

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 - Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**Special City Council
Meeting Minutes
January 6, 2005**

A Special Meeting of the Fayetteville City Council was held on January 6, 2005 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, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhoads

Alderman Marr arrived at 5:40 PM

Pledge of Allegiance

Alderman Reynolds moved to remove C.1. I-540 Redevelopment District #3 Proposed Project Plan and I-540 Redevelopment District Project Plan Adoption from the agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent. Alderman Marr was absent during the vote.

Public Hearing:

I-540 Redevelopment District #3 Creation: A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on forming the I-540 Redevelopment District Number Three.

Mayor Coody opened the public hearing.

Tim Conklin: Thank you, Mayor, members of the Council. I'm Tim Conklin, Director of Planning and Development Management. I have a short presentation this evening on the creation of the I-540 Redevelopment District boundary, identification of that boundary and creation of that boundary. The I-540 Redevelopment District contains approximately 2,300 acres. It is just to the south of Van Asche and the CMN Business Park, Target, Kohl's, Olive Garden, that location. It extends on the northern boundary along Van Asche and Highway 112, along the western boundary; it is west of Deane Solomon Road. It continues down south of Mt. Comfort Road, takes in that light industrial area just south of Mt. Comfort and Porter. As we go to the east it takes in the Washington County Fairgrounds area, then back up to Drake Street, over to Gregg, Appleby Road and Washington Regional, approximately in that location. It follows Appleby Road and over to College Avenue and then back up. It does not include the areas that were within the Springdale Public School District. This area is solely contained within the Fayetteville Public School District. The Springdale School District line is approximately this northern line in this location where Target, Kohl's and Olive Garden is located. I would like to talk a little about creating Redevelopment Districts and with regard to the Arkansas Code annotated and what is a redevelopment project. It's a means for eliminating or preventing the development or spread of slums, deteriorated, deteriorating or blighted areas; for discouraging the loss of commerce, industry, for employment or for increasing employment or any combination thereof. This is the definition that is found in Arkansas Code, Annotated under Chapter 168.

With regard to the creation of a Redevelopment District, we must find when we do create this Redevelopment District that it contains findings that the real property within the Redevelopment District will be benefited by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas or discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof. So with regard to creating a district and the purpose of creating the district, this is directly out of Arkansas State law. I'll go over a few definitions with regard to blighted areas in the redevelopment project. The first part of the definition for blighted area means *"an area in which the structures, buildings, or improvements by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals or welfare."* That's the first part of the blighted area definition. With regard to this Redevelopment District, the I-540 Redevelopment District, we look at an area in which the structures, buildings or improvements by reason of inadequate provisions of access we key in on that part of the definition as part of this project. The other part of the definition that's in Arkansas Code, talks about blighted area. It includes *"any area which, by reason of their presence of a substantial number of sub-standard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax and special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title or the existence of conditions which endanger life or property by fire and other causes or any combination of such factors substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to public health, safety, morals or welfare in its present condition and use or any area which is predominately open and which, because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise*

substantially impairs or arrests the sound growth of a community". We have highlighted within this definition of blight, which we believe promotes the creation of the I-540 Redevelopment District, which is the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness or the existence of conditions which endanger life or property by fire and other causes or any combination of such factors that substantially impairs or arrests the sound growth of a city or any area which is predominately open and which, because of lack of accessibility, obsolete platting, substantially impairs or arrests the sound growth of a community. I wanted to walk through these definitions with you this evening as we begin discussion of the creation of this Redevelopment District.

With regard to findings within the Redevelopment District, this district will discourage the loss of commerce, industry or employment, or it's going to increase employment or it's going to eliminate the condition caused by the lack of accessibility and any combination thereof. Basically we've taken out of State law showing how this district will help meet those definitions that are in the Code. Why I-540 Redevelopment District? We want to stop sales tax loss. We want to improve access to the medical center complex. We want to improve traffic safety within this area. We want to stop the loss of commerce and employment. When we talk about sales tax loss, why do we have sales tax loss? Benton County is developing a retail base to the north of us. We have an inadequate transportation and traffic system serving the I-540 area. This system is over capacity in many areas during peak hours, restricting access in and out of the I-540 Redevelopment District.

The I-540 Redevelopment District Finding #1, there's been a 25% sales tax loss from Benton County residents between 2002 and 2004 to Fayetteville and Washington County. The source of this information is from the 2004 sales tax study from the Sam Walton College of Business, Center for Business and Economic Research. Once again, why create a Redevelopment District? We want to provide major transportation infrastructure allowing private sector development of property currently served by an obsolete and inadequate transportation system within the area. By constructing additional and improved transportation improvements, it will help access to the regional retail and medical complex from I-540 and Fulbright Expressway. By improving access to I-540, it will allow better circulation transportation improvements from west Fayetteville, Mt. Comfort Road., Highway 112, Howard Nickel and Van Asche Road. Finding #2, it will increase commerce within the Redevelopment District. It will allow additional growth in the medical center. It will allow new support services, new expanded facilities, improve emergency response times throughout this area by building additional ways in and out and improving the transportation in and out of the Redevelopment District. It will increase employment within the district. I would like to end with, again, the State law with regard to the authority to create a district and the purposes for creating that district. I won't read through it again, but it talks about discouraging the loss of commerce, industry or employment or increasing employment or any combination thereof. That concludes my presentation with regard to creating the district. That is the first step. Once the district is created then the project plan will come forward. Thank you.

Mayor Coody: Thank you. Any questions for Mr. Conklin on this item? Anyone from the City Council have any questions or concerns?

Alderman Cook: This was mentioned in our Ward 2 meeting last night and then I had a follow-up question from a citizen today about it. So, I'm curious, once we form the district and approve a plan, how binding is that? I mean, is there a way to back out of that? I mean, let's say that

happens and then the State decides that no, this is illegal and that you can't have that. I mean, at what point do we cross the line and we can't go back? Does that make sense?

Kit Williams: I would think that the potential true liability to the City is most likely to be incurred if bonds are issued or a note is issued. If we follow the State law precisely in forming a district and approving a plan, I don't think that's going to be found illegal later, even if the State law is such that, for example they decide the twenty-five mils for education cannot be used, that would probably render your project plan no longer feasible, because you would be assuming that the twenty-five mils could be used. At that point I think the City Council would have to go back and review that and decide either to vastly scale back the project plan or to abandon it. But I don't think if you have not issued bonds or a note or something like that that there is going to be liability to the City at that point in time. I will say this is a brand new law and no one has sued under it yet, so there could be some theories of liability out there that I have not anticipated. It's possible we could have liability. I hope not and I don't see where it would come from but you know sometimes you get surprised so I can't guarantee you there's no chance of liability before that time.

Alderman Cook: So financially to add to that once we create the district and when the values are frozen, let's just say the plan is not ever passed but the district is passed, I mean what would happen in a situation like that, or just like you said the law changes and we couldn't use that other millage and it would change the plan. I assume that they start setting money aside as soon as the values are frozen once you create the district?

Kit Williams: I think they start setting the monies aside at tax time when they start dividing the money up a year from now. According to whatever TIF districts have been established and whatever the Supreme Court might rule on how you should divide the money up and it would be then be deposited in the special fund. Each TIF district would need its own special account and that's one thing you do when you establish a TIF district is you establish a specific account for that particular TIF district, so the money would be sequestered there. It could only be used for the project plan. However, once the TIF district is closed, let's say for example that the Supreme Court ruled the twenty-five mils was not available so the TIF district project plan could not work, then you could close the plan and you could actually close the district at that point in time. There is a provision in the Statute that says when you close a district any excess money then basically becomes general fund money. You can use it for any lawful purpose. So, you can also use it for projects within the district or any other lawful purposes that's what the law says. So that's what would happen. I would imagine that once the Supreme Court ruled one way or another, you would want to potentially revisit all of the TIF plans, any and all that you might approve.

Mayor Coody: I think, as I understood it, if the Supreme Court were to change the rules midstream, we would certainly revisit it and do whatever is within the law.

Alderman Cook: Thanks.

Mayor Coody: Hold on. I failed to mention one thing at the beginning of the meeting in today's headline there's a statement saying that I thought we could loan developers money for the TIF district at the Mountain Inn in case the TIF legislation were to change and TIF's weren't available anymore. That wouldn't be accurate. After talking to the reporter who always does a

good job, there may be ways that we could use our general fund money to make that program work and a couple of different methods to do so. I have long understood, we can't be a banker and loan anyone, developers or anyone else money. So I just wanted to make that clear in case anybody wanted to come up for a low-interest loan from the development community, don't bother. I'm sorry go ahead, Bobby

Alderman Ferrell: Tim, I thought that was a good presentation and over the years I've worked in and around successful communities in economic development and to be a successful community in retention of existing jobs and creation of new ones, you can't be passive. You have to be active. We can't take for granted that this is going to continue. So, I just think that you did an excellent job of pointing out the enabling parts of the State law. Secondly, I would add that communities that stay successful are active and not passive in keeping their communities competitive.

Alderman Jordan: I have a few questions. Tim, would you step to the microphone, please? Now in reading this blighted area definition, we come down to it seems you can fit a lot of different definitions or things into this one paragraph. But down at the very bottom it says things that substantially impairs, arrests the sound growth of the community, in fact that's repeated a couple of times, substantially impairs or arrests the sound growth of the city. What does that mean exactly?

Tim Conklin: We did put this PowerPoint together today to make the findings. That's one thing I did hear with regard to the Downtown Master Plan you wanted specific findings. I think when we look at that definition and we look at where our revenues come from for general fund that help pay for fire and police officers and the importance of that regional retail area, I think that's what I look at when it substantially impairs or arrests. If it comes to a point where we cannot get people in and out of that area, it's going to impair our ability to continue to grow, continue to see our sales tax grow and continue to capture additional sales tax that we're currently using today.

Alderman Jordan: Have you seen any down turn in the growth of this city?

Tim Conklin: With regard to the overall city is that what you're talking about?

Alderman Jordan: Yes.

Tim Conklin: We've seen a tremendous amount of growth in this city. But at the same time, in this general area we have talked for years about the importance of improving our transportation system to make sure that we can continue to grow and prosper. So much so as to look at even the money we have available in our Capital Improvement Program, trying to improve that area. However, without additional access in and out of these areas, Joyce Boulevard and other major intersections are becoming more and more congested without alternative ways of getting in and out.

Alderman Jordan: Okay, let me rephrase that just a little. How fast is this area growing in the city? How fast is development moving into that area would you say?

Tim Conklin: Looking back to 1994 when we rezoned that it's been ten years. When I look at the north part of the CMN it isn't within this area, but the north part has grown over the last ten

years, from a regional perspective we've had the regional retail development occurring within that area. So, we've put a lot of regional retail square footage, with the Northwest Arkansas Mall expanding and the Wal-Mart Super center and the other related development. With regard to future growth and development, those are the issues that we continue to discuss in this community, as much as going up to Springdale to the Highway Department Commission to say the number one priority is trying to improve access along I-540.

Mayor Coody: I want to flesh out the second half of your question because what we're talking about now, with your question, is a snapshot of basically the last ten years and the present up to today. If we were to put all the new development in the last ten years on that green spot right there it wouldn't be as much as one might think. A lot of that is undeveloped area. We have seen the advent of the Olive Garden and Logan's there are new restaurants up in the cluster of the CMN Business Park. The reason that we haven't seen the kind of growth out there that we would have expected to see by now is because of a lack of access to those commercial areas. I would have thought, ten years ago looking at Northwest Arkansas as a whole, this would have been built out by now. But everyone's number one complaint as we have heard repeatedly is that the traffic doesn't move very well across Fulbright Expressway and through the CMN Business Park. If you're traveling up 71 and you want to get anywhere, you've got to go through that horrendous intersection at Joyce and 71, which 81,000 cars a day go through on a heavy day. We'll see cars running red lights all day long, every day to beat the lights because the traffic is so congested up there, but that's just a snapshot for today.

The reason that I feel like that we as a city have an interest in preserving and enhancing our retail base is because as that one slide showed, we've seen a 25% decline in sales tax leakage from Bentonville what used to come from Benton County to Washington County, mainly this area, has left us just in the last couple of years. Now what that's going to look like in two more, four more, or six more years I don't know what that percentage of loss will be like. But it will certainly be more substantial than we would chose to lose. Of course they're developing their own retail base and I fully understand the economics of you get a population base and then they're going to be building their own economic bases up there so people can stay in Benton County and shop. I understand that entirely but if we have a commercial area where it is tough to get in there to set up shop and to do business, we've only added to the heartburn of trying to set up retail businesses here in Fayetteville. We need to make it as plausible and as economically feasible as possible to build commercial businesses in our commercial business district and right now we aren't there. That's the reason that we want to do this because with that sales tax growth it allows us to hire the fire and police to eliminate the deficit that we're all concerned about, to be able to better fund our parks and everything else we do in the city. That's our bread and butter. I'm sorry, Brenda do you have a question.

Alderman Thiel: Yes, Lioneld are you through?

Alderman Jordan: I'm not near done.

Mayor Coody: Oh, I'm sorry.

Alderman Jordan: I noticed that the area goes all the way past Deane Solomon Road. That's a pretty large area. I guess my question would be are we going to build roads over that far?

Tim Conklin: Within the project plan, there was a statement that talked about amending the project plan from time to time to add additional transportation projects. It's the intention of how to improve access from west Fayetteville and from the north into this area. So, I would say yes, that as that project plan, we would look at improvements.

Alderman Jordan: Okay. This brings me to my next question. Let's just say Deane Solomon Road for an example and we have development along that road. Are we going to be building the road for the development community or will there be a share like they do in our other developments? How's that going to work?

Tim Conklin: Our policy has been and it continues to be that the developers will pay for their share of improvements. At times the City builds things ahead of development in order to take care of existing issues but when development does occur, they do pay.

Alderman Jordan: Okay. That's all I have for awhile.

Mayor Coody: All right. Brenda?

Alderman Thiel: Yes. I'd kind of like to follow up on what Lioneld was talking about. We've talked about the need to keep our sales tax base, which I support totally. I looked at this map, I mean the outline of this district, and I don't understand why we've gone so far west, away from the area we're talking about trying to continue to build access into and so forth. I also understand the issues about Springdale schools, but it seems to me like some of our major problems are getting access to people from North College out onto I-540. Getting people from I-540 over to the Mall without having to clutter up. Now you've got to go all the way up to Joyce to get over and back out to I-540, which is very poor planning. Didn't Johnson just recently do a TIF that they disregarded the Springdale School District?

Mayor Coody: I know they just formed a TIF but I don't know about their...

Alderman Thiel: In other words, I don't know is that something that we have to do?

Mayor Coody: I can answer your question.

Alderman Thiel: I mean we cannot go into Springdale schools.

Mayor Coody: Oh, no, no. As a matter of fact when we originally drew this map, I have first hand experience on this, when we first drew up this map we included all of the Mall area and CMN Business Park because, as we all know, we collect the sales tax from that property, but the Springdale Schools since it's in their school district, they collect the property tax. We sent some of our representatives to Springdale to talk to the superintendent about what benefits there would be to them with this. We're not talking about twenty-five year TIF here we're talking eight to ten years probably somewhere along that line. What benefits were to accrue to them if we were able to add more infrastructure into this area, get more commercial development out there where there's a lot of undeveloped land right now that they're not making much money off of. When the eight to ten years would be over with, they would see a real up tick in their property values. We didn't get very far. They had a very strong negative reaction to any of their property being locked up in a TIF district, especially for Fayetteville. I truly believe that if we had more time, if

we create this district and we had more time to flesh out what we can do up there that we can't do if that part of the land is not in this district. We need to show the Springdale School District what benefits it would be for them to be within the district, then I think they might warm up to the idea. But the initial reaction was very strong and I thought that the easier, most sane thing to do was to see if this Council wanted to create this district to begin with because if there was no interest in creating the district, why upset Springdale School District unnecessarily. But if this Council decides that this district is important enough to create, then we can go back to Springdale and say okay. I wasn't given this chance earlier to say our plan includes a,b,c,d & e that will be an enhancement to your school district property that we can't do if it's not in the district. We need to be able to have more of a longer-term conversation with them. I thought at the time that bringing them in at the front end of this conversation would be productive. Does that make sense?

Alderman Thiel: Yeah. I agree with that I mean I understand your points, but I guess I still kind of share Lioneld's question about why did we go so far west?

Mayor Coody: Well, the reason we would go so far west is because, most of that, I'm going to throw out a round number, I bet 90% of that land out there is undeveloped.

Alderman Thiel: Yeah, but it's probably developed as residential, not commercial and not bringing in jobs necessarily.

Mayor Coody: A lot of the land out there along the intersections, north and south on some of those streets will development commercial. All of it won't develop commercially but we're thinking a lot of it would.

Alderman Thiel: Okay. On Deane Solomon Road?

Alderman Jordan: I'm going to get back to that in a little bit.

Mayor Coody: On Deane Solomon Road, but there's some other areas, we just took a wide swath, as wide as we could of undeveloped land on I-540 and developed this map. Now the boundary is tonight and in the future amendable. So we're not locked into stone on this. If the Council wants to create this district and then wants to amend the map to exclude what might be construed as residential land out of it in the future.

Alderman Thiel: Or include the north.

Mayor Coody: Or include that, if the Springdale School District will work with us on it. We can always come back and fine-tune the model.

Kit Williams: I don't think you could probably amend the map to include the Springdale School District land tonight because they would need to be notified before we could include their land.

Mayor Coody: Oh no. That's not the intent at all.

Alderman Thiel: We can take something out but we'd have, that's a good point.

Mayor Coody: I would not go for that. Not tonight. Yes, sir?

Alderman Reynolds: I was looking at the map. Why can't we take Van Asche up to Joyce and from Front Street over to Gregg Street and take in that block there and eliminate anything to the west of Deane Solomon? Is that the Springdale School District?

Tim Conklin: Springdale School District.

Alderman Reynolds: The other question I had was I heard Kit say it'd be one year before we would receive any funds if we adopted this TIF district?

Kit Williams: I think that's correct. When you have millage, millage only gets paid out once a year I think. Actually maybe Steve Davis knows about that. Steve, are you back here and can help me out? It's not like sales tax that you get every month from the State.

Steve Davis, Finance and Internal Services Director: The County will remit the sales tax monthly, but the majority of all of the taxes are paid in October, so the majority of it about 80% will come in November.

Kit Williams: That's the property tax you're talking about.

Steve Davis: Property tax, right.

Alderman Reynolds: So if we enacted this, do you think we could see some money out of this in November if we acted on this in the next 30, 60 or 90 days?

Steve Davis: It's possible.

Alderman Reynolds: So we could get some relief from this area that's been afflicted with the problem?

Steve Davis: It's possible.

Alderman Reynolds: Okay. Thanks.

Kit Williams: Keep in mind though that the initial increment is always very small and it builds over time. So the first years you receive very, very little.

Alderman Reynolds: Thank you, Kit.

Mayor Coody: All right. Thank you. Anyone else have any questions right now? If not, anyone from the public want to comment on this item before us tonight? This is the public hearing part. We're going to open it up for public comment. Anyone like to address us here tonight? Is everyone here for their health? Do we have a list there for people to sign in? Okay, I might ask everyone who speaks tonight to please sign in.

Lindsley Smith: My name is Lindsley Smith. I'm here today because I have a commitment to public education. The Blair Library is in my district, as well as this I-540 TIF district is in my

legislative district. I'm not here today to discuss the issues of whether traffic control and economic development in Fayetteville would be a good thing. I will assume those as facts but that's not the relevant issue. The issue is the purpose of TIF funding and whether TIF funding should be used for the proposed I-540 redevelopment plan. On that point I argue it should not. The City's TIF plan has Phase One for engineering and planning costs and Phase Two through Four for construction of a Gregg and Highway 112 arterial connection, an overpass, construction of a new controlled access interchange for vehicular access to I-540, Fulbright Expressway.

Mayor Coody: Lindsley, I'm going to interrupt you for a second. I know you came in late but this is a two part public hearing. The second part of the public hearing is about the plan. Everything you're talking about there is the plan. We voted to table that because right now we're only here tonight to talk about the creation of the district and the boundaries. So, if you can limit your comments to whether or not we should create the district and if the boundaries are adequate or not. The school funding and all those things are part of the creation and whether we should do it or not but as far as the actual uses of what we would do, overpasses, interchanges, things like that, that's not on the agenda for this evening. We're talking about whether we should create the district or not and what the boundary looks like. Does that make any sense?

Lindsley Smith: Yes. Thank you very much. I'm speaking to whether the district should be created or not.

Mayor Coody: Okay.

Lindsley Smith: All right. Thank you. But I'm outlining, to go with Mr. Conklin's discussion as well as what the district is, Okay and what it proposes with the plan. Or would you prefer it for...

Mayor Coody: The plan will be discussed, perhaps at another time if the Council creates the district tonight. We'll discuss the plan at another meeting and the plan includes the actual work that would be done within the district, overpasses, etc.

Lindsley Smith: Okay. I might need affirmation from Mr. Williams, then. Which notice was given on the Internet as to what the plan was, which dealt with the I-540 plan and all of that?

Mayor Coody: Yes. And we had two public hearings scheduled for tonight. One was for the creation and the boundary. The second public hearing was to discuss the plan and the second public hearing has been pulled from the agenda this evening. That happened before you came in. I know you came in a little bit late and we had already taken that off the agenda.

Lindsley Smith: No, I think I understood that. But I do want to make sure, in terms of having a public hearing, you're voting tonight on whether or not you should approve the district?

Mayor Coody: This would be the three readings.

Kit Williams: The ordinance will be read for the first time. Then it's up to the City Council about whether they want to suspend the rules and go to the second or third and final reading and then have a vote. They don't necessarily have to do it. The plan that was discussed Tuesday night, they left it on the first reading. Of course one of the things that the City Council will be

considering is whether the real property in the district will be benefited by creating this district. So you could certainly talk about that and the potential benefits from what might be proposed.

Lindsley Smith: Okay. We are talking about the creation of the district.

Mayor Coody: Yes.

Lindsley Smith: It is the I-540 district?

Mayor Coody: Yes.

Lindsley Smith: Whether it would be a benefit, is that correct?

Mayor Coody: Yes.

Lindsley Smith: And this deals with the TIF law.

Mayor Coody: Yes.

Lindsley Smith: All right. May I continue?

Mayor Coody: Yes, please, please. I just wanted to be clear about that. Sorry.

Lindsley Smith: No. That's fine. That's fine.

Mayor Coody: If I didn't tell you that, I'd be chastised by the City Council.

Lindsley Smith: That's fine. Mine deals with what the Fayetteville City government put up as the TIF plan proposal that's up for approval. Right? This was included in that particular public notice plan. Okay. The way I view this is that this is clearly a public transportation plan and not intended under the TIF legislation. I want to deal with that legislation. The I-540 Redevelopment Plan notes the TIF project has the improvement of street access as its centerpiece. The formation of the I-540 district was spurred by the desire to finance the infrastructure that is necessary for development to continue growth in the district. Congestion is likely to choke off growth in north Fayetteville if significant resources are not directed toward alleviating traffic problems. We've dealt with that thus far. The intent of the plan merely asserts that there is a desire to finance the infrastructure and such desire is necessary for growth because of a likelihood that growth would be choked off. Well I have to say in terms of analyzing the TIF law, a desire and likelihood do not meet the burden of proof under the TIF legislation. The TIF proposal does not meet the requirements of the TIF statute because under Section 3a of A.C.A. 14-168-301 there has been no showing that the area contemplated is detrimental to public health, safety, morals or welfare. If ignoring section 3a, under 3b of the law it cannot be shown that the area plan for the district consists of a substantial number of deteriorated or deteriorating structures, unsanitary or unsafe conditions, deterioration of site or other improvements or conditions that endanger life or property by fire or other causes. Even if it is contended that one of these are shown, you still have to show that whatever problem is claimed substantially impairs or arrests the sound growth of the city, retards the provision of housing accommodation or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition

and use, which it cannot show. Even if you attempted to assert that there is a faulty lot layout, you must also show that the faulty lot layout substantially impairs or arrests the sound growth of the city, pointing to Mr. Jordan's comments earlier, and questions. Thus arguments for the I-540 TIF plan hang their hat on an interpretation of the final section of 3b, without regard to 3a, the contention that a blighted area exists because the area is a predominantly open area with a lack of accessibility that substantially impairs or arrests the sound growth of the community. It has been argued that this TIF district is needed to compete with Rogers. Even if it has been shown that it would benefit growth, which is not the intention of TIF legislation, there is still a failure to show that there is a substantial impairment or arresting of growth. The inability to show this requires a no vote. Additionally it is arguable that the proposed plan is not allocating funds for the district but instead is allocating funds for ingress and egress to the district for when the actual district develops at some future time, which no doubt will require additional taxpayer funds. The unintended use of the TIF law is also shown in the comments of State legislators for the need to amend the law for clarification of its intended purpose and to avoid abuse. In March 2003 the Attorney General first opined that the twenty-five mils mandated by Amendment 74, the URT or Uniform Rate of Tax is a State not local tax. The AG has restated that opinion in two subsequent opinions. A request is now pending that asks, since the AG views the URT as a sales tax, can revenue from the twenty-five mils for a local development project as provided in Amendment 78, given the uncertainty of the use of the revenue for the twenty-five mils, which we've all been reading about, the financial viability of any TIF that's counting on a revenue stream must be viewed as uncertain and likely to result in costly litigation with an uncertain outcome. It would seem prudent to at least wait for clarification. Outside these reasons, in addition to these, TIF limits the amount of property tax that the district receives of property taxes increase for the life of the bond. We've already discussed this. The State would have to make up the difference by diverting general revenues that would otherwise go to all Arkansas public schools. On that point schools get money back from the State but libraries don't. So what we are doing is taking money that would otherwise go to libraries and we are giving it to subsidize commercial development. There's also a concern about the loss of funds for city fire and police personnel pensions. As a soon to be legislator, I'm already faced with overcoming the false perceptions that some legislators have, many legislators, that Northwest Arkansas' streets are paved in gold. I'm sure you've heard that. Those of you who have been down to Little Rock have heard that repeatedly and that we don't need additional State funding up here in Northwest Arkansas. Runaway TIF plans in Northwest Arkansas reinforce those false perceptions and hinder goals of acquiring needed funding for mental health care, for schools, for the University of Arkansas and for other needs facing us due to existing growth problems and the lack of funding in order to meet those needs. Finally, it is ironic that the goal of the TIF plan is to further growth when the justification for the need of the plan is due to problems associated with rapid growth. For these reasons I ask for a no vote in consideration of the plan.

Mayor Coody: Thank you. That was a very articulate argument. Thank you very much.

Alderman Jordan: Could I ask the Representative Smith a couple of questions? You said something about the school funding. Now, if I understand this correctly, Act 43 makes sure that the school gets their money. Am I saying that correctly?

Lindsley Smith: This is what I was told and I was typing as they were speaking. The last Legislative session enacted an Act that affected the way the school funding is computed. The basic formula is the basic amount expected to be spent on school districts. That formula would

have to be enacted again by the next legislative session. Under that formula in the last session, the local contribution will be considered before applying the formula, with the assessed value of all property in the school district being multiplied by the millage. If the law continues, that schools are to spend a certain amount on students, then the result is that if taxes in a school district are frozen, then the State makes up the difference (going straight to your point). They added some other points if you want me to.

Alderman Jordan: But that's the gist of it.

Lindsley Smith: Yes. They also added, "but this special computation is only for school funding." There's nothing like the school funding formula they noted, for other things now receiving State funds. In essence, they stated, there's a loss of money for those other things and nothing out there that requires the lost money to be reimbursed. If there is only so much money the State has, the result is that other needs will receive less funds.

Alderman Jordan: So in other words you'll have to cut possibly services somewhere else to be able to make up the difference in the schools if that's the case?

Lindsley Smith: I hate to speculate, but I'll say that from everything I've received and everything I researched and based on the reality, that yes, that's reality.

Alderman Jordan: Okay.

Mayor Coody: Let me make a couple of points here. One is, and I'm going to start from this and work my way back. Yes, if we had no economic growth from forming this TIF district, your scenario that funds could be made up from some other function in the State, if we saw no expansion of the economy based on this TIF that would be right. But the entire reason that TIF's are an effective tool is that it stimulates the economy and where we might lose a little bit in one area, it's more than made up for in another. For example, I'll fall back to the library millage. Yes, we collect one mil for the library but the library was built with sales tax and the City's fund of the existing, ongoing library funding is from sales tax. So, while we might get hurt on a little bit of property tax, as far as the freezing goes, that's more than made up for by an influx of a new, greater sales tax amount. You mentioned fire and police pensions, yes, that would be frozen, a small portion in a small part of the town would be frozen but our sales tax increase would be such that we could actually hire more fire and policemen. The gain would be a lot larger than the hindrance, as far as the dollars go. That's the whole reason TIF's have been put into place and why they tend to work.

Forty-three or forty-four states have TIF districts. This is relatively new for Arkansas and none of us quite know how this is going to work. In Illinois I believe it was, they formed TIF legislation eleven years before it was actually used. Once it started getting used, the Legislature fine-tuned it two or three times before they settled on legislation that worked for the state, the schools, for the businesses. I fully expect Arkansas to do the same things. This will be modified, exactly how, we don't know. But it's important that TIF legislation continues to be provided as a tool to make up for funding that we used to get from state and federal sources that are just dried up. We can't always rely on local tax dollars, to raise taxes to do the kind of work that needs to be done out here. So there, while you present very good arguments, it ignores the ripple effect of

why TIF's are put together to begin with, and that's to stimulate an economic area to increase your income rather than keep it leveled off. Yes, ma'am?

Alderman Thiel: Can I ask a question? After having discussions with Lisa Morstad I'm not as concerned about a local school funding because we have, if I understood her correctly, and of course some of this does depend on the Attorney General's opinion on that twenty-five percent of the increment but isn't the concern more a statewide concern? Fayetteville is required to send twenty-five mils to the State. All school districts are required twenty-five mils. Fayetteville citizens pay forty three, forty five mils; I think it's like twenty-three mils more that we're actually increasing to support our schools. So, in other words, we have a very wealthy school district. A lot of school districts don't have that access being paid in. What I'm leading to is their concern. I see the concern that the legislators that represent small schools throughout the state, poorer schools, poorer cities, that don't have this additional funding for their schools, those representatives are going to fight everything, and their representatives their State representatives and senators are going to far outnumber Northwest Arkansas' representatives. I feel like probably there's going to be some major adjustments in this TIF legislation because of who they are representing and their concern about the amount that's going to the State. I don't know if I really had a question other than is what I'm saying kind of correct? I mean I'm trying to understand if that's correct.

Lindsley Smith: I see what you're saying. Yes. You have different concerns I think that several people have been addressing and will be addressing. One, in terms of meeting the Lakeview opinion of the Supreme Court, which itself is an opinion based off of being a poverty issue and that's what the Court said. In fact, when the Arkansas Supreme Court was dealing with Lakeview, at first others added on, but with Lakeview they gave different examples there. For instance there is the Lakeview district, all the high school courses are taught by one uncertified mathematics teacher who is classified as a substitute teacher and earns \$10,000 to do so and as a second job he takes on the job of a bus driver and he earns \$5,000. There are other schools in Arkansas that have asbestos problems, some that have no heating and air-conditioning, the list goes on and on and schools that do not meet the Americans with Disabilities Act.. There are legislators who are very concerned about that. In the Supreme Court opinion it dealt with various things one of them would be facilities. That will be a big issue for the State. Not only that we've received the educational facilities report that gives at least \$2 billion in order to come up with, where will we come up with that money, that will be a concern as well. Another issue that you present is will they even need to change the TIF law? Some are talking about the need for clarification of that law because of the certain intent already being that is was intended just for blighted areas. I know that Section 3b has a sentence that's about 100 words and has about 40 'ors', no semi-colons and no periods and a lot of commas. But when you start taking part of that one sentence and seeing where the 'ors' are, I think the question does come back to what is the intent of this legislation. The other aspect of your question is it's not so much that this will benefit but there has been a substantial arresting of or decline. Well, I won't even deny that. I mean, it would have maybe a benefit. Growth can bring benefits, right? Even if we assume that, what is the intent of the law as it is right now? Under the TIF law you have to show the exact opposite in order to meet that. I've worked in the Arkansas Court of Appeals, I've worked for the United States Court of Appeals for the 8th Circuit and I've worked in the opinions division of the Attorney General's office and I'm bringing that experience to say that in terms of interpretation and seeing if particular plans even meet the statute, there's significant questions there. Then you get to your other point, which was dealing with might they change this law. I think you're

correct. I think it goes to my statements where I talked about the perceptions that are already in Little Rock, and you can ask any legislator up here if they've legislated at all in the past or if they're doing so now, that there is that perception. Streets are paved in gold. I'm sure there may be concern maybe at the University of Arkansas as well, needing funding at the University and would that likelihood of runaway TIF programs make it to where those individuals, those number of people might not allocate funds to the University of Arkansas. I think there are significant questions there. Might they see that we don't see a mental health care crisis up here and not fund it? I think that there are, there may be concerns as that. I'm supportive of these and I'm looking to assure that they are protected and funded.

Mayor Coody: Tim, if you'd do me a favor, put 3b back on the screen, please with the bold language on it. While everything you say, Lindsley is exactly true but there's the other half of the coin that, predominance of defective and inadequate street layout, adequacy, accessibility, usefulness, conditions that endanger life or property by fire or other causes'. We all know the traffic congestion up there is dangerous. We have lots of accidents up there. "Combination of such factors", we talked about the loss of sales tax, the 25% loss of sales tax coming to us from Benton County over the last two years. 'Predominantly open area which because of lack of accessibility, obsolete platting, substantially impairs the growth of the community' that, reasonable people can disagree and we can. You see the light gray, we see the black printing and we can each see both sides of one coin.

Lindsley Smith: No, actually I'm using the black printing. I use seven arguments any of which would require a no vote, not all of them together. One of those was dealing with the gray area, and I'm dealing with the best-case scenario for the TIF plan. I'm also looking at in terms of the likelihood of future legislation and making sure, being an attorney myself and in terms of interpreting this, to make sure that we fit within the TIF legislation. Mr. Williams has stated we don't know where certain lawsuits might come from. I mean there could be even the possibility of suits saying that this is invalid under the law. Where would we be already if construction had started to take place, etc.? Where would we get those extra funds? So I'm looking out for the city on that. But I'm looking at, in terms of the best-case scenario, yes I anticipated that because in interpreting and looking at the statutes, that's the only way that you could construct this for the TIF plan is to take various parts of it and I've already picked out those black parts there and deleted the others to see the best-case scenario. That's my argument, even under that, it's not just growth, that this would help, that we have to compete, okay? That there's economic development, there has to be, and what is in black print, a substantial impairment, substantially impairs or arrests the sound growth of the community. Not at some future time, okay? But now.

Mayor Coody: Okay. Thank you. Bobby, do you have a question?

Alderman Ferrell: Yes, I do. I hope when you get to the Legislature that you retain your strict de-facto interpretation of the law because you're going to run into a lot of people down there that, like the your interpretation because there's a lot of de-facto people down there that you're going to run into. I've got a couple of points. You mentioned litigation, if there is litigation, do you expect that to come to all TIF districts in Arkansas that have passed TIF districts that you don't agree with the interpretation on, i.e. say Benton County or Rogers. Do you think that if litigation starts it'll be where there wasn't what you could call a blighted area, what you would consider a blighted area?

Lindsley Smith: One, you'd have to look at an individual having standing for that and so that would be, I would think, the first question of who has standing in order to bring certain suits and whether they bring it in a particular area or they try to make it statewide. What it looks like, just reading the newspaper and seeing where there are already moves going toward an Attorney General opinion and already talk of the likelihood of maybe some lawsuits that would be out there. I think we do have to look at even if no lawsuit would be filed, we have to look at and say there is a possibility of one and assure that we're going through the proper intent and purpose and wording of the statute in order to avoid that. If Rogers gets into that, I don't think we'll want to be in the same boat.

Alderman Ferrell: So is your answer that, yes that might happen?

Lindsley Smith: It might happen.

Alderman Ferrell: Okay. If you'll just for a moment follow this logic that across the State where TIF districts have been created or are being created and have been and there's infrastructure improvements, there are other things that will raise the sales tax. Let's just assume that for a second, in all these TIF districts across the state, if sales tax is raised that sales tax goes into the general fund. We've mentioned, and we've talked about school districts that don't have the millage that we do and we worry about the funds coming back to these districts. Could one assume that if the sales tax from these TIF districts, where there's more money raised because the TIF was an enabling factor that there's more money going to come back even to the delta areas, aside and apart from property tax? I'm talking about from the State coffers. Could one assume that if the TIF's do work and there's more sales tax collected, that there would be more money come back even to the Delta areas?

Lindsley Smith: I think the question is a significant amount of money coming back. I think there is a probability that some money could come back. I think nobody's talking about that because the possibility of that going statewide rather than just local at a significant level...

Alderman Ferrell: I'm not talking about a statewide TIF, I mean there are TIF's around the state....

Lindsley Smith: You mean money going back into the general fund.

Alderman Ferrell: Yeah. I mean if sales taxes go up, that money's going into the general fund.

Mayor Coody: We charge a 9-cent sales tax, 6 cents of that goes to the State of Arkansas.

Lindsley Smith: Right. Yeah. I think definitely that under that idea in terms of particular growth I think the answer would be yes.

Alderman Ferrell: Thank you.

Lindsley Smith: Whether it would go to those particular areas, or whether it's rerouted in particular ways and whether it all goes to the Delta and none of it comes back here is also an important question.

Alderman Ferrell: I think it would go around the state.

Alderman Thiel: I just want to say, though, in our particular situation, I'm not arguing one way or another, but we're talking about trying to take some of the sales tax base from our neighbors up north to do this. I mean that's what we're talking about. I mean, we've stated that. So actually, there's no more sales tax. It's just shifting from a little farther north down here. So that doesn't increase the sales tax. I mean I don't understand your argument.

Mayor Coody: You're talking about it's the same pie divided up differently.

Alderman Thiel: Yeah, it's the same pie and you're talking about going to the State's portion of it well, it doesn't matter where it comes from down there because, I mean, how it's distributed, you pointed out, you know that's neither here nor there either. The point is you're not increasing the sales tax; you're just increasing it here in Fayetteville rather than up there.

Alderman Ferrell: My argument would be, no. That's not what I'm saying. The 25% that's from Benton County is, let's just say that's the number now. What I'm saying is that, if around the State where TIF districts are passed, in aggregate the sales taxes, the amount of money that goes into the State coffers, the general fund rises, then that's going to be more money to come back out. It's insignificant whether in the big picture about Fayetteville and Rogers, although it's very significant to me. But you see what I'm saying? I'm not talking about just here. I'm talking about TIF districts around the state. If by improvements there's more sales tax, in aggregate, collected in the State of Arkansas then there's going to be more to come back. That's all I have.

Mayor Coody: Thank you, Lindsley. Do you have any more comments?

Lindsley Smith: No. I thought there might have been a question in there and I was going to answer it. I think we're okay.

Mayor Coody: All right. I want to let you know that we appreciate you're being here and we appreciate your service, your voluntary service to the Legislature. Please, work with us this TIF legislation will be modified, I would put money on it. But I hope you'll work with us on it to where we can maintain it as a good tool to do the things that we need because, while our streets are not paved in gold, we don't have the money to handle the growth that we're experiencing here in Northwest Arkansas. We don't get money from the State like we used to; we don't get money from the Federal government like we used to. So we need every tool available to us to make these projects work. If we were still getting money from the State and from the Federal government like we used to, we wouldn't have to fall back on things like this. But those sources have substantially dried up.

Lindsley Smith: Yeah. And I think that becomes a question as well. When you just look at the TIF legislation, of having to fall back on it and then construct something, you know, and our discussions now of whether funds would go back into the general fund and back elsewhere because of the benefit of growth. Again the TIF legislation doesn't deal with qualifying as the benefit of growth but under the dark lettered words, 'substantially impairs or arrests the sound growth of a community'.

Alderman Marr: A question for Lindsley, before you go. Have you heard any rumor from peers in the Legislature of when you suspect the timing of the AG's opinion? If this legislation will in fact be visited and how quickly in this legislative session?

Lindsley Smith: When I was in the Attorney General's office it was under a different state Attorney General. But I know that Senator Jim Argue has asked for it to be expedited. Now that would depend on what the definition of expedited would be with their workload at this particular time. I would just be guessing at that.

Alderman Marr: You don't have any idea? You think it's a month or you think it's a week or think its a few months?

Lindsley Smith: Since I've worked in there on opinions and all, if I had to expect I would expect probably a couple of weeks we might see something.

Alderman Marr: What about the second part of that question have you heard any ...

Lindsley Smith: Good rumors...

Alderman Marr: Well any rumors as they relate to revisiting this legislation. So, do you think it's something that will happen early in the session or will there be other priorities and will this get lost in those items?

Lindsley Smith: I don't think it'll get lost. And that's why I would address this here because I did see it important enough and that there are indications of that and it's been reported in the newspaper that, yes; legislators are looking at seeking clarification of that. Some of the reasons could be that they don't want the rich to get richer and the poor to get poorer or our streets are paved in gold or runaway TIF plans. The list can go on and on of what the, in the rumor line, what the rhetoric has become.

Alderman Marr: Thank you.

Mayor Coody: Thank you very much. Anyone else want to address us tonight? Please step forward, if you would like to speak why don't you prepare to speak and kind of get close to the podium if you would, please.

David Hausam: I'd like to thank you for this opportunity. My name is David Hausam and I am a resident of Benton County, so I'll tell you that right up front. I'm also the one that sponsored the legislation that created the TIF districts in 2001. I've been reading about the TIF districts here in the Fayetteville area, Johnson, the discussion in Goshen, and Rogers. Bentonville's come up a thought about having a TIF district. There have been some things said in the paper about a lot of these things being created under a loophole in the law. I will tell you it is not a loophole in the law. That was the intent of the law. The intent was, not only for what you would consider to be dilapidated buildings and blight, but also to open up for economic development and the creation of jobs, green space areas that don't have access. Because if you looked at it from the strict interpretation of, substandard housing, substandard buildings, etc, if you looked around the State, there's probably only one, maybe two places in the State that would qualify. I can't think of anything in Bentonville that would qualify to fund the infrastructure necessary to do some of

these things other than in Little Rock, for example where you have deteriorating neighborhoods that you go in and do a total redevelopment of the neighborhood. Because, if you look up here, in most of our cases up here we have pockets in different areas that something needs to be done with, but they already have a substantial, in a lot of cases, a substantial property tax on it already. When you're talking about only the increment difference, that's what you'd get in order to finance the infrastructure improvements. That's what makes that strict interpretation a very difficult process in order to finance. What you're talking about tonight here is a creation of a district. You're not talking about actually carrying through with everything because you've got a lot of other steps to do. You've got to develop the plan, the economic viability of that plan, you've got to get bond counsel on board, you've got to issue bonds and you've got a lot of steps to go before that's ever going to happen. There's going to be a lot of other attorneys. Your City Attorney's going to be attesting to the legality of it, you're going to have bond counsel attesting to the legality, you're going to have underwriter's counsel attesting to the legality. In the meanwhile, you very well may have a lawsuit that's been filed in another part of the state or is in the process of being filed that will answer some of these questions...

Mayor Coody: Let me stop you right there. Is there a lawsuit in the process of being filed right now?

David Hausam: I've heard that there's one coming out of Central Arkansas. That they're filing it just to answer some of the very questions that you all are asking. But one thing I want to tell you is if you don't create the district, you may not have the opportunity to do it later. So you'll lose that opportunity. Creation of the district does not mean that you have to go forward with anything. You can get the plan and decide the plan's not what you want. You all control the plan. Nobody else. The developer doesn't control it or anybody. The City Council has to approve that plan and so, if you decide that you want an overpass built, that can be part of your plan. If you decide it's not going to be built, that's also part of your plan. That control rests entirely with the City Council in terms of what your desires and wishes are. But I would hate to see you not pass the plan because you think something may happen down the road, and if it doesn't happen then you lose out on the opportunity. Because the bottom line is that as the Mayor said earlier, we're in a situation here in Northwest Arkansas where a lot of the infrastructure improvements that are "State projects" can't be done because there are not enough State funds to come up here. For example on the highways you've got overpasses that need to be widened; you've got access to other areas that need to be developed that you can't do because there are not State funds in sufficient supply to do that. So this gives you a window of opportunity to go in and do some of those things, to open up those areas for improvement. I'll tell you if you open them up to retail improvement, you'll get a lot more money off of sales tax than you will off of property tax. Look at the city's current budget. Look at what you're getting from property tax versus what you get on sales tax. I'll tell you your growth and the way to operate city government is going to be off your sales tax base and widening that base as opposed to trying to increase add another penny or something like that. I've kind of rambled a little bit but I will tell you like I said, I listened to some of the comments in the paper, etc. and I thought, well, I need to come down and just put myself before you and let you know, I'll answer the questions based upon what we did. I will tell you that the vote of the people that created the TIF legislation, or not the legislation but the amendment allowing creation of the legislation was 54.6% in favor of it. When it hit the Legislature in 2001, we had 91 yes votes in the House, 1 person who voted present, and 8 that did not vote. In the Senate we had 34 that voted in favor of it, one was an excused absence. In the 2nd Extraordinary Session of 2003, we had some clean up legislation on a technical issue that

dealt with the school funding formula that we talked about earlier that came in play and that particularly legislation passed at a rate of 35 yes votes in the Senate and 91 yes votes in the House, and not voting 9. I tell you it was discussed at great length. We went through Revenue and Tax; we discussed it there at great length. Then it goes before the floor of the House, it's discussed before the floor of the House, it goes to the Senate to committee, discussed, and then to the Senate itself for the final vote. I think everybody was fully aware of what the legislation says. So, I would encourage you to go ahead and pass your plan. If you see things that come up later on that you may not like or may want to change, you have that opportunity to do so. You can scrap the plan next month if you wanted to. But don't cut yourself out of the opportunity to do it.

Mayor Coody: To re-ask Don's question: what do you see on the horizon if this gets modified, what do you see?

David Hausam: There have been several discussions going on. One is on the twenty-five mils, which is the school operations that's mandated by the Constitution. The twenty-five mils may be frozen out and taken away from being able to be allocated for the TIF districts. If that does, that will pretty much shut down the financing. There are other options out there. I know Senator Briles has indicated that he'd like to do an increase in sales tax on a local option basis so if you created the district for retail establishment and it created additional sales tax that you could use that growth in sales tax in order to fund the bonds. So there are several different things that are going on.

Mayor Coody: So you could have a different sales tax rate in the district than you would outside?

David Hausam: No, you'd have the same sales tax rate but say, in that particular district you were bringing in a million dollars a year, and you increased it to two then you'd have a million dollars.

Mayor Coody: I see. So it'd be a sales tax TIF essentially instead of property tax.

David Hausam: Right. You'd freeze the sales tax at that point for the businesses in the district. I think that's the way that, that's one of the ways that you can do a financing. Missouri is off the sales tax.

Mayor Coody: Do we have any questions for Mr. Hausam?

Alderman Marr: I have a question for you, Mr. Hausam. Since it passed so strongly and now it's in the newspaper every day and you hear the people concerned about the impact of it, do you expect any changes that would kill it other than the twenty-five or limit the control?

David Hausam: I think that some other things that could be changed. In looking back on it from my standpoint of when I carried the bill, possibly if we had tied this a little bit closer right now you can set it up for twenty-five years. If you did a bond issue and that bond issue pays off, say you do a twenty-five year bond issue but based upon the collections you get it's going to actually pay off in ten years. Nine years out you come back and do another bond issue and just keep leapfrogging it. I would think that possibly something along the lines of saying okay once you create your district and you've developed your plan and this is what you're going to finance with

it, that's what you can do under this TIF. Once that's gone then you have to, if you want to do another bond issue for additional projects you would have to do another TIF. You'd have to go through this whole process again.

Mayor Coody: So if we did, let's just use this one for an example, if we used the I-540 TIF and we did half for infrastructure needs, we'd have to dissolve that TIF district, recreate it and start over again to sell bonds?

David Hausam: Well, once you pay off the bonds basically what it would be is once the bonds are paid off, your district goes away. Just automatically, as opposed to being out there for twenty-five years. I think that's a pretty good from my standpoint. I used to be an investment banker, did a lot of bond issues in fact I did one for the City of Fayetteville and I've done one for Rogers and a couple of the other towns but from my standpoint to treat this more like a sales tax bond where all revenues generated off of it have to go to paying off bonds. You pay them off in reverse order. Maybe you have a fifteen-year issue that actually takes you ten years to pay off. I mean that makes good economic sense and it's a good, conservative way to do it. Now to regress a little bit on the creation of a district, the only reason that you wouldn't want the argument out there that you're going to hear is no matter what you do, that property's going to develop. Well, it may develop and it may take twenty years to do it or twenty-five years to do it based upon the ability to access the property. If you look up and down the I-540 corridor, what's developed has been property that is pretty much right around the interchanges. What's not around the interchanges and does not have access is not developed and you have a lot of green space. So, the argument about it's going to happen anyway, yes it might but it may be twenty, twenty-five years out. If you could speed it up and do it in five years instead and get the development going. I think the discussion earlier was on sales tax collections and improvements and stuff part of your study that you'll get back I'm assuming, I don't know who's going to be doing that, Tim, if it's going to...

Mayor Coody: The University of Arkansas.

David Hausam: I would assume that part of that's going to be saying, okay here's what you're going to generate in that area from the standpoint of economic development, whether it be in jobs, number of jobs, the average wage for that job, how much additional sales tax will be created because you're going to have to make some decisions on your own too, because you're also freezing your own property tax and so you're going to have to look at it from the standpoint of does it make sense for the City in terms of what additional monies they get. I can tell you that based upon the feasibility study that I saw, there is probably a ten to one, actually a little bit, about a ten to one ratio of sales tax being much greater than the property tax collected and that was starting in 2008. 51% of every dollar that is collected, actually it's a little bit better than that, if you look on the State level. For example Public Education gets 51% and General Education an additional one percent, Corrections gets six, Health and Human Services 20, Higher Education is 15, General Government is three, Other is three percent. So if you generate an additional, in this particular study \$60 million and you divide that up, that's additional monies was \$58 million a year that would be collected based upon this study. Twenty-nine million of that would go into the Public Education. The General Government would get about \$1.8 million but you're going to have a lot of money going to the State. I think this is what some of the folks in Little Rock are not looking at is they're not looking at what they could actually gain by having a TIF district if you did have the development that you project. It's almost a crap shoot sometimes but if you

have that development the State has the potential of having ten times the amount of revenue generated from the sales tax than what is generated on property tax in this particular instance. So, I think, personally as a former city councilman and a former city employee of this particular city, and also of one north of here, I think it's a pretty good bet to at least take the time to set up your district. Go through your plan, determine what the plan ought to look like, make sure it meets all the requirements and passes the muster as Representative Smith was talking about, but you're going to have a lot of people out there think that it has to do that. If you're going to issue bonds, Kit has to write a letter. That opines that everything that you've done is legal. Bond Counsel has to do the same thing and so does the underwriter's counsel. That's to protect the bondholders and also protect the City and if something happens they are at risk just like everybody else. I will tell you that any bonds that would be done are special revenue bonds that are not a legal obligation of the City itself. It's done solely from the revenues generated by the TIF district. That's part of the legislation also.

Mayor Coody: Thank you. Any other questions for Mr. Hausam? Thank you very much, David. I appreciate you coming out tonight. Who else would like to address us on this?

Steve Rust: Mayor. Members of the City Council. Thank you for this opportunity to talk to you. I come to you tonight on behalf of the Fayetteville Economic Development Council. My name is Steve Rust. FEDC has provided a letter for your review. I would like to talk briefly about two or three things there and then a little bit in general about the TIF as an economic development tool. First of all, from the FEDC point of view, we support all the TIF's that you have. Each is a very important strategic initiative that this community needs to do to help us grow and be all that we can be. FEDC also believes that the I-540 TIF is in the near term by far exceptionally important to this community because of what's already been discussed in terms of the tremendous amount of sales tax that are generated in the area and that's how you get most of the funding that the City uses to operate. We also mention in our letter that we think it's very important to do the south TIF. I know that's not on the agenda tonight. I know it's not even up formally yet, but that for a long term future is exceptionally important. The other thing I would like to talk about just briefly is just the TIF as an economic development tool. The Mayor mentioned that there are forty-three other states that use this vehicle to grow their state and create wealth. I came from one state that does that South Carolina. Basically if you look at it at the City level and if this represents your entire tax base, you're going to take and tear off maybe 10% of that and you're going to take that into four different pieces. Now what you don't touch remains the same. That stays like it is now. You take what you have and you use that to fund very strategic economic development projects that allow private investment to happen and so forth. This little square, this tax base that was this big gets a whole bunch bigger. There's more sales tax generated, etc., etc, schools benefit, the library will benefit, everybody is going to benefit from that. If you take a look at that from the State level, the same thing happens. I think the thing that distresses me as an economic developer as I sit here and listen to what's been talked about is it's very unfortunate that the State hasn't crafted TIF laws that aren't controversial. The last I checked, Arkansas is, when you look at the national rankings, we're down near the bottom. I think one of the reasons is you don't have a TIF because this is a very powerful tool to develop the entire State. So I think the gentleman who spoke before me made an exceptionally good point and that is, don't close the door. Go ahead and vote for this tonight. I highly encourage that you do that. Also, I would encourage you all and I would encourage our State legislators to not gut this. Figure out a way to make it a win-win. Because if you don't do that, you've just hurt Arkansas. A TIF used wisely in good strategic

projects, helps the City and it helps the entire state. Everybody's going to benefit. Thank you. Anybody have questions?

Mayor Coody: Do we have any questions for Mr. Rust? Thank you very much. Anyone else want to address us tonight?

Alice Church: My name is Alice Church and I'm the senior property manager for Northwest Arkansas Mall, I'm here tonight representing the Mall and also the Maserech Company, that's who owns the Mall. Even though the Mall is not a part of the TIF, I want you to know that the Mall still supports the TIF going forward. The reason is that it's very hard for me to separate the Mall from the rest of the retail area surrounding the Mall. Some of my merchants would think I'm crazy if I stand up here and tell you that I want Target and I want Kohl's to be successful but it's very important that we remain a very healthy shopping district. I want us to be a destination-shopping district in Northwest Arkansas. I've said many times to people, if someone drives in from southern Missouri or from Fort Smith to shop at Target, they're coming to the Mall too. We're not just a Fayetteville shopping center. We are a Northwest Arkansas shopping destination. So, I have to include Northwest Arkansas Mall with the rest of the retail district. From the City's standpoint, I think the reason that that's important is that 50% of the sales tax revenue is coming from that area. I would like to argue the point that right now we don't have a problem. Because I think we do have a problem. I can stand up here tonight and say only one store that I can name has left the Mall and gone north to the Rogers area. But where do you draw the line in the sand? You know, not all of our leases are turning over today. What's going to happen is whether somebody's on a five-year lease, a ten-year lease, as those leases come up for renewal, those businesses are going to make a decision, do I stay at Northwest Arkansas Mall, do I stay in this shopping district or do I go north? There's only a certain pool of national retailers and I think, really the national retailers are the ones we're talking about right now, it's not as much the local merchants that we're looking at. A large extent of our merchants are national retailers and they are going to be making the decision do I go north or not. If we're not healthy, they will go north. A big reason that I think I've had a problem selling national retailers on coming to the Mall is the access issue. That is probably the number one problem, and forming this TIF I think will help us to do the flyover to make better access to this whole retail-shopping district. I just want to say that I do support it. I think it's very important and I think you should vote for the TIF tonight. Thank you.

Mayor Coody: Do we have any questions for Alice? Thank you very much. How are you tonight, Ben?

Ben Israel: I fell and broke my hand. I've been in Fayetteville since 1966. My name is Ben Israel and I'm a developer with Dixie Development. You know, up until the last few years, I would never have thought that I would have to drive to Benton County to see a movie but every movie I've gone to in the last year or two I've gone to Rogers to go to the movie. About three out of the six times I go out to eat, I go to Rogers to eat. Let's face facts all of those dollars that Ben Israel spent, and I bet if we took a poll around the room, other people in this room have done the same things. Those tax dollars would have come into Fayetteville had those same venues been available for me to go to the movie, get on an airplane, or to shop even. I'm here to address actually a couple of things. One is that in determining the district can we talk about the boundary, is that one of the things we can talk about? You know, we have a project just south of the Washington Regional hospital, the old Younkin airstrip that we have approved through the

City to develop and I notice that that is not in the TIF district. There is a good reason to include it in that our street going through our property will be a feeder street that goes to Drake Avenue, which is a four-lane road leading up to 71 Business. Drake is a four-lane highway going to nowhere. If you all were on the Council when the opposition was trying to get us not to put the subdivision in, they kept talking about the four-lane road that leads to nowhere. It does, Drake Street goes down and dead-ends, and it doesn't go anywhere. We would like to see the TIF district extended to include Drake so that that road could be extended on out to Gregg Avenue and provide access to the hospital from that direction. I noticed in the TIF legislation that it said about getting access to medical services. Right now you can't get to Washington Regional very easily from the south side of town or for that matter from the west side of town. I think if Gregg is being improved now, if Drake could be extended over to Gregg and then a three lane feeder road that we could put in, will put in, leading up to the hospital. Gives a great access to the hospital. The first drawing had that in there. I don't know how it got taken out but the first drawing that I saw had that, down to Drake Street and over to Gregg in the district. The other thing I'm here to talk about is that on the north side of is that Fulbright Expressway? I wonder why it isn't including up to Van Asche Drive or even further north to the city limits.

Mayor Coody: Because that was in the Springdale School District.

Ben Israel: Is that the Springdale School District, it goes that far down?

Mayor Coody: Yes

Ben Israel: Does it stop at Van Asche?

Mayor Coody: No it stops just south of Van Asche if I remember right. From there all the way up to the city limits, just north of the Mall is in Springdale School District. That's why that was included in the first map but not this one.

Ben Israel: We have a very strong interest in the property just north of Fulbright up to Van Asche and even over the hill. It would be east of I-540, north of the Fulbright and west of Gregg Avenue. We're struggling and trying to figure out how we could develop that property. There's about 400 acres in there for mixed-use development. No single developer could put in the infrastructure that would be required to do that. General Growth Properties is working with the Pinnacle Group to develop their 750,000 sq. ft. of retail and mixed-use, they wouldn't even attempt something like that. I mean they're the largest developer in the United States and they're getting TIF district help to put in an infrastructure system there to provide the opportunity to those 200 acres, or whatever it is. Right now we're already battling in Fayetteville as developers a couple of dollars less per sq. ft. than we can get in rental income and about the same cost of building and about the same cost of land. So, if we also have to on top of that pay for the infrastructure of some kind of loop to get off of the interstate to go into that area then we'd be out of the ballpark as far as competing economically. So I would encourage you to think seriously about at least setting up the TIF district. Don't shut us out of that opportunity. Once Steele Crossing fills up, it would be logical to think that you could go across the street, across Gregg Avenue and there's another 400 acres of possible development. It's the heart of the watermelon. It's the most visible part of Northwest Arkansas from every direction and it would make sense to do that. I think there's an opportunity and we have a small window, we hope you'll take advantage of it. I think it everybody's concerned about education in the south and

we're concerned about the people in Sri Lanka today, but we can't solve everybody's problems. You know, we have problems in Fayetteville. I would love to not have to go to Rogers to a movie and I think you would too. I would like to have great access into the hospital and I would like to have other things that could be provided. The developers are sitting around hoping that this happens because it'll allow another part of Fayetteville to open up. There are not enough developers here or that would come in to develop that part that I just described. It would be impossible to afford the infrastructure. The cost to the tenant or the cost to the land buyer would be so astronomical that we would just be out of the market. I thank you. Any questions?

Mayor Coody: Any questions for Mr. Israel?

Alderman Ferrell: How far is it east from the end of Drake Street to Gregg there?

Pam Jones: How far east is it from the Gregg to Drake that four lane road? It's not very far at all. It's a very short distance.

Alderman Ferrell: What stands in between there?

Ben Israel: A creek.

Mayor Coody: Yeah, the topography and a creek. It'd be an expensive extension to get to Gregg.

Ben Israel: And that's why this is the perfect way to do that particular development is with a TIF district because the City's not going to do it or they would have done it already. It's too expensive.

Mayor Coody: Well the reason that we didn't put it on the Master Street Plan was because of the amount of money we would spend to get that extension. We already have Sunbridge and Township, if we could do that extension of Drake it'd be great, but if we've got limited dollars we'd need to spend it other places. That would be a good use of TIF funds if we were to do this district. Now let me ask this, if we were to modify this map to include Mr. Israel's property there, we would need to do that at the next meeting? If we leave it on the first reading, would we modify the map and show that at the next meeting? How would we go about that?

Kit Williams: You certainly can modify the map when the ordinance is coming before you. I think the City Council modified the initial TIF district's map just slightly, went down some different alleys I think, did not separate some properties that had been separated before. So the City Council can modify the map, either at this meeting or any time up to the point when the ordinance would be adopted, actually creating the district and setting for the boundaries.

Alderman Thiel: I thought you said we would have to notify.

Alderman Marr: How's that different than with the Springdale School District?

Kit Williams: No, you could not go into the Springdale area. The Mayor, I think was talking about the southern area where Mr. Israel's property was that's not in the Springdale District.

Ben Israel: South of the hospital.

Alderman Jordan: My question is about Deane Solomon Road.

Alderman Thiel: I thought the notification was also to the property owners, not just the school district.

Kit Williams: No, you're not required to notify the property owners. We do that just to try to make sure everybody knows but that is not required under State law. The property owners are notified because it's published in the newspaper. That's all the State law requires.

Mayor Coody: He is not talking about the 400 acres north of I-540. He's talking about Younklin's airstrip.

Alderman Thiel: I know. Yeah.

Mayor Coody: All right, any other questions?

Pam Jones: Good evening, Mayor Coody, City Council members. I appreciate the opportunity to speak to you tonight. I understand there's a five-minute limit so it'll be four minutes and fifty-nine seconds. No. I'm Pam Jones and I'm a resident of Fayetteville and I'm very privileged to serve on the executive board at the Fayetteville Chamber of Commerce and the transportation committee. But tonight I want to speak to you really as a resident, as a taxpayer and as a Fayettevillian who has very deep roots here. I have two children who are 7th generation Fayettevillian's. I could probably tell you more history about Fayetteville than you would care to hear. I have a heart for Northwest Arkansas and a passion for Fayetteville and I think my perspective is a little bit unique. I'm not coming from legal terms. I'm coming from a Fayettevillian's perspective. About thirty years ago the Arkansas Highway Department came to my husband's family wanting land for a bypass around Fayetteville. A lot of people didn't think that it was necessary, they fought it. They thought all the traffic could go on Highway 71, College Avenue, you know. My husband's family went ahead and allowed the State to purchase the property and it went right down the middle of a beautiful farm. That's where the Fulbright Expressway runs through right now, near Washington Regional. The people that didn't want that I don't think had a vision for what was going to happen to Northwest Arkansas. It wasn't that many years ago, thirty years ago can you imagine Fayetteville now without Fulbright Expressway? I remember when it was just one lane on each side. People wondered at the time why they didn't go ahead and do two lanes. It was because they didn't have money. About ten years ago the Arkansas Highway Department came knocking again wanting more of my husband's grandfather's farm to make the loop to go north to Rogers. A lot of people thought that was kind of silly. But I'm very glad that some people had the vision for that because they understood that our area was going to grow. Once again, I'm really glad that his family, my husband's family gave up that land for the benefit of Fayetteville and for the benefit of Northwest Arkansas. It's been discussed tonight, as each of us know, our city lives or dies by our sales tax revenue and you also probably realize the largest property owner in Fayetteville is probably the University of Arkansas and we're blessed to have the University of Arkansas here. However, our city doesn't receive any benefit from the property tax of all of its holdings. With that being understood it makes sales tax revenue even a more vital issue to each of us and to our city's lifeline. We have an opportunity here and it's knocking at our door. I don't think that this

is really a competition between cities or even different areas in Fayetteville. I think this is common sense. This is looking at an opportunity that could benefit our region and our city. A huge percentage, as has been discussed, of our sales tax revenue comes from the I-540 area, particularly around the Mall and that area and it services our region. It's Washington Regional Medical Center I can't imagine Fayetteville without Washington Regional Medical Center. It took a lot of vision for the people who wanted to bring that new facility to us. Every time I drive over Fulbright Expressway, especially at night, and I look out and I see Washington Regional Medical Center and I think about all the families that are being serviced by that beautiful facility, I'm grateful that somebody had the vision for that. Can you visualize Fayetteville without the Walton Arts Center? There were actually people who were opposed to that. Can you visualize Fayetteville without the new Blair Library? How do we pay for that library? How do we maintain it? How do we pay for our parks? How do we pay for many of the wonderful things that make up Fayetteville? We all know, sales tax revenue. Fayetteville is not just for Fayettevillian's. It is the home of the University of Arkansas. Can you imagine a Fayetteville without Razorback Stadium? Without Baum Walker Stadium? Without Bud Walton Arena? Fayetteville is an experience. People come from all over our great state to all kinds of events here. They need places to eat, sleep, enjoy and experience Fayetteville. I believe we desperately need this TIF because our infrastructure is already so far behind. Each of you has a fiduciary responsibility to the vibrancy of Fayetteville. This is your opportunity to do something fantastic for Fayetteville. In conclusion I have a couple of questions for you. Do you have the vision for 2020? It's only fifteen years away. Do you have 2020 vision? I hope you do. The need for this TIF is crystal clear, especially for those who have lived here for generations. We have this opportunity, let's not miss it.

Bill Ramsey: Bill Ramsey, Fayetteville Chamber of Commerce. I started to tell Pam that she could have part of my five minutes because I don't think I'm going to need that much time. I have sent each of you quite a bit of information the last few days and I'd like to review some of that and make it public. Much has been said about the Mall and the mall area. It seems like it's been a year ago when we started, about a year and a half ago some people in Little Rock told us we needed to do a better job with Economic Development. The City and Chamber came together and we started talking, and you heard from Steve Rust tonight. Steve is the result of those conversations. But in order to do a good job and do a responsible job of approaching that partnership as it turned out, we hired the services of a gentleman named Tom Tichnor, Tichnor and Associates He's from the Chicago area and you know the old saying, sometimes you've got to get somebody carrying a briefcase from out of town to open a few eyes and lend a little bit of credibility to some of the problems that you may have. In your packet I included just part of his presentation after he had spent three days in this community and doing a swat-analysis, if you will. He identified Fayetteville's strengths, Fayetteville's weaknesses, opportunities, threats, and made a lot of other recommendations, including the recommendation to proceed the way we did with the Fayetteville Economic Development Council. He said we had some definite strengths: The University of Arkansas, our role as a professional services health care center, Washington Regional if you will, the Northwest Arkansas Mall, downtown Dickson, quality schools, rapid population growth, those are all strengths. Boy, that sounded good and we were feeling pretty good at that point but then he said you've also got some threats. Number one threat he said was becoming a bedroom community. I've heard Bobby New say many times that bedrooms don't build classrooms. Number two was the eroding share of our retail and entertainment spending sales tax base, you've heard some comment about that tonight. The one that really caught my eye or attention I guess is the one that we've talked about and I think one of the reasons we're here

tonight. Detrimental regional highway layouts threaten the future of the Northwest Arkansas Mall. Now here's a guy a year ago that came in, analyzed our community in three days and came to that conclusion that I think is one of the reasons we're here tonight. Shortly after that, there was a regional highway hearing in Springdale as a result of him opening our eyes. You have this in your packet also, we took a delegation to the regional highway hearing in Springdale and it was signed by not only the Chamber but the Mayor, John White, people at Washington Regional, Alice Church at the Mall, Ben Israel, Bob Davis who was an alderman at that time, Larry Shackelford with the medical services, Jack Morris with Washington Regional and Wayne Jones who was the chairman of the transportation. We went as far for the first time I think to have a united front to that highway hearing. I'm not going to read you all of this but this is what it says, when you talked about the problems out there at the Mall, accessibility problems, "a solution is necessary. This is our top priority. Our objective is to find a short-term solution that is satisfactory while we continue to study the long-term solution." I think you have an opportunity here tonight for that long-term solution. The other thing that I would like to call your attention to, and this gentleman really wanted to be here tonight, he's in Fayetteville today as a result of that same meeting a year and a half ago, a legislator at that time named Danny Ferguson. He decided after visiting a middle school in Fayetteville that he didn't want to continue sending his child to school in Forrest City, Arkansas. He's been a former mayor, a former State representative, a former Chamber executive and an economic developer from that community. He recently moved and is back in the private sector. He was a term-limited legislator and is now a Fayetteville resident. He was present when this 2001 act that Representative Hausam passed, he sent you a letter tonight. I'm not going to read that to you, but one thing that he really pointed out, and I'm not going to go over the number of votes that the legislation got, but it's been said so many times lately that this legislation only applies to blighted areas. That's not true. If you read the Act itself, the second page, it lists seven criteria for qualifying for the utilization of this TIF tool. Improve your communities, number one, blighted areas, number two and number three, improve the commerce, welfare, prosperity and living conditions of their people. Number four, provide new employment opportunities, number five talks again about blight and decay and number six, affordable housing. But number seven is improving the tax base and general economy of the state. This I-540 TIF qualifies under four of those seven reasons for taking some action on this opportunity. The reason I say opportunity my daddy always said to me, 'opportunity knocks once'. Folks, I think that's true. You have an opportunity here tonight and I don't see any down side. It's been said, you heard your City Attorney, if there's a ruling on the twenty-five mils or if the Legislature makes some change, you don't have to do it. But I guarantee you if you don't take some action here tonight and take that first step, you're probably not going to get to take the second step, because it's been said the Legislature's probably going to make some changes. My experience as a former legislator is that if they do, the ones of you that have taken that step are probably going to be grandfathered in and you're going to be able to utilize this tool. But if you don't take that step tonight and take it very soon, that door's going to be shut and then you're going to be subject to whatever comes down after changes are made. There's not a down side. Just like what Pam said, let's not look back a few years from now and say, "oh, we missed an opportunity in January of 2005 to do something for the City of Fayetteville." I hope you will consider that and vote to establish these boundaries. I'm certainly not an expert on the law or anything, but I'll try to answer any questions that you might have.

Mayor Coody: Thank you. Do we have any questions for Mr. Ramsey?

Alderman Jordan: Bill in your opinion, do you think there will be changes to this TIF in the next Legislative session?

Bill Ramsey: I think there's a possibility there will be some changes. I don't know when that is. It depends on whether the changes are made and whether they have an emergency clause or when they'll take in effect, but I think if you act now there's a good chance you could utilize this tool in its present form. If you wait and if they take the twenty-five mils out probably nobody's going to utilize that tool anyway. But certainly if you don't take this first step, you're not going to have the opportunity, folks. It's just not going to happen if you don't take this step. There's not a down side. This doesn't obligate you in any way except an expression to not only this city but to everybody that we took that first step and this is something that we want to utilize as an option. Something we can do for our citizens.

Mayor Coody: I have a question. With your statewide perspective, do you know of other TIF's in the State besides ours?

Bill Ramsey: Yes. I don't know all of them. I was in Little Rock about a month ago and a gentleman that was at the meeting that I was at named Paul Latour said, "we passed our TIF last night". That was about a month ago. I think Jonesboro's farther along than anybody and Rogers of course has got their approval. They have their plan in place. They haven't sold any bonds but the traditional wisdom around the state is that those folks are probably all right even if there's some changes made.

Mayor Coody: What did they do in Jonesboro, what's their TIF like?

Bill Ramsey: I don't know. David Hausam can you enlighten a little bit there?

Kit Williams: It was to help a new mall get established. It was infrastructure to support a new mall.

Mayor Coody: And in Little Rock?

Bill Ramsey: A Bass Pro Shop in North Little Rock. That whole project was what that one was.

Mayor Coody: All right. How far along are they in the works? Have they started construction?

Bill Ramsey: Nobody's started construction.

David Hausam: I think the only one that's been actually financed is the one in Jonesboro that is my understanding. There's creation of TIF's, I think there's three in Pine Bluff that are in various states of flux about whether or not it's even feasible to do them. I think Searcy may have one in process.

Mayor Coody: What kind of development would that be? Commercial development?

David Hausam: It'd be a shopping center type project. Then there's been several others talked about but everybody's in kind of different states of flux on it.

Bill Ramsey: I think the important thing about that is, this is not just a Northwest Arkansas phenomenon. You know, this is being considered and used around this state. So, we've got a lot of other people in the game with us.

Mayor Coody: Bobby, did you have a question?

Alderman Ferrell: Yes. Bill, didn't the Municipal League statewide really get behind this real strong when it was being formed in legislation?

Bill Ramsey: Yes, sir they did. The Municipal League, the Association of Counties, the State Chamber, AIA, all those organizations and you heard two people say, including Danny in his letter here, there was no legislator that voted against it. There were a handful of people that didn't vote, but there was not a vote against the legislation. Thank you all.

Mayor Coody: Any more questions for Mr. Ramsey? All right. Thank you, sir. Who else would like to address this? Hello, Richard. Are you here to ask us to include the University farm in the TIF district? Please say yes.

Richard Hudson: Hello, Mayor. No, sir, I'm not. I'm Richard Hudson and I'm here tonight as the Chairman of the Board of Directors of the Fayetteville Chamber of Commerce. I'll be very brief. I think you've heard some excellent points made tonight that have given you a lot to think about. I respect the difficult decisions you have to make and I think the simple thing to do on an issue like this is just to do nothing, just to preserve the status quo. But I sincerely believe that that's one reason our state ranks near the bottom in so many things. I think we just, from time to time have to be innovative and step out and take some chances and see if we can do some things to stimulate our economy. I think the I-540 TIF addresses a truly critical need to Fayetteville, particularly in its economic future and I would urge your support.

Mayor Coody: Any questions? Yes, ma'am.

Alderman Lucas: Yes. I have a question. It was mentioned earlier that this possibly would hurt, say the University or us getting funds from the State if we do this in Northwest Arkansas because we're considered having streets of gold or something. I know you're wearing two hats with the University and the Chamber, so I was wondering if you felt that it would hurt the University in the Legislature?

Richard Hudson: I don't believe so. I think that the University, as the State goes so goes the University. If we're stimulating the economy in the State, in the long term the University and other institutions of higher education are going to benefit from that.

Alderman Jordan: So, Richard it's your opinion then, if the State has to bail out well, not bail out but they have to guarantee the funding of the schools and they have to take it from other sources in the State, that you don't feel that higher education will be hurt then?

Richard Hudson: No more than other aspects of State government there may be some very short-term loss there, but I think we've got to look at the long term and generate more economic development in the State. I think we have to look at the big picture.

Alderman Jordan: But there could be some loss.

Richard Hudson: Conceivably.

Alderman Jordan: Thank you.

Mayor Coody: Any other questions for Mr. Hudson? Thanks, Richard.

Mike Johnson: Mike Johnson, resident of Ward 2. I've learned a lot since Tuesday night and it just reinforces what I said Tuesday night. I think that the City staff, the Mayor and the Council has the opportunity with the potential for well thought out TIF's to make some boundary decisions, to make some plan decisions that in all opportunity there's some risk. It's not a zero risk world. The biggest risk I see is doing nothing. When you look at our community and where we need to go. I think there were some very articulate people that preceded me, so I will just reinforce even more strongly what I said Tuesday night. I think with the I-540, the boundary, the opportunities to modify boundaries, the opportunities to modify plans and the opportunity to not put yourself at a high level of risk by issuing bonds until we're had some other things play out. There are a lot of attorneys and there are a lot of other people that have opinions. The true proof of the matter is the interpretation of law will end up in the Supreme Court if in fact it has to go somewhere. All the rest are only opinions. Obviously you have to listen to opinions. The biggest risk is in doing nothing. Thank you very much.

Mayor Coody: Any questions for Mr. Johnson? All right. Thank you, sir. Anyone else want to address us? Hello, Donnie.

Donnie Story: Well I appreciate the opportunity to come before the City Council this evening. It's been six years since I had an opportunity to speak to this Council. I am Donnie Story with Arvest Bank, President of Arvest Bank here on the square. I'm here tonight in favor of this TIF district. I have a, I think a unique perspective on this issue. The fact that I've been gone for six years, I was transferred out of Arvest to another Arvest location in Oklahoma, so I've been away for six years and just returned this past year in mid-year and was surprised to see all the change that's gone on in Northwest Arkansas, specifically in Fayetteville. Specifically in this TIF area that we're talking about in the Mall area. What was even more surprising to me was how this area continues to be so inaccessible. With all the expansion that has gone on in this area, it was very surprising to see how hard it still is to get into that area. We have three locations in that general area of this TIF district, mainly around Joyce Street and also the Northwest Arkansas Mall area. I think this TIF district, I've seen TIF districts used before, I think it's a painless method to solve some of the infrastructure and accessibility area issues that we have in this critical medical and regional retail area. In summary, I would like to encourage the adoption of this TIF district tonight. I think it's very wise to go ahead and approve it tonight and then let the Legislature and all the legal issues kind of sort themselves out but I think if you don't do it tonight, you're going to miss an opportunity that we're going to regret. My kids and other kids that are going to school here, going to school other places, aren't going to have the same things that Pam talked about and see the vision the vision that we had years before that has made Fayetteville such a great place. I chose to come back to Fayetteville, Arkansas. When they gave me an opportunity, this is where my family, my wife, my two sons, this is where we wanted to come back to. We could have stayed right where we were in Bartlesville, Oklahoma and led a great life but we chose to come back to Fayetteville, Arkansas because it is such a vibrant area

and because Fayetteville's such a unique place. I hope that we'll do this tonight. I think it's a rare opportunity we have to put to work dollars to change infrastructure and really help us from the standpoint of infrastructure. So I encourage you to do this tonight. I'd entertain any questions.

Mayor Coody: Any questions for Mr. Story. Thank you, sir.

Bob Davis: Well yes, sir. How are you, Mayor? I'm Bob Davis, a resident of the City of Fayetteville. Everyone who's spoken tonight has made some very good points and I agree with everything that most of these people have stated. I'm going to be very brief, there are three things that I see are very important. One is job creation, two is street improvements, and three is also the sales tax revenue, which you all just passed a deficit budget of \$2.2 million so we definitely need to see additional sales tax come in the future. Lioneld you're on the Street Committee and you'll recall that we looked at Shiloh and Gregg Street and we wanted to make sure we widened that area, not only for ingress and egress to the Mall but also for safety purposes, so people could have better access to the expressway. We knew at the time it was only a postage stamp to the problem. Should we pass this district, this can help us alleviate and take care of that postage stamp and solve the whole problem. Those three points and then this last area, which everyone's already stated numerous times but I'll state once again, it appears that basically everyone's concerned over what the future legislation of the TIF district might be. Well, that is a concern that no one knows what the end result will be. But we do know that the session begins Monday and they will probably be looking at changing the present guidelines. Will they decide to grandfather in the existing districts? Will they decide to only allow those that have already sold bonds? Will they do something in between? No one knows. I would like to see you guys proceed tonight with all three readings and then enact the emergency clause so that should they decide to accept districts that have been created, we fall within that. There's a wonderful opportunity for the City of Fayetteville and I hope you all go ahead and do it tonight.

Mayor Coody: Thank you. Any question for Bob? All right. Thank you very much, Mr. Davis. Anyone else want to address us tonight?

Frank McIlwain: My name is Frank McIlwain. I'm a resident of Fayetteville and I work in Fayetteville. I've had lots of time to look at you and look at the two boards behind you tonight. I think tonight you have a unique opportunity to exercise your guiding principles and go towards your goals for 2008. So I want you to open that door and take the first step tonight. Thank you.

Mayor Coody: Thank you very much. I think this has set the bar for brevity. Thank you.

Phil Ralston: Good evening. I'm Phil Ralston. I'm a resident of Fayetteville. I had no intention of coming down here tonight but sitting home watching this TIF love fest on television made me think that something needs to be said. The first speaker got up and started out being a little negative about the TIF and was asked to stay on topic. Everybody since then has been for the TIF and has been allowed to ramble on with whatever they had to say. I just want this Council to understand that they've got a policy or a statement that you've got to stay on topic, but it seems like that's only enforced when the person who is getting off topic is against what the Mayor is for. I want that brought to your attention because last week we had a TIF meeting and I was here and spoke and then the wife of the developer got up there and she had nothing to say about the TIF but she had very glowing remarks about her husband, which we would expect but it's not on topic. I think you guys, you're down here for a purpose other than to hear all of the Walton Arts

Center, and we had to build it. Who would have thought we would ever do without it. Now that's my point. You guys are following the rules when you want to and you're not being very consistent.

Mayor Coody: I would like to point out two quick things. One is that we did take the plan discussion off the agenda at the beginning of the meeting and I believed the discussion was going to be on the plan. Second thing was, we welcome your comments tonight, even though they were off topic, we welcome them anyway. Anyone else like to address us tonight? Is that it? I'm going to close the public hearing. The public hearing is hereby closed. Now then we'll bring it back to the City Council.

Mayor Coody closed the public hearing.

Kit Williams: Well now we need to read the ordinance, Mayor.

Mayor Coody: Okay.

Kit Williams: If the public hearing is over, then we need to go to the second part on the agenda.

New Business:

I-540 Redevelopment District #3 Adoption: An ordinance forming the I-540 Redevelopment District Number Three pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

Mr. Williams read the ordinance.

Mayor Coody: All right. Any comments from the City Council on this particular ordinance? Yes, ma'am?

Alderman Lucas: We're talking about the outline of the district.

Mayor Coody: Yes.

Alderman Lucas: What do you all think about bringing it down to Township and eliminating the west of Deane Solomon Road? All the way over to Knapp Street just straightens it out there. Would that impact anything, Tim that we shouldn't?

A discussion followed on the boundary Alderman Lucas proposed.

Mayor Coody: Let me interject here one of the things we tried to do was to stay out of residential areas and just focus on the commercial areas of Fayetteville. There may be a lot of residential area in here and that might have been the reason why that wasn't drawn that way.

Alderman Lucas: Was that it, Tim? Because Township is business and so is Gregg, all the way down there.

Tim Conklin: The Mayor is correct, we were trying to avoid residential areas where we could and within there you have a lot of residential areas. You do have commercial along Township and in certain parts of it, but that was basically one of the reasons.

Alderman Lucas: Well, there is no commercial on the west side of Deane Solomon Road. That's all residential isn't it?

Tim Conklin: Yes, it's residential, currently vacant a lot of it.

Alderman Lucas: It's all zoned?

Mayor Coody: It's undeveloped as well.

Alderman Lucas: But it's zoned residential.

Tim Conklin: Yeah. It's most likely zoned RSF-4.

Alderman Jordan: Yes, and it's developing like hotcakes.

Alderman Lucas: Yeah, it is.

Alderman Marr: May I ask a question on that one point? What does our future land use plan have for that area? Is it residential or commercial?

Tim Conklin: It has commercial areas and nodes.

Alderman Marr: No, I'm talking about west of Deane Solomon...

Tim Conklin: Oh, west of Deane Solomon Road? Most likely it's residential shown on our land use plan.

Alderman Lucas: The reason I brought this up, because in the future we might put Township all the way through to Garland if it was in the TIF district, if we amended it later, or put it in our plan or something.

Tim Conklin: I think the University farm was not included as one of the reasons also.

Alderman Lucas: Oh, does that take in the University farm then?

Tim Conklin: Yeah. Everything south of Drake Street is the University farm and McConnell Avenue to the east.

Mayor Coody: One thing we wanted to do is to focus on the I-540 corridor and focus on land that hadn't been developed out yet. This gray area is the bulk of the reasoning for that outline. If there are areas that are zoned residential, that will be residential that is undeveloped right now, then it would be up to the Council you all could extract that from the district. Yes, ma'am?

Alderman Thiel: I like where you're going, Shirley. I guess I was looking more along the lines of just taking Drake Street all the way across to College.

Alderman Lucas: Sunbridge is commercial?

Alderman Thiel: No, Drake Street.

Alderman Lucas: I know, but south of that is commercial.

A discussion continued on the plan boundary.

Alderman Thiel: I have a question for the City Attorney. If we're going to do this, I certainly feel like it's, based on the comments that we've heard, I really think it's critical that we go farther north in the Springdale School District.

Kit Williams: So if you intended to go into the Springdale School District area that would require re-notification.

A discussion continued on the boundaries.

Alderman Thiel: Can we adopt it like that and then still move forward with getting this notification done or should we wait? That's the question.

Kit Williams: I don't know what you should do. But I will tell you that you can amend the border if you chose to in the future after you go through another notification process.

Alderman Thiel: Okay. So we could adopt it and then amend it at any time.

Kit Williams: That's correct.

Alderman Thiel: I think the concern out here, though, is that we get this adopted tonight. I guess the urgency to adopt it tonight is in case the Legislature makes some very quick ruling that changes all of this could we still come back? Would we be grandfathered in with what we've adopted but could we grandfather in the part that we want to add?

Kit Williams: I can't give you an opinion on interpreting a State law that has not been written yet.

Mayor Coody: Let me jump in here. I want to answer one question. There's not an emergency to pass this tonight because even though the Legislature starts meeting, I think Monday, I don't believe much is going to happen the first couple or three weeks. Do you think that this will be acted on within the next two weeks of the Legislative session?

Lindsley Smith: Well, it would have to go through a committee process to reach the floor and you know how long the committee process could essentially take. It's expected that there will be one day of ceremony which will be the swearing in by Justice Hannah, which would be day one, then in theory, the rest of the week, starting to meet with committees. Yes, that's correct. It could be at least three weeks.

Mayor Coody: Okay. But it could be sooner than that? I mean, what's the quickest that they could move if they so wanted to?

David Hausam: Well first off, there's not been legislation introduced. So you've got to file the legislation. I think it's twenty-four hours notice or read across the desk basically twice and then they assign it to a committee and it's generally the next day that they can hear it then, so you're talking about the first hearing in the committee which could be three days, four days after session starts or after the legislation is introduced.

Mayor Coody: So if somebody had a burr under their saddle and wanted to get this thing done quickly, what's the time frame we'd be looking at?

David Hausam: If you really want to get in and out quick, two weeks. There are a lot of variables in there.

Mayor Coody: Sure. I understand.

David Hausam: If the train was moving down the track, you could get it done in two weeks.

Mayor Coody: All right. Thank you very much. Are there any questions concerning the procedure in Little Rock?

Alderman Ferrell: I have a question, Mayor, concerning this procedure. If we were to pass this tonight it would still be subject to some modification later on?

Mayor Coody: Yes. We can always come back and amend the district and the plan. But if we amend them, we just have to do the public hearing process over again, just like we're doing tonight. But it's certainly amendable.

Alderman Thiel: We can make amendments on this except for the school district part, tonight.

Mayor Coody: Okay. Yes. That's what I understand from our City Attorney.

Kit Williams: Yes. Let me read it, there are specific requirements for additional notification when you modify the project plan, but for the boundaries, it just says the boundaries of the Redevelopment District may be modified from time to time by ordinance of the local government. However, if the boundaries are moved into another school district, we would have to go through that whole procedure of writing them the letters and I would recommend we also publish it in the newspaper and everything else, just as if we were starting over. Especially if they might be somewhat against this plan, we want to make sure we jump through all the hoops exactly right.

Mayor Coody: My perspective would be, if this is adopted, I would not adopt it without full vetting by the Springdale School District and be able to answer concerns and really not spring anything on them. I bet with good negotiations, they might actually find the reasons to be on board with us. Lioneld, you wanted to ask something?

Alderman Jordan: Yes, I would recommend just a little bit of restraint. Now I know that this may be a wonderful thing and I'm not saying that it's not. But I really feel as though we need to wait for the Attorney General's opinion before we launch into a lot of work and a lot of planning and a lot of this and a lot of that because he could just take the whole thing out in one opinion. Now I don't know how long that would be. But it would probably save us a lot of time and probably a lot of taxpayer's money if we just didn't rush into this too quickly until at least we hear the Attorney General's opinion.

Mayor Coody: Now one thing that we could do is approve the creation, because where we are is where we are. Not approving it tonight or approving it doesn't make us spend any more money. What we could do if the Council is so inclined is approve the creation and give the staff the time to work on a plan and come back later on with a plan and by then the Attorney General might have expressed an opinion. That would give us some time, at least we would have the district created.

Alderman Jordan: Well this is just the first reading of the creation of the district.

Mayor Coody: Right. Yes, it is.

Alderman Jordan: So we could leave it on the first reading.

Mayor Coody: Yes.

Alderman Thiel: And it would come back at the next Council meeting?

Alderman Jordan: And then, we'd come back again and then we'd come back again.

Mayor Coody: Yes.

Alderman Ferrell: Could I ask a question on that?

Mayor Coody: I think Don wanted to ask a question.

Alderman Marr: Go ahead.

Alderman Ferrell: Here's one of my concerns on this if it was just the first reading tonight and let's just say it would be two more weeks probably before it was read again then the ones that are grandfathered get to stay, then we'd be behind the door, wouldn't we? If we hadn't passed it?

Mayor Coody: That's anybody's guess.

Alderman Ferrell: If they didn't, it could be different.

Mayor Coody: There may be a difference between whether we had actually created a district or not created a district. There may be a difference. No one knows the answer.

Alderman Jordan: That's right. I think that was my question, we're not for sure that we would be grandfathered in anyway.

Mayor Coody: Right. Yes, sir?

Alderman Reynolds: Why can't we change the district boundaries. The Street Committee for quite some time now has been talking about an east/west corridor, which is Township. We wanted to extend that. Shirley, I like your idea, I think it's great that we take west of Deane Solomon off of here and we bring it down to Township and we also offer Mr. Israel a chance to bring his project into this map. If we do all that then I think we've got the district complete, the boundary's what we want. Go ahead and vote on this.

Alderman Lucas: Can I make that as an amendment?

Mayor Coody: Certainly.

Alderman Lucas: I would like to make that as an amendment.

Mayor Coody: Now, be specific about the boundary district.

Alderman Lucas: Okay. Down to Township....

Kit Williams: Between College and Gregg?

Alderman Lucas: Yes, and then we can go back up to Drake, if you say it's best not to take in the University farm, we can go back up to Drake and then over.

Kit Williams: You can go to Gregg; it's just that if you cross over Gregg heading toward Garland, that's when you get into the University farm.

Alderman Lucas: That's right. So we would go back up to Drake, then and then over. We're taking in all this area here and up to Drake Street and take west of Deane Solomon off, north of Mount Comfort, west of Deane Solomon.

At Mayor Coody's request, Tim Conklin outlined Alderman Lucas' boundary amendment on the PowerPoint map and the alderman discussed each street and boundary.

Alderman Lucas moved to amend the boundaries of the TIF as outlined. Alderman Reynolds seconded the motion.

Mayor Coody: Now on Gregg, we already have all the right of way we need, it's railroad on the west side anyway so it's not going to make any difference. Yes, ma'am?

A discussion followed on the new boundary proposed by Alderman Lucas.

Mayor Coody: Is there a chance the University would ever sell the University farm for a commercial development and use the money to buy rural land someplace else?

Richard Hudson: I don't know the answer to that question, Mayor. I do want to point out that the University farm is not an operation of the Fayetteville campus. It's one of several farms

scattered all around the state and is operated by the Division of Agriculture which is located at the UA system office in Little Rock. So that would never be a Fayetteville decision. That's a Division of Agriculture decision.

Mayor Coody: If they saw how much value that land had in it do you think they'd ever want to peddle it?

Richard Hudson: If I were them I would certainly consider it someday. But I'm not them.

Mayor Coody: We'll modify the plan later. So we have this modification. Kit do you want to basically redefine this modification one more time? I mean not modify it but just re-describe it?

Kit Williams: Well, it's just basically all of the land between Gregg and College Avenue, down to and including Colt Square and then omitting and leaving off, removing all of the land from Deane Solomon Road to the west.

Mayor Coody: Now that's your motion, Shirley, is that right and Swiftly, that's your second.

Alderman Lucas: Yes.

Alderman Reynolds: That's right.

Mayor Coody: We have a motion and a second to amend the TIF map. Any other discussion from the public on this? Seeing none, any other discussion from the City Council?

Lindsley Smith: I just have a question. Kit, under the TIF rules, and I'm just thinking like an attorney here, but under the TIF rules, does it have to be opened back up to a public hearing if this is modified, it becomes a new TIF district? I just mention that because it might be something to consider here.

Kit Williams: No, obviously this ordinance has not been interpreted by the Supreme Court so I can't tell you for sure one way or another, but I would assume that it would not be required to have an entirely new public hearing. If you need a new public hearing, you have to have new notification of everyone. I don't think that that's it. I think certainly the ordinance itself is being discussed now and the public is entitled to continue to contact and have public response and public hearing. That's what the Mayor just asked for, but I don't think we need to go through a formal public hearing with re-notification and everything else just for a modification of the borders.

Lindsley Smith: Under the TIF statutes, where it lays out what you have to do.

Kit Williams: Yes. I mean, in looking at it and I read that at one point, it said that the boundaries of the Redevelopment District may be modified from time to time by ordinance of the local government and it did not call for the actually a subsequent public hearing requirement. Now when you modify the project plan, you do have to have an entirely new notification. The boundaries in the State statute do not require another public hearing.

Lindsley Smith: For anybody that's included in the new district now.

Kit Williams: Notification was not required of property owners. That's something the City did on it's own just to try to make sure everyone was notified. You only had to notify the Chief Executive Officer of all taxing units and the school board by letter and then publish it in the paper.

Lindsey Smith: Thank you.

Mayor Coody: Any other questions or comments by the public on this item? All right, I'm going to close it to public input. Any other questions or comments from the City Council? Yes, sir?

Alderman Marr: I'm not going to support the amendment. I think it's a good decision to take the land west of Deane Solomon Road out because I think the future land use plan speaks to it as being residential and if we stick to that vision I don't think it should be in there to begin with. I think back to the very first discussion that we had on the Mountain Inn TIF and I tried to add Block Street the entire way and many of you at the time, while we aren't required to give public notice, felt that it is the spirit of this Council to have done that and to make sure that everyone is aware of what it was that we were doing. So I think when you start adding area then I have a concern. I also have a concern that part of this area that you have highlighted is a residential area which I think doesn't warrant part of this area. So it's for those reasons I won't support the amendment.

Mayor Coody: Any other questions or comments?

Alderman Lucas: Don's absolutely right. The first time I know I voted against adding to it because we didn't really understand what we were doing I don't think. I think now we look back and we realize we were wrong in not adding Block Street. I regretted having voted against that. That's why I thought we could change it now because I feel differently about that. I think we made a mistake the first time by not including Block Street.

Mayor Coody: Any other questions or comments?

Alderman Thiel: I will just say that I tend to agree with Don that we have added back residential. I think there's always been a lot of interest in extending Drake, whether or not that would ever feasibly come out of this project, economically speaking, that might not happen. I kind of agree with encompassing a certain area down there that would include extending Drake Street. It concerns me that a big part of this is commercial. I think a lot of seniors live in that area and I think without their notification that concerns me, plus the whole argument was to take residential out and we're turning around and we're adding back the same amount of residential. So I think I would agree with Don. I will not support this amendment.

Mayor Coody: Let me ask a question. If the intent is to be able to extend Drake Street over to Gregg and the property owned by Ben Israel's We could just take in that extension area and Ben Israel's property, would that basically accomplish the same goal?

Alderman Ferrell: You're talking about leaving out the rest of this residential?

Mayor Coody: Yes, essentially.

Alderman Lucas: That's business though, Sunbridge that's commercial.

Alderman Jordan: Can I say something here, Mayor?

Mayor Coody: Please.

Alderman Jordan: Before we carve everything up like a jigsaw puzzle, let me ask you this. If this was just left like it is and we can add what we want later on we could leave it on the first reading tonight, then we could add it on in two weeks. Could we not?

Mayor Coody: Yes.

Alderman Jordan: And that would give the public time to be notified.

Mayor Coody: Now are you talking about this map that we have?

Alderman Jordan: This new area that we've drawn.

Mayor Coody: You mean with the amendment?

Alderman Jordan: Well, no.

Mayor Coody: Without the amendment.

Alderman Jordan: Yeah.

Mayor Coody: So the original map.

Alderman Jordan: Just the original map.

Mayor Coody: That would give everybody a chance to think about it.

Alderman Jordan: We can notify the people in that area.

Alderman Reynolds: You want to leave Deane Solomon on there?

Kit Williams: I think everybody's in agreement to remove Deane Solomon.

Alderman Jordan: Yeah, everybody's in agreement to remove Deane Solomon, but Don brings out a good point. Because what you're doing is that you're doing stuff without notifying people.

Alderman Thiel: We don't notify the people.

Alderman Jordan: You don't send out letters?

Mayor Coody: No. This was public notification through newspapers. We couldn't afford the postage to send something to everybody...

Alderman Jordan: But we haven't done that. We talked about this at the last TIF, we did do that.

Mayor Coody: It was a small area; it was easy to deal with. Yes, ma'am? Lioneld, are you finished?

Alderman Jordan: Yes, I think so.

Alderman Lucas: If my amendments or my amendment is going to sidetrack this, I'm going to withdraw it. I hope Swifty will agree to that because I think it's important that we deal with this TIF tonight. I think that everything that's been said tonight shows that we need this TIF. We need it for the viability of the Mall, the commercial area and I'm very much in favor of this TIF. So, if it's going to sidetrack that, I would be willing to withdraw my amendment and we can then look at this boundary later on. Everything that was mentioned tonight I think it meets the criteria of the TIF. I think we need this for our economics and a menace to public safety. Van Asche would open up the commercial area to the west part of town and I think that's very important. The west side of Fayetteville must come to College and Gregg, the northwest area, which is really developing. A lot of you may not have even realized how much it's developing out there. But they have to go to Gregg or to College or go through Johnson to get to this commercial area. So I think it is very important, that we extend Van Asche. Some of the others I have questioned, but this TIF district I believe is important in this area and I think that the criteria supports it. We have other resources that we can help with the development of this and I'm sure that we will tap those. But right now I think it's very important that we get access from I-540 and from the west side of town to this area. It was mentioned by Ms. Church, that we must keep this area strong as a destination place. If the Mall doesn't continue to thrive, you've seen it happen in other cities, a new commercial area comes in and because it's so much more accessible and so much more convenient, people go there and the other areas dry up. Any commercial growth we can encourage in this area will keep the area and the Mall alive and thriving. We're already working on completing Van Asche to Gregg Street and I think this is just the next important step. So I think this is very important for us to move with this. Like you said, we can pass it and then we can worry about the redesign of the district. I don't see any reason to delay.

Mayor Coody: So, back to your amendment. I appreciate your words

Alderman Lucas: I'll withdraw it.

Mayor Coody: I know you'll withdraw it. Do you still want to include or exclude that land west of Deane Solomon?

Alderman Lucas: I think that we need to keep it as it is because I think the other TIF district was figured on the boundaries and was based on what would come in to support what we had planned, the plan. So until we have made sure we've got something else to replace this, we won't be able to support this plan that's being brought forward, will we?

Mayor Coody: Well, that's variable. We have a rough plan. We don't have the finished plan yet because we didn't want to pour a ton of time into a plan if the City Council wasn't interested in the creation. Now if the City Council approves the creation, then we can put more effort into fleshing out the plan. The reason we included the land on the west side of Deane Solomon was because, it may be zoned residential for future land use. We'd be able to see a big spike in property values when that does develop. Whatever you guys want to do. We left it in there because of the potential income for developing things within that district that that income would help us with.

Alderman Lucas: For right now I'll just withdraw my amendment.

Mayor Coody: And go to the original map.

Alderman Lucas: Yes.

Mayor Coody: And Swifty?

Alderman Reynolds: Yes, I can.

Mayor Coody: So you would withdraw your second.

Alderman Reynolds: Sure. She's got a new one on the floor, right?

Mayor Coody: I don't think so. There's no amendment.

Kit Williams: No, the amendment's been withdrawn.

Mayor Coody: Yeah. Is there a motion and a second to approve the original map? Do we have that motion and second?

Alderman Reynolds: So moved.

Alderman Marr: Aren't we on the first reading?

Kit Williams: The map is only going to be approved by ordinance when the ordinance is finally passed. So you can't approve the map without approving the ordinance.

Mayor Coody: Okay. Thank you. In that case, since the map is part of the ordinance is there a motion to approve the ordinance?

Kit Williams: No, they were on the first reading. You would have to suspend the rules and go to the second and third reading.

Mayor Coody: Thank you. It's been a long evening so far.

Alderman Thiel: Mayor, can I make a couple of comments about the ordinance? I very much respect Representative Lindsley Smith and I agree that this district probably doesn't follow the exact letter of the law, but I also agree that...

Mayor Coody: I want to stop you right there because I think that, Kit does this or does this not follow the letter of the law?

Kit Williams: My advice to any alderman that thinks this does not follow the letter of the law would be to vote against it, I...

Alderman Thiel: Could I finish my statement?

Mayor Coody: That was an important thing to have to answer, though, because that statement might have...

Kit Williams: We do have to follow the letter of the law.

Mayor Coody: Okay. Now, go ahead and finish your statement.

Alderman Thiel: Forget it.

Mayor Coody: Okay.

Alderman Thiel: I was going to offer support for this but I would have appreciated not being taken out of context. I also agree that it's also an excellent source of funding for projects that our city should at least attempt to use. I think that, from what I've heard and from the comments we've made, what we've read, that I think we do need to get our foot in the door. If the legislators revise the current law, and voids this TIF, then so be it. We will have lost the opportunity but I do think we need to get our foot in the door. I do think that there are questions about whether or not this follows the exact letter of the law or otherwise we wouldn't be discussing whether or not we'd be able to use this TIF. So, thank you.

Mayor Coody: Okay. Very good. Thank you. Sorry if I took your words out of context.

Alderman Marr: Mayor, I wanted to make a comment and that is, surprising as it may be, there are parts of what I've heard tonight that are making me warm up to the thought of thinking of it, which I can tell you I wasn't anywhere close coming into here. But I'm not going to support all three readings and an emergency clause tonight. I'm just getting comfortable with the concept of doing it. The reason I'm not is that I don't think it puts us behind a door because I think if we pass a boundary and don't pass a plan, there's risk that the legislators will say, well you don't have a plan. If we pass a boundary and a plan and we don't have debt there's risk the legislators will say you don't have debt to it. I mean, every one of those options, until you get all the way into it, says that. The other thing is that I do think there's litigation risk and I think it's prudent to wait and see the Attorney General's opinion. I don't think that we gain anything by just having the boundary and I don't think that we lose anything by not doing it tonight. I certainly don't think that the legislators, no offense in any way at all, will do this within a week. Our next meeting is a week from Tuesday and we'll have both TIF's back in front of us at the meeting and we will have the opportunity at that point. If it looks like it's not or it's moving more quickly you can't call a special meeting, just like we did tonight on Thursday for the third meeting this week. There's been some good feedback tonight that's made me think about this differently. I'm not personally going to support all of it tonight.

Alderman Jordan: My comments are these. I think the way that I define blight and what I see in this is somewhat differently. When we passed the Mountain Inn, to me that was blight and I could see it as blight that needed to be cleaned up. I really don't see this in this green field. But be that as it may, now I'm sort of like Alderman Marr, I've somewhat warmed up to some of this after hearing some of the comments here tonight. But I also will not pass this on three readings tonight until I get an Attorney General's opinion. It's not anything that won't keep another two or three weeks. In two weeks we may have the Attorney General's opinion. So for those reasons I will not support this on three readings tonight.

Mayor Coody: All right. Anyone else? Please.

Alderman Ferrell: Making doubly sure again, I would pass it on three readings tonight if I thought it could go through. But if we passed it, if we tried to go with three readings tonight, does that mean, can we still change the parameters that we're going with as far as the district?

Mayor Coody: Yes. You mean if we don't pass it tonight?

Alderman Ferrell: No, if we did. Say we went to three readings tonight...

Mayor Coody: Yeah. Sure.

Alderman Ferrell: We can still change that map?

Mayor Coody: Yes. We you can change the district as long as the district exists, you can go back and modify it.

Kit Williams: And you could go to the second reading and not all three readings, too. I mean there's an in between position.

Mayor Coody: I would entertain a motion to suspend the rules and go the second reading.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon role call it failed on a vote of 4 to 3 with Alderman Ferrell, Lucas, Reynolds, and Thiel voting yes and Alderman Jordan, Cook and Marr voting no.

Mayor Coody: So this will stay on the first reading then and we'll visit this at next City Council meeting, on the 18th.

Kit Williams: On the 18th.

Mayor Coody: All right. Thank you all. Is anything else? Any questions? Any announcements? Thank you all very much for coming out tonight. We appreciate your input. Thank you.

Public Hearing:

I-540 Redevelopment District #3 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 I-540 Redevelopment District.

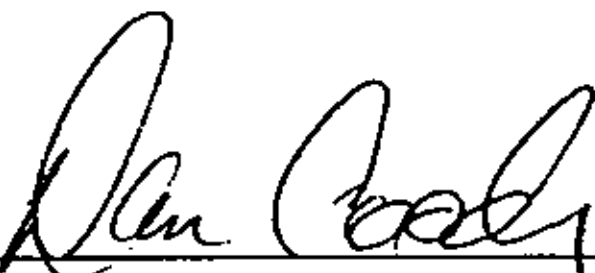
Removed from the agenda

New Business:

I-540 Redevelopment District Project Plan Adoption: An ordinance adopting the Project Plan for the I-540 Redevelopment District, and finding the plan is economically feasible.

Removed from the agenda

Meeting Adjourned at 8:35 PM



Dan Coody, Mayor



Sondra Smith, City Clerk