

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
July 19, 2005**

A meeting of the Fayetteville City Council was held on July 19, 2005 at 6:00 PM 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, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Marr.

Pledge of Allegiance

CONSENT:

Approval of the June 21, 2005 and July 5, 2005 City Council meeting minutes.

McGoodwin, Williams and Yates, Inc. Contract Approval: A resolution approving a contract with McGoodwin, Williams and Yates, Inc. in the amount of \$93,800.00 to provide professional engineering, surveying, bidding and construction observation services for the 24" Waterline Replacement Project.

Resolution 139-05 as Recorded in the Office of the City Clerk.

Parking Space Lease Agreement: A resolution approving lease agreements for twenty six (26) parking spaces located in Fayetteville Municipal Parking Lot 1 located at 160 West Mountain Street for one (1) year with four (4) additional one-year renewal times.

Resolution 140-05 as Recorded in the Office of the City Clerk.

RJN Group, Inc. Contract Amendment: A resolution approving an amendment to the contract with RJN Group, Inc. in the amount of \$165,031.00 for additional design and bidding services associated with Wastewater System Improvements Project (WSIP) WL-1, WL-3, and WL-4.

Resolution 141-05 as Recorded in the Office of the City Clerk.

WSIP EL-1 and EL-2 Easement Purchase: A resolution approving a lump sum allocation in the amount of \$189,026.00 for the purchase of easements required for Wastewater System Improvement Projects (WSIP) EL-1 and EL-2; and approving a 10% contingency in the amount of \$18,900.00.

Resolution 142-05 as Recorded in the Office of the City Clerk.

WSIP WL-5 Easement Purchase: A resolution approving a lump sum allocation in the amount of \$21,380.00 for the purchase of easements required for Wastewater System Improvement Project (WSIP) WL-5; and approving a 10% contingency in the amount of \$2,140.00.

Resolution 143-05 as Recorded in the Office of the City Clerk.

Jack Tyler Engineering Bid Award: A resolution awarding Bid #05-50 to Jack Tyler Engineering of Arkansas, Inc. in an amount not to exceed \$13,350.17 to rebuild the Flight submersible pump at Lift Station No. 21; and approving a 10% Contingency in the amount of \$1,335.00.

Resolution 144-05 as Recorded in the Office of the City Clerk.

Approval of the Purchase of One Commercial Drop Box Vehicle and the Hiring of One Driver for Solid Waste: A resolution authorizing the hiring of one (1) full-time employee (Driver) in the Solid Waste & Recycling Division; approving the purchase of one (1) commercial drop-box vehicle in the amount of \$141,800.00; and approving a budget adjustment in the amount of \$196,550.00.

Resolution 145-05 as Recorded in the Office of the City Clerk.

RJN, Inc. Design and Bidding Services Contract Amendment: A resolution approving an amendment to the Design and Bidding Phase Services Contract with RJN Group, Inc. in the amount of \$1,659,090.00 for construction phase inspection, engineering and consulting services for the West Side Sewer Line Construction, Hamestring Lift Station Construction, and the Gregg Avenue Lift Station Rehabilitation Projects (WL-1, WL-2, WL-3, WL-4, WL-5, WL-6, and WL-7).

Resolution 146-05 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 7-0. Alderman Marr was absent.

UNFINISHED BUSINESS:

Planning Commission Appeal (Dixie Development): An ordinance annexing that property described in ANX 05-1490 for approximately 24.35 acres located at the northeast corner of Mount Comfort Road and Hughmount Road and zoning such property R-A Residential Agricultural. *This item was Left on the Second Reading at the June 21, 2005 City Council meeting. This item was tabled at the July 5, 2005 City Council meeting until the July 19, 2005 City Council meeting.*

Jeremy Pate, Director of Current Planning: I believe the applicant has requested this item to be tabled tonight.

Shirley Lucas: Yes.

Alderman Jordan moved to table this ordinance to the August 2, 2005 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Marr** was absent.

This ordinance was tabled to the August 2, 2005 City Council meeting.

RZN 05-1491 (Dixie Development): An ordinance rezoning that property described in rezoning petition RZN 05-1491 for approximately 24.35 acres located at the northeast corner of Mount Comfort and Hughmount Road, from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This item was Left on the Second Reading at the June 21, 2005 City Council meeting. This item was tabled at the July 5, 2005 City Council meeting until the July 19, 2005 City Council meeting.*

Alderman Jordan moved to table this ordinance to the August 2, 2005 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Marr** was absent.

This ordinance was tabled to the August 2, 2005 City Council meeting.

ANX 05-1495 (Benton Development): An ordinance annexing that property described in Annexation Petition ANX 05-1495 for property located at the southwest corner of Weir Road and Salem Road, containing 10.47 acres. *This item was Left on the Second Reading at the July 5, 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 7-0. **Alderman Marr** was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. With the original proposal, staff was not supportive. There was a thin strip of property that would have created a very undesirable City limit boundary. Staff worked with the applicant and that portion of the annexation has been removed, therefore with this boundary we can support this annexation. The Planning

Commission voted 8-0 to forward this item to the City Council with a recommendation of approval. City services can support this area, with regard to fire and police. The rezoning request is compatible with adjacent properties.

Alderman Jordan: I noticed that the Fire Department response time was six minutes, is that correct?

Chris Lynch, Fire Department: Six to six and a half.

Alderman Jordan: How would you rate that response time?

Chris Lynch: Pretty good. Our overall goal is six minutes 90% of the time.

Alderman Jordan: So you would rate that as good?

Chris Lynch: Acceptable.

Alderman Jordan: Ok.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Ferrell, Lucas, Jordan, Thiel and Cook voting yes. Alderman Cook voting no. Alderman Rhoads was absent during the vote. Alderman Marr was absent.

Ordinance 4720 as Recorded in the Office of the City Clerk.

RZN 05-1502 (Benton Development): An ordinance rezoning that property described in Rezoning Petition RZN 05-1502 for approximately 10.47 acres located at the southwest corner of Weir Road and Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 Units Per Acre. *This item was Left on the Second Reading at the July 5, 2005 City Council meeting.*

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Marr was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. This is the property we just annexed. The request is to rezone it to RSF-4. The majority of frontage for this property fronts on other properties within the City that are zoned RSF-4 and developed as such. The Planning Commission voted 8-0 to forward this item to the City Council and staff recommended in favor of the rezoning request.

Alderman Jordan: Jeremy, how many units is this? About 40 units, is that correct?

Jeremy Pate: If it were developed at its maximum, yes.

Alderman Jordan: What do you think it will be? Do you have any idea?

Kipp Hearne, H2 Engineering, representing Benton Development: The subdivision that we are proposing has 30 residential lots. I believe that includes detention, so it will be 29 residential and one detention lot.

Alderman Jordan: Are they all R-1, all single family homes?

Kipp Hearne: Yes. It will all be in compliance with the RSF-4.

Alderman Jordan: Ok.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Marr** was absent.

Ordinance 4721 as Recorded in the Office of the City Clerk.

RZN 05-1523 (Hartlerode): Moved to New Business # 11.

NEW BUSINESS:

Amend § 34.23 Purchases and Contracts Not In Excess of \$10,000.00: An ordinance to Amend § 34.23 Purchases and Contracts Not in Excess of \$10,000.00 of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Kit Williams: Mayor, I brought this forward because State law recently changed and allowed this change from \$10,000 to \$20,000. I suggested this change to the City Council. State law also said that the City Council was to make the rules regarding how contracts are to be made under \$20,000. City Council used to be able to make the rules for all contracts under \$10,000, but now it is under \$20,000. I looked at our current code section and substituted the \$20,000 for the \$10,000 and wrote it the same way.

Mayor Coody: Thank you.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Marr** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Marr** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Marr** was absent.

Ordinance 4722 as recorded in the Office of the City Clerk.

Amend § 34.25, City Owned Supplies, Equipment, Or Materials: An ordinance amending § 34.25, of the Code of Fayetteville, regarding the sale of city –owned supplies, equipment, or materials.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: I'd like to know who prompted this and why you want to change the auction process that we have.

Kit Williams: This actually did not come from my office; this came from Purchasing.

Peggy Vice, Purchasing Manager: We will still auction everything that is above \$2,500. The items that we have that are below that, we have a very difficult time disposing of it.

Alderman Reynolds: Will we try the auction process for it?

Peggy Vice: We used to hold public auctions; we would spend several days getting ready for it and have it on a Saturday. We would spend more money than we would make.

Alderman Reynolds: Even if we ran this in with our cars, trucks, tractors and items from the Airport?

Peggy Vice: We don't have a place to store it.

Alderman Reynolds: This doesn't call for anything from the shop, right?

Peggy Vice: No, it's only items like old computers and old chairs. We can't get rid of anything, even if it's broken.

Alderman Reynolds: The University has an auction process that works pretty well for office supplies and equipment.

Peggy Vice: They have a marketing redistribution center in Little Rock; that's how they redistribute all of their items. They take it there and other State divisions go through it and take what they want. They also sell items on the internet.

Alderman Reynolds: So I guess what we need to do is make sure that this reads that it is for office equipment. It just reads equipment.

Mayor Coody: What are other examples of things that you can think of, Peggy?

Peggy Vice: Old playground equipment that we take out of the playgrounds that we can't leave in the park any longer because it has safety issues.

Mayor Coody: Swifty, what's your concern on this? Maybe we can answer that more directly.

Alderman Reynolds: Well, the auction process is working really well for us.

Mayor Coody: Do you mean as far as fleet equipment, cars, and trucks?

Alderman Reynolds: Right. I think the University has their auctions on campus. The auctioneer advertises it and gets a big turn out. I think we should try that process one time and put everything down at the airport and bring an auctioneer in and see what they can do for us as far as getting us the best dollar.

Peggy Vice: Do you know who's going to end up storing it?

Mayor Coody: The auction process we have right now, people come looking for trucks, cars, mowers, equipment of all kinds, are they going to be coming to look for playground equipment, computers, or chairs?

Alderman Reynolds: If it's advertised.

Peggy Vice: We actually had a contract with an auctioneer in Springdale, and it cost us more to store it, for Building Maintenance to come and get it, take it over to the storage building, and then accumulate enough to take a truck load to the auction. They actually asked us not to bring a lot of the items that we took over there. They said that it was junk and they didn't want it.

Mayor Coody: One thing I'd like to add, is that the staff here is very good and we rely on our staff very heavily. If they find a problem and find a way to resolve it to where we can come out ahead, I defer to their judgment on this because they live here day-in and day-out. They know what the problems are, and if they say they have storage problems and we're losing money on these auctions as we do it now, I would tend to take their word for it.

Peggy Vice: We were getting about \$1.50 for old desks, old chairs and old computers. For a whole truck load of stuff we might not get \$30 or \$40.

Kit Williams: The only change I think she is asking for is to raise the amount. Currently our procedure is up to \$600 and Peggy is requesting to raise it to \$2,500. I think that was the only change you really wanted in the code, right?

Alderman Reynolds: But it's just office supplies and building supplies?

Peggy Vice: It's anything that's under \$2,500.

Alderman Reynolds: Some police cars will go for under \$2,500.

Mayor Coody: They wouldn't be in this mix.

Peggy Vice: We would not try to sell a police car or any heavy equipment, even if it was under \$2,500.

Alderman Reynolds: I'm just reading it the way it is written Peggy and it says *may sell or exchange any City owned supplies, equipment or materials*.

Alderman Lucas: We shouldn't have a storage problem at the Tyson building now; we might try Swifty's idea one time.

Mayor Coody: We don't need to store a bunch of fifty cent desks. These guys are good at what they do. I don't see why we should try to second guess them and make them go store things we need to get rid of.

Alderman Thiel: Why don't we just exclude automotive? That seems to be Alderman Reynolds' concern, so why don't we just exclude that?

Alderman Reynolds: The way this is written I would want that in there. Then, I would agree to it.

Mayor Coody: Thanks.

Alderman Reynolds: The way this is written, it would give her the right to sell any City owned piece of equipment. It's not that I don't trust Peggy, but it's just that we have another process to get rid of that equipment. I'll make an amendment that we leave out City owned transportation equipment.

Kit Williams: I would just add another sentence at the back of A, and say, *vehicles and heavy equipment are excluded from this program.*

Mayor Coody: Does that work?

Alderman Reynolds: That's fine.

Alderman Ferrell: Are you saying this will save money, space and time?

Peggy Vice: Instead of advertising in the newspaper we can post it on our website and let people just give us quotes. This just allows us to do something with it, without advertising in the newspaper for 30 days head of time. Our ordinance says we have to advertise it 30 days ahead of time.

Alderman Ferrell: So yes it will save time and money?

Peggy Vice: Right.

Alderman Reynolds moved to amend the ordinance at the end of section A to say *vehicles and heavy equipment are excluded from this program.* Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4723 as recorded in the Office of the City Clerk.

Amend Chapter 34, Internet Auctions: An ordinance amending Chapter 34 of the Code of Fayetteville, to allow reverse internet auctions for the purchase of goods and services.

City Attorney Kit Williams read the ordinance.

Kit Williams: This was presented because of a new law in Arkansas that authors reverse internet auctions.

Peggy Vice: There are several companies that have reverse internet bidding programs. There is not a cost to the City for this service. There will be a cut off time and vendors can bid against each other. They will not see who is bidding against them but they will see if they are the highest bidder or the lowest bidder.

Alderman Ferrell: I like this idea. Who does the entries of what is going to be bid on?

Peggy Vice: If we want to buy an item we post the bid with our specifications on this bidding program. We send this to a vendor mailing list and vendors will bid against each other. The bidder with the lowest bid is the vendor that gets the bid.

Alderman Ferrell: I'm in.

Kit Williams: Anything over \$20,000 still comes before the City Council for approval.

Peggy Vice: It doesn't really change anything except that it is a sealed bid on the internet. They can't see who's bidding against them or what the price is they just know if they are high or low and if they need to come down.

Alderman Cook: So it has to meet exact specifications that we set?

Peggy Vice: Yes. If they bid with an exception our law states that we are not allowed to accept their bid.

Alderman Reynolds: It is going to open the market, is that right Peggy?

Peggy Vice: Yes.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4724 as recorded in the Office of the City Clerk.

Water and Wastewater Maintenance Facility Furniture Purchase: A resolution approving the purchase of 62 lockers and other furnishings for the new Water and Wastewater Maintenance Facility from MISSCO Contract Sales, LLC in the amount of \$207,626.67; and approving a Budget Adjustment in the amount of \$19,843.00.

Alderman Ferrell: \$453.60 for a chair is too much. There are 31 chairs at that cost. We are charged with being stewards of our tax payer's money. I know office equipment is expensive but I can't vote for this.

Peggy Vice: We try not to ever go over \$500 for a chair but we spend between \$350 and \$500 on almost every chair that we get. If we purchase a lower dollar chair it does not hold up and does not last very long at all. They need to be ergonomically correct for someone that sits in a chair all day long. Chairs are any where from \$350 to \$900.

Alderman Ferrell: In the future when we purchase for different departments is this going to be the standard?

Peggy Vice: We already purchase chairs that are in that range, we have for a couple of years.

Alderman Thiel: I noticed that Peggy provided us with a memo that explained this purchase. The quality of this furniture is important. It has a 10 year warranty on the chairs and a lifetime warranty on the desk, file cabinets and shelves. It is always quite a surprise to look at the cost of some of the equipment that we have to buy. Most of this institutional type equipment is very costly because it is built for long hard use. This department has lived with some very old, junky stuff, I guess we could ask them to move all that junk into this new facility. I think that since we do have a new building we should buy equipment that will last a long time, that will be comfortable and that will benefit the employees. I think we have to buy quality material and equipment.

Alderman Cook: We talked about this at the Water and Sewer Committee meeting. Mr. Boettcher said that we were going to spend about \$200,000 on equipment and that is about what we are going to spend, so it is not a surprise. I bought a \$60.00 chair and it wore out in six months. I don't have a problem spending \$400.00 on a chair if it is going to last 10 years. You don't want to complain about the chair that you are sitting in. As long as we are still within the budget that we discussed over a year and a half ago, I really don't have a problem with it.

A discussion followed on the City Council chairs, the cost of them and the replacement cost.

Alderman Reynolds: Where is MISSCO located?

Peggy Vice: It is a company that is here in Fayetteville.

Mayor Coody: I was shocked and amazed about how expensive institutional office furniture is. Things just cost more than you want them to and if you want to get some thing that is going to last you have to pay a price for it. We have all bought junk and regretted it. I don't like spending money any more than anyone else.

Alderman Cook moved to approve the resolution. **Alderman Jordan** seconded the motion. Upon roll call the resolution passed 6-1. **Alderman Rhoads, Lucas, Jordan, Reynolds and Thiel** and **Cook** voting yes. **Alderman Ferrell** voting no.

Resolution 147-05 as Recorded in the Office of the City Clerk.

Unified Development Ordinance Amendments; Outdoor Lighting: An ordinance amending Title XV, Unified Development Code, City of Fayetteville Code of Ordinances, repealing certain sections regarding outdoor lighting installations.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning & Development Management Director: This is just removing sections of the existing Unified Development Code; it is not amending the outdoor lightning ordinance that was passed about a month ago. We are just trying to clean up our existing UDC.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4725 as recorded in the Office of the City Clerk.

Planning Commission Appeal (HondaPro): A request to appeal the Planning Commission's motion to deny rezoning request RZN 05-1524 rezoning Lots 14, 15 and 16 of the Parker's Plat of Valley View Acres from RSF-4, Residential Single Family, 4 Units Per Acre and R-O , Residential Office, to C-2, Thoroughfare Commercial.

Mayor Coody: I think HondaPro wanted to table this.

Alderman Jordan moved to table this appeal until the August 2, 2005 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

Planning Commission Appeal (Rapido Rabbit Carwash): A request to appeal the Planning Commission's motion to deny Administrative request ADM 05-1582 for Rapido Rabbit Carwash located south of Wedington Drive and west of Shiloh Drive.

Jeremy Pate gave a brief description of the project. Staff recommended denial of their sign request. Planning Commission denied their appeal. This is in the Design Overlay District that is why the City Council is seeing this item.

Alderman Thiel: The size complies with our ordinance it is strictly the dollar amount that staff and Planning Commission objects to?

Jeremy Pate: That's correct. We could not sign off on that request to allow advertising or anything other than the name of the business.

Alderman Thiel: I just want to make it clear to the public that the denial had nothing to do with the sign size or the amount of signage, it is strictly the language.

Jeremy Pate: That is correct.

Kit Williams: The sign ordinance was rewritten to try to bring it up to constitutional law. I was not aware at the time that we had this content restriction in the Overlay District which is not part of the sign ordinance but does control signs to some extent. This is a problem from a couple points of view. The past practice has been that an applicant can appeal and then the Planning Commission or City Council has unbridled discretion to decide if they want to let someone change their sign. Anytime there is a restriction on signs and an official or body has unbridled discretion that ordinance is facedly constituently invalid. The court now says the restriction must be within the ordinance. It bothers me that they are appealing to the City Council for a variance from the sign ordinance. It also bothers me that this is a content restriction. The first amendment does not like content amendment on free speech.

Kit Williams went on to explain what he thinks can be required on the sign. He stated we need to be very careful in deciding this issue.

Paul Stagg, Rapido Rabbit: I would like to table this issue for two weeks so that we can get with staff and come up with something. We feel we have to have the price on the sign.

Mayor Coody: I appreciate your willingness to work with staff to resolve this issue.

Alderman Jordan moved to table the appeal until the August 2, 2005 City Council meeting. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

Amend Chapter 161, Zoning Regulations, § 161.15 B.1 and § 161.15 B.2: An ordinance amending Chapter 161, "Zoning Regulations", Section 161.15 B.1 & Section 161.15 B.2, of the Code of Fayetteville, to remove Manufactured Home Park as a permitted use, but to allow it as a conditional use within the R-O, Residential Office Zoning District.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Staff is requesting to remove Manufactured Home Park from being a permitted use within the Residential Office Zoning District. Planning Commission voted 8-0 to forward this item for approval.

Alderman Ferrell: What is an example for a conditional use of a manufactured home in an R-O that might be appropriate for conditional use?

Jeremy Pate: There is a section devoted to that in the code. We have not seen a manufactured home park since the 1970's that has been requested in the City of Fayetteville.

Alderman Ferrell: If someone had an office in an R-O district in a manufactured home would there be any problem with them living there and having their office there?

Jeremy Pate: This specific ordinance is an entire park not just a manufactured home. I do not believe that we allow the manufactured homes in the R-O zoning district.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4726 as recorded in the Office of the City Clerk.

Amend Chapter 161, Zoning Regulations § 161.17 B.1 and § 161.18 B.1: An ordinance amending Chapter 161, "Zoning Regulations", Section 161.17 B.1 & Section 161.18 B.1, of the Code of Fayetteville, to add Use Unit 25, Professional Offices as a permitted use, in the C-2, Thoroughfare Commercial and C-3, Central Commercial Zoning Districts.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is something that has been a source of much confusion for staff and citizens alike. The Planning Commission voted 8-0 to forward this item for approval and staff is supportive of that recommendation.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel voiced her support of this ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4727 as recorded in the Office of the City Clerk.

Amend Chapter 162, Use Units: An ordinance amending Chapter 162, Use Units, Section 162.01 L.2, of the Code of Fayetteville, to add bail bonding agency to Use Unit 12: Offices, Studios, and Related Services.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4728 as recorded in the Office of the City Clerk.

RZN 05-1523. (Hartlerode): An ordinance rezoning that property described in Rezoning Petition RZN 05-1523 for approximately 0.25 acres located at 2826 South School Avenue from RSF-4, Residential Single-Family, 4 Units Per Acre to C-2, Thoroughfare Commercial. *This item was tabled at the July 5, 2005 City Council meeting until the July 19, 2005 City Council meeting.*

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. Staff recommended approval of this rezoning as did the Planning Commission.

Alderman Thiel moved to amend the ordinance to R-O instead of C-2. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4729 as recorded in the Office of the City Clerk.

R-PZD 05-1463 (Oakbrooke): An ordinance establishing a residential planned zoning district titled R-PZD 05-1463, Oakbrooke Phase I, located west of Ruppel Road and east of Bridgeport Subdivision, containing approximately 20.9 acres, amending the Official Zoning Map of the City of Fayetteville; and adopting the associated Residential Development Plan as approved by the Planning Commission.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Planning Commission voted 9-0 in favor of this request. There is quite a bit of conditions of approval and determinations on this project. Staff does find this development to be compatible with the adjacent single family residential neighborhoods. It provides diversity in housing types and sizes. The density is compatible. Bridgeport is developed at 1.6 to 1.7 dwelling units per acre in some parts. The typical density of the Bridgeport Subdivision to the west is around 2.9 to 3.26 dwelling units per acre. This proposal in Phase I is 3.2 dwelling units per acre.

Jeremy Pate went on to explain the differences between RSF-4 zoning districts and this PZD.

Tom Jeffcoat, Millholland Company gave a description of the property.

Tom Fetner, a resident of Bridgeport Subdivision: I would like to know the minimum square footage of the houses going in. The package I have says the minimum square footage is 1,200 square feet, which concerns me because the houses along that side of Bridgeport are a minimum

of 2,000 square feet. I am concerned about my property value being reduced, rental property, people buying rental units in there and people coming in that do not take care or don't care about the neighborhood or the houses. Those are my main concerns. I am also concerned about the traffic increase that I feel we will have on New Bridge Road, particularly until New Bridge is connected to Ruppel Road that will be the only way out, coming to the north.

Tracy Hoskins, Paradigm Development: As far as the minimum square footage of the subdivision and the original restrictive covenants, we had 1,200 square feet for a single family detached home and 1,000 square feet for a single family attached home. The idea behind this was to, within the development, to try to offer up some more affordable or more attainable housing, houses that are under \$175,000. After hearing the concerns of the neighbors and having spoke with the administration earlier today about those concerns, in Oakbrooke Subdivision we are willing to amend that particular item of the restrictive covenants, the minimum of 1,400 square feet in either case. I was asked today basically what we were planning as far as the minimum square footage of the house and my response was 1,400 square feet. The way that I should have responded to that was by the restrictive covenants that we had originally written of 1,000 to 1,200 square feet. However, I was responding in such a fashion as to what we have designed thus far for the development, knowing that we had designed, the smallest home that we had designed so far was 1456 square feet. With that being said we are willing to amend our restrictive covenants to a minimum square footage of 1,400 square feet to address the neighbors concerns. However, the down side of that is we had planned a portion of these houses as being more attainable, under a \$150,000 for a few of these houses. With this new restrictive covenant we will not be able to provide that.

Mayor Coody: We want neighborhood compatibility but we also talk about good planning and affordable housing and this, what Paradigm is going to do here is something that is good planning principle. I have learned a lot about this project today since some folks brought this to my attention. Mixing the sizes of homes, not having segregation of sizes to where if you are in one income bracket you live in this part of the neighborhood, if you are in another income bracket you live over here, segregating people according to income is kind of where we say we don't want to be but in fact that is where we go, it turns out. I like the concept that you brought forward of mixing sizes of homes, intermingling them, not just segregating them based on size, I think that is a good thing to do. I know the neighborhood is concerned about the 1,000 square foot minimum, I know that a lot of folks starting out can't afford an expensive home these days. Homes of 1,500 square feet are at \$125.00 to \$135.00 per square foot and are going to end up pricing themselves out of a lot of folk's ranges. First I want to commend you on a good plan; whether what you have brought forward is what's finally approved is a different story. I hope that other developers will also look at doing plans where they intermingle different sizes and price ranges of homes within their subdivisions. Fayetteville is one of the last major cities to start doing this, so I am glad this is something that we are bringing forward. To follow up on this first question and ask the questions per the City Council's perspective, on the opportunity to amend this to 1,400 square feet if you all are interested in that or not.

Alderman Ferrell: One of the things that I found appealing when I looked at this was I was raised in Fayetteville and I lived most of my life on east Dickson Street and Lafayette Street, my mother still lives on the corner of Lafayette and Olive. These are the type of homes, I mean it kind of looks like the center of the city and that was kind of appealing to me and it looked like you would have some starter homes on up. So, if you change this, if you change what you are bringing to us, I heard you talking about it would have an affect on starter homes.

Tracy Hoskins: You lose the opportunity; you basically lose the opportunity of starter homes. There is a financial feasibility to everything you do of course, the larger the house the more the house cost. Oakbrooke Subdivision, which we actually have got a full presentation for you tonight actually. Oakbrooke Subdivision is designed for people of all social economical backgrounds. Folks that can afford 1,200 square foot houses, we've got houses designed all the way, at the time, 1,450 feet to 2,500 feet. It's a mixture of all homes. The way that the development is designed the homes are intermingled. As the Mayor put it before we don't have all the smaller houses in this area and the big houses in the other area, which segregates the community. Our staff architect Jim Ramsey is here to give you a full presentation on the entire development.

Alderman Ferrell: If everything went accordingly what kind of time frame do you think you will be looking at on build out for Phase I and Phase II.

Tracy Hoskins: Our intention is to do the subdivision concurrently. As far as how fast every thing sells out in the subdivision, I think some of that is going to have to do with the price of the houses.

Mayor Coody: One thing that I want to add is on your square footage, minimum of 1,000 square feet, I think a diversity of sizes and prices of homes is a good thing; however I am very interested in seeing your development happen. If it takes a modification of your minimum square footage just to make that happen then I certainly want to support. Whatever we can do to support the neighborhood next to you because they have an opportunity to kill it and I want to appease the neighborhood so they will let this, I think well planned development happen. Because I think this is, the way you have designed the detached garages, the way you are doing the driveways, the craftsman bungalow style architecture, I think this is an example of good planning and that is what we have been striving for in Fayetteville. I don't want to on the one hand say we are into good planning and then vote against it when it comes up, but I would still want to see this happen if it takes some kind of modification to get the neighborhood on board with it we might have to do that.

Tracy Hoskins: We are flexible on that, we have a meeting set up for next week with the Ward 4 residents to discuss the project entirety, Phase I and Phase II and we will be there to answer any questions they have. We had a Ward 4 meeting back in October, I believe it was, to kick the project off to listen to some concerns at that time and it was very well received at the time. Of course, the project has grown since then as well.

Alderman Thiel: I am respectful of Ward 4 residents and I haven't really heard from them yet and I am sure they will share their opinions. I can certainly understand their concern about multifamily which this is not.

Tracy Hoskins: There are no multifamily dwellings present on the site.

Alderman Thiel: I am supportive of attached housing; I think it is something we need to look at more. Our number 9 Principle is housing choices for all and that does not just mean in south Fayetteville. In fact if we choose to ever do that we will be in trouble, this is something we can not do, we can not discriminate and put affordable, attainable housing in one part of Fayetteville. I want to see the presentation the way it was originally intended, I am not ready to start amending this yet, maybe Ward 4 Aldermen are because I know they have already talked to some of their constituents.

Alderman Jordan: 26. I have had about 26 in the last two days.

Alderman Thiel: I would still like to see what the original proposal was or where you are at now.

Tracy Hoskins: In response to something that was said a few moments ago, I actually sent an email to the gentleman that was up here a moment ago to get a response, I wanted to visit with him about the project. Since then I did a little research my self and the houses that abut Oakbrooke Subdivision, actually the smallest house that abuts the subdivision is 1,890 square feet. Just because we have a minimum restrictive covenant now of 1,200 square feet doesn't mean that there will not be a 2,000 or 2,500 square feet house behind his house. In other words the intention of the subdivision is to blend all shapes and sizes of houses. It would be a lot like driving down Washington Avenue or Lafayette Street, etc. This subdivision is designed in harmony or in respect to the neighborhoods of old.

Mayor Coody: The second question was about traffic access. Jeremy would you address that please.

Jeremy Pate: The current proposal in Phase I and with Phase II will actually access two points on Ruppel Road. Ruppel is an arterial on our Master Street Plan, there are assessments assigned to this developer for improvements along Ruppel as well as the replacement of a bridge north of this project. This is within a bridge assessment area so this developer is also assigned an assessment based on the number of vehicle trips per day that would exit onto Ruppel and utilize that bridge. There is a connection, as you all know we promote connectivity wherever possible and there is a connection planned to exit or enter of New Bridge Road which is pretty much where Bridgeport currently ends to the east. There are also two stub outs that will connect to a subdivision that will begin construction very soon to the south; those will also have outlets from which Bridgeport residents could travel through these neighborhoods to get to Ruppel. It does provide another outlet east for those residents as well as the residents in Oakbrooke. So, it does allow for traffic flowing east, west, north and south so several different access points to alleviate traffic congestion so that it is not all concentrated in one specific location. I believe there are five different connection points proposed with this subdivision in total and we felt that is a very good number for the number of lots proposed.

Alderman Reynolds: What is the time frame for redoing Ruppel Road? Are we going to have to build two phases of yours and what else to get the money to redo Ruppel Road, because it is dangerous now?

Jeremy Pate: Every development that Planning Commission sees along Ruppel Road right now that accesses in any shape or fashion is accessed an appropriate share that we can legally access them.

Jeremy Pate went on to discuss the planned Ruppel Road improvements.

Alderman Reynolds: It is not in my Ward but it is in the city and I have a letter and calls from people that are concerned about that.

Tracy Hoskins: Right now Bridgeport, the best that I can tell I believe the entire Bridgeport all Phases, the entire subdivision, has two outlets one to the north and one to the south. With the

addition of Oakbrooke Subdivision it is also going to give Bridgeport two new outlets to Ruppel Road. In other words they have a way of going north and south and besides just east and west. I think a lot of the traffic concerns that they have in Bridgeport, I believe Oakbrooke Subdivision is going to alleviate a lot of those concerns; it is probably going to improve the situation.

Karen Stewart, a resident: My mother owns the property to the north of this property. I have talked with Tracy Hoskins many times during the last couple of weeks and we don't seem to be on an agreement with anything. I have notified staff with concerns about the development and I haven't been able to get anything even flexible recognitions of my concerns. That has also been the concerns of everybody that I have contacted around this area.

Mayor Coody: Karen, if I could but in just a second, to address that concern right there, I think Mr. Hoskins has asked us to leave this on the first reading so it could go to the Ward 4 meeting next week.

Alderman Jordan: We will have a Ward 4 meeting at 6:00 in Room 326 to discuss this situation at Oakbrooke. We hope a lot of these issues can be addressed at that meeting where we can come to some sort of solution to this problem. The neighborhood will have their input, Mr. Hoskins will be there and we can work this situation out hopefully.

Karen Stewart: I will wait to speak.

Alderman Jordan: Thank you very much for your comments.

Karen Stewart: Our only recourse is you because the courts will not support a suit against the planning entity. She read the following, *the planners seem to believe that any additional to a tax base is better than none. Once it is proposed a development has little chance of being defeated.* I have found that to be the case here. Protection of private property rights is what separates us from socialist societies and it is this reason because of the decisions that Planning staff makes and also the decisions the Planning Commission makes affects the ability of how we can use our property as adjacent property owners. This is why I feel that the Planning Commission and also the Planning staff at times have ignored the adjacent property owners.

Alderman Ferrell: Is that your fear because I think you told me you are planning on developing or selling some property there. Is that your fear that this will have an impact on your development?

Karen Stewart: As a matter of fact it already has. Mr. Butler to the southeast of the property, after he was approached by Mr. Hoskins and heard what was going on he immediately sold his property.

Jim Bemis, a resident: I live two or three blocks from this development and I am very happy to hear that we are going to have a meeting to discuss concerns. I hope we can get some additional information on the intersection of Ruppel and Wedington at that time. Some sort of concept of what you are planning there. This is a citywide problem not just Ward 4.

A discussion followed about the notification of neighbors regarding this project.

This ordinance was left on the first reading.

RZN 05-1546 (Mathias): An ordinance rezoning that property described in Rezoning Petition RZN 05-1546 for approximately 1.20 acres located at the northwest corner of Highway 45 and Box Avenue from RSF-4, Residential Single Family, 4 Units Per Acre to R-O, Residential Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Staff is recommending approval and the Planning Commission voted 9-0 in favor of this rezoning.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: My concern is the intersection there. It is really getting congested.

Jeremy Pate: There are definitely some concerns especially to the west of this property. Staff will evaluate what is proposed as part of the overall large scale development. There are ways to restrict access onto Mission.

Alderman Cook: My concern is arterials where we have created a nightmare of access on the roads and it creates serious situations. This piece of property is located right next to an existing street so there is an opportunity to use that. It does back up there, that is certainly a concern of mine.

Alderman Thiel: This owner has 1.83 acres. He is just requesting the front 1.20 acres to be rezoned. Is there some reason why he is not requesting the rest of it to be rezoned?

Jeremy Pate: It is likely that part of it is not going to be utilized for the development.

Kipp Hearne, H2 Engineering: The back part is being contemplated for some kind of residential development.

This ordinance was left on the second reading.

RZN 05-1564 (Mountain Ranch): An ordinance rezoning that property described in Rezoning Petition RZN 05-1564 (Mountain Ranch D,F,H,I,J) for approximately 193.66 acres located south of Persimmon Street and west of Shiloh Drive from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 Units Per Acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of this Mountain Ranch rezoning and the following Mountain Ranch projects. Staff is recommending approval and the Planning Commission voted 9-0 in favor of this rezoning.

Alderman Jordan: There have been some concerns about the intersection. Can you tell me where we are on that intersection, right now?

Tim Conklin: Staff has been working with the developers and the Fayetteville School District. Crafton and Tull is the engineer that is designing Ruppel Road south of Persimmon Street and they are in the process of doing construction drawings for that. They are going to present the City with those costs and then we will bring those to the Street Committee for consideration and then to the Council. When we bring the cost share forward, if it is approved, we will be constructing Persimmon and Ruppel during the time Mountain Ranch is constructed. The time frame, if approved by the City Council, will be over this next year.

Alderman Lucas: Before school starts in 2006.

Tim Conklin: That is correct. The road is necessary in my opinion to get access to the school. With regard to the entire Ruppel Road, the Street Committee has been working towards a potential street bond program.

Alderman Jordan: Best case scenario we are looking at the fall of 2006.

Tim Conklin: That's correct.

Tom Terminella, Developer: I think most of the questions have been answered. I think Jeremy and Tim have done a fine job at articulating what it is that we are trying to get done. The most important element is understanding the cost share. The school is scheduled to open September of 2006.

Mr. Terminella explained the project and the improvements along Ruppel Road.

Alderman Jordan: I do not have a problem with this particular development. It was seen at a Ward 4 meeting about a year ago. However, it has been my policy in the past, when it is something this size, we are looking at 1,200 units, I would like to have a couple of weeks to hear from any constituents that might have any concerns. I would respectfully ask that we wait two weeks before we pass this.

Alderman Lucas: At the corner of Persimmon and Shiloh you had C-2 but then you marked a lot of items out, are you giving a Bill of Assurance or something?

Tom Terminella: Yes madam.

Alderman Lucas: Why didn't you apply for C-1?

Tom Terminella: The intended land use plan for that part of the world is C-2. The intended use for that parcel is a hotel. That is why we are asking for the C-2.

Jim Bemis: This is a magnificent development. My concerns are the same as the other development we saw earlier, Ruppel Road, Persimmon, parks, trails, sidewalks and bike lanes that are not shown in any of the drawings. I just want everyone to know what is going on in a mile radius there. We are adding numerous housing units in that area. I have nothing against the developments. I want us to plan for the people that are going to be out there like myself, walking, biking and whatever we are going to have out there as a neighborhood. It is going to be

like College and Lafayette. I see the same things happening out there. I hope we have learned something during the past 50 to 60 years. I want it understood I am not against the development, I am against what that development is going to bring with it. Please keep that in mind as you look at this.

Mayor Coody: You support the development but you also strongly support the amenities that make it work.

Gordon Nester, Nabholz Construction: We are the construction managers for Fayetteville Schools on the Ruppel Road School. The project is going very well and is possibly ahead of schedule some. The school will open in August, it will not be September. We will be turning the school over to the district the first or the end of July. I spoke with the school district administration and they indicated they would like to show their support of the Mountain Ranch development.

Alderman Cook: Where is the break down of where the sewer flows?

Tom Terminella: We basically have four points of discharging sewer off of this particular land mass. There are three different interceptors and then there is the main line that runs out to Hamestring. We can flow to the east, we can flow to two different points to the south and then we can go to the main 30" line. I will be working with the staff to make sure we do the right thing as far as the discharge and our water supply.

Alderman Jordan: How many units will you be putting on the Hamestring lift station?

Tom Terminella: Somewhere around 250 or 300 units.

There was a discussion on the project, the flow of sewer and the anticipated time frame that some of these units will be completed.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

RZN 05-1563, RZN 05-1566 (Mountain Ranch): An ordinance rezoning that property described in Rezoning Petition RZN 05-1563 (Mountain Ranch C) and RZN 05-1566 (Mountain Ranch G) for approximately 97.71 acres located south of Persimmon Street and west of Shiloh Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family 4 Units Per Acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. Staff is recommending approval and the Planning Commission voted 9-0 in favor of this rezoning.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

RZN 05-1562 (Mountain Ranch): An ordinance rezoning that property described in Rezoning Petition RZN 05-1562 (Mountain Ranch B) for approximately 19.04 acres located south of Persimmon Street and west of Shiloh Drive from R-A, Residential Agricultural to RMF-24, Residential Multi-Family, 24 Units Per Acre.

City Attorney Kit 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 7-0. Alderman Marr was absent.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

RZN 05-1561 (Mountain Ranch): An ordinance rezoning that property described in Rezoning Petition RZN 05-1561 (Mountain Ranch A-2) for approximately 27.01 acres located south of Persimmon Street and west of Shiloh Drive from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

RZN 05-1560 (Mountain Ranch): An ordinance rezoning that property described in Rezoning Petition RZN 05-1560 (Mountain Ranch A-1) for approximately 14.60 acres located south of Persimmon Street and west of Shiloh Drive from R-A, Residential Agricultural to C-2, Thoroughfare Commercial.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

Remediation Services Contract: An ordinance waiving the requirements of formal competitive bidding and engaging Mid-America Environmental Solutions for the amount of \$70,000.00 to provide emergency environmental remediation services for a Ferrous Chloride Discharge; approving a Budget Adjustment in the amount of \$70,000.00; and declaring an emergency.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: At the Water and Sewer Committee we talked about the fact that we have some other underground tanks still out there that we need to deal with, how many?

David Jurgens, Water and Wastewater: I am not sure; I think it is three or four. We do have a contract on the way to take care of those.

Alderman Cook: So we are going to deal with those in a timely manner.

David Jurgens: Yes sir.

Alderman Jordan 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 Marr was absent.

City Attorney Kit Williams read the ordinance.

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

Alderman Jordan moved to approve an emergency clause. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

Ordinance 4730 as recorded in the Office of the City Clerk.

Amend § 74.05 Soliciting From Public Roadway: An ordinance to amend § 74.05 Soliciting from Public Roadways or Sidewalks Prohibited.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Passing this ordinance would enable the Fayetteville Firefighters to raise more money for MDA which supports more than 400 children and adults served by the Razorback Chapter. Other cities in the area have recognized this and have adopted a similar ordinance. I believe this ordinance is restrictive enough to limit any inconvenience that some motorist might have.

I would like to amend Item D and add a new sentence that reads as follows, *an additional permit may be issued if a scheduled event is rained out.*

Alderman Reynolds: How many months a year does the Fire Department raise money for MDA?

Alderman Thiel: It is just allowed for two days.

Alderman Thiel moved to amend the ordinance to add, *an additional permit may be issued if a scheduled event is rained out.* Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

Trent North, Secretary of Fayetteville Firefighters Local 2866: We have Ms. Nicole Moore here who is the District Director of the Razorback Chapter.

Alderman Jordan: Have there been any accidents or anything in any of the cities in the area because of this?

Nicole Moore, MDA District Director: MDA has these solicitation ordinances set up like this in thousands of cities across the country and within the last five years we have not had an incident that has been claimed on insurance. Firefighters have been filling the boot for MDA for over 50 years and within that time there have been some accidents. Our safety record on this is excellent. One of the primary reasons for that is because firefighters do this for us and there are few who are trained better in public safety than firefighters. They are very use to dealing with traffic. Because of their training that is why the firefighters work so well for this program and why they are so able to help us.

Alderman Jordan: What about groups that might not be as well trained? What problems do we foresee?

Nicole Moore: I can tell you in Fort Smith, for example, under their ordinance there is not a restriction in regards to the number of permits that can obtained per year by groups. The only group that ever gets the permit is the firefighters for MDA. The primary reason for that is that we are able to provide a \$2 million liability coverage policy naming the City as an additional insured. You also have to have the 501C3 status. Most of them cannot provide that insurance.

Alderman Rhoads: How would Fayetteville Firefighters raise the money if you could not do it this way?

Nicole Moore: It is very difficult and that is a challenge that we have faced in Fayetteville for the past several years. We have to have more special events. The funding that we raise for Fayetteville benefits the families in Fayetteville. Our money stays locally. We have to have more events to raise the same amount of money that the firefighters can raise in two days.

Alderman Rhoads: Last year how much did you raise in Fayetteville?

Nicole Moore: Approximately \$30,000.

Alderman Rhoads: How does that compare to Fort Smith.

Nicole Moore: We have a very high expense ratio in Fort Smith so it is not quite apples to apples for comparison. We do have to have other events to supplement that income. The Fort Smith Firefighters range from \$10,000 to \$25,000 just from the fill the boot.

Alderman Thiel: The fill the boot in Fayetteville only raises about \$1,000.

Nicole Moore: The last time we conducted a fill the boot in Fayetteville it was in the Wal-Mart parking lot and it raised about \$2,400. They spent the same amount of time raising \$2,400 that they could have spent on the streets to raise \$20,000. Springdale raises \$20,000 and up.

Alderman Cook: Brenda, I appreciate you bringing this forward because MDA and what you are talking about here is everything that is good about this ordinance. What scares me are things that are not so good that could potentially happen with this ordinance. While it seems limiting and you wouldn't think anyone else would be able to meet those standards, I know there are people out there that could meet those standards. That is what makes me nervous, opening it up for the potential un-welcome element. What we are talking about here is a good thing, supporting MDA is an awesome thing, that's something I would like to think all citizens would support in the City of Fayetteville but to me the scary part is what might come of it.

Nicole Moore: Our traditional policy is a \$2 million policy; we do hold a \$10 million policy that we could put into effect for the City of Fayetteville if that would be a concern.

Kit Williams: I don't think the City Council should draft an ordinance like this so that it would potentially exclude every group but one group. I would not be in favor of raising the amount of insurance to \$10 million in an effort to exclude every other 501C3 charity that might want to solicit.

Alderman Rhoads: I agree.

Alderman Lucas: I am concerned about the safety. I am all for supporting MDA and the Firemen. I will support them elsewhere, because our intersections are already congested. As a visitor when I go to other cities it is very distracting to me when someone comes up to me at an intersection.

Nicole Moore: In Fort Smith, firefighters can not peck on the glass, the window has to be down and they have to be holding money out. It really does not impede traffic.

Alderman Reynolds: Under section F it says *no solicitor shall impede traffic or make physical contact with any motor vehicle such as tapping on the window or door*. I am willing to give these people a break to raise money.

Alderman Ferrell: Chief, do you have an opinion on this from a safety stand point.

Frank Johnson, Police Chief: I haven't researched this at all. I can only hope that what they have said has been well researched. I don't think there is going to be a safety problem as long as they abide by the ordinance.

Alderman Ferrell: I had some calls from some citizens that were concerned about this. I think they have done a really good job in answering the questions. I think it is worth giving it a shot and see if it goes.

Alderman Thiel: Since we did also add in here that the locations must be approved by the Police Chief, you can approve what intersections they can do this at. Right now they can not be on a State highway.

Jeremy Pate: One of the sentences states a permit application must be received by the parking manager at least 60 days prior to the event.

Alderman Thiel moved to amend the ordinance to state *a permit application must be received by the parking manager at least 30 days prior to the event*. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

Alderman Rhoads: I am for MDA, but the thing that concerns me is that we are putting together an ordinance that is exclusionary. What might be undesirable folks is going to be a matter of opinion. Why just six permits, why \$2 million dollars, why not make it so everyone else can do it. If it gets to be a safety problem, then that is a way we as a City, can have our Police Department step in and take care of it. I am in favor of the idea; I am just not in favor of it being exclusionary. We let organizations have car washes and hold signs along the road.

Kit Williams: I think the difference is that the firefighter's actually get in the traffic lanes and go up to cars. Car washes hold signs up and try to get you into a parking lot. So the safety issue is not as bad if you are just standing beside the road.

Alderman Rhoads: If we let the Police Department determine what is causing a safety problem, then you could let everyone do it.

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

City Attorney Kit Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody: The only thing that I am concerned about is the un-intended consequences. As much as I want to raise funds for everyone in town especially MDA, I would hate to see Fayetteville get into a position of people being on the streets raising funds especially with the traffic congestion in Fayetteville. I see this as potentially being very problematic. It seems like there has got to be a better way of raising funds for MDA than being out in busy intersections and causing traffic problems.

Alderman Thiel: Many years ago Fayetteville Firefighters did hold this event and they discovered an ordinance against. It didn't cause any major problems then. I agree with Alderman Reynolds, let's give it a try one year and if we see it is a major problem and get a lot of complaints about it then we can look at it again.

Mayor Coody: I think that is an excellent argument. Give it a year and then we can revisit this if we need to. It's not the firefighter's that we worry about it's the other organizations that might do this.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-3. Alderman Ferrell, Jordan, Reynolds and Thiel voting yes. Alderman Rhoads, Lucas, and Cook voted no. Mayor Coody voted yes to pass the ordinance. Alderman Marr was absent.

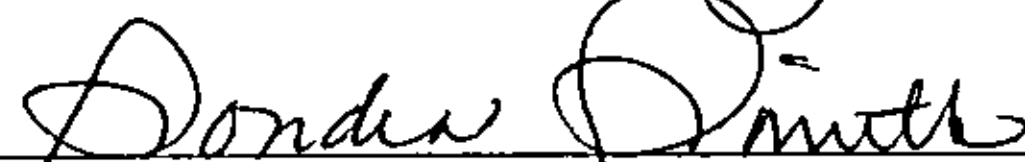
Alderman Thiel moved to approve the emergency clause. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Marr was absent

Ordinance 4731as recorded in the Office of the City Clerk.

Meeting Adjourned at 9:15 PM



Dan Coody, Mayor



Sondra Smith, City Clerk