

: OFFICIAL PROCEEDINGS :**: OF THE CITY OF PEORIA, ILLINOIS:**

Council Chambers, Peoria, Illinois, October 31, 2000, a Regular Meeting of the City Council was held this date at 6:15 P.M., at City Hall, 419 Fulton Street, Mayor Lowell G. Grieves presiding.

ROLL CALL

Roll call showed the following Council Members present: Ardis, Duncan (arrived at 6:19 P.M.), Gibson, Grayeb, Morris (arrived at 6:25 P.M.), Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11; Absent: None.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Grieves requested a moment of silent prayer, and then led the Pledge of Allegiance.

WORD OF THE WEEK “TRUTHFUL”**PROCLAMATIONS, COMMENDATIONS, ETC.**

PROCLAMATION: BRADLEY UNIVERSITY STUDENT BODY

PROCLAMATION: JMP MEDIA, L.L.C.

PRESENTATION: CENTRAL ILLINOIS MUNICIPAL CLERK’S ORGANIZATION
PRESIDENT’S AWARD FOR OUTSTANDING SERVICE – DEPUTY CITY
CLERK BETH BALL

ANNOUNCEMENT: 25TH ANNIVERSARY OF THE PEORIA COUNTY COOPERATION WITH
PEORIA COUNTY LANDFILL

MINUTES

Council Member Nichting moved to approve the Minutes of the Joint City Council and Riverfront Business District Commission meeting held on October 18, 2000, Executive Sessions and the Regular City Council Meeting held on October 24, 2000, as printed, with an addition to the minutes under Unfinished Business, Item No. 00-777 on Page 24948 to include the following paragraph: Council Member Grayeb expressed his support of the Midtown Plaza Project and stated what had been occurring in the area was totally unacceptable. He expressed his support of business people who were willing to invest in neighborhoods that were having these types of problems. He stated that if the City continued to see investments going North in to the cornfields, the City was going to be in trouble, and he felt \$16 million invested here properly would be advantageous; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford,
Turner, Mayor Grieves – 11;

Nays: None.

UNFINISHED BUSINESS**(00-777) REQUEST for RECONSIDERATION of ORDINANCE NO. 15,025 Regarding Rezoning for MIDTOWN PLAZA.**

Council Member Ardis moved to reconsider Item No. 00-777, Ordinance No. 15,025 (Midtown Plaza) rezoning property located at the 1700-1800 Blocks of N. Knoxville Avenue, 1700-1800 Blocks N. Dechman Avenue, 100 Block of E. Nebraska Avenue, 100 Block of E. Richmond Avenue from the present Class C-1 District (General Commercial), R-6 District (Multi-Family Residential), and Class R-4 District (Single Family Residential) to a Class C-2 District (Large Scale Commercial), and granting a Special Use in a Class C-2 District (Large Scale Commercial) for a Shopping Center, with conditions; seconded by Council Member Spears.

In response to Council Members requests for an explanation, Council Member Ardis said there had been considerable discussion in the past week and there were numerous concerns.

Council Member Duncan expressed concern that this item would be reconsidered this late in the process, even though he was not a supporter of the project.

Motion to Reconsider Ordinance No. 15,025 regarding rezoning for Midtown Plaza was DEFEATED by roll call vote.

Yeas: Ardis, Gibson, Nichting, Sandberg – 4;

Nays: Duncan, Grayeb, Morris, Spears, Thetford, Turner, Mayor Grieves - 7

Later in the meeting, Council Member Ardis explained that if this motion had passed, he had no intentions of leaving the Midtown Plaza issue dead, and he said the developer was aware of his intentions. He stressed the importance of following the Council rules and staying within the boundaries of Council rules, which would be discussed later in the meeting.

PETITIONS, REMONSTRANCES & COMMUNICATIONS**CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE:**

- (00-799) NOTICE OF LAWSUIT on Behalf of LEW NAUMAN and ARLENE NAUMAN Regarding Judgments Entered in Housing Court.**
- (00-800) NOTICE OF LAWSUIT on Behalf of CARY BALLARD Regarding Judgments Entered in Housing Court.**
- (00-801) NOTICE OF LAWSUIT on Behalf of K.C. JONES, Sub Nom LINDA JONES Regarding Judgments Entered in Housing Court.**
- (00-802) Communication from Director of Public Works Requesting Approval of the Low Bid of OBERLANDER ELECTRIC in the Amount of \$59,928.80 for the WILLOW KNOLLS ROAD STREET LIGHTING IMPROVEMENT PROJECT (from Allen Road to U.S. Route 150).**
- (00-803) Communication from Director of Public Works and Finance Director/
* Comptroller Requesting Authorization to CONTRACT with CHUCK'S TOWING for LIGHT and HEAVY TOWING SERVICES for Two Years, as Outlined.**

- (00-804) **PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECT: WEST GILBERT AVENUE ROADWAY IMPROVEMENT PROJECT (Sterling Avenue to Gale Avenue) (Remove existing curb, sidewalk, and driveway approaches; constructing combination concrete curb and sidewalk, driveway approaches, and a bituminous concrete overlay over existing roadway. Additionally, a storm sewer system will be installed.) – R.A. CULLINAN & SON, INC. – PAY ESTIMATE #1: \$106,337.87; TOTAL AUTHORIZATION APPROVED: \$106,337.87. (For Information Only)**
- (00-805) **Communication from Director of Public Works Requesting Authorization to Proceed with the Process of ACQUISITION of RIGHT-OF-WAY and EASEMENTS for the West Forrest Hill Avenue and North Gale Avenue Improvement Project.**
- (00-806) **Communication from Finance Director/Comptroller Regarding SEPTEMBER 30, 2000 AUCTION. (For Information Only)**
- (00-807) **REPORTS:**
- A. **Communication from Finance Director/Comptroller Regarding the SEPTEMBER 2000 REVENUE and OPERATING EXPENDITURE REPORT – UNAUDITED. (For Information Only)**
 - B. **PEORIA CIVIC CENTER REPORT FOR JULY, 2000**
 - C. **PEORIA CIVIC CENTER REPORT FOR AUGUST, 2000**
 - D. **PEORIA CIVIC CENTER REPORT FOR SEPTEMBER, 2000**
 - E. **PEORIA PUBLIC LIBRARY FINANCIAL REPORT, SEPTEMBER, 2000**
 - F. **PEORIA PUBLIC LIBRARY STATISTICAL REPORT, SEPTEMBER, 2000**

Council Member Gibson moved to approve the Consent Agenda items as outlined in the communications; seconded by Council Member Turner.

Council Member Grayeb requested that Item No. 00-803 be removed from the Consent Agenda for further discussion.

Item Nos. 00-799 through 00-807, excluding Item No. 00-803 (which was removed from the Consent Agenda for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

**(00-803) Communication from Director of Public Works and Finance Director/
* Comptroller Requesting Authorization to CONTRACT with CHUCK'S TOWING
 for LIGHT and HEAVY TOWING SERVICES for Two Years, as Outlined.**

Following a brief clarification, Council Member Grayeb moved to approve a contract with Chuck's Towing for light and heavy towing services for two years, as outlined; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford,
Turner, Mayor Grieves – 11;

Nays: None.

**(00-808) Communication from Finance Director/Comptroller Regarding CHARGING
COMPANIES on the ROTATION TOW LIST with Recommendation to Direct
Staff to Prepare an Ordinance to Set a FEE for Rotation Tow List Participation.**

In discussion with Council Member Grayeb, Finance Director/Comptroller Ellie Hogan explained the communities, which were surveyed, were asked if they charged for anything on the rotation tow list, whether it be for City vehicles or for public vehicles, and all responded that there was no charge for anything. She said in looking for other sources of revenue for the City, she realized there was considerable work in keeping the rotation tow list in a fair and equitable manner for all companies on the list, and she felt it would be appropriate for them to pay for the cost of the service.

Council Member Grayeb expressed concern that the City of Peoria would be the only City to require the proposed charge for tow companies to be on the list. He said he felt this would raise the price citizens would have to pay tow companies. He urged the Council to vote against preparing an Ordinance to set fees for rotation tow list participation.

Council Member Grayeb moved not to direct the Staff to prepare an Ordinance setting a fee for Rotation Tow List participation; seconded by Council Member Thetford.

Council Member Sandberg indicated his interest in exploring setting fees if the City's costs were known. He said rather than charging the tow companies an annual fee, he suggested that a fee could be charged per tow call. He said he felt services should be balanced with costs.

Council Member Thetford said she felt towing companies should have an opportunity to provide input regarding the proposed fee, and she added that while she understood the desire for additional revenue to support the exceptions, the exceptions had not been approved yet, so she felt this was premature. She said she supported exploring the setting of a fees, but she felt the towing companies should be involved.

City Manager Michael McKnight explained the intent was to direct Staff to bring back an Ordinance with a schedule and hold discussion at that time.

In further discussion, Mayor Grieves stated he would be in favor of moving forward with this proposal, with the idea that the Administration would bring back more detailed analysis, and to allow the towing companies to make their comments.

Council Member Nichting moved for a substitute motion to direct the Administration to prepare an Ordinance, with further investigation into issues raised in discussion by Council Members; seconded by Council Member Sandberg.

Council Member Spears requested that Staff time be taken into consideration when dealing with the towing companies and disputes regarding proper rotation.

Substitute Motion to direct the Administration to prepare an Ordinance, with further investigation into issues raised in discussion by Council Members was approved by roll call vote.

Yeas: Ardis, Gibson, Morris, Nichting, Sandberg, Spears, Turner, Mayor Grieves – 8;

Nays: Duncan, Grayeb, Thetford - 3.

(00-809) Communication from Finance Director/Comptroller Requesting Authorization to CONTRACT with QUICKSILVER MAILING SERVICES to Provide PRESORTING and BARCODING so City Letters Can be Mailed at a Discount.

Council Member Sandberg moved to approve the contract with Quicksilver Mailing Services to provide presorting and barcoding so City letters could be mailed at a discount; seconded by Council Member Nichting.

In discussion with Council Member Thetford, Finance Director/Comptroller Ellie Hogan explained the process and some of the drawbacks. She said one drawback was weather, but if the truck could not arrive, mail could still be processed at City Hall and taken to the local post office. She said this would not affect certified mail, and the City would still have to handle some flat mail. She said the agreement could be terminated if the process did not work well.

Council Member Thetford expressed concern regarding the reliability and timeliness of delivery since a lot of City mail regarded notifications to citizens.

In discussion with Council Member Spears regarding computerized barcoding, Ms. Hogan explained there would be additional costs for the City to purchase equipment and hire a staff person, so she felt the proposed contract would be less expensive.

Motion to approve the contract with Quicksilver Mailing Services to provide presorting and barcoding so City letters can be mailed at a discount was approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

UNFINISHED BUSINESS

(99-812) Communication from Director of Public Works informing the City Council that it is Anticipated the PEORIA, PEORIA HEIGHTS & WESTERN RAILROAD (KELLAR BRANCH) – RAIL SERVICE from the Union Pacific to Serve Pioneer Park will Likely be Addressed on November 14, 2000.

Council Member Nichting moved to receive and file the communication informing the Council that the issue of the Peoria, Peoria Heights & Western Railroad (Keller Branch) – Rail Service was anticipated to be addressed at the November 14, 2000, Council Meeting; seconded by Council Member Morris.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

**(00-753) Communication from Corporation Counsel Recommending Adoption of
ORDINANCE “A” OR ORDINANCE “B” Creating a COUNCIL RULE Pertaining
to AMENDMENTS TO CONTRACTS.**

Corporation Counsel Randy Ray explained the two Ordinances and their differences. He said this was a policy question for the policy makers as to how much control should be maintained regarding super-majority voting.

Council Member Sandberg moved to adopt Ordinance “B” creating a Council Rule pertaining to amendments to contracts which would preserve the super-majority vote; seconded by Council Member Ardis.

Council Member Ardis moved to grant Privilege of the Floor to Mr. Jack Teplitz; seconded by Council Member Grayeb.

Hearing no objections, Mayor Grieves granted Privilege of the Floor to Mr. Jack Teplitz.

Mr. Jack Teplitz, 240 N. E. Randolph, discussed what was permitted for super-majority votes and simple-majority votes and Council rules. He said it was his opinion that a simple-majority of the Council could change super-majority vote requirements under the current cases in Illinois. He said he felt the proposed approach was flawed regarding equal protection and due process regarding leases. He expressed concern that rules would be changed to address an issue that would be coming before the Council, and he indicated he felt this was not good public policy and could affect the validity of the attempt.

Council Member Sandberg said the Council had a set of rules that was provided to them when they were elected to their Council position. He said the rules were derived from Ordinances that were passed and codified back to 1973, and he agreed that a new sitting Council could adopt rules by simple-majority vote at one of the first meetings of the convening Council. He expressed concern that the proposed Ordinance did not fall into this category. He said the proposed Ordinance did not amend previous Ordinances regarding Council rules and so it would “hang” in cyberspace. He said the present rules had been used for twenty months by the present Council and he indicated a two-thirds vote would be needed to modify the rules in that period. He referred to previous votes on projects which required a super-majority so he felt the rule was already in place and had been used. He indicated he felt the proposed Ordinance was not necessary. He said changes to the rules should have happened in May, 1999, which would have needed a simple majority vote. He said by adopting Ordinance “B,” a commitment to good government would be reconfirmed.

Council Member Thetford said she felt there was a void in the Council rules and the Council was being presented with a choice of which Ordinance should be adopted. She commended Corporation Counsel Randy Ray for his expertise, consulting outside counsel and the background provided regarding this issue.

Council member Turner moved to call the question; seconded by Council Member Duncan.

Motion to call the question was DEFEATED by roll call vote.

Yeas: Duncan, Turner, Mayor Grieves – 3;

Nays: Ardis, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford – 8.

Council Member Gibson stated it was her opinion that Council rules should have been changed when the new Council was seated in 1999, and she expressed concern that the proposed rule change would be a tool for manipulation tactics. She said she felt if the Council deviated from normal procedures, it would have remarkable repercussions in the future and would affect good government. She said no matter if it was legal to change the rules or not, she felt it was inappropriate and unethical. She said a super-majority was needed on any amendment, just as was needed for any agreement. She said she did not want to conduct business in this manner.

In discussion with Council Member Nichting, Corporation Counsel Randy Ray stated it was his opinion that the proposed Ordinances were legal. He reiterated that this was a policy matter and was something the Council needed to address. He added his decision was based on court opinions, home rule and the Municipal Code.

Council Member Nichting discussed case law regarding these issues and he felt unclear court cases would contribute to additional lawsuits filed against the City in the future.

Council Member Ardis stated he did not support changing Council rules to fit a specific issue and he did not feel it was good government business. He said he did not feel rules should be manipulated. He referred to his motion at the beginning of the meeting regarding Midtown Plaza, and he said he felt this was a good example and he urged the Council to seriously consider not changing this rule.

Council Member Turner moved to call the question; seconded by Council Member Duncan.

Motion to call the question was DEFEATED by roll call vote.

Yeas: Duncan, Grayeb, Morris, Thetford, Turner, Mayor Grieves – 6;

Nays: Ardis, Gibson, Nichting, Sandberg, Spears – 5.

Clerk's Note: Corporation Counsel Randy Ray explained that a motion to call the question could only be passed by a two-thirds vote so the motion to call the question was not successful.

Council Member Grayeb expressed concern regarding issues that were raised, but he indicated he had greater concern about the tyranny of the minority. He said this should be considered.

Mayor Grieves discussed the system of cumulative voting, which he felt allowed for special interests, channeled interests that become a part of the Council, and to stifle good government. He said he would support a majority vote on everything and make changes to the entire system, especially in light of the cumulative voting provision. He urged the Council to consider adopting Ordinance "A".

Council Member Morris moved for a substitute motion to adopt Ordinance "A" creating a Council Rule pertaining to amendments to contracts allowing a simple-majority vote; seconded by Council Member Turner.

Several Council Members spoke against the adoption of Ordinance "A" and urged the Council to support Ordinance "B".

In discussion with Council Member Nichting regarding how the absence of this rule affected past issues, Mr. Ray indicated this was a point that his department had struggled with in the past and he usually ruled on the side of super-majority.

Substitute Motion to adopt (Ordinance "A") ORDINANCE NO. 15,026 creating a Council Rule pertaining to amendments to contracts allowing a simple-majority vote was adopted by roll call vote.

Yeas: Duncan, Grayeb, Morris, Thetford, Turner, Mayor Grieves – 6;

Nays: Ardis, Gibson, Nichting, Sandberg, Spears - 5.

Council Member Sandberg requested a point of order regarding the current Ordinance No. 14,485, Rule #28 which required that any rules of the City Council to be amended, repealed or altered required the concurrence of two-thirds of all Council Members. He requested an explanation why this rule was not being followed.

Corporation Counsel Randy Ray stated his opinion was that this was a new rule and did not amend the old rules, and he said his opinion was that a majority of the Council had the power to create such a rule.

(00-714) Communication from Corporation Counsel Regarding FINAL DOCUMENTS - the EDGEWATER PAD REDEVELOPMENT AGREEMENT, SETTLEMENT AGREEMENT, SECOND ADDENDUM to the AMENDED and RESTATED RIVERFRONT VILLAGE REDEVELOPMENT AGREEMENT and MUTUAL RELEASE and SETTLEMENT AGREEMENT.

Council Member Duncan moved to approve the final documents – Edgewater Pad Redevelopment Agreement, Settlement Agreement, Second Addendum to the Amended and Restated Riverfront Village Redevelopment Agreement and Mutual Release and Settlement Agreement; seconded by Council Member Turner.

Discussion was held regarding how discussion regarding this item would flow, whether or not there should be citizen input at this point, the privileges of the Chair and the general layout of the plan and compromise. It was suggested that the proposal should be explained, allow time for citizen input, Council input, and then the Council could vote.

Mayor Grieves said in this debate that had caused much divisiveness and division in the community, trying to reach a compromise had become a difficult issue. He said this was a moral, business and legal issue, and had become a personal issue with many. He said he felt the Council's goals were to protect the taxpayer, to continue the momentum of development on the Riverfront and to be fair and equitable with all those individuals the City did business with. He explained his initial contact with the developer to discuss a compromise. He said the City was embroiled in a legal battle over the contention that the N-3 site was retail only, that the City had spent over \$45,000 in legal expenses, which were growing, and the City was looking at an appeal process with the ultimate decision as to who would win. He agreed that the City had won the first round, but it was not assured that the next round would again be won. He said if the City lost, the Hooter's restaurant would be placed on the Riverfront Village pad, the City would pay the developer's legal expenses, the City would be open to punitive damages and loss of rent worth hundreds of thousands of dollars, and a stigma and bad feeling in the community and with the developer.

Mayor Grieves explained if the City won, the City could probably collect their out-of-pocket legal expenses, but according to an estimate from the Legal Department, the City had invested approximately \$46,000 in legal fees from outside attorneys, but also about 500 hours of City Staff time which could total over \$100,000 invested in this venture to date. He said if the City won, it would establish forever that the N-3 site would only be retail and it was already known that retail on the Riverfront was not doing well right now. He said if the City won, the Hooter's Restaurant would be in East Peoria and the City would not realize that tax revenue, and the ability to pay the Riverfront Village bonds would be in jeopardy because of the retail tenant in N-3. He stated this would add to the growing list of developers who did not want to develop in the City of Peoria because of the issue of fairness.

Mayor Grieves stated a compromise was a give and take, which would not be perfect. He explained the proposed settlement would include an agreement to drop all lawsuits, breach of contracts, and save the taxpayers money immediately. He said the Hooter's restaurant would stay in Peoria and he estimated Hooter's would generate between \$2 to \$3 million per year in tax revenue, of which 54% would go to School District #150. He added that new parking revenue would be generated on what was now a dark, empty lot, and the N-3 site would have a suitable tenant within 18 months, and he estimated this would generate approximately \$2.5 million over 20 years. He said Hooter's would agree to move to a less visible location on the Riverfront, bringing life to a new area of the Riverfront and more evenly distributing activity and traffic throughout the Riverfront. He said this would be a victory to those who objected to Hooters being located on the pad in Riverfront Village, and this would protect the taxpayer by covering the bonds on Riverfront Village.

Mayor Grieves explained the City would have to count Hooter's sales tax revenue as part of the developer's guarantee. He said the developer would be allowed an additional two years to submit any plan to build retail office space between Damon's and Total Peoria, which would be Phase II. He said the

developer had agreed to reduce the size of the project from 5,000 to 6,000 square feet/four stories to 30,000 to 40,000 square feet/three stories; but most importantly, the developer had agreed that if he followed the procedure and presented a plan to the City and the City provided a parking option for him anywhere, the Council may approve any plans he submitted for Phase II for the office building. He added this would require a super-majority vote and he expressed concern that this would not be an easy task. He said the Council would have the final say regarding the design and the desirability of Phase II. He said there would be language in the agreement that the tenant for the N-3 site would not be offensive in name or activity.

Mayor Grieves discussed some of the criticisms, but he added in the ensuing weeks, the developer had agreed to pay for utilities, soil testing, and had agreed to give up all Phase III rights, which would have been another elevated pad in the area between the River Station and Crooked Waters over Liberty Park. He further discussed the fairness of the \$6,000 per year lease payments on the Edgewater property, and how it compared to other projects in the area. He added there were no comparables for land leases because no one wanted them, so he did not feel this was out of line. He reminded the Council that the developer had already paid the City for Phase II and the City was currently earning interest on that money now. He said again the Council had the right to reject the Phase II development.

Council Member Gibson moved to grant Privilege of the Floor to Mr. Jack Teplitz and any others who wanted to address this issue; seconded by Council Member Sandberg.

Hearing no objections, Mayor Grieves granted Privilege of the Floor to Mr. Jack Teplitz and any others who wished to address this issue.

Mr. Jack Teplitz, 240 N. E. Randolph, speaking as a citizen, said he had a strong interest in this matter and explained he had worked for over 25 years in the area of economic development and urban revitalization. He expressed concern regarding the proposed settlement and was concerned about how the City was being operated and the fact that Council Members were becoming more personal in their affronts and lack of respect for each other. He added these decisions regarded millions of dollars and would affect the citizens of Peoria for 30 to 40 years, and he felt the Council was getting away from addressing the issues. He said he felt there was a lack of the City looking to professional help in making these difficult decisions, and he felt the City's legal counsel was restricted as to what could be addressed.

Mr. Teplitz expressed concern about the City's legal exposure. He referred to the Tax Increment Act, and he said the platform portion of the agreement was in a TIF District and was subject to the State Statutes. He referred to Section 4-C of the Statute, and he said any lease or agreement relating to the development of land within a TIF District must be approved by Ordinance, there must be a public disclosure of terms and conditions, and should provide a reasonable opportunity for anyone to submit alternative proposals or bids. He said in this case, it was his opinion that development rights on Phase II had expired. He said the lease was not being amended to grant the continuation of development rights, but the agreement would grant new development rights. He said there would also be significant changes to the lease terms and the existing amended redevelopment agreement. He said he felt all of this caused this to fall within the TIF law. He stated it was his opinion that the City needed to publish and give someone else an opportunity to submit a proposal on the development rights, and if the City did not, there would be a risk of violation of the TIF law and all actions would be null and void.

Mr. Teplitz referred to the Edgewater lease, and he said it was framed as if it were a 19-year lease, but in fact, it was automatically renewable unless the City purchased the building so if the City did not purchase the building, the lease was automatically renewed for another 10 to 20 years. He said this went beyond 20 years, so this fell clearly within the Council rules which required a super-majority vote because he felt this was a lease beyond 20 years. He added, when the rule was applied, he did not feel the lease meant just the term for that rule, but encompassed the four corners of the document. He said he contacted the City several weeks ago about his opinion.

Mr. Teplitz stated there were many complicated provisions within the documents. He distributed a copy of his calculations on the Hooter's Ground Lease Comparison to all members of the City Council. He stated the developer would need an acre of ground to meet all the parking requirements for a typical lease for a 6,000 square foot building, and would pay between \$25,000 and \$50,000 a year for the land. He expressed concern that this developer would only be paying \$6,000 a year.

Mr. Teplitz referred to his calculations, which he distributed to the Council, and gave a brief overview of his research. He pointed out that the City would be subsidizing the developer over twenty years in the amount of almost \$700,000, and over \$2 million for the other restaurants compared to what they would have to pay in the normal market. He said he did not feel this was a good economic deal for the taxpayer.

Mr. Teplitz discussed development of the Sears Block and he expressed concern about a possible barrier that would affect the inner relationship between the Sears Block and the platform. He further pointed out that if the City wanted to do anything with the Sears Block for the next two years that caused a relationship to the Riverfront and the platform, the City would have to negotiate with the redeveloper because they had absolute rights at this point.

Mr. Teplitz further stated the City won their legal battle with the developer, and he indicated it was not likely that decision would be overturned in an appeal. He said the City was willing to settle the case, but the developer would have more rights after the settlement than he did at the beginning.

Mr. Teplitz said he felt there were many provisions that should be reviewed by the Council. He referred to the addendum to the redevelopment agreement and advised there was no provision for penalties if the redeveloper did not complete the project, and the agreement could not be terminated. He added the redeveloper could take every one of the buildings and convert them to non-restaurants so there would be no sales tax to pay outstanding bonds. He said the only parcel that had to stay a restaurant was Hooters. He said he felt the City had too much exposure if the agreements were approved. He urged the Council to reconsider and try to negotiate something that was more fair to the citizens of Peoria.

Mayor Grieves said the City took precautions through outside legal counsel to review the TIF and other issues that were raised by Mr. Teplitz.

Outside Legal Counsel for the City, John Elias, explained the buildings could not be changed from restaurants because the City had atornment agreements with the tenants. He referred to the zoning for the area and there would only be certain permitted uses under the zoning regulations. He said he did not feel this would be a problem.

Corporation Counsel Randy Ray stated any problem with the TIF law raised by Mr. Teplitz could be remedied at such time the developer came forward with a proposal by doing an RFP at that time.

In discussion with Council Member Sandberg about exclusive development rights given to the developer for two years in the TIF, Mr. Ray explained, if the rights had expired, the developer would have negotiating rights and prior to any development, an RFP could be done.

Council Member Morris spoke in support of the motion and discussed key development areas and strategy of re-igniting the downtown area. He said the City had to come into partnership with the private sector and in doing so there had to be compromise. He urged the Council to focus on the grand plan of the Riverfront, and the Sears Block should be carefully linked with the platform and the remainder of the Riverfront.

Council Member Gibson said the issue had nothing to do with the potential presence of Hooters on the Riverfront. She said the issue regarded the breach of contract by the developer, who was in default and whose rights had expired, and who had now demanded expensive concessions and considerations in addition to a financial subsidy for Hooters, and an agreement which would allow six restaurants.

Council Member Gibson expressed concern that the proposed development was not what she had envisioned for the Riverfront, and she said she was concerned about the appearance. She said she felt this development was not what Peorians wanted for their Riverfront. She expressed further concern regarding the lack of a viable parking plan for the Riverfront. She suggested that land should be sold to Hooters at market rate, if they desired to locate on the Riverfront, and make it a clean deal. She questioned why this restaurant would be subsidized. She said the City of Peoria needed to take back control of the Riverfront, and she said she was concerned about the exposure the City would have with the developer. She discussed the shift factor, and she added she did not feel the projected revenue would be realized by the City.

Council Member Ardis referred to Item No. 4A of the Settlement Agreement, which regarded offensive names which he read, and he pointed out there was no similar provision for the Edgewater Pad. He added under Item No. 6C, regarding Phase II, he said if the agreement was passed, he requested the addition of a sentence following "Phase II Addendum," to read "for any reason whatsoever (such decision being at the sole discretion of the City Council). He said he felt this would clarify the paragraph.

Council Member Ardis read the Judge's statement regarding the lawsuit with the developer and discussed the proposed settlement of the lawsuit. He said he felt the developer lost his development rights when he breached his contract with the City. He added he would like the opportunity to review the developer's performance to determine the developer's rent income and how it compared to the \$6,000 a year lease with the City. He further discussed the future development of the Sears Block whose view would be blocked by a raised platform with a three-story office building on top of it. He agreed the City needed to regain control of Riverfront Village while there was still an opportunity. He said he felt it was time to end the partnership with the developer. He said he felt the best should be made of a poor design by bringing in a master urban planner and implementing a design that would incorporate development of the Sears Block, and Riverfront Village in an aesthetically pleasing way. He added the settlement of this lawsuit would affect future lawsuits against the City.

Council Member Turner discussed the lack of development on the Riverfront in years past, and the opportunity now to continue the momentum of development in that area. He expressed concern that there was a lack of commitment by some Council Member regarding the development of the Riverfront. He said the Council should consider rather what was right for the community. He said this issue was about economics and there were no perfect deals. He indicated he would support the motion.

Council Member Spears discussed the proposal made by the redeveloper for Riverfront Village and the City bonds that were obtained. He said the issue regarded the fact that the developer did not honor his agreement. He discussed how the City would deal with other City contracts with employees, etc, if they decided to dishonor their contracts. He said the compromise was not discussed with the Council until after the offer had been made. He said he did not agree with the settlement at this point.

Council Member Sandberg pointed out if the settlement went forward, the City would be short \$64,000 because the developer's guarantee was extended another year. Following further discussion, he questioned if the present Council could place a mandate on a Council nineteen years from now.

Mr. Ray said the proposed agreement provided that at the end of twenty years, it would be the City's decision how it wanted to proceed. He added the City had other options, if they chose not to purchase the building.

In discussion with Council Member Nichting, Finance Director/Comptroller Ellie Hogan indicated there would be a \$50,000 shortfall in the year 2000.

Council Member Nichting expressed concern that a possible Budget amendment would be needed in 2001 that would require eight affirmative votes. He suggested there was a possibility that the amendment would not pass successfully.

Ms. Hogan stated it was anticipated that monies in fund balance would be used to cover the shortfall, so no Budget amendment would be required.

In discussion with Council Member Nichting regarding a possible change in the parking plan, Corporation Counsel Randy Ray stated the only change was in paragraph 7 of the settlement agreement which indicated the developer would withdraw notices of default previously sent regarding parking but the position had not changed. He said in other words, it was not addressed in the settlement agreement. Following a question regarding potential future lawsuits regarding the parking issues, Mr. Ray stated he was comfortable with the City's position, but there was nothing in this agreement that would preclude it.

Council Member Nichting stated there was some belief that all potential lawsuits had gone away, but in fact, they had not.

In further discussion regarding if one of the restaurants ceased to operate, Mr. Elias explained there would have to be negotiations with the City because each of the two restaurants in Riverfront Village have signed an agreement stated there would be no amendments with the sublease without the City's consent.

Council Member Grayeb stated he felt each issue needed to be decided on its own merits and each issue was individual and he felt it was unproductive to dredge up past projects and previous actions taken. He said all Council Members had inconsistencies in their voting past, but he felt each Council Member had to judge each situation individually. He said each had to decide if there were more positives than negatives in the proposed agreement.

Hearing no objections, Mayor Grieves granted Privilege of the Floor to Mr. Steve Lu.

Mr. Steve Lu, 7234 N. Crabapple Court, urged the Council not to vote on this issue at this meeting, but wait until more issues were worked out so more Council Members would feel comfortable with the agreements. He said he felt the public should hear more discussion about this issue.

Discussion was held regarding whether Council Member Ardis' amendment should be in the agreement. Council Member Duncan stated he would not accept it as a friendly amendment.

Council Member Nichting moved that under Item No. 6C, regarding Phase II, a sentence following "Phase II Addendum," to read "for any reason whatsoever (such decision being at the sole discretion of the City Council) should be added. There was no second.

In discussion with Council Member Sandberg regarding if a super-majority vote was needed, Mr. Ray clarified that there was no 2000 Budget amendment required by the passage of the proposed agreements and it was his opinion that the lease term did not exceed twenty years because the City was in control of all the options at the end of twenty years.

Motion to approve the final documents – Edgewater Pad Redevelopment Agreement, Settlement Agreement, Second Addendum to the Amended and Restated Riverfront Village Redevelopment Agreement and Mutual Release and Settlement Agreement was approved by roll call vote.

Yeas: Duncan, Grayeb, Morris, Thetford, Turner, Mayor Grieves – 6;

Nays: Ardis, Gibson, Nichting, Sandberg, Spears - 5.

(00-741) **Communication from Mayor Lowell G. Grieves Regarding the Following:**

**A. EXPANSION of RIVERFRONT BUSINESS DISTRICT BOUNDARIES
and AMENDMENT of RIVERFRONT BUSINESS DISTRICT
COMMISSION'S RESPONSIBILITIES with Request that the Riverfront
Business District Commission Undertake the Planning Effort Described
Herein and Report its Recommendations to the City Council Within 90 Days
from this Date. (Replacement Communication)**

Mayor Grieves explained that instead of changing the physical boundaries of the Riverfront District to the four recommended areas, the Riverfront Business District Commission would be charged with studying the areas and coming back before the Council in 90 days with recommendations and the Council would then take their action to change the boundaries.

Council Member Gibson moved to grant Privilege of the Floor to Ms. Marcella Teplitz; seconded by Council Member Grayeb.

Hearing no objections, Mayor Grieves granted privilege of the Floor to Ms. Marcella Teplitz.

Ms. Marcella Teplitz, Chairman of the Peoria Housing Authority, referred to the PHA's possible application for HOPE VI for Harrison Homes. She said she wanted it to be clear that it was not the idea of the Peoria Housing Authority, Executive Director Roger John, nor Congressman Ray LaHood that the Riverfront Development Commission's duties be expanded into that area. She said the project for this area had been planned for several years. She said this matter would be discussed with the new Chairman of the Riverfront Business District Commission.

Ms. Teplitz also referred to proposed projects undertaken by the Riverfront Commission which were PHA projects. She referred to the Riverview Terrace (PHA Taft Home Areas) project which was referred to in the Council communication. She said the PHA had no idea what this project referred to and the map that was produced referred to a future redevelopment project. She said the PHA owned 85% of the property and she indicated the PHA had no knowledge about this.

Executive Director of Riverfront Development Tom Tincher stated he had talked with Mr. John several times regarding this issue and reviewing the entire area, and realizing there were some challenges involved. He added the future development would be defined by the cooperative effort and to collectively improve the entire area.

Ms. Teplitz stated she felt that improved communication would be in order and she clarified that she had been approached by citizens informing her that the City planned to acquire the Taft Homes property. She said the property where Taft Homes stands and the vacant property was owned in full by the local PHA and could not be conveyed to anyone without it being sold by the PHA. She hoped to put to rest some rumors which had circulated that had upset some of the tenants.

Mayor Grieves said the issue regarded whether or not the Riverfront Development Commission was the appropriate vehicle to show the City's cooperation.

Council Member Gibson said she was not adverse to the Commission planning or investigating various remedies to some of the blighted areas of the City. She said she was concerned about what was to be accomplished. She said she was not prepared to support this until she knew more about how this would be conducted. She added she felt the idea had merit.

In discussion with Council Member Duncan, Director of Planning and Growth Management Wayne Anthony said the City would be giving \$900,000 to the Peoria Housing Authority over the next three years.

Council Member Duncan said he felt the talents of the Riverfront Commission should be used whenever possible to assist the PHA.

Council Member Duncan moved to grant Privilege of the Floor to Mr. McFarland Bragg; seconded by Council Member Turner.

Hearing no objections, Mayor Grieves granted Privilege of the Floor to Mr. McFarland Bragg.

Mr. McFarland Bragg discussed the expansion of the Riverfront Commission and he expressed concern regarding what was being laid before the Commission was extensive. He said he now understood that the areas would be reviewed first so he urged the Commission to concentrate on the area in the First District. He said there were many activities happening in the First District, which included the building of homes, the baseball stadium and a recently renovated Neighborhood House and the old Szolds' Building. He said they needed to partner with the City and leverage dollars. He urged the Council to do an economic impact study on the Southside area and he encouraged the Council to include the cost of a study in the 2001 Budget.

Council Member Sandberg expressed concern about the concept and that the synergy of HOPE VI should not need further support by a Commission.

Council Member Grayeb moved that the Riverfront Business District Commission undertake the planning effort described herein regarding the expansion of the Riverfront Business District boundaries and amendment of the Riverfront Business District Commission's responsibilities, and report its recommendations to the City Council by no later than 90 days from this date; seconded by Council Member Turner.

In discussion with Council Member Morris, Council Member Gibson said she still had some concerns because the Commission did not reach a consensus about this issue during their meeting and there was no methodology. She said she preferred that this be remanded to the Commission and, if they were willing to do this, there should be some kind of procedure before it was authorized. She said she felt the motion was premature.

Council Member Ardis suggested deferring this item for three weeks to allow the Commission to meet and discuss the issue and decide if they wanted to participate.

Council Member Nichting moved to defer this item and Item B for three weeks until the November 21, 2000, Council Meeting; seconded by Council Member Spears.

Motion to defer until November 21, 2000, was DEFEATED by roll call vote.

Yeas: Ardis, Gibson, Nichting, Sandberg, Spears – 5;

Nays: Duncan, Grayeb, Morris, Thetford, Turner, Mayor Grieves - 6.

Council Member Grayeb moved to request that the Riverfront Business District Commission undertake the planning effort described herein regarding the expansion of the Riverfront Business District boundaries and amendment of the Riverfront Business District Commission's responsibilities, and report its recommendations to the City Council by no later than 90 days from this date; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Duncan, Grayeb, Morris, Thetford, Turner, Mayor Grieves - 6.

Nays: Ardis, Gibson, Nichting, Sandberg, Spears – 5;

B. ORDINANCE Amending Chapter 2 of the Code of the City of Peoria, EXPANDING RIVERFRONT BUSINESS DISTRICT BOUNDARIES and AMENDING the RIVERFRONT BUSINESS DISTRICT COMMISSION'S RESPONSIBILITIES.

Council Member Grayeb moved to table this item; seconded by Council Member Morris.

Motion to table this item was approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

(00-773) Communication from Director of Planning and Growth Management with ORDINANCE Granting a SPECIAL USE in a Class C-1 District (General Commercial) for Expansion of a Nonconforming Use to Include EXPANSION of the EXISTING BUILDING for Property Located at 925 N. SHERIDAN ROAD, with Condition. (Revised Site Plan Attached)

Council Member Gibson moved to adopt the Ordinance granting a Special Use in a Class C-1 District (General Commercial) for expansion of a nonconforming use to include expansion of the existing building for property located at 925 N. Sheridan Road, with condition, as amended with the revised Site Plan, and as amended with the provision that the Petitioner would work with the adjoining neighbors regarding the choice of landscaping plant materials, etc., and with a stipulation that the Petitioner would make a good faith effort to search out the tan brick used on the building already standing so the structure would be of one material, if possible; seconded by Council Member Ardis.

ORDINANCE NO. 15,027, with the revised Site Plan and as amended was adopted by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

(00-775) Communication from Director of Planning and Growth Management with ORDINANCE Granting a SPECIAL USE in a Class R-1 District (Single Family Residential) for a PUBLIC SCHOOL for Property Located at 3314 W. RICHWOODS BOULEVARD, with Conditions.

Council Member Spears moved to adopt the Ordinance granting a Special Use in a Class R-1 District (Single Family Residential) for a Public School for property located at 3314 W. Richwoods Boulevard, with conditions; seconded by Council Member Sandberg.

Council Member Spears discussed the Illinois First, County and City funding of the school and the \$3 million needed to improve Richwoods Boulevard. He pointed out the students that would go to this school would be coming from Farmington Road past a middle school owned by another School District. He expressed concern about this situation and the fact that children living across the street from this school would not be able to attend the school, because the school was located in the very corner of the District. He expressed further concern that this would be a burden on the taxpayers of the City of Peoria.

Motion to adopt ORDINANCE NO. 15,028 granting a Special Use in a Class R-1 District (Single Family Residential) for a Public School for property located at 3314 W. Richwoods Boulevard, with conditions was approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

(00-743) Communication from City Manager Regarding PRELIMINARY BUDGET/ EXCEPTIONS for FISCAL YEAR 2001.

City Treasurer Mary Ulrich distributed a communication regarding preliminary budget exceptions to all members of the City Council.

Following further discussion, Council Member Nichting moved to defer this item for one week until the November 7, 2000, Regular City Council Meeting; seconded by Council Member Grayeb.

Motion to defer this item until November 7, 2000, was approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner, Mayor Grieves – 11;

Nays: None.

Council Member Thetford requested that the 1998 and 1999 year-end revenues and expenditures, as well as a list of all vacant positions in each Department, be provided to the Council so they would have this information for the discussion when this comes back before the Council.

(00-035) REQUEST to PLACE the Issue of the CLOSURE of BIG HOLLOW ROAD at the UNION PACIFIC BRIDGE on the November 7, 2000, City Council Agenda for Discussion.

Council Member Nichting moved to direct Staff to place an item on the November 7, 2000, City Council Agenda to hold discussion concerning the closure of Big Hollow Road at the Union Pacific Bridge to the intersection of Frostwood Parkway and Charter Oak Road, so this road could possibly be open by mid-November, 2000; seconded by Council Member Duncan.

Council Member Nichting explained that with Frostwood Parkway opening, he said the feeling that there would be an increase in traffic on Big Hollow was not a reality. He discussed traffic patterns and that it would not have a large impact on Big Hollow Road.

Council Member Spears stated this would create an entire new neighborhood if this traffic was funneled onto Big Hollow Road. He said this would cause greater congestion when construction started on Charter Oak Road and would slow down the construction of the road. He spoke against the reopening of Big Hollow Road. He said a promise was made to Joan Manner Neighborhood and he wanted to keep that promise. He added that Fire trucks and City road maintenance trucks would not be able to use the Bridge because of its condition. He urged the Council not to bring this issue back for discussion.

Motion to direct Staff to place an item on the November 7, 2000, City Council Agenda to hold discussion concerning the closure of Big Hollow Road at the Union Pacific Bridge to the intersection of Frostwood Parkway and Charter Oak Road so this road could possibly be open by mid-November, 2000, was approved by roll call vote.

Yeas: Ardis, Duncan, Grayeb, Morris, Nichting, Turner, Mayor Grieves – 7;

Nays: Gibson, Sandberg, Spears, Thetford - 4.

NEW BUSINESS

(00-810) REQUEST for REPORT BACK Regarding ALLEY CLOSURES Between FRINK AND GARFIELD STREETS on the NORTHSIDE of MAIN STREET.

Council Member Sandberg requested a report back regarding alley closures between Frink and Garfield Streets on the Northside of Main Street behind some businesses and he had not heard back from the Administration. He questioned if the City Staff could close an alley without City Council approval because there had been an alley closed off by a fence. He said within the same neighborhood, there were a number of alleys that had become cut throughs that carried 900 vehicles a day. He questioned what authority the Staff had and he requested that the report back include how and when this occurred.

CITIZEN REQUESTS TO ADDRESS THE COUNCIL

It was determined no one wished to address the Council.

EXECUTIVE SESSION

(00-811) Consideration of a Motion for the City Council to go into EXECUTIVE SESSION to Discuss 2(c)(2) Collective negotiating matters between the public body and its employees or their representatives, or deliberations concern salary schedules for one or more classes of employees; and 2(c)(6) The setting of a price for sale or lease of property owned by the public body.

Council Member Thetford moved that the City Council go into Executive Session to discuss 2(c)(2) Collective negotiating matters between the public body and its employees or their representatives, or deliberations concern salary schedules for one or more classes of employees; and 2(c)(6) The setting of a price for sale or lease of property owned by the public body; seconded by Council Member Duncan.

Approved by roll call vote.

Yeas: Ardis, Duncan, Gibson, Grayeb, Morris, Nichting, Sandberg, Spears, Thetford, Turner,
Mayor Grieves – 11;

Nays: None.

ADJOURNMENT

Council Member Turner moved to adjourn the Council Meeting; seconded by Council Member Grayeb.

Approved by viva voce vote.

The Council Meeting adjourned at 11:55 P.M.

Mary L. Haynes, MMC
City Clerk of Peoria, Illinois

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