To the Graduate Council:

I am submitting herewith a thesis written by Belinda Jo Woodiel entitled "An Examination of the Potential Effectiveness of Local Environmental Protection: A Case Study of Wetlands and Road-Building." I have examined the final copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements of the degree of Master of Science in Urban and Regional Planning.

Dr. Cecilia Zanetta, Major Professor

We have read this thesis and recommend its acceptance:

Accepted for the Council:

Associate Vice Chancellor and
Dean of the Graduate School

AN EXAMINATION OF THE POTENTIAL EFFECTIVENESS OF LOCAL ENVIRONMENTAL PROTECTION: A CASE STUDY OF WETLANDS AND ROAD-BUILDING

A Thesis

Presented for the

Master of Science

Degree

The University of Tennessee, Knoxville

Belinda Jo Woodiel

December, 1996

DEDICATION

This thesis is dedicated to my parents

Neil L. and Rebecca W. Woodiel

who have given me support, love, and a fantastic education

and

to every professor I studied with at

Rhodes College

for challenging me, supporting me, and believing in me.

ACKNOWLEDGMENTS

There are many people who have provided invaluable support throughout this thesis process. Mr. Tim Gangaware and the Water Resources Research Center provided financial support through an assistantship which allowed me to attend the University of Tennessee. Tim also provided the flexibility of scheduling and friendship to help me complete this project. I am also thankful to Dr. Cecilia Zanetta for keeping me unbiased and reading countless drafts, and to my committee for agreeing to participate in this project. Thanks also go to Michelle Neal at the Foundation for Global Sustainability for sharing her wealth of knowledge about wetlands regulations and mitigation policy.

I am in great debt to my friends, John and Angela Miller, for the loan of their computer during my busiest time, as well as their computer expertise. This rare gift of friendship made this project much less stressful. I am thankful also to Rob Boyd for computer support, laundry support, and infinite emotional support. I thank him for feeling my rage and celebrating my victories. Also, thanks to Andrea Greathouse for her de-stressing abilities, and Courtney Schwarten for her unending support and encouragement.

My greatest debt of gratitude, however, goes to Dr. David Feldman, for his unending support. Dr. Feldman has spent countless hours helping me to decide on a topic, refine ideas, and edit materials. Throughout it all, Dr. Feldman has maintained the amazing ability to correct my mistakes while uplifting my spirits. I fail to understand how I can leave an office with major corrections to be made, but feeling so positive about my abilities. I appreciate beyond words his open door and willingness to listen. This dedication and enthusiasm for teaching has inspired me and challenged me. This truly would not be possible without him.

ABSTRACT

This study examines the effects of the regulatory and decision-making processes on local environmental protection by exploring the case study of the Turkey Creek Wetlands, a development/environmental decision in Knoxville, Tennessee. This case study involves the proposal for a road through the largest, high quality wetland in Knox County, which is located in a congested, high-growth area of the county. The primary influences on the case study from the regulatory process are a lack of responsibility at the local level, which results in a lack of public awareness that the decision was made, as well as a lack of potential local compromise options. The local power issues which were prominent in the study were in the use of power which occurred before the formal decision-making process which resulted in a non-decision, a lack of information to the public, and the acceptance of a project without solid facts. Controversies such as the Turkey Creek Wetlands can be minimized through local responsibility in environmental planning, and other possible measures of local responsibility.

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CHAPTER ONE

INTRODUCTION

As urban areas continue to increase in size, land once thought impractical for development is rapidly becoming a feasible option. Sensitive areas such as wetlands are often found on such land, and are usually the cause of its previous lack of development. As the rate of wetlands conversions increase due to urban growth pressures (Governor's Interagency Wetlands Committee, 1995), so too increases the need for environmental planning and local control of these sensitive areas.

Wetlands are beneficial ecosystems serving a number of functions such as flood control, water purification, groundwater recharge, and wildlife habitat. Wetlands also serve as educational and recreational opportunities for urban residents. Despite these many benefits, they continue to be threatened due to urban growth. The preservation of these systems, in many cases, lies not within the local areas which can benefit most from them, but rather with higher levels of government, through the regulatory permitting process.

Environmental protection on the local level is often dictated by higher levels of government, through state and federal regulations. This tends to lessen the burden on local governments for environmental policies and decision-making. However, this also creates an inefficient regulatory system wherein local governments can choose to take no control over their resources, and local citizens thus lack a local environmental forum to express concern over local environmental issues. Development projects

involving wetlands can get stalled in the federal permitting process for months with no indication whether the project will proceed or not.

This lack of local environmental responsibility can also work with the policy process to overlook sensitive area concerns, having local land use dictated by power politics. The policy process can be used to decrease public awareness and formulate rapid decisions before public input can occur.

These problems and concerns stress the need of local responsibility for resources such as wetlands. This paper attempts to examine not only the benefits of local protection, but also the challenges to local protection within the present regulatory process and local policy process.

THE STATEMENT OF THE PROBLEM

At the local level, effective environmental protection faces several challenges. First, the environmental regulatory system is fragmented among varying levels of government and by the permit/review process. Secondly, the policy-making process can be distributive and weighted towards development. Thus, the present paradigm for managing environmental protection can promote special interests, conflicts among stakeholders, improper allocation of costs, and a lack of predictable outcomes for both sides of a protection issue.

The regulatory process presently is divided among several levels of government. This tends to create overlaps within the permitting process and delays in

the development process. In addition, environmental concerns are expressed only at public forums which are held late in the process, only after large monetary investments have been made by the developers. This present system is operated on a case-by-case basis, with no basic groundrules and permitting decisions which can remain undecided for many months. These are among the many common complaints of the regulatory system, yet many of these problems can be lessened with the use of some local responsibility for environmental protection.

The local decision-making process is affected by the use of power in its various dimensions. In many cases power is used to withhold information and public awareness, and allow for rapid decisions to occur with little public involvement. The literature review in Chapter Two will examine how more power is often held by business interests over environmental interests, and that this can greatly affect local environmental decision-making.

Local responsibility and protection measures have the potential for overcoming some of these impediments. However, insufficient attention has been focused on local environmental planning and protection measures within the framework of the political and regulatory process, particularly in relation to local planning and policy.

PROJECT PURPOSE

The purpose of this study is to examine the shortcomings of the present regulatory and decision-making processes for wetlands protection at the local level of government. To accomplish this, these issues will be analyzed through the lens of the Turkey Creek Wetlands case study, in Knoxville, Tennessee. The study first examines how the present regulatory process failings and local community power issues can inhibit local environmental protection. These failings and issues are then applied to the case study to determine their impacts. Finally, recommendations for local government protection measures are made based on the information obtained.

THE CASE STUDY

This case study exemplifies many of the issues addressed above concerning the regulatory process and local decision-making, and the resulting difficulties involved in environmental protection. The case study is a recent, and a vivid example of the problems within the regulatory and political systems. It also exemplifies the ingrained nature of these methods of policy within the system.

The case involves the largest, most significant wetland in Knox County, Tennessee, which is located on one of the last remaining large pieces of undeveloped land in the rapid growth area of the county. The developers of the property joined the City of Knoxville in a joint venture to build a road through the property, and through the wetlands. The Knoxville City Council voted to allocate $4.1 million to the project

(Excerpts from a city council meeting, 1995). This decision was made with no public input, as the public was unaware the decision was being made. The preliminary plat submitted by the developers was approved by the Metropolitan Planning Commission, and then upheld by the Knoxville City Council upon appeal (Excerpt from a city council meeting, 1996). As will be shown, this case contains specific examples of the issues discussed in the literature.

PRIMARY RESEARCH QUESTION

Given the already existing state and federal measures protecting wetlands, does local environmental responsibility and protection serve a function?

SECONDARY RESEARCH QUESTIONS

What regulatory inefficiencies exist which create challenges for local environmental protection?

What local policy-making issues exist which create challenges for local environmental protection?

METHODOLOGY

To examine the issues involved in this study, the research will be divided into several sections:

Understanding the Problem: The constraints of the regulatory process and the issues within local community decision-making will be understood through a literature search in the policy, planning, community power, and environmental arenas. Specific problems will be noted, and the direct outcome to local environmental protection will be determined.

Exemplifying the Problem: The case study of Knoxville, Tennessee's Turkey Creek wetlands controversy will be examined and problems noted from the literature will be applied to the case. Information for the case study will be gathered from primary sources ranging from meeting minutes, official correspondences, and other primary sources to examine decision methodology. Records of decisions will be reviewed. The case study will be examined within the framework established from the literature review, but with a preliminary background explanation of reasons for the conflict, including an overview of the property and wetlands in question. After examining the case study within the framework of the literature review, an analysis of the most influential issues from both the regulatory and policy processes will be determined, as well as their direct effect on the case study. Finally, based on the information obtained, a determination will be made as to the most significant impacts to the case study, and recommendations based on that determination will be made.

Data used: records of decision (meeting minutes, staff reports)
current literature (journals, papers, books)
official, public correspondences among affected parties
specific plans, ordinances, and other regulatory policies

VALUE OF THE STUDY

Given the present political and regulatory system, it is vital for planners to examine the necessity of local protection and its potential values. This information would be important to local planning and policy-making organizations, as it highlights the realities of environmental protection obstacles and determines if local responsibility is enhanced or minimized by the present decision-making paradigm. This study will help local officials consider the present state of both the regulatory and policy processes when examining the most effective local protection tools for a given situation.

This paper points out the obvious need to balance development and natural resources. Resources are vital for the continuation of development and both are necessary for a vital and healthy community. This study can give important insights into the regulatory and policy realities presently existing, in order to better formulate local protection policy.

SCOPE OF TOPIC AND LIMITATIONS

Although the focus of this paper is the current local protection of wetlands in Knoxville, Tennessee, the issues of the present political system and regulatory process can be applied to other sensitive lands, natural areas, wildlife habitats, and environmental concerns. In addition, the literature review will indicate that the policy issues addressed within this particular case study are not isolated to Knoxville,

Tennessee, and are likely existing in other cities in the United States and elsewhere. Knoxville is not unique in its lack of local environmental policies and regulations, and the problems addressed in the case study due to this lack of local protection are likely to occur in many areas where local environmental protection is absent. The issues and problems addressed in one case study are not scientifically representative of all cities. However, the case study used herein is most likely representative of local politics in other localities.

ORGANIZATION OF THE THESIS

This paper is organized as follows:

Chapter Two presents a summary of the literature reviewing both the regulatory process and its failings, and the issues of local community power and their effect on local decision-making. This establishes a framework of issues by which to analyze the case study.

Chapter Three discusses the case study of the Turkey Creek Wetlands, and the regulatory and policy issues found within the study. The framework established in Chapter Two is used to establish which regulatory and policy issues are present and which are the most significant in this case study.

Chapter Four makes recommendations based on the findings in both the literature review and the case study. The most significant issues in the case study are addressed, and potential solutions suggested.

CHAPTER TWO

LITERATURE REVIEW:

THE REGULATORY AND DECISION-MAKING PROCESS

INTRODUCTION

Due to their numerous benefits and functions such as flood control and wildlife habitat, wetlands and other natural areas are protected through regulations by different levels of government. These regulations from state and federal levels, however, often have shortcomings which can affect the protection of the local resources. In addition, wetlands and other sensitive areas are influenced by the decision making processes within local governments. Local decisions can improve or impede environmental protection through environmental commissions or power politics. Therefore, in determining the effectiveness or necessity of local environmental protection, one must examine not only the existing regulations and their shortcomings, but also local community power structures and their effects on environmental policy. This paper will first review the functions, benefits, and present status of wetlands, and then examine existing regulations on wetlands in Tennessee. The shortcomings of the regulatory process will be discussed, and their effect on local environmental protection determined. Finally, the issues of community power structure and decision-making will be examined, and their potential effects on local environmental protection will be determined. This background will help explain and set the framework for the case study of the Turkey Creek wetlands, which will be discussed in the following chapter.

WETLANDS: DEFINITION, FUNCTIONS, AND STATUS

The US Army Corps of Engineers, the primary federal agency in charge of wetlands permitting, defines wetlands as "those areas that are inundated or saturated by surface and groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (1994, p. 7). While various other definitions of wetlands exist, this paper will present only the Corps of Engineers definition, as it is the most applicable to the study.

Wetlands in the United States were originally seen as scourges on the land, and federal legislation throughout the 1800s actually encouraged their conversion (Burke, 1988). However, wetlands have more recently been recognized as valuable because of a number of services they provide. These functions are many and varied, including water quality enhancement, flood control, wildlife habitat, and groundwater protection.

Water Quality Enhancement. Wetlands have the ability to enhance both the physical and chemical conditions of water. This is accomplished in two ways. First, by slowing the water down, wetlands reduce the amount of suspended sediment in a water system, as well as the associated toxic substances. This excess sediment and toxins can choke fish and reduce sunlight available to plant life. This purification provided by a wetland system is accomplished not only by energy dissipation, but also by precipitation, ionization, and biotic bonding (Governor's Interagency Wetlands Committee [GIWC], 1994). Secondly, wetlands purify water by reducing the concentrations or modifying the forms of various excess nutrients such as phosphorus, and nitrogen from agricultural and lawn runoff. This is accomplished through a variety of biochemical processes. This purifying capability of wetlands is a low cost way of attaining clean water standards. The *Boston Globe* reported that if the nation

was to lose merely its 'dryer-end' wetlands, the cost in waste water treatment alone to offset the impacts would be $75 billion (Sokolove 78-79).

Flooding Impacts. In addition to water quality enhancement, wetlands can also reduce flooding. Wetlands act as a sponge for excess waters and retain these waters, releasing them slowly, and reducing peak flooding dramatically. Secondly, wetlands, in their usual vegetated state, reduce flood velocity and thereby lessen the erosion potential for streambanks and shorelines (GIWC, 1994).

Wildlife Habitat. Wetlands provide habitat (i.e., food, water, cover, and reproductive locations) for a wide variety of both aquatic and terrestrial species. They are nurseries for fishing industries. This is of significant economic importance, as many species lay eggs in wetland areas. Wetlands are a vital source of energy and food for migratory waterfowl. Wetlands provide food chain support, and a necessary habitat for aquatic, semi-aquatic, wetland, and terrestrial species throughout some, if not all stages of life (GIWC, 1994).

Groundwater Influence. Wetlands have a strong connection to groundwater. First, wetlands retain water and eventually allow for its percolation into an aquifer below. Wetlands release water into adjacent streams and other bodies of water during dry seasons, and wetlands also enhance the groundwater which is discharged from an aquifer by providing a type of biochemical water treatment (GIWC, 1994).

Thus wetlands display many functions which are critical to the success of the natural environment, as well as many benefits to humans. Enhancing water quality preserves species diversity and lessens the amount spent on wastewater treatment. Wetlands greatly reduce flooding impacts, and provide vital wildlife habitat. Finally, these ecosystems purify and contribute to groundwater aquifers.

Despite all of these benefits, enormous amounts of wetlands have been lost, and continue to be lost. Government encouragement of the draining and filling of

wetlands in the 1800s resulted in a loss of around 53% of the total national wetlands, and 59% in Tennessee by the mid 1980s (Dahl, 1990). According to state wetlands managers in Tennessee, several trends of wetlands loss continue. Among these trends, urban conversions of wetlands continue to grow, and transportation impacts are an increasing factor in wetlands losses (GIWC, 1994). The eastern portion of Tennessee, in particular, has the fewest wetlands in the state. East Tennessee contains only 4 percent of the hydric soils, or wetlands soils, found in the state (GIWC, 1994). Therefore, in East Tennessee, wetlands are rare.

REGULATIONS FOR WETLANDS IN TENNESSEE

At present, there are several regulations which pertain to wetlands. In Tennessee, wetlands alterations must first be approved by the US Army Corps of Engineers, the Tennessee Valley Authority, the Tennessee Department of Environment and Conservation, and any local regulations.

Federal Regulations: The Clean Water Act, Section 404

The 1972 Federal Water Pollution Control Act Amendments to the Clean Water Act enacted Section 404. Section 404 regulates discharges of dredged or fill materials into the wetlands and waters of the United States (US Army Corps of Engineers [COE], 1994). Therefore, anyone wishing to place dredged or fill material into a wetland or waterway must first obtain a permit to do so from the US Army Corps of Engineers. Authorization is issued either through a general permit or an individual permit. General permits are issued for activities which have previously been determined to have minimal environmental impact such as a minor road crossing or utility backfill. Individual permits, however, must be examined more closely due

to their potential for significant wetlands impacts. Public comment is required, and a mitigation plan of some kind is usually requested.

The Environmental Protection Agency was assigned the task of establishing the guidelines to be used by the Corps of Engineers in order to evaluate the environmental impacts of the proposed changes and thus the feasibility of the permit approval. According to Section 404, the Corps cannot issue a permit unless it determines that the proposal complies with the EPA guidelines. The guidelines state that a permit shall not be granted if there is a practicable alternative to the proposed discharge that would have less adverse consequences on the aquatic ecosystem. Under the guidelines, alternatives must be presented with the request and the one chosen must have the least environmentally-damaging impact, while remaining a practicable alternative (COE, 1994). However, a more strict analysis is required of those activities which are not water-dependent, such as for roads or building development. An activity is said to be non-water dependent when "the activity associated with the discharge does not require access or proximity to, or citing within wetlands to fulfill its basic purpose" (COE, 1994, p.11). With these types of activities, the guidelines presume that there are alternative sites which do not involve discharges into wetlands and waterways, and that these alternatives are less environmentally damaging unless clearly illustrated otherwise.

These EPA guidelines also require that all appropriate action and practicable mitigation be performed in order to minimize the harm to the aquatic ecosystems. According to these guidelines, the Corps of Engineers should evaluate applications to ensure that mitigation measures proceed in the following order (COE, 1994, p.11):

1. avoidance of impacts where practicable through the evaluation of alternative sites.
2. minimization of impacts
3. appropriate and practicable compensation for unavoidable impacts

While the EPA guidelines for wetlands permitting are very specific, the complaint is often made by many involved in the regulatory process that the Corps of Engineers does not follow these guidelines directly. In addition, EPA enforcement is minimal, with its veto power being exercised in 150 cases since 1979, but completing only eleven of those cases (Environmental Protection Agency, 1996).

Regional Regulations: Tennessee Valley Authority

Another requirement of wetlands alteration is a permit application with the Tennessee Valley Authority. This permit is filed in conjunction with the federal permit, and the decision to approve or deny the application is usually the same. This permit is a way that the Tennessee Valley Authority keeps abreast of the activities within its twelve watersheds.

State Regulations: Aquatic Resources Alteration Permit

The State of Tennessee's Department of Environment and Conservation (TDEC) also requires a permit for wetlands alteration. The Aquatic Resources Alteration Permit, or ARAP, is filed with the local TDEC offices, which make comments on the proposal and forward that to the Nashville offices. A public comment period is held, and a decision is made, based on the local staff recommendations and public comments. The process is similar in procedure to the federal regulations.

This listing of permitting procedures indicates that anyone wishing to alter a wetland in Tennessee must first obtain permits from the national, regional, and state authorities. In some cases, local regulations may also exist. However, the case study contains no such local regulations, and so none are examined here.

As seen from the above review, numerous attempts are made at environmental protection, often at all levels of government, usually with similar methodologies involving permitting and individual review procedures. This might beg the logical argument that the environment is adequately protected and perhaps even over-regulated with too many rules and overlapping regulations. However, despite the plethora of legislation and planning, development and resource extraction continue to invade ecologically sensitive areas as seen by the trends stated above. This suggests a fundamental problem in the methodology of environmental protection at its various levels and in its various forms. The protection of environmental resources faces challenges from both the regulatory system established to promote it, and the political arena. First, the regulatory process and its imperfections will be examined, followed by a discussion of local political processes and the use of power and its effect on local environmental protection.

THE REGULATORY PROCESS FOR ENVIRONMENTAL PROTECTION

The environmental regulatory process has suffered a barrage of complaints from both sides of the wetlands issue, due to its inefficiencies and ineffectiveness. On the one side, developers claim that the process can stop a project after major investments of time and money have been made, e.g. survey work and design work. The environmental protection process can stall or even stop projects for seemingly small reasons, and it can force developers to spend large amounts of money for environmental studies, surveys, and impact statements which do little to affect the development. On the other side, environmentalists claim that the process is too piecemeal, with separate review processes for each land parcel. In addition, environmentalists complain that in most cases they are involved too late in the process, when the development is set to proceed.

Both sides of the environmental protection issue have complaints of the inefficiencies and inadequacies of the regulatory system. Some have even claimed that the bureaucracy is not equipped to handle these common use goods, because the authority is separate from the responsibility and consequences. Baden and Stroup (1981) argue that it is the structure of the system causing these problems, and the public should not "*expect* collective management to provide either careful stewardship or a balanced reflection of public desires" (p.5). What follows is an explanation of the reasons behind these complaints and claims about the regulatory system, and why it sometimes even fails to protect the environment for which it was established.

The Process of Regulation

Lindell L. Marsh and Peter L. Lallas (Porter and Salvesen, eds., 1995) argue that the regulatory system often fails to protect environmental resources due to four characteristics of the process. These include: the project-by-project orientation, divided jurisdiction and separated stages of review, the reliance on command and control or top down regulations, and the limited scope of environmental regulations.

Project-by-project review

The process of proposal and review, the authors argue, narrows land use governance to merely decisions on individual development projects. In such a process, concerns are not addressed in a large, holistic context, and timing for the review process is often determined by the developer or other private interest. This can be exemplified in Knox County through a recent study of existing wetlands in the southwest sector of the county (Dutton & Westmoreland, 1996). Four of the most prominent jurisdictional wetlands that were listed as existing in the area had all disappeared from the topography, becoming a lake for a detention pond, a golf course,

horse pasture, and a parking lot. The only one remaining was the Turkey Creek wetlands. The results of the study imply that each individual project destroyed a small wetland, until all were gone. This example illustrates how this type of regulatory approach fails to protect resources, and does little to accomplish the national no-net-loss goals for wetlands.

Thus, the results of this single-project orientation on local environmental protection can be a *failure to achieve a no-net-loss of wetlands*. It is much more difficult to maintain wetlands with such a system because the overall picture is never examined and individual mitigation or preservation of wetlands may not be carried out and are not monitored. In addition, there are often no local environmental ground rules, which places the ***burden of proof*** not on the developers to show that their project is worth a wetlands loss, but rather on the side opposing the development to prove that the damage done will be detrimental enough that the project should be stopped.

Divided Jurisdiction

With many levels of government and various agencies responsible for environmental protection, Marsh and Lallas argue that the regulatory process creates discontinuities in addressing concerns over conservation. The process is divided vertically, with each level of government having a review process at a different time. In Knox County, for example, a wetlands permit must be approved by a national organization (The US Army Corps of Engineers), a regional authority (Tennessee Valley Authority), and a state agency. All of these approvals can take place at a different time, with little to no coordination among them. This large amount of permitting often allows local governments not to deal with an issue, passing the responsibility along to another level of government that may appear to have a greater amount of technical expertise on the subject. For example, the City of Knoxville has

no single authority responsible for wetland and other sensitive area protection. Reliance is completely on state and federal regulations. The danger in such a policy is that higher levels of government are not as aware of the overall resource base at the local level, and are generally not as familiar with the land use issues in a local government.

This divided jurisdiction can have several consequences. First, it can create a vast amount of bureaucratic red tape, with the various levels and genres of government requiring comment on a land use project. This can be repetitious and create time constraints. More importantly, this process may result in a complete lack of responsible parties, with each jurisdiction passing the responsibility on to the other. Local governments may pass the responsibility along to state or federal agencies, who may assume that the local governments have examined the project and see no problems with it, so they have no hesitation to approve it as well. In a worst case scenario, bureaucratic 'red tape' can delay projects, while each level of government assumes that real consideration of the issue lay with another level. Thus, delays occur with little or no environmental protection resulting.

The results of this divided jurisdiction for local environmental protection may be that *responsibility for resource protection is passed along to other levels of government*. With so many governmental entities protecting resources, the responsibility can easily be passed on to another level that may not have the knowledge of the area that local governments should have.

The other result for environmental protection from this divided jurisdiction is that the *forum for discussion of issues comes very late in the process.* The formal review process can occur after money has been invested by the developers, and often times construction may have even begun. This can create a kind of inertia effect wherein assumptions are made that the project should go forward, and the *burden of*

proof lies primarily with those trying to stop or alter the development project, rather than with the developer by attempting to gain approval of the project.

Reliance on Top-Down Regulations

When local governments rely on higher levels of government for environmental protection, a rigid structure is established which does not allow for coordination with other options such as acquisition, easements, or other management programs. The regulatory action is either an approval or disapproval of an action. If there is local government involvement, there is a potential for compromise options which may not be explored by higher command-and-control authorities. Local governments can more readily work with land trusts or other organizations, developers, and local environmental organizations to determine an option of which a federal or state agency may not be aware. This flexibility and potential for innovative solutions can be beneficial to all involved in controversial situations such as wetlands and development.

In addition, as stated earlier, the higher levels of government may not be the best judge of a local areas resources. This reliance on top down regulations is particularly a concern in the field of wetlands protection. When local governments rely on higher levels of government for wetlands protection, the agency they turn to is the US Army Corps of Engineers. This agency has taken a primarily pro-development approach historically, as concluded in a recent study by the US Office of Technology Assessment. Between 1980 and 1981, the Corps of Engineers allowed 50,000 acres of wetlands to be filled and developed (out of 100,000 total that were considered), with 5,000 acres of wetlands created or restored from that loss. Thus, 45 % of the proposed losses were unmitigated, and 90 % of the permitted losses were uncompensated (Leslie, 1990).

When relying on the federal government for wetlands protection, a local government also relies on the federal government's methodology for wetlands protection, which may not be adequate. Wetlands mitigation, the primary tool used by the Corps for wetlands/development compromise, has been questioned by many for its effectiveness. The primary question is whether the mitigation is to restore the physical properties of the wetlands, or its functioning properties such as water purification, groundwater recharge, etc. Hydrogeology and ecology are difficult, if not impossible properties to reproduce, and many question the ability of the Corps of Engineers (or anyone else) to carry out such undertakings, and their reliance on such technologies.

Thus, one result of this reliance on top-down regulations for local environmental protection is that there is *no opportunity for compromise options*. Creating options with private non-profits and land trusts is not possible when relying on strict legislation from higher levels of government.

Another result of this reliance on top-down regulations for local environmental protection is a forced *reliance on unproven approaches and technologies*. Wetlands mitigation is the preferred method of the Corps of Engineers to alleviate wetlands controversies. However, this approach, due to its limited scope, difficult premise, and questionable results, is controversial.

Limited Scope of Regulations

Environmental regulations are often limited by political and other non-geographic boundaries. This fact, combined with project-by-project review, means that land use concerns are not addressed as a whole. Therefore, wetlands degradation can occur from adjoining or even non-adjacent land uses, even within the same jurisdiction. Wetlands regulations do not address upstream users, who can adversely affect wetlands without a permit. This larger jurisdictional issue would seem to be a

responsibility of a larger jurisdiction, such as a state or federal agency. However, the case-by-case basis for wetlands permitting does not distinguish among authorities and holistic approaches to wetlands and waterway systems are still in infancy stages.

Thus, the results of this category for environmental protection are the *conflicts which can occur among upstream and downstream jurisdictions*. Because land is regulated on a parcel-by-parcel basis, certain land areas can have restrictions and protections, but still be damaged by unregulated upstream uses.

Implementation and Enforcement

In addition to those concerns, another limitation of the regulations occurs after the permit has been issued, during the implementation and enforcement process. In the case of wetlands, once a mitigation plan has been approved by the Corps of Engineers, there is no oversight to see that the plan is carried out. This can result in an overall loss in wetlands or a loss in wetlands quality. James Schmid, in his book The Ecological City (1994), states:

> Many replacement wetlands have ended up smaller than they were proposed to be. In one large project near New York City, the fill and commercial development were expanded onto twenty acres of wetlands beyond what the permit actually authorized. Those twenty acres had been slated as part of the mitigation lands when the permit was approved. No agency awareness of this situation was evidenced, even when several years later the Corps issued another permit to the same applicant to fill nearly a hundred more acres of adjacent tidal wetlands. (127)

The permitting process places the creation of wetlands in the hands of developers, through the mitigation plan proposal and its execution. The danger in this process is that those wetlands that are created are often poorly designed, and the site

selection is most likely not appropriate. This is not necessarily because the developers are not concerned, but most likely because they are not equipped with the scientific expertise to make such determinations. The Florida Department of Environmental Regulation found that one-third of the required individual wetland mitigation projects in the state were never implemented, and less than one-half of the completed projects were considered ecologically successful (Salvesen, 1995).

Walter A. Rosenbaum (1991) states that one problem is the lack of ability to *enforce* environmental regulations. The staff power is not available to enforce the laws, and the compliance is often on a voluntary basis. He states:

> While practically every important environmental ill has been targeted by a major federal law, delay and difficulty in program implementation routinely impede enforcement. Implementation is frequently frustrated by decades of deficient agency staffing or budgets... Enforcements of most environmental legislation also depends upon voluntary compliance by regulated interests, public and private, who frequently fail to comply (33).

According to Rosenbaum, a US General Accounting Office study indicated that of 531 major water polluters, most had violated their permits several times per month and nearly one-third were in "significant noncompliance" (33).

Another problem in environmental regulations identified by Rosenbaum is that economic and population growth have made many laws ineffective at achieving pollution controls. The example given is emission reductions required by the Clean Air Act for automobiles, in which the amount of emission per car has decreased as required, the number of cars on the road has increased to such a degree that the amount of pollution has not decreased, despite the reduction in individual car emissions.

The results of these concerns to local protection are *voluntary enforcement is not always carried out.* This can be due to a lack of expertise and can result in environmental degradation and the burden of clean up falling upon non polluters. More specifically to wetlands, *implementation of required mitigation is not always carried out.* Since regulations do not include enforcement during construction phase, mitigation measures agreed upon may not be successfully carried out.

In summary, the shortcomings and issues addressed concerning the regulatory process are many and varied. Some argue that it is the nature of the bureaucracy itself, while others view the process of regulation as the major failure of environmental protection. Implementation and enforcement concerns exist after the regulatory process has occurred, and many regulations can become quickly outdated. The results of the regulatory failings, according to Marsh and Lallas, is a promotion of conflict and emotional decisions. Project proponents frequently have a significant investment in the property at the time of debate, and environmentalists feel that at the point they can participate in the project, it is set to go forward. Local governments rely on federal and state regulations, yet those may not be the best judge of area resources, or the best protector of wetlands resources. While these results occur from the regulatory process in part, the political process can also be a factor in environmental protection.

The Policy and Decision-Making Process

The second influence on local environmental protection to be studied is the policy-making aspect. This review will examine the ways people and organizations influence the decision-making process. In order to examine these inputs into the decision making process and how they influence local environmental protection, the literature on community power and decision making will be explored. This will give

an understanding as to how and when power is used on the local level, and, to a certain extent, by whom. First, the concept of power will be introduced and the literature on the various dimensions of power will be discussed. Finally, this paper will examine how power affects the agenda of decision-makers on the local community level, and the potential outcomes for local environmental policy.

Power and Its Dimensions

Political power has been defined as " the ability to affect the content of political choices, to change the course of government decisions... Political power can include... the power to block decisions or even to prevent discussion of issues. It is also alleged.. that power can somehow be asserted to discourage consideration of policy alternatives.."(Kelman, 1987, p.31). Power can be used in numerous ways, but is categorized into three main dimensions.

Various experts in community power (Lukes, 1974; Gaventa, 1980; Beatley, 1995) define power as having three dimensions. These dimensions explain when and how power is used to influence decisions. First, power is used in a formal decision-making arena to influence a specific choice. Second, power is used more covertly, to avoid the formal decision altogether. Finally, the third dimension of power uses social and cultural norms to thwart complaints or issues altogether.

The first dimension of power is perhaps the most fundamental understanding of power. In the first dimension, power is exemplified in this situation: "A has power over B to the extent that he can get B to do something that B would not otherwise do" (Dahl, 1957, p.80). This first dimension of power focuses on actions, or behavior, and carries with it several assumptions:

* Issues and concerns are assumed to be recognized and acted upon.

* This participation in the process of decisions is assumed to occur within the formal decision making arenas.

* All concerns are expressed.

* There is an observable conflict (Lukes, 1974).

Steven Lukes summarizes this first dimension of power as "focusing on *behavior* in the making of *decisions* on *issues* over which there is an observable *conflict* of (subjective) *interests*, seen as express policy preferences, revealed by political participation"(p.15).

In the second dimension of power, credited to Bacharach and Baratz (1970), power is exercised in informal arenas, before the formal decision-making process. In this dimension, power may create situations where concerns are *not* acted upon or even expressed, and the conflict may *not* be an observable one. Power is used, consciously or unconsciously, to create or reinforce "barriers to the public airing of policy conflicts" (p.8). This is accomplished through the use of certain systems and institutional procedures, or 'rules of the game', which can operate to the consistent benefit of certain groups while disregarding others. Therefore, those who benefit are placed in an even more preferred position and the cycle continues (Lukes, 1974).

As an important result of the second dimension of power, certain issues and concerns can be excluded from formal decision making arenas by never getting on the agenda in the first place, or, if on the agenda, only there as a formality. Bacharach defines this as 'non-decisions.' More specifically, a non-decision is "a means by which demands for change in the existing allocation of benefits and privileges in the community can be suffocated before they are even voiced; or kept covert; or killed before they gain access to the relevant decision making arena; or, failing all these

things, maimed or destroyed in the decision-implementing stage of the policy process" (Bacharach & Baratz, 1970, p.44). Thus in this dimension, issues can be excluded from ever reaching the formal decision-making arena, through agreements 'under the table' or during the agenda-setting phase of the decision-making process.

Matthew Crenson, in his study The Unpolitics of Air Pollution (1971), also examined this issue of non-decision-making and concluded, "One of the most important aspects of power is not to prevail in a struggle but to predetermine the agenda of struggle -- to determine whether certain questions ever reach the competition stage" (p. 80). Crenson emphasizes the importance of this second dimension of power. If conflicts cannot be discussed in the formal arena, decisions can be made without consideration of such conflicts. After decisions are made, it is much more difficult to reverse the chain of events which follow.

The third dimension of power is much less tangible than the other two dimensions. Here, power uses ingrained social and cultural patterns and ideas to keep those who may have issues or complaints from ever voicing them. These cultural patterns indicate that situations are natural or unchangeable, making the voicing of concerns or complaints futile or unnecessary.

In the third dimension, the system of decision-making can be mobilized toward a bias in ways that are not consciously decided upon, i.e., these cultural norms. Actual conflict is not necessary for power to be present. As explained by Steven Lukes (1974), "...A may exercise power over B by getting him to do what he does not want to do, but he also exercises power over him by influencing, shaping or determining his very wants"(p.23). The outcome of the third dimension, according to Lukes, is a use of power which thwarts a person's very wants and desires:

> ... is it not the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their

perceptions, cognitions and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and beneficial (p.24).

Thus, the third dimension of power is perpetuated by certain cultural and social assumptions, which operate to keep those who may have legitimate concerns from ever expressing them, or even feeling a desire to express them.

In summary, there are three dimensions of power, or ways in which power can be exercised:

First Dimension

* focuses on observable conflict
* formal decision-making
* assumptions that all conflicts are recognized and acted upon

Second Dimension

* focuses on covert, or not-yet public, conflict
* agenda-setting phase
* "non-decisions" as a form of decision-making

Third Dimension

* focuses on shaping opinions, thwarting desires
* long term power use -- before conflicts, agendas, or issues are considered
* social and cultural assumptions as methods of avoiding issues, diluting conflict

Thus, power to influence community decision making can, according to scholars such as Dahl, Gaventa, Bacharach, and Lukes, occur on several levels. Power can be used within the formal decision making arena, during the agenda setting phase, and

through cultural and social norms. The question to be examined next is: Who has and uses these forms of power, and what is its effect on local environmental policy?

The Tools of Power and Who Holds Them

To hold some type of power, an individual or group needs access to the resources of power. These resources are many and varied, according to Timothy Beatley (1995) and include, "...among them money (and all that it buys: experts, direct mailings, television advertising), personal connections, social status, organizational skills, access to media, and control over information" (p. 245). In addition to these sources of power, other sources of power exist. While many claim that the major tools of power are money and threats, Steven Kelman (1987) claims there are other resources which also serve as sources of power, among them: persuasiveness, strategic skills, and contingent inducements to influence participants (i.e., if you do this, I'll do that for you). These then are the major tools of power, largely agreed upon. What is not agreed upon, however, is who holds this power.

Political scientists, sociologists, and others have debated whether decisions and policies are determined by an elite few (wherein resources are available only to those with money or influence) or a conglomeration of organized groups (wherein resources are available to any who will organize). This debate continues, and it is not within the scope of this paper to add to it. It is enough to say that power is held by either or both, depending on their access to the resources of power. It is safe to assume, however, that inequalities exist in the distribution of community power. Some people and organizations may have more access to the tools of power than others. This, naturally, affects the decision-making process. Inequalities in the ability to influence decision-making is a concern for many and some have even argued for a more equitable distribution of the tools of influence. Paul Davidoff has argued for political and governmental arrangements wherein all stakeholders or affected parties

should have experts at their disposal, and the necessary funding for paying them, in order to create a more equitable access to decision-making (Davidoff, 1965).

In summary, power is held by those with access to the tools of power, such as money, influence, or personal contacts. There is an unequal access to these resources of power, and it has even been argued that governmental intervention is necessary to obtain a more equal access to these resources. These inequalities and uses of power can effect local decision-making and the outcomes of these decisions in several ways.

Results of Power in Local Decision-Making

Power exercised at the local level can greatly influence decision-making and policy. Thus, it is important to examine how the use these dimensions of power acts upon local environmental decision-making. Power exercised at a community level can result in situations such as a in a lack of public awareness of issues and decisions, decisions made before the formal arena, and many other possible outcomes. First, the results of the agenda-setting dimension of power will be examined, followed by the formal decision-making dimension. Finally, the results of the third dimension of assumptive forces will be examined.

The agenda-setting dimension of power, or second dimension occurs before the formal decision-making arena, in a non-public setting. One of the most influential aspects of this dimension is that *certain issues or aspects of issues do not reach the formal decision making arena.* As Crenson stated, influencing what reaches the formal agenda holds great power over the decision. This use of power can result in decisions which may not contain major pieces of information.

Another result of this dimension of power, because it occurs before the formal arena, is that the *timing of issues reaching the public can be influenced.* This can result in the airing of issues after damage is done, or decisions made. Timing can be

determined by stakeholder's agendas, thus seeming to rush a decision through the formal decision-making process, which is at that point, may be merely a formality.

The second dimension of power can also result in Decisions made in the informal decision making arena can involve certain individuals and groups with influence receiving subsidies and other benefits which would normally fail in formal settings. This type of decision-making is known as *distributive politics.* These are decisions which are, "intended to promote private activities that are alleged by supporters to be desirable and to be activities that require government support and intervention in the form of a subsidy of some kind..."(Ripley, 1985, p.60). This can result in inefficiencies in government spending, and 'pork barrel' projects which serve the interests of a select few while inefficiently spending tax dollars. Often large development projects are initiated with the justification of economic progress, which is difficult to argue against.

The agenda-setting dimension can also result in the *media and other information sources being controlled or avoided.* If an issue arises in the agenda setting phase, the controversial aspects of the issue can be de-emphasized, or hidden until certain formal decisions have been made. This can also result in *public awareness being heightened or lessened.* Controlling the agenda setting phase can also mean control of what information reaches the general public. This means that the public may not be able to comment or even be aware of, the decisions their elected officials are making on their behalf.

With this second dimension of power, it is possible that the actual decision-making arena is merely a formality in some cases. This would be due to the fact that the *decision is already made before the formal process.* Formal decision-making can be a moot point if informal decisions and biases have previously been formed. In this case, access to other resources of power is useless.

Power is also exercised within the formal decision-making arena, and after the agenda-setting dimension of power. This also has results to the decision-making process. First, the *decision can be weighted by various powers of persuasion: influences of the media, personal knowledge of individuals, number of individuals arguing for a position, and others*. The power to persuade can occur due to direct results to the decision-maker (i.e. this policy will gain favor with the public and increase chances for re-election), or which issues are emphasized due to media or personal influence. Decisions are also weighted by the power of arguments in the formal decision-making arena. If one side has more awareness or knowledge of an issue, this side can be more influential.

In the formal arena, *decisions are also weighted by which facts are presented, and which are not.* Decisions are based on the information available, and missing information can lead to decisions which are not cost effective or must be rethought when all pertinent information becomes available.

The third dimension of power has the potential to have a great influence on local decisions. By working on certain assumptions, decision-makers and the general public make decisions which have little foundation in fact. The outcome of this, according to Lukes (1975), is that *stakeholders do not act on legitimate concerns.* This could be due to several assumptive forces such as assumption of the necessity of a project or decision, or the assumption of development or growth needs of a locality. There are also assumptions that a project or action will have certain results, or that a situation mandates that an action occur. This leads to a lack of alternatives sought, and a reliance on unproven assumptions.

Thus, the dimensions of power can have several results on local decision-making. Power can influence decisions before they reach the formal arena, through

influencing what issues reach the arena, whether the public is aware, or the decision can already be made. In addition, in the formal arena, decisions are influenced by the arguments heard, the number arguing a position, and other powers of persuasion. Finally, the third dimension of power can result in stakeholders not acting upon legitimate concerns, and decision-makers not considering aspects of issues due to certain unproven assumptions which influence decisions.

The tools of power and the dimensions of power are frequently used to influence local decisions. The arena of environmental decisions is no exception. Power has an influence on environmental policy, due to who often times holds that power and how it is used. Next, these effects on environmental decision-making will be examined.

Effects on Environmental Policy

The impacts on land use, environment, and environmental policy based on the above structures of community power and decision-making have been cited by many. The argument is frequently made that the environment and its supporters often times fall into the category of failing to have as many tools as its opponents in influencing the decision-making process. It is argued that, in the United States, there has been a bias towards development and economic growth, and that development and business interests have been shown to have more access to resources of power.

The bias towards development in the United States may have its roots in the historical traditions and foundations of this nation. Traditional factors which may still influence land use include:

* The Pioneer Ethic, wherein nature was seen as something to overcome and conquer.
* The Myth of Superabundance, wherein land and nature were seen as never-ending or limitless.

* The Lockean Principle of Land Ownership, which states that humans have the rights to do whatever they pleased with their own land. (National Youth Advisory Board 1974).

Whether or not these early beliefs and ideals have influence on today's decision-making process is difficult if not impossible to determine. However, a trend towards growth and development-oriented decision-making is reported by David Feldman, in his book, Water Resources Management: The Search for an Environmental Ethic (1991). Feldman addresses the issue by saying, "... decision makers have traditionally chosen development-oriented policies on the basis of the improved economic efficiency they offer" (p.2) These types of pro-development decisions can be seen within the national wetlands protection process, as mentioned earlier. The decision-making structure places the Corps of Engineers as the lead agency in wetlands protection. This means that all proposed alterations of jurisdictional wetlands must be approved by the Corps. However, the Corps of Engineers has historically had a mission of development. Marc Reisner (1986), explains:

> The Corps drains and channels wetlands -- it has ruined more wetlands than anyone in history, except for its counterpart in the Soviet Union -- yet sometimes prohibits the draining and dredging of wetlands by private developers and other interests. (This was a role forced on the Corps by the Congress, not one it undertook voluntarily.) (p. 172)

Others have referred to the Corps of Engineers approach to wetlands policy as the "traditional 'national economic development' approach" (Clarke & Gerlak, 1995, p.9). This is confirmed by Douglas Porter and David Salvesen who state that the Corps of Engineers reviews about 10,000 applications for dredge-and-fill of wetlands, and regularly approves the majority of them (1995).

This leaning of the Corps of Engineers is explained not only by their history of development, but also by pressures of economic arguments. As explained by Jessica

Sanchez in Environmental Planning Quarterly (1993), "Political considerations are tied to economics and power. The economic argument to preserve wetlands, while strengthened considerably by our increased ecological awareness..., is still not as strong as the political and economic forces pressuring for conversion and development" (p.15).

The pressure of economic forces operates not only with the Corps of Engineers, but at all levels of decision-making. This is explained by Walter A. Rosenbaum (1991) through the close connection of business to government and decision-makers. Rosenbaum states that business has a strong influence in the decision-making process because business leaders handle and control much of the economy, a foundation from which decision-makers must address their constituents. This concern for the economy and business success, according to Rosenbaum, induces public officials usually to give business leaders all that they need for profitability. Quoting Charles Lindblom, Rosenbaum explains that "out of this concern and position comes the 'privileged position' of business in government, its widely accepted right to require that government officials 'give business needs precedence over demands from citizens through electoral, party, and interest-group channels" (p.75). One result of this is the distributive politics discussed earlier. These promotions of private activities often occur in the development and business arena, due to the promise of economic growth.

In truth, however, it is difficult for any local decision-maker to argue against economic progress. E.F. Schumacher comments on this difficulty of going against the signs of economic growth:

> "In the current vocabulary of condemnation, there are few words as final and conclusive as the word 'uneconomic.' If an activity has been branded as uneconomic its right to exist is not merely questioned but energetically

denied.... Call a thing immoral or ugly, soul-destroying or a degradation of many, a peril to the peace of the world or to the well-being of future generations; as long as you have not shown it to be 'uneconomic' you have not really questioned its right to exist, grow, and prosper." (Barney, 1977, p.145)

In addition to the pro-development and economic growth traditions often seen in the decision making process, Rosenbaum argues that business and development have more access to the resources of power, discussed earlier. According to Rosenbaum, these interests have "far greater financial resources, greater ease in raising money for political purposes, and an already-existing organization available for use in political action... These are formidable advantages, often enough to give a decisive edge in competitive struggles with environmental or other interests that have not the political endurance, skill, or resources to be as resolute in bringing pressure on government when it counts" (76).

This access to resources is cited again by Mark Sharefkin and Talbot Page, in their study entitled "Industry Influence on Environmental Decision Making" (1974). In the paper, Sharefkin and Page state that "the nature of environmental problems leads to striking imbalances in the resources available to and the costs bourne by interests groups typically on the opposite sides of environmental issues" (96). They cite two cases where environmental legislation was defeated. "In both cases industry opponents of these measures outspent environmental advocates of the measures by factors of 10 and more. In both cases, pre-election polls and election results indicated that massive industry spending shifted a large fraction of the electorate from the pro to the anti side"(96).

In summary, arguments could be made that the concentrations of power run against environmental policy insofar as they are development and economic-growth

oriented, as witnessed by the record of the Corps of Engineers in their wetlands policies. It is also suggested that the concentration of power can also be attributed to the idea that business interests have more access to the resources of power.

The above has described how power is used and arguments have been made that power is more often used more effectively by business and development interests than environmental ones, due to access to resources, and current thinking on economic growth and development. It is important to note that power is not always exercised in the manner outlined above, and business and development may not always have the upper hand in environmental decision. While the descriptions of decision-making above do not represent a continuous or inherent state of decision-making, examples indicate that there are frequently situations when these types of imbalanced decision-making can occur. When these models can be applied to a situation, the result is a type of segmented decision-making, whether purposeful or not. However, since examples of such scenarios exist, it is important to examine the implications to the environment from these types of decisions.

The following page contains a summary of the concepts and environmental outcomes discussed in the literature review. Based on the information obtained from the literature review, the next chapter will examine the case study of Knoxville, Tennessee's Turkey Creek Wetlands controversy. The regulatory process and the decision-making process will be examined as they exist in this case, and examples of the literature will be given from the case study.

SUMMARY OF ISSUES INVOLVED IN LOCAL ENVIRONMENTAL PROTECTION

The Regulatory Process

Project-by-project orientation
- Fail to achieve no-net-loss of wetlands

Divided Jurisdiction, Separated Stages of Review
- Responsibility Passed on
- Discussion forum late in the process

Reliance on Command and Control, Top-down regulations
- Reliance on unproven technologies
- No opportunity for compromise options

Limited Scope of Regulations
- Upstream/Downstream lack of accountability

Implementation and Enforcement Concerns
- Voluntary enforcement not always successful
- Implementation is not monitored

The Policy Process

Agenda-Setting, Non-decisions
- Certain issues do not reach formal decision arena
- Timing Influenced
- Distributive Politics
- Public Awareness Heightened, Lessened
- Media Controlled
- Decision already made before formal arena

Formal Decision Making Arena
- Decision weighted by powers of persuasion
  - Media Influence
  - Personal knowledge of individuals involved
  - Number arguing a decision
  - Which facts presented, not presented

Power through Assumptions
- Stakeholders do not act on legitimate concerns

CHAPTER 3

THE CASE STUDY: TURKEY CREEK WETLANDS

INTRODUCTION

This chapter will attempt to examine the impacts of both the regulatory and policy processes on a case study of the Turkey Creek wetlands in Knoxville, Tennessee. First, a brief account of the actions and decisions leading up to the controversy will be explained, followed by background information on the Knoxville area and the property and wetlands in question. Finally, the issues addressed in the literature review will be exemplified in the case study using the framework developed in Chapter 2.

THE TURKEY CREEK WETLANDS DECISION HISTORY

A proposal was made to the mayor of Knoxville by several developers concerning a large piece of property purchased in 1994. According to the proposal, the developers would donate the right-of-way for a roadway through the property and pay for the engineering costs if the three governmental entities -- City of Knoxville, Knox County, and the Town of Farragut -- would build the portion of a road which was within their particular jurisdiction. The Knoxville City Council voted to allow the mayor to enter into a Memorandum of Understanding with the developers to go forward with the project, despite uncertain financial estimates and a $4.1 million cost. The City of Knoxville was to take the lead in this public/private partnership. Several months later, the City of

Knoxville and the developers submitted a preliminary road plat to the Metropolitan Planning Commission (MPC). Several objections were voiced by citizens due to the presence of a spring-fed, 22 acre wetland directly in the pathway of the proposed road. However, the preliminary plat was approved, subject to federal and state wetland regulatory permits for the project. The approval was granted because it met all the necessary requirements of the Metropolitan Planning Commission. This decision, however, was appealed by a local environmental organization, The Foundation for Global Sustainability (FGS), in defense of the wetland, and a second city council meeting addressed the appeal. Despite pleas from the environmental community to halt the project long enough to examine alternatives, the city council upheld the MPC decision. These meetings are summarized in Table 1. As of the writing of this thesis, no public hearing has yet been conducted, and the permits for wetlands filling given by the federal government are still pending. For a complete account of the three meetings, refer to Appendix A.

Table 1. Formal Decisions in the Turkey Creek Wetlands Issue

Formal Meeting	Issue	Discussion	Decision
Knoxville City Council May 23, 1995	Public/Private partnership to build a road.	financial figures, public input, tax revenues, $4.1 million, economic development	7-2 in favor of project
Metropolitan Planning Commission (MPC) February 8, 1996	Preliminary road plat a	wetland concerns	preliminary plat approved
Knoxville City Council March 26, 1996	Appeal of MPC decision	search for alternatives, wetland mitigation plan	MPC decision upheld

BACKGROUND

Knoxville, Tennessee

Knoxville, Tennessee, a city of 165,121 people (Metropolitan Planning Commission, 1995), is located in the eastern portion of the state, about 30 miles from the Smoky Mountains National Park. The city has been growing predominately to the west, due to the compatible soils and close proximity of the towns of Farragut and Oak Ridge (See Appendix B). The land between Farragut and Knoxville has been rapidly developing for several decades. The main roads leading from Knoxville to Farragut are the interstate, I-40/75, and Kingston Pike, the latter of which is now nearly completely filled with commercial development all the way from downtown Knoxville into Farragut, covering about 15 miles. This lack of other roads running parallel to this busy commercial area has led to traffic congestion. In this high growth area of west Knoxville, between Kingston Pike and the interstate, lies one of the last large pieces of undeveloped property.

The Property

The land is 360 acres, two-thirds of which is located within the city limits of Knoxville and the other one-third is within the Town of Farragut. The land is mostly flat, but with some hills and ridges to the south. It is bordered to the north by I-40/75, to the south by a residential subdivision, to the east and west by major roads with interstate

access (See Appendix B). The area is not significantly forested, as the majority of the land surface is comprised of young bushes and shrubs -- only the early to middle stages of the ecological succession process.

The characteristics of location and topography make this land ripe for development. It is zoned for commercial development, and its location in the heart of this rapid growth area has made it prime for development. It is the largest commercially zoned tract of land under one ownership in the city of Knoxville. Its development would increase tax revenues to the city. With all this in its favor, the land holds great promise for economic development opportunities. On the eastern edge of the property, however, is the 22 acre wetland which is at the heart of the conflict.

The Turkey Creek Wetlands

Examination of the Turkey Creek Wetlands area reveals several wetlands functions in operation. First, these wetlands provide significant flood storage potential which reduces the risk of damage to nearby roadways and private property. In addition, the wetlands serve to filter urban runoff which is associated with development along the adjacent road (Tennessee Department of Environment and Conservation [TDEC] correspondence, 1995). A major significance of these wetlands, however, is their prime wildlife habitat.

On September 1, 1995, two Tennessee Department of Environment and Conservation (TDEC) local officials performed a qualitative fishery study of the wetlands

area. They observed a significant number of Flame Chubs (Hemitremia flammea), including many young specimens, indicating that this area is a significant spawning ground for the fish. The Flame Chub is a rare species of fish which has been listed as Deemed in Need of Management by the State of Tennessee. The US Fish and Wildlife Service had previously stated that this species be "given consideration in environmental planning since there is enough information to list these species as endangered or threatened, but substantial information regarding biological vulnerability and threats were not currently known to support a ruling" (TDEC correspondence, 1995).

The Flame Chub is also a concern of Dr. David Etnier, a professor of zoology at the University of Tennessee, and an expert on the fishes of Tennessee. In a letter to the Tennessee Wildlife Resources Agency, he stated, "Many of these eastern populations [of the Flame Chub] have been eliminated due to development in the Knoxville area, and I enthusiastically support an effort to protect at least one habitat where they persist" (TDEC correspondence, 1995).

The hydric vegetation in the wetland area is also of special concern. Dr. Vernon McNeilus, a regional expert in the identification of hydric vegetation, performed a cursory survey to determine whether any vegetation in the wetland was at all unusual or unique. Dr. McNeilius found four species that were never recorded previously in Knox County (TDEC correspondence, 1995). He found that this was unusual and suggested further surveys be undertaken.

In addition to fish and vegetative species, TDEC officials have also observed that the area is an important amphibian breeding ground. There are also beaver and deer present. The wetland is large enough to support the King Rail and the Virginia Rail, both state listed species. The officials also have found that members of the Tennessee Ornithological Society recognize this particular wetlands area for its important wildlife habitat (TDEC correspondence, 1995).

The Turkey Creek Wetlands, based on the information from TDEC officials, serves many of the functions of a high quality wetland. It has great flood storage potential and helps to purify runoff from nearby roads, but its most striking feature is its habitat function. The purity of the spring-fed water supports a wide variety of species, both terrestrial and aquatic, some threatened or rare. It is this type of wetland which is quite rare in East Tennessee.

This rare habitat, combined with the great potential for economic development opportunities, has led to the heated controversy. What follows is an examination of the regulatory and policy issues exemplified within this case study. This will be discussed within the framework set out in Chapter 2. First, the regulatory issues will be examined, followed by the policy issues, and their effects on the local environmental policy in this particular case study will be determined.

THE REGULATORY AND POLICY ISSUES IN THE CASE STUDY

The previous chapter examined the failings of the regulatory system to achieve environmental protection, as well as the use of community power to affect decision-making. These two issues greatly influence the effectiveness of local environmental protection, as will be seen in the case study. After having obtained the background information on the case study, the issues explained in the previous chapter will now be examined through the lens of the Turkey Creek Wetlands. First, the regulatory issues present in the case study will be explored, and their significance to the process of local environmental protection analyzed. Secondly, the policy issues present in the case study will be examined, and their significance to local environmental protection determined. Finally, the factors with the greatest significance to the case study will be highlighted.

The Regulatory Issues in the Case Study

As stated in Chapter 2, the regulatory process itself is often an inhibitor of environmental protection. Various aspects of the process of regulation make holistic and efficient protection of local resources difficult. These various issues of the regulatory process are each examined through the lens of the case study in order to exemplify their impacts to local environmental protection. The issues in the case study will be analyzed according to the factors identified as affecting the protection of environmental resources, as found in Chapter 2.

Project-by-project Review. As stated in the previous chapter, one of the concerns with the regulatory process is its inability to deal with environmental resources in a holistic manner. A project-by-project methodology to protection of resources creates difficulties in keeping track of what is lost, and how much is lost. The results of such a methodology is a *failure to achieve a no-net-loss of wetlands*. This no-net-loss is the national policy for wetlands protection, and specifies that while wetlands may be destroyed if need be, there should be creation and restoration activities which maintain a constant acreage. A case-by-case basis makes enforcement of this no-net-loss policy difficult.

In the case of the Turkey Creek Wetlands, the developers' application to the Corps of Engineers contains a mitigation plan. It includes creation of new wetlands at a ratio of about four acres to every one acre lost. The mitigation plan also discusses the intent to turn the remaining and newly created wetlands over for management to a local nature park.

As of the writing of this thesis, it is still too early in the regulatory process to determine if this particular case study will result in a net loss of wetlands. However, previous records of the Corps of Engineers indicate that wetlands losses continue. As stated earlier, 90% of permitted wetlands losses were uncompensated (Leslie, 1990). In addition, while wetlands acreage may remain the same or even increase, the issue still remains concerning the plethora of wetland functions and if it is possible to restore the habitat and sensitive species diversity found in this particular wetland, after a road project occurs. In addition, the previously discussed study of the area revealed that the remaining

jurisdictional wetlands in the area have all disappeared, leaving only the Turkey Creek wetlands. Therefore, no-net-loss issues are a concern in this particular region of Knox County. However, the effect of this particular issue on the case study is yet to be determined.

Divided Jurisdiction. The previous chapter discussed the difficulties arising when varying levels of government all have regulatory control over wetlands policy. The problems explained included the fact that responsibility and jurisdiction are segmented vertically, with higher levels of government having a responsibility for local resources as well. The results of such division can be that the *responsibility is passed on to other levels of government.*

In the case study, this issue is suggestive from the views expressed by both the members of the city council and the planning commission, wherein resource protection is placed in the hands of the state and federal government. For example, MPC approved the road plan through the wetlands contingent upon approval by the US Army Corps of Engineers, as well as the necessary state approval. This issue arose again in the city council meeting which addressed the appeal of the MPC decision. Councilwoman Carlene Malone, who was a councilmember arguing against the decision, had this to say about passing along the responsibility for local decisions:

> ...But I think there's also a requirement, or should be a requirement of local responsibility...We can look to the state and say it's their responsibility, and we can look to the feds and say it's their responsibility. And then we can turn around

and we can say, 'Boy, we wish they would hand all that power down to the local level, because we're more knowledgeable.' (19)

In a later statement, Councilwoman Malone expressed concern for the message this sends to higher levels of government who do eventually make resource decisions:

...what I fear more than anything else is that when decisions are made in Nashville, our actions and MPC's actions, segmented decision making... you know, we didn't care enough; those of us who live here didn't care enough. You know, if we didn't care enough, why should they care enough in Nashville? (21)

Councilwoman Malone addresses a major concern with the issue of divided jurisdiction. By passing along the responsibility, higher levels of government may interpret the lack of concern as an abundance of resources or other reasonings which may not necessitate heavy analysis on their part. In a worst case, the issue can be interpreted in this manner, and never thoroughly examined by any level of government.

Another issue explored in the previous chapter with regard **to divided jurisdiction and separated stages of review** is that the *discussion forum on environmental protection is late in the entire process.* This helps create the inertia for the project to proceed, based on the significant investments made by the developers at the time an environmental discussion is held.

In this particular case study, there is no proper forum for expressing environmental concerns at the local level. In the three formal meetings wherein this issue was discussed, the first meeting made no mention of a wetland. In the second meeting, at

MPC, the issue was to decide whether or not the proposed road development met all requirements for approval, such as subdivision and zoning requirements. Because MPC has no environmental ordinances, the plan met all requirements and was thus approved. The appeal of that decision, the third formal meeting, was to review the MPC decision to see if, indeed, it met all MPC requirements, which it did. Officially, all of these local decisions did not consider the presence of a wetland. However, the wetland issue was presented in the second and third meetings because it was the only opportunity for the environmental community, in particular FGS, to express their concern. An engineer for the developers explained, in defense of the project, " The appropriate forum for these appeals is through the permitting process" (16). However, seven months after this decision, at the writing of this document, the federal permitting process has not held a public forum, and the developers have continued to spend money towards the project through consulting fees. By the time the forum on the wetlands will be held, the developers will have invested large sums of money in plans for the property. The inertia for the project will be great by this time, and it will be up to the environmental community to prove that the project, even with the mitigation plan, is too damaging to proceed, rather than for the developers to prove that the project is worth the cost of environmental degradation of a wetland. This reversal of the burden of proof can greatly affect the outcome of the controversy.

This aspect of the decision-making process, **divided jurisdiction and separated review stages**, was a major factor in the Turkey Creek Wetlands controversy. The lack

of local responsibility sends a message that the local government is in favor of the project and the local planning commission approves of the project. By letting other levels of government deal with environmental resources, the local government places their resources in the hands of a bureaucracy with a weak record of protection, and eliminates any local forum for citizens to discuss environmental issues. These were all significant factors in the case study, and have led to the public dissent of the decision.

Reliance on Top-down regulations. The literature review discusses the outcomes of the local reliance on regulations from higher levels of government. One aspect of this reliance is a *lack of opportunity for compromise options* at the local level. The "yes or no" answer from higher agencies often negates any compromise options which are more visible on the local level.

In the case study, this particular aspect of the regulatory process partially an issue, due to the fact that a management agreement was placed in the mitigation plan submitted to the Corps of Engineers. The plan contained an agreement with Ijams Nature Center, a local educational park, to manage the remaining and created wetlands after the road was built. However, the nature park was approached by the developers, and there was still no participation by other members of the environmental community who felt they had a stake in the process. This plan still excludes other options and compromises by not allowing for all stakeholders to be involved in the process.

This aspect of the regulatory process is somewhat significant in the case study. If local stakeholders were informed and invited to participate in the wetlands discussions

early on, there is potential that a compromise could have been reached, donations could have been made for a spanse of the wetlands with a bridge, or other solutions found. However, this is speculative, as it is difficult to determine the response of the environmental community and the developers to such a process.

Another concern with this reliance on top-down regulations is the resulting *reliance on unproven technologies.* The Corps of Engineers uses wetlands mitigation as the primary means of settling disputes between wetlands protection and development. However, the mitigation process has not proven extremely successful as yet.

In relying on the US Army Corps of Engineers, the members of MPC and the city council are also relying on the policies and technologies used by the Corps. In appeasing the environmental concerns expressed at the second city council meeting, references were made to the developers' mitigation plan for the wetlands. City council members defending the road project described the plan as "more than adequate" (20), and that the wetland presently standing would be 'enhanced' by the mitigation plan (16). This subjective interpretation of the mitigation plan, along with the good-faith reputation of the developers, was a major argument in favor of the road project. However, since the time of the city council meeting, the developers themselves have thrown out this original mitigation plan as inadequate, and have begun drafting a totally new document for the Corps of Engineers.

Thus, the **reliance on command-and-control, top down regulations** is quite significant in the case study insofar as there is a lack of local responsibility. This lack

eliminates potential compromise options and relies on technologies and methodologies of higher levels of government which may not be adequate.

Limited Scope of Environmental Regulations. Chapter 2 discussed the issue of land use boundaries in environmental protection. Regulations are limited to protection of particular areas, such as wetlands, and not all of the hydrological or geographical connections to that wetland. The result can be *that upstream uses can adversely affect a protected area*, due to the fact that regulations may not be imposed on the area upstream. Therefore, wetlands degradation can still occur despite direct land use protection of a particular parcel. These upstream effects can be contained within one jurisdiction, or other political jurisdictions can adversely effect resources in another.

In the case study, it is as yet too early to tell whether this will be an issue with the wetlands in question. However, the mitigation plan submitted to the Corps of Engineers also includes the culverting of the Turkey Creek upstream of the wetland area. Culverting a stream tends to increase stream speed, increasing erosion and depositing sediment in the non-culverted area downstream, which would be the wetland area. If not addressed, this issue could be a problem for the wetlands protection. However, presently this issue is of little significance to the case study.

Implementation and Enforcement Issues. The implementation and enforcement of regulations and mitigation plans, once approved, is another limitation of the environmental regulatory system. There are no provisions for monitoring of the regulations, and as mentioned in the previous chapter, many plans for mitigation are

never carried out, or are not done so properly. Once again, it is too early in the case study to determine if this will be an issue with this particular wetland.

These then, are the various issues outlined in the previous chapter and exemplified in the case study. The case study tends to show the applicability of the stated concerns with the regulatory process. Most importantly, the **Divided Jurisdiction and Separated Stages of Review**, as well as the **Reliance on Command & Control, Top Down Regulations** produced consequences to the case study which have resulted in the present conflict. This is primarily because both allow for a lack of local responsibility. This means the responsibility for local resources lies in higher levels of governments with questionable records and methodologies. It eliminates a local outlet for expressing environmental concern, forcing the discussion forum on wetlands to occur late in the process, after significant investments by the developer. In addition, it sends a message to higher levels of government that local resources may not be important or worth conserving.

The Policy Issues in the Case Study

The literature review in the previous chapter explained how power is used on the local level and its effect on local environmental protection. Power can be used at several stages of the decision-making process. It is exerted before the formal decision-making arena, in the agenda-setting phase. Here, power can be used to influence which issues

eventually reach the formal decision-making arena, and power can be used to influence timing, the media, and public awareness. Most obviously, power is used in the formal decision-making arena, wherein decision-makers are influenced based on the arguments heard, the number favoring a position, and other factors including media influence and personal knowledge of individuals. Finally, power can be exercised through cultural and social norms, which discourage the voicing of potentially legitimate concerns. These three phases, or dimensions of power are evident in the case study. What follows is an analysis of the policy and decision-making aspects of the case study within the framework of the decision-making process outlined in Chapter 2.

Agenda-setting and non-decisions. As mentioned in Chapter 2, exerting power over what issues actually reach the formal decision-making arena is one of the most important uses of power. The results of such influences stretch on into the formal decision-making arena. For example, as mentioned above, *certain issues do not reach the formal decision making arena.* This issue occurred several times throughout the case study. In the first city council meeting, several seemingly pertinent issues were not raised. The most obvious one was the presence of a wetland in the area. When Councilmember Ivan Harmon noticed that the City of Knoxville was paying more per lineal foot than other governmental entities, this was attributed merely to "costs related to drainage"(5).

Another aspect of the debate that was unavailable during the first city council meeting was official appraisals of the property and the right-of-way donation, the latter of which the developers claimed amounted to $3 million. When asked for these appraisals

by Councilwoman Carlene Malone, the lawyer for the developer did not have them with him.

In the second city council meeting, two further issues were brought up as, up until that time, not reaching the formal decision-making arena. The first was alternatives for the road project. While many claimed they existed, none had ever been presented to council, which was mentioned by Councilwoman Malone. Another concern raised during this second meeting was that letters written by state and federal officials were also never presented to council. These advised the city to stay out of the wetland area. Malone again expressed concern that these facts were also never presented the public body, and that she heard of them only through the presentation from the Foundation for Global Sustainability (FGS). Thus, if not for the presence of FGS, the members of the council might not have known that the state and federal governments had recommended against such a project.

Another important aspect to the use of power is through the *control of the timing*. Power can be used to control the timing with which decisions are made, and the timing with which information is obtained by stakeholders and decision-makers. Timing played a very important role in the Turkey Creek Development decision. Most decisively, the wetland was not mentioned until after the decision was made to pass the road project. Therefore, when complaints were made at the second city council meeting about the destruction of the wetland, those in favor of the project merely stated, "A decision has been made to develop that area" (13). This argument indicates that it is much more

difficult to argue to reverse a decision than to argue against a decision before the vote is taken. Stephen Smith, a member of the Foundation for Global Sustainability, in addressing the second city council meeting, also mentioned the timing, "Rushing the decision through, as it was done a year ago with less than ten minutes debate, is not good policy" (9). Again, Councilwoman Carlene Malone asks, after discovering recommendations from the federal and state agencies against the project, asks, "What's the rush?"(21). Thus, power may have been, either consciously or unconsciously, used to influence *when* decisions were made and *when* the public was informed of these decisions.

Another outcome of the agenda-setting use of power can be *distributive politics.* As explained in Chapter 2, distributive politics is a policy or decision which promotes private projects, often with a subsidy of some kind. This type of pork-barrel politics often, if not always, occurs behind the scenes, and outside of the formal decision-making arena. In the case study, the presence of distributive politics is suggested through examining further the issue of timing. In the first meeting, a motion for a four week delay in the vote was denied. The request was originally made in order to obtain the solid financial figures which were unavailable, as well as talk with constituents before such a large sum of money was allotted to a somewhat "speculative" project. Councilwoman Malone compared this project to others done in the past of similar magnitude. The past road projects, she reminded council, were accomplished with much citizen input, in areas where businesses already existed. According to Malone, there are normally workshops,

citizen input, and firm financial figures before such a project is approved. Despite this, the four week delay was denied.

In addition to this denial of a month-long delay, the decision to allocate $4.1 million to a road project was decided upon in less than fifteen minutes with no solid financial figures, no public input, a speculative project, and no knowledge of the natural resources of the area. Councilmember Ivan Harmon opposed the project for its speculative nature, lack of financial figures, and as a project whose priority should not be placed ahead of others. He stated, "I feel like this is a project that needs to be developed by the developer themselves, because at this point in time, they have no options as far as businesses going in there. We build the road, they reap all the credit for the monies that'll be put into this project" (2-3). Harmon's comment exemplifies a typical complaint of the distributive policy process.

Another issue which can be controlled in the agenda-setting phase is *public awareness, which can be heightened or lessened.* The case study exemplifies this use of the second dimension of power. By keeping the public ignorant of the first meeting and its decision, those in favor of the project managed to keep public input to a minimum until the vote had been taken. Even with the new knowledge of a wetland presence, the decision had already been made and public input must await the public hearing by the Army Corps of Engineers to express concern about the wetland and the project.

This public awareness can be most easily controlled through *the media*, as this is the primary means by which the public gains access to information. There is an

assumption that the media is a type of 'watchdog' for the public interest and works in an unbiased manner to accomplish this. However, in this case, the media has been relatively quiet. This suggests a lack of interest, or perhaps even a bias, by the media, and thus, a lack of information to the public.

Another, very important outcome of the agenda-setting use of power is the ability to have decisions made before the formal arena. This was referred to as non-decisions, wherein a formal decision is merely a formality, as the *decision was made before formal decision-making arena.* There are several factors in the case study which indicate that decisions were already made before the formal decision making process. In the first city council meeting which addressed the proposal, the decision to allocate $4.1 million of city tax dollars to a road project was made in less than fifteen minutes (Excerpt from a City Council Meeting, 1996). This decision was based upon financial figures which were given by the developers' lawyer, and the written appraisals were not available. According to the proposal, the developers would donate the land and right-of-way for the road to be built. This donation, the proposal estimated, was worth $3 million. That equaled $300,000 per acre in donation. However, the developers had only paid approximately $20,000 per acre for the property. These questions were not answered, yet the vote occurred despite the lack of information.

The entire issue of the road project was not publicized, so there were no outsiders present for the meeting, except the lawyer for the developer, who was invited to speak. Concern was expressed that the public was not aware of the project and should have

comment before such a large sum of money was allocated to the project. Because of these concerns, a motion was made by Councilman Ivan Harmon for a four week delay in order to obtain actual firm financial appraisals and allow for public input. Arguing for the delay, Councilwoman Carlene Malone said, "If it's a good project, it will be a good project in a month" (7). The request for a one month delay was denied. The vote was 7-2 for the project. These types of decisions seem to indicate a non-decision of the second dimension of power. Voting quickly with no basic financial information may not be construed as prudent, reasonable policy-making.

The Formal decision-making process. In the formal decision making arena, decisions can be influenced by several factors, such as particular arguments, or personal knowledge of the individuals involved in the decision. These influences can effect the outcome of a decision, if the decision has not been made unofficially before the formal meeting. One of the influences of power in the formal decision making arena is the *media influence*. In this particular case study, the media played no role in influencing the first decision of the city council to approve the road project, because the issue was not in the papers until after the meeting. In the second city council meeting, again the story was not run until after the meeting. Again, the media did not seem to play a role in influencing council's decision. However, the media may have indirectly influenced the decision by not informing the public that the first decision was being made.

Another influence identified in Chapter 2 is the *personal knowledge of individuals involved.* In local politics, it is nearly impossible to avoid persuasion by personal

knowledge of individuals. The Turkey Creek Wetlands case is no exception. According to those city councilmembers who were in favor of the project, the developers were men of highest caliber, who should be rewarded for their desire to donate the remaining wetland to a local environmental education center. As Councilmember Ed Shouse said, "I know the people involved in this Turkey Creek Project. I know some of them very well. The ones I know best personally, I know to be people that also care about the environment of this city....they're not the cut and burn type" (20). This suggests a possible a bias from certain members of the city council, due to the fact that they know some people involved in the issue.

Another issue of persuasion in the formal decision-making arena mentioned in Chapter 2 is that the *decision is weighted by the number of people arguing a certain position.* In the case study, however, this tended to be a lesser factor in the decisions. In the first decision, only one outside speaker came before council. This speaker was the lawyer representing the developers. He had been invited to address the council. Therefore, only one side of the issue was presented to council. While this could have been a factor in the decision to approve the project, it was suggested in the previous section that the decision was one which was already made prior to the formal decision-making process. In the second city council meeting, there were more speakers who opposed the project than those signed up to speak in favor of it. This was due in part to an effort by FGS to alert the public to the presence of a wetland on the property. Several members of FGS asked to be heard as well as other members of the community who

wished to speak against the project. In addition, those opposed to the road project brought statements from TheUniversity of Tennessee faculty, a signed petition of citizens, and letters from both state and federal agencies which opposed the project. Despite these arguments against the project, the City Council still approved the project. Whatever the most compelling argument, this indicates that, at least in the second meeting, the number of people arguing for a certain position did not influence greatly the council's decision.

Finally, formal decision-making can be influenced *by which facts are presented and which are not.* Missing information in a decision can cause improper choices. In the case of the first city council meeting, certain issues were not presented to council. Primarily, the wetland located on the property was not mentioned. The only outside speaker was for the development, and no one was present to speak on behalf of the wetlands, as those concerned, such as local environmental groups, were unaware the decision was being made. In addition, Councilwoman Carlene Malone, in the second meeting, expressed concern that up until that time, the letters from the state and federal agencies that recommended against alteration of the wetland had not been presented to council. These issues and this lack of information could have been influenced by the agenda-setting phase of power, as explained in the following section.

The Power of Unproven Assumptions. The final dimension of power discussed in Chapter 2 related to the cultural and social norms which worked to keep those with potentially legitimate concerns from ever feeling that they should voice them. The result

of such power, potentially, is that *stakeholders do not act on legitimate concerns.* There are several issues in this case study which fall into this final category. They are based on the following assumptions: necessity of government involvement, urban areas cannot contain natural areas, necessity of new jobs, traffic easement by the road project, and the success of wetlands mitigation. These are discussed below.

The necessity of government involvement. In the first meeting of the city council, the arguments made for the project include: economic development opportunities, addition to the city tax roll, and easing of traffic congestion. However, upon examination, these arguments are for the commercial development itself, not for the government involvement in the project. There is an assumption that the development cannot proceed without the government involvement. The lure of economic development is harder to argue against than government involvement in a project.

Urban Areas. Throughout the debate, certain assumptions were made about the state of urban areas. At the second city council meeting, people speaking in favor of the project said, "In a perfect world"(20) this debate would not be occurring, or "If I had the best of all possible worlds, I would not want..a road going through this area. But a decision has been made."(13). Councilman Shouse stated:

> In a perfect world... I'd like for that to stay the way it is. But, this is a... we're living in the city, an urban environment we live in. There's a big wooded lot next door to my house... I hope it stays that way forever but it probably won't, because

> I live in a city. The geography and demographics of this city dictate that things change. (20)

This statement suggests an assumption that urban environments, due to their inherent nature, are mostly void of natural ecosystems. Their destruction seems a natural result of progress and development.

Jobs. In the final argument made for the development at the second city council meeting, Councilman Pavlis discussed the issue of jobs:

> I can take you to parts of Knoxville where folks are going, "Councilman Pavlis, please get us jobs. We need work out here. We need good jobs where we can raise a family." And, I think the economic impact that this project is going to have on Knoxville is very positive and that it's a... you know, with this type of development, this is what enables us to, you know, further greenways, to have road pavings, to have our uniformed bodies out protecting our neighborhoods.(22)

The interesting part of this argument lies in the demographics of Knoxville. First, Knoxville has one of the lowest unemployment rates in the nation: 3.2% in August 1996 (Center for Business and Economic Research, 1996). The types of employment available though this new development already exist, and many of them have 'help wanted' signs and are in need of people to work. In addition, the area of Knoxville in which this development is planned is one of the more affluent areas of Knoxville. However, the argument and promise of jobs is one which is difficult to argue against.

Traffic easement. Finally, there is the argument that the development and its government-sponsored road will ease traffic problems in the busy west Knoxville area. However, the road with which the new development will connect is already experiencing gridlock and a bottleneck effect, which further cars on the road will not ease. Traffic studies conducted took into account only the new road, and not the increased traffic the new commercial development will bring. However, there is an assumption that a new road, despite 180 acres of new commercial development, is necessary to ease the traffic concerns in the area.

All Wetlands can be Mitigated. There is an assumption that technological innovations can recreate ecosystems. This may or may not be possible, but the record for wetlands mitigation is not very successful. In addition, wetlands are extremely diverse and some may be easier to mitigate than others. However, replicating groundwater hydrology and other aspects of a spring-fed wetland may be too complicated or even too expensive to attempt.

In summary, there are several community power issues which are relevant in the case study. Nearly all of the results of the three faces of power are suggested within the case study. The most effective uses of power, it appears, occurred before the formal decisions were made. This is evident through the rapid decision and lack of solid financial figures, as well as other issues. The official decisions seemed merely formalities. The unproven assumptions are worthy of concern and could also have influenced the decisions.

RESULTS AND ANALYSIS

The analysis seems to suggest that there were several regulatory issues and many political issues which combined to create the present state of decision-making for the Turkey Creek Wetlands decision.

The Regulatory Significance to the Case Study

Of the regulatory issues, the *most* significant were:

* responsibility passed on to other levels of government

* discussion forum on wetlands too late in the process

These both fell under the Marsh and Lallas category of **Divided Jurisdiction and Separated Stages of Review**. The *lack of local responsibility* was the major impetus for many of the other issues within not only the regulatory category, but also the policy category. This lack of responsibility sends messages to higher levels of government that local governments may not be concerned about their resources. In addition, the higher levels of government, in particular the federal level, have been shown to be potentially inadequate in wetlands protection, through their pro-development policies and their reliance on wetlands mitigation. By lacking local responsibility, a local forum for environmental discussions is also absent. This places this discussion forum late in the process of permitting, causing developers great costs and environmental defenders *inability to express local environmental concerns until late in the process*. With no local

group or agency responsibility for environmental protection, decision-making bodies have no requirement to see state and federal recommendations concerning property in question, or even discuss natural resource issues. All of the above were outputs from the case study which can be attributed to the lack of local responsibility.

The regulatory issues which were *somewhat significant* were:

* reliance on unproven technologies

* no opportunity for compromise options

Both of these issues which are somewhat significant fall into the Marsh and Lallas category of **Reliance on Command-and-Control, Top Down Regulations**. However, these are also a result of lacking local environmental responsibility. As mentioned above, relying on federal agencies for environmental protection *means reliance on their methodologies, in this case, wetlands mitigation.* Mitigation is neither enforced nor always successful, especially in an unusual wetland, such as this spring-fed, species-rich example. In addition, this reliance leaves no room for *compromise options* within the local community and among local organizations with a stake in the process.

The Policy Significance to the Case Study

The policy issues which were *most* significant were:

* certain issues do not reach the formal arena
* timing
* distributive politics
* public awareness lessened, media effectiveness
* powers of persuasion: which issues were presented in the formal arena

All of these can be attributed to the second dimension of power, which occurs before the formal arena. Thus, the formal decision-making arena, it is suggested, was primarily a formality, as it appears the *decision was made before the official process*. The first meeting of the city council was extremely significant, in that *the wetlands were not mentioned*. In addition, a four week delay was denied, which suggests a *timing influence*. The road project, it was suggested, could have potentially been built by the developers themselves, but the vote was taken in favor of government involvement. This is indicative of *distributive politics*. In addition, the public was not informed about the discussion. Finally, the first meeting made no mention of a wetland, which might have aroused further media attention earlier on in the process. The second dimension of power was exercised to create a non-decision in the formal arena, influence the issues brought to the formal decision making table, and control public and stakeholder awareness until the decision was made. Therefore, with the vote taken, it was much more difficult for those in favor of wetlands preservation to argue against the project.

The policy issues which were *somewhat significant* were:

* powers of persuasion: personal knowledge of individuals
* powers of unproven assumptions: stakeholders do not act on legitimate concerns

In the formal decision-making arena, one of the more prominent arguments made was of the reputation of the developers. Those in favor of the project stressed that these were men of environmental integrity, and good local developers. This suggests a strong influence in the decision.

The other somewhat significant aspect of the policy process was the ingrained assumptions which were seen throughout the case. These were often used to argue in favor of the project, yet these assumptions often have little to no foundation. First, there is an assumption that urban areas dictate that the preservation of this wetland is not possible. In addition, the assumption that this road, even with the additional 180 acres of new development, will ease traffic concerns in that area of the county. Finally, the assumption that the mitigation plan was adequate was disproved by the fact that the plan was withdrawn in favor of a totally new one. It is difficult to fully determine the extent to which these assumptions influenced the decision. However, they could potentially be very important in the decision-making process. The regulatory and policy issues within the case study are summarized on Tables 2 and 3.

This case study illustrates the difficult issues involved in local resource protection. As shown, there are both regulatory and local political factors which can influence this protection. Many local governments, unlike Knoxville, have established local ordinances which also attempt to regulate the destruction of wetlands and other natural areas. However, the complaint of many is that these additional regulations merely repeat the processes carried out by the state and federal government, and do little more than add to the regulatory bureaucracy. The following chapter will recommend steps local governments can take to protect resources while not merely contributing to the already vast bureaucracy of regulation.

Table 2. Summary of Application of the Literature Review to the Case Study: The Regulatory Process

THE LITERATURE REVIEW	SIGNIFICANCE ■ Very Significant ▮ Somewhat Significant ❑ Not Significant	THE CASE STUDY
THE REGULATORY PROCESS		
Project-by-project review		
* Fail to achieve no-net-loss of wetlands	❑	*(too early in process to determine)*
Divided Jurisdiction, Separated Stages of Review		
* Responsibility Passed on	■	"No local responsibility"
* Discussion forum late in the process	■	"This is not the proper forum for this debate."
Reliance on Command-&-Control, Top Down Regulations		
* Reliance on unproven technologies	▮	"The mitigation plan is more than adequate"
* No opportunity for compromise options	▮	Potential stakeholders not involved
Limited Scope of Regulations		
* Upstream/Downstream lack of accountability	❑	*(too early in process to determine)*
Implementation and Enforcement Concerns		
* Voluntary Enforcement not always successful	❑	*(too early in process to determine)*
* Implementation is not monitored	❑	*(too early in process to determine)*

Table 3. Summary of the Application of the Literature Review to the Case Study: The Policy Process

THE LITERATURE REVIEW	SIGNIFICANCE ■ Important ▮ Somewhat significant ❑ Not significant	CASE STUDY ILLUSTRATIONS
THE POLICY PROCESS		
Agenda-setting, Non-Decisions		
* Certain Issues Do Not Reach the Formal Arena	■	wetlands financial appraisals alternatives government agency letters
* Timing Influenced	■	four week delay denied "The decision has already been made" "What's the rush?"
* Distributive Politics	■	"We build the road, they reap the benefits" speculative nature of the project less consideration than past projects
* Public Awareness Heightened, Lessened	■	"Nobody knows about this"
* Media effectiveness	■	"This hasn't been in the newspaper
* Decision already made before formal arena	■	rapid decision no solid financial figures no publicity no agreement to delay the decision
Formal Decision-Making Arena		
* Powers of persuasion: media influence	❑	*(no apparent direct influence in decision)*
* Powers of persuasion: personal knowledge of individuals involved	▮	"I know the folks involved in this"
* Powers of persuasion: number arguing a decision	❑	*(no apparent influence in decision)*
* Powers of persuasion: which facts presented, withheld	■	presence of wetland not presented no letters from governmental agencies
The Power of Unproven Assumptions		
* Stakeholders do not act on legitimate concerns	▮	arguments for development, not government involvement in road project urban areas dictate change jobs traffic-easement mitigation technology

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

This paper has attempted to link shortcomings of the regulatory system and issues of community power with local environmental protection in the case study of the Turkey Creek Wetlands. The previous chapter analyzed in detail whether the different factors identified in the literature review were relevant in this particular case study. The Turkey Creek Wetlands issue proved to be a rich case study and an excellent example of the need for some local government control of local environmental resources. Chapter Four summarizes the relevant findings from the study and reviews the most significant regulatory and policy issues identified within the Turkey Creek wetlands case study. The chapter then provides specific recommendations to help create a more efficient system, and potentially avoid some of the current shortcomings in the mechanisms for environmental protection at the local level.

STUDY FINDINGS

The literature review in Chapter Two presented many challenges to local environmental protection from both the regulatory process and the policy/decision-making process. These findings and their significance are summarized here.

Local environmental protection faces several regulatory challenges.. The case-by-case review methodology used by all levels of government can fail to achieve no-

net-loss of wetlands by permitting on a piecemeal basis, without an overall understanding of the existing resources. The regulatory process also allows local governments to pass responsibility on to higher levels, causing a discussion forum to be held late in the process, after significant investments by the developers. These investments can create a type of inertia which assumes the project will proceed, and reverses the burden of proof from the developers to those defending the environment.

By passing responsibility along, local governments rely on higher levels for protection of local resource. This greatly lessens the opportunity for compromise options, and forces local governments to rely on state and federal methodologies of solving these issues. This is of particular concern in the area of wetlands protection, due not only to the pro-development and mitigation history of the Corps of Engineers, but also due to the high percentage of mitigation failures.

The scope of the regulatory system is also limited. The case-by-case basis makes no provisions for potentially damaging upstream uses, which can destroy a protected area. In addition, the regulatory system does not monitor implementation, and the voluntary enforcement by those responsible is not always carried out.

The significance to the above findings is that the present regulatory process may not be adequate to protect local resources, and thus the reliance on this process could potentially result in the loss or degradation of local resources. While the regulatory process is long and detailed, its repetitious and bureaucratic nature tend to stall development projects, nearly all of which eventually proceed. It also affects

environmental protection by having hearings very late in the process, after a momentum is set for the project to go forward. These inadequacies can cause a failure of local resource protection.

Local environmental protection also faces local policy and decision-making challenges. The policy process at the local level concerns in part the use of power and who has this power. Community power can be exerted before a formal decision-making arena, resulting in strategic exclusions of information and issues from the formal arena. This use of power can also result in the influence of when decisions are made and when the public is informed, and can even have decision-makers decide an issue before the formal arena. This agenda-setting use of power is extremely influential, for it can control public information and information to decision-makers.

Community power is also exerted within the formal arena through persuasive arguments, the number of people arguing a position, and a personal knowledge of individuals involved. This use of power is the most overt use, but does little if the agenda-setting power has be exerted previously to create a non-decision.

Finally, power can be exerted through social and cultural assumptions which may have no basis in fact. These can potentially be quite powerful and cause stakeholders not to act in certain situations because they believe their state is the natural and unchangeable order of things. Decision-makers can also base decisions on these assumptions which have no basis in fact.

The literature review also suggested that power is used more effectively by business and development interests, due to their greater access to the resources of power, the importance of business and growth to local decision-makers, and the underlying traditions of growth in the United States.

The significance of the policy process is that it can work against environmental protection by stressing growth and development policies due to the strong use of the tools of power by development interests. The policy process and tools of power can be used to keep the public as well as the decision-makers unaware of certain issues, and control the timing of decisions and information. This can add to the regulatory issues by encouraging the passing of responsibility through rapid decisions and little public input.

THE TURKEY CREEK WETLANDS ISSUES

Many of these regulatory and policy issues discussed above were found within the case study. The previous chapter identified several regulatory and policy factors that were crucial to the case study. These factors have combined to create the present situation of an indefinitely stalled development project and, almost a year and a half into the formal decision-making process, no formal public hearing on the road through the Turkey Creek wetlands. These problems are not unique to the case study, but are typical of wetland/development issues. The most significant factors are reviewed below.

The Regulatory Issues

From the regulatory aspect, the *lack of local responsibility* has contributed to this present situation by not generating *a local forum* where the environmental aspect of a project could be discussed. Both the city council and MPC passed along responsibility for the wetlands protection. The city council agreed to the road project without mentioning the wetland, and then later upheld the road design through the wetlands. MPC approved the preliminary road plat conditional to permits from the state and federal wetlands regulatory agencies. Because the local government (i.e., the city or county) assumes no responsibility in environmental protection, there are no mechanisms that require a formal public hearing. Thus, the public hearing only takes place very late in the process, when it is organized by a federal agency. As mentioned previously, after a year and a half since the original decision, a formal public hearing has yet to occur. This results in a lack of timely public input to a serious land use issue. This lack of a local environmental forum in turn contributes to regulatory failures through *an inability to foster compromise options* at the local level, and a *reliance on the state and federal governments for local wetlands protection and mitigation*, which is not always successful.

The Policy Issues

In terms of the policy aspects in the case study, the agenda-setting phase of power appeared to be the most important. Although this use of power is not overt, it may be implied by *the issues and facts which failed to reach the formal decision-making arena* until the vote had been taken. These omissions, such as the presence of a wetland, state and federal recommendations against the project, and any alternatives suggest that *the timing of information* was crucial in this decision. The denial of a four-week delay in order to consult constituents and obtain financial appraisals was an important issue of the *timing of decisions* and *public awareness*. These, along with the private benefits to the project could imply the use of *distributive politics* as a tool of power. From the power issues which were discussed in the last chapter, it is suggested that the city council decisions were actually *non-decisions, as the choice was already made* before the formal decision-making arena.

The significance of this case study is that there is no local outlet to express environmental land use concerns. There is no environmental planning which could allow for a local forum and resource protection. Because the agenda-setting dimension of power has been used so effectively in this case study, decisions were made without public knowledge, and protests and pleas for alternatives were largely ignored. This indicates that the local area could be in danger of the degradation or loss of its last remaining wetlands resources. This has the potential to significantly

affect the quality of life in the area, through flooding, water quality issues, and the loss of wildlife habitat.

RECOMMENDATIONS

There are several actions and policies which can make local environmental protection and decision-making more efficient and effective, and minimize the potential for failure in regulatory and political decision frameworks. One of the most important aspects is to designate some local responsibility for local resources, rather than passing the responsibility along to higher levels of government. By having an agency responsible for natural resources, the discussion forum can occur sooner, greater potential for compromise options can be possible, and issues can reach the formal decision-making arena. Public awareness can be heightened, and decisions could not be made without consideration of environmental concerns.

The first action necessary for protection and responsibility for local resources is identification of these resources. The agency which could be responsible for identifying environmental resources is the local planning organization. By determining what resources exist, where they are located, and what condition they are in, the local government can begin a more organized process of protecting these resources. Local governments would also be aware of when these resources could be affected by development proposals. An awareness of rare local sensitive areas could give MPC grounds for denying plat proposals. In addition, this awareness of sensitive

areas could be used to call for public hearings when a development proposal involving these areas is discussed. This would help inform the public about the state of their local resources, and allow input for their protection. This would also create the arena wherein letters, such as those written by state and federal officials against wetlands disturbance, could be presented.

In a second step, environmental planning could be used to incorporate the most important or rare natural resources through greenways, corridor, and parks systems. These environmental plans could then be considered in conjunction with other existing plans such as transportation plans, which are already considered in development proposals such as the Turkey Creek wetlands. Environmental planning would impose the incorporation of natural resources into other aspects of planning, and bring the issues to the public attention sooner Further public input can be gained through the public participation in the planning process for these resources.

Improved protection of these resources could also come through consideration of short and long-range plans of acquisition for the most important areas. This has great potential for the creation of compromise options and can be a collaborative effort of the planning department, the city, and environmental and development groups for help in searching for funding options. Many land grant institutions give funding for such acquisitions, and this type of planning can incorporate such funding. In addition, discussion of economic incentives and easement programs can encourage development which contains and preserves natural areas while maintaining growth.

These types of options such as land trust funding and economic incentives can be considered through acquisition planning. With this approach, responsibility begins to occur at the local level through acquisition planning, and compromise is more feasible by working with a variety of groups and institutions.

Further local responsibility could occur through the planning commission with a thorough examination of the potential benefits of tools such as zoning, guidelines, or environmental ordinances. Overlay zoning over sensitive areas along with development guidelines or ordinances could create a set of groundrules which would not only help to protect local resources, but also give the development community an idea of what is feasible and acceptable to the community. Guidelines such as this could lessen conflict and help to achieve a long-term, sustainable growth policy.

In addition to solutions through planning, city governments might consider the potential for a local environmental advisory board or commission to be established to deal strictly with environmental concerns. This group could address both the planning commission and the city council with recommendations on specific concerns, and work with other groups and organizations for compromise options. This would heighten public awareness of issues more quickly, and an environmental advisory board would be able to focus more specifically on natural resource concerns.

An environmental advisory board, however, should not be organized in place of the environmental responsibilities of a planning organization. The advisory board can make recommendations, but the city council, with the final decision, is still

susceptible to the agenda-setting power seen so often in this case study. Therefore, the advisory board could be merely a formality as easily as the decision-making process can be a formality. Thus, environmental and land-use planning must be present to represent the long-term interests of a community, as well as the short-term growth needs. The recommendations discussed here are summarized in Table 4.

Table 4. Recommendations for avoidance of problematic issues addressed in the case study

Recommendation	Organization Responsible	Case Study Issues Addressed
Inventory of environmental resources, analysis, ranking	Planning organization	* local responsibility * public input, local forum * timing of public awareness more prompt
Planning to incorporate significant areas through greenways, corridor, and parks planning	Planning organization	* local responsibility * public awareness through public participation * consideration of local resources
Acquisition Planning	Planning Organization, and collaborative efforts involving the city council, and environmental and development groups	* creation of the potential for compromise options * less reliance on higher levels of government for resource protection
Examine the potential for use of planning tools such as guidelines, overlay zones, or ordinances for sensitive areas	Planning Organization City Council	* local responsibility * local forum earlier in process * issues reach a formal arena * public awareness heightened * facts presented at official meetings * timing of information given more promptly
Examine the potential for creation of environmental advisory board or environmental commission	City Council Planning Organization	* local responsibility * public awareness * local forum created * timing of information given more promptly

Thus, local governments can play a significant role in environmental protection. They have the potential for making the system more efficient, having more public involvement, and achieving better protection of resources through planning. The issues addressed within the Knoxville case study could be exemplary

of any area of rapid growth and limited environmental resources. Conflicts involving wetlands are likely to increase in the coming years, because rapid urban growth is causing lands which were previously ignored to now be viewed with development potential. Issues such as the ones addressed in this paper can be partially resolved through local responsibility through planning and the laying of groundrules for development and land use. The local planning organizations can take the lead in resource inventory and analysis, and as the local group in charge of long-range thinking, can create patterns of growth which preserve what is left of the natural environment while continuing safe development and growth. Without this long-range vision, local ecosystems will continue to be lost, and these types of conflicts will continue to occur.

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APPENDICES

APPENDIX A

AN EXCERPT FROM A CITY COUNCIL MEETING

May 23, 1995

RE: PARKSIDE DRIVE MEMORANDUM OF UNDERSTANDING

MAYOR ASHE: The next item is 11-v., A Resolution authorizing the Mayor to enter into a Memorandum of Understanding with Farragut Land Partners, LLC and Turkey Creek Land Partners, LLC for the construction of Parkside Drive. Is there a motion? Moved by Councilwoman Teague. Seconded by . . .

COUNCILMAN BAILEY: Second

MAYOR ASHE: . . . by Councilman Bailey. Mr. Parnell, our Engineering Director, if you would explain this and if there are any who wish to speak in favor or opposition, they'll be recognized. Mr. Parnell.

SAM PARNELL: This resolution would authorize the Mayor to enter into a Memorandum of Understanding with a group of property owners in West Knoxville for a roadway project. This is the same roadway that we discussed a few years ago that was associated with the mall development. Location of the road--it begins on Lovell Road at the traffic signal where Parkside Road was constructed to Lovell that was built to provide access to the Goody's Headquarters, and proceeds westerly to Campbell Station Road, which is in the Town of Farragut. This is a roadway section that's in the thoroughfare plan for Knoxville and Knox County. It's listed in the roadway projects that are proposed for the next twenty to twenty-five years in the transportation plan. It crosses jurisdictional boundaries, which we need some authorization from council to be able to work with the owners and work with Knox County as they consider this roadway project. We prepared a cost estimate for the construction portion of the project, and it's approximately four point one (4.1) million dollars. The agreement, as written here, would call for the owners to provide the design for the roadway and also to provide the right of way necessary for the roadway to be constructed. If you've got any questions I'll be glad to answer those.

MAYOR ASHE: We have signed up to speak Mr. Seymour on this. Mr. Seymour, you're recognized. Give your name and address for the record. The time is eight thirty-six (8:36).

ARTHUR SEYMOUR: Thank you, Mr. Mayor. Members of City Council, my name is Arthur Seymour, Jr. I live at 1806 Ridgecrest Drive in the City of Knoxville. I represent the owners about whom Mr. Parnell just spoke. They are the Turkey Creek Land Partners, is the name of the business. They presently own three hundred sixty (360) acres of land, which is south of Interstate 40, and lies between Lovell Road and Campbell Station Road. Two hundred sixty-two (262) acres is located within the City of Knoxville. It is commercially zoned; it is the largest commercially zoned tract available in one . . . under one ownership in the City of Knoxville. This resolution that you have before you tonight authorizes the City

to enter into a partnership with Knox County and the owners of this property to complete Parkside Road. The project involves a unique public-private partnership that has a number of benefits for the citizens of our whole community. If you pass this resolution, then this matter will go before Knox County and the Town of Farragut in June. The City by passing this resolution will take a unique leadership role in the whole process. If this road is completed in the manner set forth in this resolution, not only will a major transportation link be completed, but in the process you, Members of the Knoxville City Council, and the legislative bodies of the other local governments can demonstrate to the citizens of our county and city that local governments can and will work together for the welfare of the whole community. The process involved here will be that the owners will dedicate right-of-way, buffers, green space, parks and pay for all engineering costs. The City will build the road, west from Lovell Road to the West Knoxville City limits. The county then will build from the West Knoxville City limits to Campbell Station Road. The project requires that all of these governmental entities work together. If you pass this resolution and the other governments pass it, at the conclusion of this process we will have first completed a very much needed transportation link in the West Knoxville, what is now gridlock traffic area. We will provide, you will provide economic development opportunities for the City of Knoxville that we have not had in recent years. And, you, Members of City Council, will show the people of our community that local governments can and do work together for their benefit. And, we would ask you to pass this resolution tonight. If you have any questions, I or Mr. Cannon, the engineer for the project, will be happy to answer them. Thank you very much.

MAYOR ASHE: Are there others in the audience who wish to speak either for or against the resolution? Seeing none, Councilman Harmon's recognized and there are other Members of Council . . .

COUNCILMAN HARMON: I guess I . . . I just think this is the wrong thing to do, not that the road is not needed. I just look at the priority spending of our tax dollars. That's a four point one (4.1) million dollar project. The property was . . . I think they bought the property for like seven million dollars. We're paying . . . they're giving us a three million dollar reinbatement(?) as far as the right-of-way, which equates out, I think, to . . . if you figure out seven thousand one hundred feet . . . lineal feet . . . that's about sixteen acres of right-of-way. That quotes out to almost three hundred thousand dollars an acre. I think they have approximately twenty thousand dollars an acre in this property. I'm not sitting here tonight saying that this . . . this roadway is not needed, but I look at the priorities throughout the city. You talk about gridlock, who've got Clinton Highway, Pleasant Ridge Road, Davenport. There's several streets in our City that are gridlocked throughout the community. Therefore, I feel like this is a project that needs to be developed by the developer themselves, because at this point in time they have no options as far businesses

going into there. We build the road, they reap all the credit for the monies that'll be put into this project. I think our taxpayers deserve more than this. Therefore, I'm going to make a motion that we put this off for two . . . or four weeks and see if we can get an appraisal of the right-of-ways and see what the correct value of the right-of-way would be at this time.

COUNCILWOMAN MALONE: I'll second the motion.

MAYOR ASHE: We're on the motion to defer for . . . two weeks or four weeks?

COUNCILMAN HARMON: Four weeks.

MAYOR ASHE: Is there discussion on the motion to defer.

COUNCILWOMAN MALONE: Yes. I'd like to . . . I had asked Sam Parnell, maybe he can respond to it. What was the . . . or maybe the finance department could respond; I've asked both. When is the last time we spend four million dollars in city money–not state, federal–city money on a road project?

RANDY VINEYARD: Sam, as I recall, we probably spent that on street scape, in excess, if I'm not mistaken, on at least one or two phases of Middlebrook.

SAM PARNELL: The phases of Middlebrook . . . excuse me. The phases of Middlebrook, Phase I, II and III, I don't have those figures here tonight, but the roadway links and the type of roadways that were built along Middlebrook Pike, I would say would be comparable to this.

COUNCILWOMAN MALONE: Okay. How much discussion went into those decisions; the decisions to improve Middlebrook and so on. I can't imagine that it was on Council's agenda in the absence of a workshop. And, again, I think a difference with Middlebrook Pike, there were existing businesses, existing homes, existing street. What we have here is something of a different situation. I think whether its a two week or four week postponement, the opportunity to have a workshop, to come back down here, have some public discussion. This hasn't even been in the newspaper. I mean, nobody knows about this. We're talking four point one (4.1) million dollars, and we have to go back a considerable amount of time to some of the biggest road projects ever done in this town to anything that even begins to approach this. I don't think a month is too much. From what Robert Bedwell had told me when I met with him in March, you're looking at '96, '97 before anything would begin being built out there, as far as road goes. And, there is nothing as far as any business coming, from what I've been told. This is pure speculation. So, I don't see that anything bad is going to happen, except that we have the opportunity to talk to our constituents and have some discussion. You know, Mr. Seymour, who is always good with words said to give us an opportunity to demonstrate that legislative bodies can work together. Well, Mr. Seymour, you might want to demonstrate that legislative bodies can work responsibly, too. Working together is fine, but only if you have the opportunity for public input. And, that's why I think a four-week postponement is not asking too much.

MAYOR ASHE: The motion is to defer for four weeks. Is there further discussion on the motion to defer? If not, are you ready to vote? All in favor of the deferral say "aye."

COUNCILMAN HARMON: Aye

COUNCILWOMAN MALONE: Aye

MAYOR ASHE: I'm assuming . . . two in favor. Those opposed.

SEVERAL VOICES: Seven against. The motion fails. We're back on the resolution as moved. So, either . . .

COUNCILWOMAN MALONE: I . . .

MAYOR ASHE: You're recognized . . . first of all, Councilman Shouse had his light on and is recognized on the resolution. So, remarks either on . . . for or against the resolution, as one sees fit.

COUNCILMAN SHOUSE: I guess I could have made my remarks prior to the deferral vote. I don't know that it's relevant more to this or that. This piece of property to me is a sleeping giant out there. It's been out there quite a while and I'm happy now to see it's back owned . . . it's in the hands of some local developers instead of a gentleman from Atlanta or wherever he was previously. It's a . . . it's just a jewel. Particularly, the beauty of it, is the zoning . . . or the location and the zoning. Zoning that is commercial. Certainly there's some speculation involved from all participants. The developers themselves are having to speculate on it somewhat. But, I think, that if this road goes through there that it will be developed significantly and will add just tremendously to the . . . obviously, the city tax roll. There's just . . . there's no way that it cannot. And, some equations that I have seen as far as the payback, is your four million plus, a huge amount of money. Obviously, this would be paid for, I would think, in bond funds. And, the property tax generated by the improvements in this area, as was presented to be me, would pay the debt service and virtually pay the debt in less than nine years. I think it was . . . I heard seven and a half, but I want to be a little liberal and say nine years. There's not many things that the City of Knoxville does that . . . and we're not in business to make money . . . but, nevertheless, there's not many things that the City does that has a payback of less than eight or nine years. It's a tremendous boon to the entire community; West Knoxville, of course. There's no denying, North Knoxville, East Knoxville, every part of Knoxville needs new roads. My fear on this situation is that it might get tied up in that type of geographical politics when it goes through the County Commission. Sort of a "no, I'm voting against that, because my district needs roads, too." Certainly, all of our city . . . all of the areas of our city need roads, but I think this is one that can't let get away and I support it completely.

MAYOR ASHE: All right, I have Councilman Harmon, Councilwoman Malone; are there others who wish to speak?

COUNCILMAN HARMON: I guess I need to ask Sam this, Sam Parnell. The cost value of the road construction for the Knoxville City part is four . . . I think it's five hundred seventy-seven dollars per square foot . . . or lineal foot?

SAM PARNELL: Per lineal foot.

COUNCILMAN HARMON: And, the part going into Farragut they figure is three hundred and twenty-one dollars. What's the difference in the cost factor per lineal foot? Why are we paying such a higher price?

SAM PARNELL: Well, we wouldn't pay a higher price. We'd pay whatever the actual bid would be. Let me just tell you how I calculated the four point one (4.1) million dollars. That estimate was based upon the actual cost for the road of Parkside going to the Goody's Headquarters with some inflation for increase in cost since that roadway was constructed. There's also included in that some additional costs related to drainage structure at Turkey Creek. That's how we estimated the four point one (4.1) million dollars. I really can't speak to . . .

COUNCILMAN HARMON: Will we be . . .

SAM PARNELL: . . . how the other is estimated.

COUNCILMAN HARMON: Will we be responsible for putting in the red lights and the traffic signals.

SAM PARNELL: Yeah, all the traffic control devices would be a part of the roadway project.

COUNCILMAN HARMON: Since we had out on, say Clinton Highway in '75, we had the merchants actually put up thirty thousand dollars, but here we're going done there and put it in for them? Is that what you're telling me?

SAM PARNELL: Well, this is a similar case to Merchants, it's just on a much larger scale. These owners are coming in and saying, "We'll do the design for the project. We'll give you the right-of-way for the project . . .

COUNCILMAN HARMON: To the construction.

SAM PARNELL: . . . if local governments will build it." It's a very similar kind of project. There's a partnership between the private sector and the public sector.

COUNCILMAN HARMON: Okay.

MAYOR ASHE: Councilman Harmon, any more questions or comments, whatever?

COUNCILMAN HARMON: That's it.

MAYOR ASHE: Councilwoman Malone. Then, if there are other Members of Council who wish to speak.

COUNCILWOMAN MALONE: Were there appraisals on this property to come up with so called three million dollar contribution on the part of the. . .

MAYOR ASHE: Mr. Seymour.

COUNCILWOMAN MALONE: The answer is "yes" or "no," Arthur.

ARTHUR SEYMOUR: Yes

COUNCILWOMAN MALONE: We're not going to let you talk. There were appraisals. May I see those appraisals?

ARTHUR SEYMOUR: I don't have them with me.

COUNCILWOMAN MALONE: That's why I think four weeks would be good. It would give Arthur the opportunity to produce the appraisals. When I met with Randy Vineyard and the Mayor about the city budget, Mr. Vineyard, I guess, in part and in response to Mr. Shouse's comments, Mr. Vineyard said he could not justify this as a economic development project. One of the other things that has been said was how nice it is to have it back in the hands of local people. Mr. Seymour, would you like to give us the names of the partners of Turkey and Farragut limited corporations?

ARTHUR SEYMOUR: I can give you the name of what I would call the general partner. That is John Turley. One of the agents for the partnership is Carey Sprouse. As far as the identify of the investors themselves, other than those two named, I do not know.

COUNCILWOMAN MALONE: Can you get that for us? It's a limited liability corporation, so I assume the investors are all on record somewhere.

ARTHUR SEYMOUR: Are they? I don't know.

COUNCILWOMAN MALONE: Charles?

CHARLES SWANSON: I think when you form a limited liability company you have to file a document with the Secretary of States Office that's a public record that lists the names of the members of the corporation.

ARTHUR SEYMOUR: Does it show the investors? I do not know that.

CHARLES SWANSON: I don't know about investors. You have to show the members of the corporation. That doesn't necessarily mean the same thing as investors.

COUNCILWOMAN MALONE: So, we don't really know, other than Mr. Turley, who...

ARTHUR SEYMOUR: I am assured by Mr. Turley that . . . I'm not going to say everybody lives in the City of Knoxville or Knox County that's an investor, but the majority of those do and control resides with Mr. Turley, who does live here in the City of Knoxville, yes.

COUNCILWOMAN MALONE: Mr. Seymour, would you provide me in the next week with a list of all the people from both corporations.

ARTHUR SEYMOUR: If it is a matter of public record, Mrs. Malone. I will have to check with Mr. Turley. I do not have that information.

COUNCILWOMAN MALONE: Okay, I appreciate that. You can check with Mr. Turley, but I would like to say this, so much for local anonymous investors. What we're talking about is a four point one (4.1) million dollar project. Yes, it's a partnership of sorts.

Yes, it's nice to build roads. I think what we're doing, it's a very rich partnership. We have some property that has no appraisal that can be shown to us being said to be worth three million dollars. Well, ladies and gentlemen, it's not worth anything unless a road goes through that property. In addition to that, buffer zones, a buffer zone that is required by law in the City of Farragut and has already been . . . was a buffer zone put in place as a result of zoning disputes. You know, that's a real gift to the City of Knoxville, as well. And, engineering design, I mean, basically this property, if I understand Mr. Bedwell correctly, is owned outright by some individuals. It's my understanding that the cost was somewhere around seven million dollars. They're trying to tell you the right-of-way on one portion is somehow now, a few months later, worth three million. A buffer zone is some kind of gift when it's already there and in place by law. You know this is . . . I mean, you know, gosh, what a deal. They're going to spend five hundred thousand dollars in engineering costs and we're going to do utilities and street lights and all of this stuff. This may not be a bad project, but again, does this council really understand enough about this project, enough about these figures that we've been told and being asked to take without any proof whatsoever take as being truth, and at tonight's meeting, without asking for any delays, so that we can further review this stuff. If it's a good project, it'll be as good a project in a month. If it's not a good project, I think we ought to know about it. It's not a matter of territory and location in the city at all. It's simply a matter of everyone in this city pays taxes, and as someone who represents all citizens of this city, including the people in the fourth district, when I make a decision to spend four million dollars, whether it's in my district or someone else's district, I'd like to know that we have some basis for doing it. I think we ought to also give some consideration; and, Mr. Seymour, I don't know where you came down on this one, but the Chamber is suggesting that if we were to go to metro government, and I mentioned this during the budget meetings, was that the city lines would be frozen at the time of metro government and that the city taxpayers, not everybody in the county, but the city taxpayers, solely the city taxpayers, would be responsible for paying off that debt, which would now include this debt. Again, that's not bad, if it's good debt for the city to take on. I think it's a . . . there are . . . it's a complex issue. And, I'm not sure it's anywhere near close, Mr. Parnell, to an eighty thousand dollar project with the merchants coming up with thirty of the eighty. I think we're putting an awful lot of zeros at the end of this one to make it a strict comparison. And, these were businesses in place; they are not phantom businesses with phantom property owners. These are real live businesses in place with the sun shining on them and the cars trying to get in their businesses. This is a very very different situation. Again, I wish we could postpone this.

MAYOR ASHE: Are there further persons who wish to speak for the first time, or second time on this particular resolution? If you're not, are you ready to vote? All in favor of Resolution 11-v., say "aye."

SEVERAL VOICES: Aye

MAYOR ASHE: Oppose, say "no."

COUNCILMAN HARMON AND COUNCILWOMAN MALONE: No

MAYOR ASHE: And, by a vote of seven in favor and two in opposition, and the Recorder has the names, the Resolution is adopted.

2-C-96-UR CARDINAL DEVELOPMENT CO./ADMIRAL'S BEND - SOUTHEAST SIDE S. NORTHSHORE DR., NORTHEAST OF NOLINA RD. Approval of a development plan for a detached single family residential development in a PR Planned Residential Zone. Part of Parcel 91, CLT Map 154, 5th Commission District, Southwest County Sector Plan.

MOTION (REESE) AND SECOND (BERRY) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 10-0. PETITION APPROVED.

Ms. King recused herself from voting or discussion on the following matter.

2-SB-96-C WESTPOINTE - SOUTH SIDE I-40, WEST SIDE LOVELL RD. 46th Ward, 5 lots.

Mr. Arthur Seymour — He asked for approval of staff recommendation.

Mr. Alan Travis — This was amended to 3 lots instead of 5 lots.

Mr. Randy Humbolt — Attorney. Represents Sierra Club.
This is the largest wetland in this County. He has a problem with them putting a road through a wetland. There will be run off water, with oil & gas from the roads running into the wetlands. They feel this place is a sanctuary. They want to see the wetlands preserved and enhanced. They would like to continue to preserve the wetland by hopefully going around this wetland rather than over.

Mr. John Nolt — Foundation for Global Sustainability
It is important to them to preserve the wetlands in this area. There is a rare chub, and amphibians, of which we have very few left, in this wetland. This road would bisect the wetland about 200' from an existing spring which is now pristine.

Ms. Kim Polarsky — Knoxville Water Equality Forum
They, too, are concerned about the effect this road will have on the wetland. East Tennessee only has approximately 4% of the State of Tennessee wetlands. This is a very valuable habitat.

Mr. Shuler — City of Knoxville Engineering Department
The consultant working with the City is taking steps to minimize the effects on the wetlands. The State would be overseeing this project as they would have to obtain many permits from the City and State.

Mr. Harold Cannon — The roadway before you is consistent with the major thoroughfare plan. The questions about the wetlands will be addressed. The road will bisect the wetlands, but it will not bisect the pristine wetlands. They have done realignments to bypass as much of the wetlands as they can. The details will be in the 404 Certification. He encourages your approval.

MOTION (LUTTRELL) AND SECOND (REESE) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 8-1. CONCEPT PLAN APRPOVED.

AN EXCERPT FROM A CITY COUNCIL MEETING

March 26, 1996

RE: APPEAL OF JOHN NOLT (FOR FOUNDATION OF GLOBAL SUSTAINABILITY) WESTPOINTE SUBDIVISION CONCEPT PLAN APPROVAL

MAYOR ASHE: Ten a is an appeal of John Nolt (for Foundation for Global Sustainability) from the decision of the Metropolitan Planning Commission to approve a subdivision concept plan for Westpointe Subdivision, property located west side Lovell Road, south side I-40/75; is to be considered with Resolution 11 g, which would approve the appeal of John Nolt from a decision of Metropolitan Planning Commission to approve a subdivision concept plan for Westpointe Subdivision, property located west side Lovell Road, south side I-40/75. Let me explain the situation here. The Metropolitan Planning Commission approved a concept plan. A citizen, Mr. Nolt, disagreed with that and appealed this to the City Council. And, that's what's before council tonight. If council supports what MPC does . . . did, rather, then, frankly, the "no motion" or the "failure of a motion" would in effect uphold MPC. On the other hand, if you disagree with what MPC did, and wish to overturn the action of MPC, then a motion would need to be made to adopt the resolution 11g, which would have the affect of overturning what MPC did. We have a number of people in excess of the six who've signed up to speak. Let me read their names: Harold Cannon, Jeff Duke, Arthur Seymour, Jr., John Nolt, Stephen Smith, Jim Blackstock, Daphne Murdock, Danielle–and I can't pronounce the last name, I'm going to try Droctsch, but I'm not sure; and I apologize if I mispronounced–Michelle Neal. Those are the people who've signed up. Are there others who wish to speak on this issue, but you haven't signed up.

UNIDENTIFIED VOICE: inaudible (did not use microphone)

MAYOR ASHE: All right, Randy Humble. Are there any others.

COUNCILMAN SHARP: Mr. Mayor.

MAYOR ASHE: It will help me in trying . . .

COUNCILMAN SHARP: How many we got signed up on this?

MAYOR ASHE: Well, one, two, three, four, five, six, seven, eight, nine, ten persons. If . . . yes.

UNIDENTIFIED VOICE: inaudible (did not use microphone)

MAYOR ASHE: I'm sorry, I left off Mr. Madden, Sunshine Madden. So, it's eleven.

COUNCILMAN SHARP: Is there anyway to tell how this eleven . . .

MAYOR ASHE: Well, if I had to guess, I'd say three are in favor and eight are against. That's only a wild guess on my part.

COUNCILWOMAN MALONE: Well, I'd . . .

MAYOR ASHE: Obviously, we'll call them in the order signed up. Now, the motion . . . the resolution before council is one to overturn MPC. So, the people who are opposed to what MPC did, they will get to speak first. Then, the people who agree with MPC would speak second. That is how it would have to go from a parliamentary standpoint.

COUNCILWOMAN MALONE: I . . .

COUNCILMAN SHARP: Go ahead, Mrs. Malone.

MAYOR ASHE: Well, Mr. Sharp has the floor.

COUNCILMAN SHARP: I'm going to yield it to Mrs. Malone there first.

MAYOR ASHE: That's a first.

COUNCILWOMAN MALONE: Thank you. I would ask that we allow all the people who have signed up to speak and hold them at five minutes.

MAYOR ASHE: Five minutes each, for a total of fifty-five minutes?

COUNCILMAN SHARP: You're saying all . . .

COUNCILWOMAN MALONE: Five minutes each.

MAYOR ASHE: A total of fifty-five minutes?

COUNCILMAN SHARP: That's what I'm thinking about. There's eight at least signed up on one side?

MAYOR ASHE: There are eleven signed up. Eleven speaking five minutes each will be fifty-five minutes. Look, I'll be here for . . .

COUNCILMAN SHARP: Well, I'd make a substitute motion . . . If you've made a motion, I'll make a substitute motion.

MAYOR ASHE: Well, first of all, there has to be a second before we can consider a substitute motion. If there's no second, it fails. Vice-Mayor Sharp, you're . . .

COUNCILMAN SHARP: I'd make a substitute motion to hold it to five.

MAYOR ASHE: Five on each side?

COUNCILMAN SHARP: Well, that's five fives, twenty-five.

COUNCILWOMAN MALONE: I'll second that.

COUNCILMAN SHARP: Five's okay.

MAYOR ASHE: Vice-Mayor Sharp moves that five persons be authorized to speak on each side of the issue. Seconded by Mrs. Malone. Another Sharp/Malone coalition growing up here. If there discussion? If not, all in favor of that motion say "aye."

COUNCIL: Aye.

MAYOR ASHE: Opposed "no." And, it's adopted unanimously. Now, let me tell you, I don't know if I was right in guessing here that three are on one side and eight maybe on the other. For the three that are on one side, letting five people speak is no problem. On the other hand, for the eight who are on one side, you need to get together and decide

which of the five of you are the best possible, most articulate spokespersons who have, who will do the best job of persuading City Council of the correctness of your point-of-view, and to ask them to come forward and to speak. Because three of you aren't going to get to speak. That's the bad new. The good news is that the five most articulate ones of you can speak for five minutes each. So, it's for you all to decide who. If you can't decide who, I simply will call you out as you signed up. That's the only choice I have. Which means Mr. Humble, Mrs. Neal and Mrs. Droctsch won't get to speak. But, that's the motion. Let's start down the list. If you're opposed to what MPC did and want to overturn MPC, then you come up first. Again, I'll call your name. You signed up on 10a. Mr. Madden. Mr. Madden, you signed up first. Now, again, if you all want to get together, and we'll take a one minute break and let you all decide which of the eight . . . which five of the eight of you get to speak. It's your time on Channel 12. And, let's just take if we can, sort of a one minute recess. And, we can all chit-chat and catch up on the weather. That's for one minute.

COUNCILWOMAN MALONE: And, if we want to hold them to twenty-five minutes and maybe let them use eight speakers, as long as they hold all of it to twenty-five.

UNIDENTIFIED VOICE: inaudible (did not use microphone)

COUNCILWOMAN MALONE: To even it out. Okay.

COUNCILWOMAN TEAGUE: Council, will have to make that decision, Sir. Council will have to make that decision of how they want to do that.

UNIDENTIFIED VOICE: inaudible (did not use microphone)

COUNCILWOMAN TEAGUE: I don't understand what you're saying, but that's okay.

(Tape stopped for recess; resumed with John "Sunshine" Madden)

SUNSHINE MADDEN: . . . was highly involved in this and knows the particulars about it.

MAYOR ASHE: All right.

SUNSHINE MADDEN: And, I appreciate your . . .

MAYOR ASHE: I'll rule that we've back in session. We've . . . everybody's gotten together. And, whoever . . . Mrs. Malone, you're recognized.

COUNCILWOMAN MALONE: In fact . . . and, I appreciate Vice-Mayor Sharp and his thoughtfulness on this. I would say to Members of Council, if we want to hold it to twenty-five minutes, why don't we do that and just let them divide the time, as long as no one . . . no one go over five minutes, but . . .

UNIDENTIFIED VOICE: Some of our remarks will be very brief.

COUNCILWOMAN MALONE: . . . twenty-five.

COUNCILMAN SHARP: Twenty-five minutes or . . . that's it.

COUNCILWOMAN MALONE: I would so move.

COUNCILMAN SHOUSE: Are you talking about on either . . . on both sides?

COUNCILWOMAN MALONE: Sure

COUNCILMAN SHARP: Okay

COUNCILMAN SHOUSE: That's fine

MAYOR ASHE: Mrs. Malone having voted on the prevailing side, moves that we reconsider our action. Is there a second?

COUNCILMAN POWELL: Second

MAYOR ASHE: Seconded by Councilman Powell. All in favor of reconsidering our action in limiting it to five on each side, say "aye."

COUNCIL: Aye

MAYOR ASHE: Opposed say "no." And, the "aye's" have it. We've reconsidered our action. We're back on the motion. Vice-Mayor Sharp, you probably want to withdraw your motion and rephrase it that there would be twenty-five minutes on each side . . .

COUNCILMAN SHARP: Twenty-five minutes per side.

MAYOR ASHE: On each side, okay. Now, again, the proponents, which would be the people against MPC will have a two minute rebuttal under council's rules. So, it'll actually come out to twenty-seven minutes. Just keep that in mind. But, the motion is, and is there a second to that motion?

COUNCILWOMAN MALONE: Second.

MAYOR ASHE: Seconded by Mrs. Teague . . . to revise so as to provide twenty-five minutes on each side. All in favor of that say "aye."

COUNCIL: Aye

MAYOR ASHE: Opposed say "no." And, the "aye's" have it. I'll try to use that clock up there. Again, no one will go over five minutes. If you want to go less than five minutes, that will allow more than five people to speak. Again, I'll call out. Mr. Madden signed up first. Mr. Madden, the time is seven thirty-two (7:32) and if, Mr. Varlan, you'll help me keep time, so we don't go over twenty-five minutes. But, you're recognized. If you'll give your name and address, please, and the time is . . .

JOHN "SUNSHINE" MADDEN: My name is John "Sunshine" Madden, 2722 Henegar Street, Knoxville, Tennessee, Fifth District, democrat. I'd like to relinquish my time again to the people here who know more about this issue. But, I will say that we must save our wetlands. Enough development is enough. Go do your development some where out in the country. Leave the wetlands alone.

MAYOR ASHE: Thirty seconds. Next person, will you give your name and address, please.

JOHN NOLT: My name is John Nolt and I'm President of the Foundation for Global for Sustainability.

MAYOR ASHE: Would you give your address, please?

JOHN NOLT: 2647 Dafford Place, Knoxville, Tennessee 37920.

MAYOR ASHE: The time is seven thirty-two (7:32).

JOHN NOLT: Some would say that growth has already gone too far in West Knoxville. The number of those who mourn the bulldozing of the woods behind the house, or the paving down . . . paving of the farm down the road is growing. Many of us prefer life in a medium sized town to life in a large town. Many find the great work of creation deeper, more profound, more beautiful than what has recently replaced it in West Knoxville. But, we haven't come here to plead for environmental ethics, or even to oppose yet another in an apparently endless series of commercial developments to the West. We've come to ask your assistance in preventing the proposed extension of Parkside Boulevard from destroying the largest and highest quality wetland remaining in Knox County. If the road must be built, please take it around, not through, the Turkey Creek Wetland. It's impossible to build a road through a wetland without impairing the wetlands multiple biological functions. That the Turkey Creek Wetland would be damaged by the proposed road, even the developers admit. They propose to mitigate the damage by flooding additional land. Yet, the bulk of the wetland research has concluded that this sort of mitigation can only restore some, not all, of the ecological functions of natural wetlands. The people in our community who know the most about wetland ecology are the professors of ecology at the University of Tennessee. I'd like to read a statement signed by five of them. "As tenured full-time faculty of the Ecology Department of the University of Tennessee, we wish to go on record as strongly opposing the proposed alterations of this important wetland area in West Knoxville. It's widely known that suburban wetlands such as this are vitally important in their function of purifying ground water and reticent pollution in our streams. They also serve as habitat for many endangered species of birds, fish, clams and aquatic plants. These suburban wetlands are rapidly disappearing in our area as development increases. This particular wetland is one of the few remaining intact areas of its kind." Signed by Professors Michael McKinney, Stewart L. Pimm, Gary McCracken, David Ettnier, and Cliff Amundsen. Rerouting the proposed extension around the wetland may cost the developers some money. But, it seems fair to request more of the developers that is usually . . . (tape changed) . . . explanation has anything to do with the fact that hefty contributions were made by the developers to the Mayor's campaign. In any case, since the road is to be built with public funds, it's reasonable to expect the developers to make concessions to the long term public interest. Additionally turns in the road would, we admit, inconvenience drivers. For that, we're sorry, but we see no other moral choice. Convenience has already dictated too many decisions. Too much of the creation has already been lost. Where fragments remain, it's our duty to preserve them. If for no other reason than that our grandchildren may want places where they can still hear the night song of the frogs or call of the green heron. Such places are worth some turns in the road. Thank you.

MAYOR ASHE: Mr. Nolt, I would point out, I certainly respect your right to disagree, and that's fine. But, if you're suggesting that my position is somehow based upon political contribution, you couldn't be more mistaken. And, I flat out reject that.
Next person.

DAPHNE MURDOCK: Good evening, Mayor Ashe, Members of City Council. My name is Daphne Murdock. I am . . .

MAYOR ASHE: The time is seven thirty-seven (7:37). You have five minutes.

DAPHNE MURDOCK: Thank you. My comments will be brief. I am the president of the Knoxville and Knox County League of Women Voters. One of the goals of the League of Women Voters is to promote an environment beneficial to life through the protection and wise management . . .

MAYOR ASHE: Would you give your address, please.

DAPHNE MURDOCK: The address for the League of Women Voters?

MAYOR ASHE: No, your address.

DAPHNE MURDOCK: 1804 Chestnut Grove Road, Knoxville, Tennessee.

MAYOR ASHE: We just ask everybody who appears to do that.

DAPHNE MURDOCK: Thank you. Our goal is to promote an environment beneficial to life through the protection and wise management of natural resources in the public interest by recognizing the inter-relationships of air quality, energy, land use and water resources. Specifically, our goal is to preserve the physical and biological integrity of an ecosystem, with maximum protection to public health and the environment. We believe that City Council has as appreciation for these goals as well as evidenced by your development of greenways within the city. Section 404 of the Clean Water Act regulates the discharge of drudged and fill materials into the waters of the United States, including wetlands. Activities that are regulated under this act include fills for development, water resource projects, such as dams or levies, and infrastructure developments, such as highways. At the base of any land use issue is the long-term benefit to this community. Some would argue the economic benefit of constructing a roadway through this area. We challenge this notion, citing viable alternate routes on the one hand and on the other, the economic degradation of the wetland if destroyed. In its present state, it provides significant flood storage potential, reducing the risk of damage to roadways and private property in the area. It also serves to filter water runoff associated with development along Lovell Road. No one can deny the importance of sustaining intact ecosystem. If any of you have visited the site, you have seen for yourself the vegetation, water foul, amphibian species in this spring feed area. We would agree that the greatest benefit for Knoxville and its use of this wetland is to protect it and to preserve it. We urge you in good conscience and good faith to deny the construction of this roadway through one of our most precious resources, the Turkey Creek Wetland. Thank you.

MAYOR ASHE: Mrs. Murdock. This is a matter of information. Was that statement given by you personally or on behalf of the League of Women Voters?

DAPHNE MURDOCK: This is on behalf of the League of Women Voters.

MAYOR ASHE: Did the League meet and adopt this as a policy?

DAPHNE MURDOCK: This is based on the grounds of the National Positions for Land Use by the League of Women Voters.

MAYOR ASHE: But, obviously . . .

DAPHNE MURDOCK: It was drafted and reviewed by our document committee.

MAYOR ASHE: I guess I'll rephrase my question. Did the Board meet and adopt this as a policy statement.

DAPHNE MURDOCK: This would not be included as a policy statement.

MAYOR ASHE: But, was there a vote taken by the League on this.

DAPHNE MURDOCK: There was discussion by the League and the Board of Directors on this Turkey Creek Wetland when we understood that this issue was coming before City Council, which was after our last Board Meeting. So, our Board could not vote on this statement.

MAYOR ASHE: I'm just trying to get information. So, there wasn't an actual vote; there was discussion by the Board, but not an actual vote on this policy statement.

DAPHNE MURDOCK: By phone; that is correct.

MAYOR ASHE: All right. I just want to understand how you arrive at the process by which you deliberate. Thank you.

DAPHNE MURDOCK: Our understanding of this issue came before . . . when we were aware that it was coming before City Council was after our last Board meeting.

MAYOR ASHE: We appreciate your being here.

DAPHNE MURDOCK: Thank you very much.

MAYOR ASHE: There's three minutes there. The next person.

STEPHEN SMITH: My name is Stephen Smith, 2744 Voltz Lane, Knoxville, Tennessee.

MAYOR ASHE: I like to . . . excuse me I just didn't hear the street.

STEPHEN SMITH: Voltz

MAYOR ASHE: Bolt?

STEPHEN SMITH: V-O-L-T-Z, Voltz.

MAYOR ASHE: That will help our recorder here get it down. Fine. The time is seven forty-two and you have up to five minutes.

STEPHEN SMITH: I'm here like you are just to get a little bit of information and, you know, understand what's happening here. I wanted to read something that the State of Tennessee Department of Environment and Conservation basically said in response to

this wetland. And, I think its unfortunate that each Members of the City Counc on . . . in favor of this have not necessarily seen this. I would say that before you make a decision, you should have a copy of this to make an informed vote in representing the citizens. I'm going to just extract a few things because we're under the gun here for time. We don't seem to be able to have the debate that we need to have on this, but . . . In summary, this is written by the State. In summary, we feel that these wetlands are the highest quality we've seen in Knox County. Not only because of their unusual size, twenty-two acres, but also because of the functions they serve. For example, the wetlands provide excellent wildlife habitat as indicated by the level of biological diversity that we've observed. They provide significant flood storage potential, reducing the risk of damage to roadways and private property in the area. This is very valuable property, as you know, out there. The wetlands east of Turkey Creek serve to filter urban runoff associated with development along Lovell Road. Then, it goes on to say, the placement of a major thoroughfare through these wetlands would significantly degrade the value as wildlife habitat and to a lessor extent their flood storage capacity. It goes on to state, as the potential sediment discharge during construction runoff from the completed road and the inevitable leaking sewer lines could significantly impact the wetlands, the extremely high quality streams which feed them and Turkey Creek. Then, it goes on to say, finally, the City of Knoxville claims that a major thoroughfare in this area, in addition to the I-40, Kingston Pike, has been planned for some time. If this is so, why were the wetlands not taken into consideration. A route for this additional thoroughfare could and should have been planned around the wetlands. We find the City of Knoxville extremely deficient in environmental planning in respect to this project. Now, this . . . this is the State of Tennessee speaking. And, you all are making a decision, and you all having been shared this information. I don't find that particularly thoughtful. Now, the other thing, Mr. Mayor, that I'd like to ask is, we wrote a letter dated March 18th to you. We never got a response. But, it is my understanding, I just wanted to get a clarification, that you have actually written a letter to Commissioner Dills, who is the Chair . . . is the Commissioner of the Department of Environment and Conversation. Is that not correct–in regard to this matter?

MAYOR ASHE: Mr. Smith, you have five minutes to make whatever statement. This is not a Q and A time.

STEPHEN SMITH: Well, I'm asking you a question. Did you write this letter chastising the state officials for bringing these issues up and challenging your decision to do this road building project?

MAYOR ASHE: You have another two minutes.

STEPHEN SMITH: The silence is deafening here.

MAYOR ASHE: At the appropriate time . . .

STEPHEN SMITH: Would you be willing to make that letter public?

MAYOR ASHE: At the appropriate time, I will . .

STEPHEN SMITH: Mr. Mayor, would you be willing to make that letter public that you wrote to Commission Dills?

MAYOR SMITH: You've got until seven forty-seven (7:47). We can be here in silence and look at each other, or whatever . . . however you want to use it.

STEPHEN SMITH: The other thing that I would recommend is that if indeed, as you said in response to Dr. Nolt's concerns about the fact that a number of the Turkey Creek Land Partners are significant contributors to your campaign, that what we should do is we should halt this project; we should publish the names of the Turkey Creek Land Partners, so everyone would know exactly who those individuals are; we should publish the amount of money that they've given to your campaign and we should clear that up. We should also publish the letter that you sent to Commissioner Dills. I think that is democracy at work. It's letting the information be publicly distributed. And, I think that's the right thing to do in this case. Rushing this decision through, as it was done a year ago with less than ten minutes debate, is not good policy. And, I would encourage the other Members of the City Council not to follow the Honorable Mayor's lead in this situation, and demand a complete and full public disclosure of exactly what's going on here. Thank you for your time.

MAYOR ASHE: That's your five minutes.

STEPHEN SMITH: I would appreciate getting . . .

MAYOR ASHE: And, for the benefit of our audience and our viewing audience, I do not deduct time from comments either made by Council Members or myself from . . . that are here. In response, any correspondence I've sent as Mayor to any commissioner I'm more than happy to make public. And, it, of course, is covered under the open records act anyway. Secondly, in regard to contributions I've received–obviously, you're not a subscriber to the News Sentinel, or reader, because they've all appeared during last fall's Mayoral campaign. And, the voters of this City rendered a decision as to who ought to be mayor. And, I'm very proud of the better than one thousand people that contributed to my campaign in varying amounts. And, that stands for itself, as well as the names of the investors in this project who are also disclosed I believe in the media. Again, you may have missed that addition of the News Sentinel, but its there for public inspection. And, it's widely known who they are and one can agree or disagree with their particular project. I've made a number of decisions that financial supporters of mine have agreed with and I've made a number of decisions that financial supporters of mine have disagreed with. For example, Mr. Dick, the owners of the Tennessee Theater, who has contributed to me financially does not agree with my most recent decision. So, that would be an example. I've tried to make decisions I see them. You can agree or disagree with them. That's why elections are held. That was an issue in the last fall campaign, hotly debated and the

voters of the this city rendered a decision. You may disagree with that decision, but they rendered it. The next person, assuming that's who wishes to speak, is Jim Blackstock. The time is seven forty-nine and you have up to five minutes. So far, thirteen minutes and thirty seconds have been used.

JIM BLACKSTOCK: My name's Jim Blackstock. My address is 9113 Parktop Lane, Knoxville. My comments will be very brief, dull and non-controversial. I'm here to . . . I'm a citizen of Knoxville; live in West Knoxville. I'm also a Member of the (inaudible) Group, the Sierra Club, which is headquartered here in Knoxville. I'm here to speak in support of the appeal. Our group has over a thousand members in this area and many many of us live in the West Knoxville area, including myself, and many many of us are concerned about the preservation of this wetland. You've heard all the facts about the values of wetlands, the quality of this particular wetland. So, I'm not going to cover that ground again. One point I would like to emphasize, is the fact that the Mayor and the Council have been very very supportive in our efforts to perserve green spaces in Knoxville through the greenways program. And, I think preserving this wetland would be a great way to re-emphasize the city's commitment to perserving open spaces, wetlands in our community. Building a road through the wetland I don't think is going to help perserve it, so I would ask you to please reconsider this decision. Thank you very much.

MAYOR ASHE: Okay, thank you. The next person . . . again, if I mispronounce your name, I apologize . . . is Danielle Dorsh(?).

DANIELLE DROCTSCH: Droctsch.

MAYOR ASHE: If you'll give your name and address. The time is seven fifty-one.

DANIELLE DROCTSCH: Danielle Droctsch. 2744 Voltz Lane, Knoxville, Tennessee 37914. Mayor Victor Ashe and City Council, there is a reason why there is a lot of people concerned about the wetlands. First, the decision to appropriate four point one (4.1) million dollars, an enormous amount of money, was made in less than fifteen minutes. Very little discussion was made during this four point one million dollars. Let me give you a cursory review of the process as I see it. There is an enormous amount of information not discussed in debate here last May when four point one (4.1) million dollars was appropriated. City Council did not once mention the existence of the wetland during that discussion. There was not even a mention of the fact that there was wetland there. There wasn't a discussion about the required permits associated with the wetlands, which . . . you need to have a 404 permit; you need a state permit; you need flood plains permits; you need an enormous amount of permits for this wetland. Even the City of Knoxville in a February 1, 1996, Memorandum acknowledged the need to have permits. Yet, there was no discussion of the wetland in May. I wonder why. There is very little accounting for the three million dollars in supposed easements and buffers that were supposedly getting from the Turkey Creek Partners. In fact, some City Council Members here raised that issue.

This is supposed to be a public/private partnership. City Council giver four point one (4.1) million. Turkey Creek Partners is supposed to give three million dollars in value of something. We have no idea if there's really much of a give and take here. Where's the three million dollars. One City Council Member pointed out that just based on a calculation on a piece of paper that some of the acres of land would be over two hundred thousand dollars an acre that we're supposedly getting from this Turkey Creek Land Partnership. I would really just like to understand is this is really a partnership or if this is, Mr. Mayor, if you'd listen to me, politics over planning. That's why we're wondering. I'm not necessarily saying that you've made this decision with City Council because of the politics, but you have to wonder why ten minutes was spent on four point one (4.1) million dollars. We have to wonder. All we're asking for . . . I have three specific proposals, very very reasonable. I'm not asking you not to build the road. I'm not even necessarily asking you not to build it through the wetlands. I'm asking you to look at the alternatives. There was not one plan out there that said here are the alternatives; here is all the different things that we can do to avoid this. We need to completely re-evaluate this money. Imagine a minute how this money could be spent on Knoxville Schools. Imagine a minute how this money could be spent revitalizing the downtown. And, if you're so concerned about the Tennessee Theatre and the amount of money to restore that, why not put it through that. I think it would be a better project. What I'm saying here is that this process was a bad process. And, what needs to happen is we need to sit down and we need to look at this more thoroughly. Even if you went around the wetland, I bet you a lot of your headaches from us and from potentially from the media might be gone. This is just . . . this is to me a no-brainer decision. And, I think we're not asking you to reject the entire MPC plan. We're saying consider the wetland in a revision. That's all I have to say. Thank you very much.

MAYOR ASHE: By my count, nineteen minutes and thirty seconds have been utilized. There's two speakers left. Michelle Neal and Randy Humble. So, that's six minutes to divide between two. Mrs. Neal, you're next. The time is seven fifty-five (7:55) and you have up to five minutes.

MICHELLE NEAL: Good evening, Mr. . . .

MAYOR ASHE: Leaving one minute for Mr. Humble.

MICHELLE NEAL: Leaving one minute for Mr. Humble.

MAYOR ASHE: Unless you only take three minute, in which case you'd leave three minutes for Mr. Humble.

MICHELLE NEAL: Well, I guess we're down to two minutes now with this discussion.

MAYOR ASHE: No, I've not deducting my conversation.

MICHELLE NEAL: All right. My name is Michelle Neal. My address is 611 Shadywood Lane, Knoxville, Tennessee 37923. And, I am here tonight also in support of

denying the concept subdivision plan that was approved by MPC. I would like to request that City Council re-evaluate their decision that they took into account when they went into the Memorandum of Understanding with Turkey Land Partners and Farragut Land Partners. I do believe that there is a viable alternative. I do believe this wetland would also provide significant economic value to West Knoxville. What an idea if we had twenty-two acres of green space in West Knoxville for community residents out there to go and recreate; to bird watch. If any of you haven't been out to that wetland, I thoroughly encourage you to go out there. I spoke with Dr. David Etnier today, who said that this wetland potentially is home to several endemic mackerel (inaudible) with a possible . . . if potential studies were allowed to be done in that area. That some of these species could be listed as endangered or threatened. Again, this wetland does not rely on runoff. It's a spring-fed wetland, which means it's a very clear source of water out in that area. And, I want to encourage just a bit more debate on City Council's part in exactly where the appraisal . . . was that ever presented to City Council. Was that ever written . . . was it ever presented to City Council in written . . .

MAYOR ASHE: Again, I'll have to say what I said to Mr. Smith, this is an opportunity for you to speak . . .

MICHELLE NEAL: I understand, but I would like to have my questions answered.

MAYOR ASHE: Then I would suggest that you come back to public forum and say whatever you would like to say.

MICHELLE NEAL: Well, I disagree with your process here, Mr. Mayor, but I want to . . .

MAYOR ASHE: You have three (?) more minutes.

MICHELLE NEAL: What I want to specifically say is that I would also like to address this question to City Council, also. How will over one hundred and eighty-three acres of commercial development ease traffic problems in Knox County. Thank you. That's all I have.

MAYOR ASHE: Mr. Humble, the time is seven fifty-eight (7:58) and you have three minutes to reach the twenty-five minute time limit.

RANDY HUMBLE: I'm Randy Humble. My address is 800 South Gay Street, First Tennessee Plaza. I'm a lawyer here in Knoxville. I'm also the past president of the Sierra Club, a member of the Greenways Coalition, a member of the Greenways Commission, a contributor to your campaign.

MAYOR ASHE: And, the record should probably reflect that on this issue we regretfully part company. But, . . .

COUNCILWOMAN TEAGUE: Excuse me. Randy, what is your home address?

RANDY HUMBLE: Home address is 404 Boxwood Square.

MAYOR ASHE: Boxwood Square, right down the street from me.

RANDY HUMBLE: I hope my appointment to the Greenways Coalition . . . or Commission would . . .

MAYOR ASHE: . . . disagree with, I just appointed you to the Greenway Commission.

RANDY HUMBLE: I hope it wasn't a direct result of my contribution. I'd like to think it was a direct result of my interest in greenways.

MAYOR ASHE: I should probably disclose that I'm a twenty-six year member of the Sierra Club, too. But, . . .

RANDY HUMBLE: I know that--not the twenty-six years, but you're a member of the Sierra Club. If I had the best of all possible worlds, I would not want a wetlands . . . or I would not want a road going through this area. I would want a wetlands park. I would want that area preserved. But, a decision has been made to develop that area. So, what are our options and where is the road going to be. I've looked at the plans. I've reviewed them and I appreciate the sensitivity these developers have shown toward increasing the amount of acreage that's going to be out there. There's going to be an increased acreage from twenty-two to thirty-four acres. There's going to be a preservation of this land, and there's already been, I understand, a dedication of this land to Ijams. Beau Townsend, I understand, has signed an agreement. They're going to come out there and manage part of this land and part of this land's going to be preserved and available for community beauty. As I see it, this land is going to be enhanced to some degree by the involvement of these developers and the involvement of Ijams. And, I appreciate that. I don't like the fact that there's going to be a road through there. But, I've looked at this area and I've looked at the site development and there's no other reasonable place to put a road. It doesn't make sense to put a road for where the existing road now is. We have Parkway or Parkside Drive already there. The natural extension of Parkside Drive is where these people are going to put the road. I don't like it. I wish there was not a road going . . . there was not going to be a road there. But, you can't go around this particular wetland area without encroaching upon other wetland area that's already there. There's wetland area in this whole place. Now, I was out there today, and I appreciate . . . I sat there; I looked . . . I didn't sit there. I stood there, heard birds chirping, frogs croaking and my senses were elevated. And, I thought it would be great to preserve this intact without any development. But, the fact is, that's not going to happen. So, how can we enhance what we have. And, based on what I've seen, there's going to be an enhancement and they're going to preserve this area as best they can and enhance it as best they can given the situation. There's going to be a continuation of Parkside. The way that some people would like to see it is for the road to be put in another place, but that is not real given the traffic situation. The best road would be the way I think . . . the basically plan is the plan they've devised, Mayor. And, I appreciate their sensitivity. If I had it . . . if I have my choice, we'd make it a park,

but as it is, I think we're going to have thirty-four acres, partly beautifully enhanced by the contributions that they're going to make. Thank you.

MAYOR ASHE: That completes the list of those who would be in favor of the resolution. That is–which would overturn MPC's decision. We will now hear from those persons who would in effect be in favor of what MPC did. And, the three persons who've signed up . . . But, that doesn't appear to be the order in which they're speaking.

RANDY HUMBLE: One other thing, Mr. Mayor. Those comments were not on behalf of the Sierra Club.

MAYOR ASHE: All right.

RANDY HUMBLE: They were not on behalf of the Greenways Coalition. They are my individual comments.

MAYOR ASHE: Thank you. We have Mr. Harold Cannon, Mr. Jeff Duke and Mr. Arthur Seymour, Jr. in whatever order they wish to speak.

ARTHUR SEYMOUR: Thank you, Mr. Mayor, Members of City Council. My name is Arthur Seymour, Jr., attorney with Frantz, McConnell and Seymour. I reside at 1805 Ridgecrest Drive in the City of Knoxville. I am here on behalf of the land owner, Turkey Creek Land Partners. I want to speak just a minute about why we are here and then turn it over to Mr. Harold Cannon. The City of Knoxville and Turkey Land Partners filed a concept plan with the Metropolitan Planning Commission, which was heard at the February 8, 1996, meeting. That concept plan was approved subject to a number of conditions and I will site only two of those. One is that the design plan and final plat approvals are dependent upon issuance of a section 404 permit by the United States Army Core of Engineers for Stream bed and Wetlands Alteration and Wetlands Mitigation. Further, that prior to design plan and final plat approvals, issuance of a 401© Certification of the 404 permit by the Tennessee Department of Environment and Conservation for Stream bed and Wetlands Alteration and Wetlands Mitigation be approved. The appeal which was filed by Mr. Nolt appealed the approval of that concept plan, saying that the plan would disturb ecologically sensitivity wetlands, largest remaining in Knox County. The wetland is an important breeding ground for various fish, wading birds and water foul. It is home to these Knox County specimens and plants. And, it goes on addressing those issues. Our remarks will be addressed totally to the basis of the appeal that was filed by Mr. Nolt and we will ask you at the conclusion of our presentation to overturn the appeal. But, first I would like to now turn to Mr. Harold Cannon with Cannon and Cannon Engineers, who has done a good deal of engineering work on the project. And, then, we have available if you have any questions, Mr. Jeff Duke with Enpy, Inc. (?), out of Nashville. They do have a Knoxville office. He is the biologist who has worked on this project and who has in large part help prepare the 404 permit application. Thank you.

MAYOR ASHE: All right, Mr. Cannon, the time is eight o'five (8:05) and you have up to five minutes.

HAROLD CANNON: Thank you, Mayor.

MAYOR ASHE: And, if you'd give your name and address.

HAROLD CANNON: Yes, Sir. I'm Harold Cannon with Cannon and Cannon Engineers; 14316 Virtue Road. We're in Loudon County. Although, Mrs. Mitchell, we're about to be Knoxville. And, I'll advise you of that change. I'll try to keep my comments brief. Let me begin by saying that throughout the entire roadway process, there were two commitments. Number one, was to minimize the impact to the wetlands that were delineated in 1990 and reaffirmed back in 1995. This effort was reflective in the property owners up-front when they purchased this property in February of last year, saying they wanted to dedicate the wetlands in perpetuity as a wetlands conservation easement. We've also had numerous meetings with regulatory agencies, even a week prior to filing the concept plan, and many of their comments were incorporated into the alignment (?) that was submitted to MPC. . . . . (tape changed) . . .That's history. The corridor that was reflected in the concept plan is consistent with the master thoroughfare plan that this council adopted through the MPO process beginning in 1988. That has been affirmed on numerous occasions. The reason for that thoroughfare plan showing this route, because of projected traffic needs, there needed to be a parallel major thoroughfare between Kingston Pike and the Interstate, noting that Kingston Pike could not be increased in size to accommodate the future traffic needs. With respect to the corridor alternates, these were evaluated back in the days when the road was being considered to go to the new Goody's Corporate Office Center. There's an alignment considered to the north, which would have used the existing crossing of Turkey Creek. However, in consideration of much needed interchange improvements that were anticipated for Lovell Road, from an engineering standpoint that was considered unsafe distance. It was too close to the existing interchange. There was consideration given immediately to the south of where this proposal is. If you have been to the site, the beavers have been very active in extenuating the wetland area. There's significant floodway to the south that is not only a significant construction cost impact, but it is also anticipated that there would be more wetlands impacted to the south. Additionally, there's been . . . and it's been spoken to and correctly so, that a portion of this wetlands is spring fed. If the route went to the south, because of residential construction on the other side, it would have to swing back to the north. That construction would have interrupted the spring flow. The spring is to the most south portions of the property, which in turn would have had a severely negative impact to the wetlands. I've been involved with this project since 1987. And, you've seen me here before when there was consideration of the mall. I have never been involved in a project

. . . I believe Bill Cannon can tell you he has never been involved, nor Barge, Waggoner, Sumner and Cannon, involved in a project . . . where on the front end the property owner has made a commitment to dedicate a wetland area in deed in wetlands, and in fact, enhance it. I mentioned to you that there's another forum for this to be considered. At the time the concept plan was submitted to MPC, we submitted it to MPC to have affirmation of an alignment, so that indeed a 404 permit application process, which goes through federal and state agencies, could then begin. Without that alignment, there was no way that those permits could be filed. Once that was filed, the permit process . . . preparation of the permit package began.

MAYOR ASHE: You have one minute.

HAROLD CANNON: Thank you. And, that has been filed as of this morning with the Core of Engineers. Very quickly let me read seven points. The existing wetlands is a noncontiguous twenty-two acres of area. There's three point one eight (3.18) acres that will be impacted by this project. The proposal is dedicating thirty-four total acres in wetland conservation easement, which is a mitigation ratio of four to one verses a standard two to one. It has already reached an agreement through the city's help with Ijams to take over the management of this area. For this reason, I would encourage that council affirm MPC's action. The appropriate forum for these appeals is through the permitting process, which will allow public comment and public hearing. Thank you so much. Mayor, if I may. May I bring it to the record the delineation map as done by the Core, which reflects the noncontiguous acres?

MAYOR ASHE: Yes.

HAROLD CANNON: Thank you, Sir.

MAYOR ASHE: Mr. Seymour, is Mr. Duke wanting to speak or not?

ARTHUR SEYMOUR: Mr. Mayor, Members of Council, he is here to respond to questions, if any of you might have. But, he does not have any presentation.

MAYOR ASHE: If not, I assume . . . Mr. Seymour, the statement was made by one of the prior speakers that the names of the investors should be disclosed, inferring that perhaps they hadn't been disclosed. Am I wrong in thinking that they were disclosed that they were disclosed to the public.

ARTHUR SEYMOUR: They have been disclosed . . . they were disclosed last year. All of them have been disclosed publicly. They have been published in the Knoxville News-Sentinel that I am aware of and may have been on television and radio, also. But, I know they were published . . .

MAYOR ASHE: So, the statement inferring that they hadn't been disclosed would be an incorrect or erroneous statement.

ARTHUR SEYMOUR: That would be incorrect, Mr. Mayor.

MAYOR ASHE: Right. I thought my memory had not failed me in light of surgery. Are there other questions by Members of Council? If not, there's two minute rebuttal by those who would wish to overturn. So, pick out the best person that you have here to say whatever you'd like to say in two minutes. The time is eight twelve (8:12). Mr. Nolt, you're recognized.

JOHN NOLT: I'd like to point out to City Council that the approval of this plan was contingent on funds being appropriated also by Farragut and Knox County. Farragut has declined to appropriate those funds and Knox County has not yet acted. I'd also like to quote from a letter to Harold Cannon. This is from the Army Core of Engineers, the Regulatory Branch. This was dated August 14, 1990. It says, "Wetlands are valuable aquatic sites that provide unique waterfall . . . water foul and wildlife habitat, water quality, flood storage, recreation and aesthetic benefits. Therefore, we strongly encourage you, if at all possible, to formulate a site plan that would allow the wetland to remain in its present natural condition. So, you've heard from the state; you've heard from the Army Core of Engineers. They don't want to see this wetland disturbed. The UT professors that we've talked to in ecology tell us that the kind of mitigation that is being planned for this wetland frequently does not work. That the biological diversity usually declines after this kind mitigation takes place. That we can't count on having as good a wetland there, if you build a road through it and flood some other areas, as if you would leave it in its natural state. In addition, the mitigation that they're planning is no real sacrifice. You can't develop in a wetland or build in a wetland anyway. We also have a number of petitions that we didn't get to mention earlier. I don't know how many signatures . . .

MAYOR ASHE: Would you like to submit those to council. We'll be glad to have them.

JOHN NOLT: We will submit them. And, I'd like to . . . I just like to conclude by asking council to take the long view on this. There's going to be a time when we're going to have to account to our children and grandchildren for what we're doing today. People are going to ask what happened to the wetlands. And, if we build roads through them and allow people to throw trash off the roadway and let the road drain into the wetland and oil and the grease and antifreeze, you're not going to have a wetland there very long. We've just got to protect what we've got. We've lost too much already. I hope that you will seriously consider this. I hope you'll seriously consider the financial aspects of it. And, I hope you'll do the right thing. Thank you.

MAYOR ASHE: We'll note for the record that the persons here are enthusiastic about their point of view. The Metropolitan Planning Commission has approved a concept plan for the Westpointe Subdivision, which normally that would not come to council, except in the case where an appeal has been filed. In this case, Mr. Nolt, representing the

Foundation for Global Sustainability, has filed an appeal to overturn the action of the Metropolitan Planning Commission. If council wishes to overturn what MPC did, then the only way that can be done from a procedural standpoint would be to make a motion to adopt Resolution 11g, which would have the affect of overturning it. And, a person would need to make that motion and then second it and then obviously it would require five votes to adopt it. If on the other hand, council agrees with what MPC did, then the failure to make any motion at all would in effect uphold what MPC did. In other words, council need take no action at all. That is the parliamentary situation. So, let me ask, is there a motion to adopt . . .

COUNCILWOMAN TEAGUE: Mr. Mayor.

MAYOR ASHE: Councilwoman Teague's recognized.

COUNCILWOMAN TEAGUE: Let me ask a question.

MAYOR ASHE: I believe Dr. Nolt . . . correct me if I misunderstood, that you said that you cannot build in a wetland. Is that what I understood?

JOHN NOLT: I said that . . . that you can't develop a wetland. What I meant was, you can't build stores, commercial developments.

COUNCILWOMAN TEAGUE: Well, if that's the case, how was the Town Hall of Farragut built? It's in the midst of a wetland, I understand.

JOHN NOLT: I don't know. Danielle Droctsch has an answer.

DANIELLE DROCTSCH: Generally, what you have to do is that you have filling procedures. You can build in a wetland, right. But, you have to go through enormous procedures and then you have to compensate by building other wetlands. The amount of work, money, finances that go into replacing those wetlands is enormous. And, so, we are trying to basically say that their very gracious giving of the wetlands should not be . . . we shouldn't look at that as so giving as you think, because there's a lot of financial input. And, I think they saw that as just . . . they didn't want to invest in that enormous filling procedures, et cetera, wetland mitigation, and instead just gave it to Ijams, which is cheaper.

COUNCILWOMAN TEAGUE: What happened to Farragut?

DANIELLE DROCTSCH: Well, they filled it.

COUNCILWOMAN TEAGUE: They filled it?

DANIELLE DROCTSCH: Right, they fill it. But, you have to fill it. There's also a lot of flooding problems that happened subsequent to . . . I mean, the potential for flooding problems subsequent to the filling is higher. And, you have to also compensate with creating, which is not really creating, other wetlands to make up for the ones you've destroyed.

COUNCILWOMAN TEAGUE: Okay, thank you.

MAYOR ASHE: Mrs. Teague. Mrs. Malone, do you have a question? Or, a motion?

COUNCILWOMAN MALONE: I just have a statement. We've sat here and bemoaned what happened to the River and how we wished the people who sat before us would have put the road a little bit further from the River, so we could enjoy the River in a different way. And, now, we're trying to do the best we can with it. We've talked about, you know, we have to get state permits. The engineers are correct. There's a requirement of state permits. But, I think there's also a requirement, or should be a requirement of local responsibility. And, I make no bones about this, I am an environmentalist. I don't apologize. My son . . . my oldest son is becoming a marine biologist. And, I'm proud of that. I think we need to recognize that wetlands are very special places. We don't create Disneyland wetlands and have them be the real thing. I think one day somebody will look back and wonder how we could have done it. I don't know that the 404 permitting process will ever be completed. I think the people who are in the audience are going to be very attentive and are going to hear . . . be involved in those public hearings. But, I also think that there is public responsibility. I make no bones about it. We can look to the state and say it's their responsibility, and we can look to the feds and say it's their responsibility. And, then we can turn around and we can say, "Boy, we wish they would hand all that power down to the local level, because we're more knowledgeable." You know, it's power and authority going in all different directions. The only thing I know is where I sit, and I sit on a city council that ha the power right now to demand at the very least that there be exploration of a road project that stays out of the wetlands. There's no question that the wetlands will be degraded. The further we can stay from the wetlands, the better off we are. Will it take an extra five minutes or ten minutes to go from east to west in Knox County? Yes. You know, is that really all that bad. I mean, is life so grim that's really the measure by which everything is decided? I wish I thought there was going to be a second to this motion. But, let me say this, I would move that we accept the appeal of the Global Sustainability . . .

MAYOR ASHE: The motion would be to adopt the resolution.

COUNCILWOMAN TEAGUE: . . . and Dr. Nolt. That we adopt the resolution and that we can condition, and do it in this way, that we allow the concept plan to be approved with one additional condition, which is to stay out of the wetlands–to redesign and stay out of the wetlands. If what Randy Humble has said, and if what Mr. Cannon has said, that it is impossible, we will sit again and listen to that. But, at least we will have the satisfaction on the local level of having had explored that possibility. So, my resolution is that we approve the concept plan with the additional condition of "stay out of the wetlands."

MAYOR ASHE: There's been a motion to made to adopt Resolution 11g. with some type of amendment, which I don't fully understand.

COUNCILWOMAN MALONE: The amendment . . .

MAYOR ASHE: . . . I assume the Recorder has it.

COUNCILWOMAN MALONE: . . . is a very simple condition that they stay out of the wetland.

COUNCILMAN HARMON: I'll second.

COUNCILWOMAN MALONE: Thank you. Thank you very, very much. If they can't stay out of the wetlands, we can all come back and discuss . . .

MAYOR ASHE: The motion's been made and seconded by Councilman Harmon. Is there discussion on the motion. If not . . .

COUNCILMAN SHOUSE: I appreciate all the debate and the very pertinent information on both sides of the issue tonight. And, I would submit that, contrary to what some people may think, that all Members of this Council and the Mayor and his administration care greatly about our environment and care greatly about the environment of this city; about the quality of air in this city and the quality of water in this city; and, even more important, the quality of life in this city. I know the people involved in this Turkey Creek Project. I know some of them very well. The ones I know best personally, I know to be people that also care about the environment of this city; people that care about wetlands and involved in . . . heavily involved in Ijams Nature Center. They care about wildlife and they're not people that want to . . . they're not cut and burn type people. I . . . in a perfect world, I somewhat agree, or very much agree with what Randy Humble said, in a perfect world, I'd like for that to stay the way it is. But, this is a . . . we're living in the city, an urban environment we live in. There's a big wooded lot next door to my house. It's never been anything but woods. I hope it stays that way forever, but it probably won't, because I live in a city. The geography and the demographics of this city dictate that things change. I admire and applaud the thirty-four acres that have been set aside by the Turkey Creek Partners. Yeah, it would be great if it was a hundred thirty-four. But, thirty-four . . . I see the twenty-two acres to the north, the twelve to the south, I think shows a great measure of good will on their part. And, I . . . it is a hard to see such a beautiful piece of property undergo some change, but I think the safeguards that have been put in place by the Turkey Creek Partners are more than adequate, and I can't support stopping this (inaudible).

MAYOR ASHE: Are there other people who wish to speak? Councilman Cox and then Mrs. Malone. Anyone else want to speak?

COUNCILMAN COX: Mr. Mayor, I'd like to say I agree somewhat with what Councilman Shouse said there and what Mr. Humble said. This is not a perfect world and I think what we do when we take away something, we've got to try to give back at least the same. You know, this is what this will do. And, I think through the state project that we will come out this way. Thank you.

MAYOR ASHE: All right, Mrs. Malone.

COUNCILWOMAN MALONE: Thank you. And, I guess, you know, my point is, this isn't just a woods. This is a wetland; it's a functioning wetland. And, it's just not any wetland. It's a very large wetland. It's about the best of its kind in this region, in this eastern part of Tennessee and certainly the best in Knox County. It is a very very special place. Flooding an area does not create a wetland; it creates wet land. That is not a wetland. And, it takes . . . That's what I meant by the Disneyland wetland. There's a difference between an aquarium and the ocean; even the best aquarium and the worst ocean. You know, there's just very different. I am not convinced that all possibilities have been exhausted. I guess I'm somewhat amazed to find and I'll enter these as part of the record, if they haven't been entered, that August 14, 1990, letter to Mr. Cannon from the Army Corp of Engineers; again, urges that they stay out of the wetland. This was 1990. I didn't know about that letter. I also didn't know about the 1995 letter, and this is from the Department of Environment and Conservation. They conclude this, "Therefore, we feel that the permit to build the extension road should b e denied." That's what the state says. Should be denied. It's very very simple. Again, what's the rush. Unlike what has been said, we actually haven't appropriated the money. The county hasn't taken a position on the money. If we do what my emotion is, all we do is buy some time to look at some alternatives and to show that we are concerned. What I fear and what I fear more than anything else . . . and, I think the state has taken somewhat of a heroic position thus far . . . what I fear more than anything else is that when decisions are made in Nashville, our actions and the MPC's actions, segmented decision making . . . you know, we didn't care enough; those of us who live here didn't care enough. You know, if we don't care enough, why should they care enough in Nashville. And, I think we need to send them a message. And, I think that . . . and send our community a message, that this is a very important piece of property. When the owners bought that property, they knew there was a wetland. You know, what's . . . what's a little bit more time, if as Mr. Cannon says earlier, earlier developments looked at all alternatives. How much time would it take to show us some alternatives. Either offer some that might be viable and if none of us can be convinced then this council can reconsider. What we're asking for is simply time, and again do not confuse the woods with the wetland. Both are beautiful, but one is quite rare. And, the other thing is, I do not think we can create it. You know, setting aside flooded land is not, and trust me, is not a solution. I would also ask that Mr. Nolt, submit for the record, the letters from the University of Tennessee professors, who are probably going to lose their jobs as a result of this. I'm just kidding, but anyway.

MAYOR ASHE: Well, you know, they are tenured and you are kidding. Councilman Pavlis.

COUNCILMAN PAVLIS: Yes, thank you, Mayor Ashe. One thing that I haven't heard here tonight and I would like to just touch on for just a second briefly, are the folks that are involved in this. I think they've taken a hit here tonight. You know, I don't want it to appear like, you know, that these people need to be based, because these are folks that are from Knoxville. These aren't people that are flying in here from Atlanta or Philadelphia or what have you. These are people that have stake in our community. They give back to our community and in the form of their time, through their churches, culturally and through just financially supporting Knoxville. I can take you to parts of Knoxville where folks are going, "Councilman Pavlis, please get us jobs. We need work out here. We need good jobs where we can raise a family." And, I think the economic impact that this project is going to have on Knoxville is very positive and that it's a . . . you know, with this type of development, this is what enables us to, you know, further greenways, to have road pavings, to have our uniformed bodies out there protecting our neighborhoods. And, I stand in support of this project.

MAYOR ASHE: Are there other Members of Council who wish to speak either for or against the motion to overturn the decision of MPC? If not, I assume you're ready to vote. We're going to have a roll call vote, since obviously council is divided on this issue. If you're in favor of overturning what MPC did, you will vote "yes" in support of Mrs. Malone's motion. If, on the other hand, you disagree and wish to uphold the decision of MPC, you will vote "no" when your name is called. Madam Recorder, call the roll.

RECORDER: Councilman Cox

COUNCILMAN COX: No

RECORDER: Councilman Harmon

COUNCILMAN HARMON: Yes

RECORDER: Councilwoman Malone

COUNCILWOMAN MALONE: Yes

RECORDER: Councilman Pavlis

COUNCILMAN PAVLIS: No

RECORDER: Councilman Powell

COUNCILMAN POWELL: No

RECORDER: Councilman Sharp

COUNCILMAN SHARP: No

RECORDER: Councilman Shouse

COUNCILMAN SHOUSE: No

RECORDER: Councilwoman Teague

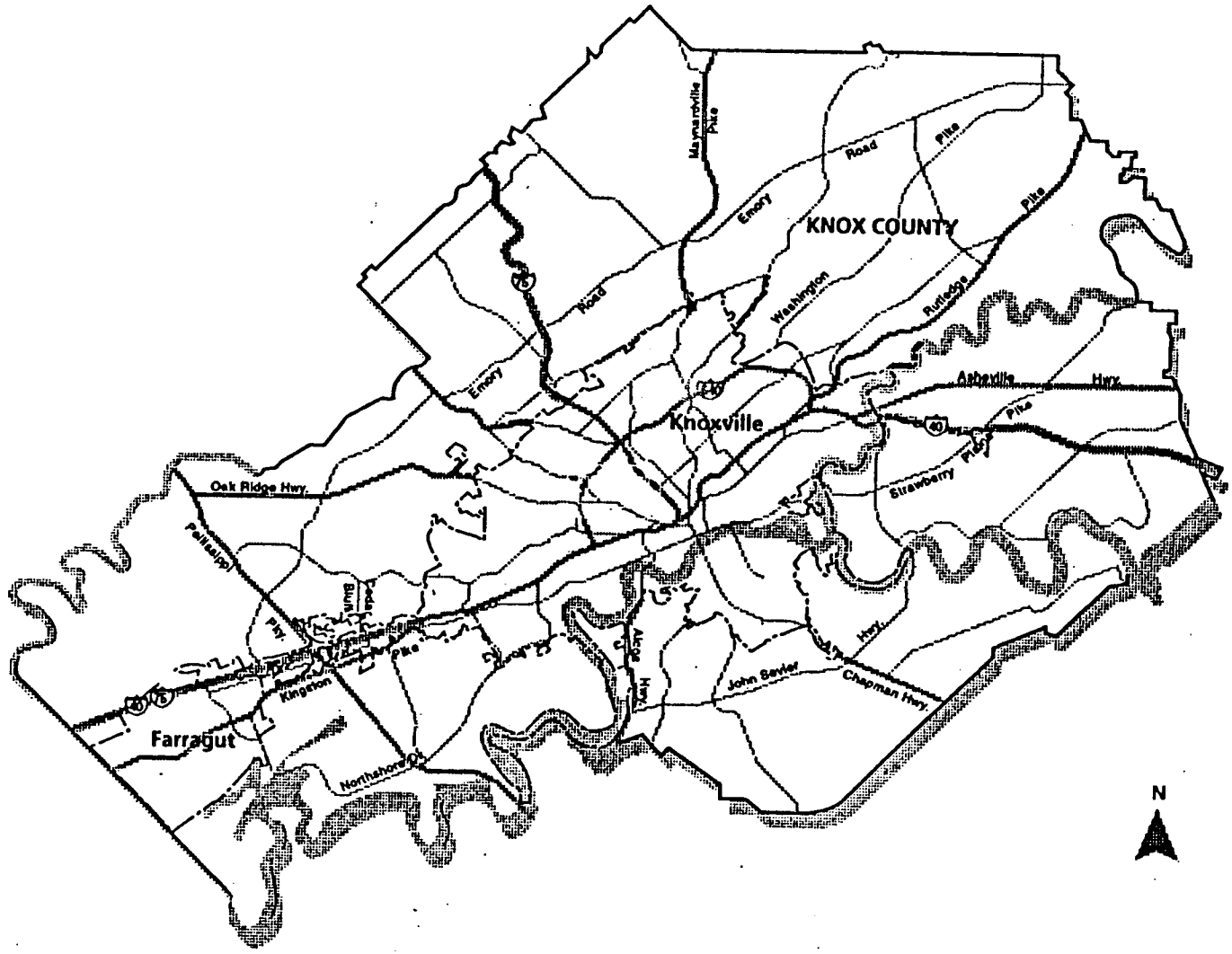
COUNCILWOMAN TEAGUE: No

RECORDER: Councilman Underwood

COUNCILMAN UNDERWOOD: No

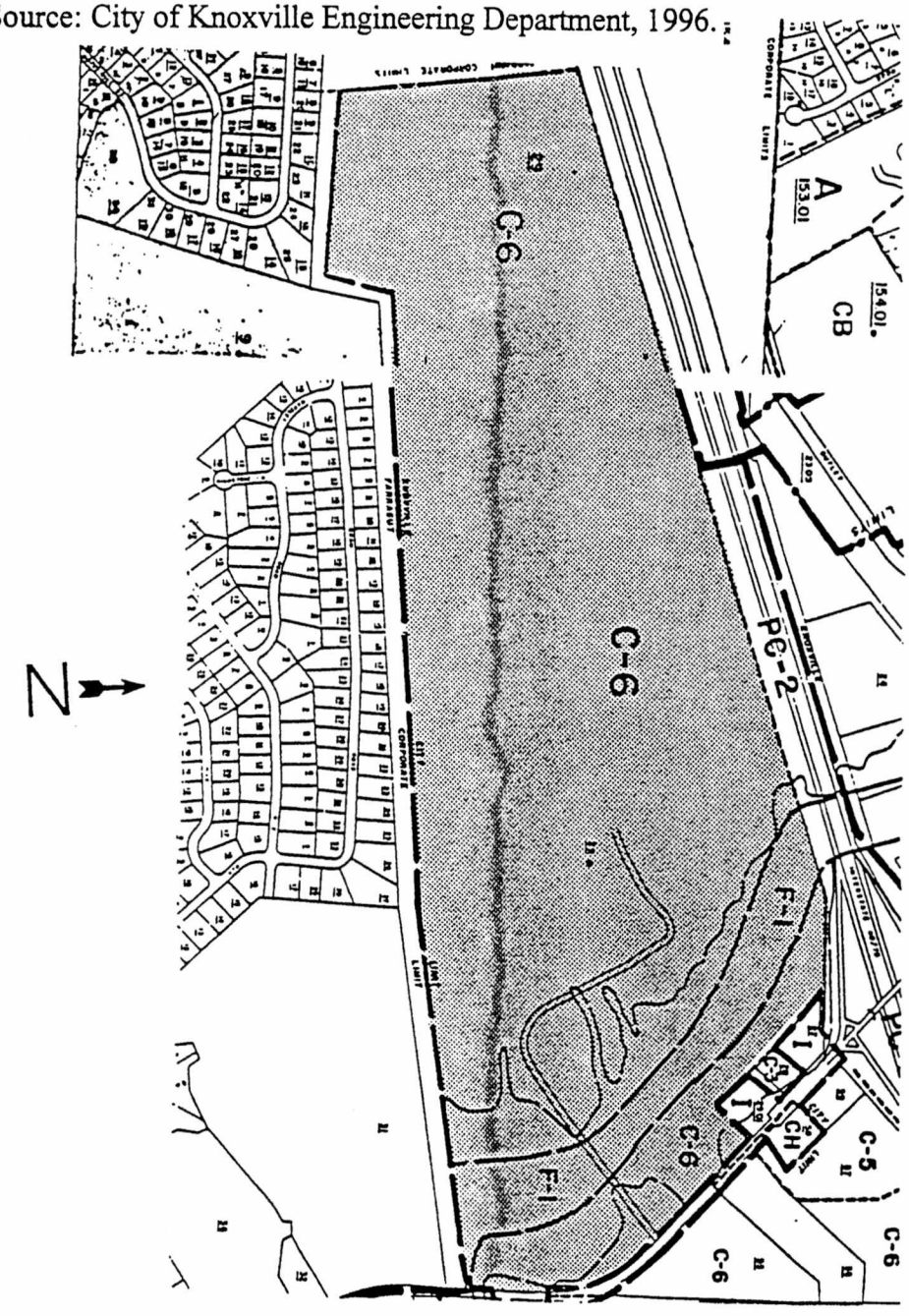
MAYOR ASHE: By a vote of two in favor and seven in opposition, the motion fails.

APPENDIX B



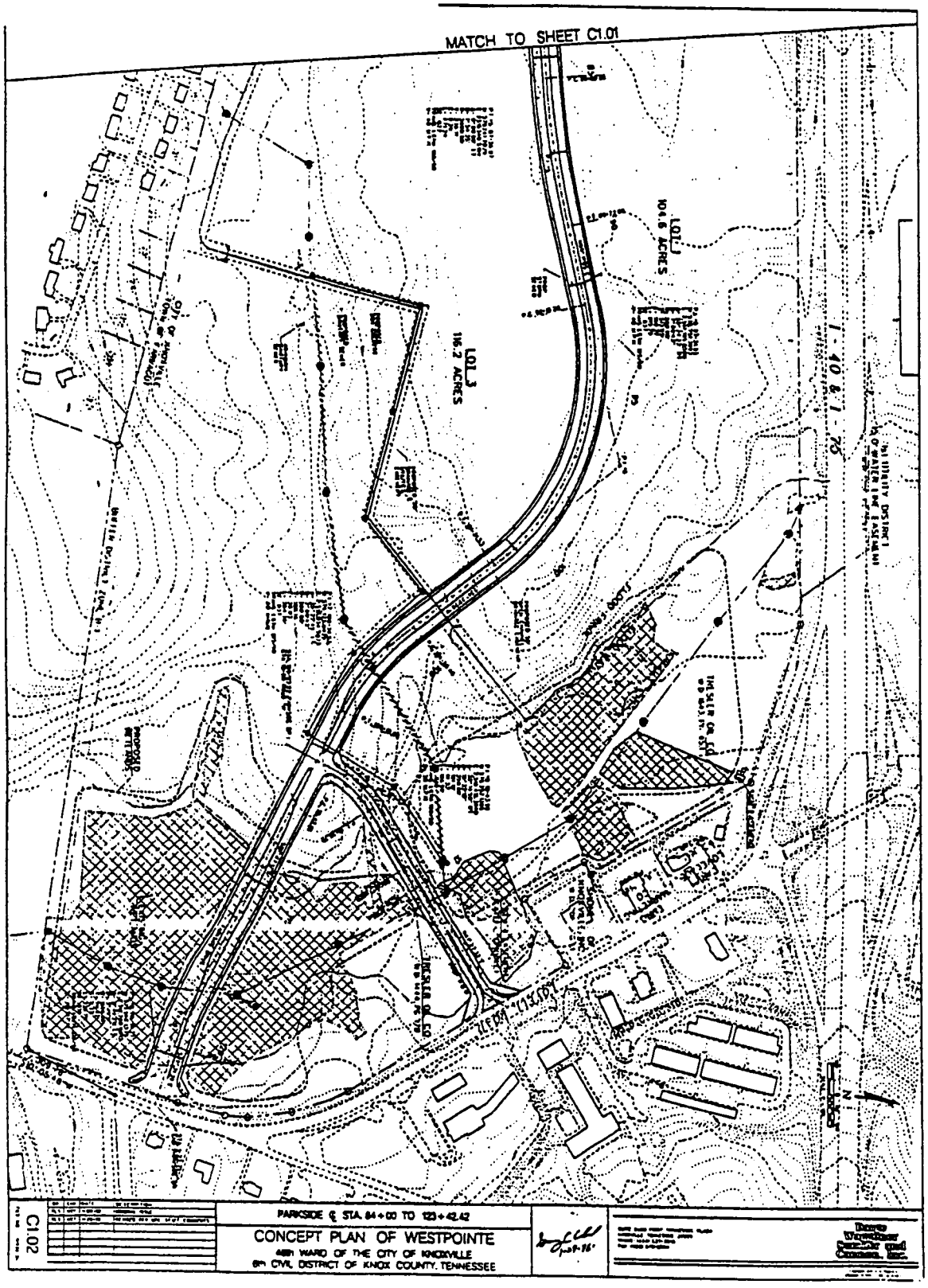
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Source: City of Knoxville Engineering Department, 1996.

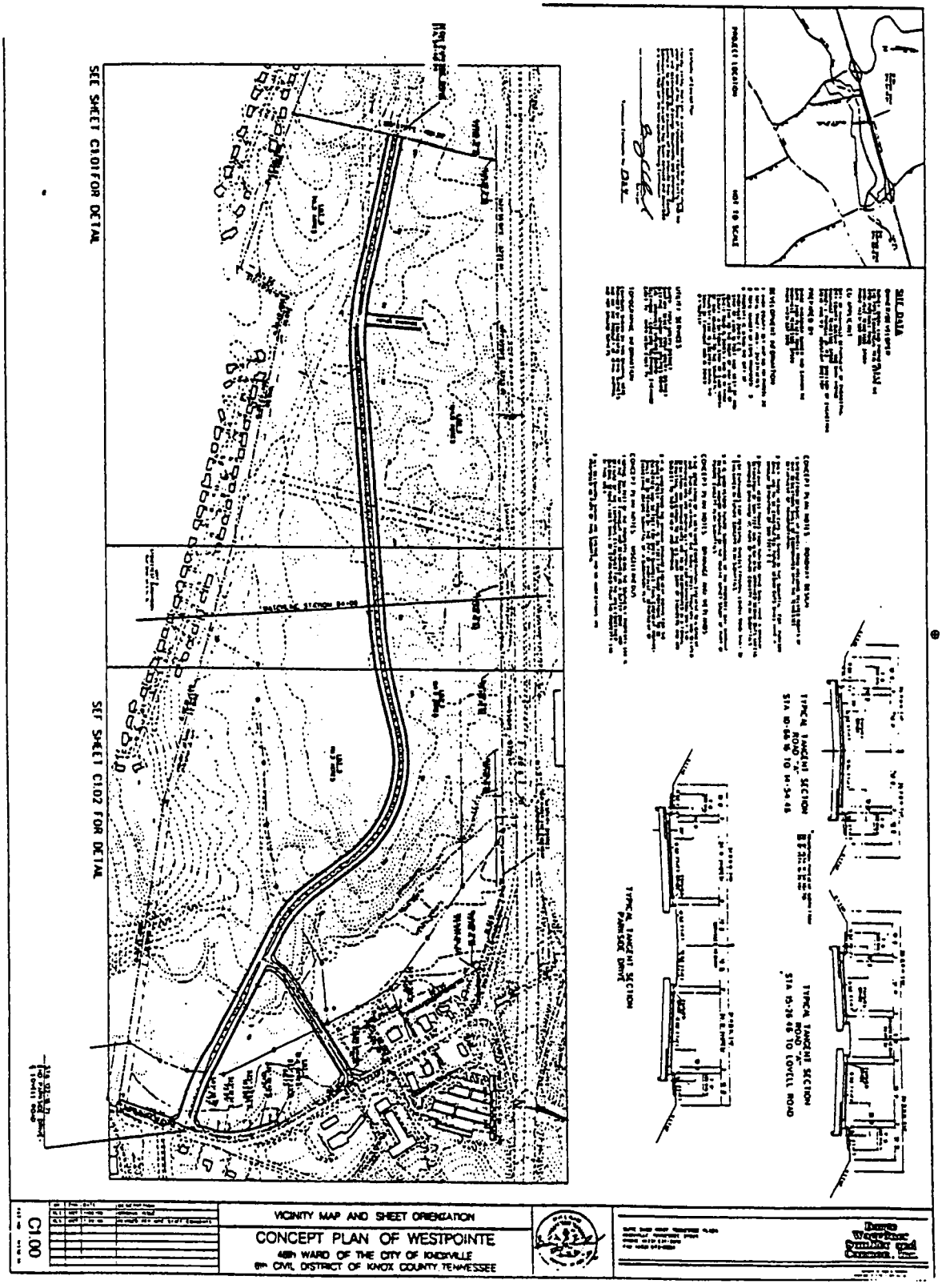


SUBDIVISION / CONCEPT PLAN	COUNTY	CITY	
WESTPOINTE SUBDIVISION		2-SB-96-C	0 400 N
TURKEY CREEK LAND PROPERTIES, L.L.C. PETITIONER	FILE NO.	FILE NO.	

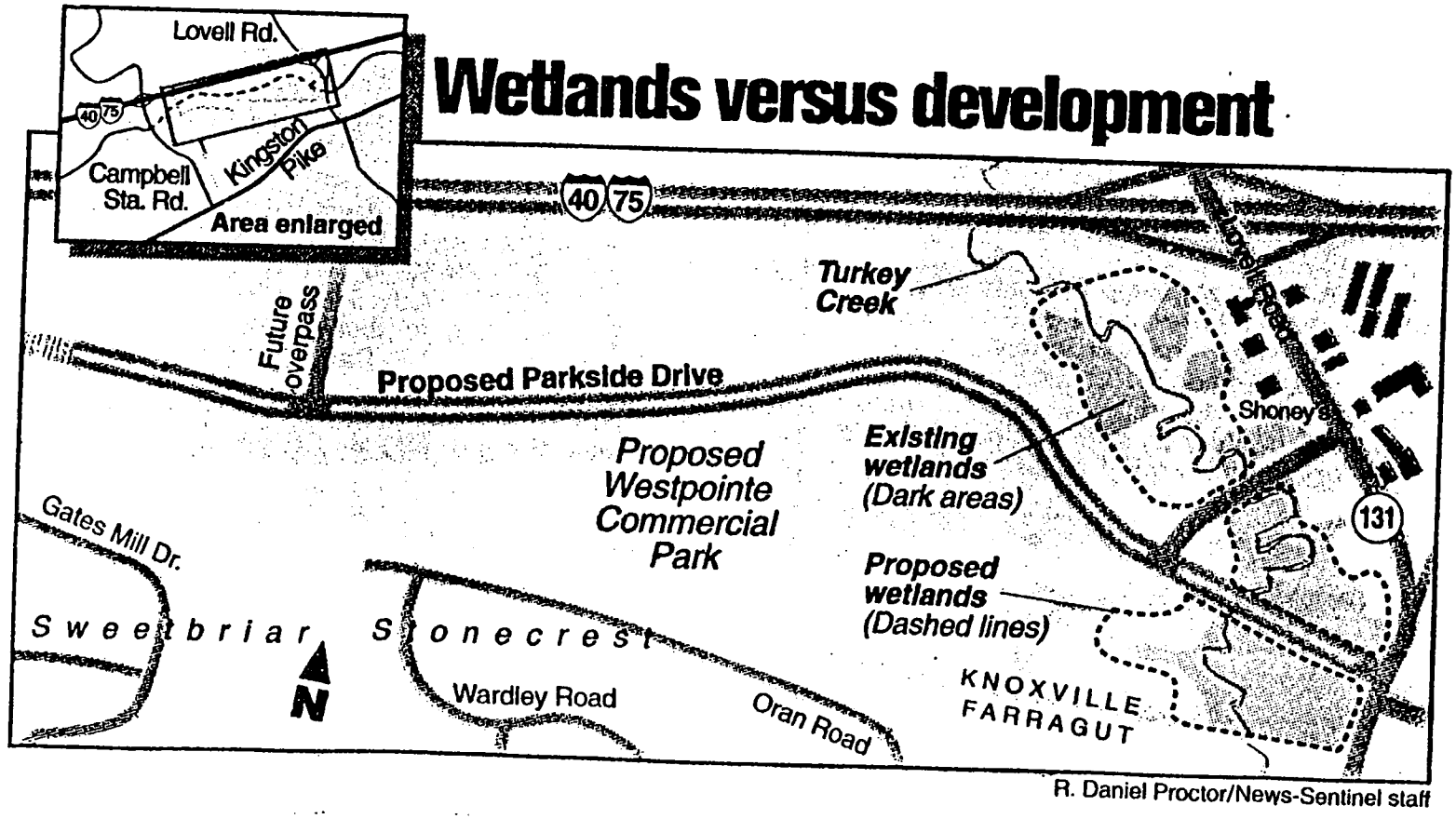
Source: City of Knoxville Engineering Department, 1996.



Source: City of Knoxville Engineering Department, 1996.



The Knoxville News Sentinel March 31, 1996



VITA

Belinda Jo Woodiel was born March 30, 1970 in Knoxville, Tennessee. She grew up in McMinnville, Tennessee, and graduated from Warren County Senior High School in 1988. From there, she attended Rhodes College, in Memphis, Tennessee, pursuing a degree in Spanish and Earth Systems Science. After spending a summer studying sea turtles in Costa Rica with the School for Field Studies, she graduated from Rhodes in May of 1992. From there, she moved to Colorado where she worked for the National Parks Service. Upon returning to the south, she moved back to Memphis and constructed stained-glass windows for a local artist.

In the summer of 1994, Belinda interned with the Governor's Planning Office in Nashville, working on state wetlands policy. From there, she attended the Graduate School of Planning at the University of Tennessee, Knoxville. During her time in graduate school, she has worked for the UT Water Resources Research Center.