

## One More Chance to Do the Right Thing

Written by Kathleen McCarthy  
Tuesday, 15 May 2001 18:00

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The Davenport City Council proceeded with approval of two rezoning petitions on behalf of THF Realty for a Super Wal-Mart located at Elmore and 53rd Street without several of the conditions of the zonings in writing.

Last Thursday, May 10, the aldermen were given what they thought were the final drafts of the development agreements and contracts that 5th Ward Alderman Wayne Hean had been demanding from the beginning—nine days after they voted 9-1 to approve the zonings. Then, at Monday evening's Committee of the Whole meeting, the council was given yet another round of agreements that are supposed to be the final ones. With *less than 48 hours* to digest all the materials, they are expected to give their final approval this Wednesday, May 16, at the regular council meeting for two Self-Supporting Municipal Improvement Districts (SSMIDs). These two SSMIDs will create a revenue stream from an additional levy of property taxes that THF Realty will impose upon its own property, theoretically to be recaptured through lease agreements with tenants, including Wal-Mart.

One of the conditions of the rezonings that the council passed last cycle (May 2) is referred to as the "dark store" agreement (see story page 7) and is the invention of 6th Ward Alderman Bob McGivern. Basically, if Wal-Mart, which "shall use commercially reasonable best efforts," can't sell or lease its abandoned property within two years, Davenport taxpayers will have the option to either purchase the store or assign title to it to a third party. The rationale behind the agreement is to prevent the abandoned Wal-Mart from sitting vacant and creating obsolescence on Elmore.

Surely there are better ways to ensure occupancy, assuming that populating the abandoned property is the real goal. The language in the agreement is so vague that "interpretation" will probably be required, according to Davenport's corporate counsel, John Martin. What exactly does the city mean by commercially reasonable best efforts? For instance, does it mean that Wal-Mart include the sale price on their website posting at Loopnet.com (a website that posts commercial property for sale)? Because, according to Alderman McGivern (and verified by us), they have not included that critical information relative to this property. On the one hand, according to the dark store agreement, Wal-Mart shall engage in these best efforts once the

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agreement is signed, but they don't actually have to list the building until after one year has passed from the date of their Super Wal-Mart opening. In other words, it will stay dark for at least two years because nothing in this ludicrous agreement mandates otherwise. They are not even required to accept a fair-market-value-or-better offer should one present itself. In the final analysis, the agreement *enables* Wal-Mart to keep their store dark for the customary two years, after which time they have a built-in buyer (Davenport taxpayers) at a guaranteed fair-market-value purchase price. The big mystery is why Alderman McGivern would advocate such a one-sided agreement, in which Davenport taxpayers are the primary risk takers? To claim that this agreement will "trigger" a sale is pure speculation. Absolutely nothing ensures this outcome—nothing! By Alderman McGivern's own admission, the agreement's terms are not what he "envisioned," so why would he continue to support it as such?

After two years, we taxpayers get to wrestle with the marketing of it through Request for Proposals (RFP), etc., or purchase it ourselves for fair market value or better, all of which comes at the city's time and expense and/or resources. According to Alderman McGivern, the "real value of the property is as vacant land." Is there a hidden agenda somewhere in this assertion? If this is true, could it be that Alderman McGivern is positioning the city of Davenport as the entity responsible for the demolition of the building if we hold title to it? Who knows at this point? He does appear to be the only one vitally interested in this purchase agreement moving forward. Wal-Mart isn't particularly keen on it, and there doesn't appear to be a lot of enthusiasm for it on the rest of the council. Certainly taxpayers have no reason to support getting into the real estate business on this micro level just to prevent planned obsolescence when there are better ways to avoid it, such as an agreement that insists Wal-Mart accept any fair-market-value-or-better offer that comes along, and leave it at that.

Looking at the bigger picture, who is this council really representing—Davenport taxpayers, or special interests at the taxpayers' expense? Also at issue is the enormous amount of development occurring in that section of town at break-neck speed with virtually no planning. And the little planning that has been done in that area was conveniently circumvented by allowing retail development to occur on land that was designated for office use thanks to the council's recent passage of rezoning ordinances on THF Realty's behalf. Follow this with the spanking new precedent Davenport is setting by utilizing SSMIDs for development of greenfields instead of for redevelopment of established or blighted neighborhoods in need of such assistance, as SSMID was intended for. Add to the mix that a huge development project estimated at between \$58 and \$60 million does not have any of the supporting studies or reports that should normally accompany endeavors with such far-reaching implications for a community. As taxpayers, we deserve far more competent stewardship from our elected officials than we are getting relative to the serious business of commercial development.

At a minimum, we should insist on an agreement that THF Realty and Wal-Mart waive all rights to any and all property tax exemptions that might be available. While the city has policies that render them ineligible for certain exemptions, the language of such ordinances does not. (Alderman Sherwood likened requiring such exemption waivers to asking THF to waive its right to invade Canada. That remark pretty much says it all for Mr. Sherwood and his grasp on the serious business of city hall.)

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All one needs to do to get an eye-opener about the predatory practices of Wal-Mart and associated companies is visit [www.sprawl-busters.com](http://www.sprawl-busters.com) and click on news flashes, or most of the other categories at the site, to find out how they operate. Manipulating municipalities into changing their ordinances, land use plans, etc., is common practice. But it takes willing elected officials to participate in this type of conduct, and luckily for Wal-Mart and THF Realty, we have them in spades on this council.

Finally, a word must be said about the sideline aldermen and their conduct relative to this issue. Aldermen Caldwell, Ahrens, Nickolas and Ambrose have all expressed very real concerns about this development project and SSMIDs. Alderman Caldwell consistently brings up concerns about the larger issue of so much development occurring without plans for infrastructure or policies for assessments. He obviously has a very good grasp on some of the systemic problems, and is able to clearly articulate it, but when it comes time to put his money where his mouth is, he drops the ball in nearly every instance by voting in direct contrast to his stated positions. Alderman Englemann is no stranger to such hypocrisy, evidenced by his consistency in declaring his concerns, then ignoring them when it comes time to vote. Just last cycle, Alderman Nickolas nobly pontificated about how he was very much against certain predatory practices, that the government employed such tactics, and that he had a published paper objecting to this conduct. Yet when he was able to take a stand against it, he caved and voted in favor of the project, as well. By his own admission, he had not even read the contracts or documents because he never received them. Alderman Ambrose, who has traditionally been the strongest watchdog for the public, claims that he is voting for the project because it will bring \$60 million to the building trade unions. When asked where on earth he got those figures, he admitted from THF Realty—once again, the fox watching the hen house. The responsible thing to do would be to insist on the evidence that supports such dramatic numbers, especially since these numbers sound uncannily familiar, but were used to support different aspects of the project, such as property tax values.

There are still unanswered questions. Critics of this development project maintain that it is not about keeping Wal-Mart from legitimately expanding. It is about caring for Davenport taxpayers first and foremost. The net economic impact of a Super Wal-Mart may prove negligible. Unfortunately, we can't get in front of any potential loss because this council did not insist on an economic impact study. Even the developer claims if the council had asked for it correctly, they could have provided it. The original sales-tax revenue projections decreased from \$1.9 million to \$500,000 by the time it was all said and done because it eventually came to light the revenue was inflated through inclusion of sales tax from property already developed in the projection figures. As economics Professor Ken Stone said, the pie is only so big. Any increase in Wal-Mart's revenues will have to come from someone else's cash register. It isn't coming from new markets. Someone else's cash register translates into established merchants being hurt financially, but this is not remotely being addressed by this council. If they had demanded the customary economic studies and reports, they would have seen the impact for themselves and could have steered in a direction that would be beneficial to the entire community and not just a few special interests. In addition to the corporate interests, the building unions are not the only unions involved here. Wal-Mart represents one of the largest anti-union corporations in America. To claim support for one union at the expense of so many others is hardly conscientious, and not enough justification to support such uncontrolled sprawl.

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There is still time to save the day, to bring additional accountability to bear, by tabling the ordinances until the council has had adequate and reasonable time to review all the information they have received, but have been given pitifully little time to absorb. Pray they see the prudence is doing just this, and revising the dark store agreement to reflect the interests of Davenport, not just Wal-Mart.