Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council Meeting Minutes March 1, 2005

A meeting of the Fayetteville City Council was held on March 1, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor Coody introduced Bob Davis as the new Water and Wastewater Director for the City.

CONSENT:

Approval of the Minutes: Approval of the January 25, February 7 and the February 15, 2005 City Council meeting minutes.

Premier Home Services Bid Award: A resolution awarding a bid in the amount of $14,274.00 to Premier Home Services for the rehabilitation of the residence at 443 West North Street; and approving a contingency in the amount of $1,000.00.

Resolution 35-05 as Recorded in the Office of the City Clerk.

<u>Arkansans For Drug Free Youth Grant:</u> A resolution authorizing the Fayetteville Police Department to accept an Arkansans For Drug Free Youth Grant in the amount of $20,000 to fund training and overtime for officers performing underage drinking patrol, compliance checks of merchants selling alcohol and community presentations; and approving a Budget Adjustment recognizing the grant revenue.

Resolution 36-05 as Recorded in the Office of the City Clerk.

<u>Department of Homeland Security Fire Grant:</u> A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security Fire Grant for approximately $200,000.00 to upgrade the computer aided dispatch system and procure additional training equipment.

Resolution 37-05 as Recorded in the Office of the City Clerk.

<u>Garver Engineers, LLC Contract:</u> A resolution approving a letter contract in the amount of $19,300.00 with Garver Engineers, LLC for professional surveying services for the Township Street Widening Project.

Resolution 38-05 as Recorded in the Office of the City Clerk.

<u>Rotochopper, Inc. Compost/Mulch Bagger:</u> A resolution approving the purchase of one (1) Go-Bagger 250 portable automatic bag filler and bags from Rotochopper, Inc. in the amount of $39,971.00 for use by Solid Waste and Recycling Division; and approving a Budget Adjustment in the amount of $48,000.00.

Resolution 39-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

<u>UNFINISHED BUSINESS:</u>

<u>Highway 71 East Square Redevelopment District #1 Project Plan Amendment:</u> An ordinance amending the Project Plan for the Highway 71 East Square Redevelopment District Number One, finding the Plan is economically feasible and declaring an emergency. ***This ordinance was left on the first reading at the January 25, 2005 City Council Meeting. This ordinance was left on the second reading at the February 1, 2005 City Council Meeting. This ordinance was left on the third reading at the February 15, 2005 City Council Meeting and tabled to the March 1, 2005 City Council Meeting.***

Tim Conklin, Director of Planning & Development Management: Staff is recommending that you table this to the March 15, 2005 meeting.

Alderman Rhoads: Are there notice provisions for this March 15th meeting?

Tim Conklin: Yes we have re-notified the school districts, school board and the taxing entities. The publication in the newspaper occurred last Sunday and will occur again this coming Sunday. We have met the notification requirements for the Project Plan amendment.

Alderman Marr: Will the request be to go through all readings in one meeting?

Tim Conklin: Yes it will be. We are trying to meet the deadlines for the financial institutions that are participating in this project. It is critical that we move this project forward. Looking at the contractual obligations for the purchase of the property we have set the calendar for a March 15th approval process in order to meet those deadlines.

Kit Williams: We have read the Project Plan ordinance for three times, it will just have to be approved as amended with the amended Project Plan. The bond ordinance is the one that we will ask to go through all three readings and approve. I appreciate the fact that the Niblock Family and Firm have agreed to give us more time. Should the City Council approve the bond ordinance and the bond purchase agreement, the bonds themselves will have a closing date of April 19th and the property will be purchased April 20th. It is my understanding that all the property owners have agreed to extend the time. The City of Fayetteville is appreciative of them being willing to work with us.

Alderman Marr: The reason that I asked the question is not that I am opposed to that at all. I think that we have been through this for so long that I want to make it clear to the citizens that this is a request that we look at this in one reading so if they have any comments they have between now and the 15th to get it to us.

Mayor Coody: The staff has worked tirelessly on this; the developers and the City Council have kept working on this. This is going to be a project when all is said and done it will very much have been worth it.

John Nock: Thanked the Council, staff and the property owners. He also thanked Kit Williams for his work on this project.

We continue with the architecture design, we have done some modifications to allow some more flexibility on the parking so the people on Center Street will have more parking opportunities. We also have gone ahead, to save some time on the timeline; we have engaged and are paying out of pocket the environmental studies that will be required so that once the property changes hands from the current owners to the City those tests will have already been put into place. The process required for demolition can be the very next step rather than waiting that additional time. I don't think we have lost as much time as some have anticipated; a lot has been going on behind the scenes. I encourage citizens if they want to come out and talk, this will be a good time to do it. Bank of Fayetteville has been extremely patient and I think that we are going to meet their needs so there is no recapture on the tax credits that they have allocated towards the project. We have a little bit longer but together we will get there.

Alderman Marr moved to table the ordinance until the March 15, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

NEW BUSINESS:

Shake's Property Offer: A resolution to accept an offer from Stephen L. Davis to purchase the remainder of the former Shake's property and building for $178,555.00.

Stephen L. Davis, Purchaser: Thank you very much for your consideration and particularly for your patience in getting to this point.

Alderman Jordan moved to approve the Resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 40-05 as Recorded in the Office of the City Clerk.

SBC Communications Project Approval: A resolution approving a project with SBC Communications in the amount of $61,227.86 to provide for the implementation of redundant wired data link to all of the City's remote sites.

Scott Huddleston, IT: We have close to 100 users out there at remote sites that are currently connecting back with wireless connects. There are some single points of failure that if they go down then all 100 people are without the ability to connect back to the City to do their computer work. It is a huge down time loss when they go down. This will load balance our existing network plus provide for outages if they occur in the future.

Alderman Jordan moved to approve the Resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 41-05 as Recorded in the Office of the City Clerk.

IFWorld Maintenance Approval: An ordinance waiving the requirements of formal competitive bidding and approving payments not to exceed $20,000.00 to IFWorld for maintenance and enhancement of the City website's Content Management System.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Cook: I have had citizens sometimes comment that they find it difficult to navigate the website. What is the protocol or how do we access that?

Scott Huddleston: We do get comments back to the webmaster. We have an in-house website committee that looks at these things. The basic process is to send your comments to the webmaster or to the website committee.

Alderman Cook: How often do you evaluate?

Scott Huddleston: The website committee meets once a month. The members have different parts of the website that they look at and evaluate. There are certain pieces that we need to do that only IFWorld can do. That is kind of what this proposal is for.

Mayor Coody: I have experienced the same thing myself sometimes. It is a very complex and data loaded site. There is so much information that sometimes it is hard to find what you are looking for. If there is a way that we can work to streamline this and to make it more simple for people like myself and others let's see if we can't do that.

Scott Huddleston: That's where we are heading.

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

Ordinance 4681 as Recorded in the Office of the City Clerk.

Reappropriate Capital Improvement Funds: A resolution approving a Budget Adjustment to reappropriate $130,334,454.00 in order to retain current fiscal year project funding for identified and scheduled capital improvements.

Alderman Thiel: This proposal is strictly the capital improvements. Is there going to be a reauthorization of the operational funding?

Kevin Springer, Budget and Research: Currently there are no operational funds that have to be re-budgeted. We have sufficient funding in 2005 to maintain all the needs without having to go back to last year's funding and grab it.

Alderman Jordan: Kevin, for the people at home can you explain to them what we are doing here?

Kevin Springer: This is a routine house keeping item that we have to bring forward every year. At the end of every fiscal year which is December 31st our funding will lapse. We have the City Council re-appropriate the budget and move it forward to 2005. All we are doing is asking for reapproval of the same project money again. Most of it you will see another time or two when you are presented with contracts.

Alderman Marr: The Mission and Maple signalization; has that study been started?

Gary Dumas, Operations Director: It was denied last year because of traffic. We have looked at other alternatives to solving the problem at that intersection, there has been quite a bit of neighborhood discussion about what the solutions might be. I don't know if there is consensus in the neighborhood on what change would be most appropriate there. The traffic has not changed there. We can continue with that traffic evaluation and see if it could meet some warrant for a traffic signal. I don't know of a solution that is not going to generate significant neighborhood disagreement.

Alderman Marr: We are holding that money there for whatever solution there might be. It is not necessarily dedicated to this signalization.

Gary Dumas: It can be used for whatever the solution is, if there is a solution that will solve the problem. That solution might be re-designation of Highway 45 to some alternative route, which we are looking at also.

Alderman Rhoads moved to approve the Resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 42-05 as Recorded in the Office of the City Clerk.

Ford Motor Company General Release and Waiver: A resolution to approve the General Release and Waiver from Ford Motor Company and to authorize the Mayor to sign the General Release and Waiver.

Mayor Coody: Kit you are relatively comfortable with the waiver?

Kit Williams: I certainly haven't changed my position from what I originally said. I don't really like under cutting the Attorney General on this. However it is certainly a policy issue for the City Council to determine. The Police Department is in need of new police cars. I don't generally like to have a waiver of liability in order to purchase a product but this might be an exceptional circumstance. It is really for the City Council to determine. The waiver is entitled a General Release and Waiver and is supposed to be restricted. There is some restrictive language within it that hopefully we can rely on but there is other broader language in it. It was drafted by Ford so it would be interpreted against Ford so hopefully the restrictive language would be the controlling language.

Mayor Coody: I called Attorney General Beebe and asked him if we would be under minding him if we approved this. He said not at all if we need to do it go ahead. This doesn't slow him down one bit; he is going to be okay with it.

Captain Greg Tabor, Police Department: Obviously the last thing I want to try to convince you to do is to go against the advice of the City Attorney. The Police Department basically has been using the Ford Police Crown Interceptor exclusively since 1990, prior to that we did have some Chevrolet Impalas. Most police departments in this area also use the police interceptor from Ford a few of them have tried various things like the Dodge Intrepid and the Chevrolet Impala but they have quickly moved back to the Crown as their vehicle of choice. Washington County did a cost analysis and they determined that the Impala and the Intrepid cost about $4.00 a day more to operate than the Ford Crown Vic did. We have identified two alternative vehicles if this waiver is not signed one of which we believe is not a very viable option that is the Chevrolet Impala. It is a smaller vehicle on the inside and that creates a lot of problems for us. We have computer laptops in the cars that sit in the passenger side of the vehicle which creates a problem when we are riding two officers in the vehicle. The size of the interior is a definite problem for us. The Impala is also a six cylinder vehicle which is front wheel drive, we see some problems having a mixed fleet with some vehicles being front wheel drive and some being rear wheel drive. In a pursuit the officer will have to remember which vehicle he is driving because of the handling characteristics of the car. The second one we identified is the Chevrolet Tahoe; in 2005 they came out with a true police package Tahoe. It is a two wheel drive vehicle and would meet our needs for space. The fuel economy is approximately the same as the Ford that we are driving now. The problem with the Tahoe is that it is about $8,000 more per unit that the Crown Vic. In 2005 there are 13 new vehicles budgeted so if we go with the Tahoe, Fleet would need about another $100,000 to $110,000 to purchase Tahoe's instead of Crown Vic's.

Alderman Ferrell: At budget time we added these patrolmen if we have budgeted the money I would move that we go ahead and approve the resolution.

Alderman Reynolds: Our fleet management practice has improved. We went from running police cars from 65,000 to 120,000 miles and that saved us money. We didn't replace cars in 2004; we are at the point that we have to have cars this year, they are three short for implementing the plan in 2005. I will support this; we certainly need to order these cars.

Alderman Marr: After reading the City Attorney's memo I was uncomfortable supporting this. Having had the discussion at agenda session about risk versus our decision I do think it is prudent to move forward. This is currently an investigation and not an actual case. I think our City Attorney will be able to adequately defend us based on the information that we have at this point I think our risk is fairly small. I will vote for the resolution.

Alderman Ferrell moved to approve the Resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 43-05 as Recorded in the Office of the City Clerk.

Fayetteville Downtown Partners Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of $150,000.00 to assist in the implementation of the Downtown Master Plan.

Mr. Williams read the ordinance.

Alderman Rhoads: I serve on the Board of this organization at the request of the City I think I will recuse my voting on this.

Tim Conklin, Planning: This is a contract and bid waiver ordinance for services with Downtown Partners. This organization was formerly known as the Downtown Dickson Street Enhancement Project and reorganized with its primary mission to assist the City in implementing the Downtown Master Plan. This organization also represents the area that is included in the Downtown Master Plan. Last September we adopted the Downtown Master Plan and it recommended working with this type of organization and looking at how to create an organization that is self supporting. Within the contract the main focus is for this organization to look at developing funding mechanisms to become self supporting over the next three years. In the contract it also talks about identifying the feasibility of a business improvement district and based on that feasibility implementing a business improvement district within this area of the Downtown Master Plan.

Mr. Conklin explained some of the scope of services that are outlined in their contract.

Alderman Lucas: What if there is another area in the City that needs improvement, can they come to the City and ask for funds for a Director to improve their area? Are we setting precedence with this?

Tim Conklin: Those discussions took place in the fall with regard to non-profit funding and who you wanted to fund and what projects. This contract allows them over the next three years to become self-sufficient. I think this is somewhat unique, it is the heart of the City and I think this organization is different than other organizations.

Alderman Lucas: They want to be an economic development center and I am concerned with that. The City, Chamber of Commerce and the University got together and formed a position and I thought that position was going to be the central place for people to go for economic development.

Tim Conklin: It would probably be best to hear from their interim director with regard to what they are trying to achieve with this development resource center. They have a close working relationship with FEDC and the Chamber of Commerce and other organizations in the downtown area.

Alderman Ferrell: Will the funding during the next three years for this non-profit come before the Council as a budget item to be approved each year?

Tim Conklin: That is correct; this contract is just for 2005.

Alderman Ferrell: Will the business improvement district have eminent domain condemnation authority?

Kit Williams: I would have to look at that to see. The Downtown Partners surely would not have that. If they were to re-incorporate into some other type of improvement district they might sometimes, some improvement districts do have that right.

Daniel Hintz, Interim Administrator Fayetteville Downtown Partners: The development resource center is going to be focused specifically on downtown and the needs of our downtown businesses as well as acting as a resource for those companies that want to come in and invest in the downtown area. We meet on a regular basis with the economic development director as well as the Chamber. This is part of a team effort, we are also partnering with the university in order to develop a number of these recourses as well. There will be coordination on all levels.

Alderman Lucas: You talked about the funding gradually going down and in three years you will be self-sufficient. That concerns me, that is what we where being told in 2003 when funds were requested for this organization. I know they have changed names; I want to make sure this is going to come to an end eventually.

Daniel Hintz: Certainly. When you look at the challenges as well as the successes of the Downtown Dickson Enhancement Project we look at those things and say how do we continue with the enhancements as well as not repeat some of the challenges. Our relationship to funding is one of those challenges that we would like to reinvent. When we looked at this contract of services we made very sure that there was an accountability factor written into this contract that you as a Council could look at and know that we are moving on the right track. You will know if the money that you are providing this organization is actually worth something.

Alderman Lucas: I see the City mainly working in this area to clean up our zonings and $150,000 would help us with a Planner. I know we need more staff in Planning. I am really in a quandary as to whether this is going to help us that much or would we be better spending our money in the Planning Department. That is what I am struggling with.

Daniel Hintz: We are going to be a resource to the City in helping them with some of the codes and ordinances for downtown. That $150,000 is also purchasing a wide variety of services that we are going to be able to provide. So when you look at the $150,000 and the bang for the dollar, we are going to be able to have a wide variety of deliverables that you can look at at the end of 2005. There are a number of components that we are going to be able to provide that City staff may not currently be able to provide at the level that our downtown community may need. That $150,000 is looking at a full scope of services that will show the strength of the downtown community as a whole.

Alderman Reynolds: I am glad that DDEP is done. Dickson Street merchants have struggled for four years of construction. I hope Dickson Street is complete is that right?

Daniel Hintz: As of the plan through Downtown Dickson Enhancement Project, yes.

Alderman Reynolds: Are you talking about everything south of Dickson up to Center Street from West to Block Street? What area are you talking about re-generating?

Daniel Hintz: The scope of the Downtown Master Plan. We are looking at that entire acreage. The reason why we are called Downtown Fayetteville Partners is because we take that partners component very seriously. We take our cues from our partners. We are in conversations on a variety of levels with a variety of different people. What this contract of services indicates is it gives this organization focus for 2005 and shows the City Council some of the arenas that we are going to be focusing on. The Downtown Master Plan is huge in scope, it is not a one or two or three year project, and it is going to take a lot of conservations and a lot of different team members.

Alderman Reynolds: I just think that area has gone through a lot of shock in the last four years and I am not sure they are ready for another project right a way.

Daniel Hintz: Certainly. We have been supporting the growth of the merchants association which can allow that direct feedback to us and open up really efficient lines of communication between downtown merchants. There is a vital option for those folks to be able to respond directly to the entity that may be implementing some of these projects. That line of communication is very important to make sure that we are actually doing what the folks on Dickson and other merchants throughout the downtown district really want to do.

Alderman Reynolds: Are most of those merchants property owners?

Daniel Hintz: A variety of those merchants are property owners. When you look at property owners in the downtown area the percentage is not as high as perhaps we may like to see. That's a challenge that we have heard from some merchants and that is certainly something that we will take a look at over the next several years as well as the growth and sustainability of our downtown community.

Alderman Ferrell: When I first started reading about this I didn't think this was a very prudent expenditure by the City but I started visiting with people and asking questions and I thoroughly read your proposal. We certainly want Fayetteville to remain the cultural and arts center of Northwest Arkansas. I think you should focus on watching the master plan and focus on the culture center and the arts. I thought you were not focused enough, you were too broad but after visiting with people I think you certainly deserve a year's funding to try.

Cyrus Young: To answer your question, business improvement districts can condemn land. They can condemn someone's property and turn around and sell it to another business owner to run it. The sole discretion in deciding that is pretty much in the hands of the commissioners of the improvement district. Eminent domain is not an option when you form it, it comes by State law.

Alderman Cook: I support what Downtown Partners is doing. I want to make it clear that I do not want the Downtown Master Plan in any way, the codes, policy issues or implementation in any way to fall in the hands of the Downtown Partners. That is an issue that belongs with the Planning Department and this governing body. I support what they want to do, we need a partner with a vision of the Downtown Master Plan but the ultimate authority of that lies with the City.

Alderman Marr: Abstaining on a vote should be based on financial impact or financial gain. We are asked to serve on other committees and when we had the Downtown Dickson Enhancement Group I brought up a lot of questions concerning the service agreement. I didn't think it had tangible and measurable items in it and one of the things that came up with that request was that we have representation from this Council on that board. I want to make sure I am not misunderstanding something. I want to know exactly the requirement for when we should abstain.

Kit Williams: Our rules of order and procedure when it talks about financial interest sates *no member of the City Council with a direct or indirect financial interest in any items before the City Council shall participate in the discussion of or voting on such matter.* I did speak with Alderman Rhoads earlier today even though I realize the board members don't get paid this is a situation where the board of the Downtown Partners is asking the City for $150,000 in money. A lot of conflict of interest issues are perception as well as absolute reality. My advice to Alderman Rhoads was as a board member of an organization that is seeking $150,000 from the City that recusal was probably the proper thing for him to do.

Alderman Marr: Based on that advice I will recuse. I don't think it is appropriate in the future that Aldermen that represent an area, who look at a contract and are asked to participate in a committee be asked to recuse from votes in the future. I would not have accepted that appointment and at this point will resign from the board because I think it is more important to represent my Ward and the area then it is to serve on that board. I will reserve the comments that I had related to this contract.

Alderman Reynolds: Kit do I need to recuse on this?

Kit Williams: You are not on the board are you?

Alderman Reynolds: I am a property owner.

Kit Williams: Just as when we had the smoking ordinance and your property could have been affected at that point in time as a class as opposed to being a member on the board I don't think that as a being affected as a member of a class in this type being a property owner that you are directly affected enough that you would have a conflict of interest. When you are a member of a governing body as a board is that is when you rise to a level that is slightly higher in the conflict of interest situation. To avoid the appearance of impropriety I think the board members should not vote on this but property owners I don't see a problem with that.

Alderman Reynolds: Thanks for your opinion.

Alderman Rhoads: Although I do not plan on voting, I do plan on speaking in support of the organization. We are asked to serve on this board at the request of the City and did so to put an extra set of eyes and ears into the organization.

Kit Williams: Could I read this financial interest section one more time before you start discussing this issue?

Alderman Rhoads: Yes.

Kit Williams: It says *no member of the City Council with a direct or indirect financial interest in any items before the City Council shall participate in the discussion of or voting on such matter.* So generally if there is any sort of recusal you will not discuss or vote on the issue. That is what our rules say and I did not want you to step beyond what our rules state.

Alderman Rhoads: I do remember you reading that before on another occasion so I should have remembered that. Had I realized that I probably would not have agreed because I do believe this is an area that is fairly gray. I get no financial benefit from serving on that board but I am in favor of some of the things that this City and various organizations are trying to do for this City.

Alderman Thiel: I think one of the important things this organization will do is to relieve our Planning staff and help facilitate public meetings that will be necessary for zoning changes. They will not be doing the job of our Planning Department but that is one thing they can bring to the table and help our staff. I think that is a real important aspect of what they are going to do. The other thing they offer is the festival coordination. They seem to have board people that are organized; they have a strong commitment to become self sustaining. I feel a firmer commitment from his group.

Alderman Reynolds: I drew the challenge to get a police substation on Dickson Street. I think this year would be a good year to put $150,000 towards that police substation. I think we need to give the merchants a rest from construction.

Mayor Coody: I don't think we have any major construction plans down there. I don't believe this is geared toward any major construction project. This will be developing some things other than construction for the downtown area.

Daniel Hintz: Regarding the police substation the research that we have done regarding a business improvement district the two consistencies are clean-up and security on any business improvement district. When we look at the feasibility of an implementation of a business improvement district we might be able to work with the merchants regarding their security needs and how can they work with the local police.

Mayor Coody: It is not just the businesses that need security but all the neighborhoods need it.

I know Robert and Don are recusing but I appreciate you being on this board. I am sorry this turned out this way. We appreciate you being on the board to help steer this organization. This is better because of your input and I want to say thanks.

Alderman Ferrell: If this should go to a business improvement district will the City have any input on that?

Kit Williams: Normally when you have a business improvement district you have to get an agreement with at least half of the property owners within the district to go forward and be able to form the business improvement district. A lot of times the City does have some input on that.

Bob Kohler, Fayetteville Downtown Partners Board Member: I am heading up our BID effort and we are in the process of hiring a consultant to guide us through the process. My understanding is two thirds of evaluation of the property within the district has to vote in favor of establishing a BID. That is a bench mark to hit and in order to do that there is a public education process that has to happen.

Kit Williams: If in fact Alderman Marr has actually resigned from the board of directors effective immediately then he would no longer have a financial or indirect financial interest and therefore it would be improper for him to recuse at this point in time because he would have no grounds for recusal. I am not sure he actually did resign or plans to make it a permanent resignation.

Alderman Marr: I am considering.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Marr and Rhoads recused.

Mr. Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Marr and Rhoads recused.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. Alderman Cook, Ferrell, Jordan and Thiel voting yes. Alderman Lucas and Reynolds voting no. Alderman Marr and Rhoads recused. Mayor Coody voted yes thus passing the ordinance.

Ordinance 4682 as Recorded in the Office of the City Clerk

PUBLIC HEARINGS:

Brinkley's Limo Service; Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Brinkley's Limo Service for the operation of five (5) limousines within the City of Fayetteville, Arkansas.

Captain Brown, Police Department: We have received his application, financial statement and proof of insurance.

You have already approved 15 limousines and 14 taxicabs.

Mayor Coody: How do we ascertain what a necessary number of limousines are for our town?

Alderman Marr: The market will prevail.

Alderman Jordan moved to approve the Resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 44-05 as Recorded in the Office of the City Clerk.

Jones Transportation Service; Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Jones Transportation Service for the operation of four (4) Limousines within the City of Fayetteville, Arkansas.

Captain Brown: We have received his application, financial statement and proof of insurance. He is asking for two Lincoln Town cars and two buses to be permitted.

Alderman Jordan moved to approve the Resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 45-05 as Recorded in the Office of the City Clerk.

Mayor Coody: Are all the operators of taxis and limos in Fayetteville currently with proof of insurance?

Captain Brown: I have proof of insurance on the ones that you have approved for the certificates.

Captain Tabor: You approved Tony C's contingent upon him providing proof of insurance. To my knowledge he has never done that. I believe he is operating a taxicab in the City of Fayetteville and he has been issued at least one ticket. We currently do not have any taxicabs operating according to the ordinance in the city.

Mayor Coody: We don't have any taxis within the confines of the ordinance within the City?

Captain Tabor: That is correct. Cardinal was approved but they went out of business. The only other taxi company was Tony C's and he has yet to provide us with any proof of insurance or to have his taxis inspected. Community Planning issues vouchers for taxicabs about 1,500 per month, we have told them that none of them are operating legally in the City and they have suspended giving out those vouchers.

Alderman Marr: They have begun issuing vouchers for the Ozark Transit Bus system; they do have that as an option.

Alderman Reynolds: Are we working on something else as far as Tony C's?

Kit Williams: There is a State statue that says if a taxicab owner chooses to he can get an indemnity bond instead of just a policy of insurance and that stands in the place of a policy of insurance. That has been pointed out to Mr. Tony C's attorney however my understanding is that he wished to do a letter of credit instead of an indemnity bond and I told him that was not part of the State statue and not part of the ordinance and did not comply with the law the way I saw it. I told him if he wished to change the law he would need to come before this body and ask you to change the ordinance to allow a letter of credit instead of an indemnity bond. I have not heard anything further.

Alderman Reynolds: I understand that Mr. Jones was running a bus on Dickson Street and he got ticketed and at the same time Tony C's cab went by and his cab did not get a ticket.

Captain Tabor: We have only been issuing tickets if we see the taxi actually pick someone up.

Alderman Reynolds: Was there a reason why Jones was told to keep his buses off of Dickson Street?

Captain Tabor: I don't know the answer to that. I will check on that.

Meeting Adjourned at 7:25 PM.

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk