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 – Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

# City Council
# Meeting Minutes
# April 5, 2005

A meeting of the Fayetteville City Council was held on April 5, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Vice Mayor Lioneld Jordan called the meeting to order.**

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

**Mayor Coody was absent**

**Alderman Ferrell was absent until 6:02 PM**
**Alderman Rhoads was absent until 6:35 PM**

**Pledge of Allegiance**

**Nominating Committee Report – Public Library Board of Trustees**

**Alderman Cook:** I forgot to add one name at the last meeting. Louis Gottsponer, we are reappointing him for another term.

**Alderman Cook moved to approve the Nominating Committee Report. Alderman Marr seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Ferrell were absent during the vote.**

**CONSENT:**

**Approval of the Minutes:** Approval of the March 15, 2005 City Council meeting minutes.

**The minutes were pulled from the Consent and will be added at the next City Council meeting.**

**Skid Steer Loader Purchase:** A resolution authorizing the use of funds budgeted in the 2005 In-House Pavement Improvements Project for the purchase of one (1) Skid Steer Loader with a Hydraulic Breaker Attachment, a 24" Hi-Flo Planer Attachment, and a Forklift Attachment in the amount of $48,012.41 for use by the Transportation Division.

***Resolution 60-05 as Recorded in the Office of the City Clerk.***

**SBC Web Hosting Contract:** A resolution to approve a web hosting contract with Southwestern Bell Communications, Inc. in the amount of $14,100.00 plus $2,820.00 contingency, plus tax annually for five years.

***Resolution 61-05 as Recorded in the Office of the City Clerk.***

**McClelland Consulting Engineers, Inc. Contract Renewal:** A resolution to agree to extend for one year the existing contract with McClelland Consulting Engineers, Inc. pursuant to its option to renew provision.

***Resolution 62-05 as Recorded in the Office of the City Clerk.***

**Off Street Parking Development District No. 1 Lease Agreement:** A resolution approving a one-year lease agreement with Off-Street Parking Development District No. 1 for the City of Fayetteville to operate certain off-street parking lots.

***Resolution 63-05 as Recorded in the Office of the City Clerk.***

**Home Rehabilitation Contract:** A resolution to approve a contract between Erin Jenkins and Randy Evans for the rehabilitation on Erin Jenkins' home using Community Development Block Grant Funds in the amount of $24,070.00 with a contingency of $1,000.00.

***Resolution 64-05 as Recorded in the Office of the City Clerk.***

**Design Workshop, Inc. Contract:** A resolution to approve a contract with Design Workshop, Inc. in the amount of $32,550.00 plus reimbursables not to exceed $6,000.00 and to approve a Budget Adjustment of $40,000.00.

***Resolution 65-05 as Recorded in the Office of the City Clerk.***

**McClelland Consulting Engineers, Inc. Task Order # 5:** A resolution to approve Task Order #5 to the contract with McClelland Consulting Engineers, Inc. in the amount of $122,742.00 to produce an Airport Master Plan and to approve applications for grant funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $122,750.00.

***Resolution 66-05 as Recorded in the Office of the City Clerk.***

<u>**McClelland Consulting Engineers, Inc. Task Order # 6:**</u> A resolution to approve Task Order #6 to a contract with McClelland Consulting Engineers, Inc. in the amount of $99,850.00 to design and oversee the construction of a new west side general aviation apron and sewer line replacement, and to approve applications for funding from the FAA and Arkansas Department of Aeronautics to pay for this project, and to approve a budget adjustment of $1,079,316.00.

***Resolution 67-05 as Recorded in the Office of the City Clerk.***

<u>**Community Development Block Grant Agreement:**</u> A resolution to approve the 2005 Community Development Block Grant Action Plan and the 2005 Funding Approval/Agreement and to authorize Mayor Coody to sign this Funding Approval/Agreement.

***Resolution 68-05 as Recorded in the Office of the City Clerk.***

**Sondra Smith, City Clerk** asked that the March 15, 2005 City Council minutes be pulled from the agenda.

**Alderman Reynolds moved to approve the Consent Agenda with the minutes pulled. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.**

## <u>UNFINISHED BUSINESS:</u>

Start

<u>**ANX 05-1365 (Wilkins):**</u> An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

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

***Mr. Williams read the ordinance.***

**Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel and Marr voting yes. Alderman Cook voting no. Alderman Rhoads was absent during the vote.**

***Ordinance 4688 as Recorded in the Office of the City Clerk***

<u>**RZN 05-1366 (Wilkins):**</u> An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

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

*Mr. Williams read the ordinance.*

**Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent during the vote.**

*Ordinance 4689 as Recorded in the Office of the City Clerk*

ANX 05-1370 (Hall): An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

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

*Mr. Williams read the ordinance.*

**Alderman Thiel:** This is a peninsula. I realize this is an issue that concerns all of us that we are continuing to annex property into the city without having a master plan. I am concerned about these projects that are being done outside the city limits that aren't necessarily building streets to our standards and are utilizing septic tanks rather sewer.

On this particular project I have reviewed some of the Planning Commissioner's comments that were in the minutes and one commissioner stated that within our 2020 Plan we have stated that we need to annex environmentally sensitive areas. I think I support this for that reason alone. It is along the river and I certainly would not want to see this land developed, as it could be if it was not in the city limits, on septic tanks going directly into that creek. I do support this annexation for those reasons.

**Alderman Marr:** I would like for the city attorney to relate the key findings of fact as it relates to an annexation. Some of my concerns are zoning related and others may be appropriate here. As I was reading the staff report it appeared that it is as follows: consistent with land use plans, impact on public service, not creating islands, infrastructure and utilities and financial impact. Can you let me know what findings I should be looking at as I determine my vote?

**Kit Williams:** I think you have stated many of the ones that should be looked at that were included in the staff report. I will note that these particular findings are all self imposed by the City Council. Under state law you pretty much have unbridled discretion about whether you want to annex a piece of property or not. To guide yourselves you then adopted an annexation policy about islands and the other findings that you spoke about. I don't think it really detracts from your overall power as City Council members to basically make the determination whether you want this property within the city. The 2020 Plan is a guide it is not a requirement.

**Alderman Marr:** The staff report talks about that the staff actually advised the applicant on more than one occasion to approach land owners within the surrounding area to incorporate the land so that the entire group could be brought into the city limits at one time. The original request was not creating an island but we chose to do that. Could you speak to why the staff encouraged them to bring in more property that actually created islands?

**Jeremy Pate:** The original property that was requested is essentially the property that we are looking at for the rezoning application which is following this. Technically I don't believe that with certain technicalities it would create islands, it would create almost entirely surrounded unincorporated pieces of property. The floodplain and floodway to the west of what we are looking at in the following rezoning request would not have been incorporated within that original request. Staff felt it was important to go ahead and incorporate this so that with future development on this property we would see this within the city limits as opposed to that property never being brought into the city limits and not being a part of our jurisdiction to look for floodplain development permits, etc.

**Alderman Marr:** When we have other boundary lines in the city that may not be the most appropriately drawn lines, to get it cleaner, we might look at annexing those. Why are we doing it at the time that someone is bringing an item through as opposed to doing that or having the same conservation with any other boundary line that might be inappropriate?

**Jeremy Pate:** A property owner that comes to us that is adjacent to the city limits by state law is allowed to request annexation. As Mr. Williams mentioned it is entirely discretionary for the City Council. There are islands that the city can involuntarily annex; properties though just to clean up boundaries outside those islands are not applicable in that involuntary annexation. I don't believe that is an option under state law. Those properties that are almost completely surrounded are typically problem areas because if they are in fast developing areas on septic systems then staff would typically recommend that they connect to sewer that is directly adjacent to that property and develop to city standards as opposed to county standards.

**Alderman Marr:** In your staff report you also say the staff does not intend to establish a pattern of recommending annexations that create islands.

**Jeremy Pate:** That is correct.

**Alderman Marr:** We have in this case. Is it still true that there are some property owners within this that if this passes you will then move forward with annexing those remaining pieces so that we don't have any islands remaining?

**Jeremy Pate:** That is correct. I believe to my knowledge that there are two property owners specifically that would prefer to stay in the county that are within the nine property owners from which this application comes. There are approximately three to four property owners that are undecided, they remain neutral or my state law cannot come in with this request because they are not immediately adjacent to city limits. The remaining property others would like to come into the city limits immediately. Staff's recommendation is two pronged; we are recommending approval of this annexation and would immediately follow it up with the island annexations.

**Alderman Marr:** Are you concerned at all that we are creating any kind of precedence by creating an island and then turning around and annexing it because it is now completely surrounded by city property?

**Jeremy Pate:** I understand that is a concern and that is precisely why I stated that to the applicant in public several times. As with any of these requests it is not necessarily precedence setting, it is entirely discretionary. Our recommendation is based on the fact that incorporating this entire area both the islands that are being created now and the subject request that it is important for that to be incorporated as part of the city limits with reference to our guiding policies. We have to base these recommendations on sound planning principles and staff feels this is a sound planning decision to annex this property at this time.

**Alderman Marr:** Your infrastructure assessment as it relates to the Police Department and their letter. This talks about the fact that this annexation will not substantially alter the population density. It will increase our response time for service calls in the area. Their letter later states that the sum total presented over the years however has a substantial impact on the demand of police services and caused an appreciable increase in traffic congestion. Without the addition of police patrol personnel there may be a lack of traffic enforcement, an experience of situations where officers are delayed in answering calls for service and the call volume exceeds the number of officers available in a timely manner. That seems contradictory to me. It seems that in the report we are saying there is no issue but as we saw during the budget process this year we had that almost verbatim statement from police reports on these annexations the entire year and then we get a request for 20 plus officers. The feedback is that it is based on the size of our city and the increase in services that we are doing. Did you talk to them about that?

**Jeremy Pate:** I would defer to the Police Department to answer to their letter. They also stated in their report that they recommend specific improvements that would help improve that response time. Our findings also are based on the fact that we do travel outside the county and then go back into the city service area. One of the requests tonight is to rezone a portion of that property to RSF-4 which would then be developed so the response time in net time is not really increased. Obviously the amount of increased dwelling units would likely increase the number of calls thereby increasing the response time.

**Alderman Marr:** The Fire Department service delivery impact if I am reading it correctly once we are looking at a certain number of units they are projecting 114 projected cost for service at a maximum build out so if this subdivision built to the 500 units they would expect 114 calls per year?

**Jeremy Pate:** I believe that is correct.

**Alderman Marr:** And 45 of those would be fire service calls and 69 would be EMS calls?

**Jeremy Pate:** 45 would be projected fire and other calls; I am assuming that is also police calls and any other emergency services. EMS calls would be 69 at maximum build out 4 units per acre.

**Alderman Marr:** I guess I am trying to be sold on when we say there is no impact because we are already driving outside the city. There is a big difference if we are going to have 114 new calls.

**Chris Bosch, Fire Chief:** We have a computer software program that allows us to calculate the number of calls for service anticaped based on population. This is a computer generated number that estimates at complete build out that we will see about 114 calls for service a year.

**Alderman Marr:** Does that include any police response.

**Chris Bosch:** No that is just fire.

**Captain Brown, Police Department:** I don't have a software program that we can use to predict the number of calls for a maximum build out on a zoning. A single family residence by industry standard will generate 10 automobile trips per day. It will add a little bit to the traffic congestion and the fact that it is on the edge of the city we very well could see a longer response time to those areas.

**Alderman Marr:** We approve a budget based on the total services, one of the items that is a finding of fact is the financial impact of annexations to our city. In every annexation that we have received since I have been sitting up here we don't do one. The only way we have to assess that is to look at your service, your increased head count, the cost for us to provide sewer to an area, cost shares and things of that nature. Where are we on the year? I know you looked at it individually because the first sentence says it is no impact. Then your last paragraph says that when you add all these up we need more people.

**Captain Brown:** The sum total of all of these annexations over the years is going to have an impact on our response time, our coverage area, the number of times that they are going to see an officer out patrolling an area; it is going to make our beats bigger. It is going to have an impact on us.

**Alderman Marr:** How far behind from your perspective are we today with what we have already approved on head count for the Police Department?

**Captain Brown:** I don't know that I could make a statement on where we are at exactly.

**Alderman Marr:** How short did we fund what you asked for?

**Captain Brown:** Those approved positions I can tell you where all those are existing right now.

**Alderman Marr:** Thank you.

**Alderman Cook:** Don hit on exactly my issue with annexations. We had an annexation committee last summer that discussed the physical impact of annexations. We struggled with that because it was hard to measure the physical impact. You would think that with the growth that Fayetteville is experiencing we would be flush with cash but it seems like we are stretched for cash right now. We have to catch up cost within the city and we are barely hitting that because we are behind in some areas of city services. We have maintenance and strategic cost. To me Fayetteville should be better and not bigger. A lot of people argue that we already provide services in these areas, some of that is true, we use the utility model and we collect money for some of those services. To me annexing the property I don't see how it is really going to benefit the city. We don't collect property taxes that much within the city, we survive on sales tax. A lot of these people already buy their goods in Fayetteville, so we already see the revenue from the people in the county. The discussion that we need for them to follow our rules and regulations for proper development, the city is not the savior to the county. We can't keep stretching ourselves to the point that one of these days we are going to wake up and think what are we doing.

**Alderman Ferrell:** My experience has been unless the area directly abuts the city limits you do not see the patrols like you do up against the city limit area especially if it is at the edge of a rural part of the city limits. If there is an island the city can force annex it but if there is not an island if those people elect not to come into the city as property owners, that is their right.

**Jeremy Pate:** Property owners that are not surrounded?

**Alderman Ferrell:** Yes

**Jeremy Pate:** That is correct.

**Alderman Marr:** We are creating this island if we pass this.

**Alderman Ferrell:** We are in a catch 22, we want to export to the neighboring areas our regulations but we don't necessarily want to bring them in sometimes.

**Alderman Reynolds:** I support this because I don't want this developed with septic tanks on the river.

**Alderman Lucas:** This is a peninsula that is partially surrounded by city property. The fire and police now have to go out of the city and then go back into the city to take care of citizens down the road. That creates a problem for our services too. I think it is important to protect the wetlands and our river. I don't want to see a septic system put in out there either.

**Alderman Jordan:** I would like to see this development come in at city standards so the city will have control with the type of development there. Chief Bosch how would you rate a 7 minute respond time?

**Chief Bosch:** That is about 2 minutes greater than our average. It is livable but not good. We can hope that once we get Station 3 in at the Tyson project it should reduce that response time somewhat.

**Alderman Reynolds:** We will have Station 3 up and running before this development gets built.

**Chief Bosch:** I would hope so, yes. We anticipate having Station 3 completed within the next year and a half.

**Alderman Marr:** When an Alderman makes a statement that this is an annexation to develop to city standards, it is a compelling argument to me. This RSF-4 that is a companion is that the only zoning this land can be if it is annexed? Did the city staff look at any zoning that was less than four units per acre for this property?

**Jeremy Pate:** There was not a request less than four units per acre for this property.

**Alderman Marr:** The Planning Commission voted 7-2 for the annexation but 5-4 for the zoning.

**Jeremy Pate:** That is correct. Planning staff is putting together the physical impact to the city on annexations and what type of growth pays for itself and what types do not and how those can be better balanced.

**Mel Milholland, Milholland Engineering** gave a brief description of the property in this annexation and the surrounding property. He stated total build out of this subdivision will be about three years. All surrounding property owners were contacted. He requested the Council to look positive on this tonight.

**Nancy Allen, Planning Commission** stated she was there to hear the City Council's advice on this annexation. If this is an exception why is it an exception?

**Alderman Thiel:** I think in this case the fact that it is a peninsula largely surrounded by city property I think that does make it rather unique. Speaking for our policy about annexation I don't think we really have an adopted policy. I think in this case I would support this more than land lying totally outside of our boundary. I am concerned about it being built to standards below city standards and being surrounded by city property. I think that is even more of a concern. I think the improvements they will make to the shared road will benefit everyone that lives outside of this area.

**Alderman Marr:** I think this Council does not agree. The most compelling argument is the environmental argument and the septic tanks on the waterway. I don't think we should be creating islands that turn around and give us the technicality to bring everything in around it. That is my personal view of it. We all weigh it differently.

**Jeannie Hall, property owner** gave a description of the surrounding property that is farther out than her property but that is city property. She stated she intends to sell a portion of this land for development. She stated that it makes good sense to her that this is brought in under the city umbrella.

**Mel Milholland:** There maybe one of the islands that may be against the annexation of this property.

**Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Rhoads, Ferrell, Lucas, Jordan, Reynolds and Thiel voting yes. Alderman Cook and Marr voting no.**

***Ordinance 4690 as Recorded in the Office of the City Clerk***

**RZN 05-1371 (Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

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

*Mr. Williams read the ordinance.*

**Mel Milholland** showed the City Council on a map the area to be rezoned, the flood plain and the proposed park land. He also went over the proposed zoning.

**Alderman Marr** asked about the improvements that will be done on this particular property.

**Jeremy Pate:** We would look at all site improvements as a portion of this developer's responsibility based upon this developments impact on the infrastructure. That includes for this development sewer extension under the river to allow for a sewer line for this area. It will also include improvements along Dead Horse Mountain Road and the intersection. Even more prevalent is the bridge. All the property developed in this area would be assessed an amount per lot for bridge impact for that area in the future to replace that bridge.

**Alderman Marr:** How many other developments are in this assessment area that you are talking about or is this the only one going on at this time in terms of bridge renovation?

**Jeremy Pate:** There are several concept diagrams that we have seen. There is one I believe in process along the golf course. We have seen concept sketches in just about every section of this proposed area with exception of the Combs property and south of the potential area which is all county property. There are two means of access Black Oak Road and Stonebridge.

Jeremy showed the Council on the map the points of access to this property.

**Alderman Jordan:** Does the bridge on Dead Horse Mountain Road ever become impassable?

**Jeremy Pate:** I am not sure, I believe in the floods of last year there were times when it was impassable.

A discussion followed on emergency access if the bridge becomes impassable and the increase in response time.

**Alderman Marr:** If this zoning was RSF-2, based upon the build out requirements what would be the number of lots anticipated compared to this RSF-4. If this RSF-4 is building out at 2.9 or 2.6 what does RSF-2 build out to?

**Jeremy Pate:** It is likely it would develop closer to the actual 2 dwelling units per acre density because the same infrastructure improvements would serve a lesser number of lots. I would assume it would be more like 1.8 or 1.9. We have not seen a lot of developments develop at that actual density.

**Alderman Marr:** Have you ever recommended an RSF-2, something other than RSF-4?

**Jeremy Pate:** We have one that will come before you at the next meeting.

**Alderman Jordan:** If a fee is going to be accessed to build the bridge, how long do you think it will be before the bridge is constructed and how long do you think it will be before a light is put in at Highway 16?

**Jeremy Pate:** The light in part would depend upon the State Highway Department and their evaluation of that condition. I don't anticipate the full cost could be recovered before the bridge would have to be replaced.

**Alderman Reynolds:** This will be a development for affordable housing. We need to support people that need affordable housing.

**Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Rhoads, Ferrell, Lucas, Reynolds and Thiel voting yes. Alderman Jordan, Cook and Marr voting no.**

*Ordinance 4691 as Recorded in the Office of the City Clerk*

**RZN 05-1378 (Goff/Hall):** An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre. ***This item was left on the second reading at the March 15, 2005 City Council Meeting.***

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

*Mr. Williams read the ordinance.*

**Alderman Thiel:** How is this being built out? The other one was 2.8 lots per acre.

**Mel Milholland:** This is already in the city limits we are only asking for a rezoning. Those are the larger lots that we are planning on doing so the yield is a little less than the 2.8 lots per acre.

**Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Rhoads, Ferrell, Lucas, Reynolds and Thiel voting yes. Alderman Jordan, Cook and Marr voting no.**

*Ordinance 4692 as Recorded in the Office of the City Clerk*

## NEW BUSINESS:

**Amend Chapter 96: Noise Control:** An ordinance to add §96.09 to the Code of Fayetteville to restrict the use of a compression release engine brake or "Jake Brake."

*Mr. Williams read the ordinance.*

**Alderman Thiel:** Obviously this is not a wide spread problem. She stated the portion of the noise ordinance that relates to transient noise may need to be addressed if we don't do this. She spoke of the decimal levels that were registered during the test the Police Department conducted. She stated the real concern is trying to find a way the police can deal with this problem. I would prefer that we leave this on the first or second reading. At least until the mayor returns because he has some concerns about this as well.

**Alderman Reynolds:** I have had some calls in favor of this ordinance. I talked to two insurance agencies and they said if we took the Jake brakes away from these trucks we would have a hazard in the city and they were not for it. We can not compare our city to Springdale. They are mostly flat and we have more hills.

**Alderman Ferrell** stated he could not support this. He stated that at agenda session MR. Bragg Director of Fleet Operations for the City of Fayetteville stated Jake brakes enhances braking opportunities. Officer Yates of the Fayetteville Police Department stated there was a truck not using his Jake brake and he had smoke visibly pouring off the brakes at the bottom of the hill on Highway 265. I live a block off of Highway 265 and I have not received a single call.

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

**<u>Waive Provisions of §97.070, Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson:</u>** An ordinance to waive various provisions of §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2006.

***Mr. Williams read the ordinance.***

**Alderman Marr:** Do we anticipate that this will be a recurring event if it is successful?

**Bill Springer, Mechanical Engineering Department at the U of A:** Yes. It has been offered to us for two years 2006 and 2007. The past five years it has been held in Buffalo, New York.

**Alderman Marr:** Is there a reason this waiver is not through 2007?

**Kit Williams:** Since the city has never experienced this before I thought you would be more comfortable waiving it for a one time event and see how that event went. Obviously if it is something you would like to continue after the first year you could look at amending the ordinance for this project. That is why I drafted it for one year to keep your options open.

**Alderman Marr:** In your prior competitions has there ever been damage to habitat or some reason that people have not wanted the event held at their location?

**Bill Springer:** No sir.

**Alderman Rhoads:** I think it really dove tails some of the things that we are trying to do in the city.

**Bill Springer:** There is also a high school portion of this if it works out so if some of the local high schools wanted to participate there is a separate category for them to compete in. I think it has a lot of positives.

**Alderman Reynolds:** Will the lake be shut down for four days?

**Bill Springer:** Yes sir, there will not be any fishing or any recreational boating on the lake for safety reasons. Those people that house their boats on the lake we can work with them so they can get to their boat, take it out and bring it back. They would have access to their equipment they just will not be able to use it on Lake Fayetteville during the competition.

**Alderman Reynolds:** How many people are you expecting for this event?

**Bill Springer:** We are hoping to get 30 or more teams at about 10 students per team plus facility advisors. He explained the project and some of the ideas they have regarding the competition.

**Steve Russ, President of the Economic Development Council** stated his support of this event. He stated this is an international event and it is environmentally friendly.

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

*Mr. Williams read the ordinance.*

**Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.**

*Mr. Williams read the ordinance.*

**Vice mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

***Ordinance 4693 as Recorded in the Office of the City Clerk***

<u>Convert Certain Streets to Two-Way and Create Additional Parking:</u> A resolution to convert St. Charles Avenue between Dickson Street and Watson Street to two way traffic; to convert Church Avenue between Center Street and Dickson Street to two way traffic; to convert Spring Street between East Street and School Street to two way traffic; and to add parking to the south side of Center Street between Locust Avenue and Church Avenue.

**Tim Conklin, Director of Planning and Development Management** stated this item came to the fore front when we went through our Downtown Master Plan process. This was recommended at our Street Committee meeting. Staff and the Street Committee are recommending to convert this street back to a two way street. I talked to an employee at the Post Office but have not talked to the Post Master. We will have to work with the Post Office with regard to the location of the drop off mailboxes.

**Alderman Thiel:** I wonder if when St Charles was changed to one way if it was not at the desire of the post office.

A discussion followed on the flow of traffic into the post office if this is converted to a two way street.
A discussion followed on the cost to complete this project.

**Steve Davis, Fayetteville Downtown Partners:** We are in favor of supporting this resolution. This will make it less frustrating for visitors and residents. It was also suggested in the Downtown Master Plan.

**Alderman Thiel moved to amend the resolution to remove Section 1, St. Charles Avenue from the resolution. The motion failed for lack of a second.**

**Alderman Marr:** I read this to be that it is our intent to have a two way street and that the city administration can work with the post office regarding the areas we are concerned about. I still think the street needs to be two way. I don't think we need to see the solution we just need to know they are going to address that item.

**Alderman Marr moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-0. Upon roll call the resolution passed 7-0. Alderman Rhoads recused.**

**Alderman Rhoads:** I recused on this item because I don't think it is an appropriate subject to vote on. I believe that we have smart people in our city administration that know what streets need to be two way streets and one way streets. We got tons of comments during our Master Plan process.

***Resolution 69-05 as Recorded in the Office of the City Clerk.***

5 **Water and Sewer Operations Evaluation:** A resolution to approve an Engineering Services Contract with HDR/Economic and Engineering Services, Inc. in the amount of $60,636.00 with a contingency of $8,000.00 for evaluation and rate study of the City's Water and Wastewater Operations.

**Steven Davis, Finance and Internal Services Director:** By bond indenture the city is required to do an operation study of our water and wastewater system every three years. During our last rate study a number of our customer groups were upset with the process in developing the rates. We committed to a selection process for a new consultant. Through the process we reviewed 7 firms. The committee interviewed firms and selected HDR/EES to do the operation study and also an audit of the 2003 rate study that Black & Veatch performed.

**Alderman Marr:** We are hiring a firm to evaluate the last firm we had to study the rate study. This is not a rate study; this is an evaluation of the rate study that a prior provider provided.

**Steve Davis:** It is an evaluation of the methodology that Black & Veatch used. In order to develop a working relationship with our major customer groups we needed to have some closure on the 2003 rate study. The most cost effective way to accomplish that task is to have another firm audit the methodology. This is not a new rate study that is being proposed it is an audit of an existing rate study. This is an audit to make sure the published guidelines were adhered to.

**Alderman Marr:** Can you give me the cost of a rate study versus the cost of an audit of a rate study.

**Steve Davis:** The audit of the rate study in this proposal is about $14,000. Between the operation study, rate study, affordability analysis and the impact fee analysis that Black & Veatch performed for us the last go around the city spent almost $200,000.

**Alderman Marr:** When do you expect the next rate study?

**Steve Davis:** We have purchased software so that we can do our own rate study in the future. We did that because we have an ordinance that states staff is suppose to review the adequacy of our rates on an annual basis. Then we will have a consultant come in and audit that work for the staff to make sure we are accurate.

**Kit Williams:** I would suggest that we amend the resolution to state for an operation study.

**Alderman Ferrell:** Are they going to give us a presentation tonight?

**Steve Davis:** Until they have a contract for services they don't have anything to present.

**Alderman Ferrell:** How long would you say it will be before we have to budget this money again for any kind of audits or rate studies?

**Steve Davis:** There are two major parts that I don't think we will have to budget again. If the plan works as I envision it will, we will have an operation study every three years. We will have an audit in conjunction with that operation study on a three year cycle. We will have $75,000 to $80,000 every three years. This amount will have to be adjusted due to inflation.

**Alderman Cook:** This has been through the Water and Sewer Committee and we did support this. This is for us to get a fresh look at what we are doing here in the City of Fayetteville from someone other than we had previously. Which is a good thing? Resolution number 5 on our agenda is to revaluate our contracts with our other customers and we urgently need to address that. I do hope at some point in the future we do another rate study.

**Kit Williams:** I think we need to amend the resolution that is currently before you by striking evaluation and rate and replacing it with *an operations*.

**Alderman Rhoads moved to amend the resolution by striking evaluation and rate and replacing it with an operations. Alderman Thiel seconded the motion. Upon roll call the amendment to the resolution passed unanimously.**

**Alderman Cook moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.**

***Resolution 70-05 as Recorded in the Office of the City Clerk.***

<u>Water and Sewer Business Relationship Evaluation and Rate Study Audit:</u> A resolution to approve an engineering services contract with HDR/Economic and Engineering Services, Inc. in the amount of $62,379.00 with a contingency of $14,000.00 for audit of the 2003 Rate Study, evaluation of Water and Wastewater business relationship with major customers and development of new contracts.

**Alderman Reynolds moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed unanimously.**

*Resolution 71-05 as Recorded in the Office of the City Clerk.*

<u>Northwest Arkansas Mall Time Limitation Waiver:</u> An ordinance to waive the time limitation of subsection §156.05(F) of the Unified Development Code for the variance granted to the Northwest Arkansas Mall.

*Mr. Williams read the ordinance.*

**Alderman Marr:** The mall is comfortable with us putting a time limit on this if we chose to. Something like 90 days and they will not miss the deadline this time.

**Kit Williams:** Don, did you say you wanted to add within 90 days from this date at the end of section one?

**Alderman Marr:** Yes.

**Alderman Marr moved to amend the ordinance to add 90 days from this date at the end of section one. Alderman Cook seconded the amendment. Upon roll call the amendment passed unanimously.**

**Alderman Marr 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 Marr 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.*

**Vice mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

*Ordinance 4694 as Recorded in the Office of the City Clerk*

**Alderman Ferrell** thanked Alderman Marr for bringing the above ordinance forward.

**PUBLIC HEARING:**

**Dynasty Cab Company Certificate of Public Convenience and Necessity:** A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Cab Company for the operation of two (2) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

**Alderman Reynolds:** I brought this forward. I think we are going to be proud to have a good cab company in Fayetteville that is going to be represented by good business people.

**Captain Brown, Police Department:** I have Mr. Curry's application, an insurance policy for one vehicle and his financial statement. He is asking for up to ten cabs on his application.

**Brice Curry, Dynasty Cab** gave a brief description of his intended cab service.

**Alderman Reynolds moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.**

***Resolution 72-05 as Recorded in the Office of the City Clerk.***

**Meeting Adjourned 8:40 PM**

Dan Coody

**Dan Coody, Mayor**

Sondra Smith

**Sondra Smith, City Clerk**

**Nominating Committee Report**
Meeting Date: March 7, 2005
Room 111, City Hall 5:00pm

Members present: Kyle Cook, Shirley Lucas, Robert Rhoads, and Brenda Thiel.

The following is being submitted by the Nominating Committee to the entire City Council for consideration.

**Public Library Board of Trustees**

The Mayor recommends the following candidate for appointment:

Louis Gottsponer, Jr. - One Term Ending 04/01/10