City of Langley, Washington
Dog House
Applicable RCW
Narrative Summary of comments made and responses from 8-13-15 City Council Meeting
Prepared by Fred McCarthy, Mayor
8-17-15

Chronology of Events from Property Sale to Present

May 7, 2010 – Dog House purchased - $590,001 – by Kleiners (lien on the property exists for unpaid water bills of c. $1,470 from previous owners)

May 8, 2010 - an article in the South Whidbey Record referred to a group of more than 1,500 people who have joined a facebook page <langleydoghouse.com> dedicated to preserving the Dog House

February 6, 2013 – City Building Official, Bob Snyder sends Kleiners a response to their request to use the Dog House for art classes. Response lists 10 requirements. (see attachment)

June 26, 2013 – an article in the South Whidbey Record entitled “Dog House Tavern owners seek land – Mr. Kleiner expresses optimism at receiving a tax credit to help cover the $100,000 to $200,000 they estimated it would cost to renovate the building.

August 2, 2013 – City Attorney, Mike Kenyon, sends memo to Community Planner, Jeff Arango, and Mayor Fred McCarthy. A 9 page confidential attorney/client privileged report exists. (recommendations confidential).

March 31, 2014 – Jeff Arango sends Mayor McCarthy an 11 page memo (attachment) that concludes with a recommendation 1. to deny the street vacation request and consider and easement or right-of-way encroachment permit for the areas sought for street vacation and gives reasons 2. to perform a property exchange that involves the areas sought for vacation in exchange for an equal or greater amount of property on the North side of the existing lot at 230 first Street that would expand Seawall Park.

April 3, 2014 – Kleiners withdraw their request for a street vacation

May 3, 2014 – an article in the South Whidbey Record “Owner Says Dog House Tavern will come down” – Mr. Kleiner says “We thought if things go our way, we’ll keep the building, it didn’t work out, so down she comes.”
May 7, 2014 – an article in the South Whidbey Record “Langley City Council puts the kibosh on Dog House demolition plans; moratorium passed.”

May 21, 2014 – an article in the South Whidbey Record “Shortened Moratorium Unlikely, says city planner” – Kleiners ask for moratorium to be reduced from 6 months to 30 days.”

May 29, 2014 – Mayor McCarthy meets with the Kleiners from 3:00pm to 4:30pm to understand their interests and writes up 4 pages of their interests from the meeting (see attachment)

2014 - Mr. Kleiner responds to the listing of interests and clarifies his positions on various points

June 18, 2014 – an article in the South Whidbey Record “Langley City Council Supports Temporary Demolition Ban” – Kleiners reject all options presented to them for land or public benefit swap. “It’s unclear why none of those options were workable “Arango said.

September 10, 2014 – Jeff Arango sends a letter to Doug Kelly, attorney representing the Kleiners, outlining 6 steps to be taken following a required pre-application conference.

October 11, 2014 – an article in the South Whidbey Record “Demolition, renovation equal options at the Dog House – Mr. Kleiner “I can’t take demolition off the table. Pretty soon its going to demolition (demolish) itself”.

October 20, 2014 - A resolution was passed by the city council setting the public hearing date

October 22, 2014 – an article in the South Whidbey Record “Langley Oks Historic Demolition Rules” The city is also looking at a land swap.

November 15, 2014 – article in South Whidbey Record “The street vacation is similar to one proposed last year that the Kleiners abandoned. Charlie Kleiner said he had good reason. The city wanted equal or greater value in a land swap and the latter condition did not sit well with him (attachment)

November 22, 2014 – an article in the South Whidbey Record “Dog House, city land deal makes progress” – “Reopening the Dog House took a step forward this week” – November 17 Public Hearing.

December 11, 2014 - A public hearing was conducted – no comments were received – the Kleiners were not present at the public hearing.
February 9, 2015 – Ms. Kleiner sends an e-mail informing the city that the Kleiners have an appraiser working on determining the value of a proposed land swap.


March 3, 2015 – Michael Davolio sends a memo to Fred McCarthy recommending acceptance of the Macauley and Associates proposal. (attachment)

March 16, 2015 – Community Planner recommends to the City Council to accept the proposed land as a comparable exchange.

March 17, 2015 - The council passed a unanimous decision to support the land transaction.

March 18, 2015 – an article in the South Whidbey Record “Dog House Deal Reached” – Land swap could help preserve Langley Icon.


July, 2015 – Michael Davolio consults with Jeff Taraday, counsel, from Lighthouse Law Group, and comes away with the belief that “getting the land swap to qualify is extremely difficult but not impossible.

August 5, 2015 – an article in the South Whidbey Record “Dog House plans hit another snag”
RCW 35.79.035
Limitations on vacations of streets abutting bodies of water — Procedure.

(1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless:

(a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;

(b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or

(c) The vacation is sought to enable a city or town to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the streets or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

(2) Before adopting a resolution vacating a street or alley under subsection (1)(b) of this section, the city or town shall:

   (a) Compile an inventory of all rights-of-way within the city or town that abut the same body of water that is abutted by the street or alley sought to be vacated;

   (b) Conduct a study to determine if the street or alley to be vacated is suitable for use by the city or town for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;

   (c) Hold a public hearing on the proposed vacation in the manner required by this chapter, where in addition to the normal requirements for publishing notice, notice of the public hearing is posted conspicuously on the street or alley sought to be vacated, which posted notice indicates that the area is public access, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to a particular official indicating his or her objection; and

   (d) Make a finding that the street or alley sought to be vacated is not suitable for any of the purposes listed under (b) of this subsection, and that the vacation is in the public interest.

(3) No vacation shall be effective until the fair market value has been paid for the street or alley that is vacated. Moneys received from the vacation may be used by the city or town only for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites.
Transcript of Mr. Kleiner’s Comments and from 8-3-15 City of Langley, City Council Meeting

CC Meeting 8-3-15
Citizen Comments Transcript

I am Charlie Kleiner and my wife and I own the Doghouse building. What I am about to say I want to point out that my wife and I don’t have any aspersions as to whether any particular laws have been broken or what the outcome of an ethics review might bring. We just simply want to bring the matter to the attention of the council. Fred McCarthy and Michael paid a visit to me last week. Fred and Michael mutually confirmed that the city attorney said the proposed land swap that we requested for the land under the deck cannot go through because of legal reasons. Together they would not answer questions as to why. Going back in our first meeting with Fred McCarthy he had vowed that the city was behind our efforts and they would do all they could to help. It was at this meeting Bob Snyder informed us that in order to install plan sheer protection for the building in the area under the deck, we would have to own the property. Bob also suggested that we ask the city to vacate the land under the deck. An outright vacation was requested. It was brought up that a vacation was somewhat frowned on and we agreed. Fred McCarthy suggested that we pay for the land. We agreed to do this, we went out and got an evaluation for the land that we requested. Fred McCarthy informed us that he had at least one unnamed individual interested in our property. I avoided the subject. The land under the deck is land we did not want to own personally, but as explained by the building superintendent, it was best if we did. The process of acquiring the land drug out for a year. Both Fred McCarthy and Jeff Arango seemed quite supportive. Right up until the business day before the public hearing at the end of a year when Jeff sent us an email saying that the staff no longer supported the exchange. In this period of waiting, Fred McCarthy at various times, and I counted six, sometimes twice in a single meeting, mentioned that he knew of an interested party in the property. He even asked on the last occasion, if we were willing to partner with someone. I felt like I was being coerced.

We all know that the first deal failed and I met with Fred McCarthy again to try to get a deal going. I told him that under an expired building permit, the building was being supported by 10 cribbing stacks installed many years previous, probably about 20 years. The condition on these stacks is questionable. Some of the wood is rotting. I told Fred about this. I also told Fred that the building lacks lateral support, many brackets are not present and this was discussed with our structural engineer. I told Fred we really needed to get going on a building permit. Not long after that meeting Fred McCarthy made a statement, I think he was quoted in the paper, quoted somewhere, it came back to me – he doubted that the building was in any danger of falling down like Charlie Kleiner suggested. I took that as a little bit of a smack down. The situation of the building is a liability to all of us as was pointed out.
The Mayor later agreed to an exchange, a land exchange for land under the deck. He stressed that he would deal with us fairly, I wasn’t sure what the implications of that was, quite, but I was glad to hear it, because it would be a change, I felt. In our latest request to acquire the space under the deck, the initial process went okay with the council approval. Shortly after, the funicular project stalled.

We tried to contact Michael, weeks would go by, we didn’t hear from Michael or if we did, we got short notes. Finally on the 16th of April, I called him and I pointedly asked him, very irritated at that point about progress, what had become of our request if it had gone through the council after all, what was going on with it. He said that things were fine and that we should get moving on our building permit. Since then Michael has told us, the last time was last week on Wednesday, when he said that we should get going on our building permit. To date, we have spent tens of thousands of dollars toward our permit. We have hired a consulting firm to assess our likely revenue stream. Our losses are significant. Fred McCarthy’s reluctance to discuss with me the attorney’s reasoning as to why the land acquisition request should be denied, causes me to wonder, is this all really related to the elevator that the city wants to install on the outside of our building. We were asked to keep the project quiet. Fred McCarthy mentioned wanting to keep the news away from the city elders, now I don’t know who they are, that are in favor of returning the funicular grant money, $500,000. Fred McCarthy told me after announcing the death of our request that it was the attorney that denied recommending completing the deal for the land exchange, that the deck would belong to the city, that we would help pay for it as well as the elevator, I might add, a glass elevator. I am not in favor of this elevator. We are concerned with the prospect, the sum of transactions. Our concerns need to be advanced perhaps by an ethics review board. Everything that I have said, I swear to be true. My wife, (cough) excuse me, my wife has something to add.

I am Janice Kleiner, Charlie’s wife. I want to say thank you for hearing me out, um you now it is very frustrating to me, we from the very beginning, have done everything the city has asked us to do. We have been sent on several wild goose chases with expectations that we spend our own money to do the things that the city has asked us to do. Uh, we came in originally asking to, we wanted to know the minimum we had to do to reopen the tavern, and the city asked us then, uh, it was a different mayor at the time, to consider going to the historical review board and spending the extra time and money to which was $200,000 extra and a lot of time to restore the building. And you know, we wanted to be good town’s people, we wanted to support the community and their interests, and so we took the time to do that. And that ate up a good year and then uh, when the issue of us needing to own the property under the deck came about, uh, and we were asked to personally ... well you know what, we should just give you that property, everybody knows it’s no good to anybody else but you guys and then it was like, maybe you should purchase the property so it doesn’t look like we are showing you favoritism. Fine, we don’t have any problems with doing that and the city said, you know, go get an appraisal and we said can we just get one from a local relator and they said that’s probably
okay, that will be up to the city council. So we did that, the time and the appraisal and then everything was supposedly moving along and we’ve been stalled and you know, somewhere in there, we asked Jeff, supposedly we were told…..
(Unintelligible) this should be a priority, put it on the fast track.

I asked Jeff, did you not get the memo because we keep asking what’s going on and then he tells us, well you know, someone tells us maybe you don’t own the property, so now we want you to go to your title insurance company to prove that we really own the property. Ok, so we did that. More time and frustration, but we did it to prove that we ultimately own the building, and then uh, and then the city decided, well, you know what, at the last minute we are not going to support this, we asked you to do this, but right now we are reneging on that and so uh, we were offered other alternatives, which to us were not acceptable more time went by and we were told that okay, we will look at an equal value swap that seems reasonable. Now go hire another appraiser and go hire a surveyor, by the way, get an attorney because we want you to have an attorney. Spend money on the appraiser, the surveyor, the attorney and the architect, because now that things have changed, it wasn’t good enough, our previous drawings we had to hire an attorney and an architect. So we spent a year doing everything the city has asked us to do, we spent tons of money, buckets of money, all we want to do is serve beer. It’s very frustrating. I’m asking to live up to what you said, do the right thing, Everybody knows that the property under the deck should be with the building, it’s attached to the building, it’s been that way for over 100 years, and to let us move on and serve the community like we’ve wanted to. Thank you.

Bruce Allan - what elevator are we talking about? Michael - as we were going through the process of the land swap issue, I received a message from the city attorney saying that we can’t do a land swap without a street vacation. And then he said there was a separate state law that makes it very difficult to do a street vacation when the street leads to public access on the waterfront. So I took that to mean from the attorney that we would have to look at some different alternatives and so one of the things I mentioned was no promises but, if they were in agreement with this, if it’s something worth pursuing, would be to see if the council would at one point consider use of the grant money that we have to create access to the waterfront by putting an elevator on their building. That would mean that the land that was going to be swapped wouldn’t need to be swapped and would remain public and the city attorney referred to it as a public/private partnership and thought it was a great idea. And so I brought that to the Kleiners and initially they were excited about it. I didn’t hear they were not interested in it until the mayor and I met with Charlie last Wednesday. And so since then I have a message to the city attorney who is going to be in town soon and I want to meet with him on this. But I took the entire file home with me over the weekend and I read through everything and there is a specific state law that makes it difficult, not impossible, but difficult to do street vacation when the street accesses a public beach.
So I need to sit down with the attorney and go through what steps we need to take to make sure we can meet the requirement. And I know that Jeff had previously provided some information to you sometime last year. As part of my catchup I was handed this project and I went through all this. So the idea of the elevator was something that would be an alternative and try to streamline the process. So that was the direction we were moving until last week. We were looking last week for some confirmation that they wanted to move forward so that I could have brought this to you to see if there was any interest here. Bruce Allen - what’s the street you are talking about, the one going down the hill right? Michael - yes. Bruce - it’s more like an alley. But there is, I mean that deck thing that they want to do is not on that road. Rene - it’s on the r-o-w. Janice - it’s called a street vacation request. Michael - the r-o-w goes to the edge of the building. Bruce Allen - oh it does? Robin - so what is, I absolutely understand your frustration, I get that, that’s for sure. Do you, are you, so the elevator is new to us, clearly. Are you hoping to not have the elevator and we can move on with this so we can do the land swap? Rene Neff - I thought we were already doing that. We all thought we were already doing it. Janice - we thought we were on the track too until Fred and Michael told Charlie last week that the deal is off. Robin Black - that’s the part that we are... Rene - the council agreed to do the land swap and there was an appraisal and we knew how much is was and it was going to be ok to do that. What happened? Robin, Bruce - I thought it was done and we were moving forward. Rene - when was that, a month of two ago? Bruce Allen - more than that. Michael - it was done two weeks ago, than I got word from the city attorney that there were additional requirements that were very difficult to achieve. Rene - my question is why didn’t we know that before we approved it here at council why didn’t it go through the attorney before it came to the council. Janice - it did under Jeff Arango. We have documents, emails that say it went through the city attorney and it was not a problem. Rene - so why is it suddenly a problem? Bruce - it was a different attorney too, I think. Rene - no it wasn’t. Michael - according to the files I read over the weekend it was a problem and that problem was conveyed to the Kleiners at that time. And Jeff had made a recommendation at that time that the city not go forward with it.

Charlie - Jeff talked to me at length about the difficulty of any choice other than a land swap and indicated to me that it was preferred and legal as long as it had certain parameters, it improves or increases viewing area or the park, and I have the definition of it and I have the studies, it fits like a glove. I have no idea what Mike’s talking about and when he made the statement early on when he was, something about when he met with us at the property, something about discussing not, uh, about them using the r-o-w and not going on with the land exchange, I would only like to know who was present when he said that. Cause I did not hear that. You said something, something. I didn’t get all the details, you are saying when you met us down at the building, Janice and I went down there, you say you said something about the right of way or about the deck area then or about the city, something about the city keeping it – did I misunderstand you? If so, then at some point if we could retrieve the minutes, if this is recorded, so I can see exactly what he said because at no point, unless I misunderstand, and I certainly apologize if I am
misunderstanding, but from what I understand him saying, I do not recall him saying to any of us, such a thing. Rene – can you repeat what you think he was saying? Charlie – what I think he was saying is that he discussed the possibility of not going forward or in other words, the city keeping the deck, something about the city keeping the deck. I’m sorry, I don’t know what he said, if we can go back in the minutes and see what he said. Rene – oh today? Charlie – uh yeah, after he was asked the first question and if I’m mistaken, I apologize but, you should go and review it and find out what he says. Anyhow...(can’t hear) Bruce Allen – but anyways after the approval of swapping land. Rene – why did this suddenly come up and we were all under the impression that it was moving forward and we thought the land swap had gone through and we were moving forward. Bruce – they came to the historical preservation committee on their own to present to us. Michael – yes and Design Review. Bruce – I thought everything was copasetic. Rene – right, so why is the lawyer suddenly retracting what he said in the first place? Can you show us what the lawyer said, did we get an email or something that tells us what the lawyer says? I would like to see that, yes right now. I think we should know. Fred – I don’t think we should do it right now, okay. I think he should get the information for you. I just want to make a statement that I don’t believe everything that Charlie said characterized the interactions that we had correctly. I don’t want to take away from that, he has a right to say what he wants to say here, but my understanding is this changed when our attorney, who had advised Jeff Arango before, gave Michael different advice and said that this had to be done, so it was a game changer; so it’s not like a matter of shifting gears here, it’s a matter of whether the legal advice we are getting is appropriate or not. Rene – when did this advice come through?

Fred – within about the last month. We didn’t have any idea, uh a whole lot of things were said here today, I don’t want to counter each one of them, but I thought we were treating the Kleiners with consideration and respect and offering an alternative to what appeared to be not a legal land swap deal for the r-o-w based on the opinion from the attorney, so. Charlie – please tell the council what the alternative was Fred. Fred – I don’t know what you mean. Charlie – You said you presented us with an alternative. Fred – what we talked about, because Michael had suggested an idea of the possibility of an elevator which was at one time discussed over on this side with Paul Schell, a partnership similar to that, if the Kleiners thought it would be desirable the elevator would provide access to the beach. My initial reaction was to say while it doesn’t meet the need that we had over on the harbor of linking up with boating equipment and that kind of thing, Michael thought it was worth pursuing because it would get, use the grant to get access to the shoreline for most mobility challenged individuals. So we proposed that as just a very preliminary concept to the Kleiners, it was not the end all, be all that it is made out to be and I don’t believe that I have told them anything that wasn’t true or right, we were just pursuing another idea and finding out if they were interested in it.

Michael – you can be assured that I would have not proceeded farther from that point if the Kleiners had not been positive in their reaction to that concept. Fred – so I want to suggest.. Rene – I don’t know why we didn’t know about this legal change if
it's been over a month. It seems like that would be something the council should be aware of. Michael - the advice that I was given from the city attorney was the advice that he told me he provided to Jeff last year and in going over the records this weekend, it was clear that Jeff had provided you with written information about that last year. Bruce - about the ... (people all talking over each other, can't comprehend) Rene - we all said yes and we said the lawyer approved it and that we could do it that way in order, because that was - if we got equal value that it would work. Michael - and I agree with that except that the city attorney then contacted me and said no, you need to do a street vacation. Given these other state requirements it's very difficult to do so. Rene - why? Thomas Gill - if I could, while having this discussion, I pulled up the RCW in question and you might want to take a look at it, its RCW 35.79.035 and just a cursory glance at it looks like at least in this particular case, that we cover most of the limitations for the swap. I think we would need to have a formal hearing and possibly do some sort of adjustment to the vacation that we are talking about to make it fully compliant, but I think it is something that we definitely should pursue so the Kleiners are not having to go through another year, not go thru another winter not being able to do anything with this property. I would propose that we put this on as an item for our next meeting with all the information, get it out there, let us all study it and make a decision on what we can do. I want to make sure that it gets done correctly and gets done as quickly as possible.

Rene - and I want to know from the lawyer, why he suddenly changed his tune when he told us yes once and then now no. I really would like, I think that it’s been a long period of time here that suddenly it’s no when why we all of a sudden... Michael - All I can say is he told me that he gave this information to Jeff last year and that there were some alternatives, but that because of the proximity to public access to the water, it is very difficult to meet those requirements. In reading through it over the weekend, it was my impression that there is probably a way to do it, but it will require some public hearings and some other actions, but this was all new to me, I walked into this in the middle and took it through the whole land swap because I thought that made a lot of sense. We went through the appraisal that really didn't give us a lot of information about the actual value because there simply isn't any good information about the actual value. You may recall, that I told you at the time, that as long as you have something in writing from someone who is licensed to do this sort of thing, you can rely on it. He didn’t make any representation that it was accurate. Rene - yes, right you said that we were going to go forward with it (can’t hear) Michael - we were all on board with that and the last couple of conversations I had with Kleiners were get us your building permit application, I’ve said that several times.

Charlie - as I said, we have expended a lot of money since he said this. Robin - so what is the stall now? (Everyone talking at once) Gill - can’t vacate the property within the right of way until we go through the whole vacation process, which is a difficult process because it's a public access to the water, to the shoreline. Bruce - if the lawyer said a year ago that we couldn’t do the land swap, why did we go ahead and do it. Rene - ya, I know.... (can’t hear). Fred - we have some questions to clarify
with the attorney. Thomas Gill – this is not the first time we have had this problem with this firm, on this council over the last year or two having them represent us. It might be something to investigate. Rene – in terms of the attorney? Gill – yes. Michael – the fact that it was last Wednesday afternoon that we met with the Kleiners, meant that there was no opportunity to get information out to you for this meeting. Bruce – but there was a decision as a council to go ahead and swap land, we already knew about this, I don’t think we did, but if it did happen, with Jeff telling us we couldn’t do it, why did we do it? (can’t hear) Janice – Jeff is the one….. the land swap. Bruce – that’s what we heard too. Janice, Rene – that was a long time ago… Rene – that’s why it’s so strange that all of a sudden, out of the blue, he comes back and says now you can’t do it. Robin – that’s why I thought we did it. …. Michael – I will have full documentation for you. Bruce – might want to have the attorney over here to explain himself, that’s a complete flip from over a year ago. Gill – it’s an unacceptable sort of situation, we should have done this in one fell swoop, do the street vacation as well as the swap and we should have done that as two public hearings back to back, it should not have been drug on this long…

Charlie – I’m curious as to, when Jeff announced to us the first time around and I quote Jeff Arango, the staff has decided not to support our request, we were never told who the staff is. Bruce – it isn’t the council. Rene – didn’t support what request? Charlie – our request for the street vacation the first time. I don’t know if it was Jeff simply saying in his words, staff meaning him, meaning Fred, meaning who. To me, staff is plural. I don’t know who staff is, was, or the reason behind the rejection. He just simply said that staff no longer supports; I sent an email to Jeff saying, if the staff no longer supports the exchange, or the sale rather, that I feel there is no point in going forward and I retracted our request. Another thing I would like to add, in our effort to strive towards transparency, the appraisal that we got, on the second time around, it was requested that we get an appraisal, we did our very best, I know that there was a little bit of balking at a council meeting, not so much balking as some uncomfortable mention that maybe there was a better appraisal available that Michael and Fred considered getting another appraisal, we used the city’s appraisal company, it was recommended by Jeff Arango, McCauley and Associates, that’s who we went to. Rene – I don’t think any of us disagreed with that. I don’t know where that came from. Charlie – I have an email from Jeff that the first evaluation was unacceptable, it came in with a dollar amount of $10,000. We were ready to pay that, it was okay, we were not uncomfortable with going on looking at another consideration, but the thing was, Jeff Arango said in his email that the city wanted an exchange and equal or greater amount of property from our waterfront which by Jeff’s own admission, the land under the deck, this is before the city changed its position, was worth about ten percent of the land value of the waterfront. I have that in Jeff’s email. Ten percent and yet the city was asking for an equal amount or greater property, not value and all I asked for, all my wife and I asked for was a fair exchange. Make it dollar for dollar, even, fair exchange and nobody’s getting the upper hand over the other because, clearly, if we had surrendered the amount of waterfront area of the north end of our lot we would certainly be in a negative position. And by getting a fair appraisal and getting a fair exchange in trade, we
came across, we established what was deemed as fair. It was highly reflective of what Jeff’s original statement was the first time we asked for this property under the deck, it’s ridiculous not a day has gone by, the amount of lost revenue is significant. This has done irreparable harm.

Fred – okay I think we have heard Mr. Kleiner’s statements. Just for the record, I supported the land swap deal and believed that it was a done deal with the attorney’s approval and that was the direction we were moving. I would suggest we allow Mr. Davolio to pull the material for you and then go into it at a special meeting or in a regular meeting in the future. Okay, why don’t we move on? We thank you very much for dealing with a very difficult topic, once again, I don’t agree with every statement that was made that characterized interactions and things that I said, but beyond that I would let that go, so thank you very much for coming.