

**MINUTES OF THE SPECIAL MEETING OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI, FEBRUARY 18, 2003**

The Board of Aldermen of the City of Branson, Missouri, met in special session in the Council Chambers of the City Hall on February 18, 2003 at 7:00 p.m. with the following members present:

Mayor Lou Schaefer presiding, Dick Gass, Stan Barker, Larry Taylor, Ron Huff, Eric Farris, and Bob Warlick present.

Also in attendance were: City Administrator Terry Dody, Assistant Administrator Kevin Faught, Acting City Attorney Dan Wichmer, City Clerk Sandra Williams, Director of Economic Development Mike Rankin, Planning and Development Director Don Stephens, Finance Director Deanna Schlegel, City Engineer David Miller, Public Works Director Larry VanGilder, Communications Director Jerry Adams, Bob Klein, Lucy Combs, Al Moon, Sharon Klein, Terrill Bradley, Richard Clark, Chad Hunter of Branson Daily News, Bill Brooks, Lacy Fairchild, Fay Henderson, and Bill Groninger of the Veterans Task Force.

Mayor Schaefer called the special meeting to order with the “Pledge of Allegiance” and Sandra Williams gave the invocation.

Mayor Schaefer stated the purpose of this special meeting is to consider the final reading of Bill No 2526 authorizing the execution of a Redevelopment Contract and a First Amended and Restated Technical Services contract in connection with the Branson Landing Tax Increment Financing Plan.

At this time, Alderman Gass moved to suspend the rules for public input and establish rules as follows. The rules for tonight’s meeting will be that each speaker will be allowed a total of ten minutes to comment or ask questions concerning this bill. However, any time taken to respond to the questions by the city will not be considered as part of the speakers ten minutes. Also, each question from a speaker must be asked and answered one question at a time. Speakers who have used up their time may speak again for another ten minutes when we have completed the Speakers List. Speakers must not repeat comments or questions that have already been made, asked or answered by previous speakers. Motion was seconded by Alderman Farris. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Nays: none. Motion carried.

Alderman Barker then stated, “At the last meeting we had a comment that the City Council should answer the questions rather than the consultants. I would like to talk about that for just a moment. The fact is that the Council members have been involved with the development of these contracts from the beginning. Three Council members were selected by the Board to be part of the contract negotiating team. Those Council members were

Bob Warlick, Ron Huff, and Larry Taylor. In addition, the entire Board has been brought in at key times to review and discuss the entire contract. The goal tonight is to hear as much public comments and to answer as many questions as possible about this Bill. While every Council member has spent hours and hours working on both of the contracts contained in this Bill, the fact is that both of these contracts are very complicated and must be considered together when addressing questions regarding either one of them. The Board could take the time to understand your questions and then research and answer them from the dais. However, in the interest of hearing as much input as possible answering as many of your questions as possible and giving all members of the audience the best and most distinct answers as possible, we will have the technical questions regarding the contracts answered by our contract expert and attorney David Queen. Just a reminder, David Queen was selected by the Council as a recognized legal expert in complex projects of this magnitude.”

Mayor Schaefer asked City Clerk Williams to read the item being considered.

Final Reading of Bill No. 2526, authorizing the execution of a Redevelopment Contract and a First Amended and Restated Technical Services Contract was read by title by City Clerk Williams. Mayor Schaefer entertained a motion approving the final reading of Bill No. 2526. Alderman Warlick made the motion, seconded by Alderman Huff. Mayor Schaefer then turned the floor over to David Queen for the staff report. David Queen of Gilmore and Bell first provided a brief overview of what experience Gilmore and Bell brings to its representation to the City on these matters, and his experience in connection with negotiating joint public/private ventures. Mr. Queen stated,

“The complexity of this is necessitated in part by the incentives that are being utilized to understand what the City is proposing here you have to understand Tax Increment Financing.” Mr. Queen then reviewed what Tax Increment Financing is and stated, “Our overriding charge of this contract is to make sure that the project be self-sustaining and not require City funds. This is the heart of Tax Increment Financing, and it is the heart of how we have negotiated the City’s position in this contract. We need to accomplish two things in the near term. One of them is we need to discover whether or not the state TIF, which is capturing the state sales tax increment is going to be available for this project. The City has made it clear that without the state TIF assistance the Convention Center component of this project would be difficult if not impossible to complete. The state has said they will not act upon our application without having a redevelopment contract that has been signed. The second component relates to the fact of the way development works. We have a chicken and an egg problem here. Councilman Taylor focused on it last Monday night when he said he was not satisfied with the fact that the developer did not have sufficient commitments at this point in time to really merit the City to enter into a contract with him. It is really one of the reasons why this contract really needs to be signed and needs to be approved. The way the development occurs is that the developer cannot secure the commitments that underlie the TIF revenues until he has contractual rights to offer that property and the right to build those improvements on the site. The City has to confront

**BILL NO. 2526
REDEVELOPMENT
CONTRACT AND
FIRST AMENDED
AND RESTATED
TECHNICAL
SERVICES
CONTRACT
HCW DEV.
ORD. NO. 2003-025**

the situation of ‘are we willing to give the developer a window of opportunity to secure the commitments to allow us to see what the TIF revenue generation would be’. In the Technical Services contract we focused on paying the developer for certain services that the City needed to have done in connection with its improvements. These are the types of things that cities pay for all the time. The Redevelopment contract comes along beside the Technical Services contract and works in tandem with it to give the developer a period of time to see whether or not he can secure the types of tenant improvements and commitments that you are familiar with such as: (1) an outdoor leisure store; (2) an aquarium; (3) a themed lodge; (4) a boutique hotel; and (5) 150,000 square feet of other retail space. It also includes, if the Convention Center is to be a part of this, the obligation to produce a Convention Center hotel containing at least 300 rooms being of four-star quality. The developer can’t go get them unless he has this contract. This contract gives the developer the rest of this year to do that.” Mr. Queen also outlined how the TIF revenues would be applied which was Section 311 of the contract, and he outlined how the City retains a great deal of control over the construction of the private improvements. Mr. Queen then ended his report by stating again “The overriding charge of this agreement is that the project be self-sustaining and not require City funds.”

Mayor Schaefer then asked for comments or questions from the Board. After receiving none he opened the floor up for audience participation.

The first speaker that addressed the Board was Ricky Renfro, **RICKY RENFRO** 108 Fern Street. Mr. Renfro informed the Board that he was concerned because the condos at Fall Creek Resort have had some problems which Rick Huffman was involved with. There have been several complaints that certain things are tearing up although they are brand new, a lot of work had to be redone. When asked, Mr. Renfro stated he was aware of this issue as he worked on the condos for a while. Mr. Renfro asked if the steps in North Beach Park were going to be torn out? Mayor Schaefer answered that the steps or seating will remain. Mr. Renfro then asked if the Liberty Tree would remain. Mayor Schaefer answered that the Liberty Tree would remain.

Helen Maxwell addressed the Board indicating she agreed **HELEN MAXWELL** that something needs to be done on the waterfront as she felt the City has severely wounded the downtown merchants. But there are a lot of things she felt the leaders would have noticed that needed to be done if they hadn’t been so totally absorbed with the conflict and division in the community this issue has caused. A lot could have been done if we had not been so involved in the Branson Landing this past year.

Alderman Huff then asked Finance Director Deanna Schlegel if our tax revenue in the downtown area supported the statement by Mrs. Maxwell regarding the downtown being severely wounded. Mrs. Schlegel stated, “No they do not”. Alderman Huff then asked, “Are they as good as they have been before we started demolition?” Mrs. Schlegel replied, “Yes, they are.” Administrator Dody indicated that this year’s tracking shows the gross sales revenue, minus the waterfront area is nearly \$40-million dollars, up from the \$31-million dollars the year before. While some businesses such as the ones directly on the waterfront certainly have had a problem, such as the trout docks, overall the downtown

area is up considerably of what it was last year, even with the loss of those businesses on the waterfront as far as gross sales, replied Mr. Dody.

Chuck Pennel, Kirbyville, addressed the Board stating, **CHUCK PENNEL**
“A year ago I challenged your claim that you had overwhelming support on this project. My suggestion or idea is that since the election is just six weeks away, wouldn’t it be wise use of the taxpayers money to put a hold on the project until the April election because there is a possibility there will be some new council, and they might not want to go there. As of December, 2001 the City has spent at least \$5-million dollars and I don’t know how much more since then. I am concerned about how much money you are spending and believe that I have a justification for that. I didn’t mean to be here as a Commissioner, this is personal. Since there may be some new Council in April instead of saddling them with all of that, I ask you to put a hold on this for six weeks. Let us see what the community says in the election. If you all are put back in I will commit to not criticizing you again about the Branson Landing project. We need to see what the public says as I don’t believe the community is behind you. This issue has divided this community more than any thing else I have ever seen. The total cost public/private of \$484 million from my point of view I cannot see how the project can even break even.” Mr. Queen responded, “The City has years of sales tax revenue data to use. The structure itself in the contracts provides the incentives for the developer not to be wrong.”

At this point, Mayor Schaefer called for a five-minute break.

Mayor Schaefer then reconvened the meeting back into public input.

The next speaker to address the Board was Donna **DONNA KENNEDY**
Kennedy of Hometown Merchants Association, 3125 N. Ken
Avenue, Springfield, Missouri . Mrs. Kennedy stated, “The Hometown Merchants Association, a Missouri Non-Profit Corporation’s mission is dedicated to working within the framework of city, county and state government. Mrs. Kennedy stated she had reviewed the contracts and had their legal advisors also review the contracts and it seems to be one-sided towards the developer as there is a lot of accountability on the City and very little on the contractor. We are there to help you in any way we can.” Mrs. Kennedy indicated she had several questions that she felt should be answered by the Board but not necessarily tonight. (1) How many local businesses will be lost during the first three years? (2) If tax incentives are used to entice this new development will financial support be provided for those businesses that find themselves at risk? (3) What will happen to the traffic and shopping patterns within the community? (4) What demands will be placed on community utilities and law enforcement? (5) How close is the newcomers nearest outlet mall and is it far enough? (6) Does the current business situation demand an erosion of current businesses in order to prosper? (7) Is the Feasibility Study going to be made available to the public as I understand it is on the web site but cannot be downloaded as it is so large? (8) Will strike accountability on the developer be initiated in any and all agreements? (9) Should penalties be imposed? (10) If Tax Increment Financing is used to entice the developer will financial support be provided for those who find themselves at risk? Mrs. Kennedy then said there were two bills being introduced this year by Senator

Good and Senator Childers to return the TIF back to its original form which means to us true blighted areas, bring in manufacturing, and good paying jobs. That is what TIF's were initially suppose to be used for. Mrs. Kennedy asked that the Board step back, take some time to get some good answers to her questions before proceeding, and that her organization if asked can provide factual information to assist us in determining what is the best thing for the City to do". We would be there to do that with our legal advisors and our Council. We have a lot of problems with these contracts as they are very one-sided for the developer," said Mrs. Kennedy. Alderman Barker stated, "We have worked very hard on this contract. We have spent a lot of hours and asked a lot of questions. We are very concerned about this contract being too one-sided. Remember what we are trying to do here and what Mr. Queen talked about earlier. If you don't put a little bit in the developer's side of this contract then if he fails then the project fails. Alderman Taylor asked Mrs. Kennedy if she could be more specific on the risk involved and the problems of this contract? Mrs. Kennedy replied, "There are so many that our legal advisors have offered their service at no charge to your Council to sit down with you to show you the problems." Alderman Barker stated, "This contract does not lock us into a Convention Center. This merely gives us a tool to move forward with the redevelopment of the waterfront area. The Convention Center is something we continue to work through, that is where the state TIF comes into play. If this document gets penned tonight it goes to the Department of Economic Development, and their experts will determine whether this contract, is not only in the best interest of the City but in the best interest for the State of Missouri." Administrator Dody indicated that at an appropriate time David Queen would be happy to address all of the questions she asked tonight, and he just wanted the public to be aware that those questions can be and should be addressed and properly answered for her.

John Logan, Lakeshore Drive, addressed the Board JOHN LOGAN
indicating there is a lot of genuine concern within our community about this project, and the Board is all aware of that. Both sides of this issue, pro and con, are good people but as George Bernard Shaw said "sometimes we have differences". I happen to believe that this issue is not right. It goes back to the basis of what founded this country. It is called free enterprise. To grant incentives to subsidize businesses to compete with existing businesses is wrong. It is not right. Entrepreneurship is what built the Ozarks. I would be negligent as a citizen not to bring up my concerns. Alderman Huff responded by saying the State of Missouri is not going to dig itself out of its hole by cutting programs. They have to create additional revenue. This project creates additional revenue. So your comparison of taking away money from schools or taking away money from taxpayers and giving it to Branson for this TIF is wrong. It would not be there except for this project generating the revenue.

Gail Myer, 317 River Bluff addressed the Board indicating GAIL MYER
he had one question about the lease. If I understand, it is a \$1.00 a year for four years, then it is about a quarter of a million dollars per year plus a percentage of increases up to a total maximum of about \$50,000 dollars a year for 30 years. It appears that the developer is getting credit for payment of the debt that you assumed. I

am not sure I understand. You take on debt and all of the taxpayers in the City pays through sales taxes. That is how we paid for those roads you talked about. Mr. Queen replied to the question about why the reimbursement of the land through the TIF revenue is that the purchase price of the land was put in there as it tells the entire picture of what was happening with the land. We felt it very important that the city make it very clear that they intend to be reimbursed for the full cost of the land plus the interest associated with it. "As to the amount of the lease payments there is an adjustment that begins in the 30th year regarding the cost of living tied to the consumer price index which was based on a combination of factors. A lot of time was spent on this provision regarding how the amounts were arrived at," said Mr. Queen.

Larry Milton, 102 Vixen addressed the Board indicating, that **LARRY MILTON** he has really come to understand how much effort the Board had put into this process, and he believes that our residents don't have any idea of the amount of comprehension you have of these issues, and if there is some way to communicate that to our citizens, you would be well served in doing that. Mr. Milton encouraged the Board to approve this Bill as Mr. Huffman, the developer has been asked to do lot, and it is unfair to ask him to go get the contracts without the rights basically to do that. We are not committing to anything, but he does need the authority or we are setting him up to fail. My primary concerns is that initially we were talking about a Convention Center somewhere in the \$35-\$45-million dollars range. But today we are in the \$100-\$120 million dollars range which is a big leap from the \$35-\$45- million dollars. Mr. Milton explained that his figure of \$120-million dollars was derived from the \$84-million dollars we are talking about tonight, and the portion of the bond refinances last month that was new money (\$36-million dollars) which adds up to \$120-million dollars. Mr. Dody replied that when you add the \$46-million dollars of anticipated cost of the Convention Center (which includes the land) and \$28-million dollars for the infrastructure which does include the bridge over Business Hwy. 65, then add \$33-million for the previous bond issue it adds up to \$106-million dollars of hard cost. We still have \$6-million dollars in the bank from the original \$33-million dollars bond anticipation notes, and when you use that money then you have \$100-million dollars. Mr. Milton replied, that his biggest concern was that in the first couple of years the community is not going to know where we stand. It is only after the first several years will be know if it is going to pan out. Mr. Milton indicated he was not against the project but that alarms keep going off as to can we afford it.

Pete Herschend addressed the Board stating "Speaking **PETE HERSCHEND** directly to the ordinance that is before you tonight, I would like you to know the position of our company, and my position personally. I reflect the management position, which is that we are strongly in support of the issue that is before you tonight, and we strongly recommend that you pass this issue by vote. I encourage the Council to vote in support of this measure"

Ray Wilson, 176 Eagle Pointe Drive was the next speaker **RAY WILSON** to address the Board. Mr. Wilson said there was a television program on regarding Tax Increment Financing and that it stated that 70% was the average percent the taxpayers end up paying of a Tax Increment Financing total project.

Tax Increment Financing is under the gun, and it is being evaluated on a continual basis. Mr. Wilson asked what are we going to do with our developer, and if we sign this contract does that put us in the position of having two developers? Acting City Attorney Dan Wichmer indicated that litigation between Branson Landing LLC, and the City is on-going and it is the opinion of the firm representing the City that there is no contract with Branson Landing, so there would not be two developers. The lawsuit is not a breach of contract but a civil rights lawsuit. Mr. Wilson then asked if there were any limits of monetary incentives that the City is willing to provide for the anchor tenants? Alderman Huff replied it states a maximum of \$33-million dollars. Additional questions were asked by Mr. Wilson and David Queen provided the answers.

Ryan Bedwell, 402 S Sycamore addressed the Board indicating **RYAN BEDWELL** that as a downtown business owner he had some concerns regarding the whole project. Mr. Bedwell indicated a real estate agent approached him about his property, and he needed to know what this is about. Alderman Huff replied the City was looking at the possibility of acquiring new land on the eastside of Sycamore between Main Street and Long Street. Mr. Bedwell said one thing he was concerned about was the City is paying money for other businesses to come in and start up in this area, and I am not sure of the position of the City regarding buying my property. Mr. Dody replied to the questions asked by Mr. Bedwell.

Ron Herschend addressed the Board indicating his concern **RON HERSCHEND** was the total scope of the debt the City seems to be taking on, and asked if there are additional taxes involved in this project? Mr. Dody replied, the only additional tax other than the economic activity taxes is the TDD which is about 1% tax on that area down there. That is in addition to the TIF. That is the only other tax that has been used for the financial model. Mr. Herschend also asked about displacement spending and if the CS&L Study addressed the retail without a Convention Center which were addressed by Mr. Dody. Additional questions were asked by Mr. Herschend which were answered by David Queen.

Paul Lentz, Lake Queen/Sammy Lane addressed the Board **PAUL LENTZ** stating, "I don't think anyone that has got up here has any more concern than I do. The citizens of Branson elected you to move us forward and some times you have to make hard decisions. I don't think this is a hard decision, because you have put in the time and the effort, and I think you know the details of this contract better than anybody. So I ask you to go ahead and pass this and let's move forward."

Ross Summers addressed the Board stating the Chamber's **ROSS SUMMERS** Board of Directors approved with the project with two conditions. With those two conditions I want to reiterate the Chambers support of the project.

Chris Myer, addressed the Board inquiring if the final CS&L **CHRIS MYER** Study was on the web- site, and is there a plan to do a public hearing

on the final study? Mr. Dody replied “Yes” to both questions. Mr. Myer indicated some time ago he asked if the motels were going to be subsidized and the answer he received was “No”. Now, he keeps hearing that \$10-million dollars is going to the Great Wolf Lodge as incentives. David Queen replied, “I remember that answer, and I believe the answer you got at the time was not correct. The person speaking was specifically thinking about the Convention Center hotel. There is a mention of \$10-million dollars as incentives in connection with the themed lodge. There is no incentive in connection with the Convention Center hotel. Mr. Myer stated, “I have a real concern from a lodging perspective if we are willing to subsidize \$10-million dollars for a lodging to come into this town and today we have lodging facilities closed, and we have an occupancy rate of less than 50%.” Additional questions were asked by Mr. Myer and David Queen and Terry Dody provided the answers.

Joni Milstead, 407 Briggs Road, Walnut Shade was the next person addressing the Board, stating, “I would like to see everyone vote positive on this last reading. Mrs. Millstead also commented on the blighted area downtown and whether the Board should wait until after the election.” **JONI MILSTEAD**

Gayla Roten of the Downtown Main Street Association addressed the Board stating, “This agreement will take us into the future. For downtown Branson it creates a sense of place. It is the heart of our community. I am here representing the majority of the members of the Downtown Association, not asking you but begging you to move forward on this development agreement and help us help you create another economic engine for Branson.” **GAYLA ROTEN**

After everyone on the Speakers List had addressed the Board, Chuck Pennel and Helen Maxwell had additional comments and questions for the Board which were answered by Terry Dody.

Ben Kennel, 136 Rose O’Neil addressed the Board stating, “I am all for the project you are considering here tonight. Fifteen years ago, Daytona Beach, Florida went through the same process, and four years ago they added on to it. Adams Mark Hotel then built a high rise hotel across the street, and they have brought business you would not believe into that Convention Center. I strongly urge you to vote for this ordinance tonight.” **BEN KENNEL**

Alderman Huff stated he just had a few words. “Risk has been talked a lot about tonight, and certainly risk has to be consider but everything that this City does involves risk. We build water and sewer plants and roads, there is risk to that, that puts the taxpayers at risk, because we have no guarantee that the tourists are going to continue, but we do the best research we can, and we make the best informed decisions we can and we try and move forward. We are trying to keep the risk as low as possible to our citizens, and to our taxpayers, but there is risk involved in everything you do and all the decisions that we make. I keep coming back to the same conclusion which is I think this is right for the City. I think this project that we are talking about addressed those concerns mention by the Chamber of Commerce just last month. We still have a long way to go before that final

decision on the Convention Center is made. We have been talking about building a Convention Center in this community for ten, twelve, fifteen years. We know that they are not going to generate a profit, if they do, it will be very minimal, but what they will do is they will bring people to our town that we were not able to attract otherwise. They will spend money in this town. They will like the new experience here. They will bring their families back and to me it is just going to be a real winner if we can get this project done. Five years from now, we will have people telling us you did a good job.”

Mayor Schaefer called for a vote on the motion to approve the final reading of Bill No. 2526. Voting aye: Gass, Barker, Huff, Farris, and Warlick. Nay: Taylor. Ordinance No. 2003-025 was duly enacted.

ADJOURN:

Alderman Farris moved to adjourn, seconded by Alderman Huff. Voting aye: Gass, Barker, Taylor, Huff, Farris, and Warlick. Motion carried. Meeting was adjourned at 11:35 p. m.