

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville, Arkansas
City Council
Meeting Minutes
November 15, 2005**

A meeting of the Fayetteville City Council was held on November 15, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Lioneld Jordan called the meeting to order.

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

ABSENT: Mayor Coody and Alderman Rhoads

Pledge of Allegiance

A presentation on STOPS was given by students from the Woodland Junior High Littering Program.

CONSENT:

Approval of the October 4, 2005 City Council Meeting Minutes.

Approved

Little Rock Equipment Sales – Trailer Mounted Crack Sealer: A resolution awarding Bid #05-75 to Little Rock Equipment Sales for the purchase of one (1) Trailer-Mounted Crack Sealer in the amount of \$40,992.00 for use by the Transportation Division; and approving a budget adjustment to move funds to the Fleet Expense Account.

Resolution 215-05 as Recorded in the Office of the City Clerk.

Barloworld Freightliner of Springdale – 4 Dump Trucks: A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of four (4) Tandem Axle Dump Trucks in the amount of \$360,932.00 for use by the Transportation Division for the In-house Trails Program; and approving a budget adjustment to move funds to the Fleet Expense Account.

This item was removed from Consent and placed on New Business # 1.

Baird, Kurtz & Dobson, LLP (BKD) Contract: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in the amount of \$59,000.00 to provide independent audit services to the City of Fayetteville.

Resolution 216-05 as Recorded in the Office of the City Clerk.

LEECO, Inc. Bid Award – SCBA Cylinder Refill System: A resolution awarding Bid # 05-77 to LEECO, Inc. for the purchase of one (1) SCBA Cylinder Refill System in the amount of \$41,487.13 for use by the Fayetteville Fire Department; and approving a budget adjustment in the amount of \$41,488.

Resolution 217-05 as Recorded in the Office of the City Clerk.

2005 Vehicle and Machine Fuel: A resolution approving a budget adjustment in the amount of \$54,000.00 for vehicle and machine fuel & maintenance costs for 2005.

Resolution 218-05 as Recorded in the Office of the City Clerk.

Manage Wastewater Collection and Treatment Activities: A resolution to manage Wastewater Collection and Treatment Activities under Section 208 of the Clean Water Act.

Resolution 219-05 as Recorded in the Office of the City Clerk.

UATV Contract – Fayetteville Education Channel: A resolution authorizing the Mayor and the City Clerk to execute an agreement between the City of Fayetteville and the University of Arkansas, UATV to operate the Fayetteville Education Channel for a two-year period.

Resolution 220-05 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda with Item #3 Barloworld Freightliner of Springdale – 4 Dump Trucks removed and added to New Business. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

UNFINISHED BUSINESS:

ANX 05-1728 Zaccanti: An ordinance annexing that property described in annexation petition ANX 05-1728 for property located south of Salem Road, east of Crystal Springs Subdivision, containing 80.30 acres. ***This ordinance was left on the Second Reading at the November 1, 2005 City Council Meeting.***

Alderman Reynolds moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Jordan, Reynolds, Thiel, Marr, Ferrell and Lucas** voting yes. **Alderman Cook** voting no. **Alderman Rhoads** was absent.

Jeremy Pate, Director of Current Planning: The applicant met with some of the neighborhood. I would also remind the council I don't believe that the applicant is interested in annexation if the rezoning is not something that the council would like to see.

Kit Williams, City Attorney: I would suggest that you indicate to the applicant your thoughts on rezoning before you vote on the annexation. If you talk about both of them that would give the applicant an opportunity to withdraw the annexation if it looked like the majority of the council did not want to rezone.

Alderman Jordan: When I first saw this development I was concerned about the fire response time, but since the council and their wisdom has decided to pass impact fees, that will provide funds for fire and police in that area, I don't have the concerns that I once had. I know that some of the neighborhood met with Charlie Solan and me over the streets in that area. I think there were concerns about the connectivity going through their neighborhood, but I think that would be something that we can address later on.

Alderman Lucas: I agree with Alderman Jordan, I know he met with the neighbors and I know that there is a real concern about traffic going through Gypsum. I went out there and the property does not go down to Crystal Drive, this is the only street right now that's on the west side of it. I think that's something that the Street Committee and the Planning Commission need to work out. This is an area that's surrounded by the City on three sides, so I think it is important that is brought into the City. It is compatible with the neighborhoods. So, I hope that when it comes through, that the committees can work out something between the neighbors and the developer about streets. I am in favor of this.

Alderman Cook: I will make my usual comment about annexation, it's never anything personal about the applicants, and I just don't believe that annexation is a good thing especially after our last presentation from staff. The numbers show that capital costs are overwhelmingly strapping us and especially because of the growth we have on the edge of the City. I appreciate that we have impact fees to try and collect some of those costs but honestly I don't think it collects the full costs. I am not going to support annexation.

Alderman Thiel: Usually I do support annexation. The reason is it assures that the houses come in according to our standards and inspected by our inspectors. We get impact fees and the parkland fees. As far as zoning if you are going to annex it, which it would make sense to annex it, then I would certainly support the RSF-4 zoning. I wouldn't want to leave it R/A with that adjoining area.

Alderman Ferrell: I concur with Alderman Lucas about it being surrounded on three sides. I met Mr. Zaccanti, this fellow has lived out there all his adult life and I think he would like to retire and sell some of this property. I think that the plan for development, they've tried to be as flexible as possible to meet every expectation that they can. I would strongly support.

Alderman Reynolds: I will support the rezoning and the annexation because of a health and safety factor and the only way we are going to correct this problem in this city is through our impact fees.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passes 6-1. Alderman Reynolds, Thiel, Marr, Rhoads, Lucas, and Jordan voting yes. Alderman Cook voting no. Alderman Rhoads was absent.

Ordinance 4793 as Recorded in the Office of the City Clerk.

Planning Commission Appeal - RZN 05-1729 Zaccanti: An ordinance rezoning that property described in rezoning petition RZN 05-1729 for approximately 60.00 acres located south of Salem Road, east of Crystal Springs Subdivision from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the November 1, 2005 City Council Meeting.*

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Mary Bassett: I appreciate the opportunity to speak with the council. My father, Al Zaccanti, owns the property. We appreciate your support for annexation and rezoning. The line for the 60 acres will be a straight cut on all three sides surrounded by RSF-4. It's very important for it to be rezoned and not be agriculture. We appreciate your support in this annexation and rezoning.

Alderman Marr: I would like for you to expand on your comment about connectivity because I want to make sure that we are going to get connectivity on this piece of property.

Charlie Sloan, Developer: We were concerned about the connectivity, there are two collecting streets that go through our property. One of them is Raven which will connect us down to Crystal Springs Road, and the other one is Gypsum Road. There is another project north of Gypsum that's coming through, we would like to propose making that a collector street and tying it into our project. That's something we will have to get with Engineering on, but we did talk with the neighbors and tried to show a couple different variations as far a traffic flow through the property but yet again if the school is buying this property which it looks like they are to the east of us, we need to be able to flow through our property where it would be safe for the neighborhood. That's what we would like to do and possibly go ahead and build that as a collector, anticipating the flow of traffic build that as three lanes if necessary.

Alderman Thiel: The property doesn't come down to Crystal, does it?

Charlie Sloan: Yes, it will connect through Raven. We are hoping in the future with the school and Deane Solomon being rebuilt, that will let the neighborhoods go back to the east instead of just having to come onto Salem Road. It would be a great time to fix the streets now instead of in the future. Let's just do it now that's all that we were trying to propose.

Alderman Jordan: I didn't make any personal guarantees to the neighborhood that this could happen, it was just something that would be discussed.

Charlie Sloan: It is something that Mr. Jordan brought forward that would have to go to the Street Committee. You would have a couple of different opinions that we could work with. Right now we are just a blank piece of paper. We can move anything anywhere and we are willing to because it benefits us in the long run.

Alderman Thiel stated that she is in favor of connectivity.

Charlie Sloan: We will be connected to other neighborhoods, it is just making sure of the traffic flows. We have seven different connections out of our property, it's just trying to flow the traffic through our property, that's what we will be facing and our neighbors will be facing is another high school subdivision. We just want to move people through there as safe as possible. We need connectivity through that neighborhood, and that's the only way we're going to flow. It is a connective street not thoroughfare.

Alderman Marr stated that he wants to make sure that we don't end up with what we are dealing with in Wilson Park and some of the areas that we don't have north, south, east, and west connectivity today because it wasn't planned before the land was developed.

Charlie Sloan: Well that's what we are trying to do is to look at the over all picture. That is the reason we are trying to look at what is coming up in the future.

Alderman Reynolds asked if we are still talking about a fire station in that area and if Mr. Hoskins is still going to donate property for a fire station.

Charlie Sloan: You will have to talk with Mr. Hoskins about that, I don't really know.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Ordinance 4794 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

This item was removed from Consent:

Barloworld Freightliner of Springdale – 4 Dump Trucks: A resolution awarding Bid #05-73 to Barloworld Freightliner of Springdale for the purchase of four (4) Tandem Axle Dump Trucks

in the amount of \$360,932.00 for use by the Transportation Division for the In-house Trails Program; and approving a budget adjustment to move funds to the Fleet Expense Account.

Alderman Ferrell: I am on the Equipment Committee and I was not for this. I voted in the minority but I had some correspondence from a citizen about this. I figured during the public comment that citizen would be here tonight and that's why I asked that this be put under new business.

Alderman Lucas asked Alderman Ferrell why he voted against this.

Alderman Ferrell: At a time when we don't have any money and all of a sudden we come up with a million dollars for this special trails project and that's why I voted against it.

Alderman Lucas: It is a budgetary reason. It is not because of the people in the contract?

Alderman Ferrell: No.

Alderman Lucas: I have had some calls about this. We are so behind on streets and this is something that comes out of the CIP fund, so I am glad that he pulled it off of consent. It bothers me, after I received some calls, I got to thinking about it and here we are spending \$360,932 when we have so many tight things that we need in the CIP, streets and Ruppel Road. That's what concerns me.

Alderman Cook: I have received some calls that are different than that. Some people are concerned that if they support the trails program while their excited about an In-house program, their concern is spending the money, at this point, for equipment and other items when we lack some areas of right-of-way. Especially, if the cost of land keeps going up, if we are going to support the trails program, I think that we should spend it on trails right-of-way at this point. If we buy this equipment and we start laying asphalt at some point they are going to catch up with the right-of-way acquisition and then we are going to be setting on it. I've had a few calls along those lines.

Alderman Lucas stated that is a very good point.

Alderman Marr: When we had this discussion at the Equipment Committee meeting, we have already approved the additional hiring of individuals to administer this program and that would kind of be like hiring someone to do carpentry and not giving them tools. So I think that we're talking about the expense of these projects that we need to be able to administer. If we get ahead of where we are, I thought I understood that we could use the employees elsewhere within our Transportation Division for other projects, so maybe the staff could speak to that.

Terry Gulley, Transportation Manager: Why don't I give you a little update on where our in-house pavement program is for the year and then I will go into what we've done with the trails program since we started this eight weeks ago. The in-house pavement program since 2003 we've overlaid twelve miles of streets. Last year we did about 13½. This year currently we've laid 18.6 miles and we've used all our allotted funds for that program. Our goal was 17½ miles and we've exceeded that. We're equal to or ahead of schedule on our in-house paving program. The funding put in our 2006 Budget both the CIP and our general budget is set up to continue

right at 18 miles for next year. If it stays at that level, then we are going to stay at or be ahead of where we are. So that's where we are on the pavement program. The pavement program is not really going to lag due to this if the budget approved is submitted right now in the latest form. The trails program itself we started about eight weeks ago. We have moved the trail onto our property off of what was Lindsey's property. We moved that and put in just over one thousand feet of new trail there, we did that in four weeks. We did that with the help of some of the existing equipment we have, but it was tight and the paving program had to share with the trails program for dump trucks, pavers and the time for that. We made that work because it was a small project and it just happened to fit in a window between paving jobs on the streets and we were ahead for this particular year. So, we've got approximately three thousand feet of new trails done.

Terry Gulley gave the Council an update of the projects that have been completed this year.

The dump trucks are needed because we can't continue to draw from the in-house pavement programs dump trucks all the time, or there is going to lack, so they're necessary. We're pushing on fast and hard and we are right on schedule to complete what we stood up here and said we were going to do.

Alderman Marr: If we get behind on right-of-way and aren't able to lay trails, will this equipment be able to be utilized in other areas of the city or will it be sitting idle?

Terry Gulley: There is a great need for dump trucks. We currently have seven. There is never one that is sitting still for one day. When we are paving, we probably use anywhere from three to at least eight lease trucks in addition to the four that are assigned to the paving crew. So we are leasing trucks all the time to haul the asphalt for us. We've got a use for them.

Alderman Marr: I support trails, there's a reason that the priorities were set the way they are and that we need to be working as close to the order of that priority as we can. Otherwise you are going to find support falling in the future.

Terry Gulley: We are doing that. We are looking at the top ten. We will do the highest ranked projects, where we have all the pieces and physically do those projects.

Alderman Lucas: Then you won't need to request equipment in 2006?

Terry Gulley: No. I think the only equipment we are requesting is a replacement for existing equipment that we already have. One thing we are going to ask for is a street saw, but we are turning in another piece of equipment and using that money to purchase that saw. Other than that, there is the curb machine, which is in the CIP project and that's a piece of equipment that has the potential to save us a lot of money. The price of the machine is \$195,000.00 but I think we can save \$250,000.00 a year. We are going to use existing personnel to run the machine. Over the course of five years I think we will be in the neighborhood of \$500,000 to \$700,000 ahead. The curb machine is the only thing that I've got in the CIP that I've requested and I think it's probably the greatest money savings.

Alderman Reynolds: Because you have to purchase four dump trucks, you are not asking for four additional personnel?

Terry Gulley: No. That was approved when we hired the trails staff of nine back in the summer. Those people will be able to operate this equipment. There will be no additional personnel needed.

Alderman Reynolds: I know that this Council wants to balance the budget this year and we are going to be looking for places to cut some money. We have bought the pavers, the roller and we have already hired the people to do this project. If you don't want to spend the money to buy four trucks, maybe you might want to think about two trucks. He's already got the personnel. The equipment committee approved the four trucks because everything's in place.

Terry Gulley: Regarding two trucks versus four it's going to take those vehicles once we roll into next year and we are trying to do five miles of trail. So if we're going to cut it, just remember we can't do all that I promised from the beginning.

Alderman Jordan: I think the man needs four trucks and the Equipment Committee approved it.

Alderman Thiel: Was it unanimous?

Alderman Jordan: It was three to one.

David Bragg, Fleet Operations Superintendent: I just want to clarify something. As a part of this there is an asphalt roller that's part of this whole thing. We just want you to be aware when you vote on this that in another month we will be coming back with this other piece of equipment. That piece is coming forward but it is another necessary part of this program.

Alderman Reynolds moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 6-1. Alderman Jordan, Reynolds, Thiel, Cook, Marr and Lucas voting yes. Alderman Ferrell voting no. Alderman Rhoads was absent.

Resolution 221-05 as Recorded in the Office of the City Clerk.

2006-2010 Proposed CIP Adoption: A resolution adopting the proposed 2006-2010 (CIP) Capital Improvements Program.

Kevin Springer, Budget Manager: The CIP information that I handed out summarizes the \$95.6 million in capital improvement requests over the next five years, by funding source. In addition the information lists the \$18.4 million in individual capital project requests that are contained in the 2006 proposed budget.

Alderman Marr: What is the Public Safety Expansion bond?

Kevin Springer: That is a proposed bond issue in 2007 for the Tyson Complex building we've purchased. We are still in the works of trying to get together a plan and we are looking at that in 2007. The CIP is a listing of all the capital projects the city wishes to do over the next five years. Even though it's a five year document, we only incorporate the 2006 projects into the budget

document and then what will happen is next year we will look at the 2007 projects and we will incorporate those into the 2007 budget document and then we will start over on the CIP process and complete another five year plan. The various different committees' have looked at different projects that are contained in the whole capital plan

Alderman Lucas: Why is the in-house pavement improvements not included in the street improvements.

Kevin Springer: When we are talking about street improvements, we are talking about contracted jobs that our Engineering Division is in charge of, where they contract the construction of the street. Transportation improvements fall under the purview of Terry Gulley and the Transportation Division. I know that street improvements and transportation are all the same type.

Alderman Lucas asked if Terry Gulley is over Transportation and who is over streets?

Kevin Springer: Streets are the projects that the Engineering Division is responsible for. Those are the ones that they contract out with Engineering firms and construction companies to over lay streets. Terry handles all the in-house work.

Alderman Thiel: The street improvements that will be bid out, those were approved by the Street Committee?

Kevin Springer: I think so or at least they've looked at them. These were the proposals that were presented to the Street Committee.

Kit Williams said we haven't approved them.

Kevin Springer: This is a list that the Street Committee reviewed and approved.

A discussion followed on street improvement projects.

Ron Petrie, City Engineer: At the last Street Committee meeting we had a lot of discussion about most of these items going for engineering studies. There is not a lot of money to actually do the street work. A lot of this is in anticipation that the street bond issue will be approved. If that bond issue is not approved we will want to revisit this CIP almost immediately in 2006.

Alderman Lucas moved to table this resolution to the December 6, 2005 City Council meeting. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

This item was tabled to the December 6, 2005 City Council meeting.

2006 Proposed Annual Budget Adoption: A resolution adopting the proposed 2006 Annual Budget and Work Program.

Kevin Springer stated that on November 8, 2006 city staff presented the 2006 proposed budget to the City Council. Several work sessions were scheduled at this meeting. Currently, staff is working this week on a list of items that would eliminate the use of reserves for General Fund. This list will be distributed tomorrow.

Alderman Marr: In the budget that you are reducing, does it still have the 12.5 public safety employees in it.

Kevin Springer: Yes we are actually giving various options as far as phasing in people and/or eliminating people.

Alderman Reynolds moved to table this resolution to the December 6, 2005 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

This item was tabled to the December 6, 2005 City Council meeting.

ADM 05-1794 College Avenue Right of Way Reduction: A resolution to vary the right-of-way dedication requirement for 620 N. College Avenue to promote redevelopment of this property and prevent undue hardship to the developer.

Jeremy Pate: This resolution is to request a variance of right-of-way dedication required on College Avenue for a specific address located at 620 N. College. The request specifically is to reduce it from the currently required 55 feet from center line. This is a principal arterial. We have had discussions about College Avenue in general along this area and staff is developing some conceptual drawings to be presented at the Street Committee meeting regarding an overall Master Street Plan amendment. This is a request for lesser dedication of right-of-way instead of the required 55 feet from center line, the applicant would like to dedicate a minimum of 38 feet from center line. I believe currently the resolution reads 30, I did ask the applicant and 38 feet would work. What this would accommodate is there is an existing building on the property; they would like to remodel this building. If they are required to dedicate 110 feet of right-of-way, as you can see in the graphic I passed out as well as the 50 foot building setback that building would more than likely have to be removed. The applicant has pursued a couple of different options. The Board of Adjustments allowed for variances to build up to the Master Street Plan right-of-way. The applicant also went before the Planning Commission and the Street Committee to look at reducing the right-of-way requirement for this particular project. As you can see, along College Ave there are a number of structures that would have to be demolished or removed or parts of them removed in order for them to redevelop this area. I did put together a list of projects that I know of currently that are in process or have already been approved for right-of-way reductions in this stretch. There are several structures as well that have recently been remodeled, they did not have to require a reduction of right-of-way because they weren't expanding, they stayed within their existing foot print or had minor modifications. Essentially, this is again a request for lesser dedication of right-of-way due to the hard ship imposed upon the applicant by the existing Master Street Plan. Staff and the Planning Commission recommended approval. The Street Committee actually recommended to bring this forward to the full Planning Commission without a formal recommendation but for discussion at this level.

Alderman Ferrell: After we deal with this you all are going to take a look at bringing something to us on the possibility of meeting that Master Street Plan?

Jeremy Pate: We are already doing that. We have developed one concept sketch, we are working on several others and will present the options to the Street Committee. So we will present various options for you to look at.

Alderman Ferrell: Thank you. I think that you can get to a point of diminishing returns if everything has to be handled as an exception rather than making a policy. The Planning Commission unanimously recommended this and I support it.

Kit Williams: I suggest that you look at the one that I drafted. The city council may vary the right-of-way dedication requirements, imposed here in the event of an undo hard ship, which is exactly what I think that we have in this particular case. This code section was composed in order to handle these kinds of situations. I do agree with Alderman Ferrell, that we need to look at this whole section of road and try to decide what actually a more realistic right-of-way requirement is. I can also tell you that we would not be able to require demolition of buildings, but on the other hand we still need to be realistic here. A lot of times these building were built and they were far enough away from the road at one time and the road has moved to them. I think it's very realistic to look at this and decide in the future about this whole strip of road to see what kind of right-of-way we really need.

Alderman Thiel: The 38 feet is in line with what is coming forward as far as the street widening or reducing the street right-of-way?

Jeremy Pate: Yes, the 38 feet would accommodate what they are looking to develop.

Alderman Thiel: Is it in line with what we have done in the past?

Jeremy Pate: Correct. The Mountain Inn will actually be requesting 30 foot right-of-way in front of their building, which is obviously less than the 38 feet. The Planning Commission and staff recommend most of the right-of-way along College Avenue from Rock to North Street 95% of it is 60 feet existing. That's what most of the building set backs show which would accommodate the existing structures but no expansion. I believe that's why in a lot of cases we have not seen much expansion of those structures because it would take a process of coming before the Board of Adjustment, Planning Commission, and City Council to get there. That's why we did present as part of the Master Street Plan amendments, the adoption of that different street standard and we will be presenting that to the Street Committee and City Council soon.

Alderman Lucas: If we have to make an amendment or change it. What do we have to do to get this one approved?

Kit Williams: You will actually have to choose which one you want to do, because they were both presented in the packet to you.

Alderman Reynolds: Is there someday that we are ever going to put a turn lane in that one or two blocks to handle that turn traffic.

Jeremy Pate: That is one of the options that we are looking at to present to the Street Committee. There are some existing constraints, the retaining wall that the highway department put up. I believe that in a lot of these instances, it can actually function within the existing right-of-way or instead of the entire stretch being one large right-of-way we could look at accommodating at intersections. That's some of the options that we will be presenting to you.

Alderman Marr: I would be much supportive of the 38 feet for that very reason, because that is one of the issues that we get a lot of comments on.

Alderman Cook: I fully support the idea of this development because that building is the kind of development we want to see but that is definitely one of the most dangerous stretches of 71 right there.

Alderman Lucas moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 222-05 as Recorded in the Office of the City Clerk.

Planning Commission Appeal of PPL 05-1733 West Haven Subdivision:

Alderman Jordan: I brought this forward. This is a situation where there was a decision by the Planning Commission that the individuals in the area felt as though they did not get to present a Power Point that they would like to present.

Kit Williams: When looking at a review of any plan of any large scale development or a preliminary plat, the code is very specific on what can be considered when turning it down. Basically, the only one that might be relevant in this case is the fourth one. The fourth one says, the proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as high traffic volume, topography or the nature of the traffic pattern. I am pretty sure that all the other five conditions have been adequately and conclusively met by the developer as found by the Planning Commission. Of course the Planning Commission did not turn this down for traffic concerns either, but that is something that you can consider.

Alderman Jordan: I know that the other aldermen were contacted about this situation. I noticed that this is in our planning area and they did not have representation over there because it is in the planning area. So we felt that since it is in the Ward 4 area, Alderman Lucas and I felt that we would appeal it. Not necessarily that we are in agreement, but we will give the people their say and their day.

Jeremy Pate: You touched on one of the points that I was going to mention. This is in the planning area, as you know the Planning Commission does approve/deny subdivisions that are located in Fayetteville's jurisdictional planning area, which is essentially an area outside the city limits. Subdivision regulations are relatively the only aspect of Planning Commission approval that we do have within the planning area, land use is not one of those. The property contains approximately 50 acres, it is located west of Fayetteville, off Wheeler Road, north of Double

Tree Estates, this original subdivision actually called West Haven, was approved by the Planning Commission back in 1998. It was not constructed at that time and did expire. Therefore the applicant was required to resubmit plans. They resubmitted almost the exact same plans. The proposal was for 45 single-family lots, similar in size to the subdivision directly to the south, quite a bit smaller than undeveloped property to the north and west. The Planning Commission did vote in October 4-3 in favor of the project. There were concerns voiced by the neighbors. You have a series of drawing in your packet additionally I have one that has been submitted by a resident of Double Tree Estates, I'd like to pass out to you. She asked me to pass this out as one of the potential options as well.

Ray Haefele, 2650 N. Stacey Lane, Double Tree Estates: I am coming before the council as the sole presenter of our field comments. I would also like to state upfront that we are not opposed to the West Haven Development, we are here to participate in making the two developments a win-win for everyone concerned. Our concern is based on the hazard that comes with increased traffic flow. Double Tree has high pedestrian volume, where streets are used for walk ways since there is no pedestrian alternative, such a side walks. To add to this dangerous situation, there are no street lights in Double Tree, and much of our traffic includes walker and joggers early in the morning and in the evening. For these facts as a back drop, let me identify other safety factors that need to be considered. Under the approved Preliminary Plat, Stacey Lane is too straight and long which will encourage speed. Entry of Timber View at Stacey is a dangerous location near the point of highest child and pedestrian traffic. These two facts alone create a dangerous traffic situation. I do appreciate the opportunity to make our comments with the Power Point.

There was a Power Point Presentation given by Ray Haefele on the West Haven Subdivision.

Alderman Thiel: One of the things you want to do in this revised plan is to eliminate the center section or that upper street so that you do have that section right there. Move that over or basically eliminate it.

Ray Haefele: Yes.

A discussion followed on the lay out of the road and the proposed subdivision.

Alderman Marr: I am not real sympathetic when connectivity is shown on an approved plat, and I am pretty sympathetic when its not shown and we try to add it. My question is in the Double Springs Subdivision, where were the connectivity points and what I am hearing is that this one that they are speaking about, that comes further south on Stacey was not designated in that plat.

Jeremy Pate stated that I don't believe so. In all the plats that I have seen recorded at the county level and approved by the Planning Commission, the actual stub-outs were built to access other properties, where shown. This is a stub-out and will be connecting to additional development. This one, by circumstance, happens to be adjacent to the West Haven Property. The reason staff recommended the applicant look at connectivity is because of the longer cul-de-sac, all the way from North Street that goes east to west would have required two things, a wavier by the Planning Commission additionally in the Fire Department, it would require special acceptance by the Fire Marshall because State Code has a maximum allowance of 750 feet. Obviously if

we could accommodate a project and meet the state fire code and our codes as dictated in our Unified Development Code that is what we are going to recommend. With the second option that has been presented, it will reduce both of those.

Alderman Marr: That takes away the variance of the Planning Commission or the requirement from the Fire Department because you have connectivity in the middle that cuts that in half.

Jeremy Pate: Right. It reduces it to right around 750 feet.

Alderman Marr: Thank you.

Alderman Lucas: This property is against Stacey, they are not coming through Double Trees Estate are they?

Ray Haefele: There is a little strip that is connected to Stacey. It certainly comes as a surprise when you move into the neighborhood and a stub-out is not indicated. That's our concern. But more importantly it's really traffic. I mean you can see the volume of traffic that would come down in that area and drop down at Stacey and more importantly what it would do to the Double Tree Estates Drive.

Alderman Lucas: At that intersection they would have to stop before they came onto Stacey. This other way there is not a stop sign.

Ray Haefele: This other way right there is a cul-de-sac.

Alderman Lucas: I think in the original one what was approved by the Planning Commission there was no stop sign or anything there.

Ray Haefele: You would hope there would be. The speed of the traffic coming down off of Timber View is not our concern; it's the volume of traffic.

Alderman Lucas: It is out side the city we didn't require street lights.

Alderman Marr: Obviously you can't do this design unless you have that road going across. Can we have the developer or whoever speaks to that particular issue, because if that doesn't happen or there is not a way to shorten that cul-de-sac then we have a safety issue with the Fire Department.

Hugh Earnest, representing Hometown Development: Our position is very simple, we have worked repeatedly and consistently with the neighborhood, there have been several neighborhood meetings, this compromise is certainly acceptable to us. It seems to meet our objectives in developing the area. We certainly understand the concern with respect to slowing down the speed on Stacey and we have discussed this extensively and internally, this is acceptable to us.

As I understand and of course we are dealing with county regulations that make the cul-de-sac acceptable to the County Fire Marshall doing this. This was a problem in the earlier iteration which was the long cul-de-sac with no road coming across.

Alderman Lucas: That means that Planning Commission would not have to grant a waiver on this.

Hugh Earnest: Correct.

Alderman Lucas: So that eliminates that issue too?

Hugh Earnest: Yes ma'am.

Alderman Marr: Does this go back to the Planning Commission with us requesting that they look at this different design?

Kit Williams: I think that is correct. I mean you can turn down the appeal, you could kind of grant the appeal accept that I would be reluctant for you all to adopt this as a plat because this was submitted by a resident and not by the developer or you could return it to the Planning Commission with instructions. Are there any other options that you could think of, Jeremy?

Jeremy Pate: Not that I am aware of. No.

Kit Williams: Those are your three options that you have.

Hugh Earnest: Our request would be that this be handled internally, so that we may proceed with the development. I think it is the authority of the Council to do this without returning it to the Planning Commission, but I am going to leave that to you and your attorney's ruling on that, but our position would be that we would like to proceed with the development with the small changes that are necessary. With respect to the design it can be handled internally with instructions and discussion with the Planning Staff.

Alderman Marr: I don't have a legal perspective on it, but I feel that part of this discussion took place at the Planning Commission. There is a couple of commissioners, particularly at the subdivision level, as I read the minutes, all three of the Subdivision Committee member were comfortable about talking about this particular issue and so it seems to me that it should go back there. They have had some dialogue on it. I am certainly in favor of granting the appeal, but I think they need to make the design because they do it not in terms of a process, but that is just my thoughts.

Hugh Earnest: Thanks. I really appreciate the opportunity to be here.

Amy Buckner, 2668 Stacey Lane: It is lot number 27 that was approved and will be the only resident of West Haven right now. We support the plat that was approved and we're opposed to the appeal. The approved plat addresses the traffic concerns and connectivity by offering connections with Stacey Lane to the south. This means that at least 15 of the approximately 45 new lots of West Haven will not travel the entire length of Stacey Lane but will use the southern connections. The southern connection also allows cars to turn on to Timber View, which will require slower traffic on that part of Stacey Lane. Having the two connections on Stacey Lane better spreads that traffic more evenly among the three openings into West Haven. On a personal and more selfish note the changes proposed direct the majority of the traffic past our

house, places roads on two sides of our property and eliminates the lot which is adjacent to our property line to the north. The developer's sales contract with my mother, who was the seller, states that she is to be deeded lot number 26, which is directly north of our property. The developer is committed to keeping this agreement as long as the plat develops as presented meets code. I see no reason why he can't honor his agreement and have this plat approved. The original plat met the requirements of the subdivision code, already passed the Planning Commission and was approved. We feel that West Haven is a well thought out traffic responsibly development. We don't support the appeal. One suggestion, was to move the top of Stacey lane two lots to the right or left which would break Stacey Lane from continuing straight through the development. There is very little property on the other side of West Haven; Wheeler Road is not very far from there. There is not going to be a huge development on the other side. I guess I just don't see the traffic concerns. We all have children and I tend to drive slowly because I have children and I know that other people do to. Thank you for listening to me.

Alderman Lucas: Is this a safety issue, do we consider it for safety. We are trying to work a problem out when really what we're supposed to be considering is the appeal.

Kit Williams: If you were going to actually deny the preliminary plat then certainly you would have to say it is because it created or enhanced a dangerous traffic situation. You do have the option of saying, well it's neither approved nor turned down but referred back to the Planning Commission. You should only do that if you feel that there is a safety problem that can be better handled with a different drawing or a different plat such as the one that has been presented. But if you were going to turn it completely down then you certainly would have to establish that it created or compounded a dangerous traffic situation.

Alderman Lucas: If we turned it down?

Kit Williams: Yea. If you actually denied the preliminary plat.

Alderman Cook: Do you see the possibility that if we were to vote to send this back to the Planning Commission that we would come out with something that would be palatably to everyone and safe?

Jeremy Pate: I believe so. A lot of the same discussions were had at the Planning Commission in their discussion. I think with the motion of approval of the sub-division there were potential options. After the meeting, there was discussion that there were some changes that could have been made with certain motions to change the plat and those did not occur. The decision to appeal was an appeal to an approval of that plat. So if you approve the appeal then essentially, correct me if I am wrong, you are denying the preliminary plat. I think with direction from the Council and hearing from the neighbors tonight if you did refer this back to the Planning Commission we would put this on the next Planning Commission agenda and include the minutes from this meeting and repeat what ever is decided by the Council tonight for the Planning Commission to ultimately decide. If you could give them direction in what way to go as far as you recommendation as Council members.

Kit William: As Jeremy said it would be good if you would explain to the Planning Commission why you are sending it back and what you wish to accomplish by referring it back to them. You don't have to put that into the motion.

Alderman Marr: My intention of this motion was so that the Planning Commission will reevaluate it looking at the Double Springs preliminary plat and where connectivity was listed on that plat and try to incorporate those as opposed to adding new ones and not increase any unsafe conditions and deal with the cul-de-sac so it does not require a variance by the Planning Commission or County Fire Marshall to not meet their requirements.

Alderman Lucas: I know that this is not popular with the neighborhood but I don't like cul-de-sac even that long and this property does go down to Stacey Lane and it is reasonable even though there is not a stub out there that there could be a road out there. So I think that they need to look at all of it.

Alderman Thiel: I like that idea of moving Stacey over so it is not a straight shot. That, to me is a traffic issue.

Alderman Lucas: Certainly we can have four way stops or something.

Alderman Marr moved to send this item back to the Planning Commission for re-evaluation. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

This item was sent back to the Planning Commission for re-evaluation.

Mission Boulevard and Lafayette Street Rezoning Study: A resolution to refer a rezoning study and possible rezoning amendment of the Mission Boulevard and Lafayette Street area to the Planning Commission.

Alderman Thiel: I brought this rezoning study forward because my constituents asked me to. Alderman Reynolds and I both heard complaints about the use of the old Arkansas Western Gas warehouse as a salvage yard at most of our ward meetings and individually. Recently I met with the neighborhood about this problem and based on that meeting they have signed a petition to rezone their own property in order to rezone the entire block. The resolution before you tonight would refer that rezoning study to the Planning Commission. I own two houses a half a block from this property. My father built those houses when I was a baby and I grew up in that neighborhood. I have discussed the issue of a conflict of interest with the City Attorney and he assures me that there is none. So I would like to hear comments from the other Alderman and from the public.

Alderman Marr: We had discussion with their neighborhoods, and actually this area on the other side of the road is the area that I hear from more so than the side that abuts this property as relates to noise in the industrial use as it is bordered residentially. But there were concerns, I think all the way around, everyone feels like we need to look at this issue and we need to address it, but we also need to be sensitive to property rights and zoning and things that people have. I think that I mentioned at agenda session; my concern was the request for the expansion permit, which I think generated some of this activity. So I went and visited with Mr. Lindsey to try to see what alternatives there were. Ultimately, I think that he would agree, he is here tonight and speaks as himself, no one would design this and have an I-1 surrounded by all of this residential.

The reality is that we also heard Tuesday night that even if we went with this down zoning process of study and movement that that property could continue to operate as a none conforming use, indefinitely, for ever and ever as long as there is not a six month gap in that use. So, I think that we are dealing with something that is not just going to go away. And so part of my mind set went into can we talk about hours of operation, can we talk about additional screening, and can we talk about how it works today, because regardless of what happens ultimately we still have to get along. So when visiting with Mr. Lindsey, I threw out every option that I think we talked about. I threw out if we could get commitments not to expand this operation at all, that's certainly a concern with the neighborhood. I threw out any interest he had in down zoning his property and he shared with me at the meeting that is a concern. Obviously, even if he goes to down zoning in the future that under the ordinance of that, if his building needed repair above 10% or some percentage I think that Tim shared with me, that he would not be able to do that and that was obviously a concern of his in the down zoning. Or if a tornado happened to hit in this area, it would be kind of like my garage was on Mt. Nord, you wouldn't be able to build it back. So he had concerns about being able to in that down zoning do that. He also felt that he had property rights and that there is court guidance in reverse condemnation and some of the impact on him and that I would hope that we could work this out with out going through the court system. And thirdly we talked about swapping land, finding another piece of land that may be more appropriate, but that needed to be land that would be economically comparable so that he would have warehousing space and allow what he is doing in the space off of Mission and Maple. I think there are still discussions that would be beneficial and so what I hope that we will do is look at tabling this and continue those discussions before we get everybody in different camps to see if we can really work it out for everyone. I think Mr. Lindsey is committed to not expanding that operation with the permitting process. And I know that he met with the City Attorney, I wasn't at the meeting, so Kit may have information on how to address that. Personally, I wouldn't be interested in changing our ordinances that allowed him to repair and replace, but I do think that there might be ways that we could look at that that didn't change our ordinances for all of our zoned property. So that's a recap I guess of what we talked about.

Kit Williams: Tim Conklin and I did meet with Mr. Lindsey and his attorney, Mr. Stanley, and talked about those issues, many of which Alderman Marr has already talked about. We did look at the difficulties in trying to meet his expectations and yet the neighborhoods expectations too. And the first goal that we thought would be acceptable to all parties at this point in time is trying to at least keep the status quo. Mr. Lindsey had been looking at possibly building another warehouse maybe increasing his operations and I think that was one thing that made the neighbors very concerned, so I think our first goal would be to maintain the status quo so the neighbors can be assured that there will not be any further expansion at this point in time, but also assure Mr. Lindsey that we are not about to go and do something that might adversely effect him in the future. To try to reach that goal, we talked about many things and actually his attorney presented an idea of a possible bill of issuance and we talked about that for awhile. I think what we eventually came up with is not a bill of assurance, because we are not actually rezoning, and that is what you actually do a bill of assurance to encourage you all to rezone, and he wants us not to rezone, so basically it would be more of a contract, between the City and Mr. Lindsey where he would agree not to build any further structures at that location and we would agree not to rezone. Both sides would have a right, with proper notice to go ahead and attempt to rezone it or something because you all can't firmly bind a future City Council about rezoning. That would, I think assure, for a period of time a status quo while we try to work on a more long

term situation because I think in the long term it is really going to be better for everybody involved, if this industrial use can be moved to a more appropriate location. Mr. Lindsey has an investment in this and so what we need to try to do is work out something that would recognize his investment, not force him to take a bath on this, but still attempt to get this property back into a mainly residential state, probable multi-family but not as high density as what has been talked about at some point and something that the neighbors would be able to feel like was a good solution to this problem and yet something also that Mr. Lindsey is comfortable with. Part of this property, of course, has giant gas mains under it, high pressure gas mains. It has a building that is nothing but gas valves and meters and things like that and so that is going to cause some difficulty in developing that property any way, because you are not obviously going to put residential structures near a high pressured gas main, it would be too dangerous. But I think that if this is tabled tonight, it will give me a chance to work with Mr. Lindsey's lawyer to come up with a contract that I can then present to you all and see if you all would accept that and that would pretty much put every thing on hold in the status quo right now. So there won't be any larger growing problems and give us more time to work out what I would hope to be so sort of a better final solution on this. But that will take some negotiations and some consultation with the City Council and what you are willing to do and what you would like to do and what the neighbors want to do as well as what Mr. Lindsey feels like would be fair to him to. That's a much longer process and that's why I think hopefully at your next meeting, we would have a contract that would kind of hold everything in that status quo while we under go these other negotiations. Mr. Lindsey is here, Tim was at the meeting, if they want to expand on that at all I would be happy to let them comment on that. Certainly Mr. Lindsey needs to, I don't want to speak for you.

Jim Lindsey, owner: I will say this, in my business life I don't know if I ever made a dumber call in calling Tim. Certainly I knew the sensitivity of that issue over there. But, we had planted some shrubs and done some different things and we were going to give that old building, the main building a complete face lift and expand it for about five or six thousand feet. It was going to be a far superior building after we got through with it than it was before. We had stuff stored in an airplane hanger and I was going to move it down there. That was my whole intent of the call and he was doing his job when he told the proper authorities. I don't know about anybody else, but I hadn't had a complaint myself in eighteen months or so. But I did go brain dead, and call him and asked that knowing how sensitive that was over there. To that degree and extent, I apologize, that was not very smart. But my point is I am willing to take a position that we will leave our buildings like they are. I would be willing to go to the zone that all the neighbors are, right now. If I applied for rezoning there is no assurance that five years from now that I will not have a conditional use situation and I might not be able to repair a building if a storm came through. 10% is an official minimal damage issue and so I guess to my point of view, that I would like to reverse myself, apologize for the call. It was really an informational call more than it was a demand call, but at the same time I would like to use the property as I bought it. I know there has been a letter that's out there. The letter is never on record, in fact the first time I saw the letter is just recently, in the last week dealing with what the Gas Company had said to their attorney about what they might do or what they wouldn't do and all that. And I have agreed and sent Tim a letter that I would not sell this for more intense use than it is now. So I guess that I could say to myself the letter I sent him, when I said I am going to talk to him about adding on to the building, I may have even violated that letter. I don't even really know why I made the call I just new we needed some extra space and I just thought to myself that if I am going to give the building a facelift, it might be something that everybody would see positively and really I have

told the neighbors and say it again tonight that if they want us to plant some trees on their side of the fence, we will do it. We have already planted trees on our side of the fence and we want to make that a better place. We have restricted the hours, if that's been violated I would say that it has happened without my knowledge, but we have restricted the hours of the site so that it would be during the normal working hours and hopefully all that has been abided by. We do want to be a good neighbor, I would be the first person to say that it's out of place, in the middle of those houses, although I think it was there before all those houses were built, I don't know. But I think that's right. So through the process, I would want to tell you all is I am in a mode of corporation, I think it was a wise move for somebody like us to be adding on, for Alderman Thiel or whoever did it to call this up. What we would like to do is move back to the position we were before to continue to landscape, to isolate this place so that in really retrospect we would be able to say to everybody here that we all agree with what we are trying do and that is to buy some time. Buy time for the situation to get to a point when it makes sense to do this. One of the complications is the location is a valuable location, for its location. When you walk inside that building it has got all those valves and gauges and everything in it, it makes you a little nervous about what you would build there. It would make you nervous if it was a park, easement criss-crossing and all that goes with it, but I would want to say that to the degree and extent that I came up with that and called knowing the sensitivity. It was one of the less bright things I think I have done in my life, so to that degree and extent I apologize and we would like to rework ourselves through Kit, we would be willing to put a convent on record that goes into this agreement, how ever that is finally worked out. If any one has a question for me, I am here.

Alderman Reynolds: Mr. Lindsey, the visit when I talked to you, you called a foreman at the site and the foreman said that you have no pressure, you have no compactor, which you put these items in a bin and a front end loader mashes them and he said he has those limited to five days a week from eight to three or something and then he doesn't do it on Saturday and Sunday, only if it is really necessary, but hardly ever. That was what I wanted to relate to the neighbors and I haven't heard any noise complaints in quite sometime, so I think you have got that cured, but I think that rumor was out there that you had bought another piece of property close to this and you said that it not true.

Jim Lindsey: That's not true. I don't own anything but this. I apologize to the neighbors too, by the way because that was a real insensitive call that I made to Tim. My mind was that I was going to improve my building, upscale the build, change the outside of it, make it look better, extend it a distance, that wasn't very good judgment.

Alderman Jordan: Thank you for coming.

Jim Lindsey: Thank you all.

Alderman Marr: Mr. Lindsey, we just don't want it expanded. I think that the thing we hear about is the noise and if you ever decide to sell it, I would love for the City to have the first right of refusal on that piece of land. That's something we hear all the time.

Jim Lindsey: As far as I am concerned we could put that in the document to. I don't have any kind of a problem with that and I appreciate everybody's concern enough to even deal with this. And for you guys to call us and talk about it. I thank each one of you. Thank you.

Alderman Ferrell: It sounds to me like reasonable minds can get together here, Kit said he thinks that something reasonable can be worked out and I do too. I think we should just try to get together and work this deal out. What did you call it Kit, a contract or something?

Kit Williams: Well initially I had proposed a contract to you that will basically just hold a status quo, you'll agree not to increase and will agree not to go forward with the rezoning until we give him notice which would allow him to get a building permit. Because he could have got a building permit before tonight, nothing that the City Council could have done would have stopped that. The building permit would have been good he knew that, because I think that he talked to Alderman Thiel, Alderman Marr and Alderman Reynolds and he agreed not to go ahead and pull the building permit because of the fact that we wanted to work with him as opposed to trying to just be confrontational.

Karen Reese, President of the Washington Willow Neighborhood Association: I appreciate the fact that Mr. Lindsey would like to work with us on this, because I think it is really important that we find a way to work this out. The current use of that property is not conducive to neighborhood living and we border it and the Mt. Sequoyah neighborhood also borders it. So it's not great, it's not good for us. Mr. Lindsey's campaign slogan or his advertisement slogan is 'We bring good neighbors together' and this isn't happening in this situation but, I would challenge Mr. Lindsey to consider, I know there are gas lines there, but to consider donating this, surely he can get a great tax break and Mr. Lindsey you probably need a tax break. So I would ask you to donate this land as a park, I would be willing to call it the Lindsey Park, and take this industrial use out to an industrial area so that we don't have the noise and we don't have the trucks coming down our streets. He has planted some nice Crape Myrtles out side the fence, but it is still not conducive to both neighborhoods. So, I am glad that he wants to work with us and that something can be worked out, but we do have hundreds of signatures from our neighborhood, Washington Willow, and I think his daughter probably still lives in our neighborhood, I am sure that he wants to insure that we have a quite, calm, safe, neighborhood where there's not this grinding noise and even if it is happening at two o'clock in the afternoon, its happening. Some people have odd schedules and it's just not good for the surrounding neighbors. So I would just ask that he consider doing something like this and we would really appreciate it. And I think that he could sell a lot more houses if he would do that. Thank you.

Alderman Jordan: Thank you Karen.

John Crone, Landscape Architectural Professor at the University of Arkansas: I appreciate this opportunity, I actually don't live on that particular street, and I appreciate this opportunity simply just to make a comment. I also am in a rental business in a very tiny kind of way with only a half dozen houses, but I do own some property on the extension of Lafayette. Just a few points of clarification are in order. I think that the Gas Company when I spoke with them last fall, it was something like a half an acre in there and certainly it is not uncommon for residential areas to be built in proximity to them or for other uses to take place. I mean that the Gas Company is aware of safety issues and certainly doesn't want to be liable, so I do think that there are a number of possibilities that can be worked out, referring to what you said, Kit. I am concerned that the point we make, that the time frame that you mentioned actually has some limits on it. In other words if you're suggesting that yes lets work together on this, I think that people in the neighborhood might listen if it didn't go on for the next five years. Did you have a time frame in mind that you have spoken about with Mr. Lindsey?

Kit Williams: Much less than five years, but I am not sure how long it would be, but in my opinion I would want to have something back within two or three months that I could present to the City Council as a possible solution. It doesn't mean that the City Council would feel like it is the best interest of the City to do that, but it would have to be something that is acceptable with Mr. Lindsey and to the City Council as well as the neighborhood and sometimes those are a little difficult to draft to make everybody happy, but I agree with you, I don't think it should be a very long time frame. If it is, then basically we are just right back to where we started. I would like to try to see if there is a way we can actually solve this problem. I am not sure if we can get there but I am going to try.

John Crone: Thank you. The only other point is that there is this issue of rezoning and I think that as part of that if you could look at this or at least have your Planning Department look at the possibility of this whole notion of an R-6 in there. I think it would add to the neighborhood some guarantee that something strange isn't going to happen in the future with or without Mr. Lindsey. I think everybody is interested in the quality of life issues here. This is certainly part of Fayetteville that has a very long heritage and it strikes me that as you go through this if there is a way to kind of keep the issue here on target that it would certainly be part of this solution, because I do think that part of that area is zoned something like 24-units per acre which I find a little odd that far from the core of a town where that type of thing usually does occur. Thank you very much.

Alderman Jordan: Thank you.

Camellia Roman: I have two modest properties on east Lafayette directly on southeast Lafayette directly in line with Mr. Lindsey's yard. I just wanted to make a couple of quick observations. I was listening to the agenda item that immediately preceded this one and I heard a tremendous response on the issue of safety and it has already been brought up tonight. But I really appreciate, Mr. Lindsey, that you tried to beautify the property and planted the Crape Myrtles and put up the fence, although I don't like the fence very much. The issue has already been mentioned.

Alderman Jordan: I might ask to address the chair.

Camilla Romund: I am sorry, these huge trucks, beautification is a separate issue from the traffic, and we are all aware of that but I worry so much about the kids in the neighborhood and the adults. We have so many walkers and so many bicyclists and these huge trucks coming through, I just noticed that there was tremendous emphasis on safety in the agenda item previous to this one and in this one it seems that property rights were ruling and I didn't hear a word about safety out of anybody up here, so that is central to me. It is tremendously stressful to try to come home from a high pressure job at lunch everyday and try to relax and hear the noise decibel from the grinding and it puts you on edge. I have called within the last eighteen months and reported noise problems anyway I am singing to the choir out here, but first and foremost we should have the same safety consideration that other areas of town have. And then the other issue is the habitat for varmints because we have a lot of problems with mice in that area of town. There are a lot of issues here and I know they have been brought up before, but safety should be equally distributed across the City of Fayetteville and we all need peaceful neighborhoods. Thank you.

Alderman Jordan: Thank you.

Steve Winkler, Property Owner: I own 654 East Lafayette that adjoins the subject property and I owned property next door there for about 20 years. I feel like this is kind of a de-ja-vu, it's what they call a flare up. The people in the neighborhood get kind of upset about every three or four years and I have documented it over the years. We are quite familiar with it, Alderman Reynolds, Alderman Thiel have dealt with it. And there are some new ones so I will just give you a brief history and try not to be repetitious, but be brief. The Gas Company built there in 1926. The City went through the city wide zoning and I know my dates aren't exactly right, in the early 70's. There were many mistakes made in their city wide zoning which they admitted, mostly in the south side. They zoned that property where the Gas Company was; when the Gas Company built it it was outside the city limits and it was boarded by Tanglewood, Dogwood, Lafayette, and Maple. Even though there were houses on there, they zoned them also in the I-1. They made the mistake there because they should have zoned it as a residential neighborhood with a non conforming use because no one ever intended that to be an industrial neighborhood. And the area grew up around it, there was some light neighborhood commerce down on Mission Street and I bought property in there in 1974 because I located a little treasure there. I found a little industrial zone that was surrounded by residential property and I saw a gold mine. Because there is just a lot of things you can do in an I zone that you can't do in a residential zone and yet you have the ability of being close to the residential piece, so I was a pretty smart cookie and opened my salvage yard there. I was tearing down houses at that time. A fellow applies for a permit to put in a little neighborhood nursery, down on the corner of Mission. But when that activity began to happen in the neighborhood, it was a big deal. They did not want any commercial activity or any industrial activity in that neighborhood and they came around and visited me and other people and tried to persuade us to relinquish our I zone. I said well I bought I zone and I have my property rights and I think I should be here. So at the meeting, there were three of us that objected. There was the Gas Company that didn't want it because they couldn't expand their buildings and they weren't able to add on and they had already gotten property they had bought in the industrial zone down south of town. They weren't quite ready to move and it would be a hardship for them and they just didn't want that zoning. They didn't want to zone it; I didn't want to change the zoning because I was operating my salvage yard in there. The fellow on the corner that had the little building there that was rented for what is now the bakery, he objected. But over time, the City Council members came and talked, they said the direction of this neighborhood is residential. They said that we don't want this to go commercial and such that and I said but look, I have made an investment here. I am not just a resident, I was single then. And I said that I want to be able to maintain my investment in this property. I will go along with it if you will zone it R-2 that way I could build a duplex or apartment or something like that and the Gas Company if they will revert that back because why would I want to have a R-2 next to an industrial zone. So I said that if I am going to go for the R-2 I want them to change and they stood in a meeting just like this. They stood there and it is in the minutes of the meeting, all on record, 1975, the Gas Company representative said that when the Gas Company moves we will inform the City and at that time we will revert back to an R zone and will tell the City when we are going to move. So I will go along with their rezoning. The Gas Company is there and in about 1991 the Gas Company moves and the place is sitting empty for a while and the Gas Company installed, I guess they thought that they had vandals over there, so they installed some huge lights like some airport lights and you couldn't go out of your house at night without shielding your eyes. We called our Alderman at that time, Mr. Williams, and we petitioned and the place was empty and abandoned and went before the Planning Commission or something like

that to get something done about the lights and they did change it back to normal mercury vapor lights. At that time we pointed out, we didn't really have a neighborhood association at that time and we pointed out that this was not supposed to be there anyway and I got a letter from Mr. Williams saying the he would look into it. I checked on any historical agreements that had been made and it still sat empty. Well the next thing we know there are some buildings being repaired over there and we found out that there's a new owner. So what made the neighbors notice was that there was increased activity. It was obviously back in operation, so the City missed some opportunity there, first they shouldn't have zoned it that way. Then they missed a chance to make it right while it was empty and then we had our neighborhood association developed and we talked and they called and petitioned and were often time told that there was times we were going to march the City Hall and they said no that it would hurt the deal and they said that they were talking with the lawyers and this is all documented stuff I am telling you and that was in 1991 and then in 2002 that was when they did this thing, no one really knows what happened to that idea. Mr. Conklin has been familiar with this for a long time. They realized that they had made mistakes in the zoning. They were going to go around the neighborhood and was going to survey the neighborhood and see where the problems were and we were next on the list. I remember at a meeting they had up at Mt. Sequoyah and somebody from the City said you guys are going to help out in this survey and we are going to expose and look and see where the problems in the zone exist in this neighborhood it was cancelled. Word was that the Mayor said that there were more important things to do basically and it just went away. And so what I am hearing tonight is what I have heard before. And I have heard them say that we are talking to the lawyers and it was nice that someone said that let's put a time limit on this. We have talked to the lawyers in 2001 and 1991 and you know there is a lesson here for the citizens of Fayetteville and that is if whatever anybody of the Council means nothing with out some kind of legal bill of assurance. You can go out make personal guarantees and talk and whatever is said in this room, whatever the developer said in this room, whatever a citizen said in this room that they are going to do matters not unless it has the lawyers behind it. But that is what the lesson is here because whenever you go to the City Attorney's office they'll say well you know we didn't get the bill of assurance-so we really can't do anything about this zone, this industrial zone. You can walk up and down City Hall and say who thinks this should be there; no one thinks it should be there. This shouldn't be there, this is a mistake. The only thing that defended it is the argument that it has been there a long time. Like a wart on your nose, you can't do anything about, it's been there along time, well that's it you can't do anything about it because it's been there a long time. That is the only argument that anyone has ever made why this industrial zone sits in the middle between Mt. Sequoyah and the historic district, prime property in Fayetteville.

Alderman Jordan: I might ask you to come to the point here.

Steve Winkler: The point is the City Director's, the Councilmen could do something about this issue and what we are trying to do now the way I understand it is to just down zone. No one knows where this R-24 came from, if they can actually do any thing that's great. They just need to know that this is not something new, it has been festering since 1975. I appreciate your time. Thanks a lot.

Alderman Jordan: Thank you.

Nancy Williams: I live at 716 East Lafayette. The back of my property abuts the industrial zone. If you look at an aerial map of our area you will see an ocean of houses and a little island

of industrial activity, which we talked about its history and historical circumstances in it being there. Since last Thursday, the workmen at the site have been tidying up a good deal. It's kind of all neat now and a little bit quieter, maybe they are expecting company, I don't know. Fayetteville is a city of wonderful neighborhoods that support and foster family life. Traditional neighborhoods provide safety as they play and come and go from school. We have mentioned tonight that we are extremely concerned about the truck traffic in a neighborhood that has children. These are huge trucks; they are eighteen wheelers and Lindsey Construction trucks and everything down from that. Neighborhoods provide the peaceful enjoy of property. In 2002 my elderly next door neighbor was being cared for by hospice at home and was accompanied to his final rest by the constant beep, beep, beep of back-up alarms, and the crashing of old couches into dumpsters. Neighborhoods provide for stability, financial stability for one thing for families and we believe that the presence of this industry is detrimental to property values. The worst of fact is, in my immediate neighborhood is destabilizing effect of this property. Over the last three years, three of eight families have moved away from my block, either partly or entirely because of this industrial site. So we are hoping that you all can work together to restore the integrity of this neighborhood. I would like to share with you three things that surprised me when I was canvassing our neighborhood for signatures. One was that I was told that eighteen wheelers are coming down one of the oldest streets up there and is very tiny, narrow. It must be quite a sight. The other thing that surprised me was how many people think that the City owns this property and the last thing that surprised me was the vehemence of the resentment especially up the hill. People told me that they were embarrassed by this industrial presence and that when they entertain friends from out of town they try to find some other way to drive to their house so they don't have to go by there. And of course we have the Mt. Sequoyah Methodist Retreat up there that brings people from out of town continually past that place. We appreciate very much your efforts to restore the integrity of this neighborhood. Thank you.

Alderman Jordan: Thank you.

Paul: I am a resident of twelve years, about a block away from the Lindsey property. When I here you say that you want to resolve this in a two to three month time, to me that doesn't seem like enough time because it is such a complex issue. There are so many things involved here as many people have mentioned, we have been to dozens and dozens of neighborhood meetings where this is the number one issue, where we have had present day Council people attend as well as in the past and they have always said we want to do something about it but our hands are tied. We just can't do it, its zoned industrial. Another issue is that that's my understanding is that the Gas Company did some processing on that plant which may have resulted in that land being polluted to the point of it being a toxic site. I know I have walked by that site many of times and seen piles of appliances and thinking has there been any leakage. So it seems to me there are a lot of different issues that the city has to take into consideration here. And I wish that they would take their time and do it and resolve it once and for all on a long term basis not just come back and say it is not going to expand but it is going to be there for ever, because that's just the way it is. Thank you.

Alderman Jordan: Thank you.

Cynthia Peven: I own a house at 514 Mission Blvd that's just the second house from Maple Street north on Mission. I grew up down here around this Gas Company because my father was Arnold Kristy; he was the town plant manager for Arkansas Western Gas so I spent a lot of my

childhood and youth on and off of this Gas Company warehouse property. To say that the operation there is equivalent or the same; it is in no way equivalent or the same. That Gas Company property has been there since before some of the houses in the region were built. My father used to tell stories about there not even being a street where Maple Street is, in his youth. The Gas Company was already in that area and that's where they brought the gas line into town and brought gas into Fayetteville. However, that doesn't necessarily excuse an on going free pass to get this in any type of industrial use that anybody chooses to make it. When the Gas Company operation was there, that was where they kept their heavy equipment, their pipe, their industrial supplies for welding and cutting and parked their trucks and things like that. And it was a very industrial operation, but at the same time the Gas Company made an immense effort to keep that clean and tidy and habitable and to be something that the neighbors in that area could live with. The gas company at some point realized that that site didn't suit their interest and so they sold it and built a larger warehouse facility and in a more appropriate setting. Mr. Lindsey came into this deal at some point when it passed from the Gas Company and maybe SWEPCO's hands. It may have gone through several cooperative renaming's. He came into that at about the same time he bought the Leach Property out on Joyce Street and to say that we are going to harm him financially in terms of the use of his property, I think he has probably realized quite a bit of that investment back even up to this point. Just as a resident, a homeowner, there in the area doesn't want the status quo to go on indefinitely. Mr. Lindsey was saying that it has been eighteen months since he has heard a complaint, that's because when we all come down and complain we get redirected to a new person. Most recently we talked to the planner and we have talked to our Council people. We have talked to Mr. Lindsey and each time it is we will look in to it. Then eighteen months later nobody has heard back, and it is time that we start talking about it again. Just to say that we are going to keep him from making it more industrial, begs that point, it's not appropriate in the site. It's not attractive at the site, the fence is not attractive, the noise is not appropriate, the traffic is not appropriate. It goes up that narrow little street on Maple Street; it goes through that four-way stop between the state highway and Maple Street and trucks and heavy equipment are not needed in the area. Surely we own property in the City of Fayetteville that we could consider some sort of trade. I know that we went through great lengths to establish an industrial park on the south end of town. Surely there is appropriate property for this operation down there. If the Gas Company was so concerned, now I am the first one to say, you know the main line goes through there, it goes under the lot across the street where the community garden is. But if the Gas Company had a safety concern about that main line, they would never have sold the buffering surrounding property. Now Mr. Lindsey is an extremely creative person and an extremely intelligent developer and I challenge him to come on board and work with the City of Fayetteville, look for an alternate site for this recycling operation, because if it were his case he would not want to live next to it. None of us want to live next to it; none of us want to have to try to sell our houses next to it. You know this could be a very attractive development place. The neighborhood of course would first and foremost like to see it converted into park land because the nearest park land is either up on the hill at the water tower or over across College Avenue at Wilson Park and the Historic District actually has no park of its own. So that the neighborhood would find a very acceptable use, but I personally would find him developing into townhouses, developing it into some sort of attractive neighborhood use, very acceptable. I have no problem with him buying houses that front out on Mission Street and squaring the block and giving it a more coherent unified use, but the uses that it is now is nothing but a burr under the saddle of that neighborhood and we would like to come on board with the rest of Fayetteville and say we too feel like the interest of our neighborhood are being served. Thanks.

Alderman Jordan: Thank you.

Alderman Thiel: Well I think some very interesting points have come out here. I do think that in fairness with some of the previous discussions with Mr. Lindsey that we do need to table this for three months. I think there needs to be adequate time to work out a permanent resolution to this issue. The City Attorney referred to some type of agreement coming back to us in the very near future that would stop any action. There are actually two issues here, this was a rezoning for the people that have actually signed off on rezoning their own property and I am not sure what to do with that aspect. I think most of them are inclined to want to rezone their RMF-24 to RMF-6.

Kit Williams: I might suggest instead of tabling this for a long time you might table it to the next meeting or the one after that and amend it to remove the Lindsey land from it and then you could still go forward with the other property and ask for a study of the other property where the people have signed a petition to reduce the zoning from RMF-24 to RMF-6. The neighbors need to realize this initial agreement is only for the status quo it is not supposed to be forever that will not be a good solution for the neighborhood if we can't work out anything with Mr. Lindsey then probably rezoning it and making it a nonconforming use is better in the long run.

Alderman Thiel moved to table this resolution to the December 6, 2005 City Council meeting. Alderman Lucas seconded the motion.

Alderman Marr: In my personal discussion with Mr. Lindsey we talked about finding another piece of land if it was comparable that this would be moved to. That is not something that is not being looked at. That is one reason that we talked about needing more time. On the rezoning request, I don't want to make the people I represent mad, but I think we have to be careful that if we flip the table and it was reversed, if Mr. Lindsey came in with a zoning petition and wanted the entire area to be I-1, we would be looking for the property owners of each of those lots to talk about what they liked on that particular property. I think it is appropriate for the people that want to petition their land to be down zoned to be looked at just like we did on Mashburn. We didn't take property on Mashburn from people who didn't want their land rezoned to be in that particular study. I think we need to try to appeal to Mr. Lindsey and look for alternative solutions to the I-1 property. I tend to think of it in two parts, the I-1 piece I do think is your three month time period and the rest of this map that you gave us is what we come back and talk about at our next meeting.

Kit Williams: I would just remove the I-1 from this resolution.

Alderman Marr: I think we want the time to continue discussions with the city, Mr. Lindsey and the neighborhood to see if we can identify something because just doing land isn't an equitable exchange when we are talking about warehousing space and the ability to do the operation. We have land in the industrial park but what we are trying to do is find land that has a warehouse and we can move the operation and there is not a negative impact and then we can take this land or the other option is to try to buy that land.

Alderman Thiel: As part of the contract there will be a time period for negotiations.

Alderman Reynolds: I am trying to find a replacement for Mr. Lindsey and it is going to take a while to get that done. I think we need no less than 60 days to find an alternative.

Kit Williams: I will propose a contract to you at the next meeting that will hold the status quo as is. That will give us time to try to find a final solution to this problem.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

This item was tabled to the December 6, 2005 City Council meeting.

R-PZD 05-1635 Fallingwaters: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1635, Fallingwaters, located east of Dead Horse Mountain Road, containing approximately 136.70 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. He stated this proposal is for a 258 maximum single family residential lot subdivision. The applicant has proposed the dedication of 6.2 acres on the top of the hill. The lots range in size from 800 square feet to almost an acre. There will be an area dedicated for a water tower. A water tower is needed to adequately serve this project. This property is located in the Dead Horse Mountain Road bridge assessment area and there are fees that will be assessed for it being in that area. Staff and the Planning Commission have found that this proposal is consistent with the General Plan 2020 for this area which is residential. We found that the development and the rezoning proposed is compatible with surrounding properties and is responsible to the unique environment in which it is placed. He stated there are a number of conditions for approval.

Jeremy went over the conditions of approval for the project.

He stated the assessment fee for the bridge would be \$118,654.05 for this development. The phases are projected out over six years. The Planning Commission recommended 8-0 in favor of this project and staff is recommending approval.

Alderman Thiel: I really like this project and appreciate the developers working with staff.

A discussion followed on the need for a traffic signal due to this development and other developments in the area and when the traffic signal will be needed. Jeremy stated they feel the developers in the area should be assessed a fee for the cost of a traffic signal. Jeremy said we would not charge any developments that have already been approved by the Planning Commission an assessment fee.

Alderman Reynolds: Areas to the east of this property have problems with their water pressure. Is this project going to be on the same line that those people are on?

David Jurgens, Water & Wastewater Director: This is being discussed by their engineers and the city engineers. He discussed the possible ways the lines might run. He stated that pressure problems are normally caused by leaks or breaks in the lines.

A discussion followed on the water lines in the area and the water pressure. They also discussed the building of the water tank and when the anticipated construction of the tank will be.

Alderman Ferrell stated he likes this development. He asked if the fees for the traffic signal will be captured from this development and other developments in the area.

Jeremy Pate: If that is the direction that is given by the Council then that is the way that we will go.

Alderman Lucas: Is the assessment district cost calculated on the cost for a signal now and is that the amount you assess all the developers?

Jeremy Pate: That is correct.

Alderman Lucas: When the signal is installed will it cost more and who will pay the difference?

Jeremy Pate: It has been our policy for a long time to establish a cost at the time of the development and that cost would go forward.

Ron Petrie: We are suggesting the traffic signal be set-up to where the city does not have to pay anything. Once we reach that point, whoever is developing at the time will have to pay for installation. They will be able to use the money we have already collected towards the cost but they will pay for the remaining cost whatever that amount is. That will probably not be the case for the bridge because we will need the bridge before we have the money to pay for it.

Tom Hennelly, H-2 Engineering gave a brief description of the project. He stated they feel the traffic signal assessment should be phased in as each phase is completed. He also stated they feel the park land should be dedicated as each phase is completed. He stated they are requesting five waivers.

Alderman Thiel moved to amend the ordinance to state the applicant shall submit a deed for the park land as required by each phase prior to recordation of the final plat. **Alderman Ferrell** seconded the motion.

Alderman Marr: That still locks in this center piece park land in this PZD so that they couldn't come back later and say we do not want to do that section.

Jeremy Pate: That would take your approval or denial.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Marr: We talked about the assessment; I am not against that concept. I am just trying to get a feel about how much has already been done. If we go this assessment route versus

the way that you had it what would that wording be and is there any reason that you didn't do that to begin with.

Ron Petrie: It is primarily this now because we didn't have enough data to do it the right way that is my opinion. So, we went the very conservative route and said do it all in Phase I. I think what is being requested is fair in that we determine what the trigger point is, we determine the cost and at that trigger point the work has to be done. If another development comes in, in the mean time, they will get charged a portion of it too. I think it is the fair thing to do and what we would have done if we had all the information at the time.

Alderman Marr moved to amend the Condition #1 of approval to state with the approval of staff, will determine the cost of the improvements, staff will determine the time when the improvements are warranted and we will charge a per lot price to this development from the first lot to the lot that triggers the improvements. Alderman Lucas seconded the motion.

Kit Williams: I think it actually makes a lot of sense. In conjunction with that if another development comes then they will be assessed.

Alderman Marr: This amendment is with the idea that once these cost estimates are set and this development is assessed, if it crosses that threshold, and we will have this assessment district set-up for all future development in this area.

Jeremy Pate: For those other developers that are watching this project and are waiting to submit their preliminary plat, they may be the trigger point and they may be installing the signal if they are coming through with 250 lots. We are not waiting on this development's final phase to get it all plated out. I just want to make sure that is clear for everyone and the public that is listening.

Alderman Marr: That is certainly my understanding, the way you presented it.

Alderman Cook: What is the time frame as far as assessing the cost for this and setting up the boundaries of this assessment district? What is the time frame of that?

Ron Petrie: It will be anybody where traffic can go this route. We have a rough idea because we have an assessment area for the bridge and that was based on traffic. So we pretty much have the boundaries set today by knowing that is what the Council wants.

Alderman Cook: Have the costs been determined on the improvements of that intersection?

Ron Petrie: No.

Alderman Cook: What is the time frame on that?

Tom Hennelly: That will happen within probably 10 days. We should have that as soon as we are able to quantify exactly what the improvements are based on the State Highway Department standards. Part of this is our fault, when we requested the traffic study I did not anticipate this signal being part of it but once it became part of it and we were made aware of it and we got

back with the firm that we hired to do this traffic study. We had not gotten the information back from them as quickly as I had anticipated. I do apologize for that.

Kit Williams: If the City Council changes the conditions of approval as suggested by Alderman Marr where we don't actually have the dollar figures yet but you are going to supply them to us as well as the increase in traffic are you are in agreement with that condition of approval.

Tom Hennelly: Yes sir.

Alderman Reynolds: Has the Hall property come through yet?

Jeremy Pate: No sir.

Alderman Cook: At what point is this assessment collected?

Jeremy Pate: It is collected at the time of final plat. Prior to us signing that plat and it being recorded at the County we would get that check.

Alderman Marr: The cost that is established will be done with the staff's approval.

Jeremy Pate: Correct.

Alderman Reynolds: With this assessment is that going to everything south of Highway 16 and east of the river? Everything over there is going to impact that intersection, that bridge and everything over there.

Jeremy Pate: Most likely. The bridge assessment currently kind of follows the river, everything east of the river and south of Highway 16.

Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Reynolds: I want to make an amendment. We have not set up the assessment district yet.

Kit Williams: I think the amendment that Alderman Marr suggested and you just passed will in fact set up that district.

Alderman Thiel: Since we have not heard anything negative about this then I am in favor of going forward.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-1. Alderman

Jordan, Reynolds, Thiel, Marr, Ferrell and Lucas voting yes. Alderman Cook voting no. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Ordinance 4795 as Recorded in the Office of the City Clerk.

RZN 05-1754 Park West Heights: An ordinance rezoning that property described in rezoning petition RZN 05-1754 for approximately 26.28 acres located at the south east corner of Highway 112 and Deane Solomon Road from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated staff is recommending approval. He passed out a graphic showing the conceptual drawing of the property and the relocation of Deane Solomon Road to make a safer intersection. This concept was presented by Mr. Hoskins, the applicant. There was a request for traffic numbers and I utilized the Sam's Club traffic study to indicate what the existing traffic count in that area was and nothing really has developed since then. They indicate at peak times there is 655 vehicles in the PM and 661 in the AM and a total 24 hour volume of approximately 7,400 vehicles on that road.

Alderman Jordan: So that road is more that adequate in your estimation?

Jeremy Pate: At this time yes.

Alderman Lucas: At the Planning Commission there was a lot split was it this piece of property?

Jeremy Pate: Yes, it was to create the lot, the general shape of the property.

Alderman Lucas: Was it approved?

Jeremy Pate: Yes madam.

Alderman Marr: In the staff report there is a statement that the Fire Department estimates a 7.5 minute response time to this site which meets the department's goal to have all response vehicles at the site within 10 minutes. I have never heard that our goal was 10 minutes to the site.

Jeremy Pate: That is for all response vehicles.

Tony Johnson, Fire Chief: Initial response vehicle we would like to have there in six minutes but a fire response does not require a one vehicle response. We respond from multiple stations and to get the entire work crew there the goal is 10 minutes for the entire crew.

Alderman Marr: We still have a shorter one for the initial response time?

Tony Johnson: Yes we do.

Alderman Jordan: How would you rate a 7.5 minutes response time?

Tony Johnson: It is what it is, 7.5 minutes; we would like to get there as quickly as possible. Looking at the plans that we have and I think all of you have a copy of the fire station relocation and deployment program, it is constantly getting revised. We are going to have to take that into account with every rezoning.

Alderman Reynolds: Isn't a house totally involved in about 7 minutes?

Alderman Jordan: 4.

Tony Johnson: It depends. It depends upon the time of day, what is in the house, the construction; there are too many variables to say that it will be totally involved in a certain time.

Alderman Marr: Do you have a goal of what a response time should be. As we look at these reports what level should concern us when we see a time over that.

Tony Johnson: You should be concerned with both, the arrival of the initial engine company.

Alderman Marr: What number would concern you?

Tony Johnson: We would like to get the first company there in less than six minutes. That is what we are shooting for. A six minute response with the first company with a working fire and a prolonged response from the subsequent arriving companies, that six minute response is not that important if it is going to take 14 minutes for the subsequent arriving companies to show up on the scene.

Alderman Marr: So there is a combination.

Tony Johnson: Yes.

Alderman Cook: It also mentions that there is a six inch water line and that there are going to have to be improvements to the water system. It also mentions the sewer; it is within a sewer assessment area. What does that mean?

Tom Jeffcoat, Milholland Company: There are currently several elements of development occurring in this area which has the same issues to deal with in the water. There is an existing six inch water line along Highway 112 that is being upgraded to serve a subdivision. The development that we are proposing would also tap off of that six inch line to complete a loop which would be brought through Park West. There is a 36 inch line on Highway 112 that is going to be brought through Park West that will tie into this development. So there will be adequate water provided. This development will make water available to other developments. Sanitary sewer is the same.

Alderman Cook: What size sewer line are you going to bring in through there?

Tom Jeffcoat: On the far east side of the property, that this is a part of, is the sewer line extension, the city improvements, I believe it is a 48" line. Currently Springwood is bringing a 15" line up to the south of this property. We have plans to bring 12", 10" and 8" sewer lines to cross Highway 112 to serve Bellwood.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

This item was left on the seconding reading.

Tom Jeffcoat: We have not seen any opposition to this.

Amend Chapter 117.37 - Taxi Drivers Permit: An ordinance amending §117.37 (C) of the Code of Fayetteville to clarify the requirements to obtain a Taxi Drivers Permit in the City of Fayetteville; and declaring an emergency.

City Attorney Kit Williams read the ordinance.

Officer Brown stated the State Police will not give the CDL road test in a non-commercial vehicle and a cab is a non-commercial vehicle. That is why this change is necessary. If they transport more than 15 passengers than the driver of that vehicle would be required to have a commercial driver's license.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Vice Mayor Jordan asked shall the emergency clause pass. Upon roll call the emergency clause passed 7-0. Alderman Rhoads was absent.

Ordinance 4796 as Recorded in the Office of the City Clerk.

S & K Carriages: A resolution granting a Certificate of Public Convenience and Necessity to S & K Carriages for the operation of a non-motorized transportation service.

Officer Brown: Everything has been submitted.

Alderman Marr: In the application it asks for you to list your days and hours of operation and it says evenings, weekends and special occasions. Is that year round or do you have a time frame?

Applicant: Normally the carriages run on the square through the Christmas season from November 19th through January 1st.

Alderman Marr moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 223-05 as Recorded in the Office of the City Clerk.

USable Life and Blue Cross Insurance Renewal: A resolution exercising the second of five one-year options to renew the employee group policies with Usable Life to provide Life, Accidental Death and Dismemberment, and Long Term Disability insurance coverage , and with Blue Cross/ Blue Shield for the Group Medical Plan.

Alderman Marr: I am really excited that we made a good decision. It is my experience that increases are in the 8% range this year for most major employers and to have a zero increase in benefit, I think the HR staff, Finance staff and our broker should be applauded. Thank you for your efforts.

Alderman Lucas: If I understand right there is a section where they can take a larger deductible?

Michele Bechhold: Yes that is a voluntary plan.

Alderman Lucas: The city puts part of the premium into a fund that they can draw on.

Michele Bechhold: Yes, a health savings account.

Alderman Lucas: Do they have to meet the deductible before they start drawing on that plan?

Michele Bechhold: The monies out of the health savings account will be used to offset the expenses that are going towards the deductible. So, they would be pulling money out of the health savings account because the plan is not paying yet as they try to meet their deductible.

Alderman Lucas: The money that is in the plan that they can draw from, if that person should quit, what happens to the money that is in the plan?

Michele Bechhold: The account is portable and they can roll that over into another health savings account or take it with them. They own that money lock, stock and barrel.

Alderman Lucas: And it rolls over so it can build up.

Michele Bechhold: Yes.

Alderman Ferrell: I think it is great. Traditionally in the last couple of years what has the increase been?

Michele Bechhold: Last year I believe it was in the neighbor of around 10%. That was shared with the city and employees.

Alderman Lucas: Will the same amount be for every employee?

Michele Bechhold: As far as the contribution to the HAS, if you have an individual plan every individual plan will have the same amount contributed.

Alderman Lucas: No matter how much you make?

Michele Bechhold: That is correct.

Alderman Cook moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 224-05 as Recorded in the Office of the City Clerk.

City of Elkins Sewer Agreement: A resolution to approve a contract with the City of Elkins concerning their sewer rates and other matters.

Steve Davis: The Sewer Committee for the City of Elkins approached the Fayetteville Sewer Committee in July, 2005 to initiate contract negotiations for a new sewer treatment. The Fayetteville Sewer Committee named Kyle Cook and Steve Davis as the negotiators representing Fayetteville and the contract that has been presented in the packet was recommended by the Fayetteville Sewer Committee and the Elkins Sewer Committee and was adopted by the Elkins City Council. Fayetteville and Elkins entered into a sewer service agreement in 1981 that was for a forty year term. There were several areas in that agreement that needed to be strengthened and this contract strengthens those areas.

Alderman Cook: I think it is a good contract it covers our basis and Elkins at the same time and gives them a rate reduction. It protects us in some areas that we were not protected before. I certainly appreciate Steve Davis's hard work. I think what we finally ended up with is a good contract.

Alderman Ferrell asked about the contract language.

Kit Williams: We can't approve this contract tonight. Our sewer rates with Elkins, as our only wholesale customer were done by ordinance. When we do a sewer rate ordinance we have to give proper notice. We will check into the language and make sure we get it consistent. This

will come back to you as a change to our Code of Ordinance which does have a sewer rate for our wholesale customer and also this contract at the same time.

Bobby McGarrah, City Council member from Elkins: How long would it be before something would take place?

Kit Williams: I think there is a 15 day public notice. So once we do the public notice we can present the ordinance to the City Council, an ordinance takes three readings and then it will not go into effect for 31 days. I don't think it will be a long time we just can't pass it tonight.

Bobby McGarrah: Does the City of Elkins have to go through the same procedure.

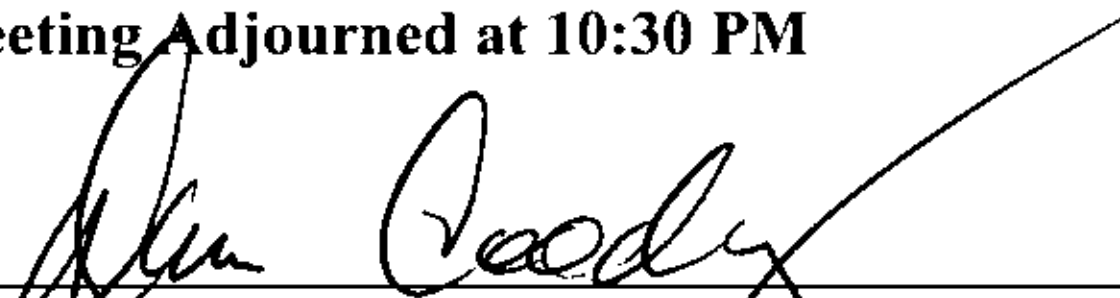
Kit Williams: I don't know what procedure you all used. In our Code of Ordinances this is part of our sewer rates. Yours might just be a contract so you may not have to do the same things that we are doing.

Steve Davis: I think what Mr. McGarrah is asking is would they have to go through the same process for their sewer rates.

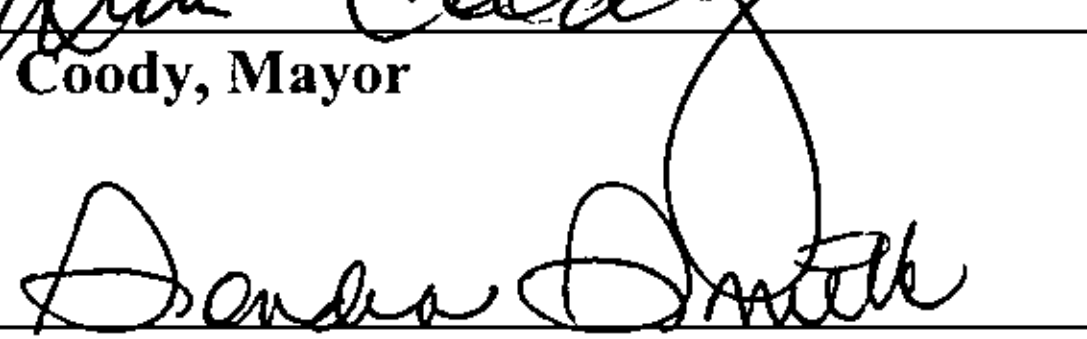
Kit Williams: If they change their sewer rates they would have to do the same thing.

Alderman Lucas moved to table the resolution indefinitely. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Meeting Adjourned at 10:30 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer