

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
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
March 20, 2007**

A meeting of the Fayetteville City Council was held on March 20, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Gray, Thiel, Cook, Allen, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience

ABSENT: Alderman Rhoads

Pledge of Allegiance

Fayetteville Public Library – The Big Read

Sarah Terry, Marketing and Communications Manager for the Fayetteville Public Library discussed the Big Read. She stated that the Big Read is a program for the National Endowment for the Arts that encourages cities to come together and read and discuss one book. The Fayetteville Public Library has chosen Fahrenheit 451 by Ray Bradbury and we are encouraging everyone to read this book and come and discuss it April 14-21. We are going to have a week long series of programs for adults, teens and children. There is something for everyone. Sarah handed out copies of the book to all those who wanted to read it and played a public service announcement video.

Nominating Committee Report

A copy of the report is attached.

Mayor Coody: There are several different committees to report on. Robert Rhoads wants to table the Planning Commission part of this until he can be at the next meeting. If you wanted to we could postpone that part of the report until Agenda Session and have a Special City Council meeting afterwards if you would like to.

Alderman Gray: I would like to second that. I think that is very important. I will make that motion.

Alderman Cook: I split this into two reports. The first report includes everything but the Planning Commissioners. I separated that report because I think the committee needs to speak on that directly. Alderman Cook read the Nominating Committee report with the Planning Commission section removed.

Alderman Cook moved to approve the Nominating Committee Report without appointment of Planning Commissioners. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Mayor's appointment of Fayetteville Public Library Board of Trustees.

Alderman Cook moved to approve the Fayetteville Public Library Board of Trustees appointments. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Confirmation of the Advertising & Promotion Commission appointment.

Alderman Cook moved to approve the A & P Commission appointment. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Cook stated that he would like to make a recommendation from the Committee regarding the Planning Commission appointments. Alderman Cook read the Planning Commission Nominating Committee Report.

Two committee members recommended for appointment Candy Clark, Christine Myres and Sean Trumbo ending March 31, 2010. Two members recommended Matthew Cabe, Shelly West and Sean Trumbo. The full committee interviewed all Planning Commission applicants and discussed each nominee. We talked about past practices of the committee including reappointing applicants unless their attendance was lacking. We also discussed placing the most qualified candidates available on the Commission and the past serve of the three current members that reapplied. This conversation continued for about 20 minutes until I requested that we continue interviewing for the other boards because we still had applicants waiting. At that point Robert Rhoads left the meeting and the discussion ended with three members of the committee voting to replace two of the current Planning Commissioners. After finishing all the interviews we again discussed the Planning Commission nominees and at the end of that conversation the Nominating Committee concluded with a recommendation split two to two.

Alderman Lucas: Whether the recommendations from the Nominating Committee regarding the Planning Commissioners were unanimous, two to one or two to two we will still have this discussion about this. Especially after all the comments the Council members have made to the press this week. We must remember the Nominating Committee only makes recommendations. The full Council makes the final appointments. That evening we interviewed 12 applicants for the Planning Commission and 15 other committee applicants for a total of 27 interviews. All

applicants were very good candidates and I very much appreciate their interest in the city. During the time that I have been on the Nominating Committee we have generally interviewed applicants for all committees and commissions first. At the end of the past Nominating Committee meeting, when we had no one waiting to be interviewed, we had plenty of time for further discussion. That is why we wait until the end for discussion.

She went on to discuss the interview process in the past.

In the past the chair of the Committee made the announcement of appointments at the Council meeting. Candidates are told if they have not been reached by the chairman or the City Clerk to watch the Council meeting to find out if they are appointed. Apparently this did not occur this time. We usually defer all questions to the chairman when we have them. After more discussion following the completion of interviews regarding appointments to all committees and thoroughly reviewing all aspects to consider regarding the Planning Commission, in my opinion, personalities aside and whether one agrees or disagrees with the votes Ms. Clark and Ms. Myers are definitely the more qualified. Qualifications are what we must consider. I will vote for their reappointment

Alderman Lucas moved to reappoint Candy Clark, Christine Myres, and Sean Trumbo to the Planning Commission. Alderman Allen seconded the motion.

This motion was not voted on.

Alderman Ferrell: My fellow alderman was a member of that committee. I would certainly want Alderman Rhoads to be here before this position is made.

Alderman Gray: I was present for all the interviews and it was amazing the amount of talent, expertise and professionalism that was shown in the people who came forward. I feel very strongly that if we are not going to even consider replacing current people, we should not open it up for people to spend time and preparation for these interviews. I learned so much and I learned a lot about our city staff. Many of these applicants had worked very closely with our city staff and had nothing but good things to say about our city staff. I feel that we should wait until Alderman Rhoads is here to vote and look at the total picture.

Mayor Coody: He wanted us to table this until he could be here for the discussion.

Alderman Gray: I know how that feels sometimes you have to be out of town. I think we need to honor his request and that we wait and vote after he gets here.

Alderman Gray moved to table the appointment of the Planning Commissioners to a Special City Council meeting on March 27, 2007. Alderman Ferrell seconded the motion.

Alderman Jordan: What is the chairman of the committee's opinion on this?

Alderman Cook: I agree that we usually allow that. My frustration with Alderman Rhoads is the attendance of the Nominating Committee meetings. He has been to two in the last seven meetings. I would rather vote tonight but I understand the position of the other Alderman in that ward also.

Alderman Thiel: I know the Council tends to take the recommendation of the committee. To me when the committee makes a recommendation it does not make it a done deal. I had a chance to review some of the candidates but I assumed we would go into executive session and discuss this because this is a personnel issue, they are paid. I feel like it is something we could discuss and learn from the committee members why they made the selection they did one way or another. I would prefer waiting and having a Special City Council meeting and consider going into executive session. I would support tabling it until the Agenda Session. I don't think any of us want to discuss personalities and things publicly. I would support tabling this until Agenda Session.

Alderman Cook asked Kit what the rules are on the vote. Is it a simple majority?

City Attorney Kit Williams: Being a procedural motion it is a simple majority of those present voting.

Alderman Allen: Since this same kind of situation occurred last year and put people in limbo who were giving thousands of hours of their time and weren't paid at all until this past year, I think it's almost like putting them on trial to ask them to continue to serve on a committee while we remediate on what their fate is. If we don't want to decide right now then I think our executive session should be right now. To have them wait while we do this is unfair to the applicants. Who would ever want to apply for a committee if they felt like they were going to be put on trial. I see a lot of reasons why this would be problematic.

Alderman Thiel: I agree.

Alderman Ferrell: I would disagree that it is like being put on a trial. I don't think we are in any rush and I don't have a problem with that other than the fact that Alderman Rhoads would not be here. The account I read in the newspaper indicated that he had a definite opinion. That is why I am leaning towards having a Special City Council Meeting.

City Attorney Kit Williams: You could have a special called City Council meeting either before or after Agenda Session and then you are authorized to go into executive session for new appointments as well as personnel matters.

Mayor Coody: If the City Council decides to table this then I would call for a Special City Council meeting at the end of the next Agenda Session. It would be unusual for an Alderman to ask for something to be tabled and the City Council deny that because for lesser reasons than this you have always deferred to your fellow alderman to table things if they have asked that it be tabled when they couldn't be here.

Alderman Allen: I would say that it's because it's not a lesser item, it's a major item. I deeply disagree, I think it is awful to leave people who are serving the city and spending hours of their time in limbo and I would like to see us get this decided now.

Mayor Coody asked City Attorney Kit Williams does 4-3 pass this.

City Attorney Kit Williams: 4-3 would pass in motion.

Upon roll call the motion to table passed 5-2. Alderman Ferrell, Jordan, Gray, Thiel and Cook voting yes. Alderman Allen and Lucas voting no. Alderman Rhoads was absent.

Alderman Cook: We are not sure Robert Rhoads will be there Tuesday. That meeting will take place Tuesday whether he is there or not?

Mayor Coody: Yes that's fine.

Alderman Ferrell: He said he will be gone for a week. I assume he will be back.

Alderman Lucas: What if another Council member has to be absent?

Alderman Thiel: A main reason for tabling this has nothing to do with Robert not being here in my opinion it has to do with all these people sitting out here for a lot of issues on this agenda. It is going to be a very long agenda and we could probably spend an hour discussing this.

Alderman Allen: We could do it at the end of the meeting.

Mayor Coody: We had a motion to table this so it has been tabled to next Tuesday after Agenda Session when we will have a Special City Council meeting to discuss this.

The Planning Commission appointments were tabled to a Special City Council meeting on March 27, 2007.

CONSENT:

Approval of the March 6, 2007 City Council meeting minutes.

City Clerk Sondra Smith asked that the minutes be removed from the agenda.

CEMS Ambulance Services for 2007: A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.

Resolution 46-07 as Recorded in the Office of the City Clerk.

Arkoma Playgrounds and Supply, Bid # 07-22: A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.

Resolution 47-07 as Recorded in the Office of the City Clerk.

A. Camp Equipment, Bid # 07-21: A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

Resolution 48-07 as Recorded in the Office of the City Clerk.

Northwest Arkansas Diversity Council Membership Fee: A resolution to authorize the City to join the Northwest Arkansas Diversity Council and pay the \$500.00 membership fee for services.

Resolution 49-07 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read with the March 6, 2007 minutes removed. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

UNFINISHED BUSINESS:

VAC 06-2364 (Cruz Bay): An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. *This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning asked that the Council amend this proposal accepting the ordinance that was handed out. Since the last meeting this proposal has been amended to extend the alley vacation to the north to Archibald Yell Boulevard. I have received a letter of consent from the property owner that did not consent in the last application. I would ask that you amend the ordinance and accept this ordinance and Exhibit A. Staff recommends approval.

Alderman Gray moved to amend to the current ordinance and to add Exhibit "A" as requested by Planning. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

Alderman Thiel: At the last meeting I supported this but the more I thought about it, this is an existing alley in the Downtown Master Plan and I'm not quite sure why this wouldn't work with the traditional form that we are utilizing. I am trying to figure out why we are abandoning something that other developers are adding everywhere.

Jeremy Pate: We looked at that when we reviewed this request. A couple of things, this serves currently as a drainage corridor from the south side of the mountain and that is certainly an impediment to constructing an alley. Secondly, punching an alley up to Archibald Yell, if there was an access point there would be very limited site distance at that location as you can see on the exhibit. We would not want to have an alley or a driveway at that point. For general safety purposes I think it would be important to vacate that alley. That is something we looked at also.

Alderman Thiel 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.

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

Ordinance 4993 as Recorded in the Office of the City Clerk.

Wedington Circle Appeal: An appeal of the Planning Commission's decision to approve the Wedington Circle Preliminary Plat (PPL 06-2302) located north of Wedington Drive, west of Garland Avenue. ***This appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.***

Ron Petrie, City Engineer: This item was forwarded to the Street Committee as recommended at the last Council meeting.

Alderman Jordan: Basically we thrashed it around for quite a while and one of the problems we had was as you come into that development the radius was not according to the standards the city likes. The decision of the Street Committee was we either build it according to city standards or leave it as a private drive and the developer maintain that road. One thing that was brought up was whether we could have a right turn in and a right turn out.

Ron Petrie discussed their research on moving the connection to Wedington to the west. He stated the State was willing to discuss it. The problem with doing that after a lot of work from Milholland Engineering is you increase the slope on that road from somewhere between 15% to 16% so it's one of those "what's the lesser evil." Unless we are looking at a complete substantial redo of the development, what we have before us is probably what the applicant would want you to decide on tonight. Whether it's public or private.

Alderman Jordan: So basically we are back to they either build it according to city standards and it becomes a city road or they don't build it according to city standards and it becomes a private road. Is that basically it?

Ron Petrie: That is the case. All parties looked at that to see if there were any other alternatives other than the substantial redo and there really is not.

Mayor Coody: What is the staff's recommendation on this?

Ron Petrie: It is that it remains as drawn but be a private drive. That is primarily due to the centerline turn radius is 41 feet, minimum street standards require it to be 150 feet. We have allowed some exceptions to that in residential areas. In this particular development you have 284 apartment units, 12 condo/townhouse units and approximately 16,500 square feet of commercial within this. It is substantially more than a residential subdivision that has about 300 vehicles per day. This one just from the development alone would have over 3,000 vehicles per day. That raises a lot of concerns to have it a private drive.

Alderman Thiel asked Ron Petrie if he had had an opportunity to look at this.

Ron Petrie: No I have not.

Alderman Thiel: When I'm looking at these examples of comparable radius, none of these scenarios or examples really look as short of a distance from that radius to the street. I think that is another part of the issue when we are looking at Wedington Circle, right?

Ron Petrie: Yes madam. Not really having the opportunity to look at those, I think it's the volume of traffic on the road that is really the critical and the deciding factor. At least it is for me in my recommendations. I'm not sure if those roads have similar volumes or not.

Alderman Lucas: Ron, the street we are talking about is not residential primarily. It's the street that has the commercial on it?

Ron Petrie: It does, it's a mixed use development so it's going to have some of both, but I think all the commercial is on that street.

Alderman Ferrell: That is your primary concern is the short radius.

Ron Petrie: Yes sir, that's really the only concern at this point.

Steve Mansfield, the developer on the project, stated based on the comments of the Street Committee, I asked our Engineers to go back and take a look at other streets in the city that might be of similar radius and length and try to see whether we would be the sole exception to city ordinances if this was granted as a public street. That is not the case in fact there are multiple examples of other places in the city where streets have been built that are not to city ordinance.

Rosco Black gave a presentation along with a chart of all the streets that do not meet city regulations.

Steve Mansfield: There are 39 examples that we found in a short period of time. We really didn't go into an in depth study. Of those 39 examples there are seven that are significantly worse than the street that we are proposing and two of them have steeper slopes in that they are in the Hillside District as well as have tighter turns.

Mayor Coody asked Ron Petrie all these streets that are on this chart, are they older streets that might have been put into place before we had these regulations.

Ron Petrie: Just looking at where they are located, most of them are on Mt. Sequoyah it appears, and very little in the new development that we have had over the last ten years. Minimum street standards were approved in 1995 so certainly there is going to be those exceptions and there will be streets that were put in in the early 1900's. I'm not sure that is the best reason to allow another sharp curve in the city just because we have others.

Alderman Thiel: It's not the question of not allowing it. We are allowing it; the city will not be responsible for it. That was something the Street Committee asked for from the City Attorney if we actually took over a street to maintain it would there be a liability issue.

City Attorney Kit Williams: As you are aware the city is protected by sovereign immunity for negligence so if someone is said allowing this street to be that sharp was negligent then

presumably our defense would be there. I have raised that in cases and been successful in some cases, but not in every case. I think the bigger question would be the maintenance.

Alderman Ferrell: Mr. Mansfield, I strongly believe in trying to help commercial and business but when I got to looking, I really don't see any exception of the streets where there is Commercial.

Steve Mansfield: I'm not sure why it really matters sir.

Alderman Ferrell: I think that is what the City Engineer is concerned about.

Steve Mansfield: Safety in general or commercial volume of traffic?

Alderman Allen: Regardless of our decision it seems the map is a mute point because many wrongs don't make a right.

Steve Mansfield: I would agree with that, it was an issue that was brought up at the Street Committee and we were asked to provide the data so we were trying to do so.

Alderman Allen: I think you have a good project but I don't see the map as being an applicable part of our decision.

Steve Mansfield: Kit's comment with regard to maintenance versus liability, my personal view on that is one of the things as developers that we do by making investments in the city and building development like this is we pay taxes. If the road impact fee is passed we will be paying road impact fees for this project as well. It is my belief that it is part of the city's obligation to maintain those roads in return for our obligation to pay taxes and build the infrastructure.

Alderman Jordan: One of the main concerns I had at Street Committee was this very item we are looking at tonight. I think anybody that was on the Street Committee remembers that. That was something that we determined that would be hashed out later. We know that staff and the Planning Commission were not recommending this because it is not according to city standards. My problem is that if we do this you only compound the problem. You don't fix the problem. The only way you can fix a problem is to build according to city standards as much as you possibly can. I like the developments but on this issue I believe this road either needs to be built according to city standards and made a city road or if they want to build it without it being according to city standards then it needs to be a private road.

Mayor Coody: Steve, it looks like the Council is lining up to vote against you. Are interested in looking at your design one more time to see if there is a way you can tweak this to fall within city standards? I'm sure the Council would then approve making this a public street if it meets our standards.

Steve Mansfield: I appreciate that offer. We have looked at tweaking the project many times. As a developer we have created the best density project for the site and the one thing that fell out was being able to meet this curve at the entrance. I would ask you to reconsider the whole concept and plan of the PZD and the planning of our future vision for Fayetteville on building higher dense urban projects. Those projects will not meet every single city ordinance.

Mayor Coody: Those are all very good points. If we do infill developments there will be constraints that none of us would have foreseen. The grade and the radius together with the high traffic count basically causes the problem. I think your development is a good project.

Tom Jeffcoat, with Millholland Company: The short radius curve is not on a steep slope, it is only on a 4% slope. One reason it is on a 4% slope is that it meets city standard requirements for an entrance into a development slope wish. We could have made that slope greater. We were restricted because of the size of the development and the need for shorter, tighter radiuses. The slope of the project does not occur until you get beyond this point into the development. As far as maintenance goes we are constructing this of concrete, not asphalt which reduces the maintenance on the city's part and developer's part. The point is many of the standards are met, the radius is the only issue and that's because of the layout and the design and density of the project.

Alderman Thiel: The Council approved this project. We had a lot of issues and concerns about traffic. We certainly support the whole concept.

Steve Mansfield: Thank you and I am aware of it. We did take it through all the processes that we were required to go through and the Council did approve the project.

Alderman Lucas: As it was stated, this was one of the issues that were going to be decided later whether it was a private or a public street. It is a good project.

Steve Mansfield: Unfortunately the project is all encompassing and when we take pieces out and deal with them later this is what can happen.

Ron Petrie: Just for clarity, the drawing that has the curve in is different than what was approved by the Planning Commission so if you address that in your appeal I think you have it covered. The revised drawing with the 41 foot radius.

City Attorney Kit Williams: You are recommending the 41 foot radius drawing that they submitted?

Ron Petrie: The reality is I am not recommending anything if it is private, but it is different than what was approved by the Planning Commission.

Alderman Jordan: What did they approve?

Ron Petrie: It had a T intersection and it was a different layout.

Alderman Jordan: You would like for it to be approved according to what the Planning Commission approved?

Ron Petrie: Probably the best way is we still have to discuss the off site improvements that were changed at the Street Committee and recommended by the Planning Commission. So we will need another item in the future to address that and at the same time I will address this. I think we can address it at a later date.

Tom Jeffcoat: I'm not sure what off site improvements we are discussing but the change in the layout was a change recommended by staff to eliminate the T-intersection because of safety and that was one of the things we did. That's the plan that is in front of you that has a drive entrance instead of a T-intersection. We eliminated the T-intersection due to fire safety.

City Attorney Kit Williams: I think the motion should read that you grant the appeal in relation to the plat that has a curve instead of a T-intersection but you deny the appeal in relation to making it a public street as opposed to the private street that was originally approved.

Alderman Jordan moved to grant the portion of the appeal regarding the curb instead of a T-intersection and deny the portion of the appeal in relation to making the street a public street instead of a private street. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent.

Part of this appeal was approved and part of it was denied.

Resolution 50-07 as Recorded in the Office of the City Clerk.

R-PZD 06-2299 (Ruskin Heights): An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2299, Ruskin Heights, located west of highway 265/Crossover Road, on the south side of Mission Boulevard; containing approximately 28.93 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The only comments I have is a reminder that the Council at the last meeting amended this Planned Zoning District and adopted six changes with the new conditions of approval which are in the final agenda packet. Those are the change in density on the site, the removal of the tower, requirement for engineered foundations for all structures with the exception of accessory structures of 100 square feet or less, fence installation adjacent to an alley if the property owner desires that, limited access onto Greenview and the traffic signalization agreement for responsibility for payment installation of that signalization.

Cynthia Parker, resident of 1680 East Shadowridge Drive stated she was against this development because of the density and the traffic that it will put onto Highway 45.

Allison Harter, resident of Ward 1 stated she was worried why we did not listen to the Subdivision Committee when they said "We feel the density is too high and it should be reduced." She asked if they would have to put turn lanes on Highway 45 and if that would be a condition of approval.

Mayor Coody: Yes.

Allison Harter: After Phase IV, will a turn light go in?

Jeremy Pate: Full cost of the signal shall be submitted at the end of Phase III and then a warrant analysis is presented to the city and the highway department, with every phase of the development thereafter, to determine what improvements are warranted and what can be installed. All the funds for the signal have to be contributed to the city by the applicant which we would hold in escrow until the warrant is met for that signal.

Allison Harter: Is it possible if a warrant isn't met for a signal to at least get a crosswalk so that it's safer for people to cross that street and get to the sidewalk that will be on the other side?

Mayor Coody: We need to do more sidewalk work in that area for sure. I am assuming since that is a state highway the answer to your question would be yes, but it would take their permission.

Allison Harter: To make it more walkable it would be nice to have accessibility to the sidewalk because it isn't currently accessible on the south side of Mission to cross the street. The homes that are along the south side that border Park Place, I was told they would have tuck under garages because it's on a hill, if they have tuck under garages is that part of their 45 foot height minimum or will we end up with three story homes?

Jeremy Pate: It is considered part of their height limits. Height limits are actually measured from the existing grade so the grade. We measure before the ground is disturbed and we would measure from that particular point. It's measured on every side.

Allison Harter: So we wouldn't necessarily have three story homes?

Jeremy Pate: As long as it met all the requirements for the height limits and the hillside ordinances.

Allison Harter: And the height regulation is 45 feet?

Jeremy Pate: That is correct.

Allison Harter asked about the schools and where the children would go to school due to the fact that the schools in that area are full.

Mayor Coody: I don't think any of us can answer for the school district or the school board.

Allison Harter: It's food for thought.

Jeremy Pate: I would like to elaborate on my answer, part of the conditions of approval state that the applicant is required to make street improvements and those improvements will extend west all the way to Greenview Drive so in front of the property at Tim's Pizza, sidewalk construction would be a part of this development.

Thad Kelly, resident of 1659 Viewpoint stated he had reservations about this project but with the changes the contractors, developers and everyone involved have made with the turn lane onto Greenview, he whole heartedly supports this project.

Peggy Guccioni, resident of 1665 W. Shadowridge stated I sent you a summary of some work I've been doing. She reviewed the executive part of the summary and voiced her concerns with the slope and the runoff.

Mayor Coody: Earlier I emailed your concerns to Ron; did you have a chance to look at that email?

Ron Petrie: You really need several factors coming together to cause slides on the hillsides. It is very difficult to say that we will or will not experience any slippage in the area. To a large degree we will rely on the geotechnical engineer to do their job properly. He went on to speak on the City of Fayetteville Drainage Criteria Manual. The applicant used tables from reliable references accepted references and they are very detailed. I have reviewed that and it matches the data and to a large degree, if they have supporting documentation it's reason for me to accept it. Our work will just begin once you approve this.

Peggy Guccioni: The numbers that they used for residential are for coverage's of about 40% of the lot by impervious surfaces but if you look at their plans and numbers they are will have anywhere from 60-95% impervious surfaces. That should increase the amount of runoff considerably in the residential areas.

Ron Petrie: This report was done when it was submitted for Technical Plat Review; the density in this development has changed quite a bit through all these meetings. What we are looking at is very generalized numbers. When we have construction plans we will know specifically more details and whether these numbers are correct. We will be reviewing that for correctness at that time.

Mayor Coody: King's Drive was just an old dirt path made back when Mt. Sequoyah was young. Over time someone went out there and put gravel on it and asphalt, so it was never built as a real street. I believe that it is not the whole problem but a contributing factor.

Joanne Cavammi, resident of 1982 Greenview Drive asked the Council to stick by the rules. She stated the rules have been put into place to protect citizens from various short comings that have occurred in the past because such rules were not in place. She went on to speak on the recommendations that have already been given and she stated that the Council should consider all the recommendations they have been given.

Stuart Fulbright, a citizen stated I am strongly in support of sustainable development and I think this plan is our best bet in going down that road.

Rick Shelton, a resident of Lisa Lane spoke on the density and stated I believe this is a good thing and I am in favor of it. He stated this plan opposes sprawl and engages people to live in closer proximity. I am in favor of reducing city sprawl.

David Murry, resident of 608 N. Assembly Drive stated the neighbors in this area felt there were some concerns that did not get addressed the way they wanted them to. I can't imagine that they are going to take down all the trees and not replace any of them. Over the next couple of

decades the tree canopy on this property is going to be quite beautiful. We might compare what is there now to what is planned to be there in a couple of decades as a result of this development. It's not fair to compare it to a cleared slope; it's an engineered design slope with retaining walls, walls, streets, trees and dwellings with engineered foundations that are going to retain soil. He stated I think you should have an engineer look at this site. He said he was in favor of the project.

Paxton Roberts, resident of 406 E. Gunter Street stated you can clearly see from their plan they are keeping a great majority of the tree cover. In addition 295 units could easily be built on 295 acres outside of Fayetteville in Goshen so you are destroying 295 acres of land versus 30 to get the same amount of people to live there and I think that is important.

Shelly West, a citizen stated it is great that they are replacing all the trees they are taking down with more trees. If people are concerned about preserving our native woodlands then they should be out there looking at all the native woodlands that are destroyed in the county. I think we are on the right track with tree preservation and I really enjoy working with the Fayetteville staff. I think they are just as concerned as the citizens about this.

Anita Backus, resident of 1984 Greenview Dr. asked about the trees being cut down for the project. She stated in my backyard there are hundreds of trees and they serve a very important purpose of the drainage and runoff. She asked the Council to have an open mind and she stated that 295 units on 28 acres will be overlooking me and that is invasive to us.

Suzy Walker, resident of 1981 Greenview Dr. stated even though there have been changes made to the development I am still concerned about the problems that will be caused from cutting into a hillside and about building such a dense development. She also voiced her concerns about the traffic issue on Highway 45 and stated she did not see that making Greenview Drive an access street or a cut through as a solution to the problem.

Ken Kvamme, resident of 1983 Greenview Drive stated he is against the project. He voiced his concerns about the trees and the run-off. He discussed the traffic study that was conducted and stated that he felt traffic is worse than the study indicated. He stated I am worried that the projections for flooding and slope wash could be considerably lower than what might be the case and taking the trees off could compound the problem.

Bob Kelly, a resident of Sequoyah Drive stated I am an architect and I think this project will affect our neighborhood and I am in favor of this project. It is nicely done and it will be an asset not just for our neighborhood but for all of Fayetteville. I would like for you to support this.

Pamela P. Conner, resident of 1686 Shadowridge asked how we suddenly allow something with 43 variances to skate out of the Planning Commission. She stated that it doesn't seem that we are following the same rules for everyone. I have a problem with that.

Mayor Coody: Tim or Jeremy, you might take a moment to describe what a Planned Zoning District does.

Jeremy Pate gave the definition of a Planned Zoning District and described the process of a Planned Zoning District.

Jeff Beaver, a citizen of Ward 4 pointed out that these guidelines were not outlined solely by the U.S. Green Building Council. They were taken into consideration and worked in conjunction with the National Endowment for the Arts, the Heritage Foundation, etc. and these are all organizations that worked with the U.S. Green Building Council to develop these guidelines. There are certain guidelines that have to be met. In reviewing the information from the website they are penalized for not being dense enough. This is being developed across the whole spectrum because we are looking at future growth of our cities, municipalities, infrastructure and water and those are all things that are going to have to be taken into consideration when we start developing and these are not things that are taken lightly at all.

Dot Neely, resident of 1244 Mission stated she toured the Ruskin Heights project and there are many proposed plans for the site that are very appealing. I've looked at some of the other aspects of the site and it is particularly pleasing to know that the developers are planning to retain and utilize storm water rather than just letting it escape off site. They intend to recirculate this stormwater in their fountains and their waterscapes within the site. She voiced her concerns about the density of the project. She stated particular care needs to be taken in the western portion of the site because it is a collector for stormwater naturally and if there were a decrease in density on this site she would recommend that it be focused on the western portion of this site. She also voiced her concerns about the traffic problems this development could create. She urged the Council to be stringent on reviewing the specific plans for the areas and the phases for what will be done there and to make every effort to ensure that success of this should you pass it so the city and residents can get behind future projects such as this.

Alderman Jordan: Has the Sierra Club discussed this particular development in any of your meetings?

Dot Neely: Not as a formal topic. Some of us that are in social situations have talked about it but nothing formal. I am speaking as a citizen right now not as a representative of the Sierra Club.

Libby Wheeler, resident of 1635 West Shadowridge Drive stated there are a lot of exciting things about Ruskin Heights but the project is too dense for our neighborhood and I truly believe it is going to compromise the quality of life of residents who already live there. I think it's an exciting project but it's just too much of a good thing.

Alderman Allen: What is your reaction to the comment about the proposal of money in lieu for the trees?

A Developer for Ruskin Heights stated if we were to develop the entire site at one time we would not have to pay money in lieu because we could meet our tree preservation requirement through saving trees and through planting trees. Since Phase I is on the eastern side of the property, the portion of the property that has very few trees on it currently and we have to get up to the 30% canopy preservation requirement. The street tree requirement doesn't count towards our tree canopy, we actually just run out of places to plant trees. So it's really a phase specific issue that we have to pay money in lieu in Phase I.

Jeremy Pate: The Urban Forester spoke with me during Technical Plat Review in looking at the ability to replant all of the trees. I think they are required a total of 265 trees for the first phase. The problem with that is if we plant trees on site, we would not be able to ensure their

livelihood and perpetuity simply because there would be future streets that would come through and then they would have to be removed. So what this requirement is on condition 19, mitigation is required, they do have to meet the tree preservation requirement and they are going to do a combination of on-site planting. So where those trees can be planted then they will be planted on the property to meet those mitigation requirements and where not there will be money in lieu. It is simply a matter of phasing at this point in time.

Alderman Thiel: Are we talking about park land fees?

Developer for Ruskin Heights: No that was tree preservation canopy.

Alderman Thiel: That has nothing to do with tree preservation.

Jeremy Pate: I think that has been a source of confusion because a lot of the members of the public have stated trading the tree canopy for fees which is technically a part of our tree preservation ordinance and that is very separate from our park land dedication ordinance. This development is required to do both and that is the amendment that you as a Council decided to make and instead of a construction of a tower and getting credit for those fees, those fees would go into this quadrant in the park land dedication fees.

Alderman Allen: I would like for you to talk to me a little bit more about the geological studies that were done in particular since this land is slate, I want to know exactly about the trees being removed, also I would like to know when your responsibility ends in terms of what might happen if this land moves and things do slide down, when does that end and when does it become the responsibility of the land owner?

Developer for Ruskin Heights: When an individual builds a home we are requiring them to have engineered foundations stamped by an engineer. At that point it is the engineer's responsibility to assure that the building will be stable. Discussing tree removal, as you can see on the western boundary we made a point of protecting the area with the most significant trees, northwest has a decent amount of canopy but it actually has a lot of invasive species and many smaller trees and in addition to the area that we set aside we also have the tree houses which are designed to have daylight foundations where you have natural flow of run-off underneath those homes and also those are on specific site locations that will be specified by the developer so we can tuck those in there to save as many significant trees as possible.

The Project Engineer for Ruskin Heights: The question might have been more towards what may happen if we remove trees from the slope and how that might effect the soils underneath the trees. On the eastern side of the site there is one single family residence. The eastern side of the slope is not forested and there is not a lot of tree canopy over there. To the western side of the site we have put our tree preservation area over there so we won't have to remove any of those trees. That is also the area of the site where we were trying to be extremely sensitive and put the tree houses in and minimize the impact on those trees. We are trying not to affect that existing forested slope.

Alderman Allen: What can you tell me about how things are different now than they were with the King's Drive situation?

Developer for Ruskin Heights: I would defer to staff on that but I think King's Drive involves a subdivision that went in and it actually has very low density. If you look at the Mission Hills Subdivision you see that you have three sections of road. They are on slab foundations and you see stairstep of grading with huge fills and cuts as each house works its way up the hill, as opposed to having homes that are designed with the structure of the hill in mind. In our case we are requiring engineered foundations and they didn't there. If you look at the back side of Mission Hills you see the step up from the road to King's Drive you see a huge grade change and a very large retaining wall on the back side for a road that was already failing and was built very poorly. You have several things contributing to the failure there. It also points out in very stark contrast that low density does not protect the hillside if done poorly.

Alderman Allen: The reason for the tree houses you are saying is tree preservation?

Developer for Ruskin Heights: They are designed to tread very lightly on that which we agree is a more sensitive area. It was through public conversation that we came up with the idea of the tree houses.

Alderman Gray: I have visited with these men several times and they have answered all my questions. I am very much supportive of Ruskin Heights. I think it will be a real addition to the City of Fayetteville and I'm excited to see the dirt turned.

Mayor Coody: Ron, we have talked about King's drive a lot, can you fill in some blanks on how King's Drive is unique in town and how it might compare to this project?

Ron Petrie: A lot of the failures of King's Drive were long before there was Mission Hills. The underlying factor is how the road was constructed and where it was constructed. You had no subgrade that met any subgrade requirements and it was all topsoil. You had very poor soil piled on very poor soil that has an underlying water table problem and problems with utilities over the years that were leaking completely saturating that core material. You combine all these with the fact that a shell layer exists about 20 feet below the road and how that shell layer is actually sitting on the hillside at that area and you don't really know if it's the same in other areas. You accumulate all these issues and you can add in a Mission Hills and you get the failure that occurred. It's not something that happens in many locations throughout the city. When all those factors come together it will occur.

Alderman Jordan: I have had some concerns with the traffic once this is fully built out. What is your solution to some of the traffic problems?

Developer for Ruskin Heights: Our solutions are as proposed to the state, three turn lanes on Mission Boulevard, one at Lisa Lane at the main entrance which we are proposing to be signalized as well and then a westbound turn lane at our eastern entrance.

Alderman Jordan: So what about traffic lights and things like that?

Developer for Ruskin Heights: The two turn lanes and the traffic signal at Lisa Lane and a west bound turn lane on the eastern most entrance.

Alderman Jordan: And you all are going to pay for the traffic signals and the turn lanes.

Developer for Ruskin Heights: We are paying for the traffic signal and the turn lanes.

Alderman Jordan: Traffic has been a concern of mine and that road is a problem.

Alderman Ferrell: You can't dictate what the State does as this development goes forward. I like this development. Fayetteville is a city built on hills. I would concur with several of the speakers tonight that this development will not only be good but great for Fayetteville and it will reflect favorably upon the progressive city that Fayetteville is and will continue to set the bar for infill development in a very professional and sensitive manner. I think this has been clearly thought out, I think you have the best people available to do it, you went out to the community and sought public input, you were flexible and took what the public said and put it in there to the best of your ability. You worked with our planners and I think it is ready to go. I'm looking forward to supporting this and voting for it.

Alderman Lucas: I agree with the things that have been said tonight. I was concerned about the traffic and I like the way you are addressing that. I appreciate the changes that have been made to address what the people in the area have requested. Not everything has been met but you have certainly worked hard to meet what the neighbors wanted. We have an excellent planning staff and excellent engineers on staff and they are going to watch these things very carefully. They are going to look out for the best interest of the city and I have a lot of faith in our Planning and Engineering Department. I think they are great and if they think this is workable, I think it is a good thing.

Alderman Cook: I think this is a good standard for other developments that we want to try to bring to the city because they have gone above and beyond what other developers have done in the past for us. We have to remember this is a concept plan and this will still go through much scrutiny, this is just the beginning. I commend the process up to this point. I'm looking forward to moving forward from this point.

Alderman Thiel: The engineering part will still go through Planning. This is a conceptual PZD and my understanding is that each phase will go through a large scale development.

Jeremy Pate: At this point in time you are approving the development of 57 dwelling units which is the northeast corner that everyone keeps talking about. It will still have to be reviewed in further detail with final reports. Everything shaded will have to come back through the Planning Commission and be approved as well and then follow through with construction plan review also.

Alderman Thiel: I just wanted to confirm that because I know there have been some points brought out that sound like very valid points and concerns about the drainage. I tried to point out that it was my understanding that this was not engineered yet at all and the drainage will be fully engineered once this concept is approved. The developers have moved the density down to the lower area of this project. I feel like there are so many plusses with this project. As long as we can have faith that our Engineering and Planning staff will really make sure that this project works because if it doesn't then that makes all of us look like fools in a few more years because we are approving a test model. I love the fact that you are having engineered foundations, I wish we had that in our Hillside Ordinance and maybe we will revisit that in the future. I support this project.

Alderman Allen: I have to be consistent about sticking with my ward. I am going to be consistent in my voting tonight and support this project because that is what I am hearing from the people in my ward that they believe it should be built. It is a lot easier to be for something when it's not in your back yard. I have a lot of concerns however I believe this fits the goals of our city and I trust in our Engineering staff. I am pleased with the significant changes that have been made in this project. I am going to trust that these developers are going to be accountable and make this the very best project that they can make. If it were in my back yard I could see where these people would be concerned. This is probably the best project and the best group of people to develop it and it fits our plan so I will support it.

Mayor Coody: The three lanes that are planned for in front of this development, we discussed having a continuous turn lane along Highway 45 from Highway 265 all the way to North Street. Had we done that we would have alleviated a lot of traffic problems on that stretch of road because right now everyone has to stop behind you while you are trying to find a break in traffic. When you finally get to take a left, you let a long stream of traffic go and if someone is trying to take a left coming from the other direction, they have to wait and they are backing up traffic. On a three lane, if someone could just get out of a travel lane and let traffic flow, the whole problem goes away. I wish we would have left that on the Bond Issue because we could've solved this traffic problem all the way from Highway 45 to North Street. I am guessing when this turns into a three lane in front of this development that might be the least congested part of Mission because it's going to have the turn lane in it.

Alderman Ferrell: We are going to put that back on the burner before it's over but that is a different subject.

Alderman Jordan: What's the position at the State?

Mayor Coody: Everything that the petitioners have said is verified. That is the same way they do business everywhere.

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

Ordinance 4994 as Recorded in the Office of the City Clerk.

Amend § 161.21 and § 161.22 Height Regulations: An ordinance to amend § 161.21 (G) Height Regulations of Main Street Center and § 161.22 (G) Height Regulations of Downtown General of the Unified Development Code by limiting the height of new development to three stories or 45 feet, whichever is less, and to repeal § 156.02 (B)(6). ***This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.***

Alderman Gray 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 Allen: I would like to offer a friendly amendment to the ordinance to include only Dickson Street from East Street to University Avenue, and Lafayette Street from Hyland to Arkansas Avenue. Two weeks ago I listened very carefully to what you all had to say and I went home and thought about it. I thought what could I do to waylay the concerns of the people and developers in this area and also not compromise myself with my constituents who have asked for this. What I decided I could do is to pair it back to the barest of bones in order to be responsive to them and just use those two streets. The three story buildings would still be allowed by right and the Planning Commission variance would still be in place, the PZD would still be there and the buildings that exist would be grandfathered in, buildings that are destroyed by fire and other natural disasters could still be rebuilt. This is just one extra step to see that a tall building is compatible. This is not an effort to prevent tall buildings or oppose density. These are streets that are treasures to all of us, our entertainment district and the primary view shed of Old Main. These areas and the square bring people to Fayetteville to spend their money. Let's capitalize on them instead of distorting them. Let's not risk having buildings built that are not completed or sit empty. Let's make sure they fit. Let's not destroy what we have to become any city USA.

She went on to discuss pictures from the original Dover Kohl process. She stated I think our community is worth this one extra step so this is what I have proposed as a compromise.

Alderman Lucas: Nancy, explain to me again what you are proposing.

Alderman Allen showed Alderman Lucas the locations she was referring to on the map.

Alderman Lucas: So you are not going up to the square?

Alderman Allen: No, I would like to go to the square but I am not going up to the square. I am talking about Dickson Street and Lafayette. Lafayette is our primary view shed and Dickson Street is our entertainment district and I would like us to keep those two special places and not build but take that one extra step of a variance.

Susan Chaddick: I believe as we grow we must protect our sacred places; therefore I support the proposed height amendment. Where our significant and beautiful spaces are concerned, I say let's air on the side of caution and care rather than on the side of hurry up development. I ask those of you with other perspectives regarding development, can you take a step towards compromise. This amendment represents the voices of those who say in special places let's move ahead with care and protect our valued assets.

Bob Estes, former chair of the Planning Commission: It is your prerogative to enact legislation regarding bulk, area and height. You are the policy making body of this city, however when you enact legislation that relies upon the variance process it is not good legislation. The reason for that is it removes definition and predictability from the process and it increases the amount of time that your Engineering and Planning staff must devote to the effort. My request to you is to consider before you pass legislation relying upon the variance process to make that legislation workable.

Rob Sharp, a citizen expressed his frustration with trying to understand what the diagrams mean. He stated it is hard to understand how this affects the property. I understood there would be a compromise because of what I read in the paper and what I read in the paper is different than what has been talked about here. I do appreciate the idea that there might be a compromise

to the initial idea of a three story height limit throughout downtown. I'm concerned about Lafayette Street from what I read in the paper it was going to apply from Hyland to Gregg but it has changed now from Hyland to Arkansas.

Alderman Allen: This say's Lafayette from Hyland to Arkansas Avenue in the paper.

Rob Sharp: In that particular piece from Hyland to Gregg, 38% of that is schools and churches, 40% of that is already zoned neighborhood conservation and 21% is privately owned of that 21% 85% is owned by Eric Lloyd. His property is currently zoned for a four story height limit and this would have the effect of lowering his to a three story height limit. It seems odd to talk about Lafayette when you are in fact only talking about 21% of the property within the Downtown Master Plan and that 21% is the lowest along the street. This is a symptom of the fact that this has not come through the Planning staff, it has not come through the public and it has not come through the Planning Commission. I think the process is confusing. I think building height is very important but architectural standards, historic preservation initiatives, landscaping, and attracting downtown retailers are really critical ideas also and these are ideas that we need to be working on with all our energy. I think tall buildings are criticized because they are often featureless. I think picking on height is not necessarily the right way to go. I hope that we will devote this energy to strict and enforceable architectural standards.

Michael Pritchard, a citizen spoke in support of the compromise. He stated if we do not create a stop gap measure to preserve that area we are going to see tremendous pressure to tear down what's there and put in much higher buildings which destroy the character of that neighborhood. This is something worth preserving. This is a bare minimum of what we can do to protect what we have and enhance what we have and I urge the Council to take that step tonight.

Fran Alexander, a citizen stated if you are considering a story to be 10 feet and this ordinance is calling for 45 feet or three stories or whichever is less. Essentially this could be a four story building and this will begin to close in the skyline that we get on Dickson and Lafayette. We have to have transition and compatibility in order to have a consistent cityscape. Mayor, at the last meeting you alluded to severe ramifications and problems that Nancy's ordinance would create. I think it is time that you divulge to the city what you were referring to.

Mayor Coody: After two and one half years of so much effort being put into the Downtown Master Plan and a lot of staff working a lot of hours and a lot of time, they poured their hearts and souls into the Downtown Master Plan process. To have something pop up like this makes the staff think what on earth are we busting our butts so hard for just to have something change instantaneous like this. There are a lot of questions that have not been answered on Lafayette, what are some of the ramifications there, we don't even know. I asked Tim, has anyone gotten in touch with the Planning or Legal Department about any of this and so far that hasn't happened. The Planning Department has a lot of questions about how this would possibly work. When I talk about ramifications we have a very stressed out, over worked, under valued staff and this is a real problem.

Fran Alexander: It seems like to me that is a problem for management correction and not for wanting to do away with an ordinance in three readings in one night. The urgency that you have expressed is there is something going down and I think it is time the citizens found out what it was before something is checked off of our list of things to do which would protect according to those of us who can see the sky line that would ruin Fayetteville. I think if there is something

coming to town we should be told what it is and we discuss that openly and perhaps wait to pass this until we know exactly what that is.

Thad Kelly, a local architect: One of the amendments to the amendment is to protect the view of Old Main. Old Main was designed to be on exes with Lafayette. This amended height restriction ordinance before you tonight is a change. It's a change from the long work that went into the over two year Downtown Master Plan. This plan was a compromise of the design professionals, the building community and the developers with the citizens of Fayetteville to have an agreeable, understandable and reliable plan that all could use. To have a specific section carved out goes against the cities policies and principals of having spot zoning. The Downtown Master Plan should be kept as it is. This amendment and the amendment to the amendment should be voted down tonight.

Jim Minor, Senior Project Manager with Baldwin and Shell Construction Company: We are very fortunate to be doing a lot of business in town. This amendment I don't see where it affects the district in a positive way. I affirm that you are either growing or declining and being able to hold a position is unaccomplishable. We would like to stand firm in opposition to this and thank you very much for your time.

Shelly West, a Ward 2 resident: Dickson is a prize and there is some very valuable land on Dickson but by further limiting what our engineers have worked so hard to create, we are taking away from profitability and the maximization of that land. I think that is something that is important and I want to let you know that I am not the only student that feels that way. There are many students that hope that someday Dickson Street will be able to provide them with everything that they might need commercially and socially.

Allison Walker, a citizen presented the Council with a petition that was circulated in support of the Downtown Master Plan's current height regulations. She stated more than 200 people have signed the petition. She went on to list the businesses that signed the petition as well.

Steve Mansfield, a citizen: I was an investment banker and worked on Wall Street. I am very familiar with investments and how people invest their money.

Mr. Mansfield explained what a risk premium is.

The reason I bring up the concept of risk premium is that for investors, understanding the rules is really important. This ordinance changes the rule. We had a very good process to come up with a plan. If this ordinance is passed in any way what it does is increase the risk premium of Fayetteville. It tells people who want to put money into our city; that they can't know what the rules are to play with because there is a chance that it will be changed in the process. I would ask that you seriously consider the concept of putting in place ordinances and making changes to ordinances without some sort of grandfather period, without some way that the path is shown, it really hurts our town. I think the process is flawed and I ask that you turn down this ordinance.

Cyrus Young, a citizen: Those who spoke against this ordinance spoke on density and height whereas during the Downtown Master Plan sessions citizens talked about preservation and compatibility. What the people asked for and what is on the books is not the same. There was a call for predictability and I agree with that. I think the citizens of Fayetteville, when they go and participate in these sessions and ask for preservation and they put it in the plan, then the City

Council chimes in and says yes, we want that too, the citizens have a right to expect that the ordinances you pass matches what they asked for. The citizens are not asking to have Fayetteville change to be like other cities that is what the developers are asking for and that is what the ordinance as it stands right now will do. The citizens of Fayetteville are simply asking to have Fayetteville remain Fayetteville. I support the ordinance revisions.

Dr. Ethel Goodstein Murphree, a college professor and citizen: In deed we have important land marks no one will argue that Old Main is unimportant, no one will argue that our square and the post office at its center are significant. As an architect who believes the validity of preservation as a process is vested in the degree to which it can accommodate change. Part of what makes Fayetteville special is that we have managed to be ancient and modern at the same time. My commitment to this place and the kind of community it might be is about looking both backwards and forwards. I worry when we have a Downtown Master Plan document that talks carefully about historic preservation that is currently struggling with the best ways to implement the concerns about scale, tradition and continuity and community that have been expressed here tonight. I hope that you will let the good processes of planning the sensibilities of design standards and I think a genuine interest on the part of so many people in this community to go to work and make the kind of place that everyone is arguing that they believe exists truly exists.

John Lewis, a citizen stated for the first time since the 1960's we can recognize that it is not a given that Fayetteville is going to prosper and thrive in the new age that we live in. We have created a community that people love. I don't think that height has anything to do with Dickson Street being a dynamic thriving area that is alive that attracts people. I like the Downtown Master Plan and I think there is other ways to shape our growth without height limitations. I know how committed Nancy is to our community but I think if we have a problem we can get at it some other way.

Jill Anthes, resident of Ward 1: I would ask that if you choose to enact this ordinance which invites a variance process that you also include the criteria by which we are to weigh that variance. The way it is now I do not know how staff can make findings and I do not know how the Planning Commission can evaluate what is an acceptable variance to the three story limit.

Sharon Hoover, a citizen: I think if you are going to consider something like this it needs to go to the neighborhoods that this affects directly, I don't believe that process has taken place. I am on the Architectural Standard Code Committee and I believe we are going to have one more meeting and then you will see what we have been working on. However, if you want to get with Planning staff and see ahead of time some of the ideas we have come up with, I think you will see that what we are trying to do is preserve the character. It has nothing to do with height; it has to do with proportion scale of columns, overhangs, balcony's, windows and materials. I think these are the issues we really need to be talking about right now if we want to preserve the character. If you are not a design professional it is easy to think that height is going to answer all the questions but it is not.

Mayor Coody: Jeremy, how long will it be before we can have something because I didn't know this was so close to being done? How long do you think it will be before we can see something?

Jeremy Pate: We are going to have one more meeting with the committee and after that meeting we will go to the Planning Commission and I will assume that they will discuss the item and then forward it to the Ordinance Review Committee.

Julie Durrow, resident of 230 W. Meadow Street: The majority of the folks in our neighborhood are in favor of the Downtown Master Plan as it is written. We all spent a lot of time participating, giving opinions, compromising and feeling like what we have now should be given a chance to work.

Linda Ralston, resident of Ward 3 spoke in favor of the amendment. She stated unfortunately very few people choose to show up and participate. I love what Nancy is bringing forward. I think this is a wonderful compromise. I wish the citizens could actually vote on this. We have an election coming up on April 10th and I wish I could stick this on the ballot and I would predict that a majority of the citizens would vote for this amendment. I hope the Council will consider this.

Gary Mansfield, a Fayetteville home owner and investor from Miami, Florida: I am an investor in your town. I have brought several other investors and developers from outside of your town and from outside of the country to look at investments in your town. The first place that I went and the first place that each of these investors have gone as been your Downtown Master Plan. Before I made my very first investment I read every single page of that document. It wasn't until the adoption of that plan that I could feel rest assured that a property that I would buy would have certain rights associated with it and that I could make an investment based on those rights that I made my first investment. Everyone that I have brought to your town has read that same Downtown Master Plan. We have relied on it, we continue to rely on it and today we have several existing projects that have renovated some nasty looking buildings and turned them into tax revenue generating properties that have vibrant businesses in them that are employing your residents of your town, generating tax revenue, property tax revenue and increased values. We have several projects on the drawing board that we have not closed yet. We are now considering whether we need to reconsider making those investments because we're somewhat concerned that the rights that are inherent in the properties that we buy will be stripped out from underneath us. We will have to really think twice about putting our dollars to work here in your town if we can't feel secure that the property values that we are making investments in are not going to be stripped from us with ordinances that have not been approved and zoning rights that have been transcribed with those properties. I would ask you to reconsider any proposal that would change anything that is within the Master Plan document that we have used to make our investments and to consider being here in your town.

Rick Alexander, a developer: You have investors that have approximately \$100 million in project that they are considering doing in Fayetteville downtown. If you scare them off you won't get that \$100 million dollars. We keep saying we want to increase density but every time we take a step toward that we talk about taking two steps back. These guys have projects directly affected by the amendment as originally proposed and directly affected by the amendment as now proposed. I am on the Fayetteville Economic Development Commission. We spent significant time and money with the city and University trying to lure a business here to spend \$200 million and we promised them all sorts of incentives. You have guys wanting to spend \$100million and you are not helping them, you are scaring them. What are we doing, what is our message? This is the eighth reading at this Council on height for Dickson Street in the last year. At some point you have to have predictability. I live on Dickson Street, my office is on

Dickson Street, and I have invested millions of dollars on Dickson Street, why did I do that? This is commercial property, it is historic downtown Fayetteville. We have already limited the height from unlimited. We need predictability. A \$100 million in projects is \$700 million for our economy. I brought the Downtown Master Plan that was proposed in 2004 and it says "stay the course". Stay the course at least for a little while, more than a month or two. Thank you.

Beth Presley, a citizen: I understand that development is essential; I don't understand why it has to be in the few blocks that Nancy has blocked out with her ordinance, above three stories. I think some development has harmed the citizenry of Fayetteville in some ways. I think those of us that have lived here for a long time are getting tired of being burdened with being expected to supplement and benefit somebody who is just coming in. Everybody should pay their own way.

Bob Kelly, investment owner of Ward 2: If you go back and read the documentation of the Downtown Master Plan you can feel the enthusiasm and excitement and the enormous effort that went into making that document happen. Thousands of man hours have been invested from professional staff and citizens. Compromises were made but at the end you still had a very good product. If you factor in the value of the volunteer hours and the staff overtime that should have been paid it would be millions of dollars that were invested in it. It does project a bad image of Fayetteville to the business community. Fayetteville is very difficult to get anything done. It is entirely different than the rest of Northwest Arkansas. Changing this after it is just getting started is going to add to that difficulty and it may have started a downhill slide of Fayetteville. There are two jobs being created in Rogers for every one job being created in Fayetteville. We have slipped to third in revenues in Northwest Arkansas. This effort would be a detriment to making it more difficult to put any project in Fayetteville. The one size fits all has no foundation in good planning. This should be withdrawn and you should let the Master Plan run its course.

Bill Ramsey, Chamber of Commerce representative: You have a resolution from the Chamber Board in opposition to changing this ordinance but what fired me up was the gentleman from Miami. I hope you listen to what he had to say because we hear it almost everyday at the Chamber of Commerce. It isn't this particular ordinance; it's the fact that we are so unpredictable in the City of Fayetteville that we are scaring folks away. We are at a turning point in this city and we can't afford to lose commercial growth. This is just another example of unpredictability. I hope you listened to what the gentleman from Miami had to say. He was trying to encourage and develop and bring economic development. If you don't quit this unpredictability we are going to be in a heap of trouble.

Alderman Lucas: Bill, do you think that only in the downtown area is where we can get economic development?

Bill Ramsey: No, the real retail engine of this city is the mall area. We have people looking at us right now saying do we really want to do this. I was just made aware today of a commercial development that says we don't need this, and they had planned to come to our city. We are going to kill the goose that laid the golden egg if we continue down the path that we are on. I really and truly think we are at a critical point in Fayetteville's future.

Steve Russ, President of the Fayetteville Economic Development Counsel: Developers are asking that you set the rules and let it be predictable and we'll build here. There are really only two simple things that you need to do. If you follow the Downtown Master Plan those are well thought out documents, they are going to produce results if they are followed that everybody will

be proud of, we are not going to destroy the square or Dickson Street and I think we will grow at a nice reasonable rate. Stick with the Downtown Master Plan, the 2025 Plan and I think the problem is solved. We have to compete with the market share. I recommend that you stick with the Downtown Master Plan the way it is and, stick with the 2025 Plan and everything is going to be great in Fayetteville.

Dot Neely, Ward 1 resident: Fayetteville is unique and we do have a plan that sets us apart from Rogers and Bentonville which I've heard many of our business leaders keep looking to the North as if it were an example of Fayetteville needs to be and it is not. Mayor Coody you have opened the way to attract green technologies and green industries to Fayetteville. We are sitting in the position of tremendous potential to create an economic base with green industries. I don't think we need to be fanning the flames of fear that Fayetteville is going to fall into economic ruin if we take a few small steps to preserve the historic character of the core of downtown Fayetteville which is in the essence what Nancy Allen's amendment is making the attempt to do. The thing that sets Fayetteville apart is when a city maintains the essence of its character and honors its history while it makes way for new to come in. There has to be a balance between economics and new growth and preserving the very essence of where we've come from the history of the community. The historic component may set Fayetteville apart from Rogers and Springdale and that can continue to be a part of it while we grow and attract the green industries to Fayetteville. There has to be a balance and we have to preserve our historic character.

Mayor Coody: One thing I might add is that green businesses are still businesses. Even though they are green they still have to do what it takes to stay afloat or they go under. That is something we all have to be concerned about.

Eric Lloyd, a citizen: All these builders have been trying to do is make a buck and now their frustrations are running over. Old main is blocked by trees, not buildings. It's a case of the tail wagging the dog. I'm having my day and it's coming forth.

A citizen stated I am very much in favor of three story living on Dickson Street. I find it hard to believe that anyone wants a tall building in their town after 9-11. There are so many reasons to not want tall buildings in that area down there. If we are going to try to frighten people with something, I don't think we have to worry, people are going to come here and invest and want to be here. The closer we keep it to the way it's been for decades and the way it's become as we've progressed, some where we've reached the best days of it. Let's hope that what we look at will be trying to preserve the right parts of that. You are not hearing from the majority of the people at this meeting. I've seen previous meetings on this subject and the developers and people who are so frightened that we won't get fast enough economic growth that they will say yes to anything that comes along are winning. There weren't many here who spoke for Nancy's amendment. Promises are made but they are not made by the guy who finally does the work, they are made by an architect, a man who wants to get the project approved and has good intentions, that doesn't mean they will all happen. Walk on Dickson Street and get a feel for what it will look like with six or more story buildings down there.

Alderman Allen: I was raised by the then called manager of the Chamber of Commerce and my mother had a business right off the square for 22 years so I am fully aware of the importance of economic growth in this town and the need for a firm tax base. We need to watch what we sacrifice, we know what has been successful we don't know when we might be at the tipping point and lose what we have. It seems to be repeatedly said that I have some sort of private

vision and this has nothing to do with my thoughts. I am trying to do this because people have asked me to. I don't want uniform three story buildings; we are talking about just a simple variance. The Downtown Master Plan was made to be a fluid document. Is predictability a synonym for rubber stamp do we just rubber stamp everything just so we can get it in and see if we can make a buck or are we going to think about what kind of city that we have in the future. I think we stay the course but we stay the course of what the citizens bought into. This is what the citizens saw, if we call what you are talking about that are speaking against this ordinance what they bought into then it is not a charrette it is a charade. I would hate for that to happen. I hope you will think about this ordinance. I think it has merit it is one tiny step to just make sure that we have a continued good place to live and a continued good place for people to come and spend their dollars.

Alderman Ferrell: Nancy I appreciate you trying to come up with a compromise. I think many of us compromised after the public process in trying to come to some commonality on where we were headed on this. Someone said Fayetteville will end up being a standardized regular urban development. That will never ever happen. Fayetteville will never be a standardized regular urban development. Under the existing law nobody is guaranteed anything, four stories, five stories or six stories, all you are guaranteed is to be able to start the process. The only thing that is guaranteed is that there will always be plenty of public discourse and comments from people that want to be involved from the residents and non residents of this city. There is always going to be a lot of discourse and comment on what goes on and I think that happened before.

Alderman Cook: It is really a difference of opinion. No one is up here to try to throw Fayetteville in the tank. It drives me crazy when I continue to hear people say that Fayetteville is difficult to develop in, in my line of business every city is difficult to develop in. In fact Fayetteville's staff works better than most of the staff in any other cities here. To say everything is going north to Rogers and we have to compete with them. They say they have a city north of them that they are concerned about which is Jane, Missouri. It is a never ending cycle of competition like that. It is about job creation and trying to bring disposal income to our city. It is not about competing with the people north of us. That is a never ending cycle and it will never change. To say this height ordinance is going to dedicate the demise of the City of Fayetteville drives me crazy.

Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Allen seconded the motion.

City Attorney Kit Williams: At one point Alderman Allen said she was doing a friendly amendment which is sometimes done with motions but I don't think you can do that with an ordinance. With our code book we zone by zones and we control heights and stuff by the zone that the property is in. Now you have a map that goes through different zones. I have not even seen the map, I did not get a copy and I don't have a description. If you want to seek to amend your ordinance I don't have the wording for it because we do not have a zone there to place this on. We could possibly do some sort of overlay district and describe that and have an exhibit for that. I am not in a position to read anything except what I already have here. I can't read an ordinance as you have described tonight. You need more than a map.

Mayor Coody: Tim you mentioned there are a lot of unanswered questions that you have. Would you mind going through those questions that you have.

Tim Conklin: Typically if you have a zoning map amendment you would have a map. Some of the questions that need to be answered are we creating a new zone, are we creating an overlay district? This also goes outside the Downtown Master Plan and through multiple zones including an RMF-40 zone that was excluded from the Downtown Master Plan. Those are some of the issues that we talked a little about with regards to this amendment. If you vote on this I am not sure how we would enforce it or map it. I think it would be impossible at this point.

City Attorney Kit Williams: An ordinance must be read three times before you pass it and if I can't write it, I can't read it. We would not be able to pass the proposed amendment if the City Council wants to amend it. An ordinance would require a formal amendment which must be seconded by someone on the Council and that amendment must be voted on.

Mayor Coody: To take a project that took over two years of public input, staff time and legal work to come up with a document that is still being implemented one step at a time to make a quick change on that just doesn't work. There has been no process on this at all. I don't think this is ready to be voted on with any kind of reliability that we have a clue as to what this is going to wind up being. There is a long list of unanswered questions that are significant. If the City Council is serious about adopting something like this I think that we should vote this down and take time to actually look at what you actually want and come up with a process and involve the players and stakeholders in this that have not been involved yet. I think it is unfair for this Council or anyone else to make a blanket change to an ordinance that everybody had participated in and was use to, to have a complete surprise out there without the process of stakeholder involvement that we owe them.

Alderman Allen: If I were to have waited to bring this ordinance forward and see how it worked for several years by then it is done, it is built, and it is finished. I would like us to go ahead and vote on it.

Alderman Thiel: We are not voting on the Dickson Street and Lafayette. We are voting on reducing the height on the entire Downtown Master Plan.

Mayor Coody: What was brought to us two weeks ago.

Alderman Allen: There was an amendment to my original ordinance.

City Attorney Kit Williams: I think the one I read was your second version, where you included existing structures that exceed three stories or 45 feet shall be grandfathered in and not considered nonconforming structures. It is two sections of our code Section 161.21 and Section 161.22 one of them being the Main Street Center and the other being the Downtown General.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 4-3. Alderman Lucas, Jordan, Cook and Allen voting yes. Alderman Ferrell, Gray and Thiel voting no. Alderman Rhoads was absent. Mayor Coody chose not to vote.

City Attorney Kit Williams: Any ordinance or resolution requires five affirmative votes to pass no matter how many members of the City Council are here. It had four votes and the Mayor has a vote only when it is necessary to pass an item. He can choose to vote yes and the item would pass or he does not vote at all. By not voting, the item failed because it does not have the five affirmative votes needed to pass.

This ordinance failed.

Farmington De-annexation: An ordinance concurring with Farmington Ordinance No. 2007-1, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

City Attorney Kit Williams: The City Council asked me at agenda session to draft an ordinance that would de-annex the five family lots that sought de-annexation and went through Farmington. There were two other families that signed the petition but they never went through Farmington so they can not be considered tonight.

City Attorney Kit Williams read the ordinance.

This is totally a decision of the City Council to decide if you feel like it is in the best interest to detach this property. I think some of the property owners are here tonight.

Larry Weeks, Fayetteville Businessman: We asked to be de-annexed back to Farmington. It started out as a hometown loyalty issue, all of our children went to Farmington schools, and we were raised in that community. Later on it got to be an issue of services provided one in particular is our trash service. If I am going to take trash out I have to transport it a third of a mile to get trash service. My neighbor has to transport his a fourth of a mile and so do three other families. Farmington has coupled with independent contractors. We have private drives and the trucks that you have are actually too heavy to come down our roads. If we are to have trash service we were asked to provide a turn around for the truck, which we are going to incur an expense and we are asked to keep up that road which we are going to incur expense. So right now we are paying for trash service that we don't get. It is a good deal for you it is not a very good deal for us. We are on septic systems and we were informed that we were going to have to pay sewer because Fayetteville did not recognize septic. I don't know if that is the cause or not.

Mayor Coody: That is not the case.

Larry Weeks: We are just asking to be de-annexed back to Farmington.

Alderman Ferrell: Did you say that right now you are paying Fayetteville trash pickup.

Larry Week: Yes sir.

Alderman Ferrell: You already paid that and they are not picking up the trash.

Larry Weeks: That is right.

Mayor Coody: I think the issue is if they could write us a wavier to where we could drive down their driveway. We did not want to do that without their permission.

Larry Weeks: Actually that is not the case Mayor.

Mayor Coody: Is that right. I'm sorry.

Larry Weeks: The trash service sent someone out to our house and said the truck could not turn in our driveway and then we would have to sign a waiver for any damage that was done by the truck; I think they weigh about 55,000 pounds. We were also going to have to provide a turn around in our yards. I have five acres and my neighbor has three and they are all private drives back to the properties. We are going to have to incur some expense to have trash or we are going to have to haul it ourselves. Rather than carry mine a third of a mile down to Double Springs Road, I am a Fayetteville businessman so I throw it in the back of my pickup and haul it myself. I am not in the trash hauling business and all of our time is valuable. We are just so limited for time. I commend you on your efforts; I couldn't do what you do.

Alderman Ferrell: Is in fact the main reason that you don't want to be a part of Fayetteville is because of your historic ties to Farmington.

Larry Weeks: That is what this began as. We had already asked Farmington to annex us before your island annexation. Farmington didn't get that done and then Fayetteville came along and annexed us. We had petitioned Farmington and that was in the works.

Alderman Jordan: Mr. Weeks what did you do for trash service before?

Larry Weeks: Farmington couples with independent trash services. They have smaller trucks. They brought a one ton truck to my house and picked up my trash and drove to my door and picked it up. So I didn't have to mess with it.

Alderman Jordan: That does seem somewhat unfair.

Gary Dumas: All this property was in the county and it was served by various independent haulers that service the county. Farmington has a contract with Waste Management whether they will serve on a private drive or not, I don't know. Service is provided to everyone within the City of Fayetteville however if you have a private drive we ask that you sign a waiver in case the truck damages your drive that we are not responsible for that. We are not asking for a waiver if the road damages the truck just if the truck damages the drive. We asked for a turnaround otherwise the truck would have to back either a third or a quarter of a mile as you just heard stated.

Alderman Lucas: Do you have a turn around for other people that come down to your house?

Larry Weeks: I do for cars.

Alderman Lucas: So you do have a turn around.

Larry Weeks: It is in my driveway. I don't have a turnaround per say. I have a place that a car can back out of my driveway but it would not be suitable for a truck of that size.

Mayor Coody: The other folks that wanted to de-annex but they did not go through the Farmington process, have they done that yet?

City Attorney Kit Williams: I don't know if they have even petitioned Farmington. I have not seen any ordinance or anything.

Tim Conklin: I have not heard or seen anything regarding the other two families from Farmington.

Larry Weeks: There were seven of us that petitioned Farmington originally and then when we came to the meeting here we could not get in touch with the other two families that evening so we brought a petition signed by the five families that we could get in touch with at that time. There were seven families that originally petitioned. It was stated in the paper there was seven families to begin with and now there are only five families. That seemed to be an issue so we went back again to the other two families and got them to sign that document. It was after it had been submitted to Farmington the second time. In the original document to Farmington there were seven families that petitioned. In this process we have actually submitted two petitions, the first was the five of us and then we got the other two to sign.

City Attorney Kit Williams: I think the petition has been in your packet but it is nothing that we can consider because by state law we can only consider the five that went through the process at Farmington and are now before you.

Tim Conklin: Have the other two individuals gone to Farmington and has Farmington passed an ordinance because I am not aware of that.

Mayor Coody: Apparently they have not. The question is the original five.

Bud Anderson: We petitioned at one time and we took all our paperwork to Farmington and at that time they were changing Mayor's and the paperwork got lost. When we went back to get them signed again one of our neighbors was in a divorce and they could not sign because the property wasn't clear. When we got ready to have them sign again to bring back to you the other property was cleared and they were able to sign the paper work. That is the reason that we didn't have the seven.

Mayor Coody: So you are not one of the original five?

Bud Anderson: I am one of the original five.

Mayor Coody: You are? So you are one of the ones that Farmington has in their resolution.

Alderman Lucas: There is one property owner that wants to stay in that is in the middle of these properties.

Tim Conklin: It is my understanding that Mr. Rankin wants to remain in Fayetteville.

Alderman Lucas: Yes, so it makes the boundary lines very jagged.

Tim Conklin pointed out Mr. Rankin's property on the map.

Alderman Jordan: Is it going to create an island or a peninsula?

Tim Conklin: It would create peninsulas of property to the west of Double Springs Road in its current configuration.

Alderman Jordan: One of the problems I have with this is it creates some peninsulas that I think is a problem. At one time Shirley and I brought forward an ordinance to bring in the islands within the City of Fayetteville. I have a difficult time having brought forward an ordinance like that to create something like that.

Bud Anderson: That really wouldn't create an island.

Mayor Coody: He means to create a peninsula which it would. This Council is flexible so I think if we wanted to let these people out it might create a little bit of a peninsula. We have annexed 1,400 acres and we would give up 14 or something like that.

Tim Conklin: It is about 21 acres.

Alderman Lucas: Some points were brought up that their children go to Farmington school. Well we have people in the City of Fayetteville that their children go to Springdale and receive their mail in Springdale.

They are not charged, sewer and trash pickup could be available if they wanted to sign a waiver. It makes the boundary very jagged which makes it very hard for our police and fire. We were trying to square up our boundaries with this annexation. Even Farmington was talking about when they annexed they were squaring up their boundaries. I think this is creating something that is going to cause us problems in the future with our fire and police and knowing where the boundaries are.

Alderman Ferrell: I have been thinking about this a lot since the first night and I think we had some questions for Mrs. Weeks. You might have believed as I did that if you wanted out you could get out. Although I don't particularly like peninsulas and we have tried to stop doing that, I have some reservations. I think you had the idea that you could get out if you wanted out.

Michelle Weeks: I did and I have been talking to Mayor Penn of Farmington about this and I know if our other two neighbors went to Farmington then I am almost positive that Farmington would accept them and that would even up the boundaries more.

Mayor Coody: I remember when we spoke months ago I spoke to staff to put this through the process and let them de-annex. I never perceived it to be a problem based on our conversations back months ago.

Michelle Weeks: We didn't know exactly how to proceed so we sit on it for about three weeks or so. I talked to our Alderman and I also talked to Farmington and they were trying to figure out how to start the process. They were communicating with Rogers when Rogers had a thing with Lowell and so they had to wait until they could tell Farmington what to do and how to proceed on it.

Mayor Coody: I was supportive and we said in good faith if you wanted to get out we didn't think we would have any problem letting you out. That's why we got with Tim and he was going to start the process to do that. I think the hang up came when other people joined you in that process.

Michele Weeks: I didn't know that we were going to exclude Mr. Rankin which I am glad we can. I don't want to make him go to Farmington with us if he doesn't want to. When I turned in the signatures I thought a majority would do it. When I read the statement in the paper saying I didn't have seven, I didn't deceive you I just did not pursue getting those other two. That's why I came back with those other two. That's why Farmington didn't have those other two when they passed theirs.

Mayor Coody: We don't feel deceived, don't worry about that.

Alderman Jordan moved to suspend the rules and go to the second 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.

Alderman Jordan moved to suspend the rules and go to the third and final 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.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 3-4. Alderman Ferrell, Gray and Thiel voting yes. Alderman Lucas, Jordan, Cook and Allen voting no. Alderman Rhoads was absent.

This ordinance failed.

Mayor Coody: You guys are Fayetteville residents it looks like.

Larry Weeks: Is there a process that we can appeal this?

Mayor Coody: Is there a process Kit?

City Attorney Kit Williams: I don't believe so. I think this is really just a totally discretionary decision by the Fayetteville City Council. I am not aware if it can be appealed but you might want to talk to your own attorney. I don't want to try to give you legal advice.

Larry Weeks: Sure. As my wife stated on the first meeting that we had here it was indicated to us if we did not object to that island annex then there would be no problem with this. That is how we proceeded all along in good faith. It is just real disappointing. We will try to appeal this.

Alderman Allen: Has Mr. Weeks been given some misinformation?

Larry Weeks: The information was when my wife came here the first time we met it was stated that all we had to do was go through this process. We were led to believe all we had to do was go through this process and we would be de-annexed.

Mayor Coody: That's exactly right.

Larry Weeks: That there was no problem. It was stated that it had been done in Springdale. That information was given to us and it was indicated to us that there would be no problem with this. All we had to do was go through this process.

Alderman Lucas: I think it was mentioned that both Council's Farmington and Fayetteville would have to approve this. You may have assumed that it would automatically be approved but I think it was mentioned and I think I even mentioned it to Mrs. Weeks when I talked to her that it had to be approved by both the Council's; Farmington and Fayetteville.

Mayor Coody: Did Farmington approve this is Kit?

City Attorney Kit Williams: Yes they have approved it.

Mayor Coody: Since the Weeks were the first ones to come up and we basically told them that they could go through a process and be de-annexed.

Alderman Lucas: I didn't tell them that.

Alderman Jordan: I didn't tell them that, you told them that.

Mayor Coody: It was on camera at a City Council meeting, maybe you weren't there.

Alderman Jordan: Oh we were there but we didn't say that.

Mayor Coody: It looks like you are out of luck. I am sorry.

Alderman Thiel: Who can make a motion to reconsider?

Mayor Coody: Someone who voted the majority.

Alderman Thiel: Who voted in the majority?

City Attorney Kit Williams: Anybody who voted no.

City Clerk Sondra Smith: The no votes were Lucas, Jordan, Cook and Allen.

Alderman Thiel: So the no votes would need to make a motion.

Mayor Coody: They would have to make a motion to reconsider. Is there any interest in that?

Alderman Allen: I just hate for a citizen to be forced to live in the city they don't want to live in. I am really torn about our ordinances and regulations about the islands as opposed to his desire to not live in the city. I guess I don't know what trumps what exactly.

Alderman Ferrell: Nancy the reason I questioned Mrs. Weeks was because that was my understanding too. I could see how they thought it was going to be a perfunctory deal and I did too at first. That if they agreed to this then they could opt out after it was done. That's the way I remember it.

Mayor Coody: I know we were at the Council meeting and that's the way I saw it too.

Larry Weeks: That was our understanding. We live in the far corner and a 55,000 pound truck on my driveway that's going to cost me a lot of money to just keep my driveway up. Then it is going to cost me money to build him a turn around that will support a 55,000 pound truck as it will Mr. Anderson. So we are going to incur expenses to live in the city that we shouldn't have to incur. The city should buy a smaller truck and come out and haul that trash.

Alderman Gray: How long is your driveway?

Larry Weeks: It is a third of a mile from Double Springs Road to my house.

Alderman Gray: We carry ours to the end of the driveway. It is not quite that long but that would be an alternative.

Larry Weeks: That is my driveway.

Alderman Gray: Could they pick it up without having to get on your driveway?

Larry Weeks: If I carried it a third of a mile yes. I just prefer not to carry trash a third of a mile. I leave early in the morning and get home after dark.

Alderman Gray: I was just trying to think of an alternative.

Larry Weeks: I have an alternative. I am hauling my own trash. I prefer not to do that if I pay for the trash service.

Mayor Coody: I understand. I am sorry it did not work out for you tonight. I am distracted because I just don't feel like it is more important to keep this guy in the city than it is to basically fulfill our promise but that is a dead issue it is behind us.

Alderman Jordan: Mayor neither one of us said anything that night. We didn't necessarily agree with that. We have a right of representatives of that ward to do what we think is best.

Mayor Coody: You are exactly right but I was left with the impression that once they annexed they could just come back through and we would let them go.

Alderman Jordan: Well now you know.

City Attorney Kit Williams: I explained that night that both City Councils would have to affirmatively approve that and that you as a Mayor really can't make promises for the City Council.

Mayor Coody: No I did not make promises. I was not making promises but it was clearly the impression that if we forced them to come in and they wanted out, that if they went through the steps, which they have done that we would let them out. Obviously for several of us here it must have been just miscommunicated.

Alderman Jordan: Obviously.

NEW BUSINESS:

SWEPCO Public Service Commission Hearing: A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

City Attorney Kit Williams: Mayor, I presented this resolution. Section one of the resolution is blank because I am not the policy maker for the City of Fayetteville, this body is and therefore I need direction from the City Council. With this agenda item is a copy of the city's initial petition for leave to intervene. That has been slightly amended to allege that the power line goes over Dickson Street and other city streets. We submitted that to the Arkansas Public Service Commission and they have allowed us to intervene. The city is now a party to this particular case. Before they said we had not alleged enough to intervene but we have now intervened appropriately.

I should also report what happened at the State Legislative today. The State Senate with a single Senator voting no approved Swepeco's bill which would mean in a situation like this they would not have to ever get a Certificate of Public Convenience and Necessity even if they were replacing short poles with tall towers as long as their easement is not widened. Which is not usually the concern that people have, they are looking up at the towers. That passed, it had already passed the house at a 70 to 20 vote and passed almost unanimously at the State Senate with only a single Senator voting against it.

Mayor Coody: That's why they call them the power company. Our Senator Sue Madison must have voted for this bill?

Alderman Jordan: She supported it.

City Attorney Kit Williams: There was a single no vote and it was not hers.

Alderman Lucas: So then we have no recourse.

City Attorney Kit Williams: The law is not immediately effective so it might be that they will still go forward with the hearing. Although they could also just kind of pull back from the hearing and let the law take effect and then they would not need to have a hearing. I don't know what their plans are. Assuming the hearing would go forward on April 5th in Little Rock, I still need guidance from the City Council. As you know in the initial letter from the Attorney representing SWEPCO they presented several options. None of these options look very good to me and probably did not look very good to you. I tried to be at least somewhat open to something so I said not only would I recommend that we bury the line but also possibly looking at somehow getting the line out to the bypass and go that direction. That would be rather

expensive and go across some property that is not already owned with the right of way by SWEPCO and would affect other people in that direction. Therefore I want your advice, do I drop the suggestion that we use the western option that SWEPCO made as one of their options? Do we still argue that it should be buried; the problem with burying the line SWEPCO says they are ready to bury them as long as we are ready to pay them \$5 million to do it. As you see we don't have very many good options. There is another potential issue that we could raise, this is part of a much larger project, they are not just trying to connect to Fayetteville's south and Fayetteville's north substations but they are connecting this entire long line to upgrade their system from a 69 kv to a 161 kv line, making it a very much larger more substantial line because this area needs it. The question is when they do a much larger project than this it is arguable, but whether or not they need to do a more detailed permit process than what they are doing right here. It is possible that we could argue that they should have gone into that process when they first began building this very long line instead of waiting until the very end when they are putting their last segment in, which is what they are trying to do right now.

Basically I need some advice from the City Council. My first question to you is should we have any kind of recommendation about what SWEPCO had proposed as their Western option. It would basically run almost due west from the current power station, over Markham Hill and then run to 540 and then go along 540 until it went to the northern substation. I don't know what the City Council feels about that, if that is something we should propose to the Public Service Commission.

Mayor Coody: One of the things we talked about was that the city and SWEPCO can partner on this, we could dig a trench and you could bury all the small burial lines and we could bury the phone and cable with it. That would allow for smaller core tin steel poles to go up. You would still get the transmission overhead like you wanted it and it would not be a \$5 million job. We offered to dig the trench which is by far, from what I understand, the trenching, digging and burial of the work is actually the most expensive part of burying the lines until you get to the big lines. We didn't get much of a warm reception on that. I think SWEPCO said they wanted us to dig the line five feet wide and five feet deep for three blocks or so to where you could bury the small lines that are easy to bury and have the smaller poles. You still want half a million dollars from the city just to lay the lines in the ground and then run the circuits from the lines under ground to the new services to the homes.

Is there any way on God's green earth that SWEPCO can take mercy on us since you have us over a barrel and work with us and try to do something like this?

Tommy Deweese, SWEPCO: We have had a lot of conversations regarding this over the last 18 months. We have looked at a lot of different options on this particular transmission line. SWEPCO has identified a preferred route which is doing the existing route and building a 161 kv line on those easements. We looked at the structures in Shreveport and those are very large. They are pretty monstrous. They would need to be placed next to Dickson Street or in close proximity to it.

Mayor Coody: That is not an option.

Tommy Deweese: The other alternative that you were talking about if you review those email records that I sent you; there are two distribution circuits that are under built on that transmission line there. Distributions circuits serve the close immediate area to the line. They serve not only

that area but each customer that is located adjacent to those lines would be required to relocate and redo their service from overhead to under ground. We went back and looked at that. We had a lot of different discussions. We did a cost estimate on burying those two distribution circuits. The total cost of that project was about \$1.8 million. I think your total ditch cost was around \$400,000.

The reason I am here tonight is to not debate one issue over another but to answer questions that you have asked me. When you do this you would hope that you would get the benefit of having smaller poles and removing wires down there. In reality due to the location and the safety code clearances that we have to have around the buildings and across Dickson Street you are not going to gain very much if any on lowering the height of those poles. As you go north along that circuit and continue to get away from Dickson Street towards Maple Street then you can start some of the pole height down. You can't say we are going to drop the pole height down to what it is right now. I don't want you to leave here with that impression at all. The bottom line to the city on that, the cost difference between overhead and under ground, which is what we do for all cities that we serve throughout the State of Arkansas, for all developers that we serve throughout the State of Arkansas would be about \$1.5 million, not \$500,000 Mayor but \$1.5 million to bury those two distributions circuits.

Mayor Coody: That would be after we dig the trench though.

Tommy Deweese: Yes. Total cost about \$1.8 million you throw in the \$400,000 or \$450,000, whatever your bid was on the ditching and you would be asked to make up the difference on it. The thing that you need to realize is just don't think that you are going to make those lines go completely away. You have a large amount of switching cabinets that will need to be in places along Gregg Street, if you have ever looked at the Southeast corner of Bud Walton Area you will see some large equipment there, large metal boxes. Those will have to be placed some place along Gregg Street, in relation to all the businesses needing to redo their services there. It is a tough thing. I wish I could tell you that we had the absolute best solution to it. Our solution to it is to rebuild the line in place and that is what we have stated on there as our primary preferred route.

City Attorney Kit Williams: Swepeco has already filed testimony to that effect of the cost and that cost does not include the other lines that were there, other services that are already using those poles and some other costs that would probably increase that more.

Tommy Deweese: We want to try to move those transmission structures away from Dickson Street as far as we can.

Mayor Coody: Can you at least use the core tin steel poles instead of the bright shiny galvanized?

Tommy Deweese: There are some alternatives there that we would be happy to work with you on. It is matter of personal preference on what color that you would like there. We will work with you on that.

Mayor Coody: At least they blend in better.

Tommy Deweese: We plan to have the hearing on April 5 and in our period to object to intervenors we never objected to the City of Fayetteville being an intervenor in this area.

Mayor Coody: The law has now changed so that we might not have much say in this after all.

Tommy Deweese: As far as I know we will still have the hearing, you will still have intervenor status; it will still be up to the administrative law judge to say what he rules in the matter. Even though they had that vote down there today that you were talking about we still plan to go ahead with this process.

City Attorney Kit Williams: We plan to be down there too. That is why I did this resolution because I need to know what the City Council wants us to propose to the PSC, if any thing. I certainly want to cover the western route and see if anyone is interested in that or should we remove that from our petition.

Alderman Ferrell: Any alternative that could be considered that would have an impact on the rates paid by citizens, either all citizens in Fayetteville or this area; I don't think that is an equitable deal for the rate payers and the citizens and I would support that. Any alternative that requires charges that would be added to rate base for them to recoup I would be opposed to that. Not just the citizens on Dickson Street but the citizens everywhere would have to pay for.

City Attorney Kit Williams: That is a possibility that has been suggested. I have been informed by Swepco's attorney that is a possible thing we could ask for, which is a special district in Fayetteville and have the Fayetteville rate payer pay for the cost on this. I did not suggest that in my petition but if that is something that you are opposed to Alderman Ferrell and would want, then that is certainly something you can instruct me to do. Swepco's position is that they would oppose any non-Fayetteville rate payers to pay any portion of this but they might not oppose a special district being set up in Fayetteville to pay for this. I felt that was probably not going to be acceptable so I did not suggest that. This Council can tell me differently if that is your decision.

Mayor Coody: There are basically two ways that the citizens of a city can come together to raise funds to move lines, bury lines and do work that Swepco will not pay for. Those two ways are to increase franchise fees, which is the least attractive option. Out of the franchise fees comes retirement benefits, profits and things like that that we would get maybe 50% of the use of the money that we would put in. We would use about fifty cents out of every dollar. The other option is what is called a special tariff district and if the citizens so choose we could form in Fayetteville a special tariff district. Whatever money is collected, 100% of that money goes for particular jobs. Those seem to be the only ones and I don't know if they are viable or if the city is interested in something like that or not.

Tommy Deweese: I think Fort Smith has passed a special sales tax that was dedicated towards utility relocation and burial. That is something you may want to do in the future.

Mayor Coody: As long as we have over head power lines this conversation will be eternal.

Tommy Deweese: Right, it really will be.

Irene Pritchard: I am asking you to intervene on my part and also for everyone in Fayetteville. I would like to have a fair evaluation of alternate routes.

Ms. Pritchard spoke of different routes that might work.

I don't think it is fair for us not to have the right as a city to have a fair appraisal of what we are giving up and look at cost versus benefits. These power lines cost the City of Fayetteville. It doesn't make a lot of sense for all the money that has gone into Dickson Street and for the development of Fayetteville for us to let Swepeco build these huge lines wherever they want.

Fran Alexander: I have a suggestion about dealing with Swepeco and the state. Kit you said that this had to be in Fayetteville and this had to be a district here that it was not something that we could spread the cost of this over the state is that correct?

City Attorney Kit Williams: My petition asked for it to be a cost of their doing business but when talking to Swepeco's attorney and reading their staff report, it says that the taller poles are more aesthetic than the shorter poles.

Fran Alexander: I think the issue seems to be centered around who is going to pay and that Fayetteville is going to be the one that has to pay. This University is a state structure and it is a historic area. I think if we tried to deal with this on a state level that this might be an angle.

Frank Sharp: \$5 million is a lot of money. That line is amortized over how many years?

Mayor Coody: The \$5 million was if we buried the 161 kv line which just isn't feasible. Burying everything else besides the big line and using smaller poles is about \$2 million.

Frank Sharp: I have property on Dickson Street and we have walk-in coolers and my meter spins. If you formed this district it would be interesting to see what this is going to cost.

A discussion followed on the cost to the customers.

Jim Spillman, Ward 2: Is the amount of maintenance that is required on a buried cable greater, lesser or about the same as a cable that is suspended on poles.

Mayor Coody: It is more for under ground.

Tommy Deweese: Although you have the savings of tree trimming and other things when you have a fault or an outage on an under ground facility, the vast majority of the time you have to replace the entire system.

Alderman Lucas: I had a citizen call that is opposed to the western line because it goes right beside a neighborhood and up over Markham Hill. It would take out a swath of trees that we have tried very much to preserve. I have gotten several calls on that.

City Attorney Kit Williams: Is that a consensus of the City Council that you want the western option removed from the petition?

Alderman Cook: We are in a no win situation. There is really no good answer to that. There is really is no answer at all.

Alderman Allen: Are there no other options that could be brought forward of other places that it could be?

Mayor Coody: Not really, that would not be even more damaging than what we are talking about with Gregg.

Alderman Lucas: Could we request they camouflage the poles?

City Attorney Kit Williams: We could request that.

Irene Pritchard: I was talking about going out west of town, on the edge of town and it does not go over Markham Hill and it does not go down Sang Avenue.

City Attorney Kit Williams: It would go from the south Fayetteville substation. We could ask the PSC to have them not bring that line right into town, like they already have, but instead to take it along the bypass the entire way. The problem with that is they have already built half of the line so they have kind of painted us into a corner. Our response to that would be that they should have presented this entire project at once before they built half the line so we could have looked at it then and the PSC could have looked at it then and made a rational decision early on. Swepeco's response to that says one of their primary customers is the University of Arkansas and that they must have substations fairly close to their primary customer in order to deliver enough voltage. The only other thing that I think we can propose is that they should have built the line from the south Fayetteville station all the way to the north without coming through the middle of town.

Alderman Cook: If they have a substation right there to serve the University why can't they start farther south and swing out around 540?

City Attorney Kit Williams: At this point in time it would cost them considerably more than extending the line from where they are. They will argue that they should not have to do that because they are supposed to provide service at the least cost possible. That is their argument right now to the PSC. I can make that argument that they should have provided this to us earlier and to the PSC earlier so that we would have had an option before they made this other major investment that they have already done if that is what the City Council wants me to do.

Alderman Allen: That seems the best to the worst.

Alderman Thiel: I think so.

City Attorney Kit Williams: I plan to remove the western option that Swepeco has proposed except where it would join the line that would come up from the southern substation and would join this eventually at 540 near Wedington and then just go on from there.

Alderman Gray moved to have Kit withdraw the recommendation of the western route that goes over Markham Hill and recommend that SWEPCO should have notified us earlier and should have connected the southern substation with the northern substation

along 540 instead of coming through the middle of town. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-1. Alderman Ferrell voting no. Alderman Rhoads was absent.

Resolution 51-07 as Recorded in the Office of the City Clerk.

Power Secure, Inc. Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final 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.

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

Ordinance 4995 as Recorded in the Office of the City Clerk.

ANX 06-2288 (Broyles): An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. Planning Commission voted 7-0 in favor and staff recommends approval.

Alderman Jordan 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.

This ordinance was left on the Second Reading.

R-PZD 06-2281 (Holcomb Heights): An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision; containing approximately 13.47 acres; 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: I think it would benefit all if we waited until the next meeting to present this project.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Rhoads was absent.

This ordinance was left on the Second Reading.

ADM 07-2477, BioBased: A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.

City Clerk Sondra Smith: I received an email requesting this be tabled to the next meeting.

Alderman Jordan moved to table the resolution to the April 3, 2007 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Rhoads was absent.

Mayor Coody: I'm sorry but there has been somebody that has been here since 6:00 this evening to speak to this. Would it be tacky and rude to let them speak?

Alderman Jordan: I am sorry I should have opened it to public comment.

Thad Kelly: I brought this project to you several times but I am no longer associated with the BioBased development team. My being here tonight should not be construed as my wanting this project back. My wish is for this to be a successful project with the original vision of the firm. I and my partners enjoyed working with the Muccio's on this, his team was good. The design was to be a LEED building; the promise was for it to be a LEED building. The management of the company, their vision was for this to be an agrarian look and for it to personify the renewable natural nature of the components of their project. Things changed from a company vision to an investor's vision. The initial cost became more important than the sustainability. A LEED building is a lot of things, it is sustainable, it is energy conservation, it is ecologically friendly and it sits lightly upon the land. LEED is a philosophy of conservation and sustainability that is considered and incorporated in to the building throughout the design process.

Mr. Kelly continued to explain the LEED process.

I think this new change to this project should be rejected because it does not live up to the promises and the potential of the building that this company could build. This area should be a gateway and a front door to Fayetteville's technology park.

Steve Rust: I would encourage you to table this and reserve judgment until we can get a meeting scheduled.

This resolution was Tabled to the April 3, 2007 City Council meeting.

Amend Chapter 92 – Animal Ordinance: An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I would like to leave this on the first reading.

This ordinance was left on the First Reading.

Amend Chapter 51 – Sewer Volume Based Rates: An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.

City Attorney Kit Williams read the ordinance.

David Jurgens: This is a by product of the agreement between Fayetteville and Farmington for wastewater services. All we can do tonight is have the first reading and announce a public hearing. We will have that public hearing at the next City Council meeting and then we can look at the rate ordinance after that public hearing. This affects rates for outside city customers only. It has no affect whatsoever on inside the city customers. Our auditing firm did a mandatory review on this to make sure that we still met our bond covenants and we in fact do meet those.

Alderman Lucas: We had a study before that had certain rates and now we have a study that says less rates, what if we have a study in three years and find out that we have different rates? Are you sure this is the right study?

David Jurgens: There were questions that came up about the study that was done by Black & Veatch in 2003. While I don't think it was deemed to be illegal or inappropriate it certainly seemed out of balance. When HDR tried to recreate it, it was difficult to recreate the process by which Black and Veatch produced those numbers. We feel this rate is in fact valid, fair and true.

Alderman Lucas: We will be able to pay our bills with this rate?

David Jurgens: Yes madam.

This ordinance was left on the First Reading.

Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.

No action was taken.

Forrest F. Brooks Revocable Trust Land Purchase: A resolution to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust located north (and below) the Lake Lucille Spillway for \$495,000.00 and to sell 1.89 acres to the United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to the Fayetteville Natural Heritage Association and Neighbors for \$179,500.00.

Alderman Cook: I brought this forward. Citizens are supportive of us buying green spaces. Goal # 5 of our 2025 Plan states we will assemble an enduring green network. I thought I would bring this up for discussion.

Bob Faught, Fayetteville Natural Heritage Association showed the Council on the map the property. He gave a brief summary of their assessment of this property. He stated there is good public access on two sides. In addition to the public access there is a proposed trail in this area and it could come through this property in the future. He discussed their work to preserve this area and the donations they have received thus far. He urged the Council to pass this resolution.

Alderman Ferrell: There used to be a cemetery on that property.

Bob Faught pointed out the cemetery on the property.

Alderman Ferrell: I think this Council has tried to be supportive of green space.

Bob Faught: We got the option to purchase this six months ago.

Alderman Ferrell: It is a nice piece of property but we are not under obligation after the Mayor visits with you?

Mayor Coody: I can't obligate the City Council for any thing. We would have to get appraisals and then see what would happen after that.

Walter Manger, Ward 1 stated he supports the purchase of this property.

Shay Hopper, Hillcrest representing the neighbors of the property, I think this is a phenomenal opportunity for the city to show how an infill project can marry with a green space project immediately in the heart of the city. We think it is a really great opportunity.

Pete Heinzelmann spoke about the uniqueness of the property. We have an opportunity to leave a legacy. I think this is a special opportunity.

Mayor Coody: Thanks for your work and everyone's work in the Fayetteville Natural Heritage Association. One of these days we need to start talking about some kind of substantial funding structure. I hope you are considering that.

Bob Faught: That is the next project that we are going to take on. This model is not a sustainable model for you or for us. We need to do something different. We have formed a small group and are looking at what other cities around the country have done.

Mayor Coody: Sales tax is how we fund things like this, fire, police, street, and sidewalks you name it, it comes out of sales tax. It is very important for us to realize that business is very good for Fayetteville.

Alderman Ferrell: I am glad that we have citizens like you out there finding these treasures. I want to thank all of you that are involved in this.

Alderman Cook: I would hope that the Council agrees that we move forward and at least see if we have an opportunity that we might be able to acquire this piece of property.

Alderman Lucas: I think we are all in favor of this; the bottom line is money at this time. We have areas on 540 that could be developed and bring sales tax into Fayetteville. The only thing I am concerned about is sometimes resolutions become laws. Everyone assumes we have voted for this but the bottom line is money in my opinion. I applaud you all.

Mayor Coody: To be perfectly clear I didn't say the City Council would do it I said that raising half would increase the changes of the City Council agreeing to it.

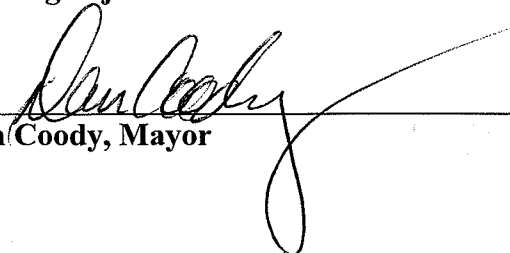
Alderman Gray: I agree with what Alderman Lucas said. This group should be applauded. I certainly hope we can find a way to finish it out and buy it.

Alderman Gray moved to amend the resolution to authorize the Mayor to negotiate for the purchase of the property. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

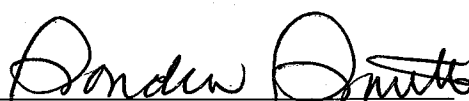
Alderman Jordan moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 52-07 as Recorded in the Office of the City Clerk.

Meeting adjourned at 12:25 AM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer