Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
May 3, 2005

A meeting of the Fayetteville City Council was held on May 3, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Dan Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

CONSENT:

Approval of the Minutes: Approval of the April 5, 2005 and the April 19, 2005 City Council meeting minutes.

ADM 05-1481 (Sellers Road): A resolution approving ADM 05-1481 amending the Master Street Plan, relocating the proposed Sellers Road, designated a minor arterial street, south to align with Woolsey Farm Road between 54th and Rupple Road.

Resolution 85-05 as Recorded in the Office of the City Clerk.

ADM 05-1482 (Broyles Avenue): A resolution approving ADM 05-1482 amending the Master Street Plan, realigning the proposed Broyles Road, designated a collector street, in the manner approved by the Planning Commission for Large Scale Development (LSD) 05-1385.

Resolution 86-05 as Recorded in the Office of the City Clerk.

DBE Program Participation Goals FY2005 Approval: A resolution to accept and approve the updated Fayetteville Municipal Airport Disadvantaged Business Enterprise (DBE) Program Participation Goals for FY2005.

Resolution 87-05 as Recorded in the Office of the City Clerk.

Exterior Restoration of the Walker House: A resolution approving the use of Building Improvement Funds for the exterior restoration of the Walker House in an amount not to exceed $33,738.00; and authorizing City Staff to solicit bids for the project.

Resolution 88-05 as Recorded in the Office of the City Clerk.

Drug Law Enforcement Grant: A resolution to approve a grant application for the 2005/2006 Drug Enforcement Grant and to approve a budget adjustment of $51,709.00 to offset a reduction in the grant.

Resolution 89-05 as Recorded in the Office of the City Clerk.

Van Scoyoc Associates Consulting Services: A resolution approving a Memorandum of Agreement with Van Scoyoc Associates in the amount of $85,000.00 to provide consulting legislative services in the amount of $75,000.00, plus expenses up to $10,000.00.

Resolution 90-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Amend Chapter 96: Noise Control: An ordinance to add § 96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake." ***This ordinance was left on the first reading at the April 5, 2005 City Council Meeting. This ordinance was tabled at the April 19, 2005 City Council Meeting to the May 3, 2005 City Council Meeting.***

Alderman Thiel moved to table this ordinance indefinitely. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

This Ordinance was Tabled Indefinitely.

RZN 05-1412 (Mountain Ranch/Terminella): An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre. ***This ordinance was left on the second reading at the April 19, 2005 City Council Meeting.***

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4696 as Recorded in the Office of the City Clerk.

RZN 05-1409 (SCB Investments, LLC): An ordinance rezoning that property described in Rezoning Petition RZN 05-1409 for property located at 1841 Leverett Avenue containing approximately 1.43 acres from RSF-4, Residential Single Family, Four Units Per Acre, to RMF-24, Residential Multi-Family – 24 Units Per Acre. **This Item Failed at the April 19, 2005 Meeting.**

Alderman Thiel moved to reconsider this ordinance. Alderman Ferrell seconded the motion. Upon roll call the motion to reconsider passed 6-2. Alderman Jordan, Thiel, Cook, Marr, Rhoads, Ferrell voting yes. Alderman Lucas and Reynolds voting no.

Alderman Thiel: The reason that I wanted us to reconsider this is because the applicant wasn't present at the April 19th meeting. Since that time he has brought forward a letter of intent for a Bill of Assurance which makes the development a little more compatible with the adjoining neighbors. After some reconsideration I really believe that the requested zoning and density is appropriate for several reasons. Most of the surrounding area is student housing and I feel this project is the perfect example of infill. It is within walking distance of the U of A campus and shopping. Those are the reasons that I wanted us to reconsider this.

Kit Williams, City Attorney: I have not seen a Bill of Assurance. Has one been prepared?

Tim Cooper, Architect for the project handed Kit Williams a Bill of Assurance. He showed the City Council drawings of the proposed development. He also showed different zonings around the proposed site. He stated one resident had a concern about the sewer. He stated they have changed the three bedroom units to two bedroom units and that allowed them to reduce the number of parking spaces that would be required. The building will be a two story building. He also described the material that will be used in the project.

Mayor Coody: One concern that was voiced at the City Council tour was that on the south side of the property there is a mature growth of green space trees. The Council asked if that could be preserved or will it be removed and something new added in its place.

Tim Cooper: The only reason that we would replace it is to get a better buffer. Whatever is there that we can actually cleanup and leave will remain. There will be no access to the rear of the property.

Alderman Lucas: How close is it to the line there?

Mayor Coody: The back property line.

Tim Cooper: We actually sit back about four or five feet from our sit back line and that is probably another 12 to 15 feet.

Alderman Lucas: That wouldn't interfere with that growth that is there. So the building is going to be towering over those houses right behind it. It is going to be two stories right?

Tim Cooper: That is right.

Alderman Marr: One of the concerns that I had was the height of it. The drawings look like the building is three stories.

Tim Cooper: That was a recent change that we made. It will still be similar to this drawing.

Alderman Marr: The height is going to be a two story maximum?

Tim Cooper: Right

Alderman Rhoads: So it would be no taller or towering than a two story single family home.

Tim Cooper: Exactly.

Alderman Marr: There is a fairly dense growth along the edge between the single family property and this property. I want to make sure I understand what would stay and what would get planted.

Tim Cooper: I think it would be what is a good buffer and what is not a good buffer.

Alderman Marr: What does your Bill of Assurance say relating to that buffer?

Kit Williams: The Bill of Assurance says that there will be a landscaping screening that will serve as a buffer between our development and the single family homes that border our development.

A discussion followed on the type of buffer for that area.

Alderman Thiel: Since this will be a two story building probably an evergreen buffer would be adequate if it would grow tall enough. I think there is concern that the second story will be looking into the one story homes. Do you think that screening will be tall enough to buffer that?

Tim Cooper: That is something that we can study and see.

Arthur Scott, Project Design Consultants: We had our landscape architect look at this and she has suggested a 15 foot evergreen. We felt that 15 feet would be a pretty nice wall through there.

Mayor Coody: It that a mature grown out size or is that the size you are going to plant?

Arthur Scott: They are around 8 to 10 feet when they are planted. They grow pretty quickly. We had an arborist look at the existing growth and they did not feel the growth would survive as it exists. It is older and some of it is diseased. They did not recommend keeping some of the taller trees due to disease.

Mayor Coody: If there is a way you can work with what is there or supplement what exists I think that would solve some of the concerns the Council has.

Alderman Marr: What you have described is more detailed than what is in the Bill of Assurance. Have you given any consideration to actually detailing what you plan to do in that document?

Tim Cooper: We can revise that and get it back to you. I think in the letter we sent you we mentioned the screenings that would be provided.

Kit Williams: The screening in the letter was fairly general also as well as your Bill of Assurance. They are normally fairly general they are not normally extremely detailed.

Alderman Marr: I can remember people talking about buffers only to rip out what is there and replant something that's much smaller that some day will be 11 to 15 feet but during the next 10 years or 15 years there is no buffer. Therefore what we got in reality was not what I feel like was projected. I don't want every old neighborhood in Fayetteville to become an apartment complex.

Arthur Scott: We tried to keep it general so we could work with staff to get the exact placement of some good screening. We could probably leave some of the old growth and in the future as they need to be replaced, replace them.

Brian Cooper, Barber Group: We have a lot of things going on in the City of Fayetteville right now and we are going to do everything we can to help the neighborhoods and the city. We will do what we can to make sure to save as much of the buffer that is currently there as we can and to make it as nice as we can for the city.

Alderman Marr asked Kit Williams to read the Bill of Assurance.

Kit Williams: Let me read the important part. They did use the form that I have developed for the Planning Department to make sure it is enforceable by the city.

Mr. Williams read the important part of the Bill of Assurance.

Alderman Marr: I would like to see two story buildings in this Bill of Assurance as you have referenced tonight that you will be building.

Kit Williams: If they wish to voluntarily make that change they would just say the unit will not exceed two levels, two stories in height at the end of number 2. If that is what you want to do. If that would be acceptable with the developer.

Mayor Coody: Are you offering that?

Tim Cooper: Yes.

Kit Williams: I will write it in and someone can come and initial it.

Tim Cooper: Okay.

Alderman Lucas: I struggle with this because it is so close to those houses on Bel Air. That is right up against their back yards. There are other developments where they have developed multi-family with one story, which would not intrude into that neighborhood quite so much as having those two story buildings. There are instances in the past where we have protected older neighborhoods. It disturbs me when we start intruding into these older established neighborhoods. They are nice neighborhoods and we need that kind of neighborhood in Fayetteville and that is what bothers me.

Alderman Marr: I didn't support this the first time. I couldn't agree with Shirley more about protecting our older neighborhoods. I really want the screening, I think that is important and I think reducing the height was important. Every building around this property is multifamily. One of the ways to stop and protect our neighborhoods is to not grant zoning. Every property south of that is still residential neighborhoods.

Alderman Reynolds: I like that the project has been changed to two stories. I hope that you will protect that neighborhood and install the buffer as you say you are going to do it.

Brian Cooper: We have no desire to go south of this property.

Mayor Coody: I don't see this being a viable RSF-4 piece of property since it has all those apartments surrounding it essentially.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Reynolds, Thiel, Marr, Rhoads and Ferrell voting yes. Alderman Lucas, Jordan and Cook voting no.

Ordinance 4697 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Amend § 96.05 Motor Vehicle and Motorcycle Sound Limit: An ordinance to amend § 96.05 Motor Vehicle and Motorcycle Sound Limit of the Code of Fayetteville.

Mr. Williams read the ordinance.

Alderman Thiel: We still have a noise issue with loud trucks in some areas in town; other cities have dealt with this issue by banning Jake brakes, obviously that's not going to work. After reviewing what other cities do regarding vehicular loud truck traffic noise, I noticed they did not have the same decimal level that we have. I just followed their ordinance as far as the allowance level that they have.

Alderman Lucas: Is there a problem at night or when is the problem occurring?

Alderman Thiel: The problem is during the day.

Mayor Coody: The traffic in Fayetteville is going to continue to increase so whatever violations that we have now we will probably add to them over time, if something isn't addressed with our noise problems that we have here in town.

Alderman Lucas: How much time will the police be involved in enforcing this?

Chief Frank Johnson: I don't know that the amount of time that it takes us to enforce any ordinance is something that we factor in to whether or not it is our responsibility to enforce it. Being reasonable with the other calls that we have to deal with this may not be one that ranks as a high priority. When you have a City Council representative that is receiving calls from their constituents I think that in it self is important enough to us. We will just have to balance that and figure out a way to do that. Most of these complaints come after the suspect vehicle is well out of the area.

An amendment to the existing noise ordinance to lower the decimal level will require us to have the patrol officers equipped with noise meters. It is an operational issue. This may be an enforcement issue.

Mr. Johnson read from the State statue a section regarding faulty mufflers, which he thinks is the source of most of the noise complaints. He stated an officer without having to take a reading could use this statue to site a vehicle for a loud muffler. He also stated we have a city ordinance about mufflers that may be used to help enforce this issue.

He stated we can supply all the officers with noise meters but that would be very expensive or we can determine a way of enforcement. Chief Johnson asked for the Council to be patient about the enforcement of this due to this not being a priority call.

Alderman Thiel: Obviously this is not a number one issue but whatever tools we can give you to enforce it is valuable to you.

Alderman Ferrell: You would probably have to equip your officers with volume devices if we pass this and they are probably quite expensive. Did I hear that correctly?

Chief Johnson: Yes sir.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 6-2. Alderman Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting yes. Alderman Rhoads and Ferrell voting no.

Mr. Williams read the ordinance.

Bill Ramsey, Chamber of Commerce: I haven't heard anything about motorcycles will this affect motorcycles?

Alderman Thiel: I have already had a call about motorcycles. There are three tables under this ordinance the only one we are considering reducing is the one for over 10,000 pounds, the trucks. The motorcycles will stay the same level that they are currently allowed. The only thing we are looking at in the table is changing the vehicles that are over 10,000 pounds.

Bill Ramsey: Thank you. I appreciate you clarifying that. I just had a concern as a board member of the Bikes, Blues and BBQ.

Alderman Rhoads: I think I heard Chief Johnson say he wanted a little bit of time to study this. Is that what I understood Chief Johnson?

Chief Johnson: Yes.

Alderman Rhoads: With that in mind I would hope that we could leave it on this reading and see what Chief Johnson comes up with.

Alderman Thiel: Is that what Chief Johnson wants to do is to leave it on this reading or do you want us to just vote it down?

Chief Johnson: Whatever the Council's wishes are. I can't nor should I be expected to decide how you are going to vote on this. Whatever you want to do we will make it work. We know what the problem is, the problem is noise pollution and we will have to deal with it. I fully accept the fact as an enforcement issue we haven't been as prompt with this one as we should have been.

Alderman Thiel: The question is not whether you support it or not. Do you want to hold this until the next meeting?

Chief Johnson: I think that would be a good idea and let me bring something to the Council.

Alderman Marr: I think it is a good idea to talk about how to adjust this because we get complaints on other items that we address. What I am hearing is there might be another way to be more effective with it. It is not that we do not support the goal of solving this problem it's what is the best method to do it.

This Ordinance was Left on the Second Reading.

Madison Avenue Street Connection: A resolution approving the dedication of a 40-foot wide portion of City property as right-of-way to allow a street connection to Madison Avenue by the developer of the Hays Estates Subdivision.

Crystal Goedereis, Petitioner: We have been working on this for about a year now. When it all began a year ago we had the idea of connectivity to Madison Avenue but we were told at that time that property had just recently been sold or given to the Parks Board and that right of way was not an option. We were also told that the selling of that property was not an option, so we redesigned our project. I have now been instructed by the Planning Commission to come back and ask for a right of way which is what we wanted to do a year ago, it will connect to Madison. The Planning Commission voted down our cul-de-sac because they wanted to send a strong message to the City Council that they wanted to see this connectivity. I am here now a year later with all of the expensive, heartache and trouble we went through to make Fayetteville a better place with 18 more nice homes in it, looking at my project possibly being scraped and going back to the drawing board. I am here tonight to please employ you to go ahead and grant us this right of way to allow for the connectivity.

Mayor Coody: Jeremy what is the right of way requirement for this project?

Jeremy Pate, Director of Current Planning: We are only looking at 18 single family homes in this case and we recommended a 40 foot wide right of way with a 24 foot wide street as opposed to the local standard which is a 50 foot right of way. It is a 40 foot right of way in this case.

Mayor Coody: Steve Davis do you know if this land is in the Parks Department or is it General Fund property.

Steve Davis, Finance and Internal Services Director: I believe it is still in the General Fund, I don't believe the City Council ever transferred it to Parks.

Mayor Coody: This would be the land on the south side of the street. I just want to make sure we are talking about the same thing here.

Alderman Thiel: Mayor we were at the meeting and I was under the assumption that the Parks Board voted to accept this land. They even went to the point of having a meeting of accepting this right of way which gives the assumption that they assumed this was in Parks.

Mayor Coody: That very well could be. I just want to make sure that everyone has the facts. I am not trying to subvert anything. Obviously we don't have any plans of doing anything with that land other than making a park out of it. However we should be aware of all the real facts before making a decision on whether we should allow a cul-de-sac with 800 feet of street when our limit is 500 feet. Basically the choice is for us to approve a cul-de-sac or approve the right of way for the connectivity. Those are the two options.

Crystal Goedereis: At this point the developer and I would just as soon do the connectivity.

Alderman Thiel: I don't have any objection to this right of way because it does connect your subdivision with the parks. My real concern is what has been brought up here tonight. There are two park lands that I thought had been dedicated officially by the Parks Department in Ward 1. If they have not been dedicated I will need to speak to someone about getting that completed.

Mayor Coody: What would it take to transfer it into Parks, Steve?

Steve Davis: I believe it takes a resolution by City Council.

Kit Williams: If something needs to be done then I would like something to come forward and I will draft the proper resolution. You can't just transfer land from one fund to another. It has to be an equal exchange. It has to be paid for or exchanged for something else of equal value. I will get with Steve Davis and Bob Davis and see what needs to be done.

Steve Davis: The land was transferred properly between the Water and Sewer Fund and the General Fund. It's just the designation of the land within the General Fund as to whether it was transferred as dedicated Parks land.

Mayor Coody: Parks would come out of the General Fund. So we don't have to change funds, we would just designate it as park land. That's going to be simpler than having to change funds.

Steve Davis: It would make it a restricted asset.

Alderman Thiel: Which was the intent.

Alderman Jordan: I thought this land that was headed north to Madison Avenue was approved by the Parks Board for a right of way to build this street to Madison. That is not so? I thought I read it in the minutes that it was, but it is not park land?

Jeremy Pate: The Planning Staff has been working under the assumption that it was park land. We decided to cover all of our bases and go to the Parks Board. The Parks & Recreation Advisory Board has looked at this and said yes if it is park land we are still recommending that this pedestrian, vehicular connectivity go through this area. It is city property whether that exchange has occurred in the General Fund or not I am not aware of that. We were working under the assumption that it had been.

Alderman Jordan: Okay. So, we were working under the assumption that this was park land.

Alderman Lucas: Either way we can do it if we want to.

Jeremy Pate: Yes. Both the Parks & Recreation Advisory Board and the Planning Commission voted unanimously for this connectivity and staff is supporting it as well.

Alderman Marr: I want to thank our Planning Commissioners. I think they are put in a very difficult situation of trying to administer items. I know at times, having been there, it is important to send a message to the Council about what they believe the current policy is and if we disagree with that then we communicate that back down to the Planning Commission. Since I was appointed to the Planning Commission in 1998 there has been a policy of connectivity. I am happy with taking a message sometimes.

Alderman Jordan: I just wanted to get clarification as to what was actually said because I did not read that in the minutes.

Mayor Coody: I think the message being sent is not the problem but the vehicle of sending it thorough a petitioner is the fundamental problem.

Alderman Ferrell: Yes.

Alderman Ferrell moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 91-05 as Recorded in the Office of the City Clerk.

Planning Commission Appeal: A request to appeal the Planning Commission's motion to deny a waiver for the construction of a dead-end street greater than 500' length should the City Council deny the request for dedication of a City property to the north of the subject property for a 40-foot wide right-of-way and construction of a City Street.
This appeal was withdrawn by the petitioner.

Kit Williams: Crystal I would like to ask you for the record if you are withdrawing this appeal.

Crystal Goedereis: I withdraw my appeal. Thank you.

RZN 05-1480 (Bill Eddy Motorsports): An ordinance rezoning that property described in Rezoning Petition RZN 05-1480 for property located at 1205 North Futrall Drive containing approximately 2.00 acres from C-1, Neighborhood Commercial to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance.

Jeremy Pate: This property is currently zoned C-1 Neighborhood Commercial, it is the only property in this area that is zoned such. Surrounding property is zoned C-2. It is listed as Community Commercial in our future land use plan, 2020. It makes since to rezone to C-2. Planning Commission voted unanimously to support this recommendation.

Alderman Reynolds: The building looks good and very respectable.

Alderman Lucas: It bothers me that it got to this point, that a business can move into a place and we did not release that it is not zoned for that business. That's not fair to the business people and it is not fair to us. It really bothers me. We need to do something about that.

Jeremy Pate: We are looking at it and have almost established a different policy with regard to interior finish outs. This was not a Planning signoff on a building permit or anything. They were not changing the building or expanding the building. All they were doing was interior work that is typically handled through Building Safety. We are going to look at establishing some norms that we typically do for other projects with interior finish out as well. We are definitely going to be addressing that because I hate to see it get this far as well.

Alderman Lucas: The other day they had motorcycles and vehicles out on the green space in front of the store. Is that allowed?

Jeremy Pate: No it is not. That is required green space that does not need to be utilized for parking vehicles.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4698 as Recorded in the Office of the City Clerk

Environmental Enterprise Group, Inc. Contract: An ordinance to waive normal competitive bidding and to award a contract in the amount of $30,855.00 to Environmental Enterprise Group, Inc. for remediation, Demolition Project Management, and Air Monitoring.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4699 as Recorded in the Office of the City Clerk

Mountain Inn Demolition Contract: A resolution to approve a contract with Jimmy Patton Contractor Company in the amount of $688,137.95 for the demolition of the Mountain Inn Building, Courts Building, former Niblock Law Office and the Red Bird Café as part of the Project Plan for the Highway 71 East Square Redevelopment District.

Steve Davis: We need to request a project contingency fund of $101,770.00. This demolition has significant unknowns attached to it. When we start to tear this building down we really don't know what we are going to get into. We are asking for this fairly large contingency just to cover some significant unknowns. There is also a very tight timeframe for this project; the developers want to have the property available for their hotel project by July 15th.

Alderman Jordan: That is about a 15% contingency.

Mayor Coody: That would take the total to what?

Steve Davis: Approximately $790,000.

Mayor Coody: We originally estimated the cost to be what?

Steve Davis: $887,000.

Mayor Coody: So we are still under what we estimated.

Steve Davis: Yes sir. This is all part of the bond proceeds in the TIF bond.

Alderman Reynolds: Who is going to have the insurance policy for the adjoining property owners that we are going to be demolishing next to?

Steve Davis: It is my understanding that the developers are purchasing the rest. Mr. Patton will have some builders risk insurance and the other property owners will have insurance as well.

Alderman Reynolds: So we are going to be covered if something goes wrong?

Steve Davis: Only through the builder's policy that the contractors carry.

Alderman Rhoads: But not the developer. The developer has no exposure at all.

Steve Davis: The developer has no exposure. This project will be blocking off one lane of Mountain, one lane of Center and one lane of College for the next 15 months.

Alderman Lucas: Do they guarantee that they will finish in the time frame needed by the developers.

Steve Davis: There are penalties involved if they are not finished within the time frame.

Kit Williams: I am a little confused exactly how we should word this. A lot of that was for our own Water and Sewer Division to move water lines and sewer lines. They are going to do that independent of the demolition contract are they not? I was going to just put it in as a regular project contingency fund like we normally do with those contracts but those normally run through the contractor I thought.

Steve Davis: Some of the project contingency funds will run through the contractor. The other items that we passed with project contingency are an independent purchase order to an independent third party apart from the contractor.

Kit Williams: How much are we putting into the actual project contingency fund that we normally do with a contract in case the contractor runs into other problems. Are we putting anything in there?

Steve Davis: $74,615. That is primarily for the contractor.

Alderman Marr moved to amend the resolution to add the contingency fund as described by Steve Davis. Alderman Jordan seconded the motion. Upon roll call the motion to amend the resolution passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

Alderman Marr moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

Resolution 92-05 as Recorded in the Office of the City Clerk.

C-2 Projects, LLC Construction Contract: A resolution approving a construction contract with C-2 Projects, LLC in the amount of $1,169,336.25 for the Gregg Avenue Water System Improvements; approving a 10% Project Contingency in the amount of $116,933.00; and approving a Budget Adjustment in the amount of $544,391.00 for same.

Alderman Ferrell moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 93-05 as Recorded in the Office of the City Clerk.

Black & Veatch Amendment No.1 Noland Wastewater Treatment Plant: A resolution to approve Amendment No. 1 to the agreement for professional services with Black & Veatch Corporation to provide construction and post construction services for the Noland Wastewater Treatment Plant in a not to exceed amount of $1,478,000.00.

Alderman Marr: Did this go to the Water and Sewer Committee and if so what was the vote.

Bob Davis, Water and Wastewater Director: The original contract went to the committee. The original contract was the design and bidding phases and this was just an amendment to that contract.

Alderman Cook: I don't remember it going to the committee.

Alderman Jordan: I don't remember it either.

Kit Williams: I think your point is well taken. The Sewer Committee should look over every one of these major contracts before they come to the City Council. Is there a time crunch on this?

Bob Davis: We have a preconstruction tomorrow. We were hoping to issue a notice to proceed for May 16th.

Kit Williams: In the future any major water and sewer contract with this project or otherwise should go to the Sewer Committee first for them to vote on before it gets referred to the City Council.

Bob Davis: Okay.

Mayor Coody: Do we need to send this back to the Sewer Committee?

Kit Williams: I think the City Council probably can approve this but I think it's a much better form and in compliance with the State law if the Sewer Committee sees these sewer contracts before they are presented to the City Council.

Alderman Lucas: Could we have a special City Council meeting and have the Sewer Committee meet before hand?

A discussion followed on scheduling a special City Council meeting.

Alderman Marr moved to table the resolution. Alderman Jordan seconded the motion. Upon roll call the motion to table passed unanimously.

This resolution was tabled to a Special City Council meeting on May 10, 2005.

The following two items were added to the agenda at this meeting.

VAC 05-1455 (Buckley Blew): An ordinance approving VAC 05-1455 submitted by Buckley Blew for property located at 3187 E Waterstone Drive, vacating a utility easement as indicated on the attached map and legal description.

Alderman Ferrell moved to suspend the rules to add the VAC 05-1455 (Buckley Blew) ordinance to the agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel: What is the urgency with this?

Alderman Ferrell: This was passed by the Planning Commission last Monday. The applicant is building a swimming pool that is why they have asked for this vacation. They have borrowed money and have to make draws by certain dates. If this gets bogged down it will cost them money. They asked if I could get this on the agenda and I said I would try.

Jeremy Pate gave a brief description of the lot and the property to be vacated.

Alderman Rhoads: I think I saw where all the utilities except for one had no objection. Has that one utility been reached and do they have an objection?

Jeremy Pate: Yes. They have responded and have no objection.

Mr. Williams read the ordinance.

Alderman Lucas: Are we vacating this just on this one lot or does it run all the way back behind all those other lots?

Jeremy Pate: Yes madam it does.

Alderman Lucas: There is property over there that is outside the city. Was that the reason for the utility easement at the time?

Jeremy Pate: A lot of utility companies like to wrap those lots in utility easements and then in the future they don't utilize them. We are trying to work with them to not do that because it does require an applicant to go through this process to utilize that property.

Alderman Lucas: I am concerned about the property that is just outside the city, just south of this development. How are the utilities going to get to that property if they decide to come in?

Jeremy Pate: We received no objections to this. I am assuming that they do have access to that property. South of this particular utility easement there is a large drainage pipe and that easement is being retained.

Alderman Lucas: Will that work for utilities if later on we need to go through there?

Jeremy Pate: It will not. It is a drainage easement. There is a 100 foot utility easement that would allow for access and utilities.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4700 as Recorded in the Office of the City Clerk.

Feasibility Studies, Inc. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Feasibility Studies, Inc.

Kit Williams: This is a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Feasibility Studies, Inc. I would ask that this be placed upon the agenda.

Alderman Jordan moved to suspend the rules to add the Feasibility Studies, Inc. resolution to the agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Mr. Williams read the resolution

Kit Williams: Our land agent has been trying since November, 2004 to obtain these easements which are very small easements, 10 feet along North College. This is the only land owner that we have not been able to work out an agreement with.

Alderman Marr: I am glad we are fixing this. This is something we need to move forward with. I hope we can get an agreement but we need to move forward with the project.

Alderman Marr moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 94-05 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 7:55 pm

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk