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
City Council Meeting Minutes
June 5, 2007

A meeting of the Fayetteville City Council was held on June 5, 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, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor Coody: Before we get started tonight I want to take just a minute. This is an important time for the City of Fayetteville and a sad time for the City. We have lost our patron saint John Lewis. He was a leader unlike many we have seen in the history of this town. We want to express to his family how much we grieve with them because we have lost a lot of our patriarchs and a lot of our old family leaders that have helped make Fayetteville what it is. I think that a lot of us feel like that Mr. Lewis passed the baton to all of us who live here in town to make sure that Fayetteville continues to be the best place in Arkansas and the best place in the country to live. We should always strive for something more, more than what cities generally strive for, something more spiritual, more long term and more deep than most cities think about. I would like to have a moment of silence for John in appreciation for his family and his contributions. Thank you and thanks to the Lewis family.

Wastewater System Improvement Project Update, David Jurgens, and Water & Wastewater Director: David Jurgens introduced the staff that is working on the wastewater system improvement project and gave an overview of the project.

Alderman Ferrell: From what you said we are on budget and on time right?

David Jurgens: As of right now yes sir. We are scheduled to open the west plant in May, 2008.

Mayor Coody: Since we let the outside consultants go and brought this project in house all of you on this team have done an excellent job. We couldn't be happier. I wish we would have turned this job over to you on day one. I think we would be ahead of the game some.

Davis Jurgens: It is an excellent team.

Mayor Coody: In house you guys have done a better job than the pros that we hired to handle the job for us in the beginning. Thanks very much for that. Thank you for the presentation and keep up the good work.

City Attorney Kit Williams: Mayor we need to remove Item # 15 from the Consent Agenda and table it to the next City Council meeting. We did not get a completed contract from Reliance Standard Insurance Coverage that we are happy with yet.

CONSENT:

Approval of the May 15, 2007 City Council meeting minutes.

Approved

Arkansas Highway and Transportation Department (AHTD) Refund: A resolution approving a refund to the Arkansas State Highway and Transportation Department (AHTD) for overpayment of reimbursement related to water and sewer relocations for the Highway 265 Widening Project; and approving a budget adjustment in the amount of $254,467.83.

Resolution 93-07 as Recorded in the office of the City Clerk.

Bid # 07-34 Dean Crowder Construction, Inc: A resolution awarding Bid # 07-34 and approving a contract with Dean Crowder Construction, Inc. in the amount of $3,737,966.15 for the construction of Broyles Road, WSIP Subproject WP-1b; and approving a 10% project contingency in the amount of $374,000.00.

Resolution 94-07 as Recorded in the office of the City Clerk.

Bid # 07-38 Crossland Heavy Contractors, Inc: A resolution awarding Bid # 07-38 and approving a contract with Crossland Heavy Contractors, Inc. in the amount of $1,527,000.00 for the renovation of the Gregg Avenue Sewer Lift Station, WSIP Subproject WL-7; and approving a 5% project contingency in the amount of $76,000.00.

Resolution 95-07 as Recorded in the office of the City Clerk.

Garver Engineering, Inc: A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, Inc. in the amount of $231,750.00 for design and construction phase

services for the construction of the Mt. Sequoyah Water & Sewer Improvement Project; and approving a contingency of $15,000.00.

Resolution 96-07 as Recorded in the office of the City Clerk.

Bid # 07-41 T-G Excavating: A resolution awarding Bid # 07-41 and approving contracts with T-G Excavating, Inc. in the amount of $822,222.00 and a contingency in the amount of $41,000.00 and with Insituform Technologies, Inc. in the amount of $178,834.50 and a contingency in the amount of $9,000.00 for construction of the Farmington Sanitary Sewer Rehabilitation; and approving a budget adjustment in the amount of $395,000.00 to accept funds from the City of Farmington.

Resolution 97-07 as Recorded in the office of the City Clerk.

Bid # 07-42 Midland Construction, Inc: A resolution awarding Bid # 07-42 and approving a contract with Midland Construction, Inc. in the amount of $117,332.00 for the construction of the Gulley Park Bioswale and Parking Lot Project; approving a 10% project contingency in the amount of $11,733.00; and approving a budget adjustment in the amount of $69,243.00.

Resolution 98-07 as Recorded in the office of the City Clerk.

Selective Traffic Enforcement Program Grant: A resolution accepting additional funding under the 2006-2007 Selective Traffic Enforcement Program (STEP) Grant in the amount of $30,000.00 for the purpose of paying overtime to officers engaged in the enforcement of DWI/DUI and seatbelt laws; and approving a budget adjustment recognizing the increased grant revenue.

Resolution 99-07 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc: A resolution approving Amendment No. 1 to the basic agreement with McClelland Consulting Engineers, Inc. approving a one-year extension to provide airport engineering services.

Resolution 100-07 as Recorded in the office of the City Clerk.

Airport Master Plan: A resolution to accept and approve the December 2006 Airport Master Plan.

Resolution 101-07 as Recorded in the office of the City Clerk.

General Aviation Fuel Opposition: A resolution to express the City of Fayetteville's opposition to proposed federal legislation almost doubling the federal tax on general aviation fuel.

Resolution 102-07 as Recorded in the office of the City Clerk.

Walker Properties II L.P: A resolution approving a thirty-year ground lease with Walker Properties II L.P. for the construction of a hanger building at the Fayetteville Municipal Airport, Drake Field.

Resolution 103-07 as Recorded in the office of the City Clerk.

Community Development Block Grant: A resolution approving the Community Development Block Grant (CDBG) Agreement for 2007 in the amount of $655,977.00.

Resolution 104-07 as Recorded in the office of the City Clerk.

YouthCAN! Lease: A resolution to approve a four year lease with YouthCAN! for the former Sang Avenue Senior Center.

Resolution 105-07 as Recorded in the office of the City Clerk.

Reliance Standard Insurance Coverage: A resolution approving an addendum to the contract with Reliance Standard for employee Life and Long Term Disability insurance coverage.

This resolution was removed from the Consent Agenda and Tabled to the June 19, 2007 City Council meeting.

Habitat for Humanity Contract Amendment: A resolution approving contract Amendment #1 to the real estate sales contract with Habitat for Humanity of Washington County, Inc.

Resolution 106-07 as Recorded in the office of the City Clerk.

Yvonne Richardson Community Center: A resolution to approve a budget adjustment in the amount of $27,884.00.

Resolution 107-07 as Recorded in the office of the City Clerk.

Alderman Jordan moved to remove the Reliance Standard Insurance Coverage resolution from the Consent Agenda and Table it to the June 19, 2007 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Allen: Mr. Mayor, at Agenda Session I discussed with you about the YouthCAN! Program since I knew that the Senior Daycare Center also bid on that building, I thought the public would be interested in your response since we talked about that being such an important need for Fayetteville.

Yolanda Fields, Community Resources Director: We advertised for applications and we received two applications. We had a selection committee and we had evaluation points that are given. We went through that process and it was a unanimous vote to select YouthCAN! to lease the property. The YouthCAN! staff still has to take a conditional use permit to the Planning

Commission. If this lease is approved tonight then it is contingent upon approval of that conditional use permit to actually go forward with that lease.

Mayor Coody: Obviously we don't have an Adult Daycare Center in Washington County and we need one. We are talking with Triple A. They are having meetings to see how they can pull an adult daycare center together. We have an excellent location but it would take some fund raising to build a new building. The location is next to the Fayetteville Senior Center. It would be very convenient for everyone concerned. I hope that happens soon. We are working on it.

Alderman Jordan moved to approve the Consent Agenda as read with the Reliance Standard Insurance Coverage resolution removed. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Walker Park Cell Tower: A resolution to approve a twenty-five year lease with Callahan Tower Joint Venture for a small lot in Walker Park for a monopine cell tower at an annual rent of between $12,000.00 and $54,000.00, plus a $20,000.00 contribution to the Walker Park Mural Project. ***This resolution was Tabled at the May 1, 2007 City Council meeting to the June 5, 2007 City Council meeting.***

Alderman Thiel: I had a call from someone that lives in that neighborhood and represents that neighborhood that has some concerns. I would like for us to explain that we are authorizing the Mayor to lease the property in Walker Park. We are not approving a conditional use are we?

Mayor Coody: This is to approve some paper work to go through the process.

City Attorney Kit Williams: This is a lease but in order for the cell tower to be built they will still have to take it to the Planning Commission for a conditional use.

Mayor Coody: And all the appropriate public meetings.

Alderman Thiel: This is just the first in a process. What is the height of this going to be?

Dave Reynolds: The top elevation will be 150 feet above ground level.

Alderman Thiel: What is this suppose to look like?

Dave Reynolds: It will look like a large pine tree very similar to some of the other pine trees that are there in the park.

Alderman Thiel: Will this be surrounded by trees?

Dave Reynolds: Yes. It will be surrounded on all four sides by existing trees. We will work with the city on what other things need to go in there as far as vegetation and replacement for canopy.

Alderman Thiel: How large of a fence will this be surrounded by?

Dave Reynolds: It will be a ten foot high wooden fence. You will not be able to see anything inside the compound. You will just see a fence behind some trees.

Alderman Thiel: How large is the compound?

Dave Reynolds: It is 60 feet by 60 feet, approximately 4,000 square feet.

Alderman Thiel: Smith Two Way has said they will make a $20,000 contribution to Walker Park for the mural project.

Dave Reynolds: Yes.

Alderman Thiel: The city has free use for at least two needed antennas?

Dave Reynolds: Yes.

Alderman Thiel: This will generate from $12,000 to $54,000 in annual rent revenue to the city.

Dave Reynolds: It can generate a minimum of $12,000. The additional amount is based on a percentage of use. The more we are able to utilize the space the more you make.

Alderman Thiel: I initially had some reservations about this. The more I looked at the city receiving revenue that certainly benefits us. After looking at the picture and the location I didn't feel like it was going to take away from Walker Park. I think once the neighborhood has an opportunity to see the one that has been approved for Fire Station # 5 on Highway 265 if they are concerned we could at that time appeal the Planning Commissions decision on this one. We had a ward meeting a few weeks ago and discussed this and everyone seemed to understand that was at that meeting. The constituents that lived in Ward 1 felt like it would be an overall benefit.

Alderman Allen: I have a number of friends who live in south Fayetteville, that have talked to me about feeling disenfranchised and not knowing how to fight city hall. They feel pretty hopeless about their voice being heard, not because of the City Council, but because of circumstances like Jefferson School, that the thing that still holds their neighborhood together is Walker Park. They feel quite seriously about it and wonder if that same thing would happen if we were talking about another park. I feel very strongly that what hurts part of our city hurts our entire city. I would like there to be an opportunity for me to see if I can get these people to come forward. I move to table this item again.

Mayor Coody: Since there will be a public hearing on this through the Planning Commission before anything is finally approved, do you think that might do as a public hearing at that time?

It will be a scheduled public meeting with all the information. There has already been a neighborhood meeting and this has been tabled once. Do you think that might suffice?

Alderman Allen: The folks I am talking about feel disenfranchised. I think it will be difficult. They don't come to public meetings. They don't feel like a part of the city. I think that hurts the whole city.

Mayor Coody: Well that is how to become disenfranchised. When you talk to them I hope that someone will explain to them that we have a city policy to try to put these facilities on public property. We are not putting this in Walker Park to get rid of it we are putting it in Walker Park to take advantage of the revenue stream. If we were to say no to this we are basically saying to the tax payers that we are going to take this much money out of your pocket every year instead of getting it into the coffers. I think the tax payers need to realize the reason we have a policy to put these on public property is to reimburse the tax payers for the visual impact of having a cell tower in town. We are going to have cell towers so if we had them on public property we would at least generate revenue to cover the cost of running the city and not have to rely on property tax or sales tax. It is a revenue enhancing project rather than just a way of putting it into a park to be bad to a neighborhood. It is a way to be good to the entire city. I hope that was explained to them.

Alderman Allen: It certainly was explained to them. I think that they feel and I must agree that they in many ways feel like they are the step child.

Mayor Coody: I certainly hate that and we don't want anybody to feel that way.

Alderman Allen: If they do I think we need to try to do our best to make that not be the case.

Mayor Coody: Absolutely.

Alderman Thiel: If we table this for two weeks how would you handle getting us to them if they won't come to a public meeting?

Alderman Allen: I would hope maybe we could find a site in the ward where people could come, maybe the park.

Dave Reynolds: I am willing to come and visit with you or the Council or whoever we need to and explain this. I can show them what it will look like. We would rather this not be tabled due to timeline issues with our project.

Mayor Coody: I haven't had any calls on this. If any one is interested in getting in touch with me I can take the input and give a lot of information.

Alderman Allen moved to table the resolution until the June 19, 2007 City Council meeting. Alderman Cook seconded the motion.

Alderman Ferrell: I would like Nancy to appeal to those people that you say feel disenfranchised if they are watching tonight. I hate to hear that and the way to remedy that is not easy. To come up here they are welcome. Anybody that has a problem with the policy, it kind of throws me. The fire station is in Ward 3 and we put one there. I guess maybe there is a difference between a park but I think you can nit pick. If a monopine was proposed for Gulley Park, I am certainly not speaking for that ward but in looking at the fiscal policy that we are in, if we were offered $20,000 and a monthly recurring income and it fit with some of the existing trees I think it is something that would be considered seriously.

Alderman Allen: I had staff send me a list of all the property that the city owns. I thought maybe we could look through that. I think this is a sensitive and important issue. The people that feel left out of city government are not the usual suspects that we see in city hall. I think it is very unfortunate.

Alderman Rhoads: How many contacted you?

Alderman Allen: I would say I have talked to about 30 people.

Alderman Rhoads: Did they do petitions or any thing of that nature?

Alderman Allen: No.

Alderman Thiel: I think it is very important to respond to what you are expressing to us and respond to the people out there that are expressing it.

Alderman Allen: Thank you.

Alderman Thiel: I will make sure we visit those people that have issued their concerns. We still have the conditional use process that this has to go through. If there is a strong opposition to this it will be viewed. When you mention other locations, the people that are in this business have determined that there needs to be something in that area or vicinity not in some other area where we have city property. It can be there on city property or across the street on private property. The city would not generate any money from that and the citizens of Fayetteville would not benefit at all from that. If they show a need in an area it almost has to be approved.

City Attorney Kit Williams: There are certain things they can consider, if there is an actual lack of coverage of an area then there is federal law that says we have to have very good reasons to turn it down. You can consider aesthetics if it is not a coverage issue but a capacity issue. The Planning Commission has a more detailed presentation than this. This is just a lease to see if they get the conditional use are we willing to lease the land.

Alderman Allen: I understand that. This is just a deep concern that I have. I think if this motion should pass then I don't want it to be a delay of two weeks, I want us to find a place to meet, but not here at city hall.

Alderman Thiel: We will make that happen one way or the other.

Mayor Coody: To anyone who is listening tonight we have countless phone numbers, website access, emails, there are a thousand ways to get in touch with us. Everyone listens to you respectfully and we try to do everything we can to fix everyone's problems, we can't fix all problems all the time. There is no reason why anyone should feel like they don't have a voice at city hall in Fayetteville, Arkansas because we have proven this is the most sensitive government of any I have ever seen or even heard about. We bend over backwards to help people out. Big projects have been stopped by a few people that have complained repeatedly. There is no reason for anyone in Fayetteville to feel disenfranchised unless they chose to feel that way. That we can't help. We want to do everything we can to help. I wish we could do everything for all people but we can't do that.

Alderman Rhoads: I guess it is kind of a tough balancing act because on one hand you want to bring everybody to the table and everybody should have a seat at the table and I guess what Nancy wants us to do is to take the table to the people. Sometimes that may be appropriate and may be necessary. In this situation you already have a process where the Planning Commission will give plenty of notice of a meeting. For those people that feel like they are not welcome, you are welcome but you have to make a little bit of an effort.

Alderman Lucas: You had a meeting with the neighbors?

Alderman Thiel: We had a Ward 1 meeting and this item was on the agenda for discussion.

Mayor Coody: If this cell tower is approved on public property and we could generate approximately $40,000 a year, over just a few years we would be able to pay for, if the Council so chooses the Brooks-Hummel Nature Preserve, that money could go toward paying off that. I think this may be a win-win situation if the Council so chooses to do that.

Alderman Lucas: That's a good idea but I think in lieu of the fact that we are getting more and more parks the revenue may be used better for the maintenance of parks. I would like to see that.

Mayor Coody: That is a very valid concern. It goes into the general fund and is allocated out.

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

This resolution was Tabled to the June 19, 2007 City Council meeting.

NEW BUSINESS:

Farmington De-annexation: An ordinance concurring with Farmington Ordinance No. 2007-08, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

Larry Weeks: I would like to thank the Mayor and the City Council for taking the time to hear our appeal and petition to detach our property from Fayetteville to Farmington. There was an island annexation in September that included our property. Shelly, my wife, attended that meeting and objected to that annexation. We believe in good faith that a promise had been made by the Mayor and the City Council, expressly by the Mayor, and implied by the City Council that if we would not object to the annexation and allow it to proceed at some later date we could detach. We met in March and are here again. The circumstances have changed since we last met. We first petitioned with five people and it created an island. We have since acquired the signatures of two other people which eliminates that island and changes the boundaries to what we understand is more desirable. I moved here 20 years ago and I selected Farmington as my home town. Since then we have considered ourselves members of the Farmington community. Home is where your heart is. Seven of the eight people that live on those 40 acres want to live in Farmington. They all have their own reasons, mine are personal. The bottom line is I believe we had a deal and relied on that. We believe the City of Fayetteville made a good faith commitment and we in good faith relied on that commitment. We are here tonight to ask you respectfully to honor that commitment.

Mayor Coody: One thing I want to make perfectly clear and I appreciate your position you know I have always supported you in this. I did not make an explicit promise to you. Basically the City Council, I understood them to say yes if you go through the process there is a way for you to deannex and that is what I was operating under. I want to make it perfectly clear, I support you, I have always supported you and I will continue to support you but I can't make promises and I haven't made promises that the City Council has to fulfill. I just want to make that perfectly clear because people have accused me of making a promise on this when I have not done it.

Larry Weeks: I think at that time when that was said at the City Council meeting that the City Council had a chance and an obligation if there was going to be an objection to object at that time so that at that time we could have pursued any other processes that we might had.

Mayor Coody: I understand. That is different than saying I made an explicit promise.

Larry Weeks: I understand.

Mr. Anderson: Farmington is a community that we really respect and like. That is why we bought our property there because we thought we were going to be in Farmington. I am asking you to give us the opportunity to be deannexed and become part of that city.

City Attorney Kit Williams read the ordinance.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Looking at the map if it was not for that one property this would not be a peninsula it would be a nice squared off line. I spoke to Mr. Weeks and I understand the reasons for not having a peninsula but I also understand how strongly these people feel about this. I am right on the line of Greenland and if someone decided to annex me into Greenland I would fight tooth and nail. I can really sympathize with their feelings. I understand some of the issues but I don't think it is going to make or break us by not having that a perfect rectangle out there. I will support this.

Tim Conklin went over the changes that have been made since the last City Council meeting that this was heard at.

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

Ordinance 5021 as Recorded in the Office of the City Clerk.

Larry Weeks: Mayor, I would like to thank you at this time because of your insistence to keep your word, without that we couldn't have got this done. I would like to thank the members of the council who supported us in this also.

R-PZD 07-2531 (P.A.H. Facility): An ordinance establishing a residential planned zoning district titled R-PZD 07-2531, P.A.H. Facility, located at Ivey Lane, 1/4 mile east of highway 265; containing approximately 3.00 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 gave a brief description of the ordinance. He stated the Planning Commission voted to forward this on to the City Council with a recommendation for approval. Staff found this was compatible with the surrounding land uses and a good fit for the community. It is not anticipated to have a great impact on the surrounding infrastructure so they recommended approval of this planned zoning district.

Alderman Cook: One of my concerns is the septic system. That seems kind of odd that we would approve a project and allow them to put a septic system temporarily on our city property. At some point in the future will they get sewer.

Jeremy Pate: That is correct. Once sewer is accessible and we are close at this point in time, that septic system would be decommissioned and it would tie onto city sewer.

Alderman Cook: And the land would revert back to the City.

Jeremy Pate: Correct. I believe that is stated in the lease agreement that the Council approved and that is included in your packet.

Alderman Cook: So they are using our city land as a leach field.

Mayor Coody: There is no sewer out there to tie into. If this land ever sells and we own it then whoever developed it would provide sewer to this property. Right now, there is nothing out there.

Alderman Ferrell: I would like to go onto the second reading however I would like to keep it on the second reading tonight because there is something I would like to check out.

James Gurst, representing the engineering company that is doing this project: I am here to answer any questions. The architect and developer are here to answer questions as well.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

VAC 07-2570 (Vista Health): An ordinance approving VAC 07-2570 submitted by H2 Engineering for property located at 4253 North Crossover Road, to vacate a utility easement and dedicate a new easement for the utilities, a total of 1,207.56 square feet.

City Attorney Kit Williams read the ordinance.

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

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 Thiel was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5022 as Recorded in the Office of the City Clerk.

Amend §33.111 & §33.018: An ordinance to repeal §33.111 of the Fayetteville Code, to enact a replacement §33.111 Removal of Planning Commissioners, and to enact a new subsection (C) in §33.018 Parks and Recreation Advisory Board.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: During our recent discussion about Planning Commissioners, I noticed that somehow a few years ago when we revised the attendance portion of the section that refers to removal of Planning Commissioners that we omitted some of the original paragraphs that were in the original ordinance. I wanted to add those back in which has to do with lack of familiarity with the prepared material, discourteous behavior to other commissioners, staff and members of the public. I felt like that needed to e added back. I'll let Nancy discuss the portion that she felt was important too.

Alderman Allen: My concern was that we not have another awkward situation with someone who has volunteered their time and that we continue to have quality volunteers come forward. It was my thought that maybe if they met once each year with Planning staff for an update and a session that that would be one more step to eliminate a problem such as we had recently.

Mayor Coody: Anything we can do to eliminate personality conflicts like that, I am all for because none of us like having to deal with them. Sometimes having to deal with it is a necessity; fortunately it's once in my memory anyway, so it doesn't happen often.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5023 as Recorded in the Office of the City Clerk.

BlueInGreen, LLC: An ordinance waiving the requirements of formal competitive bidding and approving a contract with BlueInGreen, LLC for the installation of a Supersaturated Dissolved

Oxygen Injector for the Noland Wastewater Treatment Plant in the amount of $66,460.00; and approving a contingency of $5,000.00.

City Attorney Kit Williams read the ordinance.

Scott Osborn, representative of BlueIn Green stated I am here if any one has any questions.

Mayor Coody: I am really proud of you guys being down at the Tech Park and bringing a business like this forward in town. The idea that we can save so much liquid oxygen in the process, I think it's like an 86% reduction in the amount of liquid oxygen we use is that right?

Scott Osburn: About 80%.

Mayor Coody: I am going to forward this on to a lot of folks in the wastewater treatment business so they can see what we are doing in Fayetteville and in Rogers with their product and hopefully your business will continue to grow and will continue to save energy and save resources. By not having to expend all the energy that it takes to make this liquid oxygen just to waste so much of it in our old process and we could be saving so much in a new process. Thanks very much and we are looking forward to this.

Alderman Cook: They came to the Water and Sewer Committee and gave a presentation and I think it is an awesome opportunity for us to use a product that is created at the University of Arkansas and I guess we are the first to officially sign you up. So I think that is an awesome deal and its good that we are partnering with them and I'm looking forward to it.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5024 as Recorded in the Office of the City Clerk.

Scott Osburn: John Lewis was really involved in getting us going and I would just like to thank him.

Mayor Coody: He was involved in a thousand things good for this town.

Brooks-Hummel Nature Preserve: A resolution to approve the purchase of about 13.75 acres for a city park to be named the Brooks-Hummel Nature Preserve in the amount of $495,000.00 and to sell the Fayetteville Natural Heritage Association a conservation easement on this property for $179,500.00; and approve a budget adjustment in the amount of $495,000.00.

Paul Becker, Finance and Internal Services Director: This provides for the purchase of the Brooks-Hummel property over a five year payment period and it comes under the authority of Amendment 78 which allows us to buy things over time for short term obligations.

Mayor Coody: For up to five years. The annual payments will be roughly?

Paul Becker: $69,500 plus interest which would equate to approximately $77,000.

City Attorney Kit Williams: Mr. Mayor, shortly after 5:00 PM this afternoon, this real estate contract was delivered to my office which is similar to the one that I already presented to you at Agenda Session. It is not identical but most of the changes in it are fairly minor. It does authorize the Mayor not only to exercise this contract but also to execute a promissory note and a vendors lean and deed which we have not done in the past. The only substantial change is that previously the contract indicated that the title insurance policy would be paid for by the seller which is what happened when we sold the property to BioBased, we paid for the title insurance so that is what I based our contract on. This sales contract which has been signed by the trustee, Betty Hummel splits the cost between the City and the trust. That is not unusual if there is no set way that you have to do it. It is more normal for the seller to pay for title insurance but it can be split and that is the way this contract reads. The property is being sold as is.

Alderman Lucas: Do you know how much the insurance will be if that will increase the $495,000?

City Attorney Kit Williams: Well, it will be something; I'm not sure what the title insurance would be.

Paul Becker: It's usually not that expensive, it's usually $200 to $300.

Bob Caulk with the Fayetteville Natural Heritage Association thanked Kyle for bringing this forward at the March meeting and thanked the Mayor for bringing back this proposal and the Council. He stated the property is the best candidate for conservation that we find in our conservation priority assessment and the best candidate in Ward 2. It's a fantastic property with incredible biological diversity. He went on to speak on the advantages of the property and described the support they have received from neighboring properties and organizations. He asked all the people in support of this to stand.

Certain members of the audience stood.

Mayor Coody asked all those who were opposed to stand.

No member of the audience stood.

Doug James, a professor at the University of Arkansas stated the real gem is above Lake Lucile. It is attractive because it has diverse terrain. He stated it contains a tremendous variety of habitats and a great diversity of species. He listed all the uses of the property.

Hugh Kincaid, a citizen: When we started we felt that it was important that our neighborhoods make a good face showing of our support for the project. Mr. Kincaid described the fundraising efforts that have been completed thus far.

Pete Heinzelman: I just want to support what everyone else has said. This place represents what is unique and wonderful about Fayetteville. I hope that you will save it for Fayetteville and for all the future generations. He thanked the Council for saving some of the other areas in Fayetteville already.

Mayor Coody: Pete, I want to thank you for your leadership and everyone with the FHA. You have raised almost one half of a million dollars in private funds to go toward the purchase of public property and that is pretty unheard of. I want to congratulate you on your successful efforts and everyone else as well.

Dot Neely, resident of Ward 1 stated the Brooks Hummel property is a rare and extraordinary and a natural treasure for Fayetteville and it gives us a tremendous opportunity to contribute another natural monument to the city.

Alderman Cook: I don't think any of us up here would disagree with the comments that have been said from the audience. The one thing that stands in all our minds is probably the money. There are other times when we have projects or things come before this council that we can't find the money for and there are other times when projects and things come before the Council that we can find the money for. I would beg to the council that this is a project that we should find the money for because of all the reasons that the citizens out here discussed. We have a city policy in our in our 2025 Plan to produce an enduring green network and this could be another installment to that.

He stated he agreed that this opportunity may not be here in the future and those opportunities are rare when you can acquire property such as this. I hope the council will find within their voting tonight to support this and let us move forward with another addition to that. I would also hope that this will be the last time that we will come before the council and ask for this money. I know the wheels are turning to try to find other funding mechanisms in this community for purchases such as this and I hope soon that we will see such mechanisms come forward. This process is not sustainable. I think this is one of those purchases that we should support.

Alderman Gray: I agree with Alderman Cook and all the folks that have spoken. I just want to say thank you to so many of my friends out there who have put in hours raising money and talking about this. I feel like it's an opportunity we cannot pass up. I want to lend my support.

Alderman Lucas: We have money in the quadrant, is there any of it that could go toward the purchase of this? There has been a lot of development in that area.

Pete Heinzelman: One of the first things we did when we started on this was we approached the Parks and Recreation folks and the chairman of the Advisory Committee did check for us and there is nothing in this quadrant. If you go to the other side of Mission Boulevard there is a lot of money.

Alderman Lucas: I think this a wonderful opportunity for Fayetteville. I was concerned until you said there was a road that is going up to this property. If there is another possible access then I feel better about it. I was trying to think of another way to get some more money but I just wonder if there isn't something in the Parks that they could contribute a little bit to this project to help out.

Alderman Ferrell: I agree with everything that has been said tonight except who is going to pay for it. One of the things I had down is that perhaps we can look at ways to change the way the ordinance reads on some of the park funding. I have thought a lot about this property acquisition, I have weighed the City buying this parcel against other needs the City has. I see us having a needs list and a wants list. We have to try to balance those. I chaired the employee compensation committee and worked on that compensation committee. We had to give the pay treatment and the raises for the City employees over a two year period time. I am leaning to the fact that we have to be careful about the way we spend our money. I love this idea, I love this place and the people that are involved in it, and it is great to see what you guys are doing. At the end of the day, especially the way we are fiscally, I support everything but voting for the City to pay for that.

Alderman Jordan: I thought about this and you weigh how you are going to spend your money. You have people that need raises to take care of their families and things and that has always been important to me. Also the environment is important to me. I think it is so important to protect our natural heritage. I was going back and forth about what to do and then I drove past Township and looked up on the hillside and saw what could happen. That was a deciding factor in my vote tonight. We may not be able to afford this property but we need to buy this property and therefore I will support this.

Jack Springborn, a citizen: The opportunity for a city to acquire park land is short lived. If you look at the growth of cities they do nothing but increase the value of land that can be acquired for parks and it really behooves the city to keep their eyes open and not miss opportunities. I look at this as that kind of opportunity. Think big.

Mayor Coody: Jack, I want to thank you for your contribution to this community. You have been involved for a long time in many different ways and Fayetteville is better for it. You have had a good run of service here and you are still here and we appreciate you.

Alderman Allen: The late Mary Lucile Lewis Yoe after whom the lake is named died a couple of years ago and I really miss her, but she would be elated that this might happen. Maybe we can try to figure out ways that money from other quadrants could be used. I would like to see a land preservation in all four. We are someday not going to have any place else to go. We will have annexed all the way to each bordering community and if we don't save those pieces of land now

for the future there will be none to be had. I think it's real important to pay our people well and I don't want it taken from that pot. At the end of the day I want us to have these hunks of land.

Mayor Coody: I want to point out that it was brought up that the Presbyterian Church is interested in a little less than a couple of the acres there.

Fred Shefte, a representative of the First United Presbyterian Church: We have no immediate plans for those 1.89 acres. We have voted and approved paying $68,040 for that land and we would be able to contribute that in cash immediately if that is what the city would like.

Mayor Coody: That would be a City Council decision. I want to keep those two items separate.

Fred Shefte: I wanted to let you know that the money is available if that is the way the city wants to go.

Alderman Cook moved to approve the resolution. Alderman Allen seconded the motion. Upon roll call the resolution passed 7-0. Alderman Ferrell voting no.

Resolution 108-07 as Recorded in the office of the City Clerk.

Firefighter Physical Exam Procedure: An ordinance to approve the Firefighter Physical Exam Procedure to help ensure the physical health and safety of Fayetteville Firefighters.

City Attorney Kit Williams read the ordinance.

Fire Chief Tony Johnson: We have a proposal before you to provide physical examinations for our firefighters. This is based on an OSHA standard and as we all know the State of Arkansas is not an OSHA state therefore it would require your passage in order for us to adopt this and enforce this policy. I believe this program to be what is normally referred to in the legal world as what they would call business essential but in the fire service we call it mission essential. That gives you the assurances that our firefighters will be able to function based upon a national standard for the lung capacity as well as dealing with cardio issues that we have in the fire service. He went on to give the statistics of the amount of firefighters who have died from heart attacks. This is a beneficial program for all the state for our emergency response group and it specifically designates the fire service for this. There was questions with regards to why not the police department; well they are not experiencing the rate of heart attacks in which we are in the fire service. We are not required to follow the safety guidelines of OSHA because we are not an OSHA state but yet if anything happens that is going to be the benchmark that they measure our operations by if we should have an incident. I believe this is the direction we should be going and I encourage you to pass this proposed legislation. I would like Missy to talk about the ADA concerns that our firefighters had and as I say, we made every effort.

Missy Leflar, HR Director stated one of the things we looked into proactively was whether or not this would raise any issues with regards to the Americans with Disabilities Act. I was able to

make sure that this wouldn't raise any legal issues. My legal opinion is that this wouldn't pose a problem. In my opinion this is very compliant with the ADA.

Alderman Lucas: The procedure is what I am concerned about. I was reading this policy and procedure it has to be submitted to the Mayor. Are we usurping your authority by coming first whereas you should have reviewed it and if you agree with it then it comes to the Council?

City Attorney Kit Williams: I don't think so. The State statutes talk about the fact that the City Council should be approving the procedural standards and regulations for both the Police and Fire Departments. In fact you will see additional procedures brought before this body because it's been a while since you have approved them and some of the procedures have changed. I have asked the chiefs to prepare a complete policy and procedure book that they can have you approve.

Mayor Coody: For Fire and Police. There are a lot of other divisions where we have thousands of policies and procedures which are not brought before the Council.

Alderman Lucas: This was just $10,000 and I thought we voted that you could approve anything up to $20,000 without coming to us so that is why I was questioning it.

Mayor Coody: I am going to defer to Kit's judgment on it.

Alderman Lucas: You haven't reviewed it nor have an opinion on it?

Mayor Coody: I have looked at it and Tony has talked to me about it a few times. I have faith in our staff that they are doing what they need to do.

Alderman Ferrell: Will this be annual?

Fire Chief Tony Johnson: Yes, we are going to do half of the department so it's on the biennium actually.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5025 as Recorded in the Office of the City Clerk.

City Attorney Kit Williams: Mr. Mayor as you probably remember from the memo I gave you yesterday I would like for you all to suspend the rules and put this resolution on the agenda. Late last week the developer for the Divinity Project submitted a letter to the court that they were withdrawing their application of the LSD that was approved by this council. Even though we probably don't have to pass a resolution which would repeal the one that we had before to make it totally effective, I think it's a better paper trail and I think it would be a good idea for us to go ahead and pass the resolution that I handed out that will repeal the previous resolution.

Alderman Jordan moved to add the following resolution to the agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Divinity Hotel and Condos Resolution Withdrawal: A resolution to repeal Resolution No. 122-06.

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

Resolution 109-07 as Recorded in the office of the City Clerk.

Meeting adjourned at 8:30 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer