Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

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

City of Fayetteville Arkansas
Special City Council Meeting Minutes
March 27, 2007

A special meeting of the Fayetteville City Council was held on March 27, 2007 at 5:30 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, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience

Pledge of Allegiance

NEW BUSINESS:

Planning Commission Nomination Discussion: Discussion of the nominees for the Planning Commission.

Mayor Coody: We are here to discuss one item tonight. I had several people on the Council ask that we go into Executive Session so we can discuss this since it is sort of a personnel issue. Is there any objection to that? Then we can come back out and discuss whatever we want in a public forum. As a matter of fact we will have to discuss whatever we want and take any votes in a public forum.

City Attorney Kit Williams: Mayor, if you are going to go into Executive Session, I would like for it to be done by motion and also whoever makes the motion clearly state the purpose of the Executive Session.

Mayor Coody: Okay. I would entertain a motion to go into Executive Session. Is there such a motion?

Alderman Gray moved to go into Executive Session to discuss a personnel issue, the appointment of Planning Commissioner members. Alderman Ferrell seconded the motion.

Alderman Rhoads: I guess I don't really look at it as a personnel matter. I would have personally no problem discussing this in open session. Everything I have to say is not necessarily of a personnel nature. That is my point of view.

Mayor Coody: Even if we do go into Executive Session when we come out we will still have the public forum and all the discussion that we could stand and probably more actually. It is up to you whatever you want to do. There is a motion and a second to go into Executive Session. Shall the motion pass?

Upon roll call the motion failed 3-5. Alderman Ferrell, Gray and Thiel voting yes. Alderman Lucas, Jordan, Cook, Allen and Rhoads voting no.

The Motion Failed

Alderman Cook: Obviously the Nominating Committee was split two to two on their recommendations. Two of the members reapplied for their position. Two of us supported reappointing them to those positions the other two were new applicants. All of our applicants were good applicants and we appreciate people's interest in all of our city's committees and boards. As a Nominating Committee we discussed our past practices, we talked about what we typically look at in the applications, we interviewed everyone, ten minute interviews for each applicant. Based on that discussion we ended up being split by the end of the meeting. From my perspective I didn't see any reason to not reappointment the previous applicants that previously served because I felt that they served well. They put all the time in that was required, they attended the meetings, and they participated in the meetings. To me their past performance and past being on that committee gave them a leg up on any of the new applicants, because they had three years worth of experience. I voted to reappoint the three commissioners that had previously served.

Alderman Gray: We had three open positions and three reappointments is that right Kyle.

Alderman Cook. Yes.

Alderman Gray: At one time you said two.

Alderman Cook: I said two because one of them was not unanimously reappointed and two of them were split down the middle. That is the reason why I said two.

Mayor Coody: Any other questions or comments from anyone?

Alderman Thiel: I would like to hear from the Nominating Committee. That is why I wanted to go into Executive Session because I wasn't at the Nominating Committee meeting. I am trying to astertain why the decisions were made the way they were.

Mayor Coody: Shirley are you on the Nominating Committee?

Alderman Lucas: Yes. I explained at the last meeting what my feelings were. To begin with I support the reappointment of Ms. Clark and Ms. Myres. What I look for in any recommendation for a committee or commission, since I have been on the Nominating Committee, is to find the person that is the most qualified. I don't care what committee we try to get the most qualified. As Kyle said we had some excellent applicants, twelve that applied for the Planning Commission. I feel it was a matter of qualifications. I called and talked to the Assistant City Attorney before the meeting because I was concerned about the members that where reapplying, were we bound to reappoint them and he gave me the advice that if we had someone that was better qualified we could recommend them to be appointed. We didn't have to reappoint the members that were on the committee. We had a discussion at the meeting and the two that the other two aldermen wanted were good possible members. Had we not had people reapplying they would have been good Planning Commission members. It was tough and after we had further discussion and consideration in my opinion with Ms. Myres and Ms. Clark's experience on the Planning Commission, service on subcommittees, they learned a lot about the ordinances and everything. Personalities aside and how they voted on issues; and I did not always agree with them but I didn't think that should be the consideration, it should be qualifications. They are definitely the more qualified candidates in my opinion.

Mayor Coody: Adella you are on the Nominating Committee aren't you?

Alderman Gray: Yes. I feel that we had excellent candidates and we had a wide variety of experience and professions apply. I think that our boards and commissions need to be a wide spectrum of the City of Fayetteville. I do not agree that the current commissioners were the most qualified of our twelve in all cases. I just have great concern about opening up our boards and commissions for new applicants if we are not even going to consider those new applicants. That causes me great concern. I am very surprised to have been a part of a process like that. I thought we were listening to those applicants with open minds, trying to decide which one would serve best. That's what I was doing when I voted the way I voted. Yes, personalities aside I am looking at qualifications, background, experience and professionalism. I am looking for individuals who will treat our city staff with respect. I am looking for individuals who will treat our city staff with the kind of attitude that I think our city staff treats others. That is the reason I felt strongly the way I voted. To have those twelve people prepare as they did for the nomination process and then to say we are not even going to consider them, we are just going to reappoint, that causes me great concern. I think it reflects on the credibility of the Council.

Alderman Rhoads: As far as I can tell there were not only people being interviewed, I guess we interviewed 12 people, Nancy Allen was also there, she sat in and I believe there was a developer there, too. Then when we had discussion, I don't think we necessarily called an Executive Session, I don't think we disinvited anybody, maybe we disinvited the developer, come to think of it, yes I guess we did. I don't think we necessarily tried to make it too secretive of a process therefore I feel pretty comfortable talking about what I recall that went on. First of all our chairman did a good job laying things out. He led the discussion and the four of us, with Nancy there and not participating, because I asked her not to participate. My reason for asking her not to participate is I didn't think one ward, based on Bobby's prior comments on that issue, I

didn't think one ward should get two bites of the apple. She was gracious enough to say okay that's fine. I thought we had a good discussion, a spirited discussion, we voted on it and then the votes changed and so be it. It was four people taking into consideration some weighty issues about the applicants themselves but also about some personnel matters, I guess. I am going to try to be as open as possible. We disagree and I think now we are at a point where this full Council needs to make a decision. I think eventually when I quit spewing forth here I will have an idea or recommendation or a way maybe to move forward.

I don't think we would be truthful if we didn't say that there were issues brought up about comments that staff had made, the Planning staff, by Planning staff I am using that term very broadly, had made in regard to comments that had been made to them by particular members of the Planning Commission. I think that played into everyone's thought process and decision making. Also what played into everyone's thought process, certainly mine was who was qualified as I have heard people say before. I think I probably uttered the notion. I realize having been on the Nominating Committee now for five years that in the past we have tried to give difference to applicants that have been on a commission or have been on a board before. I also knew that it wasn't a rule that was etched in stone. I first made the comment and I think Adella mentioned it as well, people will not be too desirous of applying if they think why should I if you are just going to reappoint the same people. That went into my thought process. I guess when I put forth the people that I felt we should go with, my belief was that those people were the best qualified. It was not a matter of let's punish somebody. I think if someone is doing something on a commission that is inappropriate there are ways to deal with that and I don't necessarily think that at a Nominating Committee that is the place to do it. I did not feel like we were doing that. I felt that what we were doing was we were trying our best to get the best people out there. At that time I think the proposal was to have Sean Trumbo reappointed and Matthew Cabe and Shelly West.

I am not sure how this would work, and I certainly will defer to Kyle since he is our chairman if there is a better way to do this, I would propose that we come forth with a slate of Sean Trumbo being reappointed, Christine Myres being reappointed and Matthew Cabe. Again I think they are all qualified. That would be my proposal.

Mayor Coody: Are you making that a motion?

Alderman Rhoads: I don't know if it is appropriate now but if it is then I am.

Mayor Coody: Kit since we have not done this before is that an appropriate motion to make?

City Attorney Kit Williams: I think he can make a motion at this point. There is no other motion on the table I don't think.

Alderman Ferrell: Robert is this coming as a motion of the Council or from the Nominating Committee?

Alderman Rhoads: I think the Nominating Committee was split so it is my motion to this full Council. If Kyle has a better way to skin this cat then I will defer to him.

Alderman Cook: I think the Nominating Committee made a split motion basically at that point. Whatever this Council decides is what moves forward. I think Robert has every right to make his motion.

Alderman Rhoads moved to appoint Matthew Cabe, Christine Myres and Sean Trumbo. Alderman Ferrell seconded the motion.

Alderman Cook: I would like to defend the Nominating Committee a little bit because I have been on that committee since I started on the City Council. While in the past we have generally reappointed people but it has always been the rule that we choose people that are qualified. Don't let anyone think otherwise because that is the way we always do it. We have term limits on these city boards so once someone gets on a board they do not stay on forever. If they serve their two terms then they are released from their duty and we move on to somebody else. We have people that apply and in some ways we judge people's voracity to want to serve whether they apply or not. Some people apply once, they don't get chosen and they don't reapply, most of the time we probably would not want those people on the board because they are not going to serve in a capacity we want them to serve. One applicant has applied four different times and we put him on a board this time that he actually served on previously but he keeps applying. I appreciate that that speaks well for someone because they want to serve in that capacity. I think the Nominating Committee does an excellent job and we have had times in the past where we struggled to get applicants. I am very happy to see the number of applicants that we received this time because it has been difficult to get people on. Even on the Planning Commission we had times when we didn't have enough applicants or just very few. I hate to see it come to this but we are split and that is the way it is. I will say that the Nominating Committee does the best job that we can to make sure the boards are well represented from all citizens in the City of Fayetteville that want to serve and do the city's business.

Alderman Gray: I just want to say a word about the balance of the committee. I noticed Matthew Cabe is an architect and I believe we already have two architects on the committee. We have an attorney, two realtors, an interior design, two people who are non building professionals and then a landscape architect. Matthew Cabe is an excellent candidate but I felt that Shelly West as an engineer and a person who had worked with many developments in Northwest Arkansas and had worked with our city staff and was very complimentary of our city staff I was looking forward to our having an enginner on the Planning Commission. I will be very happy with Matthew Cabe. I just wanted the Council to be aware that we have an engineer applying. I think that is very important in Fayetteville where we have a lot of engineer kind of problems.

Alderman Thiel: I think that is one point however I feel like we have a staff of engineers. I think the Planning Commission does need to be balanced. The point you made is there are realtors, there are architects, there are no engineers, there is an attorney, and there are two designers, one landscape and one interior designer. There are only two people that are citizens at large. I really kind of like to keep that balance. I don't feel like the Planning Commission should necessarily be all professionals in the construction or building business. I guess I am going to jump out here and start being a little more candid about all this. This discussion is about Candy Clark and has been primarily because of staff concerns and statements that she at times

has been rude to the staff. I have tried my best to really find examples of this, it's difficult. I have tried to ascertain whether or not she was ever reprimanded and have not really ascertained that for sure because I got different stories. I support reappointing Candy, Christine and Sean because they all three have attended the meetings. This is going to take a minute because I want to make a full fledged statement here.

Mayor Coody: We are not rushing you.

Alderman Thiel: Their attendance has been excellent they have worked hard; Candy in particular is very well prepared. I have actually heard from two developers today that thinks she is great. I guess it is just a mixed bag out there, because there has never been anything officially stated to any of the commissioners as far as I know. The Planning Commission bylaws state the following: *All members of the Planning Commission shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the Planning Commission and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.* That is in the Planning Commission bylaws. Several years ago when Don Marr was still on the Council we actually did not reappoint a Planning Commissioner because of poor attendance. The Nominating Committee that was their recommendation. That Planning Commissioner came to the full Council and asked that he be reappointed and we did so, in the process though we did make some modifications to the code. I guess that is when it changed. I have done a lot of research that is why I am going to spend the time going over this. The old City Code under Section 33.111 included three reasons for causes for removal of a commissioner. *A pattern of inadequate meeting attendance including Planning tours. Chronic, discourteous behavior to other commissioners, staff, or members of the public. On going lack of familiarity with staff prepared material.* When we revisited this ordinance and made the amendments, I am not sure when it changed but the code all of a sudden, I guess when we readopted it these changes were left out, these recommendations. I am not sure we ever visited why. All that is included now is a very lengthy discussion, there are about three paragraphs stating that commissioners have to attend the meetings. The entire section evolves around requiring that they attend meetings which is important. I feel like these three things need to be brought back into the code in the section regarding causes for removal of commissioners. It is something we can look at in the future if there is ever a problem. I think in this case I am going to support reappointing Candy, Christine and Sean. I feel like they have done a good job. I have gotten so many mixed reports about all of this. That's my position. I will bring back an amendment to the ordinance that adds these things into Section 33.111.

Mayor Coody: Sometimes when we change the ordinance books things get left out inadevertently and they fall through the cracks.

Alderman Thiel: I am not sure when it happened.

Alderman Ferrell: If you do that Alderman Thiel I would be very interested in the fact that when we are talking about the selection, credentials or qualifications of the candidate, you said removable and I don't like that choice of words.

Alderman Thiel: That's in the code now.

Alderman Ferrell: If you have what is perceived by some other Councilmen as better qualified candidates, we will have disagreement I am sure, but I think there are some better qualified candidates. A three year tenure certainly helps a person be prepared, be a part of the system and learn what is going on. I think it sends a bad message to people coming on the boards and commissions if we say we can't consider the credentials and the qualifications of a person to bring them on in the stead of others.

Alderman Allen: I feel I have an interesting leg up on this situation because I am the only one on the Council that spent six years on the Planning Commission. The last two of those years were with those three people who have reapplied, Sean, Christine and Candy. I would say that Candy Clark was the hardest working Planning Commissioner that I ever worked with in those six years. She was always prepared, read her materials, was present and abided by the rules as she knew them to be. If she broke a rule no one to my knowledge ever spoke with her about that. I also had a little advantage because I am making the rounds to meetings so I can learn a little bit about being an Alderman. I was there for that meeting. I saw that there was some very good applicants but it is a long learning curve and those three were the best qualified. I think they are a wonderful balance of us. We could probably sit here and each pick one that we think is reflective of us and come out pretty even. I would hate to see us have all development, all tree huggers, all anything. I want to see a lot of diversity. I think that is what we have on the existing Planning Commission. I don't think it causes people to not apply because I think they are the most appropriate candidates at this time. In the future we might want to think about, if this is problematic, we might consider having five year terms for Planning Commissioners and that's all. That is a possibility because it is such a long learning curve. You start out just being glad you didn't use LSD and then you find out what LSD is and you go from there. I think they would be excellent reappointments. I am proud to see them serving and I know of no reason that they shouldn't be reappointed. They have done their work hard, they have been hard workers. I didn't see why Sean was better than the other two. I didn't see why Christine was better than Candy or why Candy was better than Christine. I just think they have been very hard working Planning Commissioners.

Mayor Coody: I am sure when future Councils meet and they talk about the Nancy Allen LSD doctrine they will be talking about large scale development right?

Alderman Allen: Yes.

Alderman Thiel: Thank you for clearing that up.

Alderman Jordan: I wasn't at the meeting. I looked at the qualifications, like Brenda was talking about how the code reads on the Planning Commission. I work at the University and if I have problems with an individual then I will bring that individual in and I will handle it. I really feel in this situation if there was problems on the Planning Commission whoever is the chair of that committee probably if they thought that someone was out of line would probably need to handle it. In this case I have had a lot of emails and phone calls. Most of them have been favorable including some developers have been favorable for the reappointment of the sitting

Planning Commissioners. I think if a situation needs to be handled then either the individual that is in charge of the Planning Commission needs to handle that situation or it needs to come back to the Council and we need to handle it like we have handled some of these situations before. I don't have a problem with doing something like that. If someone is out of line then someone needs to get them in line. Either whoever is in charge of the Planning Commission needs to get them in line or the Council needs to get them in line. In looking over their record they are individuals that come to the meetings, they are well prepared and knowledgeable about what they do. If something is wrong that individual needs to be told that there is something wrong and that they need to straighten up or whatever they need to do. You just don't come in and lop them off. I am in favor of reappointment of them.

Alderman Allen: When we talk about getting good applicants and will people apply I think that this kind of thing is what is going to make people not apply. I know had I been one of those applicants I would have felt somewhat as if I was on trial for the last few weeks. It certainly wouldn't make people out there interested in applying for committees. I hope that the next time we have a problem that we try to solve it, if at all possible, on the spot and not decide that we will wait two weeks. I understand that people have vacations and trips but if it is a high priority then you just have to rearrange because I think it is just not fair to people to leave them hanging out there. This has been a hard time for these people. I don't think it is conducive to the city to get good applicants when they feel like this might happen to them.

I think if we are going to do reprimands we need to really kind of think about what is rude because rude has a wide definition and I want us to be careful, I don't want it to get too arbitrary. I have had some situations, as we all have, where I thought someone has been extremely rude to me or to someone else and maybe the other person didn't see it the same way. I think we need to think about how we will handle this process in the future. There are some very clearly defined things that we all know are rude and have been defined by society but there are other things that are less clear or a little more vague. I hope we will try to work through deciding how we will define that.

Alderman Thiel: In response to Nancy's concern about how we handle it, it takes a two thirds vote of the City Council to remove a Planning Commissioner for cause. I definitely agree that it needs to be a very justifiable cause. I don't think that is that difficult to ascertain. That is the absenteeism and everything else that is listed.

Alderman Jordan: That's right.

Alderman Thiel: I think it is important at this time. At this time we have been given an opportunity to address the Planning Commission, because I am sure they are all watching this. I think it needs to be emphasized that they are appointed to interpret and to implement planning policies adopted by this City Council body which has been elected by the public. I am directing that at all of them. I have seen some things that are disconcerting to me about several of the commissioners and I have heard things. We need to resolve it when they are reappointed or we can deal with it in other ways. I think they all need to be reminded of what their role is. I think that needs to be emphasized. Hopefully this Council will support an amendment to our Section 33.111 which adds back the three causes of removable which were removed for some unknown

reason. I think that will also be another time to discuss with the Planning Commission what their role is. They are a very important body to this city. They have a very important role. I think it is important to the public that they are all on the same page as to how they perform, how they act and what they are doing and what their purpose is.

Alderman Ferrell: I just want to make sure I understand correctly, you said it takes a two thirds vote to remove them, were you meaning it takes a two thirds vote not to reappoint?

Mayor Coody: No that's to remove. A simple majority to not reappoint.

Alderman Ferrell: I just wanted to make sure.

Mayor Coody: There is a difference between removal and reappointing.

Alderman Ferrell: I have never heard removal mentioned it was reappointment.

Mayor Coody: That is to remove someone in the middle of their term rather than reappointing someone if their term is up.

Alderman Ferrell: I agree with Alderman Thiel about the policy is set here and the implementation of the policy per the UDC (Unified Development Code) is what they are charged to do.

Mayor Coody: I am going to take a little bit of liberty here because we have talked about the developers, the public, we have talked about fellow Planning Commission members and we have talked about all of us but there is an important element that I think we all need to consider. To leave them out of the loop would be a travesty and it would be our fault to do so. I want to ask Mr. Dumas to come up and represent the staff because this is an issue and this is something when we say personalities aside we can't put personalities aside sometimes.

Alderman Cook: Mayor I protest that. I don't think staff should be involved with this conversation at all.

Mayor Coody: I know you don't but I have asked Gary to come address the City Council so if you will bear with me here I would appreciate it. I will let Gary read a letter because this is important to this City Council and it is important to me and to the city that we know the full extent that we need to deal with here. Go ahead Gary.

Gary Dumas: I agree with Kyle that the staff should not be involved in these discussions however: Mr. Dumas read the following letter:
The Divisions of Planning, Engineering, Community Resources, Building Safety, Water and Waste Water, Parking, Human Resources, Building Services, Fleet, Solid Waste, Parks, and Transportation report to the Director of Operations.

It therefore is my duty to be responsive to issues affecting their ability to perform effectively and efficiently their essential job functions and to serve you, the Council, and the Public, to whom we should all be responsive.

For several months I have been aware of conflict issues and public statements made by individual members of the Planning Commission to City Staff. There are certain levels of respect that all public officials are expected to convey.

It is unfortunate that we have the need to address these issues in public since it does involve what essentially amounts to a personnel issue. Personnel issues are typically handled in private, in an effort to avoid public embarrassment of individuals. However, there has been an unwillingness to address these issues in a more quiet and compassionate manner. Therefore in order to attempt to resolve this personnel issue, I and we are unfortunately having this public discussion.

Given where we are today, on the verge of appointing and reappointing Planning Commissioners, I must express publicly my concerns for the benefit of those who report to me, and more importantly, in an effort to maintain what I consider to be a highly motivated and competent Staff performing effectively and efficiently for the public.

For the past several months the Staff has been concerned about the lack of respect that certain members of the Planning Commission have been displaying toward Staff and the public. No member of the Staff expects the volunteer or elected body to concur unquestioningly with the Staff recommendation. Staff recommendations consider the Code of Ordinances, the State Law, Case Law, adopted plans, and their expert opinion. The volunteer or elected body or individual members may not agree with that recommendation, but I think that all will agree that it is well reasoned and well thought out and is a studied opinion that establishes where debate can begin.

Disagreement and discussion are a part of the political process. However disrespect, personal attacks, and dismissal of adopted policies and professional opinions should not be a part of that process and if allowed to continue will marginalize the discussion and move it to the negative extremes. Additionally, this type of behavior, which is unacceptable from your employees, will impact the Staffs' ability to address other Council priorities beyond staffing the Planning Commission, such as housing affordability and the street bond program.

Over the past several days, elected officials have questioned some Staff members asking, "If Commissioner X is reappointed will you resign?" Regardless of the answer, just having to ask the question should indicate that most of you already know that there is a problem. If an elected official has to ask that question of the Staff, what do you imagine is the public's perception of our Planning Commission?

I believe that most will agree that there are problems within the Planning Commission. I believe that a change in Commission composition at this time can help recreate a Planning Commission which serves its important function while maintaining a level of respect and dignity for Staff and others.

As I have stated above, you may not concur with this or other staff reports, but this issue is now certainly ready for a public debate. The results of which I am certain will be felt within the City Staff who must deal with the Planning Commission and others as they consider whether to participate in the Planning Commission review and approval process.

If this issue is not resolved, this lack of respect by some of our Planning Commission members toward Staff and others will create an environment that worsens morale and continues to increase stress in our professional Staff that assists the Planning Commission. This will lead to a variety of problems including higher employee turnover, which must be dealt with, but the end result will be a much less effective and efficient Planning and Engineering function as well as other Staff, serving you, the City Council, and the Public.

I request that in your deliberations concerning Planning Commission appointments that you consider the impact upon Staff morale and the impact this will have upon the Staff's ability to deliver to you and the public the high-quality professionalism we have come to expect.

Mayor Coody: Thank you. Do we have any questions for Mr. Dumas on this? We have one of the best staffs in the state, probably the best staff in the state and one of the best in the country. While we certainly appreciate the efforts of our volunteers on commissions we have to show at least that much respect if not more for the highly qualified employees that we have. Having a working environment to where we have to say that we will let it get so bad that you will quit before we address the problem doesn't seen acceptable. We have an opportunity to resolve an issue here that I think if we let the issue continue we will be saying to the staff that your environment isn't that important to us and I think that is the wrong message to send.

We have a motion and a second in front of us to.

Alderman Jordan: Just a minute.

Mayor Coody: We have a motion and a second. I am calling for the vote right now.

Alderman Jordan: Okay.

Alderman Allen: He can't respond?

Mayor Coody: I tell you what, go ahead Lioneld.

Alderman Jordan: What I would like to know is why that was not brought to my attention before now.

Mayor Coody: I think it was Lioneld. I think it was a couple of months ago. I think it was by some staffers.

Alderman Jordan: Yeah it sure was and they said that....

Mayor Coody: Please be polite, take a deep breath.

Alderman Jordan: You need a hug.

Mayor Coody: We could all use a hug.

Alderman Jordan: You could use a hug. Go ahead.

Mayor Coody: Is that it?

Alderman Jordan: That's it.

Mayor Coody: We have a motion and a second. The motion is to appoint Christine Myres, Matthew Cabe and Sean Trumbo to the Planning Commission. Shall the motion pass?

Upon roll call the motion to appoint Matthew Cabe, Christine Myres and Sean Trumbo failed 3-5. Alderman Ferrell, Gray and Rhoads voting yes. Alderman Lucas, Jordan, Thiel, Cook and Allen voting no.

Motion Failed

Mayor Coody: The motion fails 3-5. Since we don't have a motion to appoint those folks what would be the next step?

City Attorney Kit Williams: Somebody else needs to make another motion.

Alderman Cook moved to appoint Candy Clark, Christine Myres and Sean Trumbo. Alderman Allen seconded the motion.

Mayor Coody: We have a motion to reappoint the three incumbents. Shall the motion pass?

Upon roll call the motion passed 5-3. Alderman Lucas, Jordan, Thiel, Cook and Allen voting yes. Alderman Ferrell, Gray and Rhoads voting no.

Motion Passed Candy Clark, Christine Myres and Sean Trumbo appointed to the Planning Commission.

Mayor Coody: I do not know about the rest of the Council as a matter of fact I can not ask you to be responsible for the staff. My obligation is to the citizens of this town to provide a healthy working environment for our staff, a good natural environment for our citizens and a vibrant economy. It is very, very important that I do what I think is right and it pains me dramatically to have to say these things. This should have been a private personnel issue and I hate to embarrass anyone but we have an issue that I can not just sit back and let our staff continue on in this way without my doing everything I can to make their world acceptable to where we show them the appreciation they deserve.

The Mayor read the following statement:

As Mayor, it is my responsibility to recommend policies that protect the well-being of our residents and increase their quality of life through the preservation of our natural environment and the maintenance of Fayetteville's economic vitality. It is equally important as the senior administrator of this organization that I do everything I can to provide a healthy and productive working environment for our staff. Fayetteville is incredibly fortunate to have the most professional, hard working and dedicated staff in Arkansas and one of the best in the country. As elected officials, we must insist that city government operate in a manner that fosters respect and civility toward our residents and our staff.

I appreciate the time and effort that our volunteers put into their work as they represent our community. We have many citizens serving on various boards and commissions, and we are all grateful for their commitment to the City and their contributions to this community. However, when personality and professional conflicts escalate creating an environment of frustration and intimidation for the public and our staff, changes must be made.

It is clear to me after reviewing Planning Commission activities and consulting with my staff that such an environment exists, which is clearly contrary to the public interest and the best interest of this organization. Therefore I am required to use my authority to veto the appointment of Commissioner Clark to the Fayetteville Planning Commission.

I ask the City Council to reconsider our deep pool of excellent applicants and nominate another person for this position.

Mayor Coody Vetoed the appointment of Candy Clark.

Mayor Coody: You have the opportunity to override this veto with a six vote approval. Is there a motion to override the veto?

Alderman Allen: There is.

City Attorney Kit Williams: I think that the veto overriding would have to be at the next meeting. I think you have to file the reasons for the veto with the City Clerk.

Mayor Coody: Are you sure we can't do this tonight? I hate to drag this out another two weeks.

Alderman Thiel: We did this with the hillside ordinance in one night didn't we?

Mayor Coody: We waited for a while.

City Attorney Kit Williams: No, I don't think so. I think there was a veto message and then it was at the next meeting.

Mayor Coody: This is only the third veto that I have done in over six years. I don't do this lightly and I do not do this with any pleasure whatsoever. It would pain me even more to ignore

the wishes and the good will of our staff and their efforts. I would prefer if we could go ahead and entertain a motion and a second if it is not required that we wait until the next meeting. I don't know why we would. Let's go ahead. I would just as soon wrap this up this evening.

City Attorney Kit Williams: I haven't totally researched this. I was not aware that everything was going to happen tonight. I know in the past it has not happened this way. Maybe you can do it tonight. It might be even if you take a vote tonight that after I can research this I will tell you that you have to actually do it in writing, file it with the City Clerk and have it at the next meeting anyway. You can go forward tonight if you want to but it might be for naught. It might be that it will not be effective legally.

Mayor Coody: Okay. We have a motion was there a second to override the veto? We have a motion and a second to override my veto. Kit if you will look into this and if we do need to do it at the next meeting, I would appreciate it. Which would be next Tuesday right?

City Attorney Kit Williams: Yes.

Alderman Ferrell: What happens if the veto is not overridden, then where do we go from there?

Mayor Coody: I am asking the City Council to reconsider someone in that pool of applicants and choose someone else for that one position.

Alderman Allen: Would that be done tonight?

Mayor Coody: That is totally up to you guys.

Alderman Jordan: Can we have discussion.

Mayor Coody: Oh sure you are welcome to.

Alderman Jordan: Since my integrity as an Alderman has been questioned here tonight.

Mayor Coody: I don't believe that is true.

Alderman Jordan: I would like to make a statement. There was a staff person that told me that Ms. Clark was difficult to work with. I will not mention that staff persons name because I did not want to drag them into this tonight. I also talked to that staff person later on and they basically said they had no intention of leaving this city and that although Ms. Clark might be difficult to deal with; they would remain at their post. That's the conversation.

Mayor Coody: Thank you. Anything else? We have a motion and a second to override the veto. Shall the motion pass?

Alderman Ferrell: If we vote no then we are not going to override right?

City Attorney Kit Williams: The veto would be sustained.

Mayor Coody: The question is to override the veto or not. Yes, tries to override it and a no does not.

Alderman Allen moved to override the Mayor's veto. Alderman Rhoads seconded the motion. Upon roll call the motion failed 5-3. Alderman Lucas, Jordan, Thiel, Cook and Allen voting yes. Alderman Ferrell, Gray and Rhoads voting no.

It takes six affirmative votes to override a veto therefore the motion to override the veto failed.

Motion Failed.

Mayor Coody: The veto is sustained. I would ask the City Council to please reconsider the pool of candidates for that one position. I apologize to all the Planning Commission members that may be upset about this. I take my obligation seriously. If people are upset with me about this I am very sorry and I wish that things could have worked out differently. My obligation is to the citizens of the community and the staff of the city as well. So, I have had to do what I have had to do. I hope people can forgive me in the long run on this but my job is very important to me.

Alderman Ferrell: Kyle as chairman of the Nominating Committee.

Alderman Cook: I throw my hands up now quite honestly. The bad thing is the rest of the Council did not sit in on those interviews. Whoever is recommended tonight if we do that is basically going on what the comments were of the selection of people that we forwarded as a split. At this point there is really no sense in going back to the Nominating Committee. The City Council might as well make the decision at this point. I am a little frustrated about the fact that the rest of the Council was not involved with that interview process. I will say that the applicants, while they were all good, we did have a disagreement on who we thought was qualified and who was not. One commissioner a potential candidate to one person may be qualified and to another person may not be. Everybody interviews and sees people in a different way. That's where our difference of opinion came from.

Alderman Thiel: Let me understand. We always take the Nominating Committees recommendation. The members that are not on the Nominating Committee generally take the recommendation from the Nominating Committee. I guess my question would be, so you are saying you all did not agree on Shelly West and Matthew Cabe.

Mayor Coody: I think Robert can answer that.

Alderman Rhoads: I have my notes from that night of the Nominating Committee. There were two people when we took the first vote that was a 3-1 vote for the first set which was Cabe, West and Trumbo. There were two of those people that received everyone's support. All four of us supported. That is Sean Trumbo and Matthew Cabe and that is why when I made by prior motion, that is why I put Matthew Cabe ahead, because he had those four votes.

Alderman Thiel: Shelly didn't?

Alderman Rhoads: Shelly did not. So that was my rational.

Mayor Coody: Now in light of all of these latest developments which I am sure not many people were expecting is the Council interested in hearing a motion for Matthew Cabe or not? After hearing what Robert had to say?

Alderman Thiel: I think that I would probably prefer really reviewing the applications. Since the entire Council now is going to have to vote on this. It is no longer a recommendation. I think I will take it upon myself to call both these people, because it is narrowed down to two obviously, and do my own interviewing. Unless we want to have a full Council interview of these two people. That is a possibility but more time consuming than us each doing it individually.

Mayor Coody: Does that mean that all eight of you would call these two.

Alderman Thiel: That is up to everyone else. The four that have already interviewed them have already made up their minds but the ones of us that did not have the opportunity to interview them. I have the names and the list and I will go through them.

Mayor Coody: So what is your recommendation then? Are you making one right now?

Alderman Thiel: Actually we do need to vote pretty quickly. Could we vote at the next Council meeting at the beginning of the meeting?

Alderman Cook: The Planning Commission needs another commissioner.

Alderman Thiel: But we can wait until next Tuesday?

Alderman Allen: It is kind of hard to keep people in limbo.

Alderman Thiel: Are you ready to vote?

Alderman Rhoads: Nancy was there. We did not ask Nancy's opinion at the Nominating Committee and that would make five of the eight Council members that were there and heard the interviews and it would move the process along.

Alderman Thiel: Let's vote.

Alderman Rhoads: Nancy made the comment earlier, I think she said there are tree huggers, developers and whatever and I think the Nominating Committee in the past under Don Marr's chairmanship and also under Kyle's chairmanship, tepid us to keep the balance. What I saw and what I continue to see in Mr. Cabe is a moderate. That is another reason why I put him forward early in the meeting.

Mayor Coody: Any other input on this motion?

Alderman Rhoads moved to appoint Matthew Cabe to the Planning Commission. Alderman Ferrell seconded the motion.

Mayor Coody: We have a motion and a second for Matthew Cabe. Is there any other discussion?

Alderman Lucas: And not the other two?

Mayor Coody: The motion is just to appoint Matthew Cabe in that one position. I think the other two are there. Christine and Sean have been re-appointed if I understand correctly.

City Attorney Kit Williams: The Mayor in cities of the First Class like Fayetteville have line item veto so he doesn't have veto the entire motion, it can be a portion of it, as happened in the tree ordinance.

Alderman Lucas: I see.

Mayor Coody: So we can just vote on this one individual.

Alderman Lucas: I am very disappointed in what has happened tonight. I can't see dragging this out any further. It is not going to be resolved in another meeting any differently. I am just sorry that had to happen. I think I am going to make the recommendation next time, and I have already talked to Kyle, that Planning Commission members need to be interviewed separately. Apparently that is one thing that gets people to the Nominating Committee is the Planning Commission members. Maybe if we had it on a separate night we would be able to interview the people and discuss it more freely without having people sitting outside and waiting while we are trying to discuss it in a hurry. But I don't think we should drag it on any further.

Mayor Coody: Two points, one is you are exactly right. I am very sorry that it has gone like this as well. Your suggestion to do the Planning Commission independently is a very good one because they are very important. Out of all our commissions they are very important probably the most important. I think it is a very good suggestion Shirley, thank you.

We have a motion and a second to appoint Matthew Cabe is there any other discussion on this item? Shall the motion pass?

Upon roll call the motion passed 6-1. Alderman Ferrell, Lucas, Gray, Thiel, Cook and Rhoads voting yes. Alderman Jordan voting no. Alderman Allen abstained.

Matthew Cabe Appointed to the Planning Commission.

Meeting adjourned at 6:30 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer