

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



Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

**City Council  
Meeting Minutes  
April 19, 2005**

A meeting of the Fayetteville City Council was held on April 19, 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 Dan Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

**Pledge of Allegiance**

**CONSENT:**

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

**Approved**

**City of Goshen Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2005.

***Resolution 73-05 as Recorded in the Office of the City Clerk.***

**City of Farmington Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2005.

***Resolution 74-05 as Recorded in the Office of the City Clerk.***

**City of Winslow Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Winslow, Arkansas to provide animal sheltering services to the City of Winslow for 2005.

***Resolution 75-05 as Recorded in the Office of the City Clerk.***

**City of West Fork Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services for 2005.

***Resolution 76-05 as Recorded in the Office of the City Clerk.***

**City of Tontitown Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Tontitown, Arkansas to provide animal sheltering services to the City of Tontitown for 2005.

***Resolution 77-05 as Recorded in the Office of the City Clerk.***

**Washington County Inter-Local Agreement:** A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2005.

***Resolution 78-05 as Recorded in the Office of the City Clerk.***

**ADEQ & Boston Mountain Solid Waste District Grants:** A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept two grants totaling \$38,389.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Boston Mountain Solid Waste District for the purchase of a wire tie system and repairs to the bailer; approving a Budget Adjustment to recognize the grant revenue; and awarding Bid 05-27 to Downing Sales & Service, Inc.

***Resolution 79-05 as Recorded in the Office of the City Clerk.***

**Disc Mower Conditioner Purchase:** A resolution approving the purchase of one (1) Disc Mower Conditioner from Williams Tractor Co. in the amount of \$14,699.00 for use by OMI.

***Resolution 80-05 as Recorded in the Office of the City Clerk.***

**Hay Baler Purchase:** A resolution approving the purchase of one (1) Large Square Hay Baler from Williams Tractor Co. in the amount of \$54,949.00 for use by OMI.

***Resolution 81-05 as Recorded in the Office of the City Clerk.***

**Off-Street Parking Appointment:** A resolution approving the appointment of Rick Woods to the Board of Off-Street Parking Development District No. 1 in accordance with A.C.A. § 14-88-304.

***Resolution 82-05 as Recorded in the Office of the City Clerk.***

**Jail Services Inter-Local Agreement:** A resolution adopting an Addendum to the Inter-Local Agreement for Jail Services between the City of Fayetteville, Arkansas, and Washington County, Arkansas.

***Resolution 83-05 as Recorded in the Office of the City Clerk.***

**Cross, Gunter, Witherspoon & Galchus, P.C. Professional Services:** A resolution to approve a contract for Professional Services with Cross, Gunter, Witherspoon & Galchus, P.C. in a not to exceed amount of \$20,000.00 to begin representation of the City in the Peter T. Reagan, ET.AL. V. City of Fayetteville Lawsuit.

***Resolution 84-05 as Recorded in the Office of the City Clerk.***

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

**UNFINISHED 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." *This ordinance was left on the first reading at the April 5, 2005 City Council Meeting.*

**Alderman Thiel:** I would like to table this for now. There were so many concerns about safety if we banned the use of jake brakes that I thought we might consider something else that would basically get our current ordinance down to a level that more or less meets the standards of some other cities that were studied. I came up with a decimal level using this study for a proposed ordinance which I will have on the next agenda. I will table this ordinance for now and give everyone an opportunity to look at this new proposed ordinance.

**Alderman Thiel moved to table this ordinance until the May 3, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion to table passed unanimously.**

**Tabled to the May 3, 2005 City Council Meeting.**

**NEW BUSINESS:**

**RZN 05-1409 (SCB Investments, LLC):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1409 for property located at 1841 Leverett Avenue containing approximately 1.43 acres from RSF-4, Residential Single Family, Four Units Per Acre, to RMF-24, Residential Multi-Family – 24 Units Per Acre.

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

**Jeremy Pate** recapped the Planning Commission's vote, they voted 9-0 to forward this recommendation for approval on this rezoning request to the City Council. He gave a brief description of the project.

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

*Mr. Williams read the ordinance.*

**Alderman Ferrell** moved to suspend the rules and go to the third and final reading. **Alderman Rhoads** seconded the motion. Upon roll call the motion passed 7-1. **Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel, Cook and Rhoads** voting yes. **Alderman Marr** voting no.

*Mr. Williams read the ordinance.*

**Alderman Thiel:** Were there any concerns at all by any neighbors at the Planning Commission meeting?

**Jeremy Pate:** There was no public comment taken at the Planning Commission meeting. The applicant did contact the resident's eventually most of them are rental properties at this time. In our findings you will note that we did recommend some screening and buffering along the south portion of this property because it is single family residential. While it is not a requirement the applicant's have said that they will take that into consideration when developing site plans for this property.

**Alderman Thiel:** Take it into consideration, does that mean that they will do it?

**Jeremy Pate:** I would assume so. It is not an ordinance requirement but that is something we will likely request.

**Alderman Jordan:** So he has met with the residents in the area and they seem to be alright with it then?

**Jeremy Pate:** What I understand yes sir.

**Alderman Jordan:** What do you all think?

**Alderman Cook:** I struggle with the fact that that part of town is totally becoming apartments. Some people call that student slums now, that is not a very nice way to put it but I struggle with the fact that it is all apartments through there starting at campus heading north all the way down through there. The single family neighborhoods down there we have heard them in other parts of that area how they struggle with the fact that they feel like they are losing their identity down there. I probably wouldn't support this because I think while usually I do support higher density but at some point do we turn the whole city into apartments? So we just mow down everything and make it one giant heavy density area. I probably wouldn't support this one.

**Alderman Lucas:** That is right next to Bel Air isn't it?

**Jeremy Pate:** It is north, it is one block north.

**Alderman Lucas:** Like you were talking about Kyle that is a single family residence's isn't it?

**Jeremy Pate:** Correct, south of that property is all zoned RSF-4 the integrity of the neighborhood is very obvious. In staff findings we did not feel that this was encroaching into the

integrity of that neighborhood, this is an undeveloped portion of property that is surrounded on the northwest and east by multifamily. That is really a major consideration with any rezoning request is whether it will be compatible and maintain the integrity of the surrounding neighborhoods.

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

**The Ordinance Failed.**

**Mayor Coody:** Can we back up and visit on this for a minute now that it failed so dramatically. What was the Planning Commission's vote on that a 9-0 approval?

**Jeremy Pate:** That is correct. We did not have any public comment and we did not receive any written public comment from adjacent property owners in the area. They were notified, each adjacent property owner was by ordinance notified as well.

**Mayor Coody:** So there was no public comment, a 9-0 approval and this is the first time for us to see this is that right.

**Jeremy Pate:** It is the first time for you to see this, back in April of last year the same request was submitted for a little larger portion of property, that owner was the owner of Marie H apartments and they have since sold the property for development, for multifamily development obviously.

**Mayor Coody:** How long has this been in the process?

**Jeremy Pate:** Approximately 40 days to the Planning Commission and then three weeks to get to this level for this first reading.

**Mayor Coody:** Alright, thank you very much.

**RZN 05-1412 (Mountain Ranch/Terminella):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1412 for property located south of Future Persimmon Street containing approximately 21.05 acres from R-A, Residential Agricultural, to RSF-4, Residential Single Family, Four Units Per Acre.

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

**Alderman Jordan:** We can go ahead and suspend the rules and go to the second reading but I would like to hold it there for two weeks.

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

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

**Jeremy Pate** gave a brief description of the rezoning. The Planning Commission voted 8-1 to forward this item to the City Council with a recommendation in favor.

**Alderman Jordan:** I don't really have a problem with this but I would like to take comments from the people at my ward meeting this coming Monday.

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

**RZN 05-1413 (Jones):** An ordinance rezoning that property described in Rezoning Petition RZN 05-1413 for property located at 2468 N. Crossover Rd. (The NE corner of Crossover & Township) containing approximately 4.77 acres, from R-A, Residential Agricultural to RSF-2, Residential Single-Family 2 Units/Acre.

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

**Jeremy Pate** gave a brief description of the property. The Planning Commission voted unanimously to forward this item with a recommendation for approval.

**Alderman Thiel:** All these lots are going to enter directly into Crossover Road?

**Jeremy Pate:** We did discuss that at the Planning Commission quite a bit and we have been reviewing that with the engineering firm that is working on the lot layout. We are not supportive of every one of these lots having additional curb cuts. By right if they develop the lots right now they would be allowed at least an access point. What they have shown here is a proposal to have potentially side load garages and each share an access so you would only have two additional curb cuts on Crossover for the remaining 6 lots that are shown there. There is one existing curb cut that lot would share one with the lot to the north. We did mention an alley access that would require two curb cuts in itself at least to get in and out. That is an option for the developer to look at through the development of the subdivision. It was a concern of ours as well.

**Alderman Thiel:** So there would be three curb cuts or two?

**Jeremy Pate:** Two additional.

**Alderman Thiel:** Two additional, there is already one.

**Tom Hennelly with H2 Engineering:** Currently this is plated with three lots so there would be in fact three access points onto Highway 265. What we are proposing in the layout is that we have three shared accesses, we are going to be doing away with one of the existing ones. All of the six lots would share a driveway on a common lot line so there would only be three access points onto 265.

**Mayor Coody:** Is there one now?

**Tom Hennelly:** There is one now.

**Mayor Coody:** So will there be two or three additional?

**Tom Hennelly:** The one that exists now would be demolished and turned into a shared access with the adjacent lot.

**Mayor Coody:** So there would be a total of three, so that means two additional curb cuts.

**Tom Hennelly:** That's true. There will be three allowed on the layout that is there currently and we are showing three after we complete our development.

**Alderman Thiel:** That is what exists right now, if we left the zoning as it is there are three lots.

**Tom Hennelly:** All we are doing is we want to redistribute the property into more lots.

**Alderman Ferrell:** I think I mentioned in the agenda meeting a couple of people that live close to there were concerned about this but they were concerned that they might try to change to a different zoning. But the R-2, they like.

**Alderman Cook:** I agree with what Brenda said with the access onto Crossover. The more we can limit the curb cuts on Crossover that is a good thing. I don't have a problem with them splitting the lots up at all.

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

*Mr. Williams read the ordinance.*

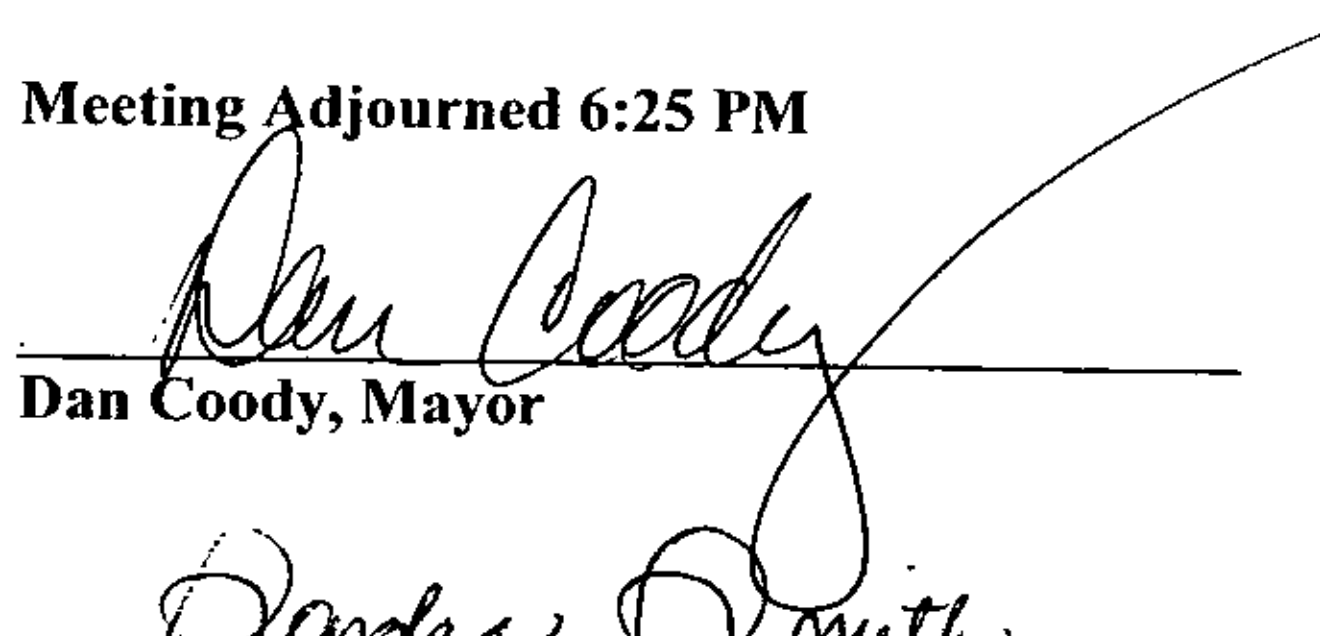
**Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.**

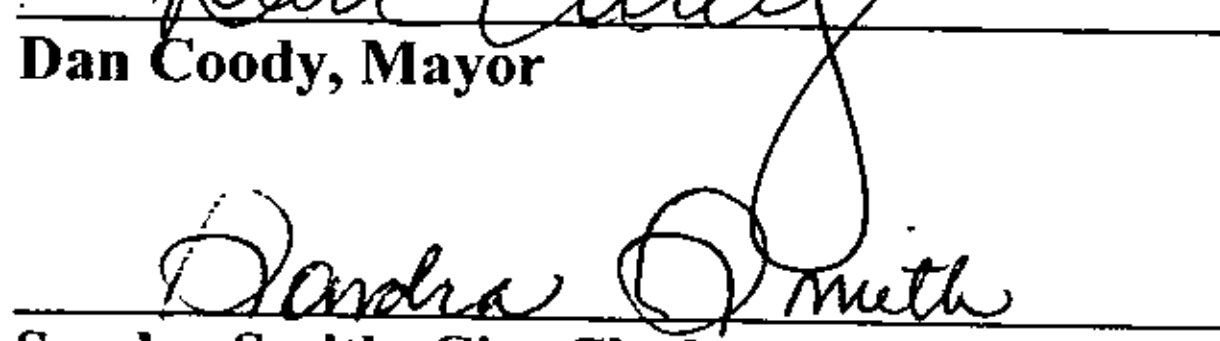
*Mr. Williams read the ordinance.*

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

*Ordinance 4695 as Recorded in the Office of the City Clerk.*

**Meeting Adjourned 6:25 PM**

  
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**Dan Coody, Mayor**

  
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**Sondra Smith, City Clerk**