

COMMISSIONERS OF PUBLIC WORKS
Minutes of July 12, 2007

A regular meeting of the Board of Commissioners of Public Works was held on Thursday, July 12, 2007 at 10:00 a.m., in the Boardroom at 121 West Court Avenue.

In attendance:

Gene P. Hancock	Steve D. Reeves, Jr.	Wayne Bartley	Billy Nicholson
Michael G. Monaghan	Kenneth Barnett	Vicki Knott	Leslie Stevenson
Henry O. Watts	Denise Ogletree	Jeff Auman	Anne Drake
	Jeff Meredith	Curtis Burnett	Charles Drake, Sr.
	Jeff Chapman	Richard Gentry	Josh Fennell
	Stacia May	Steve Brown	Chris Trainor
	Vickie Gorham	Bill Patrick	

- I. Chairman Watts called the meeting to order and gave the invocation.
- II. Chairman Watts gave the statement of compliance with the notification provision of the Freedom of Information Act.
- III. Old Business:
 - A. Chairman Watts stated that the first order of business was to discuss the Grace Street property. He noted that on April 26, 2007, the CPW Board approved a motion to send an amended copy of a resolution authorizing the acceptance of a deed to the Grace Street Water Plant property from the City of Greenwood and agreeing to hold the property for the benefit of the Greenwood County Parks Commission. If approved by Greenwood County Council, the resolution would have to be approved by the City of Greenwood and the CPW Board. He stated the purpose of placing this item on the agenda which was to give consideration to the status of that resolution and to take action on the Grace Street property. He added that the property had been in limbo since 2000. He stated that as a Commissioner he felt that it was his duty to look out for the wellbeing of CPW's customers. Chairman Watts asked Manager Reeves to provide the history of what had transpired with the Grace Street property, adding that he would state his concerns in more detail later. Manager Reeves provided information starting with an original offer made in either May or June of 2000 to donate the Grace Street site to the City of Greenwood to then be donated from the City to the County for use as a park. He stated that to his knowledge, that offer was never acted upon. Then in November of 2006, the offer was renewed to the City of Greenwood with a 90-day

consideration notice and at the end of the 90 days, no action had been taken. Again sometime in the February, March, or April timeframe of 2007, the offer was renewed to the City of Greenwood with an additional 30-day consideration notice and that time elapsed with no acceptance of the property. During the initial offers, several different designs of the Grace Street property were put together including residential, commercial, and park properties. None of those had been accepted either. In addition to those offers, there was an offer made to transfer part of the property for a different site. There was a 54-acre site owned by a local developer in south Greenwood that was available and the thought was to work an exchange of value of property for that 54-acre site to get another site available for park use. The consideration of that was made and that was rejected. There was another consideration made to make a donation out of the sale proceeds of the Grace Street property for an enhancement of the Lander University recreational complex on Montague Avenue in hopes that the Park Commission would take advantage of that and further enhance the recreational site that Lander is about to develop, and that was also rejected. Manager Reeves concluded that was where we are today. Chairman Watts asked if anyone was there to speak on the status of the resolution. There was no response. Commissioner Monaghan stated that the revised resolution had been reviewed by both the CPW and City attorneys and sent over to the County to see if they would accept the revision. He stated that there had been no response from the County. Manager Reeves added that the letter was hand-delivered to the County on May 17; that was nearly two months with no official response. Chairman Watts shared additional concerns about the property noting that CPW spends approximately \$4,000 per year to upkeep the property. He shared reservations with the legality of transferring CPW property to an entity other than the City of Greenwood without receiving the assessed value of the property. He added that the property belonged to the CPW customers and the taxpayers. Chairman Watts stated that he had a responsibility to be a good steward to that property. He noted a recent 3.8% natural gas increase, and the borrowing of \$10 million for a bond issue for capital improvements which must be paid back over a twenty-year period with interest of approximately \$4.5 million. He pointed out the possibility of generating between \$3.8 and \$4.8 million over a twenty-year period from the sale of the property at an estimated value of \$4 to \$5 million, and how that would help to take care of the \$10 million bond issue. Chairman Watts stated that for these reasons, his position was to sell the property. Commissioner Hancock commented on the length of time this had been going on and stated that based on the opinions of attorneys, it is not legal to give this amount of funds to an entity for a

park. On top of that, the County will not accept it and take on the liability. Commissioner Hancock stated that he was of the opinion that something should be done with the property because we sat on it; CPW had spent over \$100,000 already trying to clean it up; and a decision needed be made about it. He commented on people going out to the site and taking pictures in front of it. He noted that there is an artesian well there that is just a display from back when CPW had their centennial celebration. He stated that people are telling things about that property about which there is no truth whatsoever. He added that he did not know if the intent was to put CPW in a bad light. He stated that CPW had offered the property in good faith the whole time and it could not be accepted. Commissioner Monaghan stated that he would not vote to sell the property; however he was really discouraged that over the years the CPW Board had bent over backwards to try to negotiate an agreement with the Parks Commission. He noted several very generous and workable solutions and stated discouragement with not coming to an agreement. Chairman Watts recognized Mr. Billy Nicholson. Mr. Nicholson first stated that what had been said by Mr. Reeves and the Commissioners was a gross misstatement of the facts and he did not appreciate their statements not being completely truthful. He stated that the Parks Commission had worked with CPW in trying different alternatives to allow CPW to gain some profit or proceeds from this property. He pointed out numerous meetings with CPW, the County, and the City administration to determine how to do a transfer, and that a lot of different alternatives had been considered since he had been head of the Parks Commission. He stated that they had been amenable to looking at partial residential and commercial development that would be a "parks- friendly" type of development, mixing the parks with development. He stated that Mr. Reeves had explored that and got an estimate for filling in the upper lake and taking the sludge out of the bottom of the lake. Mr. Nicholson stated that the estimate was \$1.5 million to do that and at that point, not because of anything the Parks Commission said, Mr. Reeves said that CPW would abandon this cooperative development project because the Commissioners had decided that it would not make sense to do that, and would like to draw a line and CPW retain the bottom part of the property and donate the upper 44 acres to the Parks Commission with no consideration of a joint effort. Mr. Nicholson continued that was because Mr. Reeves got an estimate for filling in the upper lake, and that was really an acknowledgement that the upper part of the property is not a viable, developable commercial property. He continued that there are two lakes that have to be dealt with; structures cannot be placed on these without spending a lot of money. He stated that the real value in this

property for CPW is in the bottom part, the part that everybody is agreeing would be retained by CPW. Mr. Nicholson remarked that a number of years ago, CPW agreed to donate this property for a park. Mr. Nicholson referred to an article from the year 2000 when Mr. Hancock as Chairman at that time said that if the land was not used for a park, it would revert back to CPW in a reasonable length of time because he wanted to see a park there. Mr. Nicholson read from the article where Commissioner Hancock included two suggestions for the City. First, the park should be named after Belle Yow, the former owner of the property, and also, the artesian well on the property should be recognized with some form of historic designation. Mr. Nicholson stated that he had respect and admiration for the intentions at that time, adding that he did not know what had happened since then. Mr. Nicholson stated that they were on the doorstep of doing it and now it is being withdrawn. He continued that CPW decided and announced that it would donate this property and numerous meetings about the transfer had taken place. It was not that nothing was done. Mr. Nicholson referred to meetings at the Genetic Center and with the Parks Commission and numerous meetings with Mr. Reeves personally. He stated that the two big issues had always been whether the County was ready and willing to take over the maintenance of the park under the Parks and Recreation Department. Also, is the County willing to take over the liability and to include it in their liability coverage. Mr. Nicholson stated that all of those kinks had been worked out now; all of the concerns had been worked out because environmental studies were done. He referred to numerous environmental studies done over the last six years. He stated that a liability analysis was done by the County of Greenwood where they had people come from Columbia and analyze everything to do with this property and whether they could take the liability under their umbrella. They looked at the environmental studies and decided that it was worth the risk. He stated that plans had just been completed by the Parks and Recreation Department into Columbia for this park under the assumption that it would be with the expression of intention of the Commission. He noted estimates obtained by the Parks Commission for redoing the building, for making hiking and jogging trails, redoing one of the ponds, eliminating the other pond where there is not enough water to sustain the pond, putting in playgrounds for young children and adolescents, and redoing the whole park. Mr. Nicholson stated that those estimates were shared with the County and the County knows about them and is prepared to proceed with developing the park according to those plans. He stated that CPW and the City of Greenwood had put forth a list of concerns with this transfer and the County Council responded with a

series of resolutions. Mr. Nicholson stated his belief that it was being portrayed for the press that nothing had been done by the County or City or the Parks Commission over the six years. He stated that the Greenwood County Council had actually issued three different resolutions at their request mainly because CPW kept coming back saying they had to do something else and something else. He stated that the County Council had responded with a resolution every time. He noted that the concerns of CPW and the City of Greenwood were that the property be taken "as is". CPW did not want to have to put anything else into the property. CPW would not fix it up; they would take it and do what they wanted and the County had agreed to that. The next condition, it must be a park. It would not be given for any other purpose; if it is not a park it reverts back to CPW, and County Council had agreed to that condition. CPW did not want to pay for maintenance any longer and they had agreed to take it under their program in the Parks and Recreation Department. They want it to be included within the liability system of the County, not CPW, and the County had agreed to that. He stated that the people from Columbia came and did an assessment and were willing to take it under their liability system. He stated that the next concern of CPW was that CPW does not want to give them the property and then years later somebody comes back and says CPW is responsible for something they may have buried on that property or some residual liability. The County has come up with a resolution that does everything legally possible to protect CPW. He stated that the County resolution says that they will pay all residual liability and will in effect indemnify CPW for anything that comes up in the future unless it gets to a point that the County of Greenwood cannot bear that responsibility and they would offer it back to CPW. At that point, CPW could sell it to do whatever they had to do to take care of that liability. Mr. Nicholson stated that just recently, years after the offer to donate the property, CPW had added another requirement for the County and that is an absolute indemnity agreement or an indemnity promise. He stated that it was demanded through the CPW attorney that the County give indemnification. He stated that was never a concern when they met two years ago, four years ago, while all this work was being done. Mr. Nicholson expressed frustration with the demand for an absolute indemnification agreement because it is a legal impossibility for the County to enter into such an agreement. He stated that it is really a fictitious and illusory security for CPW because it provides nothing more than and really not as much as what the County is willing to give. CPW's concern is that they do not want to give this property and be responsible for something financially later on. Mr. Nicholson indicated his and the County's understanding, the County had agreed, and this was drafted

between the County's attorney, Chuck Watson and himself. Mr. Nicholson stated that Mr. Watson said they could not give CPW an indemnification agreement because the Attorney General says they cannot. This is as close as they can come for a public agency. They can say they will take care of everything to do with this including all liability on it as long as it is used for a park. The only way that CPW would ever have to pay anything in the future for this property is if the property comes back to them. If the property comes back, they would be in the same position as they are in right now. Greenwood County is not going there and opening up a chemical plant or something that is going to hurt it environmentally. Mr. Nicholson stated that should anything ever come up on this property that is a problem environmentally, it was done by CPW. He contended that it was not done by Belle Yow, and it would not be done by the County because all they are going to do is put in a playground there. Mr. Nicholson stated that if the property comes back to CPW two or three years from now, that property would be worth more than it is right now. He stated that the three Commissioners sitting are anxious to go market this property. He stated the opinion that he could not consider a worse market for selling a piece of property than to put a "big box" commercial building. Commissioner Monaghan stated that evidently Mr. Nicholson was not listening earlier when he said that he was not going to vote for selling the property. He continued that he did not say that the County did not do anything. He stated that what he said was that the County had not responded to CPW's latest letter. Mr. Nicholson said that they had responded; Commissioner Monaghan disagreed and stated that CPW had nothing in writing from the County. Mr. Nicholson stated that Chuck Watson got with Bill Patrick; they met and there were two concerns. One was that CPW did not want the property to go back under any circumstances; the County could not just turn at anytime and give it back to CPW. Mr. Nicholson stated that was addressed by Chuck Watson who said that the County can solve that problem. Mr. Nicholson stated that the problem is the indemnification. The County cannot legally deal with that; they have dealt with it in every legal way possible; they agreed to take this property and County Council is anxious to take the property. Commissioner Monaghan stated that CPW had seen nothing in writing from the County saying they were going to develop the park, and this was news to CPW. He asked Mr. Nicholson if he was saying the County had the funds and willing to spend those funds to develop the park, and Mr. Nicholson responded that they were. Commissioner Monaghan asked if that was in writing anywhere. Mr. Nicholson responded that he did not see what that had to do with what they were discussing. Commissioner Monaghan stated that it had to do with the validity of the claim. Mr.

Nicholson stated that they had developed a budget. Commissioner Monaghan stopped Mr. Nicholson and asked if the County had committed to develop the property, to spend the funds to develop the property and put it into their park system, adding that is an altogether different scenario. Mr. Nicholson responded that they had. Commissioner Monaghan asked when and how. Mr. Nicholson responded that they had done it through conversations between the Parks Commission and the County Manager and he could provide the history. Commissioner Monaghan stated he just wanted to know if it was in writing someplace, and was there a resolution. Mr. Nicholson responded that there had been a resolution to accept it to develop the park. Commissioner Monaghan asked if the resolution was to spend funds and put the park into their park system and develop the property. Mr. Nicholson stated that the intention given to them by the County Manager was that this would be included within the Parks and Recreation maintenance department. He stated that the money that comes to develop the park would have to come from a bond issue and was not included with the library and the dam because they asked us not to do it. He stated that they said it would be included within a bond issue in 2008. Mr. Nicholson asked if that made a difference, and if they could be allowed to get something from the County. He added that where the money would come from did not seem to be an issue before the Commission. Commissioner Monaghan stated that he did not think that Mr. Nicholson understood what the issues are within the Board, adding that he certainly did not understand his issues. He then stated that his only issue was with the liability, and especially the liability on the building. He continued that even with that issue, he had said that he would not vote to sell at this point in time. Commissioner Monaghan conveyed a need to also be fair on the assessment of the motives of the CPW Board. He stated that the Board had bent over backwards to come to some agreement with the Parks Commission. Mr. Nicholson responded that you could not say that the Parks Commission had not worked to try to do something cooperatively; they did that with Mr. Reeves and were exploring a partial residential development, partial commercial. Mr. Reeves was the one who got back with them saying he had checked into the amount of money it would take to fill in the lake, it would cost \$1.5 million, and CPW was going to give up on that and give the Parks Commission the 44 acres. Mr. Nicholson stated that they had proceeded on that. Manager Reeves addressed Mr. Nicholson's comments stating that this is not a court of law, and he was not going to try to defend himself, but Mr. Nicholson was referring to one issue with one residential site that was on the table. He stated that Mr. Nicholson was correct in saying that was withdrawn because of the expense. He added that there

were other residential sites on that property that had been previously proposed; in fact, the very first one was a ten-acre site on Merrywood which was rejected. Manager Reeves stated that he did not make any specific comments about which residential unit. He stated that what he said was there were several combinations of residential/commercial that had been rejected, and that was fact. Mr. Nicholson asked if any plan put forth by CPW had been rejected during the last two years while he had been head of the Parks Commission. Manager Reeves responded not to his knowledge. He pointed out that he did not address the last two years; what he addressed was since 2000 when several alternatives were presented. Commissioner Monaghan asked if they had not rejected the Lander offer. Manager Reeves responded that they did reject the Lander offer and also an offer to transfer the value of property for the south Greenwood site. Mr. Nicholson asked for an opportunity to talk. Commissioner Monaghan stated that they had certainly given him one, but the Commissioners should have an opportunity to speak. Chairman Watts stated concern with not getting a reply from the County as to their agreement but having Mr. Nicholson say that they had. He noted that this was the Board's first knowledge of hearing that the County had agreed. Mr. Nicholson stated that Mr. Patrick could tell them what his conversations had been with the County Attorney. Mr. Patrick stated that the County Attorney had called him one time, they never met. During that conversation he asked about the revised draft resolution sent to the County, and asked if it was important, and asked how important it was to the CPW to have indemnity. Mr. Patrick stated that he told him that it had consistently been the position of the CPW from the very beginning that if the property were transferred, that the CPW wanted assurances, legal binding assurances, that there would be no opportunity for liability to come back on the CPW in the future. Mr. Patrick stated that he told the County Attorney his opinion that it was essential to have something equivalent to the statement in the draft resolution, that was that the County would enter into an intergovernmental agreement with the City and Greenwood CPW in which the County agrees to be responsible for any residual liability that either the City or Greenwood CPW may incur in any way related to its use or past ownership of the property. Mr. Patrick stated that he was not saying that Mr. Watson did not do something he should have done. He added that he thought Mr. Watson had done what he thinks he can and should do, but what he had just stated was the limit of his conversations with Mr. Watson, and that is that he explained to him that in his opinion it had been essential to the Commissioners since 2000 that there be no opportunity for residual liability. He stated that he told Mr. Watson his belief that this was the way to accomplish it and was

language worked out between the City Manager, the CPW Manager, and attorneys for the City and CPW to be submitted to County Council. Mr. Patrick continued that he did get that inquiry from Mr. Watson, but did not get any responses to "yes" or "no". He stated that Mr. Watson did say they could not do indemnity under that Attorney General's Opinion. Mr. Patrick noted that the draft resolution did not use the words "indemnity" but does in effect accomplish the same thing. Mr. Nicholson stated that the Board's motives seem to be money according to what Mr. Watts said. Chairman Watts stated that CPW is a utility; the CPW's main function is to sell gas, water, and electricity. CPW's concern is for the customers and looking out for their wellbeing. Mr. Nicholson responded to Chairman Watts that he knew what the purposes of CPW are. He contended that this is a piece of property that was a great natural asset for the City of Greenwood that belonged to a private individual. It was taken by CPW and she was given \$3,000. The reason it was taken was because it was the natural artesian well for this area for the City of Greenwood, it was the source of water. It is a natural asset as Mr. Hancock stated to the paper seven years earlier. It is an original artesian well that should be preserved and named after Belle Yow. It was taken from Belle Yow, not to build a big box, but it was taken from her because it is a natural asset. Chairman Hancock stated that when the railroads came in here, they needed water for a steam engine and that was why they condemned it outside of the City. That was the closest water source for Greenwood. Mr. Nicholson stated that originally Belle Yow agreed to sell three acres; the City liked it so much they said they would take the rest of her 75 acres and she gave it up kicking and screaming. Commissioner Hancock informed Mr. Nicholson that he was very familiar with it because he had read the entire case. Mr. Nicholson continued that there was a lot of history to the site. It was a natural asset of the City and County. Commissioner Hancock corrected Mr. Nicholson, adamantly stating that it is an asset of the City, period. There has been no growth from the plant there since 1915. Mr. Nicholson stated that he was saying that it is a natural resource and a natural asset of this community. Commissioner Hancock stated that was correct. Mr. Nicholson continued that to do a public park takes some foresight by some community leaders. Commissioner Monaghan stated that this was all superfluous because the issue here is liability. The issue now is that Mr. Nicholson has come up with something new and stated a desire to see something in writing that the County by ordinance or resolution had agreed to take the property into their park system. Mr. Nicholson stated that they would have to do the maintenance and liability. Commissioner Monaghan noted that the County had accepted no financial responsibility for that area with the first resolution. Manager

Reeves then referred to a letter from Jim Kier where that was stated. Mr. Nicholson responded that he would be glad to get a letter of intention from the County. Chairman Watts stated that ample time had already been given since the last vote of the Board back on April 26, 2007. Mr. Nicholson stated that he was relying on the County Attorney and Mr. Patrick to get together and he could not control their schedules. Commissioner Hancock referred to a meeting with all entities represented; the Parks Commission was in attendance and the Board went into executive session. He stated that a joint resolution was written up and sent to the County; it sat there, and CPW had a meeting on June 28 without as much as a word back. Now, here it is July 12 and CPW still does not have anything from anybody as to what has transpired. Manager Reeves read a letter to Mr. Nicholson signed by Jim Kier where the last paragraph stated "The County's willingness to accept title is based on the fact that the Parks Commission has agreed to raise all money needed to build and operate the park and to perform all maintenance from private sources." Mr. Nicholson responded that the County had expressed a different intention and he would be glad to provide that to them. He stated that \$2 million worth of parks had been built in the past ten years in Greenwood County. Commissioner Hancock stated that city police and fireman are opening and closing the park daily on Cambridge Avenue because of vandalism. Mr. Nicholson stated that he was sure that was true; in New York City there are probably 150 police officers there everyday. It is a public benefit. Both Commissioners Hancock and Monaghan noted that it is a County function but the City has to do it. Mr. Nicholson stated that it was in the City. He stated that there are some intergovernmental things to be worked out. Commissioner Hancock stated that everyone outside of the City should have to help pay for the park if it goes in. He stated that it is not fair; with only 23,000 in the City and 67,000 in the County, they ought to help keep up the parks. Mr. Nicholson stated that there had been meetings with Jim Kier and the new County Manager about that particular issue. The Parks and Recreation Department should handle passive parks as well as active parks. They have previously just handled active parks, such as recreational ball fields. He stated that they should handle the passive parks and that was something they needed to work out. Mr. Nicholson stated that as to the residual liability, Mr. Patrick is giving them a requirement and saying that is what he thinks needs to be asked for. Mr. Nicholson asked if they understood what indemnification was and that it was illegal for a public entity to do that in the state. He stated that the CPW attorney is telling them that they have to get this indemnification agreement. When they made a decision to donate the property back in 2000, CPW said that they expected the County to do whatever they can do

to absolve CPW from the liability and they have done everything they can legally do to do that and have agreed to accept all of the liability. Manager Reeves referred to a letter from the Commissioners dated November 30, 2006 which was a duplicate of the language from the original back in 2000 and read Item 6 where it was stated that "the CPW shall be protected from residual liability in connection with the offered property. CPW shall be indemnified from any claims which may be made against the CPW any way connected with the offered property." Manager Reeves noted that this was the exact language as was in the original letter of 2000, and Mr. Patrick agreed. Mr. Nicholson stated that the first he heard of it was in 2006. Mr. Nicholson read from a portion of the County resolution where it was stated that the County will enter into an intergovernmental agreement with the City and the Greenwood CPW agreeing to be responsible for any residual liability that either entity may incur as a result of their past ownership of the property. He stated that the County is paying for both City of Greenwood and CPW any of their residual to be secured by a mortgage with the provision that the County shall have the right to deed the property back to CPW if they are not going to fulfill that responsibility. That is what a mortgage means anyway. If the promise for the indemnity is a mortgage on the property and they do not fulfill it, then it goes back. Mr. Nicholson stated that the only possible problem that CPW could have on residual liability is that the property comes back to you at a later date with a playground on it. Commissioner Monaghan added that it would also come back with the liability. Mr. Nicholson stated that the liability is there now; they are not putting the chemical plant on it; Belle Yow did not hurt the property; Greenwood County is not going to hurt the property; anything that is on there is CPW's responsibility, but the County is willing to take on that responsibility because CPW is willing to donate it for a park. Commissioner Monaghan stated that CPW is not really clear about what the County is or is not willing to do because they did not answer our letter, and this new thing that Mr. Nicholson brought up today has not been seen in writing or in the resolution. Mr. Nicholson responded that the resolution was given to CPW. Commissioner Monaghan noted that was the resolution that was unacceptable. CPW's attorney worked on it and sent it back to the County and now we are going round and round. Chairman Watts pointed out that they needed to conclude the discussion and come to a decision Mr. Nicholson stated that this was a very important decision for the history of Greenwood County and he did not think it was something that should be hurried because they only wanted to give him fifteen minutes to speak. Chairman Watts stated that this has been going on for a long while. Mr. Nicholson stated that he understood that, but the Commissioners were

getting ready to make a decision and they should consider what their legacy would be in years to come. One of two things, either they would ride by this property and see a very beautiful park like West Cambridge Park that will be there in the next few years, or there will be a "big box" there. Commissioner Monaghan stated that Mr. Nicholson is saying that it is up to this Board, but it is not up to this Board. He noted that this Board was more than willing to hand the property over; it is up to the Parks Commission and the County to come up with a scheme where CPW is free of liability. Mr. Nicholson stated hard feelings because the CPW attorney had stated in a letter that he is against giving this park away as a policy decision where in his letter he states that if he were a commissioner, he would decide not to give it away. Mr. Nicholson stated that Mr. Patrick had planted a "poison pill" which was in effect a sabotage technique to keep the Commissioners from being able to give away the park. Commissioner Monaghan stated that Mr. Patrick had simply done what CPW pays him to do. Mr. Nicholson continued that they can give the park; they can make this a park. Commissioner Watts recognized William John Park to speak for two minutes. Mr. Park stated that Commissioner Watts had stated the purpose of CPW and that purpose said nothing about real estate development. He stated that he goes back to the time when this property was taken from Belle Yow against her will, not for anything except water. Now, all of a sudden we are getting in the same shape as some outfit in the north that wanted to condemn property so that a private developer could come in and put in something else and raise the tax base. He stated that in his book it does not really matter what it is about, but a private developer has no business on this property. Mr. Park stated that he was not sure what the legal ramifications were back then because there was no CPW, but it has gone around in circles and CPW wound up holding the property that was basically condemned for property, not for real estate development and that bothers him. Mr. Park continued that they were sitting there fussing about this thing, and then referred to the three Commissioners, and the City and County. He stated that if they really want a park, they should get together and make it happen. He concluded that they had talked earlier about putting it down in south Greenwood and could talk about putting it everywhere else, but a property is not going to be available this close to the center of Greenwood anytime in the future. Commissioner Hancock noted that they are planning to build a park in south Greenwood. Mr. Park stated that was alright but they want this one and while he was saying it, he wanted the whole thing and did not want CPW to have the property on the By-Pass to develop. Commissioner Monaghan asked what was wrong with 54 pristine acres with trees and pines in south Greenwood next to New

Market, adding that the property there was also in the proximity of downtown Greenwood, and asked if a park in that area would not also get a lot of use. Mr. Nicholson stated that Highway 72 is an abysmal failure in that people driving through are looking at big boxes and concrete. You have a green space there which would set this community apart from other communities in that you would have a green space in an area where you would normally have commercial development. It means that you have got community leaders who have the foresight to say that they don't just want concrete everywhere and want some green space in the hub or center of the community. Commissioner Monaghan stated that we agree that area would make a good park, they agree they would like to have a park there, but what they do not agree on is that CPW does not know if they are shed of the liability and do not know what the County is going to do because they have not answered us. He continued that Mr. Nicholson is saying today that they are going to put it in their parks system and the Commissioners had never seen or heard that; Mr. Nicholson is saying they are going to spend funds and that would be wonderful. But they should take it into their parks system and should develop it, and they have never said that and they do not respond to our correspondence. Mr. Nicholson stated that they responded with three different resolutions. If it would make a difference whether the County is going to participate in the funds to develop the park, and if it makes a difference that they are going to put it in their liability system, they had already said that in their resolution; but he could get a letter stating that. Commissioner Hancock asked about the County floating a bond issue and paying something for that property there, and then everybody has a piece of it and then you can overcome the liability that way. Mr. Nicholson stated his belief that through a cooperative development, adding that he was not the one that drew the line on the 44 acres. He stated that Mr. Reeves came to them and said that this was basically where they wanted to put it. Manager Reeves responded that he is not the one who decides these things; he brings them to the Board and they instruct him. Mr. Nicholson stated that he was not against a cooperative effort to allow CPW to make money, and added they had talked before about putting a commercial development out there when he said just don't take down all the trees and were in favor of that. Chairman Watts recognized Josh Fennell of Janeway. Mr. Fennell stated that he had talked to a lot of people in that area and that the park was not just for that core area there. He stated that a lot of people really want a park to happen over there. It is a beautiful site and he noted that he was the one pointing to the well and then apologized for misspeaking. He stated that he wished everyone could come together adding that he was on the Parks Commission. The people in that area love the idea. He stated

that he knew the Commissioners were ready to get it done today and asked for more time for the Parks Commission to speak with the County. He stated that he had attended the meetings that Mr. Nicholson referred to earlier with Jim Kier and others. He asked the Commissioners to consider tabling the issue and give them more time. He asked the Commissioners to visit some of the parks in other cities on the weekends and see the families there. Commissioner Monaghan pointed out that CPW is furnishing all of the utilities for the West Cambridge Park; they put all of the lights in there; the City is policing it and mowing the grass there, and that is County and that is what the City is afraid of is that this park will become a City park again and the County will not have to fund it. He stated that if the County says they are going to fund it, that would make a difference to the entire Commission. Mr. Fennel stated that in a meeting they were told differently from Mr. Reeve's letter read earlier. Commissioner Monaghan pointed out that Mr. Reeves did not say it in the letter; it was the Commissioners' letter. Mr. Fennel continued that where he was coming from was trying to be for the community. He stated that he would be the first to say that he would like to have a Target here or whatever it is developed into, but there are some other areas where that would be more appropriate. He asked the Commissioners to consider the families and all of the use of parks before making a decision. Chairman Watts stated that the Board is not against a park, and referred to a meeting on April 26, 2007 where everyone got together, and pointed out that nothing had happened since that time. He stated his belief that it was time for the Board to make a decision since this had been going on since 2000. Mr. Nicholson stated that they had come a long way and to quit at this time would be sad. He stated that the people in this community think that it is already a park. Commissioner Hancock stated that they are really wrong. Mr. Nicholson stated they are wrong from a legal sense but they think it is a park. Chairman Watts recognized Steve Brown, City Manager. Mr. Brown stated that one of the political errors in the whole thing is the inability to get the key people together in the same room and for whatever reason, it has not happened and it is always second-hand information through a letter. He stated that he thought from the very beginning when this process started that if the representatives of the County who make a decision could sit down with the CPW, the Parks Commission, and the City they could have resolved these issues a long time ago. He addressed the Commissioners stating that as City Manager if they were looking at him to give them some good feel about their indemnification, he would probably go to his insurance carrier and ask them to give him a site specific endorsement on that property for a certain amount. He pointed out that we are covered under the state tort law and there is a maximum

amount of liability there which he thought was \$350,000. He stated his belief that what could happen is that you could go to your insurance carrier and have that site specific addendum and name the City and the CPW as a named insurer on that site and could add the additional coverage to cover up to what your maximum liability would be and that would give you the so called indemnification. He stated that in his opinion this could happen and gets you past the Attorney General's Opinion about one public agency indemnifying another that has always been a problem. He continued that he had looked at that and the County could give the CPW a document today saying they indemnify but it would not be worth the paper it is written on when it gets to a court because it is an illegal indemnification. He stated that if that cannot be done, then address it from the added insured. Mr. Brown provided an example of the Festival of Discovery when the City was using the property beside Mr. Nicholson's building and would be having a public event on his property. When they went to him asking about using the property he said they could if they would insure him. The City went in and secured additional insurance for his property and named him as an insured at a certain amount of coverage. If something happens there and somebody does file a claim, then Mr. Nicholson is covered under the City's insurance. He continued by stating that those things happen everyday. When you sit down together and talk about those things you can make those things happen, but nobody wants to sit down and say "let's do it". He stated that is why they are at an impasse. Mr. Brown stated that he was not there to try to convince the Commissioners. He added that he did not think anybody was at fault of doing anything wrong, or not doing, it was just a matter of getting the key people together. Mr. Brown referred to the resolution and stated that when they had looked at it, he was not satisfied with the resolution and neither was CPW. They said at that time, let's get together and tell them what we don't like. They got together the next day and sent it back. He took it to City Council and told them that was what they wanted to send out and made it happen. That is what has to happen with these things. Mr. Brown stated that if the County is as sincere as Mr. Nicholson says they are, it looks like it ought to happen. It just goes back to failure to communicate with one another. He stated that he wanted to make sure the City is protected, but at the same time, he hated to see the Commissioners make a decision that may not be the best decision because some of those who get paid to talk to one another had not talked. Commissioner Monaghan pointed out that one of the big stumbling blocks was that the City Council was not going to accept it without indemnification. Mr. Brown responded that was exactly right. He continued that what he mentioned earlier

would be an alternative to indemnification as long as you are protected and your liability is covered. Mr. Patrick pointed out that while he applauded what Mr. Brown was saying, you cannot typically get insurance for environmental issues. The Tort Claims Act does not protect you from environmental issues, so if the City is in the chain of title as it would need to be to make this conveyance feasible, then the City and the CPW would potentially have ultimate liability. In the original resolution, the County Council was going to convey it back to the CPW and the typical view of that would be that the County would cover any relatively smaller liabilities but if the liability got to be more than the property was worth, they would convey the property and the liability back to the CPW and the CPW would wind up with both. Commissioner Monaghan stated that they are not concerned with the environmental issues; if there is liability for environmental issues it would probably be the liability of the CPW. He stated that he understood how if CPW caused it, they ought to pay for it. His concern was for the other liability on the buildings, liability of people getting hurt. He expressed concern about liability because you are retaining the building, and the building was a big stumbling block to him because of asbestos and lead paint. Commissioner Monaghan stated that if there is liability due to something that the CPW caused, he did not have a problem with accepting the responsibility for that. His concern is with kids climbing on the building and getting hurt, people in the park getting hurt, and that kind of stuff; that is what CPW should not be liable for. He continued that there was not a clear understanding that CPW had been absolved from that liability. He noted that he did not fully understand Mr. Brown's scheme and did not know if it would work. Mr. Nicholson stated that if the County takes it under their liability carrier, then CPW is protected. Commissioner Monaghan asked if they would keep it forever and keep the insurance up every year. Mr. Patrick responded that from a tort liability standpoint, somebody going in the building and getting hurt or on the playground, or drowning in the lake or those sort of things, if the County is the owner of it and if the County has insurance, that insurance is going to cover that and if the County does not have insurance, the County and the Parks Commission are still going to have the primary and exclusive liability unless there is some kind of a hidden defect such as a well on the property that somebody could prove that the CPW knew about and did not warn somebody about and somebody falls in. Maybe then the CPW could be liable for that, but the CPW has insurance that would cover those kinds of things and would also be protected under the tort claims act for that sort of thing. Mr. Patrick stated that it was a practical matter; environmental liability to his way of thinking is the major issue that would not be covered by insurance and

the Tort Claims Act. Mr. Nicholson commented that this indemnification request was a fictitious and illusionary issue because it is only for environmental, all of the personal injury, all of the tort liability is covered under what was talked about. It is only the environmental and environmental studies were done and there is no terrible environmental disaster there. Mr. Nicholson contended that there is no way that any expert is going to say that the environmental problems would be greater than the value of that property if it came back to CPW, adding that even the CPW attorney had said that. Chairman Watts thanked Mr. Nicholson and recognized Chuck Drake for comments. Mr. Drake stated that he was not on the Commission and what he heard did not point fingers at each other, but it seemed that they want to point fingers at the City and the County and they are going around in a circle. He noted a lot of people had looked at this thing for a long time and questioned the Commissioners hurry that it had to be voted on today. He asked if there was a bid out there for \$6 million so that they wanted an answer today. Commissioner Monaghan responded that no one could say that CPW was in a hurry given that this had been going on for seven years. Mr. Drake asked why a decision had to be made today. Chairman Watts asked Mr. Drake why not today, and added that he wanted a decision made today. Mr. Nicholson stated that some concerns had been addressed about the liability question and they had a greater understanding of the liability question. He noted the concerns of the Commissioners about whether the County is going to put it under their liability system. He stated that Jim Kier had the letter where they had done the analysis and are willing to take it. He noted the Commissioners' concerns with whether the County really wants to take the park under their maintenance system as part of parks and recreation, and with whether the County would participate in the funds to develop it. He stated that he would get something from the County. He pointed out that they had come a long way toward getting this thing accomplished. He noted that the Parks Commission had just finished the plan for this park and the people of this community think this is going to be a park. Mr. Nicholson stated that he did not want CPW to take it away from them. Commissioner Watts stated that it appears the only time people like County Council want to talk is when CPW brings it up and are ready to make a decision. Mr. Nicholson stated that they have issued three resolutions. Chairman Watts responded that they have not answered the last resolution. Mr. Nicholson stated that is because they cannot because it is illegal to give indemnification. Commissioner Monaghan commented that they should send us a letter saying that it is illegal and give us an alternative. He added that this discussion was just going around and around.

Commissioner Monaghan made a motion to table the issue until the next meeting to allow more time to produce some type of documents from the County stating their intent. The motion died for lack of a second.

Chairman Watts made a motion authorizing the Manager to proceed with selling the property. Commissioner Hancock stated that he would second the motion subject to the addition of walking trails and some type of green space being a stipulation to the sell of the property. Chairman Watts asked Commissioner Hancock for clarification. Commissioner Hancock responded that he had always wanted some type of green space or walking trails on the property and whenever someone develops the property there could be a stipulation to include some green space and walking trails with benches. Chairman Watts amended the motion to include the addition of walking trails and green space and Chairman Hancock seconded. The motion was approved by a vote of two to one, with Commissioner Monaghan voting "no".

IV. New Business:

- A. Chairman Watts presented a recommendation from staff to approve an engineering agreement with HPG & Company for engineering services related to the mixing systems for elevated water tanks to be funded through the bond issue. The engineering fees associated with the mixing systems are \$26,040, and \$35,260 for the flocculator improvements. Mr. Chapman explained that the consulting engineer was approached for design work and submitted a proposal based on "not to exceed" prices. Manager Reeves added that we would be charged on an hourly basis based on the rate schedule provided. Commissioner Monaghan commented on the documents furnished not indicating "not to exceed" what. Manager Reeves responded that it was "not to exceed" based on Attachment B. and pointed out that Attachment A. referenced that and other attachments show the specific projects. Commissioner Hancock asked about the mixing system and noted that it was to keep everything moving so as to not have stagnant water. Mr. Chapman responded that it prevents the tank from remaining stagnant and is basically a "first in, last out" type of thing that keeps it turning over so the water stays mixed and keeps the chlorine residual at the proper levels at the same time instead of pushing water up and down it separates it so that as it comes out it is as good as when it goes in. Manager Reeves referred to the third paragraph of the cover letter where it stated that compensation is to be on an hourly basis with a "not to exceed" in accordance with the schedule outlined in

Attachment B. Commissioner Monaghan noted that it did not indicate whether it was "not to exceed" the total or the hourly rate. Manager Reeves responded that the implication was that it was the total, and they would make sure that is the case before signing the agreement. Commissioner Monaghan noted that it should be put in writing. He then commented on the need with engineering firms from time-to-time to revisit the vendor selection. Manager Reeves noted a re-evaluation of all engineering services done a few years ago, adding that all consultants had been in place for three or four years. Commissioner Monaghan asked how much money had been spent with this guy. Manager Reeves responded that \$368,000 was spent over the last three and a half years, and of that amount, \$260,000 was for the bond issue projects at the water treatment plant for major upgrades, and another \$27,000 to close out the rehab projects from several years ago when the mill village lines were rehabbed. Commissioner Monaghan requested that a re-evaluation schedule for engineering firms and computer people be developed and suggested three years to avoid being captured by one firm because of convenience. He added that they would not necessarily need to all be done at once. Mr. Chapman stated that he had no problem with doing RFP's occasionally and reported that he had been looking at engineering costs associated with the water treatment plant. He stated that Mr. Parnell's numbers are within line of what the American Institute of Architects who suggest charging anywhere from 5% to 10%. Commissioner Monaghan stated that we may want to stay with them for another three years, but should be revisited at least every three years. Commissioner Monaghan noted that this was not meant to be criticism, but rather was just good governmental policy and business practice. The other Commissioners agreed.

A motion to approve the engineering agreement with HPG & Company as recommended was made by Commissioner Hancock, seconded by Commissioner Monaghan, and unanimously approved.

- B. Chairman Watts asked Mr. Auman for an explanation of a request for a quote from ESRI for annual maintenance of the GIS software licensing. Mr. Auman explained that these are the maintenance contracts for all of the GIS software and the annual updates and support when there are issues with any GIS project. He noted a slight increase from last year due to the approval of ESRI service software to allow the mobile applications, making the total amount about \$1,000 more than what was budgeted. He stated that the recommendation was to approve the contract in the amount of \$21,079. Commissioner Monaghan asked if part of this cost was recouped through the monthly GIS charge to GMD. Mr. Auman

responded that it was. He explained that basically, he takes the number of users and a percentage is applied to the maintenance agreement, software purchases, and some of GST Consulting. He continued that he and Mr. Reeves came up with the charges; then the percentage is applied and they are charged on a monthly basis. Commissioner Monaghan inquired about the exact percentage and Mr. Auman responded that he did not remember but could provide that information later.

A motion was made by Commissioner Monaghan to approve an annual maintenance agreement for GIS software licensing from ESRI as recommended; the motion was seconded by Commissioner Hancock, and unanimously approved.

- C. Chairman Watts presented a request from Mr. Auman for a four-line iMessaging system at a cost of \$26,550 that would allow customers to check their accounts and pay bills over the phone on a 24/7 basis. Mr. Auman reminded the Commissioners that this item had twice previously been requested in the budget. He stated that they are proceeding because we now have the ability to accept credit cards. He explained the similarity to Duke Power where customers can call in 24 hours a day to check accounts balances and status. He added that it would basically be the same as on the internet but done over the phone and gives customers another option to pay by credit card. Chairman Watts asked about pin numbers, and Mr. Auman responded that similar to the internet, they would be asked to create a password once they connect. Commissioner Monaghan asked if a separate telephone number would be required. Mr. Auman responded that it had been discussed but a decision had not been made. Right now, the intent is that when a customer calls in from 8:00 to 5:00, they would get the operator but be given an option that puts them into that system. They also discussed having a separate number so that a customer can go straight into the system at any time. They discussed two possibilities with calls going to the water plant after 5:00. The first would be to go into the system with an option on the immediate menu to get an operator. The other option would be for the water plant to answer and send them there. He noted that many times at the water plant, the two operators might be out somewhere and may not answer immediately because that is not their primary job. Commissioner Monaghan noted the importance that it be user-friendly for customers. Mr. Auman responded that it was fairly simple and offered to provide a demonstration for the Board. Commissioner Monaghan asked about estimated usage and whether most people would still use the internet. Mr. Auman noted that many people still do not have internet access and recalled times at the

water plant at night when calls came through asking about paying bills by phone. Ms. Gorham expressed that based on the number of customer requests to pay by credit card over the phone, there should be enough usage to justify the purchase and Mr. Auman agreed. Mr. Gentry noted that with Duke Power, phone payments are received quicker. Manager Reeves asked about customer notification. Ms. Gorham stated that they would immediately put a notice on the bills and an insert could also be included. Mr. Auman pointed out another feature of the system that would automatically call the residents with pre-recorded messages about cut-off notices. Ms. Gorham stated that this feature would save a lot of time in respect to calling customers about cut-offs. Currently, customers are called personally and there might be fifty in a day which takes up a great deal of time. Ms. Gorham continued that her expectation with payments would be the same as with credit card acceptance. The volume would be low initially and then as the word gets out, it should increase substantially. Commissioner Monaghan expressed the opinion that customers should be called personally rather than leaving an automated message before cutting them off. Mr. Chapman noted that in cases where there is a line-break or loss of pressure, we are required by state law to notify customers that they have to boil water and this would be a great method of notifying the public in addition to going door-to-door.

A motion was made by Commissioner Monaghan, seconded by Commissioner Hancock, and unanimously approved to purchase the iMessaging system as recommended.

- D. Manager Reeves stated that there was nothing new to report with annexation other than the City had received a petition for annexation from the 186 acres at the Genetic Center with first reading anticipated the following Monday. Commissioner Monaghan inquired about Piedmont Cardiology. Mr. Meredith noted they are already in the city. Commissioner Monaghan inquired about a rehab facility. Mr. Meredith noted that permanent power was in place with Ernest Health. Commissioner Hancock inquired about the Anderson property and commented on additional roads being cut in around the By-Pass. Mr. Barnett responded that there had been two phone conversations within the last two weeks but there was not actually have a date or time to meet with them yet. Manager Reeves added that they would stay in touch with them. Mr. Gentry provided copies of four ads on the incentive program that started the previous Sunday. He reported that a meeting was rescheduled with Homeland Security. He noted that he was informed that South Carolina was not considered a high-risk area and the funds were

cut in half, but there was still \$12 – \$14 million to be given out based on risk. Mr. Gentry reported that Jeff was helping to set up a meeting with Mike Gullede at the office of local government to talk about grant opportunities. He informed the Commissioners of a conversation with Charlie Barrineau where an idea was discussed about a luncheon for state representatives where both the City and CPW would provide an overview of things being done. The Commissioners agreed this was a good idea. Commissioner Monaghan suggested inviting Janice McCord from the Congressman's office. Chairman Watts inquired about Northside School. Mr. Meredith responded that they are putting up lights now; permanent power had been on for months, and they are pretty much down to a punch list now. Commissioner Monaghan asked about tying into the fiber optic lines. Mr. Meredith responded that they are. Commissioner Monaghan asked if the County having some other alternative was the reason they wanted to delete two lines. Mr. Meredith responded that he was not sure. Commissioner Hancock asked about another elementary school, and Mr. Meredith responded that two were being built and should be online by August of 2008. Chairman Watts asked if there was enough power there to take care of all of that; Mr. Meredith responded that they had a meeting that week and had determined that there was. Commissioner Monaghan inquired about development at the Piggly Wiggly out toward the lake. Mr. Meredith responded that Mark Hamm was trying to make contact with the people, but nothing had been heard yet. Mr. Meredith noted that he did not think they were ready to do anything yet because they bought the property and had some conceptual plans two years ago. He added that a lot of out-of-town developers may take five or ten years before they do anything. Commissioner Monaghan noted that Metro had confirmed an 8-in. line to the City Pond property. The Commissioners discussed whether this would be sufficient for future development in that area. Chairman Watts asked if Carlos Cometto had met or talked with Metro. Mr. Barnett responded that he had and actually went out on a piece of our property with them to look at where they were planning to do it. Carlos came up with his own estimation which was given to Mr. Reeves. Chairman Watts indicated a desire to see that estimation. Manager Reeves stated that his estimation was based on a 12-in. gravity line. Commissioner Hancock noted that is a lot of area all the way back out to the lake. Manager Reeves noted that CPW does not agree, but it is not our project. Commissioner Monaghan stated that CPW is paying for half and should have some input. Commissioner Hancock noted the need to look at the contours and how it flows. Commissioner Monaghan questioned whether an 8-in. line would serve the City Pond area that is estimated to be 1,000 houses. Mr. Barnett responded that based

on the calculations from Carlos, the answer was no. Mr. Chapman added that 1,000 houses would be roughly 400,000 gallons of sewage per day by design. He noted that just off the top of his head and without looking at the contours, he would agree that 8-in. would not adequately serve it, and would leave no room for growth. Commissioner Monaghan noted that George said it would serve 750,000 gallons per day. Commissioner Monaghan asked what size line CPW thinks it should be. Manager Reeves responded that it should be 12-in. Commissioner Monaghan suggested that CPW talk with Metro about that because it is in CPW's interest. Chairman Watts agreed, and Chairman Hancock added that they would need to look at the drainage basins because they go way out. He agreed that 8-in. did seem small and continued that they should look at it and get those contour lines and what would have to flow between and find out how much it would take in there. Chairman Watts asked about meeting with Carlos and George. Manager Reeves suggested having them meet along with Bryan with Metro to see what they are basing their criteria on. Commissioner Monaghan stated that they should meet with the other engineer since CPW is paying half. He referred to a conversation with Carlos where he made a lot of good points. He commented that the review of the Metro specs was moving along. Manager Reeves asked if Carlos was still working on his personal review. Commissioner Monaghan stated that Carlos was done. He noted that they are scheduled to sit down with the firm that is to do it and suggested that Carlos be there.

V. Other Business:

1. Manager Reeves informed the Commissioners of conference calls scheduled with the bond rating agencies on Monday. He stated that Standard & Poor's had given their rating and had maintained the A+ rating from the past. He noted that it was a "bear" to get them to maintain that and they tried every way possible to lower the rating. They included fixed costs in the expense side to lower the debt coverage ratio which had never been done. Manager Reeves commended Denise, Ken, and Sheree Brown for their efforts to maintain the A+ rating. He stated that they had to put up quite an argument after which Standard & Poor's finally succumbed. He noted quite a few last minute requests prior to the committee meeting on the rating and they were able to get the answers back to them very quickly. He added that they had not received the Moody's rating yet, but they did not experience nearly the adversity from Moody's as Standard & Poor's. Chairman Watts expressed appreciation to staff for their hard work on the bond issue.

VI. Executive Session

A motion was made by Commissioner Monaghan, seconded by Commissioner Hancock, and unanimously approved to go into *Executive Session* to discuss contractual and personnel matters.

The meeting returned to open session. Mr. Patrick stated that discussion took place during *Executive Session* about the need for bond insurance in connection with the upcoming bond issue, and Mr. Reeves had briefed the Commissioners on the proposed contract with MBIA for bond insurance.

A motion was made by Commissioner Monaghan authorizing the Manager to sign a contract with MBIA for bond insurance associated with the bond issue; the motion was seconded by Commissioner Monaghan, and unanimously approved.

VII. With no further business, the meeting was adjourned.

Approved: _____, 2007

Secretary