

**Aldermen**

Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Thiel  
Ward 2 Position 1 – Kyle B. Cook  
Ward 2 Position 2 – Nancy Allen  
Ward 3 Position 1 – Robert K. Rhoads  
Ward 3 Position 2 – Robert Ferrell  
Ward 4 Position 1 – Shirley Lucas  
Ward 4 Position 2 – Lioneld Jordan

Mayor Dan Coody  
City Attorney Kit Williams  
City Clerk Sondra Smith



**City of Fayetteville Arkansas  
City Council Meeting Minutes  
August 23, 2007**

A meeting of the Fayetteville City Council was held on August 23, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**This meeting was originally scheduled for August 21, 2007 but was rescheduled to August 23, 2007 after the Final Agenda went out.**

**Mayor Coody called the meeting to order.**

**PRESENT:** Alderman Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

**ABSENT:** Alderman Lucas

**Pledge of Allegiance**

**Arts & Economic Prosperity Study**

**Terri Trotter, Walton Arts Center** presented the results of the Arts & Economic Prosperity Study to the City Council. The following is a brief summary of Ms. Trotter's report:

The study is a comprehensive look at how the nonprofit arts & cultural industry impact the economy. The Americans for the Arts Study demonstrates that the nonprofit arts and cultural industry is a valued amenity but it is more than that. It is an economic driver in communities as well. It is a growth industry that supports jobs, generates government revenue and is the corner stone for cultural tourism. Arts & Economic Prosperity Three is the most comprehensive economic impact study of the nation's nonprofit arts and cultural industry that has ever been

conducted. The researchers on the study collected attendance data from over 6,000 nonprofit arts and cultural organizations and nearly 95,000 of their audience members to measure total industry spending. The study focused solely on the economic impact of the nonprofit arts and cultural industry and excluded spending by individual arts as well as the for profit arts and entertainment industry. The study documents the economic impact of nonprofit arts and cultural industry in 156 communities, Northwest Arkansas was also included. The nonprofit arts and cultural industry is one of growth. Between 2000 and 2005 expenditures by the nonprofit arts organizations and their audiences grew by 24% from \$134 billion to over \$166 billion. When adjusted for inflation it represents an 11% increase. In the study economic impact is defined by the employment, which is full time equivalent jobs, resident household income, which is salary, wages, and propriety income and government revenue, which is taxes and licenses fees that are generated by the dollar spent in the community by nonprofit arts organizations and their audiences. The spending supports 5.7 million fulltime jobs here in the United States. This industry generates nearly \$30 billion back to local, state and federal governments every year. The three levels of government collectively spend less than \$4 billion annually to support the arts and cultural so there is quite a spectacular return on investment. There is a tremendous untapped upside to the industry, how many industries have cultural impact and economic impact. The sector supports more jobs than accountants, auditors, public safety officers and even lawyers and just slightly fewer jobs than elementary school teachers.

The arts and cultural industry is an economic engine in Northwest Arkansas as well. Arts organizations audiences account for over \$16 million of economic activity. There is a huge opportunity for arts and cultural and for economic growth through this industry in our region. The nonprofit arts and cultural industry in Northwest Arkansas generated \$342,000 to local governments and over \$1 million to state governments. There is an additional opportunity for revenue generation for governments through additional investments in the arts and cultural sector. On average people spend \$27.79 per person per event not including the price of admissions. Previous economic and tourism research has shown that non-local attendees spend more than their local counterparts do. The national sample revealed that 39% of attendees traveled from outside the county and 61% were local. Arts and cultural is a product that attracts tourist.

Northwest Arkansas is really poised to capitalize on cultural tourist and if we invest in our cultural sector this data indicates that it will have a positive affect on our local economy and our government's ability to generate revenue. The study shows the arts are a magnet for travelers and their money. Local businesses are able to grow because travelers extend the length of their trips to attend cultural events. The national finds hold true for us locally yet also show incredible opportunities that we have by increasing our investment in the arts and the cultural industries.

I think this study lies to rest a common misperception that communities support arts and cultural at the expense of local economic development when in fact investing in arts and cultural is an investment in an industry that supports jobs, generates government revenue and is a cornerstone of tourism.

**Mayor Coody:** Most of us realize that the arts are important to any community.

We have a good arts scene here in Fayetteville but we aren't doing nearly enough to really foster, promote and grow that industry. Do you have any input for us, things that we might be able to consider that might help us build more of an environment that would make the arts flourish better in Fayetteville?

**Terri Trotter:** I think the conversation about the Cultural Arts District is a very good one. Looking at how we can create an environment where it is easier to function, particularly for local artist and creating a vibrant scene together. One of the things about the arts is that they function best when they are together. That synergy between organizations is important and is powerful.

**Mayor Coody:** One of the things that I am concerned about is that in Fayetteville we have been the center of the arts scene and we have taken it for granted and I don't think we can continue to do that anymore. I think we need to focus more on what we can do as the city government and in the community to promote the arts. There has to be a multitude of ways because other cities have certainly done it. I am asking you, the folks at the arts center and everyone else in the community to work with us and this Council to move us forward to where we can maintain a really good arts community in Fayetteville and grow what we have. We aren't doing enough right now to sustain a really good arts scene here. We need to do more. Whatever you can do to help I will ask you to do.

**Terri Trotter:** Great, thank you Mayor.

#### **Public Facilities Board Appointment by Mayor Coody**

Mayor Coody recommended the appointment of Tommy Deweese and Steve Cosby to the Public Facilities Board.

**Alderman Ferrell moved to approve the appointments. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.**

#### **CONSENT:**

**Approval of the August 7, 2007 City Council meeting minutes.**

**Approved**

**Baird, Kurtz & Dobson, LLP:** A resolution to approve an annually renewable five year contract with BKD, LLP in the amount of \$75,000.00 for this year.

***Resolution 151-07 as Recorded in the office of the City Clerk.***

**Mud Creek Trail Grant:** A resolution expressing the willingness of the City of Fayetteville to utilize Federal-Aid Moneys and apply for an 80/20 grant in the amount of \$100,000.00 to rebuild and improve a section of the Mud Creek Trail.

***Resolution 152-07 as Recorded in the office of the City Clerk.***

**Alderman Jordan** moved to approve the Consent Agenda as read. **Alderman Cook** seconded the motion. Upon roll call the Consent Agenda passed 7-0. **Alderman Lucas** was absent.

**UNFINISHED BUSINESS:**

**Amend Chapter 161: Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. *This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting. This ordinance was Left on the Second Reading and Tabled to the August 21, 2007 City Council meeting.*

**Alderman Cook:** They had an event last weekend and we took some more readings and had some comments from the neighbors. The neighbors are very happy with what happened. They didn't notice any loud noises; they were content with the levels that were provided.

**Alderman Allen:** We came up with a decimal that was agreeable with the neighbors and the disc jockey.

**Alderman Gray:** Is that going to curtail their planning of future events if it is tabled indefinitely?

**Julie Meisch,** Manager of the Garden Room of Ozark Mountain Smokehouse: I don't know the decimal level that was reached that everyone agreed upon.

**Mayor Coody:** I think the question is since the neighbors and the operators of the smokehouse seem to be in agreement is there any future events that are marginal based on the noise level that was achieved the other day.

**Julie Meisch:** As far as I know we have not received any complaints from the police department. We are ending the music at 11:00 PM and I believe that is still doable by both parties. The sound at this point is still registering above the 60 decimal level. As far as scheduling for the future if you table this indefinitely we are still in violation of the ordinance.

**Alderman Gray:** That is my concern.

**Julie Meisch:** There is really not an agreement that we can decide here because it is a law. It is hindering our scheduling at this point. We need to continue our business as is and if the neighbors are satisfied with where we have gotten at this point we would love to keep that going. To change the ordinance for one business on Dickson Street is not exactly fair however we are

willing to do our part. To schedule events when there is not a guarantee that they will be able to have music outside is the problem.

**Julie Dora**, chair of the Dickson Street Neighborhood Association: I sent you a letter that brought us up to what we are discussing now. At this point based on what the neighbors are telling me the noise level is fine. The Smokehouse has talked about doing other improvements after their season is over this fall that will probably continue to improve that noise level. As far as we can tell, things are fine and the noise level has not been obtrusive.

**Sylvia Scarborough**, Locust Avenue: The smokehouse has been conducting business without violation of the law every since they got this ordinance on the agenda. They say they are too busy now to do any further construction or improvements as far as the sound is concerned. That is fine with the neighbors if they prefer to wait until it is not as busy of a season. I think if they want to raise the decimal level at which they play they could probably do that if they put in a sound barrier fence.

**Mayor Coody**: I appreciate both the neighbors and the business working together to try to resolve this.

**Beth Wagner**, a neighbor of the Ozark Mountain Smokehouse: At this point I would not say that the level is problematic but I think to raise it would be problematic.

**Alderman Thiel**: I thought they violated the ordinance but if they didn't go above the decimal then it is a mute point. My understanding of the noise ordinance is that it is compliant driven. It sounds like the neighbors are satisfied.

**Alderman Cook** moved to table the ordinance indefinitely. **Alderman Allen** seconded the motion. Upon roll call the motion to table passed 7-0. **Alderman Lucas** was absent.

**This ordinance was Tabled Indefinitely.**

**Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge)**: An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting.*

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Thiel**: Apparently there are some transactions going on about the ownership of this property so that kind of keeps it in a flux right now. The neighborhood wants to meet so we are planning to meet in the morning. Hopefully we can look at all the issues involved. My idea is

that before this is approved the new owners or existing owner agrees in writing to some of the issues that have occurred.

**Alderman Allen:** I hope you talk about some of the work that needs to be done before there is an extension.

**This ordinance was left of the Second Reading.**

**Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting.*

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Thiel:** I had some emails from some constituents that have said if we maintain this detention pond why shouldn't we maintain all POA detention ponds. There is a big difference in this pond and all the other POA detention ponds that I know of. This pond has a drainage basin of approximately 190 acres that drains to the pond through three different public drainage systems that are owned and maintained by the city. I can't think of any POA that the detention pond is actually fed by public drainage pipes or multiple drainage systems. That makes this very unique and a different situation in my opinion.

**Alderman Ferrell:** I visited with our State Senator and I asked her if there was any way that we might get some help from the state on this project. She made a call to the ADEQ and they were going to send someone up to take a look at this. I appreciate her taking that step to do that.

**Mayor Coody:** I have been playing phone tag with the ADEQ Director. Maybe something will work out there.

**Alderman Gray:** I appreciate Bobby taking the lead in this and helping us out. I think it is a great idea.

**Rick Ballmer**, representing the Boardwalk Property Owners Association: I would like to be in the loop as much as possible in meeting with them.

**Lou Patrone**, a resident of Boardwalk: There has been a lot of talk about the city should not give benefits to private property. I agree with that. In this case the city is fixing a property that is damaged. The storm drains were changed to direct the flow of water and debris into our pond. You are not doing this to be nice, or as a good deed, this is damage that is being addressed that was caused by the city to our pond.

**Alderman Thiel:** I agree with Rick that our City Engineer and our Transportation Division all need to be involved with the state.

**Mayor Coody:** We adopted storm water standards about a year ago. We have measures in place now that would keep this kind of silt from happening today at least to the extent that this pond has seen.

**This ordinance was left of the Second Reading.**

**NEW BUSINESS:**

**Red Oak Park Streambank Improvements Project:** A resolution approving a project design for the Red Oak Park Streambank Improvements submitted by the Arkansas Game and Fish Commission Region 1 Stream Team.

**Carol Jones, Parks Department:** There is some severe erosion in the stream that bisects this park. Carol gave a brief history of the proposed project. She stated the Stream Team wants to cut into the banks and widen the channel and allow more flow to go through this stream. There are a lot of mature trees along the edges of the banks some of which would definitely have to be removed.

**Mayor Coody:** The reason I wanted the City Council to go out and look at this is because I was hoping that there may be some kind of middle ground between doing nothing and doing the radical fix which really takes out a bunch of enormously beautiful trees. Is there that middle ground to where we could shave the banks back some and solve most of the problem without losing all that mature canopy.

**Carol Jones:** We will certainly try to work around as many trees as we can. Mr. Evans is concerned and has done calculations based on the flows. He is not comfortable tweaking that to the point that it is not going to allow enough flow through there. They are trying to do a natural restorative approach. There is still going to be a number of large trees involved.

**Alderman Thiel:** I want to make sure the engineer's numbers have been checked.

**Alderman Jordan:** You need to see this. This is the biggest mess I have ever seen. This is twice as bad as it was two years ago. There isn't a good fix. This sets an example of development that we certainly now are addressing that should have been addressed then so this sort of thing does not ever happen in this city again. That is absolutely just awful because everything was developed around it and they cut a big rut. It is a tough decision to have to make.

**Mayor Coody:** We want to get them to come back and look at this again to make it work with as little damage as possible. Will he be able to do that?

**Carol Jones:** I think so Mayor.

**Alderman Allen:** I think this is an example of how dangerous development at any cost can be to the city.

**Alderman Jordan:** This also establishes in my mind what the staff was trying to tell us about storm water runoff fees in this city.

**Carol Jones:** I think these subdivisions were approved through Planning and Engineering before the storm water management ordinance was in place.

**Mayor Coody:** I don't think we do development at any cost we try to balance it out to where we grow in such a way we can maintain and sustain it.

**Valerie Biendara, a resident of Fieldstone:** When I first moved to Fieldstone that park was gorgeous. Now this is an eyesore. It is not a usable park for the neighborhoods. There is now a big ugly gash, some of the trees roots are under cut. I am really appreciative of the staff of the Parks and Recreation Division they have done a wonderful job on this. I really believe in this plan, it looks like it is really workable. I see it as the best way to resolve the erosion that is occurring here. The only drawback is the loss of a number of trees. I want you to consider not just the loss of trees. I want you to start thinking about the future of this park. The Parks & Recreation Division are planning to put shrubs and trees in this park once they get everything done. In 10 to 15 years from now we won't remember the trees that were once there. In a few years we will have the mature trees back again. I really encourage this plan. I want you to trust the staff of the Parks & Recreation Division, they are really concerned about this park and they don't like the loss of the trees either. I trust them to do what is best for this park to resolve the problem, take care of the erosion and to make sure we have trees and shrubs. I encourage you to approve this and give the neighborhood back a safe, healthy, park instead of the overwhelming eyesore they have now.

**Aubrey Shepherd:** I care about those trees too. What we need to think of every time we see one of these disasters is that every roof top in this city from now on and all the old ones we can manage to talk people into putting in should have a rain garden. That should be the goal as we face this hard decision that was mentioned.

**Mayor Coody:** We are getting there, we are putting in rain gardens and we have looked at other cities that are doing some really innovative things.

**Alderman Thiel:** If they come back with the same recommendation hopefully we will follow through and do something.

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

**This resolution was Tabled Indefinitely.**

**ADM 07-2577 (Downtown Design Overlay District Architecture Standards):** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions and Chapter 166: Development to adopt a Downtown Design Overlay District, Parking Garage Design Standards, DDOD Boundary Map and related definitions.

**City Attorney Kit Williams** read the ordinance.

**Alderman Thiel:** The Ordinance Review Committee reviewed this twice.

**Tim Conklin,** Planning and Development Management Director: I would recommend that you leave this on the first reading this evening and make sure you go through it and allow the public time to go through it also.

Tim gave a brief update of the project. The architectural committee met several times regarding this. The Planning Commission heard the draft. The Ordinance Review Committee met and made some amendments. There are basically two parts to this ordinance.

**Alderman Jordan:** Did this pass unanimously at the Ordinance Review meeting?

**Alderman Thiel:** Yes.

**Alderman Allen:** I voted to move it forward to the Council but I have some serious concerns about it.

**Alderman Thiel:** I am sorry I thought that meant that you were recommending it.

**Mayor Coody:** It was a unanimous recommendation with reservations.

**Alderman Thiel:** We were concerned about the affordability issue and whether we were requiring things that would make it too costly. This is just by right you can always get a variance. In remodeling projects this has no bearing unless it is 50% or more.

**Alderman Allen:** I have some concerns. When we had the Dover Kohl meetings and we voted on the Downtown Master Plan I did not feel like the participants who were at those meetings were trying to make an eliteous downtown and I was concerned about that. There are affordable houses in this area and I just wanted us to be cautious in not making our design standards so stringent that we could not have diversity of some sort downtown.

**Mayor Coody:** What you might do is come up with some specific complaints about the ordinance so they can be addressed.

**Alderman Cook:** I think those are a lot of the concerns when we went through the downtown master plan process and this was one of the charges of that process. I think there was a lot of concern across many different people from different walks of walk, especially these design standards. I think the process that was gone through was very successful. This will not limit a

person from bringing something forward that is different from what is proposed in this ordinance. To me that is a key change in what is being proposed tonight.

**Daniel Hintz**, Executive Director of Fayetteville Downtown Partners: As always we welcome continued focus and conservation on our downtown community. We would like to thank city staff and the volunteers who put in an enormous amount of hours to get this very vital component to the downtown master plan vision to this place. We look forward to more public conservation. He expressed his concern about parking decks in the downtown area.

**This ordinance was left on the First Reading.**

**ADM 07-2693 (Links at Fayetteville PZD Modification):** An ordinance amending a residential planned zoning district entitled R-PZD 07-2452, Links at Fayetteville, located on the north side of Wedington Drive and east of Ruppel Road, containing approximately 152.23 acres, to reflect revised maximum height limit for Planning Area III of 52'.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate, Director of Current Planning:** This is a proposal that staff has brought before you to change the building height from 40 feet to 52 feet in planning area three at the Links at Fayetteville planned zoning district. The buildings are the same exact buildings that you saw and approved on May 15, 2007. There was a clerical error in that the height limit of 40 feet was never changed. The four stories have always been there. Staff is recommending changing this building height from 40 to 52 feet.

**Mayor Coody:** There was no change except for the fact there was a scrivener's error saying 40 feet when it should have said 52 feet. Nothing changes in the project.

**Jeremy Pate:** That is exactly right.

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

***Ordinance 5033 as Recorded in the Office of the City Clerk.***

**Sales and Use Tax Capital Improvement Bonds Series 2007 – Wastewater Improvement Project:** : An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2007, for the purpose of financing a portion of the costs of certain wastewater system line extensions and betterments and related facilities; authorizing the execution and delivery of a first supplemental trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

***City Attorney Kit Williams read the ordinance.***

**Alderman Ferrell:** Does everything look good to you Paul?

**Paul Becker, Finance Director:** Yes it does. This is the final piece of necessary bonding for us to go ahead with the contracts and complete the wastewater system improvement project.

**Mayor Coody:** You guys at Stephens have done a really good job.

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

***City Attorney Kit Williams read the ordinance.***

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

***City Attorney Kit Williams read the ordinance.***

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

***Ordinance 5054 as Recorded in the Office of the City Clerk.***

**Road Impact Fees:** A resolution to express the City of Fayetteville's intent to enact road impact fees.

**Alderman Jordan:** I thought there were some really good comments and a lot of good points made on both sides. I thought we could come back and modify the road impact fees and

hopefully it would be something that we could all live with in the business community, the city and the Council. I would like to make an amendment to the resolution.

**Alderman Jordan moved to amend Section 1 of the resolution to add input from city administration and other interested parties. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.**

**Alderman Jordan:** I truly hope that we can come together and work something out on this. I want to get everybody's input and resolve this thing once and for all. We had a tie vote on that election.

**Alderman Ferrell:** I am not in. Lioneld is going to continue to try to get feedback and get some ideas from people different that what was proposed last time. I appreciate you doing that.

**Alderman Jordan:** One thing I wanted to look at was graduated impact fees and also to look at some sort of a reduction for a LEED building. Possibly some changes in the industrial, retail and commercial rate and off site improvements possibly rolling them into the impact fee.

**Mayor Coody:** All the things you mentioned were some of the things that were wrong with the previous impact fee. Would this be approved by the Council or would it go back to a vote of the public?

**Alderman Jordan:** I haven't decided.

**Mayor Coody:** That would make a big difference to me because I would like to see this go back to a vote of the public since they voted evenly on this I would hate to think that we as a Council would approve something that had failed publicly a few months ago. An election is not very expensive and it would be better for the public to say yes or no to something this important instead of us just approving it and not letting the public vote on it.

**Alderman Jordan:** My personal preference would be to put it before a vote of the Council but I will listen to my peers on what they would like to do.

**Alderman Thiel:** Haven't we been told that we had to have a study done by someone qualified to do this. Are we going to hire another firm to do a study?

**City Attorney Kit Williams:** The statute under which we enact impact fees does require a study to be made. However I think what the study does, and we have one that we have already done, it places the maximum limits on how high you can go. As long as you are going below that I think it is legally defensible to do that. There are still some arguments against it. It would be better to have a study exactly on point on exactly what we are going to do.

**Alderman Ferrell:** What is the deal in Rogers?

**City Attorney Kit Williams:** I think the problem that is being alleged by the plaintiffs in the Rogers case is that the Rogers Commission, it was not their City Council, passed and imposed

fees that were more than the actual cost to do the connection. They were recovering not only the cost for doing the tap but additional money to help expand their system. The allegation is that those are impact fees even though they did not call them impact fees and they were not passed in accordance with the impact fee statute.

**Alderman Cook:** If this passes how do we move forward from here. I don't see the last election as necessarily a loss or a victory it was just people were undecided at that point. I think there is room to go back and revisit some of these items. My question is how do we revisit those.

**Tim Conklin:** If the resolution passes I would recommend what we did back in 2000, formulate what policies we are trying to implement and have a consensus on that. We had a committee made up of stakeholders that worked to formulate those policies. I think lessons that I learned this year with the special election is that there were a lot of questions that people had once it was determined to have a special election and a vote was to occur. I think those questions should be answered ahead of time. Once you determine what the policies are that you want to enact then move forward to draft something. I would not want to draft something without having a clear direction from the Council or a group.

**City Attorney Kit Williams:** In addition to that we should go to the groups that are identified in the resolution and get input from them and then you all would be the final synthesis of what we do with the input so that hopefully more of a consensus can be reached.

**Mayor Coody:** I think if we can reach more of a consensus the public would get behind it more. One reason I really want this to go back to a public vote with whatever the staff, Council and all the stakeholders would come up with is that in these economic times with the local economy not doing as well as we would like, uncertainty in the national economy and things like that I don't want to force something on the public that they really might not financially or emotionally be ready for. I would rather have the public say if they are ready for this or not. These are uncertain times and timing is everything. I like the idea of going back to revisit this and doing something that is more fair and less regressive.

**Alderman Allen:** This did not fail or pass. How will we determine if this will go to the people or the Council is that a vote that we take here?

**Mayor Coody:** Yes.

**Alderman Ferrell:** I would disagree with that. Is that a failure by law if it is a tie?

**City Attorney Kit Williams:** Yes legally the ordinance failed because of the tie vote.

**Alderman Ferrell:** If you have an opinion on this and you want it to be known the Council wants to know about it, come forward with it.

**Alderman Thiel:** I wonder if there needs to be some of the Alderman serving on a committee and working with staff rather than expecting staff to go out and do all this. I certainly hope that

is what we are looking at because that is how we worked on other ordinances. Staff is fairly limited in their time.

**Alderman Jordan:** Yes. I think this resolution sums that up. I don't want it to go on forever.

**Alderman Cook:** We are looking at a two part process, we develop the policy and if we agree on the policy then we move forward as far as plugging in numbers.

**Alderman Jordan:** Right.

**Tim Conklin:** That is what I would recommend.

**Alderman Cook:** I agree with the task force I don't think that is a bad idea but at the same time we do not want it to drag out.

**Mayor Coody:** The only thing that gives me discomfort about this language is it makes it seem pretty clear this would be a Council decision and it sounds like there is not the option of going back to a public vote. I would like to find some language in there that might let the public understand that there is a good opportunity for this to go to a public vote.

**City Attorney Kit Williams:** Just like last time the Council enacted them but then referred them to the citizens.

**Alderman Jordan:** We went through this exact same process with the last impact fees. We made a final decision whether we were going to do it before the people or a vote of the Council.

**Alderman Jordan moved to approve the resolution. Alderman Allen seconded the motion. Upon roll call the resolution passed 6-1. Alderman Ferrell voting no. Alderman Lucas was absent.**

*Resolution 153-07 as Recorded in the office of the City Clerk.*

**The following item was added to the agenda at the City Council meeting.**

**Alderman Cook moved to add the Sweetbriar Park Utility Easement ordinance to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.**

**Sweetbriar Park Utility Easement:** An ordinance vacating an electrical utility easement and granting a replacement easement at Sweetbriar Park.

*City Attorney Kit Williams read the ordinance.*

**Mayor Coody:** Have we done the work already on this?

**Connie Edmonston, Parks Director:** No, they started construction today on it.

**Mayor Coody:** There are two conduits that have electric lines in them that are under water. That is not a good idea.

**Connie Edmonston:** It is a potential hazardous condition. I appreciate you bringing this forward and considering it tonight.

**City Attorney Kit Williams:** What happened is that the stream eroded and uncovered this and that is why we need to change the easement.

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

*City Attorney Kit Williams read the ordinance.*

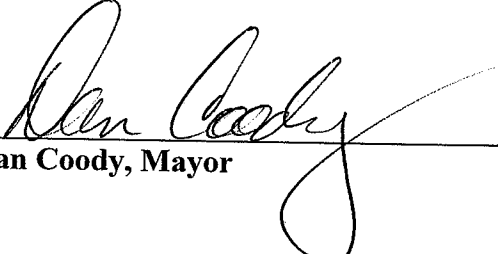
**Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.**

*City Attorney Kit Williams read the ordinance.*

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

*Ordinance 5055 as Recorded in the Office of the City Clerk.*

**Meeting adjourned at 8:00 PM**

  
\_\_\_\_\_  
Dan Coody, Mayor

  
\_\_\_\_\_  
Sondra E. Smith, City Clerk/Treasurer



John E. Smith