Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Special City Council Meeting Minutes December 28, 2004

A Special Meeting of the Fayetteville City Council was held on December 28, 2004 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Odom, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor Coody Opened the Public Hearing

Highway 71 East Square Redevelopment District #1 Creation: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on forming the Highway 71 East Square Redevelopment District Number One.

Mayor Coody: Kit do we need to do anything from your perspective?

Kit Williams: Basically this has already been discussed a few times before the City Council, it was a proposal that was approved earlier with minor notification problems. We decided to run through the process again but nothing has changed within the district. The borders are still the same and so is the project plan.

Alderman Thiel: I realize this has already been discussed thoroughly but I have had some recent concerns on this and have been requested that I ask some questions. We have had the discussion about reimbursement to the city for cost related to the TIF. Does that deal with adding additional staff to the City? At some point I would think there would have to be staff

hired to facilitate and coordinate. Would that be reimbursed from the proceeds of the TIF? If so how would that be divided among the various TIF's?

Kit Williams: I don't. I don't think there has been any discussion about adding new staff. The kind of cost I think the resolution was talking about is for the bond counsel, financial advisor, underwriter and the economic forecast that the University did for us. I think those are the costs that were anticipated to be paid for with the TIF proceeds if the bonds are in fact passed.

Alderman Thiel: No one thinks there needs to be any type of management of these TIF's except for the City Council?

Kit Williams: That would be up to the Mayor and the Administration I don't decide on personnel.

Alderman Thiel: My question again is if at some point we see the need to hire someone rather than contract our services would that be reimbursed?

Mayor Coody: I would think that it would be a reimbursable expense would it not?

Kit Williams: I don't know if it would be or not.

Mayor Coody: We have not had discussions about hiring any more staff for this.

Alderman Thiel: I think a lot of people are concerned about that. There are a lot of things that haven't been discussed and that is one of them.

Mayor Coody: It is an intense short spurt of activity and then by the time it is all approved everyone goes back to their normal routine. So it is not an ongoing day to day operation.

Steve Davis: The ongoing day to day monitoring and management of the TIF data actually falls to the County Assessors office. The County Assessor has the ability to charge each TIF for their potential share of increased operational cost.

Alderman Thiel: Can charge each TIF. Okay, very good.

Steve Davis: The City doesn't necessarily have any management oversight.

Alderman Thiel: There seems to be concern about the appraised cost of the purchase of the Mountain Inn and why the City or the people that have been working on this project didn't look closer at the idea of just condemning that property. Maybe Mr. Nock or whoever has been working on this project could explain why it was just set up with an offer of $2.5 million to purchase this.

John Nock: I will try to answer that the best I can. The process to acquire the land was a multi month even year process to get the necessary property to do the project. One of the resounding comments that we heard both from public input as well as from the Council was that the interest in using condemnation was just not there. We certainly did what a private side would do and negotiate the very best possible prices for those parcels. In addition the statue clearly states that one of the specific items allowed and I will quote from that, this is the Arkansas Statues for TIF's refers to real property assembly cost meaning any deficit incurred resulting from the sale

or lease as lessor by the local government of real or personal property within a re-development district for consideration which is less than it's cost to local government. It was certainly, in the intention of doing a TIF, the ability to remove the blight and also to assembly the necessary property. We could certainly just remove one building and remove the blight but then you could not carry forth the necessary items to do the whole project. Could it have been condemned, certainly. You can condemn anything the City Council has that power. It is also specifically granted under the TIF legislation it is my understanding. We did not approach that and we said early on that it was not our idea or scenario to be involved in a condemnation procedure. Having worked with the Dover Kohl Downtown Master Plan it was very auditable during that process that condemnation rather that re-development was not what was wanted it was the other way around and we certainly tried to stick with the spirit of that.

Alderman Thiel: I think there is a difference between eminent domain and condemnation. Whenever a property is to the point of being condemned, I see a difference there. I think what I heard in the early conversations of this TIF was using eminent domain and there is a difference. I guess I am alright with that and that is what I have explained to people that have asked me. I said I think that was the original intent and it was explained back to me they are two different things and they are.

John Nock: That is a good point. Let me go on if I may and go to another scenario. The idea behind a tax increment financing or a re-development district is a short term investment in under utilized blighted or under developed areas depending upon how you define the legislation whereby money is spent so additional dollars come back. This project doesn't make sense on its own privately and the only way it makes sense to have any public dollars come in and help with remediation of the building, removal of the blight and assembly of the project is if it is going to return economic dollars back to the project area in the re-development district. So, one has to say what is the cost for assembly, demolition and then what does this return. In your boxes this week there was a number that was supplied from HMR taxes, property taxes as well as other sales taxes just from this project alone. If my calculations were right it was in excess of $40 million dollars over the same 25 year period. So the real test of a TIF is money spent short term what does it give us as a long term result. You are exactly right you could go in and do the same process by condemnation but what you end up with is a much different process.

Mayor Coody: Does that answer your question at all?

Alderman Thiel: Not entirely. Not as far as the difference between buying it and condemning it and that really is for the Mountain Inn property and I understand the whole project encompasses more than just that.

John Nock: We as developers had no interest in petitioning you as the City Council to do condemnation. That has not been Richard Alexander's history of doing projects in downtown; I think he's been quite successful with that. It's also been an adopted measure on my part that instead of going in and utilizing, where there's condemnation or eminent domain, that was not a part of our program. Maybe another developer would submit that, but that was not a part of our program and it was clearly allowed under the statute for TIF's. We complied with what was out there and also tried to follow that spirit of the law.

Alderman Thiel: Okay.

Mayor Coody: All right. Anyone else? Yes, Ma'am.

Alderman Lucas: Maybe a better question would be, why did the City not, before even the TIF's were, you know, available, why did the City – there must have been reasons why the City did not condemn the hotel, because it was a blighted building and everything and dangerous. I was just curious what the thinking was that the City did not approach it that way. Maybe we didn't have the laws – maybe we have better code enforcement now that we can do it or something like that…

Mayor Coody: No. The reason we didn't condemn it, we thought about condemnation but the developers asked us to please stay away from that because that probably would have screwed the deal up that they were trying to accommodate with Stella Mogel, is that right? So we discussed this…

John Nock: Well, there's more than one owner certainly involved, but it was never our plan to go through condemnation. We certainly – you certainly could do that.

Alderman Thiel: Yeah. I think what I – I think you've made a good point. I mean, why didn't we deal with this before the TIF discussion? I mean, in fact I think there had been some discussion of it a couple of years ago, before you even came forward with this idea of, you know, in other words I guess we all kind of feel like why are we compensating Stella for not doing something with that property.

Mayor Coody: Yes, sir.

Alderman Odom: My only comment about that is that condemnation isn't as simple as it sounds. I mean, it's a – it can be a very long, protracted legal battle when you've been in condemnation proceedings and you can't just go in and condemn property without good reason or you end up in a very long, protracted legal battle. An area can be blighted without the necessity of condemning it. And if – and I think it kind of goes to what is the City going to take as a policy stance. Is it gonna – just going to go in and start condemning property because it doesn't like what it sees? And I understood that the Council was sort of against that sort of philosophy. And so I think that's the reason it wasn't looked at sooner. I mean, yeah, it was a potentially harmful to, you know, vagrants and so forth to go into that area but those, you know, it was boarded up at certain points in time, the roof was maybe fixed at certain points in time, so – yeah – I think it's a dangerous thing for a City to just – at first – to go in and say, "we need to look at condemnation". I think that's a theory or a way of last resort. Much as a tourniquet is – if someone is bleeding, the first thing that you want to do is apply pressure. The last thing in the world you want to do is come in and put a tourniquet on. So I don't – while I think that the area was blighted, I don't know that it was to the point of where the City needed to come in and actually condemn the property. That'd be my thought on it.

John Nock: If I could add one more thing…

Alderman Thiel: We have a Raze and Removal on the end of our agenda of this next - on Tuesday's Council meeting. So…

Alderman Odom: I'm not saying – I'm not saying that there aren't certain times where things shouldn't be condemned…

Alderman Thiel: Yeah.

Alderman Odom: ...there certainly are. I'm just saying I'm not sure that this project was actually to that point. It sure was close.

Alderman Thiel: Yeah.

John Nock: There's an economic story behind that, too. We have three different bids coming in on the demolition of the project. And those range, at the minimum of half a million dollars and at the high side, close to nine hundred thousand dollars. So, again, I don't know the complete process but I do know if you condemn and if you do tear it down, the City, the taxpayers would then absorb that cost, and then if I understand the process after that, you would then attempt to try to sell the land. Uh, having been recently involved in the purchase of the library, where we paid full market value, in fact a little bit more than that, than what your appraisal came up with – an independent appraisal analysis on the old library building, that was actually $6 a foot - with a nice building in a nice historical area. Whereas the Mountain Inn, the appraisal on it came in, believe it or not, at the same area – right at $6 a foot. But it's also blighted and is not in the historical area, but it has potential to turn around. So, uh, the valuation of how we'd be purchasing it, versus where it is, it's worth much more with the buildings gone, believe it or not. Because of the liability of – let's call it a half a million to three-quarters of a million dollars is a number that the taxpayers would then immediately absorb. If you can sell it for that, great, otherwise it would be a deficit thereafter. Whereas, a redevelopment project such as this – and as you've seen on the spread sheet that's been prepared, $3.5 million comes back in many different ways – through HMR, other sales tax as well, that otherwise would not come, even if it was just a razed building with an empty parking lot.

Mayor Coody: All right.

Alderman Jordan: You know, it seems to me that we did have some discussion of condemnation on this property because I remember Alderman Marr saying something like that nobody on this Council wants to condemn property. Is this the same – was this the same issue? Do you remember, Don?

Alderman Marr: Yeah. Actually it was a gentleman who lived down off of Rock Street I think it was who was talking about a home. It wasn't this particular building. But there – the people who actually commented were concerned about eminent domain and...

Alderman Jordan: Okay.

Alderman Marr: ...condemning their property for economic growth, if you will and I – I made a joke that night that, you know, the best way to do that is to reelect the people up here who didn't want to do that. And, so – I also think that – I mean I wasn't aware the history of why we didn't proceed with, you know, code enforcement on the property but I think at this point, since it wasn't and there's been negotiations, I think you open – a point to consider is we open ourselves up now for commitments that have probably verbally been made or contractually made about purchasing it versus changing in mid stream. So that would - now my concern would be that you'd have higher litigation on the end of going that route.

Mayor Coody: Well, if I remember right, we certainly sent letters to ask to please secure the place. Kit, I think, did you have a hand in that? I believe we sent letters to Moga saying that they needed to secure the place, clean it up …

Kit Williams: I didn't have a hand in that but I was aware, I know we had our fire marshal go into the building and he was very concerned.

Alderman Thiel: And again, I wasn't to emphasize the difference between eminent domain and condemnation. There is – I mean, there is a difference as far as, I mean because the condemnation that we're doing – the raze and removal we're doing – we're going to be discussing at the next meeting, is for a different reason. I mean, eminent domain is taking property for streets or whatever. And I do think this Council was very committed to not using eminent domain. As far as – I mean I'm sure we'll – we'll have properties pop up down South College again that need to be razed and removed. I mean, so we're not opposed necessarily to razing and removing and condemning property whenever it's necessary. And – and I really don't – the reason I'm bringing this up is just these are questions that people wanted me to try to get fleshed out so that they have a better understanding of this TIF. I think there's more concern about this one now in a way because we're looking at other ones. And, so anyway that's really the reason I'm – I agree with you, there's already been a lot of commitments made and I'm not, you know, going to back pedal on my support of this particular one. I just want to make sure plenty of questions are asked and so…

Mayor Coody: All right…yes, sir.

Kit Williams: Mayor, we probably should restrict most of the discussion actually to the boundaries of the TIF and the creation of this TIF rather than talking about the project plan at this point in time. And we need to make sure that we let the public comment since this is the public hearing portion.

Mayor Coody: Oh, yeah. That was the next thing is public comment. Where it says here, present views on forming the 71 East Square Redevelopment District #1, I was thinking that that's what Brenda was doing, was presenting her views on that. All right, anyone from the public want to comment on this? Yes sir, please step forward. Please introduce yourself for the record.

Don Bright: Yeah, my name's Don Bright. I've got three questions that I'll try to get over with real quick and then let whomever up there wants to discuss them. Number 1 – and we've been talking about this – do you plan to use to condemn property and use eminent domain on the non-blighted areas. I think we all know that the vast majority of this district is not blight so would you ever use eminent domain to remove a person from a non-blighted building. Two ….

Mayor Coody: Let me answer these one at a time. Then I think the first answer we can pretty much certainly say no.

Don Bright: Okay. Do you have a definition of blight that you can include in this or would you consider that?

Mayor Coody: With TIF legislation I believe that if…is there no….?

Don Bright: I've read the Act and it – well it covers it but it doesn't specifically – when you say "underused" as part of blight, you know, a person that travels a lot is not using their house a lot so its – it leaves a lot of open gaps, I think.

Mayor Coody: Well, I think that when we've used the word "blighted areas", when we look at the Mountain Inn, pretty much everyone agrees that qualifies.

Don Bright: Definitely I agree there. But if someone's living in a – in a private home for instance that's not very well kept, you can't call that blighted....

Mayor Coody: True.

Don Bright: ...is my point. And the other one – and this is, you may not have to discuss this, it may sound silly. Is there – or have you considered taking bids on the development of these TIF areas and seeing if another developer might come and do it without the City having to put out as much money. Thank you.

Mayor Coody: Thank you very much. As far as taking bids go, no, we haven't because, Steve, where – is Steve Davis back there? Our finance guy? These folks came up with a plan to put a 14-story hotel here and do a lot of things we needed to have done in the downtown area. If we were to just put it out to bid, there's no telling exactly what we would get, I believe. Do you have an answer for Mr. Bright's question about going out to bid with random access folks to see if they – what they would do with the building?

Steve Davis: I'm not sure it would be in the City's – the City would be in a position to put anything out for bid. Until the property is acquired and demolished, there's nothing there to – for us to bid out. It's been a vacant building for many, many years and it's been – there's been a number of items in the press about who the owners were, so any – any developer that wanted to try to put together a viable development plan had the opportunity to do that. These developers did take that opportunity and did show the initiative.

Mayor Coody: All right. Thank you. How are you tonight, Jeff?

Jeff Erf: Okay, thanks. My name's Jeff Erf, a Fayetteville resident. I live outside the proposed TIF district. Uh, the Northwest Arkansas Times has this special section on their website devoted to explaining this specific TIF district and some of the other proposed ones and I just wanted to read a couple of statements here and find out whether or not they are true. And this is in regards to the Mountain Inn TIF district, is what they are calling it, that's what is before you tonight. "A redevelopment district will not raise tax rates for anyone." Then there's another statement, "anyone with property outside the district is unaffected". Would that be a true – are those true statements?

Mayor Coody: I certainly believe so, yes.

Jeff Erf: Because about three weeks ago, there was a discussion about raising millage rates for fire and police protection. I believe you had thrown out maybe 2.5 mils additional tax. And there was a comment and some discussion made about that since the millage rates would be frozen to be a base rate in the TIF districts, that that increase in millage for fire and police protection that would cover the rest of the city and would go into the general fund for fire and

police protection, that additional collected tax would actually have to stay in the TIF district and be used for that TIF development plan.

Mayor Coody: I'm not sure that – does that apply to new millages, Kit? Or is that just existing millages?

Kit Williams: I think there is a base value established and that will cover it even if there's going to be a new millage. But it doesn't raise anybody's tax rate. Now, it might affect where that tax is going – inside the TIF district it would go to the County Assessor and she would send the increment back to the TIF district itself to pay the bonds or whatever. And the money from outside the TIF district would all go into the City for general purposes. So it wouldn't raise anybody's taxes but not all the taxes collected would go to the City. Some would go to the TIF district.

Jeff Erf: Well, there was an article in the paper, I think a week ago, that the library had requested the attorney general for an opinion. Their concern is that if they were to raise library millage, the way I understand it anyway, that that millage – the tax increases that would be collected inside of a TIF would stay in the TIF and could not be used for – their concern is that it wouldn't be available for the library's use. And, reading between the lines, if they can't collect that additional money from the TIF district, then they have to raise millage in the areas of the City that aren't included in a TIF.

Kit Williams: I think the only thing a TIF does is put a base of property value – not a base of taxes – a base of property value that can be raised – that you can apply millage to in a TIF district. So it's not that the new millage might not – the new millage would be applied uniformly I think, throughout the entire city, but the base value of the property in the TIF district will not be raised because - the increase in property value will go to the TIF district but the base value will stay with the other taxes entities, whether they're the schools, the library, the County or the City.

Jeff Erf: Okay. Let me re – I thought you discussed this already, so let me try again. If you would, for example, raise the millage for fire and police 2% and it - and for the entire City including the TIF district. And you're collecting that additional two mils from every property in the City. Does all the property in the City – does all that money go to the City's general fund or does the property that's inside the TIF district – that money has to be directed and allocated – redispersed – to the plan – to the projects only inside that area – that TIF district?

Kit Williams: My understanding is it's a mixture in the TIF district. The base value goes to the City for the general purposes. The increment – the amount above the base value, the amount the property has increased in value in the TIF district, that would be separated by the County Assessor and that would go back to the TIF district. But the millage would be applied uniformly, there would be no difference in tax rates, whether you're in the TIF district or out of the TIF district.

Jeff Erf: I'm not concerned about the difference in the tax rate, I'm concerned about the money – where the money comes that's collected in the TIF district, if it – if there's an additional two mils property tax increase in the district, does it increase the base rate by two mils or does that – or is it considered part of the increment, which goes into the...

Kit Williams: My understanding is – it's not part of the increment.

Jeff Erf: It's not? Okay. That's what you're saying.

Kit Williams: That's my understanding. No, only the increase in value of the property – that is the increment. Not a change in the millage rate itself. Only the property's value. The property goes from $100,000 to $120,000. So that $20,000 – the millage on that $20,000 goes to the tax increment financing district. The $100,000 still goes to the taxing entity.

Alderman Rhoads: So, so to answer Jeff's question, if you – if you raise – if you put a new millage in, then the – the benefactor – I'm sorry, the beneficiary of that new millage wouldn't get that additional millage on the $20,000. Is that right?

Kit Williams: I'm not – I'm not sure if there's a new millage – I think the new millage would be applied at the base value, that is established right now....

Alderman Rhoads: So with your example, you'd get the millage on that $100,000 and then that additional twenty would go ...

Kit Williams: ...would go to the tax increment financing district, I think.

Jeff Erf: But, okay, but then over twenty five years that could be a significant amount.

Kit Williams: That's correct.

Jeff Erf: So, okay. Thank you very much.

Mayor Coody: Thanks, Jeff. Anyone else want to address us on this? Yes, sir. John, how are you tonight.

John Newman: I'm good. I'm John Newman, Fayetteville resident. I guess I'm coming into this late, but I just wanted to state my opposition to this TIF and certainly to the others that I've heard just a little bit about. And I'm opposed for two reasons. Opposed to this TIF. One, I think my reading of the law it talks about blighted areas. When I think of a blighted areas I think of something where, you know, there's no private investment going in, that sort of things. And I'd certainly agree that the Mountain Inn is a blighted property. But the Mountain Inn lot of course is a very small part of this district. And then when I look around at what's in the district, I see the Town Center, I don't think that's a blighted property. I see the whole square and I see new development, I think on Spring and College there's something going up and we've got the Mill District, a new Walgreens. So, it doesn't seem to me like a blighted area I guess. Maybe I'm reading the law wrong.

Mayor Coody: I don't – now just - all the land inside the boundary doesn't have to be blighted. This intent of this legislation is to able to put private investment where it won't go without some kind of a mechanism or a tool like this to make it happen. So, we wouldn't be considering the Town Center, for example, a blighted area. Well, that's a bad example since it's off the tax roles anyway. Let's just use new development over at Spring and College. That – that's going to be a brand new building – it certainly won't be blighted, but the increase in the property value there, that increase will go toward the removal of blight within the district, which means the Mountain Inn and its environs. It doesn't mean that the entire district is blighted. But it means there – that's the reason the boundary is drawn the way it is, is to capture enough of an increase – and

believe me even as big of an area as that is it doesn't generate as much money as one might think. So the reason the map was drawn like that is to be able to capture enough of an increase to make – an increment to make the redevelopment of the Mountain Inn viable and without something of that size, it wasn't – it's not viable. Does that make sense at all?

John Newman: Yeah. I mean, it makes sense. And I guess that's a good reason why you would want to draw the district large. But I don't think the district at large in general is blighted. There's maybe, you'd call a low rent district, or even parts of it are not that, the square certainly isn't...

Mayor Coody: No. We – I think we would all agree with that assessment. The whole district is not blighted.

John Newman: Okay. Well, my reading of the law, it seems like an abuse of – if not the letter of the law, the spirit of it. I guess the – the number one reason I'm opposed to it – opposed to TIFs in general, is they sort of sound too good to be true. And in a way it goes back for me to twenty-five years ago when I was getting my accounting degree up on the hill and I had a teacher, maybe some of you know Leonard White, best college teacher I ever had for economics. And he was so good because he distilled economics down to a few basic concepts and one of his basic rules of economics was that there is no free lunch. No free lunch for society. He said now, he said, "Dan, you may buy me lunch and I get a free lunch, but that's only because you're paying. And that somebody's always paying for everything. And – and yet I'm hearing this being promoted – the TIF concept, like a free lunch. And that's really what got me interested in it in the first place. I'm reading these articles and initially not understanding them and finally really dug into it a lot wanting to – wanting to answer this question. Well, who's paying for this? And, the only answer that I could come up with is that it's – it's our school districts, school district, and anybody else that gets these taxes. And I understand that this is just – it's just on the increase in value but when you're talking twenty five years, especially in an area like Fayetteville where real estate is appreciating fairly rapidly, you know, you get out there twenty, twenty-five years and the increment in value is likely much, much larger than the base value that you started with at the beginning of the period. I studied the, you know, the plan that's on the website and read through it to further, to answer this question and I poured over the numbers and the projections that Jeff Collins at the U of A did, which by the way there's a few significant mistakes in there, but be that as it may, those projections don't speak to my question at all. All they do is project how much money will be generated by this and is it enough to do whatever we want to do. Kind of what you were talking about earlier, Dan. So I guess my question is, do we have projections that say, "here's what the schools and others would get if we didn't do a TIF, and here's what they'll get with the TIF in place." Because without that, we're just shooting in the dark.

Mayor Coody: While we do have some projects, I'm not sure – at the level of detail you're asking, I'm sure we do have several projections out there that you're welcome to. But one of the things is, that without some kind of tool for redevelopment, the Mountain Inn is going to stay just like it is for the next twenty years. And we won't see those property values increased. I mean, it's been like this for, I don't know, twenty years already. We don't see much hope for a really good redevelopment, especially the kind that we really need downtown without a tool like this to make it happen. If there were an easier way to do it, we would have done it years ago.

John Newman: And let me just say, I think the idea of, you know, helping to put a hotel on that property, doing something with it is a wonderful idea. I just think, I'm really uncomfortable with

TIFs because of this idea that we go into it without any clear understanding of who's paying. And yeah, if I can get a copy of those projections, I'd like that. Thank you.

Mayor Coody: All right. Thank you. Anyone else want to make a comment on this tonight?

Phil Ralston: Good evening. I'm Phil Ralston. I'm from Fayetteville. Are we talking about the plan or the district at this point?

Kit Williams: We're supposed to be talking about the – about the borders and creating the district.

Mayor Coody: Yes.

Phil Ralston: So, when are we going to talk about the plan again?

Mayor Coody: That's going to be…

Kit Williams: Later on tonight?

Mayor Coody: Yes.

Phil Ralston: Later tonight. I'll wait then.

Mayor Coody: All right. Thank you. Anyone else want to talk - address us on this topic. See none…oh…go ahead.

Carol Tarving: Good evening. I'm with the Green Party of Washington County and the Green Party of Arkansas. And when I was visiting Little Rock recently to visit the Clinton Library, I picked up the Arkansas Times that had an article called, "More TIF Madness" by Max Brantley. And I'd like to offer you some copies of that article. The first thing I'd like to know is if you find anything inaccurate in this. Kit, I know you were quoted quite a bit in this article and I'd like to know, you know, if there's anything that was a misquote in that article.

Kit Williams: Well, actually I won't argue on the quotations but often he started off with a comment that I would make at the start of a paragraph and then he would fill in his thoughts the rest of the paragraph, making it sound like those are what I said, when in fact, that is what he said.

Carol Tarving: Well, this is what, I would like to use this opportunity to clarify what those comments are. They were different than anything I've heard – heard or read in our local media concerning this. But it does raise the issue of the legalities – and you've mentioned that if you, it quotes you as saying, if you were in private practice you would question some of the legalities of this TIF plan.

Kit Williams: No. He didn't go – actually go that far. He said if Williams were a lawyer in private practice, he said he'd be inclined to look at the legality of some TIF's being completed in a rush. And that's not the Mountain Inn TIF, which is not being completed in a rush and in fact, fully complies with the law in my opinion. There have been some others that I've read about in the paper that have caused me to wonder about them, but I don't want to comment on any of the other TIF's.

Carol Tarvin: I agree. And, and you know that's, part of our concern is that this is a template. This is a precedent setting TIF in Northwest Arkansas. And so, how we conduct this one, it seems to me, is going to make a difference in how other – I've noticed that Lowell has designated 47% of its whole town now as a TIF district, you know. That's a – that's a concern. That the Community College in Rogers is concerned about the losses that it's going to incur due to lost property taxes that go to the school programs. This quotes you as saying that the schools say it's great, their bond millage is protected, the State Treasury is going to make up the loss, is that correct?

Kit Williams: Well, that's actually not correct. Their bond millage is absolutely protected because the TIF increment financing specifically excludes millage that's required to make their bond payments. However, even their operational payments, I think are protected because of the Act that the legislature did in the last session saying basically that they would hold school districts harmless from the affects of a TIF. We had the Finance Director for the Fayetteville Public Schools come and address us this summer when we were considering this TIF district and she said this is fine, this is no problem for the schools, they're financially held harmless and so I'm inclined to believe the school people know more than I do about the school finances.

Carol Tarvin: And I'd like to ask, are there any people from the school board here tonight to speak to that.

Mayor Coody: I'm sorry. Can you, you need to address us, please.

Carol Tarvin: Okay. Well, I thought it was a public hearing, but anyway ...

Mayor Coody: It is.

Carol Tarvin: ...uh, so I am concerned about what, you know, the effects on the State Treasury that you raised. Or are credited with having raised in this article. It's saying that the schools like this because we've got a new State law and program and funding that will pay per pupil if – in case – they're kind of the insurers if this thing goes belly up, the schools will not lose their funding because the State Treasury, a bottom line, will make sure that all of the school funding is provided through the State, is that correct?

Kit Williams: Well, I think the Act is not concerned about whether a TIF district goes belly up. But, just the fact that the schools would be losing a portion of the increased taxes and I think that the new Act that the legislature passed last session makes this difference up. That's what I understand from the presentation of Dr. Lisa Morstad from the school district when she came to us and said this is fine with the Fayetteville Public Schools and she supported the creation of this district.

Carol Tarving: Based on that....

Kit Williams: Based on that State law.

Carol Tarving: ...using those State funds.

Kit Williams: Yes.

Carol Tarving: Right. Well, their comment here is that the – the TIF's are possible only in the most prosperous areas, making the subsidy doubly cruel for the people in the Delta and elsewhere paying the cost of a better Fayetteville. Our concern is that State monies will, when you - when this gentleman asked about who is going to ultimately pay, I thought that was a great question. And that there's a risk that if schools – and what's difficult and I know it's a complex issue here, we've got school boards and property taxes, we've got State fundings, we've got City, you know, trying to, you know, just find the one right body to talk to about the multiple concerns – I'm a citizen of each one of those entities. As a State citizen, I'm concerned about the State Treasury being used to underwrite a plan that is going to help develop Fayetteville. And there was – there was, is it – is this an accurate quote here that says, "Williams wondered if any State legislature realized how much money this is going to cost the State Treasury. In the beginning years, the amount will be relatively small, but as the new projects come on line in the big TIF districts in booming Northwest Arkansas, the local property tax loss to the schools will increase dramatically, all to made up by the State in future years" and the quote attributed to you was that it's going to be phenomenal.

Kit Williams: That could very well be. I could have said it's phenomenal because it will be if the law remains unchanged, obviously, and if there are a lot of TIF districts established, especially large ones like in Rogers, there will be a tremendous amount of money from the State Treasury to make up to the school districts the amount of TIF district money coming from that district.

Carol Tarving: Okay. And so, our concern isn't just with this particular project, it's…

Mayor Coody: Carol, Carol, I'm getting a lot of heat up there – the discussion is supposed to be limited to the boundaries of the district itself. I know that …

Carol Tarving: Well, we – our request would be that you take time, possibly postpone any vote on this, it seems to me that there's a lot of different questions being asked and that we get more answers before we make any decisions or sign our names to anything that the legislature could be changing as it meets this spring.

Mayor Coody: Thank you very much. Anyone else want to address us on the boundaries? All right, I'm going to close this part of the public hearing.

A. New Business:

1. Highway 71 East Square Redevelopment District #1 Adoption: An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution, authorizing the preparation of a Project Plan, repealing Ordinance No. 4608 and declaring an emergency.

Mr. Williams read the ordinance.

Kit Williams: And I should note that actually we already have an ordinance in effect right now, that's Ordinance 46-08, which was passed, I guess almost this summer, it's been a long time ago. That ordinance is in effect. This ordinance would in fact just repeal that and replace it with one that is identical. The only reason for this was a very minor technical notification problem that probably wouldn't have affected that ordinance. It's probably 99.5% safe as it is. But since there was a very minor notification problem, I thought it was wise for us to have another special

meeting in order to re-pass these ordinances and – which would repeal the initial ordinance which is currently in effect.

Mayor Coody: All right. Thank you. Any questions or comments on the ordinance?

Alderman Marr: Just got a – since this re-notification, has there been anyone, school superintendent, school board member, or Lisa Morstad, the CFO of the school district, or Judge Hunton who have expressed concerns about the development of this TIF since that last notice?

Mayor Coody: I haven't heard a word.

Kit Williams: I've heard nothing.

Alderman Marr: So no change in position from their original?

Mayor Coody: None.

Alderman Marr: Thank you.

Mayor Coody: All right. Is there any comment on the ordinance that we've read? I would entertain a motion to suspend the rules and go to the second reading.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call, the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Marr seconded the motion. Upon roll call, the motion passed unanimously.
Mr. Williams read the ordinance.

Mayor Coody: All right. Any further questions or comments from the Council? And once again, to restate this, this ordinance or one extremely similar to this was passed several – or a few months ago anyway, only except for notification of some particular school board members that we thought were notified but weren't. We're just redoing this to make sure that we get all of our T's crossed and our I's dotted.

Kit Williams: And in fact, the school board members did receive notice from Superintendent New, I think, Mr. Conklin talked to Superintendent New – so they actually received notice. The statute said we're supposed to send them letters and so we did not send letters out. It's a very technical problem. I don't think it would have been a real problem but if we can make it 100% right, I'd rather do it 100% right.

Mayor Coody: That's why we're going through the public hearing process again. All right.

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

Kit Williams: We need a separate vote on the emergency clause.

Mayor Coody: We do have an emergency clause, which does require a separate vote. Is there a motion to accept the emergency clause? We have a move and a second to approve the emergency clause. Shall the motion pass?

Alderman Marr moved to approve the emergency clause. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: Thank you. Now, we'll move along to project plan part of the public hearing. Most of which we've already heard about this evening.

B. Public Hearing:

1. Highway 71 East Square Redevelopment District Proposed Project Plan: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan for the Highway 71 East Square Redevelopment District Number One.

Mayor Coody: Is there anyone who hasn't spoken tonight that would like to?

Phil Ralston: Good evening. My name is Phil Ralston. I'm from Fayetteville. And I'm glad that you guys had to go through this again because I wasn't able to make the first meeting and you went through three readings of this plan in one meeting. And I wasn't able to attend that.

Alderman Thiel: No, we didn't.

Mayor Coody: I think we did it over a couple of – two or three-week periods – I forget exactly the length but we didn't do it in one meeting.

Kit Williams: I think there was two meetings.

Mayor Coody: Two meetings over a two-week period.

Phil Ralston: Is this the project plan that we're talking about – dated 11/10/2004...

Kit Williams: Yes, I think that's correct.

Phil Ralston: ...that I picked up down at the City? Okay. I wanted to make sure that was right before – before I go further because there are things in this plan that I think don't meet the law requirements, specifically in five different ways. First, in the law, which is included in the plan, it says that the – each project plan shall include – and I know, Kit, that 'shall' means different than 'may' include, which means it has to be there – it shall include ...am I right?

Kit Williams: Shall is mandatory.

Phil Ralston: Shall is mandatory. It shall include a detailed list of estimated project costs. A detailed list I don't see in here. I see an overall big picture, but I don't see any details. And it's kind of hard to see the detailed costs are going to come out to $3.5 million. I – it could happen but probably not. And on page 10 under other costs, it includes providing replacement parking and it doesn't say what that's going to cost. That would be a detail that's not there. The question I have is – are we responsible for – for parking for whoever this parking is for. If we buy the

building and we say you don't have parking here, are we responsible for re – for providing them parking. I don't think we would be but that's for you to decide. The second thing in the 'shalls' is number 4, which – which at the end says that the description of the methods of financing and the time and the costs or monetary obligations related thereto are to be incurred. You know, I see up here we're going to have a three and half million dollar bond and then we've got other costs on the phase two but it doesn't say anything about when or what it's going to cost us to do that, so I don't think that meets the – meets the requirement of having that in there. The next thing is item 6 on the 'shalls' – the type and amount of any other revenues. One thing that we've talked about for – any other revenues that are going into this TIF fund should include what are we getting when we sell the property. That's not in the plan. I don't think that at the meeting I've watched on television, it was discussed but it was going to be determined at some point in the future. You can't pass a plan with details that aren't in there and then expect it to be a valid plan, I don't think. And also it says it shall have a list of estimated non-project costs and I don't see any non-project costs. Are there not going to be any non-project costs that are paid for out of this fund?

Mayor Coody: The non – I don't know of any non-project costs - the costs that we would have in here would be associated with the project itself. The project or the public infrastructure investment within the district. Is that what, non-project costs, would there be anything outside that, Kit?

Kit Williams: I don't think so. I think that, I believe the plan does comply with the statute, but go ahead.

Phil Ralston: Okay. In addition to these reasons, you know, that I don't think it follows the law because it doesn't have all the details in it, I don't understand why we're paying the full-market price on this property and I'm wondering who negotiated for the Mountain Inn? Was it the developer who negotiated with the seller and we're taking their price? Could we not have negotiated a better price by threatening, whether we used it or not, condemnation and reduced our costs? Even with the same district that would have made more money available for other plans – other project items that – I don't think we addressed that.

Mayor Coody: The Mountain Inn, I think we're having to use appraised values.

Phil Ralston: We have to use appraised values?

Mayor Coody: We are. I think that the County has an assessment on there and appraised values and values that we're using are on a funding formula.

Phil Ralston: Okay. The other three buildings that we're buying aren't blighted, you know. Why are we buying them at full market price and selling them for – for blank space price? If the developer wants that as part of their project, you would think that they would be able to pay for at least the amount that they're – the cost of the buildings. I mean, we're building – we're buying them at fair market value and we're tearing them down and we're giving them to them for dirt price. I just don't think that – that that's a reasonable way to do things. On page 18 of the plan, under the economic feasibility study, it mentions that the TIF's in Tulsa, most of those had difficulty meeting their projected increases. So what are the chances we're going to meet our projected increases? I mean, we're projected 10% - 9.9% growth for 25 years. You know, if we – if you have that kind of growth, that means every 8 years your property is going to double in value. So if you have a $100,000 house now, in 8 years or less it'll be $200,000. In 16 years

it'll be $400,000. And in 24 years, by the time this plan is done, it'll be $800,000. And I don't – I don't know that property is going up that fast around here.

Mayor Coody: With the Crews & Associates assessment of the situation, they made the statement that even if we didn't building the hotel there with the expected increase in the values, even if the hotel weren't built, even if we just had bare dirt there, that we would still be able to meet our obligations. That was very conservative…

Phil Ralston: You mean, which obligations, for the $3.5 million?

Mayor Coody: Yes.

Phil Ralston: But not for anything beyond that.

Mayor Coody: That's all we're worried about right now.

Phil Ralston: Well why is there phase two in here for this other….

Mayor Coody: We can always amend the plan later on. Once we see how this phase one goes, we can always amend the plan and have more public hearings and see if we want to do a phase two, and if so, what it would include.

Phil Ralston: But phase two is in the plan. I mean, it's not – it's not something you would amend to put in there because it's already here. Although there's no detail in it.

Mayor Coody: The detail's what I'm talking about.

Kit Williams: Well, what you – what you would do is actually – phase two as you say is in the plan right now. However there is not a request at this point, or anticipation to try to use TIF bonding to do phase two at this point in time. Our financial advisor recommended we wait several years and make sure that the increments are as predicted by the economic expert before we look at doing phase two. And so phase two is here – we wouldn't necessarily have to amend the plan but there would have to be another ordinance for a bond ordinance if we wanted to go forward - or when we want to go forward with phase two.

Phil Ralston: So phase two is here with no detail but that – that qualifies for what the law says to have the detailed costs? On page 7 it indicates that a national flagship hotel is being planned. And originally they had talked about a Holiday Inn Crown Plaza and I understand that that's not the case. Do we have any idea what kind of hotel we're going to have at this point? I know I've heard it will be a good one. But I don't know what that means. It's in the plan, I'm just trying to figure out what the plan says.

Mayor Coody: Yeah. I don't know exactly who the hotelier would be right at this point. We'll ask that of the developer.

Phil Ralston: The cost for creating the plan. Who's paying for that? And for the feasibility study? Is that coming out of the TIF?

Mayor Coody: Yes, TIF proceeds.

Phil Ralston: Do we have any idea what it costs? And why aren't those details in there? I mean, that's a – that's another plan cost that should be known at this point and should be included.

Alderman Thiel: Didn't we pass a resolution last week that dealt with some of that?

Kit Williams: Yes, it did express the City Council's determination that they would apply the costs of preparing the plans and the TIF district and recover that money back from the TIF district itself, or all TIF districts that we might adopt.

Phil Ralston: But it's not in the plan what that costs or anything like that. So those are my concerns that it really doesn't meet the law because it doesn't have the detail and it looks like a good starting point for a plan but it doesn't look like a plan for a redevelopment. It looks like a plan for $3.5 million to the developers to me. Thank you.

Mayor Coody: Thank you very much for your comments.

John Nock: I'll address a couple of those items I think you directed toward the developers. First of all, about the flagship, it does state in the project plan that we are using a national flagship – a couple of things that we have probably failed to mention in these meetings – let me go ahead and point that out. When Stella Moga originally tried to do this project in 2000 – 1999 and 2000 – and on before 9/11 occurred she had gone through negotiations both – she had architectural plans, engineering plan, as well as a franchise agreement secured through Crown Plaza. Part of our negotiations for that project and part of the value that the TIF actually will receive because it's going to be a flagship hotel, is we have inherited that franchise agreement. We certainly have to pay for it but it – it saves about a year's worth of process to be able to do that. What we have elected to do, however, is allow the hotelier who will be running this – this is a real estate project based primarily with the hotel in it that will be run by a hotelier. We are certainly leaving that option to the hotelier who currently has two different types of flagships – one of which has been previously in Fayetteville. It did not have a good life to it and it's now gone from Fayetteville. And so we're leaving some of those details about what the hotel chain will be up to the hotelier and what best fits. And also, keep in mind, we don't do this just on 'hey, we want this type of hotel or that one', it's based upon demographics, feasibility studies and other scenarios that we have to look at. And so we inherit a Crown Plaza franchise agreement, which we certainly have to keep alive and renew that fee, but that is one of the intrinsic values that comes with the project. Whether it ends up being a Crown Plaza or whether it becomes another flagship, that has been our commitment that it will be a nationally recognized flagship. It was not our intent – and the reason why that's in there that way, it's not our intent to do another home-grown, boutique hotel. It did not work there before and there are many reasons why those don't work for most cases in these type of metropolitan areas. Primarily because the traveler today – they're hooked in with national chains or hooked in with national reservation systems and so we've allowed that to be a decision that the hotelier – the management arm who comes in and runs the hotel business – to make that decision. All franchise agreements charge anywhere between 9 and 15% of revenues and so you certainly look at that as a better name should bring in better revenues, but also you want – you need a name that's going to be complimentary to the Fayetteville market. There's certain names you're not going to put here. You don't need a Ritz. Fayetteville market wouldn't cater to that. But you need something that's going to fit the demographic of the traveler and the overnight businessperson as well. That's one of the questions. I think one of the other questions was about – I believe it's spoken of as non-project costs. The way I understand those defined, Mr. Williams, is those pertinent and

necessary to the issuance of the bonds and those would come directly from bond proceeds. And that relates back to your earlier question about can the City be reimbursed for those non-project expenditures and I think the statute says you may pay them yourself or you may elect to allow the TIF district to pay for it through bond proceeds. So, those kind of – two questions with one answer. Were there any other questions that you wanted me to answer?

Mayor Coody: Any other questions for the petitioner?

Alderman Thiel: I wonder if he answered everything…

Kit Williams: Well, let me respond to one. They talked about a detailed list of estimated project costs. And I guess the devil's in the details, when you say 'detailed', how detailed do you want to be. If I look on page 9, I see the real property assembly costs, I see our demolition and site preparation costs to total up the initial $3.5 million that is supposed to be invested. If you look on page 13, you see six streets listed that are supposed to be improved – each one of those has an estimated cost figure for the improvement. Obviously, before you do engineering work, it is impossible to get perfectly detailed plans. I think that the – this statute needs to be read with some degree of reasonableness. How far are – would a City be required to go to make their project plan before they even know whether or not the City Council's going to approve it and there's going to be any tax increment financing to finance everything. I think what the State legislature wanted to do is say don't just say you want money. You've got to tell the citizens what are they going to do. What are you going to use this money for. Well, according to this plan, we're going to use the money to buy four buildings, they have them all listed out, how much it's going to be and then the rest can be for demolition and site preparation, which includes resolution of access issues, resolution of utilities as needed, water/sewer system upgrades as required, layout and engineering, asbestos and other environmental remediation. So I think that, depending on how this would be interpreted, I think that is a fairly detailed list and I think we've met the statutory requirements. This is a new law, it's never been interpreted by the Supreme Court, so how they will interpret detail if it's ever challenged - I wonder, but I also wonder if any other cities have gone into any more detail than what we have.

John Nock: If I might add one thing, because that was a question that I guess was addressed partly to us having been involved in this phase one of the project plan – and as you notice, it does come into a tidy number of $3.5 million. We started this process looking at all of the public aspects of the project for the TIF. None of the dollars that are used here will be spent on private – on building of the private hotel, building of condominiums or even the parking deck. All of the expenditures that will come through the TIF bond proceeds will go directly, as the statute outlines, for public purpose. There is expenditure numbers that are – expenditures number greater than $3.5 million that are for public purpose. But you can only service so much debt based upon the size of the district and based upon the increment as found through the feasibility study. So, could it have been larger? Certainly. But the reason why it's dropped to $3.5 million is that is the most that it can service in its early years, certainly in later years it will be much more but that's being utilized for phase two of the project. Secondly, the other thing is that I think the engineering issue is – is a good one. We already know from our preliminary estimates that we're going to be in excess of $4.5 million from public purpose items. We also know that we couldn't pay for it through the TIF and so we're paying that through the private development.

Kit Williams: The only other issue I think was brought up was parking. And, part of this project is to build a large parking deck. That's not being done by the City buy by the private developers, but there is a – how many car parking deck are you planning?

John Nock: We are anticipating 350 parking spaces on the deck. And those will certainly be available not only to the hotel user, but also to adjoining businesses and even those who will be coming in for conventions and that type of things. Were there any other questions on that?

Mayor Coody: I think not. Thank you very much.

Phil Ralston: There were just a couple that he didn't answer yet. The project plan provides for temporary replacement of twenty-five parking spaces. Whose parking spaces are we replacing? And how are we doing that?

Mayor Coody: Do you have an answer for that, please.

John Nock: One of the aspects in the TIF legislation certainly allows for displacement of people or businesses or I guess it could even go as far as parking. It certainly is in the statute and the idea there is that during the construction phase, there may be in fact people that are dislocated that – keep in mind there are people that park in the parking deck of the current Mountain Inn and the only way into that parking deck is underneath the existing Mountain Inn. Even before we contemplated and finally decided on tearing down the existing parking structure, you would have had no access point into the parking deck because the existing hotel would have been torn down, there would have been no access into the parking deck. At that point we looked at it and we said, okay what about the people that are running businesses – Taste of Thai, now the Hoffbrau has opened back up, and other people that are barely hanging on at Center Street, how do you allow them a place to park to where they're not run out of business during a twelve-month construction period. And so our – the option there is to look at either fair market value of parking, which is certainly in the area, City parking but those dollars will be generated out of the TIF bond proceeds and could be – certainly if the City supplied the parking, it would be reimbursable items. And if it came from private individuals, which the City could negotiate under the project plan, then it also could be reimbursed through TIF proceeds as well.

Mayor Coody: Thank you.

Phil Ralston: The one last item that wasn't addressed, I guess, since it says the project plan shall include the type and amount of any other revenues – are we to assume that we're not going to get any other revenues put into this fund since it's not in the plan?

Mayor Coody: There will be a...

Kit Williams: It's actually in the ordinance. I guess they didn't put it in the plan because there wasn't any other revenues they were anticipating putting in there. But one of the subsections of the ordinance says, "no other funds are expected to be deposited into the special funds". So yes, the City will not use other revenues to go into the project plan.

Phil Ralston: So when they buy this property from us, where does that money go? Or are they not going to buy this property from us?

Kit Williams: No, they're going to agree to purchase this property from us for $300,000 and the proceeds of that should be used within the TIF district, probably for sidewalk enhancement and streetscape.

Phil Ralston: But won't that have to go into the fund? That's what I'm saying. That's part of the plan is to get money for selling this property to them and it needs to show that it's going in there somewhere. And we need to know the amount. You've said $300,000, which is quite a deal for them, I think, but it's not in the plan.

Mayor Coody: Thank you very much.

Jill Nock: Do I need to state my name?

Mayor Coody: Yes, please.

Jill Nock: My name's Jill Nock. I'm married to the gel-haired city slicker that everybody talks so much about. My only intention tonight is to try to talk on some of the fears that people have and I would just like them to know about my husband. I challenge you to find a man with more integrity and a better father and a better husband. We chose to live in Fayetteville. We would never do anything that would other than benefit the City of Fayetteville. We care about the environment. We care about our friends. We care about our child's school. We chose to send him to public school and I just – I think that – I understand the fear that people have with builders and developers and people in the financial world, because we've seen both sides of it. And I just would like for you to know, from my perspective and my point of view that I challenge you to find a man like my husband. He is – he is a man of integrity. That's all I have to say.

Mayor Coody: Thanks, Jill. Congratulations on the new addition to your family. Anyone else have anything to add?

Kit Williams: Mr. Mayor, I didn't author this plan. This plan was created primarily by Hugh Earnest and the two developers. But I will note on page 10, it says upon the completion ....fair market value of about $219,000. Since then the developers and I have agreed that they would increase that amount to $300,000. There will be a contract before the City Council for that amount.

Mayor Coody: Thanks, Kit, for that clarification. Anyone else have any questions or comments for us tonight? All right, we'll move along to the D in New Business, which is the Highway 71 East Square Redevelopment Project Plan adoption.

C. New Business:

1. Highway 71 East Square Redevelopment District Project Plan Adoption: An ordinance adopting the Project Plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible, repealing Ordinance 4646 and declaring an emergency.

Kit Williams read the ordinance.

Mayor Coody: All right, I'll entertain a motion and second to suspend the rules and go to the second reading.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Odom seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams read the ordinance.

Alderman Cook: Mayor, can I ask a couple of questions, please?

Mayor Coody: Sure

Alderman Cook: That I didn't get a chance to ask earlier because I was thinking about something else. John, could I ask you a question about your numbers, please? A lot of the assumptions in here are on an occupancy rate of let's just say above 60%. And the going rates – and I know this data is dated, but most of the going rates are in – around 51%. And I'm curious what made that leap from 51 to in the 60's.

John Nock: I don't know where you reference 51 – it may be from the dated feasibility study...

Alderman Cook: In the two different studies that were in here for the...

John Nock: Yeah. I know that there was an updated study that was done and it was here recently – I want to say it was early spring of this year when the newspapers came out and did a survey of all the hotels. And this was after the new hotel, the Embassy Suites, was built – John Q. Hammons' hotel had been opened up. And the interesting part of that story is that they were at 75% occupancy because of the type of establishment that it was. Even the Clarion, if I recall correctly, there was some discussions about how he had had his best years back, I want to say in either '98 or '99, when it was still hovering in that 65 to 70% camp. This study, I can't speak for the professionals on why they came back with those numbers, but my memory was or is that it was based upon the type of product that is not being served currently in the Fayetteville market. I think – I think all of you for a minute, if something happened at your home and you had to go and stay at a hotel for your family, where would you go? And that recently happened to us. About two weeks ago we were doing some construction at our house and decided it was best to be outside of the house and we started looking at what Fayetteville had to offer. And it is really interesting. It was an eye-opener for me. Here I am working on a project and I started thinking about it because I never had to hotel need here before. So those numbers were based upon someone from the outside looking in. IHA is one of the leading international hospitality advisers. I'm sorry, they're one of the leading feasibility experts and their numbers were – as I recall right after 9/11 or within six months thereafter, when there was a tremendous drop in hospitality revenues and occupancy rates across the country, in fact some areas of the country in the coastal region were in the 30 to 40% at that point in time. And so I believe they looked at it, first of all – twelve to fifteen month construction period, and they also looked at the type of market this was going to be serving and based it also upon what was currently existing in the downtown area and what choice that would give.

Alderman Cook: Okay. So this – this list right here – the analysis, did you guys come up with this one or is this - the analysis of potential taxes generated...

John Nock: Yes.

Alderman Cook: You guys did this one.

John Nock: That's correct. And we passed a copy on to Steve Davis. And I think there's a disclaimer on there that certainly should be reviewed and looked at – I don't know if during the holidays if Steve was able to look at it or not, but this is simply based upon our projections on

the pro forma and then just taking the straight, across the board sales taxes and HMR taxes that would be generated under any other scenario. So we took our same numbers and applied it to this.

Alderman Cook: So that's - like the room taxes, that's based on the occupancy rate of – from of those other studies? Or you used…

John Nock: Yes. It's based upon – basically we too our pro forma, which came to us through the feasibility study and then just applied to it straight across the board the tax rates that we have here in the City of Fayetteville for both food and beverage, room tax and additional to that, the HMR tax.

Alderman Cook: Okay. Do you have all the necessary funding in place right now to do this project?

John Nock: Yes. We have recently just supplied to the City an update on that – I ….that was dated December 21. The actual hotel portion – and I can't hardly express enough how difficult the hotel portion is compared to basically everything else. There's such a demand for parking and the condominium – I wish Richard was here to talk about their success stories, he and his partners on condominium projects in the hotel market. And so those were never really the concerns. The concern was a hotel first and foremost in the downtown area. It's much easier to get financing for something along Interstate 540. Trust me on that because of just the traffic flows. And so we were working about a – for a two year process securing through the new market tax program, which is a Federal tax program whereby both banks or private investors invest in a project such as this – the hotel portion of it. And for so doing, there are Federal tax credits for this type of project, that has nothing to do with it being a blighted project, it has nothing to do with anything other than it's a new market, it fits a demographic and this project was deemed through these third party reviews that it would not only be successful but it would be a prime candidate for this. And so we received for that enough sufficiently to build the hotel portion of it, which we have addressed a letter from Heartland Renaissance Fund with their commitment for that and also the Bank of Fayetteville's involvement in that, which we greatly appreciate their involvement on the local level. In addition to that, we have all the remaining financing, some of that is obviously subject to what is approved here tonight, because certainly they are anxious and were very anxious the day that it came out in the newspaper that what we thought was an ordinance ended up being in question. And uh, but regardless of that, assuming that gets done, all the financing is there, including additional equity for any cost overruns that may occur. So we have three different components – we have the tax credits which come in - this is irrespective of the TIF proceeds - we have the tax credits which come in for the hotel portion of the project, and secondly we have the private equity and we have a secondary loan which goes on just the condo portion of that. Let me explain why that is. I've put that in the letter but since a lot of people from the public are not aware of that, this Federal new market tax program does not allow for the prepayment of principle during a seven year period because they want it to be an economic success that we just don't build it and walk away from it. So we're tied to it. We can't transfer it, we can't do lots of things for that seven year period. So obviously the nature of doing condominiums does not work that way. If you sell condos to people, they immediately want collateral for what they pay for it. And so we have a secondary source of debt financing for that project. But that one, as I mentioned before, was the easiest portion of them all.

Alderman Cook: And – I don't know if you can answer this – Kit, somebody, I'm – and I believe when you say you have the financing together, but just worst case scenario – the financing fell through. What would happen if we approve this plan, worst case scenario their financing fell through.

Kit Williams: According to Crews and Associates, when they did their evaluation of it as they reported to you the night that we approved the project plan, their evaluation included not the improved valuation of this project, nor the improved valuation of the Terminella project which is currently under construction on Spring Street, nor the old library becoming private and generating tax revenue. So even without this project being built, without the Terminella project, which is currently being built, and without the library, we are still supposed to easily finance the bonds, the $3.5 million bonds that we're talking about issuing. So if this, we will have an agreement with these developers concerning if – to require them to build the project and – and with conditions of what will happen if the project is not built within a certain period of time or some major project, so that I think that we can be assured that if we go forward with this $3.5 million bond issue that there's going to be something besides a hole in the ground there.

Alderman Cook: Well, I mean, I guess my comment is if it did fall through and they can't build it – they can't build it no matter what our agreement says. So, I mean what happens to that property then, is my question. Because, technically we're assembling the property and then we're selling it to them. So does that mean it's the City's property? Does that mean it's the district's property?

Kit Williams: It will be – it will be the City's property even if it's bought with TIF district funds. And so we are going to own it and then we will sell it to them. But we'll sell it to them on the condition that they do this and if they fail to do the project, then the property would have to return to us and of course we would then look for some other developer, I think. But it's much better to have one that already has a project plan in hand and substantial financing.

John Nock: And, Kyle, if I could add just a couple of points. The feasibility study done by the University Economic Research Department outlined in there a $35 million available yield. That is not in the present value because you would not net present value on a bond issue because certainly a bond issue is already assuming the annual cash flows. So, that's a $35 million but it's important to point out, and I'm sure the feasibility expert would – would also talk about what is in the study – that it does not include, as you said, these three properties. I know that Mr. Terminella is already in the midst of doing his construction. I can tell you that the financing not only is in place but we have also begun the gutting, the demolition of the interior of the library building and we anticipate a ten to twelve month construction period on the inside of that project. I can also tell you that based upon preliminary appraisals, that building, once it's all complete – we're putting in a substantial amount of reinvestment dollars and that should be appraising somewhere around $4.5 million for the library building once it's completely redeveloped. I don't know the exact number for Mr. Terminella's project but I've been told it's somewhere in the $4 million camp. So assuming that, that's another $9 million and change, we also know that this hotel itself, just alone, is $22 million. It actually has gone up because keep in mind we have increased the parking deck from its current capacity of about 85 spaces to now 350. That means that we have incurred more project costs, which are also in that financing package, as well as we have increased the value of the total project. So, what we did is we took some very simple numbers. We used the same growth factors that the feasibility study said and we also put those other three projects in there. And it's interesting to note, and I'll be glad to provide you with this information, simply a calculation in an Excel spreadsheet, it increases the available yield over the

twenty-five year period from $35,466,000 to $52,849,000. And so those three projects have a tremendous impact upon the numbers. They certainly do. Now one could certainly make the case that the millage that's collected could drop – not the mils but the actual collection from the mils - could drop. You have not seen that happen in the last several years. In fact, if I understand correctly, Amendment 79 puts us actually at a cap and because of that we have a residual every year because they only look back every three years. Not to get a long complicated story out of that. We currently have a surplus in this project and in the TIF district for three years because we're – by statute cannot do more than 5% on residential and 10% on commercial. So therefore that 9.9, although it might seem large, every time you have a major impact like a $22 million project, it caps you out and that means you have a surplus for several years to come unless they change the Arkansas Constitution, which I haven't heard any rumblings of that yet. So, it may seem like it would be a hard number to reach, but we never really catch up in the State of Arkansas because of the way our tax model is.

Alderman Cook: One more question and I'll quit. And I've had citizens ask me this also. If we're going to put up $3.5 million initially, bond issue, at what year would that bond issue be paid off, based on your projections?

John Nock: Let me just – I think this might help. The State statute says that it may not go beyond 25 years for a TIF, therefore you don't structure the debt longer than the life of the district. The only reason that debt would ever go beyond that is if there was a problem and you had to extend out the life. How quickly you pay it off is less of a factor of retiring the existing debt that would be on the Mountain Inn, the $3.5 million, as much as it a factor of debt service coverage. Typically in economic circles, financial circles, they use a 125. So that means for every dollar that you would be paying for this bond you usually have to have a test of $1.25. Once that's met additional bonds can be issued. Now your financial advisor would be best to advise you but that's usually what they look at. And so once you've met an additional bonds capacity test, then you don't have to wait for the whole issue to be retired, but you are able to issue parity bonds for additional projects based upon additional revenues being generated. So it's not an all or nothing scenario. You don't have to wait ten years, twelve years, four years, whatever the time would be, you have to simply wait until there's enough coverage to justify – and at a conservative ratio because you wouldn't want to just do it the first year, you want to make sure that you have – in fact most bond parity tests usually call for two year consecutive or three year consecutive reviews. And so it gives you enough time to make sure that it is not just a blip and then it falls back down and then you end up having a problem doing a phase two or phase three or phase four, whatever the time would allow.

Alderman Cook: I'm following you. So basically, you're saying, you're going to finance that $3.5 million for 25 years and then as your revenue or your increments start getting bigger then you can think about financing other projects within that time frame.

John Nock: That's correct. And it also depends very greatly on how you finance the project. If you use typical financing plans, you're going to have principle and interest every year. You can set it up under different programs or do different things but I think the way your advisor mentioned the other night, they are most comfortable in saying – and correct me if I'm wrong, Kit – that the project for the 3.5 was, they were certain, quite certain they wanted to see – some time to see these expenditures come on and for them to generate additional taxes. Remember the whole nature of a TIF is that it is supposed to generate your money. Otherwise you should not do it. That article that was talked about earlier, the author of that article in the Little Rock paper said it would take eons for the Mountain Inn to pay for itself. Actually, eons is only three years

in this case because that's the time that you look back, remember the City – we have to build it, then the County, not the City, the County has to then reassess the property from its blighted condition to its now built condition and that takes three years. At that point in time the project will be valued at least the $22 million that we've talked about, which should generate somewhere around $200,000 in new taxes. It currently is paying $5,000 in taxes in its current state, so it's a $195,000 increase. That services a great deal of bonds.

Kit Williams: But how long it would last is also up to future councils. They can choose to, once the bonds are paid off, not issue any more bonds and end the TIF district if that is their choice or they can choose to issue new bonds if the debt service will allow it. It is capped at twenty-five years, but it is not required to be open for twenty-five years. It's really – the ball's in the City Council's chamber. It's you all's decision and your successors, a decision on how long you want to go forward with the TIF district.

Mayor Coody: Does that answer all your questions, Kyle?

Alderman Cook: Yep. Thank you.

Mayor Coody: Brenda.

Alderman Thiel: Well, you've brought up a good point. So, in other words, the twenty-five years is not necess…I mean that does not have to be the life of this.

Kit Williams: That's the maximum life.

Alderman Thiel: That's the maximum life of it. That's a – that's a good point. Okay.

Mayor Coody: We could – from what I understand we could pay off the $3.5 million as soon as possible and dissolve the district at that point essentially or we could borrow other low interest money to do the other infrastructure work we talked about, streetscapes, lighting, tree planting, sidewalks…

Alderman Jordan: In other words we would go to phase two then – or not.

Mayor Coody: Phase two. Yeah.

John Nock: And the interesting thing is that, obviously because of the nature of incremental growth, all of your dollars generated are in the later years. So, you're going to get much larger benefits in years twenty than you are in years five.

Mayor Coody: Any other questions? Any other comments on this particular item? I would entertain a motion to suspend the rules and go to the third and final reading.

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Marr seconded the motion. Upon role call the motion passed unanimously.

Kit Williams read the ordinance.

Mayor Coody: All right any other questions or comments? Yes, sir.

Alderman Marr: I just have one question. Do we have everything at this point that we're suppose to have in order to move forward with this project? Proper notice, all the items from the developer from the City staff's perspective, is there anything else that we're waiting on?

Kit Williams: Not that I know of.

Alderman Marr: Steve, is there anything else that we're waiting on?

Steve Davis: I believe we have everything we need at this point.

Alderman Marr: Thank you.

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

Mayor Coody: I would entertain a motion to approve the emergency clause.

Alderman Jordan moved to approve the emergency clause. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: All right. Thank you all very much. We will conclude the public hearing and thank you, Conrad, for your service.

Meeting Adjourned at 7:15 PM.

Sondra Smith

Sondra Smith, City Clerk

Dan Coody

Dan Coody, Mayor