City Council
Meeting Minutes
March 16, 2004

A meeting of the Fayetteville City Council was held on March 16, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

ABSENT: Alderman Cook and Alderman Marr.

The meeting was called to order by Mayor Coody.

Fire Department Certificates of Appreciation: **Mayor Coody presented awards to the following fire fighters: David Mitchell, Landon Vanzant, James Luther, Robert Johnson and Gregg Riley.**

Mayor Coody announced the need for volunteers to participate in the Great America Cleanup.

Nominating Committee Report: Alderman Lucas presented the Nominating Committee report. A copy of the report is attached.

Alderman Lucas moved to approve the Nominating Committee report. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

CONSENT:

Approval Of The Minutes: Approval of the March 2, 2004 meeting minutes.
Approval of the April 30, 2002, June 6, 2002, June 11, 2002 and October 1, 2002 meeting minutes.

Construction Contract for Fire Station 7: A resolution to approve a construction contract with VEI General Contractors, Inc. to build the West Fayetteville Fire Station on Rupple Road in the amount of $1,340,100.00 with a contingency of $38,000.00 and approval of a budget adjustment of $274,637.00.
This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

Resolution 36-04 as Recorded in the Office of the City Clerk.

MISSCO Corporation Contract: A resolution approving the purchase of shelving in the New Fayetteville Public Library from MISSCO Corporation in the amount of $151,185.00; and approving a contingency in the amount of $7,559.00.

Resolution 37-04 as Recorded in the Office of the City Clerk.

AEP/Swepco Contract for Utility Burial, School Avenue: A resolution to approve a contract with AEP/Swepco, Inc. to bury utility lines along School Avenue at the New Library for the amount of $186,395.41 plus a contingency of $6,000.00.

Resolution 38-04 as Recorded in the Office of the City Clerk.

Mayor Dan Coody and Stephen Davis Signatory Authority: A resolution delegating signatory authority in connection with State Revolving Loan Fund Assistance.

Resolution 39-04 as Recorded in the Office of the City Clerk.

Alderman Davis moved to approve the Consent Agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

OLD BUSINESS:

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.
This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.
This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.
This resolution was tabled at the March 2, 2004 City Council meeting until the March 16, 2004 City Council meeting.

Kit Williams: Pursuant to the request by the City Council I did amend the lease agreement so that this lease is only through June 30, 2004. This will give the city staff and the Council on Aging some time to work out a final agreement that they can present to the City Council.

Alderman Lucas moved to approve the resolution. Alderman Davis seconded. Upon roll call the resolution passed 6-0. Alderman Cook and Marr were absent.

Resolution 40-04 as Recorded in the Office of the City Clerk.

R-PZD 04-02.00 (Cross Keys): An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

Alderman Lucas: It does state that there is connectivity to the east?

Kit Williams: Section two was amended to state that Putting Green Drive shall be extended to the east as a local street.

A discussion followed on the street connection.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

Alderman Davis: What is the right-of-way area on 46th Street that connects onto Wedington Drive?

Dawn Warrick: I believe that the right-of-way is approximately 50 feet.

A discussion followed on the project.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Cook and Marr were absent.

Ordinance 4548 as Recorded in the Office of the City Clerk

R-PZD 04-05.00 (Hickory Park): An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 acres more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.
This ordinance was left on the First Reading at the March 2, 2004 City Council meeting.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Reynolds seconded. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

A discussion followed on the drainage system for the project.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

Bob Sigafoos voiced his concern on the drainage of this property. He suggested that the city hire an independent third party to access the engineering matters of this property.

Kathryn Sigafoos voiced her concerns about the project. She read a letter from Tom McKinney of the Sierra Club that addressed their concerns of the removal of the trees on the site and the drainage of the property. He asked that the City Council request the subdivision as it is currently proposed and that it be sent back to be redesigned and correct the problems.

Susan Hemingway stated that she has walked the project and did not find a water problem. She thinks it is a good piece of property for a subdivision and that the owners have done a good job

Alderman Rhoads: At the Neighborhood Association meeting were the people that attended generally in favor?

Susan Hemingway. Yes.

Alderman Rhoads: Has there been a second Neighborhood Association meeting?

Susan Hemingway: No, we did not feel a need for it.

Mayor Coody: Gary Coover, have you had a chance to look at the drainage?

Gary Coover: I have not but a member of my staff has looked at the drainage. My staff did not have any concerns.

A discussion continued on the drainage issue and the removal of the trees on the property.

Tracy Hoskins the developer of the project said they have done everything they can possibly do to save as many trees as possible. He stated they have designed a subdivision that people can be proud of with the least amount of impact to the surrounding neighbors.

Alderman Rhoads: Did you receive a copy of this letter from the Sierra Club before the meeting?

Tracy Hoskins: No.

Doug Hemingway, President of St Johns Luther Church stated that he feels the developer is doing everything possible for all the adjoining land owners. He also stated the members of the church are very pleased with the design and the proposed use. He asked for the City Council approval of the project.

Karen Vaughn, a resident spoke of her concern with the drainage on the property.

Mel Milholland, engineer for the project stated they are obligated to stand by the city design criteria. He would like the record to show that some of these neighbors already have a problem with water and the drainage. We are not there to create a problem we would like to think we are going to enhance the neighborhood.

Alderman Davis: Are you doing anything to the north property line to alleviate some of the water that may be coming off the lots in that area.

Mel Milholland: There will be a small area on the property that will drain back onto the street. In the back of those lots we will try not to disturb that area.

A discussion followed on the drainage.

Tracy Hoskins: Our intention is to leave everything as natural as possible. Whatever water problems they have now, when we get done they should have less. I think we have covered about everything we can possibly cover on this sub-division and give them the best result.

Geary Lowery voiced his concern about the traffic that this new sub-division will create. He spoke of the drainage problem. He requested that the city's storm water engineer go to the property and do a study of the drainage.

Florence Smith stated she thinks this will be a beautiful sub-division and that it has been well thought out and planned. We are happy about the way it looks and I think it will be an asset to the City of Fayetteville.

Alderman Rhoads: Is it still the staff's recommendation to approve this subdivision?

Dawn Warrick: Yes sir, city staff as well as the Planning Commission has recommended approval of this project.

Alderman Rhoads: I have not had any calls on this project. I have heard two people speak against it tonight and I have heard a lot of folks speak for it. It appears to me that the city has done its job, the Planning Commission voted 9-0 in favor of it, and therefore I support this project.

Alderman Davis: I had one phone call concerning the drainage; their concern was that no one from the city has looked at the drainage. We have confirmed tonight that the city has had someone look at it and they are for the project. I have walked the land and I think it is doable.

Alderman Lucas: What is this property presently zoned?

Dawn Warrick: This property is currently zoned P-1 which is an institutional zoning. An institutional use such as a church or a school could be permitted on this property by going through the development approval.

Alderman Jordan: I do not want to create a situation that could actually be worse than what they already have. That is my concern.

Alderman Davis: This property is zoned P-1 at this time and since it could go to a school or the church could expand, if one of those things happen you are looking at having additional asphalt being laid and more than likely more of the trees being removed.

A discussion followed on the project.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Rhoads, Davis, Lucas, Reynolds and Thiel voting yes. Alderman Jordan voting no. Alderman Cook and Marr were absent.

Ordinance 4549 as Recorded in the Office of the City Clerk

NEW BUSINESS:

Fayetteville Senior Activity Center Additional Funds: A resolution to approve a budget adjustment in the amount of $9,864.19 for additional expenses incurred by the Council on Aging, Inc. for operation of the New Fayetteville Senior Activity Center.

Hugh Earnest: I believe it was the intent of the full council that an additional $40,000 be appropriated.

Alderman Lucas moved to amend the resolution to approve $50,000 for additional expenses incurred by the Council on Aging, Inc. for the operation of the New Fayetteville Senior Activity Center. Alderman Thiel seconded the motion. Upon roll call the amendment to the resolution passed 5-0. Alderman Thiel was absent during the vote. Alderman Cook and Marr were absent.

Alderman Davis: How did we go from $9,864.19 to $50,000?

Hugh Earnest: The Center does not have enough funds to carry them through to June 30, 2004. This is the amount of money that the Center believes is necessary to allow for the operation of the center at full efficiency.

Alderman Reynolds moved to approve the resolution. Alderman Davis seconded. Upon roll call the resolution passed 5-0. Alderman Thiel was absent during the vote. Alderman Cook and Marr were absent.

Resolution 41-04 as Recorded in the Office of the City Clerk.

VAC 04-2.00 Rodgers Subdivision: An ordinance approving VAC 04-2.00 to vacate and abandon a 20' portion of a platted alley, retaining a utility easement within subject property as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded. Upon roll call the motion passed 6-0. Mayor Coody voted yes. Alderman Lucas was absent during the vote. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. Upon roll call the motion passed 6-0. Alderman Cook and Marr were absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Cook and Marr were absent.

Ordinance 4550 as Recorded in the Office of the City Clerk.

McClinton Anchor Bulk Purchase Contract: A resolution approving a bulk purchase contract with APAC-Arkansas/McClinton Anchor in an amount not to exceed $1,240,811.00 for asphalt and aggregate materials.

Alderman Reynolds moved to approve the resolution. Alderman Lucas seconded. Upon roll call the resolution passed 6-0. Alderman Cook and Marr were absent.

Resolution 42-04 as Recorded in the Office of the City Clerk.

Alderman Thiel thanked Terry Gulley and his department for the work that they have been doing on South School clearing off the sidewalks.

Rules of Order and Procedure, Public Notification and Participation: A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council, Section A. City Council Meetings, Subsection 6. Public Notification and Participation.

Alderman Reynolds: Mayor I brought this forward because several constituents have contacted me saying they don't think they should have to go to a Ward meeting. They also feel that sometimes their problems are heard by deaf ears. They would like to be able to come to the meeting and tell us their problems. I want them to have a chance to do that.

Alderman Thiel: Alderman Marr and Alderman Cook have requested this be tabled until the next City council meeting because they are not here tonight.

Kit Williams: I would like to read the proposed changes. These two statements would be added to the Rules of Procedure on Public Notification and Participation. ***No statement shall excess three minutes in duration unless the City Council by unanimous consent agrees to extend further time to the speaker.*** This would limit speakers that are speaking on issues to three minutes. ***After the last item on the agenda has been acted upon by the City Council, members of the public shall be accorded the right to address the City Council on any topic of the speakers choosing for a period of three minutes each not to excess 30 minutes total. Neither the Mayor nor any Alderman may respond or comment during this listening period.*** Those are the two changes that have been proposed.

Alderman Reynolds: I would hope Mayor that if we go to this process that you will keep control of the meetings and that we do not get into political slamming.

Mayor Coody: If I can't respond, then I can't control it.

Alderman Thiel moved to table the resolution until the next City Council meeting. Alderman Rhoads seconded the motion.

Geary Lowery: I would like you to reconsider tabling this to give the people a chance to speak on this and then hold it until the other Alderman are present.

Mayor Coody asked shall the motion to table pass. Upon roll call the motion to table passed 6-0. Alderman Cook and Marr were absent.

Firemen's Pension and Relief Fund Board of Trustees Resolution 02-03, Increasing the DROP from Five to Ten Years: A resolution to approve the extension of the current five year Deferred Retirement Option Plan to a ten year Deferred Retirement Option Plan for all eligible employees of the Fayetteville Fire Department.

Chief Bosch Fire Chief: As the Fire Chief it's my duty to look out for the welfare of my entire organization. Often times I am required to look at an issue and make a decision on the best course of action while maintaining focus on creating the most good for the most people within my organization. Including myself and my organization I currently have 92 uniformed fire fighters and 3 civilian employees. These 92 uniform fire fighters participate in one of two separate retirement plans, the Firemen's Pension and Relief Fund, which represents nine of my uniformed members and the LOPFI retirement system which represents the remaining 83 uniform employees which includes me. The nine fire fighters under the Firemen's Pension and Relief Fund currently have a benefit plan that provides for a deferred retirement option.

The Deferred Retirement Option is a plan in which the fire fighters after a predetermined number of years, which in this case is 20, can elect or choose to sign up for this option. When the fire fighter elects to sign up for the option, he or she must make a commitment to retire within five years of the date of enrollment in the option. At this point for the next five years the employee and the city begin to place retirement contributions into an interest bearing escrow account for that employee. This account continues to grow in principle and interest over the five year period, at the end of this five year period, the fire fighter is required by contractual agreement to sever his or her service with the organization. When this service is severed the individual receives the retirement disbursement from the escrow account with interest which includes both principle and interest for the five year period. The employee can at that time elect to take a one time cash payment or they can roll these funds into an annuity account and continue to draw a disbursement over a period of years. To date of the nine individuals currently eligible for this retirement option only eight have opted to sign up. The ninth individual has requested a financial analysis of his benefits and is assessing his retirement options at this time.

The Deferred Retirement Option Plan provides these individuals with the ability to anticipate their retirement and beginning planning for their future after the fire service. The eight individuals currently signed up for this option plan willingly make a choice to retire under the current guidelines of the system. These people signed a contractual agreement with the city and both parties have agreed to live up to the terms of the original agreement. To date the city has remained consistent with the terms of this agreement and we have continued to live up to our terms.

The Deferred Retirement Option Plan also provides a direct benefit to the Fire Department by providing the organization of advanced knowledge of pending retirements. This advance knowledge also allows the fire fighters who would like to move into the organizations rank structure and promote through the system to begin preparing themselves for the leadership challenges that come with the department with higher rank.
I believe that the adoption of the proposed changes to the current Deferred Retirement Option Plan will create several impacts to the organization. I would like to list three of those for you this evening. In my memo which I presented to the Mayor and the Council approximately three weeks ago, I listed my viewpoint regarding future expansion of the organization. My memo focuses specifically on the quantitative issues that guide my decisions on this issue; however I truly believe that we have a duty to examine not only the quantitative impacts qualitative impacts of these changes. As the Fire Chief I believe that these three proposed changes will affect the entire department in three ways. These changes will indefinitely suspend 17 promotions for those 82 individuals that have been preparing themselves in anticipation of these voluntary retirements. These proposed changes will create a disruption in the high level of moral within the department which exists because of these anticipated promotional opportunities. These changes will send a clear and distinct message to the remaining 82 fire fighters in my organization who are anticipating this opportunity for upward mobility that their leadership potential and their ability to help to grow and learn and improve the department is not as important to the organization as the retirement benefits of those nine individuals who again willing signed up for this agreement. This message will directly contradict my staff's and my efforts and opportunity to encourage my people to prepare themselves for the leadership challenges that come with higher rank.

In closing I would like to say that approximately six months ago I sit in this council chamber during a debate of a very controversial issue. During the course of that debate I heard a City Councilman whom I look up to and respect make a comment regarding the qualities of leadership. Let me try to paraphrase what he said. *Leadership is not an easy task often times a leader must stand up and face difficult odds to make difficult decisions. A leader knows the way, a leader shows the way and a leader goes the way.* Unfortunately these proposed changes place you the City Council and the Mayor and myself in a difficult situation. Due to these proposed changes we must make a choice between the retirement benefit of one group of employees or the future growth and elevation of another group of employees. In this situation I believe it is important again to look at the utilitarian model for decision making and lean toward creating the most good for the most people in my organization which is my duty as the Fire Chief. Given the above listed facts of this situation and the statements I have made it is my recommendation that on behalf of the 82 uniform fire fighters who stand to suffer as a result of these changes, I request that you reject these proposed changes. This change and the following change as well. If you have any questions I will be happy to answer them for you.

Marion Doss a representative of the Pension Board: I serve on the old Firemen's Pension Relief Fund. When these gentlemen signed up for this five year DROP that was all that was allowed by State law, a five year DROP. Last year the law changed allowing a ten year DROP therefore some of our members, the nine the Chief referred to, requested to go to a ten year DROP and our Pension Board approved that. The local Pension Board had to approve of the change an actuarial study had to be completed stating that we could do this, and we had to send our resolution to the State Pension Review Board in Little Rock to get their approval. The final thing on this is approval of the City Council that approval is because it can affect the department.

We have done everything except for the City Council approval that is why we are before you. If you have any question I will be glad to try to answer them.

Alderman Jordan: Marion, so what you are saying is at the time they signed up on this, this was the best that they could get.

Marion Doss: Yes, it was a five year DROP by State law that was the max that was allowed at that time.

Alderman Jordan: So now that the law has changed basically what they are wanting is to renegotiate that.

Marion Doss: Some people want to extend, I don't think everyone will, I myself do not want to, but some people do want to extend. I think it is the very positive developments that the Chief talked about is the reason for that. They see growth in the city, change in the city, they see the Fire Department changing and growing and they are excited about being a part of that. That's the reason that some are wanting to stay longer I believe.

Alderman Jordan: Do you think that this will hurt the Firemen's Pension Fund?

Marion Doss: According to the actuary it won't. That is the reason you have to have the actuary done is to make sure that it doesn't. One thing too when they are on five year DROP their DROP amount is a percentage of their salary and it's their salary, their retirement is sealed when they sign up for DROP. If they elected to go to a ten year DROP after that first five years, it reduces their DROP amount by 15%; therefore there is not as much coming out of the fund. When they do finally retire it goes to the regular retirement amount.

Alderman Jordan: Are all the firemen besides the nine on a ten year DROP place from now on?

Marion Doss: They don't have to.

Alderman Jordan: But they could according to the new law?

Marion Doss: The nine and only the nine. This retirement plan was sealed in 1982; in 1983 they went to LOPFI. It is an old plan that is sealed and no one else can come on after that. Of the nine members eight have signed up for DROP and one hasn't signed up. Some may extend but some may not that is their option if this passes. Some people don't even work their five year DROP, they go ahead and retire before the five years is up.

Alderman Rhoads: How do you think it will impact the morale of the overall?

Marion Doss: I really don't know, if someone is looking forward to someone retiring I can see where it would. What I am thinking about is the morale of these individuals that are on it. I think everyone's morale in the Fire Department is good and I think that's the reason that some have decided that they may want to stay longer than five years. Things are looking up, new fire stations, new equipment; I think that's something positive for the Mayor and the Fire Chief both. The city is growing and everything looks positive.

Alderman Rhoads: I certainly understand it would impact in a positive way the nine people's morale but the other 83; you are closer to it than I would be.

Marion Doss: I think it would be better if some of those people were here, I can't really answer for them. I don't know what their feelings might be on the matter. I come to represent the members on this Board. Some of this board is elected members of retired and people that are still working. I am representing the members of the Firemen's Pension Relief Fund.

Alderman Jordan: What was the vote on the Board?

Marion Doss: The resolution with the Firemen's Pension and Relief Board passed, that is the reason we sent everything to the Pension Review Board.

Alderman Reynolds: How many members are on that Board?

Marion Doss: The Mayor, City Clerk and myself by state law and four elected members for a total of seven members.

Alderman Reynolds: When those nine members signed that DROP plan did they know what they were signing?

Marion Doss: Eight members. Yes, I am sure.

Alderman Reynolds: They knew what they were doing?

Marion Doss: Yes.

Alderman Reynolds: And now you have 17 firemen that have worked their heart out to get a promotion and if this goes through those 17 firemen are not going any where.

Marion Doss: The department is growing any way. We are building a new station and growing, there are promotions there. Some of the people on this plan are driver/operators and some are officers of the nine people you are referring to.

Alderman Reynolds: The thing that bothers me is the eight of them knew the agreement they were signing.

Marion Doss: Yes. We signed it with what the State law allowed at that time.

Alderman Davis: You all started this process December 18, 2003. This has been going on for four months and we just heard about it two weeks ago. Why the long delay?

Marion Doss: We had to do everything first. We had to approve it at our meeting, have an actuary ran because any benefit increase has to have an actuary done. It then has to go to the Pension Review Board in Little Rock and they have to approve it. It has just been a matter of time getting everything ready. I thought it was going to come up previously but was pulled off the agenda for more preparation.

Chief Bosch: I do have copies of the agreements that were signed if you care to see those.

Mayor Coody: I just want to make it clear that the only nine people eligible for the old plan are the only ones who can take advantage of this. That's why it's just these nine folks and the rest of the department is on a whole different retirement plan that doesn't have this DROP program.

David Williams, Vice President of Fayetteville Fire Fighters Association: It has been brought to our attention that the Council has received a letter on our letterhead. I am here to set the record straight that the Fire Fighters Association does not take a position in this matter.

Mayor Coody: The letter that you are referring to was sent to us here in the last couple of weeks wasn't it?

David Williams: Yes sir it was sent on the 6th.

Mayor Coody: So essentially the union did not take a position on this.

David Williams: That is correct.

Alderman Lucas: I could make a decision on this based on emotions because one of the men involved I have known for a long time, Pete. The other people that are involved I don't know personally but I am sure they are very good employees. I'm of the old school in that a contract that is signed without coercion and obviously the benefit at that time was a good benefit. You make a decision as to whether you want to take this benefit then and you make your decision and you sign a contract. Obviously they felt like that was to their benefit. I kind of equate it to when I was a nurse, a new nurse in the hospital starts on the night shift; it's very rare to get a day position. The night people are always looking for those people on days to retire, quit or move on so that they can move to days. I know I spent six years on nights waiting for a day position. The hospital didn't have a DROP program or anything like that but if they had and there were some people on days that had signed up for this and some people on nights that wanted to move to days and they thought well this person is going to quit or retire then I can move to days. Then the hospital changes the policy, it would have a bad effect on morale and I am sure there would be nurses that would change positions. I know I had nurses that changed from nights because maybe a day person or two would say in a year I am going to retire and they would think I can last a year more on nights and then this person would say I may hang on for another year. They would move on usually, I lost some good nurses that way, this may not be quite the same but that's the way I looked at this. What I am trying to say is when you sign a contract you need to honor it. I am not really in favor of changing.

Alderman Rhoads: This is one of these tough situations and I feel a lot like Alderperson Lucas, this is a situation where there is no bad guy they are all good guys and you wish you could please everybody. I tend to believe that you have to do what is best for the entire department.

Alderman Davis: My concern is you have 17 people according to the notes here that are looking at going on up the ladder in the Fire Department and should we go ahead and approve this this evening we may have greater turnover from those 17 and possibly other people in the Fire Department that may look at going elsewhere because they are not able to move up the ladder quite as quickly as what they had originally thought. That is a concern and something I have to think about before I vote.

Alderman Reynolds: The way I see it, it just goes back to the old school, a deal is a deal.

Alderman Jordan: Well except, there is a thing called seniority and there is a thing called loyalty. Now these nine I know they signed that contract, there is no way around that and I totally agree that that has been done. But, they have put in 15 and 20 years of their lives and I mean some of them have put their lives on the line. They jumped into buildings that are on fire and saved people's lives and they have been loyal to this city. My way of thinking is they signed up on this retirement and that was the best deal that they could get at the time and I grant you they want a better deal now. I think the question before us tonight is do we grant them the better deal or do we not and that's the bottom line. I assume by hearing the comments on the Council that this is going to fail but I still have to look at the seniority and I have to look at the people that have been loyal to this city and their years of service and that is how I have to make my decision. I will probably support this. I agree with Alderman Rhoads there is not a good guy there is not a bad guy, this is just a tough decision we have to make.

Mayor Coody: I think they are all good guys like Robert said. We do have a great department and we certainly do owe you guys and everyone in it a real debt of gratitude. This does put everyone in a difficult position because we always want to do everything we can to please everyone. In this situation no matter what we do somebody is not going to be unhappy.

Alderman Davis: Mayor, I guess I have one question and that is, it says in the first paragraph that staff recommends City Council denial of this proposal. Is this just Chief Bosch's opinion or is this the whole administration?

Mayor Coody: Well, I support the Chief in this and I will tell you why. The reason why I had the Chief do some research in this is because I was at the Pension meeting where the subject first came up and the first reactions from two of the board members were this will be bad for the department if this passes. It eventually got approved with a vote after some discussion about it. But when two of the five people there (and they were retired fire fighters) said they thought this would be bad for the department, red flags went up with me. I didn't want to walk into something knowing that this had a potential to do harm to the department which is when I asked the Chief to do a report for me. Since I support our Chief and our staff, certainly his recommendation carries a lot of weight with me and I support his recommendation.

Chief Bosch: The Mayor did ask me to take a look at this, unfortunately I do not sit on that board and he did ask me to take a look at it and give him my recommendation. Again the discussion was what are the impacts going to be to the fund, well in every decision that we make we have to look at impacts to both sides of the equations. If you do something on one side you have to do it on the other, it's going to have an impact on both sides so I felt the need to step in and look at that as well. That is my recommendation and my staff's recommendation.

Alderman Jordan moved to approve the resolution. Alderman Davis seconded. Upon roll call the resolution failed 1-5. Alderman Jordan voting yes. Alderman Rhoads, Davis, Lucas, Reynolds and Thiel voting no.

Firemen's Pension and Relief Fund Board of Trustees Resolution 04-03, Working after DROP: A resolution to make continuing employment available to all eligible employees of the Fayetteville Fire Department after their five or ten year Deferred Retirement Option Plan has been completed.

Chief Bosch: What this proposal is it would allow those fire fighters who would extended their DROP plan to stay indefinitely past that ten years and work for salary and benefits only without retirement. In essence again I stand opposed to this issue because I believe those individuals have the opportunity to go ahead and take advantage of their retirement and then as positions come open in the Fire Department, civilian positions they have the ability to apply for those as well. We do not discriminate against our applicants for those positions and if we had a fire fighter that would apply for a civilian employee in a support service agency in the department then we would more than willingly entertain their application and give them a favorable review on that. So, basically what I am saying they have that option without having to extend it.

Mayor Coody: So your recommendation is to?

Chief Bosch: Is to turn that change down as well.

Alderman Jordan: So they already have that option is that what you are saying?

Chief Bosch: Let me summarize it, they already have that option so there really doesn't need to be a change.

Kit Williams: They don't have the option to be a uniform.

Chief Bosch: No not a uniformed fire fighter, the option applies to a civilian employee.

Mayor Coody: They still have the option to work for the department but in a different capacity than where they had been.

Chief Bosch: Absolutely, as a Civilian employee rather than a uniform fire fighter.

Alderman Davis: So regardless if we vote this up or down they still have that opportunity?

Chief Bosch: If this is approved then they will have the ability to stay just like the five year DROP plan, just like the extension to go to the ten year DROP plan except there would be no ceiling.

Mayor Coody: They would stay in their current position.

Chief Bosch: Indefinitely, which basically causes the same problems that I referred to in my comments.

Mayor Coody: If this is not approved they would retire but they would have the option to come back and apply for a civilian position within the department.

Chief Bosch: It is not an easy issue but that summarizes it.

Mayor Coody: But that would free up that uniform position.

Alderman Thiel: Kit, wouldn't this be illegal, we can not discriminate against keeping an employee on past a certain age. Isn't that basically saying that this is a mandatory retirement?

Kit Williams: No this is not illegal because it is tied to the DROP plan. They agreed when they signed up for the five year DROP to retire, they are actually almost retired anyway, but to leave the service of the city after their five year DROP plan extinguishes. That was a voluntary agreement that they made. They didn't have to sign that they could have continued to work, if they had wished to. Since they choose to accept the DROP plan that was on of the conditions of the DROP plan that they would quit at the end of that five years.

Alderman Thiel: This just applies to those people that are in that plan?

Kit Williams: That's correct.

Marion Doss: Basically that's right that the employee would continue working after their five year DROP is up. As a Pension Board member, this is good for our plan because they can not take their money as long as they are still employed, their money stays in the plan and the plan uses the money for the good of the plan. As a Pension Board member that is the reason that we are for Working after DROP.

Alderman Jordan: So you think this is a good thing?

Marion Doss: For the pension plan because if an employee completes that five year DROP and they continue to work, they can not draw their money out, it stays in the plan, they are working just for salary and benefits.

Alderman Rhoads: But if they go to a civilian position they get their money don't they?

Marion Doss: Yes, that's no problem at all. It's just like any position it's just like a job, they have retired, and they draw their benefits and apply for another job.

Alderman Lucas: They can take it out or take it as an annuity.

Alderman Davis: Right.

Chief Bosch: I might also add that by approving that change again it will continue to stifle those 17 promotions and cause the morale issues that we would deal with if the other change had been approved.

Dean Matthews Captain Fayetteville Fire Department: I would like to know where these civilian positions are and at what date they will become available that we may have that decision to make to get another job.

Chief Bosch: As these individuals retire we will see some savings in our salary which as we grow we will begin to try to utilize those savings without any additional budget increases to add some civilian positions to our support agencies. Which will help us to become more effective on the proactive side of the Fire Department such as fire inspectors, code enforcement people within the department, additional support services like staff, secretaries and administrative assistants. We currently have three civilian employees within our agency. We have one operations assistant who severs as a secretary, one financial analysis who serves as our financial person and works with us on the budget and then we have Dennis Ledbetter who was our Fire Marshall and retired

and returned to the service as an evidence technician and is working in a civilian capacity. It is working very well for us, what that has done is that has helped us to turn our fire prevention from a very highly productive entity of the department to an unbelievably entity of the department, so it has been very beneficial for us.

Dean Matthews: I am trying to understand the situation here, if we are talking about losing promotions for fire fighters, why are we hiring civilians to do the job and we won't have promotions for them. It seems to me like we are using the stance that we want the fire fighters to promote in these positions if we turn around and hire these positions as civilians like fire inspectors and such that we have captains working in that position now. Unless we are planning on hiring a whole lot of fire inspectors or unless you are planning on letting the Fire Department have several more employees. I don't know if we are still in a freeze or if you guys are planning on letting us have a lot more employees and a lot more positions in the near future. I'm not aware of that, that it's just a question I wanted to ask.

Chief Bosch: As the Fire Chief we have made a commitment to try to work to improve the quality of service that the department provides, as these individuals retire we will replace them with uniform fire fighters within the system and promote through the system to fill some vacancies and we will realize a salary savings from that. That salary savings we will come back to the Council during the regular budgeting process, which is our responsibility as fire administration and establish that and recommend some additional staff positions without any additional budget cost that will help us to grow our department in those areas.

Alderman Jordan moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution failed 1-5. Alderman Jordan voting yes. Alderman Rhoads, Davis, Lucas, Reynolds and Thiel voting no.

Mayor Coody: Thank you all for this, this has been difficult for everyone up here but we all appreciate you very much.

Meeting Adjourned at 7:55 PM.

Sondra E Smith

Sondra Smith
City Clerk