the letter of the law. They've not broken any laws or any ordinances. So I think one way we can address a lot of these problems is to have more clear cut ordinances on tree preservation.

Alderman Young says he agrees with Lioneld. I've been sitting here think that this large scale development has really raised some fundamental questions in my opinion then CMN Business Park did. There are things--well I asked Tim a question and he didn't know whether they could sell that other lot. Those are the type of things that need to be addressed when we look at the tree ordinance again.

Alderman Jordan stated he agreed. Let's get something black and white that we can go on. That's what I would say.

Alderman Trumbo made a motion to denied the appeal and was seconded by Alderman Davis.

The mayor states the motion was made and seconded. He asks did we just hear the appeal? So there has been

City Attorney interrupts to say I'd like to make one more comment before you vote. Contrary to some indications this Bill of Assurance was actually filed of record in the Circuit Court as it should have been October 4, 1990. And that didn't mean that it was still enforceable. There have been Bill of Assurances that have come through since I've been the city attorney. When they do I'm going to request that certain things be in the Bill of Assurance to make them enforceable by the city. So hopefully in the future when the city is given on it will actually mean something we can enforce.

Alderman Santos said he would like to make a comment before we vote too. I'm not going to be able to vote with Trent's motion because I don't believe that—we haven't considered the back lot, we haven't considered the possibilities. Once that back became put the picture the entire picture changed. What was possible before saving landmark trees as the ordinances call for became possible as soon as they decided to purchase that lot. We are making a decision now that going to be a precedent or that of Sixth Street is developed, as bad as it has already been developed. This is one opportunity to change that. This is one opportunity to take one niche out. This could be the most beautiful restaurant on Sixth Street. It could be more beautiful than any restaurant on 71B. But I'm not gonna have that on my conscious for the rest of my life to drive by and know that I contributed to the destruction of that highway just like many people before me contributed to the destruction of College Avenue and South School.

The mayor said he was going to speak for just a minute, if I may please. I don't think it's an opportunity to save unique piece of forest there on Sixth Street. It's our last opportunity. And I know this is going to pass. I know that this development will go forward. I can count heads along with everyone else. At the same time I realize that—and I'm grateful – I've been there before and eaten there. It's a good restaurant and I'm proud that they wanting to expand and do some a good. I wish that we could find a way to be more invotative in our designs as other restaurants have been able to and other business in working around the beautiful assets that are on that piece of property. And use those as a calling card for customers. There's a lot of the cities have been able to do. If you look at the Burger King site which is exactly right door and you know that those trees spilled over into that lot and you look at what's there now—the Burger King site and you look at what it's going to be—the site next door. You have an absolute spectacular piece of land there and it's going to become just like everything else on Sixth Street. I'm going – I speaking out of school here. I'm not suppose speak at these meetings but I can't help myself on this one particular issue. You have a phenomenally beautiful site and I wish that you would rethink your position voluntarily and may consider a design when you might be able to take advantage of that beauty-unlike-that you're not taking advantage of now. So if you are willing to look into any kind further design element I would do whatever I can to help getting you in touch with some folks that had backgrounds in doing this kind of work. Maybe they would come to the same conclusion that your current engineers have come to. But I would hope that you can do whatever you can because you have an opportunity to make an oasis on Sixth Street. It would be the only one its kind and our last opportunity to try something like this. If you would consider that I would appreciate it very much. Thank you.

Now then any other comments from the City Council.

Alderman Zurcher said I guess I would just second the remarks. We really do have some work to do on our tree ordinance as it stands right now. I think even if this plan falls within the letter of the law I don't feel like it falls within the spirit of the law or at least not what people really want to see in Fayetteville. If you go out there and you'll see what I mean. If you'll look at the development that we've had on College Avenue and on Sixth Street and that kind of strip development. I feel like people in this city has said we don't really want that kind of development. Now whether these guys should be punished because our ordinance isn't what it should be I'm not going to argue that. I don't know if that'd be fair. I don't believe that our tree ordinance should come down to the judgment of one person. If person says a rare landmark tree can be saved or not. I don't think it should come down to that. As we're looking at changing our tree ordinance I just hope we can look at these things and make a little bit stronger. I wish you'd go back and look at ways that you could make the frontage a little prettier than what it's going to be.

The mayor asks do you think there is any willingness on your part to maybe retry this and make-and put a little bit more effort in this and try this.

responds just that I think the problem is that they have a visibility issue to where they are now. They have pear trees that block the fassod. You have to get right on the sidewalk to see their current signage. The attraction out at Sixth Street is visibility. That's the whole point of wanting to locate there. If you push them back into the lot and leave the trees up front they might as well stay where they are. I think the issue of preserving the frontage trees and there are some exeplenary species out there. It just doesn't work in that particular area. I'm a member of the Tree Ordinance Committee. I'm very sensitive to this whole issue as well. I've tried my hardest to design our way out of this hole. And I could not come up with a viable solution that was economic that was acceptable to the client and I'm going to have to defer to them to decide whether to direct us further with that. But I think I was mostly responding to your comments Kevin, Mr. Santos, that pushing it back doesn't necessarily get us any where. We still have the same issue of visibility which is the draw to be down on Sixth Avenue. We have Braum's right our front. We have Burger King right our front. To have this facility pushed back there they are compromising their marketability.

Alderman Santos says I don't see it that way.

Alderman Jordan asks how big is the sign by the way.

It's 200 ft tall. It's within compliance.

Alderman Zurcher said he had one other questions he hadn't thought of before. On this back lot are there any rare landmark trees? It's just not very clear. What's back there?

Ms. Hesse answers You've got six to eight inches caliper trees.

Alderman Zurcher says you're argument would be that they can't develop with their intended use because if they pushed back people couldn't see them well enough?

Ms. Hesse answers my comment to Mr. Santos about pushing it back a few feet? I mean back into the back lot here. I couldn't comment on that I haven't worked on it.

Alderman Young it's a balancing act between saving a few in the front yeah. But how much square area are you going to destroy in the back that could be preserved.

Ms. Hesse replied that if they did try to develop the back you would have to more grading which is going to take the solid canopy out. We could either possibly save a few large trees in the front but the point is we would have stay clear of these trees and don't try to fit them into a parking lot or put a drive underneath the. That's want is crazy. That's what doesn't work.

Alderman Zurcher asks if there would be a way to get in behind?

Alderman Reynolds says I don't think you want a restaurant on that section of Mitchell Street. You need to go out and look at it.

Ms. Hesse responds want I do think it important about the back is that it is residential. Even though we are putting commercial next to residential. I don't want to lose that site. One good thing about the canopy in the back is that it does provide that buffer.

Alderman Thiel says one quick question. Are they doing any replacement trees in the front landscaping? Aren't they doing some.

Ms. Hesse responds that there is a standard commercial design standards and requirements for the parking lot. By our replacement standards if you meet the other landscape requirements you've met the replacement. We have asked for replacement because they have met they've met the 15% minimum actually the 20% minimum. That doesn't come into play because they've met their minimum percent but they do still—they are still required to put in the two inch caliper trees. I think some of the recent development that comes in represents our current ordinance like the drug store on Township.

Alderman Thiel interrupts by saying that's what I thought. In other words the front will not look like what's there on 62 now. Because we have changed.

Ms. Hesse responds by saying that our ordinance has changed. We have a bigger greenspace

requirement between the development and the right of way.

Alderman Thiel asks and there will be some trees planted there, small trees? I personally think that they've met all the ordinances. Everything they've gone up against so far. I think the--I would rather see a large group of the existing trees that will be good in 20, 30 years down the road in behind stay rather than us pushing that back up there and getting closer to a residential area. I'm going to have to support this I think. Particularly in view of our new ordinances pertaining to the right of way where they have to do some planning on the front.

Alderman Reynolds says there is liquor stores and filling stations and restaurants and Charlie's Chicken and they've put in some trees out there. How many replacement trees is going to go into parking area for future growth?

Conklin responds is 13 trees.

Alderman Reynolds says 13 trees in the front parking area.

Conklin responds by saying to answer Alderman Jordan's question about freestanding sign stands about 15 ft tall.

Alderman Jordan ask what was that Tim.

Conklin responds the freestanding sign is 15 ft tall.

The mayor asked for any other questions or comments. So what do we do here. This is an appeal. We just

City Attorney responds you might restate the motion and allow the vote.

The mayor asks is there a motion to deny the appeal and a second?

Alderman Trumbo states the motion to deny the appeal. Alderman seconded.

The mayor states so we have a motion to deny the appeal and a seconded and if so shall motion pass?

Upon roll call the appeal was denied with Aldermen Jordan, Zurcher and Santos voting no.

The mayor asked that if you would, please consider voluntary work on that and whatever we can do as a city to help you accomplish our common goal, I would offer that to you. Thank you very much.

FAYETTEVILLE YOUTH CENTER: An appeal of a Planning Commission decision for Large Scale Development LSD 01-4.00, Fayetteville Youth Center.

Alderman Santos states we have a preliminary plat here and 80% of this property is in the flood plain. We have property just to the north of it owned by the same person who donated and sold this land. If we could slide this whole thing up just a little bit to the north the development costs would be million and million of dollars less to the citizens of Fayetteville, to the taxpayers of Fayetteville who are being asked to contribute to this. I would like to get the public behind this project and I think the public would support it a lot more we had a complete accounting of the costs of what the city is going to be asked to contribute. I've heard numbers ranging from on the supporters of the project told me only \$800,000 dollars is being asked from the city. I believe our budget director says that number is more like 4.2 to 4.5 million dollars is going to be asked of the city, of the taxpayers. It's a private development. I've heard a lot about we are not suppose to ask questions or we are jeopardizing a grant from the Reynolds Foundation which I understand is the only thing that could jeopardize that grant would be the Boys and Girls Club not raising private funds in addition to the city funds. I don't think that the Reynolds Foundation is interested in the city's contributions. The way I understand the grant, as little as I understand about it, and I am hoping that there are people here that can tell me more. Is this 1.8 to 2 million that's suppose to be raising privately is what the Reynolds Foundation grant hinges on not the contributions of the city. If we move this lot to the north we could cut the price of this road in half. We could cut water and sewer in half. We do a lot just by moving this site a few feet to the north. The development costs would incredibly cheaper. The internal costs of flood insurance would be eliminated. There is a lot we could do with that. So now I'd just like to ask all the people who are interested to help me with these questions.

Alderman Trumbo asked Mr. Hill and Mr. Renner, Fayetteville Youth Center representative, to come up and speak. Not to go back in history, ask all the questions which apparently it was said in the paper that we were told not to ask questions which I've been a part of this group for close to three years now. We've had a number public hearings, open questions, master facilities meetings, consultants engaged, Jackie New, Susan Anders; site selection, going back to over two years ago just on the site selection. The final master facilities plan, just to let everyone know, that was submitted to the Reynolds Foundation for this 9.25 million dollar grant. The trustees after they approve this grant for this grant for this project here in Fayetteville based on this site that was presented to the Reynolds Foundation said that this would now be a model master facility plan for all future projects before the Reynolds Foundation for other funding. So I think that in terms of the professionalism the amount of time, effort, diligences, public hearings, comments, input. They've gone through all these processes and had all these on various different sites and so Mr. Hill, I think Mr. Santos we've had bunch of questions that people ask. Its like the subchairman of water and sewer. We've had meetings for four years. I just did a survey and 80% of the people I don't know anything about it. I think it's the same thing. We've had a lot of public hearings. We've advertised them. A lot of people seem to busy in their own lives and then when something is decided upon they want to get

involved with the process. Whatever questions you have that's what they are going to do is just answer questions anyone might have up here.

Mike Hill introduced himself and stated he wanted to start with the question first start about the flood plains. He stated he was not qualified to answer and deferred to the professionals and let them give some background. Then they would get into the areas of the grant application and processes. He thought the first issue is to address that.

Mike Anderson, Engineering Design Associates, and your comment about the percentage of the floodway/flood plain I don't know if that's exact or not. But I might would agree that 80%. There is actually three lots involved. There's a lot that's already donated to the city, the parks department. Then there is two other lots that were on a lot split. The part that the Boys and Girls will actually have ownership of has very little floodway/flood plain on it. But there is bisecting the property coming from the east and to the south and the west is floodway/flood plain. I'm not for sure what point that came into the FEMA map or the firm map. I guess that was during the last revision that happen in the city. I think that possibly during the site selection process they weren't even aware of that. Anyway there is a floodway/flood plain through the property. We have began application with the Corp of Engineers to look at what we have to do to develop. There is a 404 permit. One of the things that the Corp of Engineers has already stated is that this stream is ephemeral. For those of you who don't know much of what I am talking about its basically the headwaters of Owl Creek. When you say that its ephemeral it means that it's a stream that's there part of the year. Basically intermittent stream. In our design process one of the things that we are looking at doing is relocation and rechannelization of a portion of that stream as it is on our property. I think there was a comment about flood insurance. What we propose to do and which will take a conditional lateral map revision and a lateral map revision and to revision the firm map. What we are purposing to do is re-route this channel, move the channel to the south side of the property. And in that channel location we will put both the floodway and the flood plain with the channel banks. So that the property--basically that would be on all city property. I think that part of it is on the existing park property and then there is another track of land that has been proposed to be dedicated to the city as parks department facility. The relocation will happen on the city property. The benefit of that would be that the property that the building that the Boys and Girls Club sits on would not have a floodway/flood plain on it. Thus it wouldn't be required to have any flood insurance. One of the things when we went to the Planning Commission, and you may have seen this, one of the comments from the Planning Commission was that we make the stream more natural. And through our conversation with the Corp of Engineers that was one their comments also. So we have been working on making the stream more natural. Working on wetlands and I don't remember if you mentioned the wetlands or not Mr. Santos. There is also some wetlands on the property. There is .1 acre of wetlands that has been designated. It's a low quality wetlands. It's primarily a result of the high water table there. Its not an area that you would find wood ducks in or water wildlife. Its basically pastoral wetlands. Part of what we are proposing also is wetland mitigation with the Corp of Engineers. Re-establishing wetlands in the new channel relocation. If we do some mitigation this week, you might not agree

with mitigation, we think that could produce a higher quality wetland in the channel relocation than what's existing on there and meet the Corp of Engineers.

Alderman Trumbo ask a question. Correct me if I am wrong with my math. Mr. Santos is saying that the extra millions of dollars by not moving it north, of course your looking at the cost of Ruppel Road all the way down to the water and sewer extension on the links. It is my understanding even with the low lying land and your building cost, you are looking at about \$90 a square foot for taking that into consideration.

Mr. Anderson said he didn't know about the square foot but from a civil aspect move this out the only thing you get rid of the floodway/flood plain. That would be the issue you wouldn't be dealing but as far as the buildability of the soils I think would encounter the same conditions north.

Mr. Hill stated the new proposed library is a very difficult site. That's \$150 per square foot. The senior center being built. That's \$145 per square foot. That just kind of puts this into perspective that this is 90 bucks per square foot. Take into consideration the low lying land that you are going to be dealing with. Ruppel Road is on the Master Street Plans being a minor arterial anyway for a four lane and has been on the Master Street Plan for a number of years. I guess to get back on, the extension of water and sewer is \$124,000. The system and the building costs was \$395,000. The Street Committee that Mr. Davis is chair of talked about this April 10th and it was \$583,000 and parking lot facilities is \$300,000. We had a resolution of intention on the two miles for two years which really doesn't come up until next October. To address just the figures that Mayor Hanna and his administration, Mr. Venable, and the Youth Center going back to the last two years, those are the figures in this years annual budget. Its already been approved by this City Council of the \$124,000 to extend the water and sewer project and to assist in the building costs of \$395,000. That's already in this year's budget. You voted on it.

Alderman Davis stated one thing they found out last week in the Street Committee was that supposedly the engineer has done an estimated on making a four lane road along with the water line, sewer line going back. I believe that estimate was roughly about \$865,000. I brought up in that meeting about possibly working some type of cost share with the developer out there. What I understood from other individuals this week that was a possibility. There's advantageous for all individuals if we go ahead at this point and time with the road with a cost share with the developer. It would be less expense for that individual to do it now verse waiting five, six, seven years down the road. So that may some how cut back some of our costs. Whether we do that or not we are looking as Mr Bunn brought forward last week roughly \$583,000 just for a two lane road out there. Then you are still looking at \$124,000 just for the water and sewer condition. So you down considerably with what we originally thought the first estimate was of a \$1,000,000.

Alderman Trumbo said getting back to this project, Mr. Hill, looking at the new public library that's 100% taxpayer project. They haven't raised any private funds or if they have it really hasn't

percentage wise. The Senior Center they couldn't raise a penny for 10 years. That's 100% taxpayer supported project. This in my opinion 18 cents on the dollar at the most a taxpayer funded project with the 9.25 you've already raised \$350,000 in private donations. To give an example, the Senior Center they couldn't raise any money forever because the city never made a commitment to do the streets, hook them up, do some of the construction. We passed the millage for the Senior Center. Boom Pat and Ward Walker would write a check for a quarter of million dollars two weeks. They've also raised another \$250,000 so I think that in terms of the fund raising, and Mr. Hill and Mr. Renner will address that. It really hurts when you talk to the Tyson Family Foundation, the Walton Family Foundation, quite a few foundations that are not willing to contribute to this because even in the other perceptions of the other foundations that are with this grant. There seems to be not the commitment to this project by the City Council and staff and city as is needed before you'll start getting all the private donations. Obviously we just saw this happen at the Senior Center. They never got any money until we started the construction and the millage for fund raising efforts.

Alderman wanted to get clear for his understanding. Just the board members themselves, you have already come up with how many thousand of dollars amongst you all.

Mr. Hill stated they are in the process with the hired professionals that we are dealing with on this fund raising unfortunately has been called process. For those of you who have not been haven't been involved with it. We're a little less experienced with it. It's been a slow process for us. Right now in the last couple of weeks have gotten the final print documents in those kind of issues that we are going to start putting together the so called private phase of your fund raising. Where you visit with certain donors and so forth and then hopefully in a certain point in time later take it public. Prior to that we asked our directors to make a commitment to help us with this as we are doing that. This is a long answer to that question you are asking. To date we have about \$125,000 pledge from our board of directors. We have actually had so total its \$150,000 because we have another contributor that is outside of the Board that has made a contribution so far. And we also have an endowment that was in place at the Youth Center in the tune of about \$250,000. So as we start this process we basically are looking today I guess is \$400,000 number that is generated internally through the endowment that we already had as well as the pledges the board members have made. So rather than me start a process of going I think I'll just answer questions. I think that will be a lot easier.

Alderman Trumbo said the worse case scenario is that you get the \$9.25 we kick in, the 1.5 million for roads, water and sewer, and building we verbally committed to and budgetary we committed to half million, if you can't raise that other 1.8 million. If the millage doesn't formally pass in October and you don't raise 1.8 million, what happens.

Mr. Hill stated they had a time frame. In our grant application as well as the grant agreement. We have a time frame that has be completed in 2003 in August. That was the date of the agreement. So basically speaking we do have a ticking clock. Unlike most of their application or most of their grants what they have done in the past they have gone ahead and let a process begin, construction

start, and that you have to have your 20% maintenance fund, funded before you get the keys to the building. That's typical how it works. In our case, at the Boys and Girls Club, we did not have a true history of fund raising that would give them the support, or the confidence that that would occur immediately or through process. So as a conservative gesture on their part, they ask that we raise those funds prior to beginning construction. So that is a contingent part of our grant. On the other hand, they have also allowed us to continue with our engineering and architectural work and have reimbursed those costs. Understanding that they can't wait because there's a process that has to continue. So they've been generous in that. To answer the question about the 1.8, we have to have the 1.8 raise in a period time that allows us to have that building finished within three years.

Okay I think another big point of contention, there's a big controversy about why not at Walker Park. Why did you choose that over there. Going back to '88 you had Jeff Koehn, David McClinton, Venable, Grant Johannsen, Mark Paul, Olly Littrell, Howard Hamilton, long time banker; Tim Webb, investment guy.

Alderman Davis stated he wanted to go back to the numbers. You stated \$1.5 million and with what Don Bunn give us last week from the city for two lanes, instead of \$1.5 million you are looking at \$1,200,000.

Mr. Hill said it has come down.

Alderman Santos state in the last week we have seen that much progress when the other price came down close to a half million.

Alderman Davis said it was actually, \$517,000.

The master facility plan in the process it went through for all the different sites Walker Park came in number 6 by all these professionals. We kicked in some money. The Reynolds Foundation, which is my understanding, is the first time they kicked in that kind of money to have a master facility plan done for a proposal project that was coming to them for appropriation purpose. I don't know if they are going to read this or not. A lot of people are making comments apparently never even read this. It just stated all the different sites and the pros and cons of why that site was preferred and picked by the consultant group in the master facility plan. Am I correct? There has been people who said Hayden McIlroy got a free ride and got a special deal and deed the property. None of that ever seen to have happened. And this was something you paid Jackie New, Susan Anders, New Solutions and you went through comprehensive public hearings and I went to three or four of these hearings. Public input and looking at the pros and cons. They traveled to three or four other sites in the United States to view their Boys and Girls Club. So it went to a very lengthy arms length transaction where there couldn't have been any conspiracy of conclusion or kickbacks on any of the site selections as far as I can see.

Mr. Hill state the process that the Reynolds Foundation requires on any of their applications is that you include a master facility plan, a strategic plan and a institutional development plan. It was my understanding, I was not on the board at the time that they hired New Solutions, Susan Anders and others to do this project. The Reynolds Foundation recommended certain people and they ask for certain professional organizations that could do this kind of service. And then they we through an interview process. Picked New Solutions and began the process that you are seeing. The strategic plan began in August 1998 and then it dovetailed into the master facility plan in the spring of that year with some site visits.

But it was the Reynolds Foundation that picked New Solutions. It was down to three or four and you all picked New Solutions. The board of directors hired. The Reynolds Foundation they won't necessarily tell you who to hire. They leave that up to you. You're an independent organization. So we went out and interviewed professional organizations that did this type of service. In the event that we may not have experience it is not uncommon to call the staff and say who would you recommend or hey we are looking this person. Is this someone you can live with. Because obviously since they are paying and accepting this application we want to make sure the contractor, the architect, everybody we deal with is someone that they recognize can do the job necessary. More or less it was situation of, at least has been since I've been involved this project. Here is someone we are looking at is there a problem. No, there's not a problem although they still need credentials information.

They have input on that.

No I won't call it veto power but you know they would strongly discourage if we were going down the wrong trail. So far its been my experience that the people we have been dealing have all been acceptable.

The Mayor ask if there were any other comments from City Council.

Alderman Davis thanked Mr. Anderson for doing a good job in explaining the flood plain and wetlands issues. Those concerns have been addressed in my mind. One question I have is this \$90 sq. ft. is that the additional costs for the wetland and flood plain mitigation you have to do. Or is that the cost per sq. ft. of the building itself.

Mr. Hill stated basically the building we are looking at a number and the range of with improvements and so forth we targeting a number in the range of \$90 to 95. We trying to stay under \$100 per sq. ft. on all the physical plan itself. At this point in time we are pretty close to that budget. We've had our preliminary cost estimates done and were within that budget we started with when sent the application to the Reynolds Foundation.

Alderman Davis asks if he knew how much it was going to costs for the channelization.

Mr. Hill stated in their budget they had broad budget number for site improvements as such for the general grading of the site. And for whatever they do for the building the foundation for the building and its my understanding it will come within that budget. We have, I think that number is somewhere between three and four hundred thousand dollars. Its kinda of guess fact on all the site improvements that are going to occur there. That's your typical earth work and so forth.

Alderman Thiel ask as far costs to the city, she stated that she wasn't sure about this. Weren't there comments from the city or parks to pay for some of the parking lot.

Mr. Hill stated in December the way he understood it was that the Parks and Rec for the year 2001 will have assigned \$395,000 of their parks and rec budget for this project. Its not specifically assigned to any particular phases of the construction. It's just a \$395,000 amount to be used in construction of the facility. We have a \$300,000 commitment to assist in parking lots. At the time that's done which obviously I assume that's going to be 2003. And then the assistance for \$124,000 for sewer and water to that site. So that's the commitment that has been made to us at least in the December City Council meeting. The Board's was a non binding type of vote and that was what happened in December.

Alderman Santos asked to get back to the site selection again. When that went through New Solutions, there's been some criticism about well its too far west. Kids can't get there from the center of town. They can walk to California Avenue now like they have forever. But all that was addressed and not just population density maps that you can see where kids are now. The growth and reason why and you've addressed transportation. Yvonne Richardson Center-how we going to get the kids to their after school programs with all the elementary schools. All that has been taken into consideration.

Mr. Hill stated everything in our budget and plans have been put together for additional costs for transportation and all those issues have been addressed in the master facility plan in some form or fashion. And the major issue that I kept trying to explain to people, this is a 25 year, 50 year, 75 year type decision. So obviously as we all sit here and snapshot today we might think of a different location. The process that created this site was based on, not only the current structure that surrounds this community, but what we expect and I say 50 to 100 years down the road, who knows what's going to happen. Obviously the recommendation, strong recommendation came from the points that were in the master facility plan all those points of reference are in there for you. What criteria they used and all those were taker. into consideration.

Alderman Zurcher asked who owns the current Youth Center.

Mr. Hill stated it is his understanding and according the records he had looked at, owned by the schools. Fayetteville public schools. The land not the building.

Alderman Zurcher asked who owned the building.

Mr. Hill stated the building was owned by the Fayetteville Boys and Girls Club. The way the agreement reads, I understand it, is that at anytime that we seize having recreational facilities at that location the building then reverts back to the schools.

Alderman Zurcher asks once this one gets under way you guys will probably just let the school have that.

Mr. Hill stated he had visited with the Parks and Rec Board, we've visited with the schools, the administration at the Fayetteville Public Schools. All up and down the ladder about what options we have for all of us. We started that even before. I had conversations even before we filled out the application in September of 1999. At that time I'm not sure if anybody thought real seriously that we were going to be fortunate enough to get the grant. So maybe this wasn't something you think very serious about. It is now time to think about it. We've had good conversations and there's lots of good opportunities and we've talked about it right here I guess the first time we presented this. The possibility of a student union expansion as part of a high school program for those kids that you know are open campus types. Maybe there are some things they can do there. They've got the big gym downstairs. They can make some bad weather practice areas for soccer/baseball pickup sports. The swimming pool there is an issue. We are visiting the Parks and Rec about what to do about what to do with that. Because obviously the school systems can't afford to maintain that facility. But those services will be at this new facility also. The only thing I can tell you is that the Board voted prior to making our application that we were to not have duplicity of services at that location and the other location. And the Reynolds Foundation obviously is concerned about those too. Can we afford to carry the cost of both sites. So its our intention to somehow in a nice smooth transition eventually turn those facilities over. And when I say turn those over there some things we can hopefully work out. Schools can't afford to buy our buildings. And we have some agreements that we trade services so forth. We hope we come out of this thing with a trade for service type thing. And that's just my opinion. Who knows what happens.

Alderman Santos said something good is gonna happen whether its for the parks department or the schools.

Mr. Hill stated the worse case, the first priority would be the schools and then the parks and rec and the schools. Obviously if we walk out of there and say here is the keys that's what the agreement says. But obviously we want to make sure we have a smooth transition on that whatever happens. We may keep part of some offices or some activities.

Alderman Trumbo Reynolds Foundation representatives were here and toured all the different various sites.

Mr. Hill stated they were here during the first application prior to my tenure in 1996 when we made

an application for renovation of that site. They came here in 1996 reviewed it, looked around and said this is not where we put our money. This renovation site is poor. There's no parking. This is not a good deal. So we will do, is we will give you \$68,500 to do a long range planning grant. Because we didn't have that money. We just oh here we want to remodel this facility. So they gave us the \$68,500 planning grant and said now go spend a little money and do a long range plan. At that time we knew we had to have those three pieces. Master facility and the one we talked about, the strategic plan. Those costs were in the neighborhood of about \$100 or \$150, give or take, thousand dollars. We came to the city, asked for some assistance. They gave it out of the Parks and Rec budget and \$79,800 along with the \$62,500 whatever. And with those two funds, we at the Youth Center, spend 15 or 16 of our own money. That pot gave us the master facility plan, the strategic plan, the institutional development plan, paper architectural drawings, got us over the hump and did the site selection. So basically came to us and said guys you got a great idea. You've got great project but this site is not where it should be. Go find something else. They didn't care where and that's obviously why that encouraged us to have a professional process. We had never been through one. Somebody asked the other day if this process was frustrating. Everything has been frustrating. It was just as frustrating for Dale Clark and everyone else in this project from the time we started in 1998 until we got this application submitted. It's a tedious thing no matter what you do.

Alderman Davis told Mr. Hill that he wanted to give him a chance to talk about the operation and maintenance endowment that the Reynolds Foundation requires. I know they don't want their buildings to become run down and they have way to prevent it.

Mr. Hill says the good thing that they do is this. They require 20% of the grant. So obviously in this case is about \$1,850,000. They allow the interest earned on that to sit on that fund to be used to maintain not only the building itself but to keep the equipment new. Computers, anything that is in that building from the very beginning. If it becomes obsolete or whatever you can actually take the revenue source from that endowment and replace. Obviously in a new construction, you hope to have a contractor's guarantee for a year. And you have to have certain equipment obviously that will last through some kind of warranty period. So you have, in my opinion, you have a year type process or maybe a year and half, that you will be earning interest. So hopefully by the time you even start maintenance you will have a year or so worth of interest built up and you can invade the corpus when you need some major renovation that needs to happen down the road. A new roof in 25 years and those kinds of things. Hopefully the income off of this will let you maintain. If you are aware of the Youth Center we have now. Its spitting baling wire. There is no funds for repairs and maintenance. We obviously need to spend a lot of money to get that thing up to snuff. And one of the reasons its deteriorated so is that those funds have not been every year just like you would in a real business office. If we are in a business environment we can't let our properties get to that condition. But unfortunately the money is not there in that kind of organization. The Reynolds people say we want that to be there for you. And that's real great. It's a problem to raise money if you don't have that experience. But at the same time it is a real gift in the sense that once you've accomplished it you can maintain that structure. I can tell you that John Benberg who is the executive director today.

Dale Clark or anybody who is around that organization. If I can look at them and say hey guys you got \$150,000 couple years build up, and every year you going to have 6%, take a number, 5%. You are going to have \$75,000 a year you can use to maintain this facility and replace old computers and chairs, mats, furniture and those kind of things. They're going to look at us and say what a load off my mind.

Alderman Davis stated if you do million eight at 5% you're looking at \$90,000 a year in interest.

Mr. Hill stated he understands. And they understand that. Don't forgot part of this funding is a four year pay out pledge. So they understand that you don't interest stream upfront too. So allow all pledges that are made within a four year period to count towards your million eight. In reality as part of our campaign goes forward is if a person comes to us and what to pledge \$5,000 for four years, then we actually get credit for \$20,000.

Alderman Trumbo I've always had the utmost respect for taxpayers who have questions about taxpayer's money on projects but there is a difference between questions and allegations from people who never when to any of these meetings and saying these things that are not true and having all this controversy and then feeding them back to Las Vegas where the foundation is and having created this perception that the city is not behind this project. The Reynolds Foundation thinks the city is not behind this project. All that perception in the press seems to devastate your funding raising ability.

Mr. Hill states we all know this city has had very extreme difficulty raising money. Every major project, the United Way included, this year has fallen short of their goals. It's difficult. The Reynolds Foundation people are smart enough to understand that. You also have to understand the point that I keep trying to make to a lot of people. Is that when we put this project the numbers may be off but it is pretty close. Five to six thousand applicants filled out forms for this grant in 1999. From the time it was sent out in September until it was finally awarded in August. Just about a year process. But 5 to 6,000 submitted. They honed it down to about 50 or 60 by February. They honed it down to 30 or 40 sites visits. And then from that they take 15 or 20. Then from that, at least during our process, our year, they only awarded 7 grants. Some of the conversations with the people at the application process is exactly like you're saying Trent. Is that it is a community supported project and its viable. Those issues are critical to their decision making process. I can guarantee you that there was a many good applications as ours that was laying there in front them. In fact I think there were 3 of 4 boys and girls club applicants that made it to the final 15 or 16 site selections.

Alderman Santos stated hopefully after we get everything out in open and on the table and everything is answered, all the questions, we all feel good about this. We hope that a resolution of support from the City Council and Mayor, if that's the will of the governing body, can come forth just as a show of support for the project at the site. Just so it will clear the air from all the perceptions that are out there, all to Las Vegas to Fayetteville.

Mr. Hill said Mrs. Santos I want to give you little more information about numbers just to help you a little bit. I know this is confusing. I'm a CPA by background so this is real easy for me to understand these numbers. But when you hear a number batted around like 15 million dollar project, the project itself is a or what we are trying to raise is \$15,200,000. Of that number, two million is a operation endowment which we hope that can help us with scholarships, things that are necessary keep this thing running. We obviously have a working agreement with the city, should I say fixed or operated source of funds from the city. I am going to say around \$250,000 a year with no increases for cost of living, inflation and so forth in the future. So what happens is, we are well aware that we need to be, we need to create a source of income outside of asking the city for the funding they giving us. Our current budget is a little over \$1,150,000. The city is providing about \$160. The city only funding about 20 or 25% of our budget. So what we do have going forward is of the \$15million, two is an operational endowment. That's a wish list. So don't get me wrong. It's not a required funding. It's something we need. So in reality my needs are 13.2. That's the building and the 1.850. Let's go back to the 15,200,000. The city's commitment of 819 plus 2 million, that's the millage number we want to pick out. I'm using a round number now. That represents 19% of the project. Even if you take and forgot the 2 million that happens from the endowment and go back to the 13.2, you numbers are still in the 23 or 24%. In other words no city funds are requested for this. Throw in the streets, pick up 500, 600, pick a number, its still less than 30%. So yes, we need the city but that number is probably as I look it 25 to 30 cents. Would you give me 25 or 30 cents for a buck?

Alderman Santos said that brings up another question. We will have any trouble with an absorbent raises in the membership fee. Its real hard for me to appeal this. I'm a Youth Center member. I have little kids and I live that ward. I don't think that any of the rest of you can say that.

Alderman Thrombi says he can.

Alderman Santos states you say membership is very reasonable now. Will we be able to keep it.

Mr. Hill stated we've been going through this process and its been killing us. Because we are trying to keep our memberships as inexpensive as possible. But we have to face reality. Right now in that facility you see. Last month our gas bill was \$6900. We have a budget of \$1100 for gas. Where is the \$5,000 extra money coming from? It can only come through membership. What I charge for my services. Or somebody gives me some money. There is no other, I don't do any of those kind of things to raise it. So what happens is, as we go forward with this new facility, we are very cogitative that these things are going to happen. We hope that these one of kind type facility will increase our membership to the point that we do have people that are coming and either using our services for, I'm just going to throw something out, like a corporate retreat or something. There is daylight hours this facility is going to be available. So that there can be new ways to earn revenue to provide the services that hopefully if we could ever get this thing down to a very minimal dollar amount. But back to your point. We charge \$30 a year today. And I think its \$80 for family. We our to the Las

Vegas Boys and Girls Club. They gave them \$4,000,000 last year so we went out and looked that facility. The people on the Board tease me because I'm kind of a meat, a cost kind of person. If I've got costs I've got to find revenue to match. If I don't I'm in trouble. We go out there. We've been having discussions about this issue. The first thing I ask is how much do you charge for membership for your constituency? This is a Boys and Girls Club, a national affiliation, \$30 a child. What do get for family? We don't have family. So if there is five kids in the family its 200 bucks. And I'm telling you this facility is a great facility out there. It doesn't offer any sports programs. I mean outside. It's a self-contained building. There are some issues and I know this is going to be a tough one. And we don't know exactly what those things are. But where we have a conceptive effort to raise money in the corporate world if that's the right word. Additional funding raising opportunities that we have and then also can have an operational endowment to defer that. Our budget is \$300,000 to \$400,000 more at the new facility than at the current facility. Given that you can think of a 30% raise in fees. But that is a misnomer. You know because who knows how its going to work out. We are very conscious of those issues and that's the importance of handling this \$2 million operational grant, I mean operational endowment is to help offset some of those things. So I'm as concerned about it. The Board is as concerned about it. But practically speaking we have to somewhere have revenues to support. The problem at the center we have right now is I don't know how many of you have been there. If you don't have a child playing basketball or you don't have a child playing softball. You probably have never grace the doors of that building in the last 5 or 10 years. I've got people talking about this facility like it was 1965. I lived next door to that facility when I was 7th grade. I used to walk to Hillcrest. I date myself. But I used to walk to Hillcrest. It was wonderful. There was people all up and down the streets there. I knew everybody on the street. Well its not that way any more. There's student housing. Its rental. You can just go down that facility. So what happens those are issues we are all concerned about. I think what the public in general, the older public, as I say myself included in that, if I had no children I wouldn't be down there. So obviously there is a lot of people. I was completely—I moved out of Fayetteville for 18 years. Moved back in 1995. Joined the Board in '99, walked in that facility and could not believe it.

Alderman Santos-I looked just like it did when you left.

Mr. Hill answer No! It was better when I left.

Alderman Santos stated that helps explain the site selection a little bit more. You're casting a wider net for a great membership basis because that's what is going to be required to kept the membership rates lower. And so that site, the place by the by-pass makes a lot more sense if you are going outside the City of Fayetteville.

Mr. Hill stated we have got to have a larger membership base. I think that is to make it accessible. The people on the eastside said it should be on the eastside because that's where lots more children are. The people in the south part of Fayetteville, north part. Those people took that into consideration. Access for everyone. I mean as well as the concerns we have for our existing

constituency. South Fayetteville doesn't have a monopoly on under privileged children. There are as many on the west, I say as many. There are underprivileged children all over the community. So we are concerned about that issue and reach cut with our S.C. programs at our elementary schools as well as concerning ourselves with increasing our transportation budget.

Alderman stated coming from his neighborhood it was going to be a whole easier to get to the new one than it is to the old. I only have to hit three stop lights.

Mr. Hill stated he had people right now talking about going down to Walker Park as example down 265. If you've ever got a truck flipped over down there. How do you get there. It's difficult from the eastside. So those issues, I'm not here to argue one side over another because somebody could pick another side over Walker Park. All I am here to do is say that the professional people that did their job in the time frame that was necessary and they presented that to us. We as a Board took that recommendation to hear and vote for that location.

Alderman Davis stated that when John Denver was here in December we asked him about scholarships for those children that were needy. And he guaranteed us that they would continue to have scholarships for children and family that cannot participate without the program. So we need to remember those scholarships are available to those children who are in need.

Alderman Jordan wanted to ask John something. On the scholarship program how much, are you going to increase that? I have to disagree with you. I think the south side has a lot of low income children. My concern is, is the scholarship program under the new youth center, is it going to be expanded and how much more is going to be expanded from what you are presently doing at the old youth center. I mean do you have those numbers?

John answer he couldn't give him specifics but we are going to have some scholarships available in the new facility verses where we are now. My viewpoint on our scholarship mechanism is when a family or individual comes to us and we sit down that individual and go through the very sensitive but necessary series of questions to qualify them for a scholarship they are in. Mike diluted to it and I'll say specifically. I think our Board has tremendous and specific commitment to making sure that individuals don't get turned away whether it's a kid or whether it's a family or whatever. I think that clearly will continue to apply. I'm not going to try to project an exact number for you. I think I'd be getting ahead of myself.

Alderman Jordan stated he wanted the Youth Center to keep in mind those low income children for sure. Because that's our future.

Mr. Hill stated absolutely. Without question.

Alderman Thief stated she thought it was real important. I think that the scholarships, the rates, rate increases, all these concerns haven't got a thing to do with that site. They have to do with a new

facility and whether or not its going to be basically pay for itself. I think the issue here tonight has nothing to do with some of those questions. I mean we are talking about this site. Isn't that. I think that we've had

Alderman Santos interrupts its specifics of the appeal.

Alderman Thief stated she was quite satisfied with the channelization they are going to do. And that would my biggest problem with that site was the fact that it was in a floodway and flood plain. Since that's been addressed I think there is a lot of movement to that area of young people. I think that John Goddard has created a map that shows that there's a large population of people in that area. So you know I personally tend to agree with Trent that we need to basically as a council adopt a resolution to support this and go forward with it or stop it here tonight. One or the other. But this halfway movement from our city and the council is not doing them any good as far as raising future funding.

Alderman Zurcher asked where do you think that comes from? I guess my question for Alderman Trumbo is why do you think there is a perception or there was perception out there that people weren't really allowed to questions about this project.

Alderman Trumboi stated he would say that it would be the same when Alderman Schaper was chairman of water and sewer. We had a meetings on the water and sewer thing for four years and just got survey saying 80% of the people don't know anything it. We've been having this meetings for year and half and people just don't take time out of their schedules to come to these meetings and then the decision is made and then they are mad.

Alderman Zurcher said you don't think it was the little press ambush that you had anything to do with it.

Alderman Trumbo stated he didn't know because he thought a lot of people don't go to the public meetings and I think that it is the perception of the Freedom of Information Act and a closed meeting and wanting to change something you don't really know or realize that you really can't change or that it might jeopardize something. You're just doing something for the good of the city you think. And it turns out to be different than what's actually going on. So I think that the press really had a nice subscription increase throughout that episode

Alderman Santos stated that he was glad that asked for that appeal because he thought it was the best public discussion we've heard about this. I think we've had a lot of questions answered. I think this is going to increase support for the Youth Center in the public's mind and in the Council's mind. I liked to withdraw my appeal, if that's appropriate to do at this time.

Citizen says objection Mayor what about public input.

Alderman Santos then states he'll take it back and wait for public input and asks the city attorney if he do that.

City Attorney Williams says he thinks he can probably that and he can certainly withdraw it himself.

Alderman Zurcher stated he thought it was a good project and was good thing. One thing that has been brought up to him several times that the fact until recently you guys didn't FOI when you have your Board meetings the press wasn't there. I understand that's been changed since. Is that true. And you know that was a concern for a lot my constituents just because there is so much city money at stake. I understand that law can be very grey and a lot of people don't realize when they should be notifying the press and when they don't need to. But I'm particularly glad that you guys are doing that with your meetings.

Mr. Hill stated that if anyone had questions, its not like they don't have the opportunity to answer them. You call down at the Youth Center you may grab a staff person that may not have a whole lot. But he or she can sure find a Board person to get back with you. That perception I'm confused about issue to.

Alderman Davis to Zurcher stated that as he recalled they were not aware that they needed to call anybody. So that happens in a lot of different committees and meeting. People aren't aware that that applies.

Alderman Thrombi said just to get back real quick and we'll get back to the ambush thing. The way the Reynolds Foundation works, 7 out of 3,000 were actually funded. I think that was the numbers in the ballpark. Once you're funded, and here's the criteria, if you just wanted to come and say would you just please give us another year to consider another site because there some controversy here in this town about where it is going. We've got to start the whole process all over again.

Lots of discussion between Thrombi and Zurcher but not understandable—they are talking at the same time.

Alderman Santos said the only thing the heard from the Foundation was what was quoted by a newspaper reporter who reached a spokesman because the Board are suppose not make comments to the press and the public. Was that they would consider any site changes we wanted to suggest.

Alderman Thrombi says if you wanted to go through the whole process again.

Alderman Santos says it didn't say that.

More discussion-talked at the same time-not understandable. Mayor states this argument isn't going anywhere and wanted to go ahead with public.

Alderman Young says he'd like to hear from the public.

Alderman Jordan agrees.

Mayor then goes ahead with public input. If people want to speak if you could start cuing up back here so we can save some time, I'd appreciate that. I would ask and remind folks to keep their comments brief please.

Mayor addresses a citizen Kate.

I realize that the location probably—Mayor asked her to speak up—Kay Duval, 1138 East Wood, Ward 1. And I realize that the location probably is set and would not want to do anything to jeopardize the Reynolds grant. I think that's wonderful. I've known for a long time that the Youth Center needs to be relocated because it was land locked when our children were going there and couldn't expand. I suppose mind is more of philosophical objection. I just want say that as a educator I'm a strong proponent of family participation of the education of our young people. I feel this same participation is important in the extracurricular aspect of the lives of our youths. Recently the Fayetteville City Council appointed me as a member of the Juvenile Concerns Committee, renamed the Youth Advocacy Committee. If—and this is a big if I had been privy to the earlier search procedure for location for the new Boys and Girls Club, I would have voted for a place more centrally located then on the outer limits of the city. Specifically, I would have wanted a place with these aspects. One that was within walking or biking distance of a large segment of our population. Many of them whom have reduced financial resources and the attended transportation difficulties. One that is within easy driving distance for most of the other Fayetteville youth both for their parents and for busing thereby saving on high energy consumption and expenses. Especially at a time when we should be setting examples of stewardship of our remaining fossil fuels. One that is already developed with streets, drainage, sidewalks thereby saving our citizenry on the outlay of public funds. One that provides space for youth and family activities making safety issue easier to monitor. One that provides an esthetically pleasing atmosphere that's beautiful and peaceful. And finally as you probably see where I'm headed here. I think Walker Park has all of these aspects plus the added benefit of proximity to our Senior Citizens Center. Thereby providing healthy intergenerational opportunities for participants of the two centers. The wise of our elderly citizenry joined with the energy and enthusiasm of our youth could forge a strong mutually beneficial bond encompassing Fayetteville's entire generational range. Again I say IF I had been involved with the site selection as a member of Fayetteville's Youth Advocacy Committee I would have wanted to look for more central location with an eye specifically toward Walker Park. And even at this late date if there is a possibility that this or some youth facility can be developed there I would appreciate your consideration. Thank you very much.

The mayor thanked Ms. Duval.

My name is Pat Beason. I live at 15 NW Avenue here in Fayetteville. My daughter's membership just expired. She has been a member for two years and I have been in the Youth Center several times in the last 15 years or so. I'm really socked to see that the new location or planned location is west of the bypass. I object to this. I can't imagine all the busing that's going to have to be done. I know that when my daughter was attending Washington Elementary a bus would pick kids up and drive them to the Youth Center. The thought of all those kids having to go all the way across town I really don't like that. This center is being built in a place where because of the bypass not one person not one child east of the bypass-to me it would be a physical impossibility to either walk or bike to new location. I just don't see how a child could ride a bicycle across the bypass or walk the distance. Also the beside the danger its very far away. I've talked to many friends and people that I work with and just asked them without telling them my own view what they think about this location. Not one person has said oh that's great. Or that's going to be really nice. Every single parent that I've talked to objected so this going to be a hard sell to the general public. All the optimism I'm hearing tonight sounds good and its reassuring me. I'm feeling a little better about this but its not what-its coming from you guys. Its not coming from parents. Its not coming from the people that I know and that I have spoken to. It's a little scary to me that all the planning has resulted. On one hand I think there is all this planning, all this professionalism that should make me feel better. On the other hand it's a little bit scary to think that this planning has resulted in what a lot of people think is a big mistake. Thank you.

The mayor thank her.

My name is Jeff Erf. I live at 2711 Radcliff Rd. Just one quick question and it relates to the city's involvement in the site selection process. I guess, my question is for one of members of the Youth Center Board.. Was the city's planning division or park and rec division involved in the site selection process.

Mayor said he'd have to defer to the planning director for that question.

Tim Conklin stated the Planning Division was not.

Alderman Thiel stated she was on the Parks Board at the time and they were not part of it. They did have Tom Stockland, actually Mike. Olly Luttrell and Tom Stockland were on there.

Mr. Erf stated he question is if they were involved in the process did it come back to the Parks Board? Was the Parks Board as a whole group involved?

Alderman Thiel stated no.

Alderman Trumbo states it had to come back to Parks for the greenspace dedication for that piece of

property for the proposed project. I mean the Board had to vote on that to accept that property. Alderman Thiel stated they voted. You mean the first parcel or the last parcel.

Alderman Trumbo said it went to the Parks Board for the greenspace dedication for the Boys and Girls Club project. That was over a year ago.

Alderman Thiel stated for the first two little parcel he was right.

Alderman Trumbo says it obviously talked the Boys and Girls Club over a year ago on that site.

Alderman Young. They've also evidently committed to our \$395,000 so they must have done that somewhere along the line.

Alderman Thiel says Yeah they did that in November right before I went off the Parks Board.

Alderman Trumbo stated he thought the Planning Department was involved indirectly with Mr. Venable who was the head, Public Works Director in terms of lots of meetings with the city official and the Youth Center on this site selection.

Mr. Erf asked Tim if he ever meet with Charlie Venable and talk about the site selection?

Conklin responded not site selection. Met on what it would take for a large scale development.

Mr. Erf stated the reason he this brought it up was because the city has been asked to contribute and I think it is a worthy project but we are being asked to contribute 30% of the costs. And I as a citizen I would have like to have seen city staff involved in the site selection process not just members of the Fayetteville Youth Center.

Alderman Thiel- you asked if the Parks Board was involved in a site selection or not.

Mr. Erf said they were not.

Alderman Trumbo I don't know if Jackie New is here or Susan Anders is here but it is my understanding through the hearings and minutes that go back to a year and half ago there was Park officials that

Alderman Thiel interrupts and to say they were never asked. They reported. We got reports. But we were never consulted. Because there concerns on the Parks Board at that time about this. But I don't think that's really the issue anymore.

Mr. Erf. That's a done deal but I just wanted to make a point for future reference. We have capable

staff in the city that could be consulted on issues and matters such as this.

The Mayor thanked Mr. Erf.

Alderman Thiel said she wanted to say one thing. I think that in the beginning of this whole process I don't think that anyone was really paying attention. I think the meetings were public. I don't think anyone from the Youth Center is trying to hide anything. I don't think the public was interested probably the Parks Board wasn't probably that interested. Because I don't think any of us thought there was a chance that we would get this grant. I think once we got the grant and then by then the site was already committed with the grant. Then all of the sudden there was a lot interest in the issue. And I think that's what has happened in this process. And you know how can you change that or do anything about. I think that in the beginning though the Youth Center did work hard. The Board did at doing things the right way. And the process was done the right way. I think that there just weren't enough of the city official probably attention. And the citizens because we just didn't know it was going to happen.

Mr. Hill stated she hit the nail on the head. You stole my thunder. The issue is this. I think of this as a citizen. I've come into this process in 1999 and assigned to the master facility planning committee when one of our members had to resign. And I was at the last meeting when the site had already been selected. And you can go through the list of the people who were there as part of that process. When we finished the final application I sat in on a couple of meetings which included a lot of top administrative people here at the city. At the time I didn't know what position they held because of how political I was. I just knew that the mayor and some other people that are here need to know people. Who knows. We at least talked to those people. We did provide and I have had an open line of communication with the parks director since I came to this community. Dale Clark. And after Dale Clark, Connie Edmondston, about some processes that I thought needed to be change in this community before I came on the Boys and Girls Club. So once the money was provided for this study, we provide copies of the master facility plan and strategic plan because it was paid for by the Parks and Rec budget. So obviously if they paid for it they should have received something. Once we finished our final report which I believe the date on that is probably July of 99. We did our last application in August and went through the first part and mailed it in September I think. But we provided to the city and to the parks a copy of each of those documents. I had meetings with everyone and I think that is a point well taken, at no time, and I don't know how many of the other Board members had this conversation with anyone else. But at no time did anyone from City Council. I know that through communication and documentation that they've seen that they were at least flooded with information in June and July prior to our application. So there was plenty of time for someone, granted we didn't throw up a red flag and say press and the newspaper here it is. Come tell me here it is but we went through the process and the product was out there. So its always concerned me that someone says I haven't seen, I didn't know it, I didn't comment. We didn't buy this property until October of 2000. October of 2000. And until January when we had the meeting, and I have been on the Parks Board. I talked to Connie and I had no idea that we had problem with

site location. Had no idea that anybody, anywhere had ever said anything to me about the site location. Now granted, if we had of said something in '99 we could do something different. We all have our opinions on when but there was ample opportunity for who I consider the major players, before we finished our final application if there was a problem. And that's just my observation as a citizen I guess. It just makes sense that if you pay \$7,800 for a report surely some where you would read it and see that first site selection and Walker Park is sixth or whatever it is. Someone would said-called up and said we don't-called Dale because Dale was still at the Club at that time. So anyway that's just because he asked about the Parks involvement.

Mayor asked if any one else from the public would like to speak.

My name is David Garcia. I live at 120 N. Block. I apologize for yelling at the back of the room. Councilman Santos I'm glad you did not withdraw your application and did give the public an opportunity a chance to speak. It's a matter of fact I really appreciate the fact that you filed the appeal in the first place. Otherwise this discussion would not be going on at all. Some of the discussion is when people actually noticed what was going with the Youth Center. I know if did not come up on my radar until Councilman Trumbo started beating up the mayor about it in NW Ark. Times. I was not a supporter of the mayor. I was actually a supporter of Cyrus Young in last campaign so I thought it was pretty funny see Councilman Trumbo beating up the mayor back and forth. But I did have to wonder why this mayor I hadn't even bothered to vote for wasn't even suppose to be asking questions. And that's what began me asking questions and then when I heard the president of the board or chairman of the board or whatever he is of the Boys and Girls Club also expressing outrage that anybody would even dare ask a question. That made me question all the more seriously. I had no doubt some process that involved some people in the city of Fayetteville. But I can tell you just by looking around this city council room tonight assuming that more or half the people room are supporting the Boys and Girls Club I believe that to be the assumption. I do not see one other hispanic face. I do not see one black face. I do not see anybody that looks like poor white or white working class. I suspect that this is the process that went on among a very particular segment of community. I think again we are coming back to the problem we came to with J.D. China. If only certain segments of the community are listened to. The people that are not listened to are going to make their voices heard one way or the other. Whether they riot in the streets like they did in Cincinnati or get arrested in development parking lots like that did last summer. One way or another people will be heard. If when the question first stated coming up we would had this kind of discussion as a community, at the city council, or some other form, where questions could be asked, reasonable questions could be asked, reasonably questions could be answered. But no that was not the case as a matter of fact the supporters of the Youth Center seemed to be willing to entertain questions until the Arkansas Democrat Gazette and the NW Ark Times both ran editorials asking why can't people ask questions. And then tonight they are entertaining questions. That should have been there from the beginning. If we could have sit down and talked about this together we wouldn't have had to have these kinds of conflicts. Two more things and I'll sit down and shut up and let

someone else talk. I don't think at this point there is community support for this proposed Youth Center and think a resolution from this council saying so would be a mockery. I say that because in the last week I both passed out leaflets at the farmer's market about the Youth Center and sent out emails about this whole conflict to several of the local email lists. All of which is evolved from talking with hundreds of people about this issue. I talked to one who support a westside location. I talked to 25 or more who thought it was either ridiculous or outrageous to put something so far out on the westside of town. That's 25 to 1 more better opposition. These are not friends of mine. This is not my own circle. This is from the farmer's market people, sending out messages on the public email list and getting people's responses. So I do not think that at this point there is that community support. I think there could be that community support if the community concerns are addressed and am encouraged by taking the questions seriously tonight at least. And answer them and talk about it.

Again we have Councilman Santos to thank for that. The last point Councilman Thiel, several times tonight I've heard you say it's a done deal that the westside is going to be developed. That the sewage plant is going to be there. That the Youth Center is going to be there. That all this development is going on. Again I would suggest that we all need to talk about that as a community before we are ready to say it is a done deal. Because there are significant segments of the community that do think so. But that's all. Thank you.

Alderman Thiel stated what she was referring to I think is the grant. My understanding to what the Board has said publicly there's a very good likelihood that we would not get this grant if we start go through this site selection process again. And I doubt very seriously if the city is willing to put up 9.2 million dollars toward a Youth Center. So that means if we build one without this grant its not going to be nearly the facility that we are talking about here. That's what I mean by done deal. I really—from everything that I've heard and read about this I think that the grant would definitely be jeopardized if start going to another site selection process.

Alderman Trumbo directed to Mr. Garcia that he attended the few of the library public meetings on their site selection. He said he didn't like where the library is going. I have another preferable site but there were some professional people that spent 200 grand that had some pros do all that and said that's where the new library should go. I don't do that professionally and I don't like the site. There are some other sites that I preferred but that's the process it went through.

Alderman Davis addressed Mr. Garcia stating there was a news conference or a public hearing that you all had I guess in January. Where you invited the council members, Planning Commission and anybody from the public that wanted to attend and ask questions. I know a large number of people did go at that point and asked some questions. There was an opportunity for someone who wanted some input beside just tonight.

The mayor asked if any else would like to speak.

Hi, my name is Rebecca Weaver. I am the manager, along with my husband Terry Weaver at

Washington Apartments which does happen to be on the westside of Fayetteville. We are community of 128 units, with a community of around 315 people. I thought I would get up and say that I know 315 people that are pretty excited about this being out there at Wedington. We have been fortunate to have the Fayetteville Youth Center transporting us into the California site for years. We've been there. We've gone there. We didn't whine about the fact that is wasn't in our neighborhood we got ourselves there. Also out in this neighborhood is Betty Jo Drive. That has been in the paper recently that is trying to clean up its area. Its had some crime and drug activity that has been played up in the NW Ark. Times. So this is a good location. You have a community that has government regulated affordable housing of over 300 people there. You've got the Betty Jo Drive. Obviously a positive presence in the neighborhood can only help. There is other indications that the city itself realizes there is going to growth out in this area. We have a new middle school out there. We have a baseball field out the Mt. Comfort. McDonalds just built out there. You don't think McDonalds is building out there if they think that there is not growth in that direction. I think that this study was probably well done with the idea of now and into the future. Because there is very indication that now it will fulfill a need and it will do a need in the future. So on behalf of the westside of Fayetteville we think it's a great idea.

They mayor thanked Ms. Weaver.

Barbara Moorman, 3450 Finger Rd. I think that all this is really about promoting growth in the west part of town. I know that the Boys and Girls Club is a good thing but I also know that it doesn't really have to be out west. Now all this business about the west site started--by the way how much time to I have? Mayor responds 3 minutes. She exclaims 3 minutes. When did you impose the time limit. The mayor said pretty much everyone tonight. This is a new thing with the city council we discussed two weeks ago about limiting public input to about 3 minutes. I just wonder how you qualify public. Okay. It started in 1997 when they wanted to put the middle school out there in exactly the same place. You understand that this Boys and Girls Club is going to go exact in the same place the middle school was going to go. It's the same location. Middle school gets moved out and whoops something comes in to fill the vacuum. And I think really and it been certainly been said by the developers themselves that the whole point was to give the west side a boost. And I think that really should be decided on by the whole city. I mean is that your policy. It certainly is not your stated policy in the UDO. Its not your stated policy in the 2020 Plan. But your whole objective is to give the west side a boost. That is what you are doing when you put the middle school out there. And that's what you did. And now that what you going to do when you put the Youth Center out there. Its what you are doing every time you annex. Another one came up tonight. Annexing out west over and over again. That is in violation of the 2020 Plan stated goals and principles of compactness, town activity, centrality and respect for the environment. Now I think that this really is a city responsibility to take care of the youth. It's a city function and providing cultural and recreational activities for young people is your responsibility. And it shown by, for example, in 1998 Kevin Crosson's introduction to the proposal to fund the site selection process says the city would fund the entire Youth Center program if the Youth Center organization did not exist. The council

agreed with this at the time and it voted \$80,000 contribution to the site selection report. Into which it really didn't have any input. Now we also have a working agreement between Parks and schools and the use of the city and school facilities share the Parks Director until 1998. What I'm trying to say is that there are so many indications that the city considers these programs for young people to be a city obligation and certainly agree that they are. Most people would agree that this is a legitimate function for the city. And because of that the city should be one who's calling the shots. You should chart the course. You should hold the public meetings. You should be responsible for finding out all this information. Presenting it to the public and asking the public what they think. You should have been responsible for at least half of the input into the site selection and the choosing of the team. My understanding is and this may be wrong but half of that site selection team is the wife of the head of school district. Now there we have two people connected to the school district pushing developments on the west side. The middle school and the Youth Center. I just think that decision making about how we do this job of taking care of young people should be shouldered by you the people responsible for it and not farmed out to someone else. I hope that's not over shooting the 3 minute mark. Thank you.

The mayor thanked Ms. Moorman and told her a lot of this was done in the previous administration and a lot of us weren't involved with that.

Alderman Santo voiced that he thought they weren't going to enforce a 3 minute rule and just ask people to be as brief as possible and to stop them if they got off the topic. Mayor's response was oh is that right. There was some discussion among council.
Alright Debra.

Then she stated she just wished you'd asked members that are proponents of this not to ramble as well if you going ask the public not to ramble. My name is Debra Byer and I'm a resident of Fayetteville. For me the Youth Center here is not really the issue. The issue is sprawl. And I think the last election pretty much indicated that the voters are very concerned about sprawl. We've had two survey's hit the newspaper recently that tell us that people's number one and number two concern is controlling growth. Another issue is the perception that the city's use of taxpayer's money is to subsidized development. I know that, I think my understanding of down the road you are going to ask for a 2 mill property tax increase to raise more money for the Youth Center. We've already heard tonight that people are very concerned about uncontrolled growth. We've heard that the city already isn't maintaining the streets that we have. We need more sidewalks in town. You've already allowed tonight an infill development that's going to destroy more rare and landmark trees and yet we are asked to believe that we are trading infill so that we will control sprawl. But looks really like what we are getting is both. We gonna get infill that's going to destroy the greenspace that's left in the city. And we going to get sprawl and the Youth Center site on the west side of town going to contribute to sprawl on the west side. You are about to pull the plug on one of the last controls you have on the west side of town. I think it is very fair to predict that now just as soon as you pass this you going to see people lining up to annex 40 acre plots and rezone them. You've

already got one before that you are on the 2nd reading of. You're going to have them lined up because now all the development is going to want to be out there. You're driving it. You're allowing the development to be driven out west. There's going to be millions of taxpayers, local taxpayer dollars that will be spent extending roads and utilities to this site that will ultimately subsidized sprawl. I was at the last Planning Commission meeting. They were concerned that this was being rushed. The word illegal, legality was used, the word irregularity was used over and over again. They were very concerned that they were doing something that was a rush job. So I would just like for all of you to please ask and answer this at some point. Where is the controlled and carefully planned growth that was mandated in the last election.

The mayor thanked Ms. Byer.

Hello my name is Tim Webb. I live at 1031 East Rebecca, east of the bypass. I just want to say a couple of things. This comes from my kids, 7 and 4. Please for once do something for the kids. Help them out and allow this to be built. I haven't seen anyone ready to step up with \$10 million dollars other than the Reynolds Foundation. The Reynolds Foundation based that upon a long arguous study. The first place the Board looked at to locate the Youth Center was in south Fayetteville. Walker Park was the first place reviewed. Along with the site down where the city was proposing to have the jail. In that area. When we had an opportunity to meet with the constituents, the shareholders, the stakeholders, all of the city. The minority community was involved. People on the west side was involved. South side were involved. North and east. The overriding concern of south Fayetteville was parents were uncomfortable having kids down there at Youth Center. They were uncomfortable it was scarey for them. We were losing some of the participants because they didn't want to. We still kept that in place. We still wanted to keep it in south Fayetteville. So the next spot that really was interested was near Ramey. Over there by Ramey. The price tag was a million five for a piece of land. We're not going to come up with a million five. The city wasn't going to come up with a million five. It was not available. We viewed seven different sites. We looked at every aspect and kept going back to the stakeholders. The people who use the facility. What do they want. And if the people would look at the strategic plan they would see what those stakeholders wanted. They wanted a nice greenspace lot of land. Land that could be developed 20, 25 acres if possible. That doesn't exist in the middle of Fayetteville. It doesn't exist. That is how we came to that selection out there. That is why we got it there. The final point is it was an arguous study there was a lot people involved. The city has had the proposal in there hands for going on 18 months and its just come up to this point when people have been concerned. So I would like to see someone else pony up the money if they think they can. They should. But we have something in hand and for my 7 and 4 year old I don't want to tell them it didn't happen because of a political agenda. We want to see this occur for our kids because they are future of Fayetteville.

The mayor thanked Mr. Webb and asked if anyone else would like to speak to this. See none it was brought back to the Council.

Tim Conklin said Ruppel Road will need to be included in the CIP coming up and voted on by the Council. Parking lot additional funding of \$300,000 will have to be included in the CIP to be voted by the Council. A lease agreement will have to come forward to allow the Youth Center to use our plan and that will have to be approved by the Council. And then of course, the two mills to be voted on later this year. So you do have additional decision that will have to be made by the City Council to actually fund Ruppel Road parking, the lease agreement, park plant and the village.

The mayor asked what was the first numbers we'll have to take out of the CIP, we'll have to vote on.

Conklin responded the road which is about \$600,000, \$500,000. The parking lot \$300,000. Those two projects have not been included in the past CIPs. It was approved last December in the 2001 was \$124,000 for water and sewer and \$395,000 of HMR tax money to used toward the Youth Center construction.

Alderman Santos states we are still looking at close to a 4 million dollar public investment in this infrastructure. Parking, streets, water, sewer, the value of the land. It's still a very big public investment. I don't know. I'm sorry I jumped the gun and try to withdraw my appeal a couple of hours ago. I still want to do that but I had a feeling then that everybody was kind of starting to come together. I guess I was wrong. And maybe this is something is really going to require a vote of the people. I heard Mr. Trumbo say something about a millage in October. You mean kicking in in October, we're not voting on it.

Alderman Trumbo stated all we did previously was just pass a resolution of support for the 2 mills for the Youth Center. It has to come back to the City Council for an ordinance before it can actually be implement and sent to the county clerk this October.

Alderman Jordan asks so the people will vote on the property tax.

Alderman Thiel says no. All the several of the council members talk at the same time.

Alderman Trumbo states that the millage they have implemented right now is going towards the Senior Center with a provision it will expire or the City Council will vote to extend that to Youth Center.

Alderman Santos says that it would be a good sign of public support if we had an election. Let the public-see how supportive they are. If the public is not willing to contribute this 4 million dollars then they are just not willing to contribute 4 million dollars.

Alderman Thiel asks if he is talking about a special election though. Oh people love special elections.

Alderman Santos says the people who turn out are the people who care.

Alderman Thiel says that true. And if their serious about this. What does a special election run now. About 20,000 I understand.

Alderman – says it not much.

Alderman-5,000

Alderman Trumbo says constitutionally we had the availability of those extra millage to come to a vote of the City Council. You'd have to vote your conscious based on your constituency on whether or not you feel as though it should be within your right to allocate that millage at a vote here not at a citywide election. Thats what we did with the Senior Center.

Alderman Thiel says I'm understanding. Right. You're talking about the millage. I understood though that you mean something sooner than that. Because if we wait until then that's going to hurt their fund raising.

Alderman Davis says its non existent if that's the case.

Alderman Thiel asks you're suggesting a vote to the public on what now?

Alderman Santos responds on the millage increase.

Alderman Thiel asks vote on it now?

Alderman Santos responds as soon as it needs to be voted on. I mean just because we put a road in the CIP doesn't mean it costs us anything. We could take it back out later.

Alderman Thiel's responds that her understanding of this project is that will really hamstring their fund drive effort and possibility even the grant because I understand that there's rumblings about that. They're not accustom to bad publicity whenever they give that kind of money to a city.

Alderman Davis says he wished that she would have brought this up when they voted on the resolution back in December.

Alderman Trumbo stated it is your prerogative if you want to do something to bring that to a special election and sign petitions you obviously have that right to start that movement.

Alderman Thiel states all the citizens do.

Alderman Zurcher says well we can vote up here to have a special election.

Alderman Thiel says yeah.

Alderman Zurcher states that the resolution you guys passed at your very last meeting of an outgoing council I don't see how that could hold a whole lot of water.

Alderman Santos stated he did complain that we really didn't have a whole lot of authority to promise the intent of a different council.

Alderman Zurcher says right.

Alderman Thiel says she is not opposed to the idea at all. I am just saying if we do this we don't need to wait until October to do it. Or whenever we, July or whenever we need to pass this millage. We need to do it as soon as possible I would think.

Alderman Davis stated he only had one call from one constituent that's complained about the location. Everyone else that I have spoke to has been in favor of what is going on out there. So don't know what Trent's found out in his portion of the ward but my portion of the ward has said nothing but support.

Alderman Trumbo stated he has had nothing but support.

Alderman Thiel stated she hasn't received anything but support or anything to the contrary. So you know if people want to call me madly now they can.

Alderman Santos said he wanted to encourage people to let us know.

Alderman Thiel says on both of the issues.

Alderman Santos said he lived right off Wedington Road and he has heard nothing but complaints. Even from his neighbors right there.

Alderman Young stated he had calls both ways.

The mayor ask the council's wish tonight to go from here.

Alderman Trumbo stated what he would like to do is to propose a resolution of support from the city council for the Fayetteville Boys and Girls Club project on Ruppel Road site.

Alderman Santos said he would go along with that but he would also like to ask for a special election to let people decide if they want to.

Alderman Davis stated he felt like they were elected officials to represent them.

Alderman Santos said in the voting both his self, he would be glad to vote for it.

Alderman Jordan stated they didn't have to decide tonight whether or not they were going to have a special election. What we are trying to do is a resolution to support the Boys and Girls Club.

Alderman Zurcher says we don't have to do that either.

Alderman Davis says right now what they had to decide want to do with the appeal.

Alderman Santos said he wanted to withdraw the appeal.

Alderman Young said right now there is a motion made by Trent in support of the Boys and Girls Club at the Ruppel Road site.

Motion seconded.

Alderman Santos said wait a minute this wasn't on the agenda. Do we have to do one those emergency deals to do this.

Alderman Young no this is the agenda. You look right there.

Alderman Santos says he didn't see no Boys and Girls Club resolution.

Alderman Young is interrupted from speaking by city attorney Williams. Williams says he had two comments for the council. No. 1 Since there seems to be some disagreement on what's going to be happening here. Our Rules and Procedure say that we don't consider the issue of motion of resolution, ordinance or anything like if it's not been on the agenda at the time of the agenda meeting unless we suspend the rules like we did a couple of weeks ago when we wanted to put something on.

And the other thing I just might caution both sides here is that a resolution of support is going to be a lot more supportive if have a strong favorable vote. So I would think it might make more sense just to wait the two weeks and see if in fact there can become a consensus on this board. So that you can speak in one voice the Reynolds Foundation and to the citizens of Fayetteville. But you want, if somebody wants to move to suspend the rules to put a resolution on the agenda I actually drafted one up thinking we might do that. But

Alderman Trumbo said he would rather vote on it. I have gotten to know the personalities on this council pretty well and I just don't see us agreeing on this. Whether we wait two weeks and we talk or we hold hand.

Alderman Santos said I'll vote for a resolution to support but I'm not going to vote on a millage increase.

Alderman Reynolds: Mayor, I haven't had 20,000 phone calls but I have had two letters. One from Mr. Garcia and another from a lady on West Street. That's the only two letters I've had in opposition of this in Ward 1. I've had a lot of calls in support. But I've had two

Alderman Santos questions in support of 2 million dollars or getting 9 million?

Alderman Reynolds says in support of the Boys and Girls Club in west Fayetteville.

Alderman says you are looking at spending some dollars for the youth of City of Fayetteville. You have to decide what's more important, to kiss a possible grant away for another location. A location which I think is good. It's a lovely building that's going to take care of the youth of the City of Fayetteville for years to come. If you want to squander that and just forget about it. Eventually what's going happen is that the maintenance is going to be so high for that particular location that the deals are going to be shut. Because the cost of maintaining is going to be cost prohibiting.

Alderman Santos ask what do you thing the people want.

Alderman Davis responds I think they want a Boys and Girls Club.
The mayor: excuse me I think we've just reached argumentative empass.

Alderman Reynolds states mayor I would like to say one more thing. All these people here tonight. All the fellows that got up here to talk. They are just volunteers. They're here fighting us to get something for our kids in this city. They don't get paid a dime. We're here trying to slay them. They're trying to do something for our kids. We need to help them. We need to do it for our children. My kids are all grown. And I've got grandkids. They're going to go to that club hopefully. That's all I've got to say. Let's help them. Let's not fight.

The mayor state they have two suggestions. One is to pass a resolution in support and another suggestion from our city attorney to see if we can reach a concensus and then vote on this in two weeks and see we can make a unanimous decision.

Alderman Thiel states my only concern is, if we don't have a concensus on this council I don't see where that's a really solid piece of support.

Alderman Zurcher asks, we have to have six votes to suspend the rules right? Let's vote it.

City attorney answers someone has to make a motion to suspend the rules.

Alderman Trumbo makes the motion to suspend the rules.
Alderman Santos seconded.

The mayor states we have a motion and second to suspend the rules. Upon roll call the motion carries with Alderman Zurcher voting no.

The city attorney stated he had prepared a possible resolution. Why don't you all listen and you can certainly change it if you would like to.

Upon reading of the resolution in support Alderman Santos moved to pass the resolution with Alderman Davis seconded.

The mayor states we have a motion and second. Upon roll call the resolution passes with Zurcher voting no.

The mayor thanked everyone for coming and adjourned the meeting at 11:10.