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
August 2, 2005

A meeting of the Fayetteville City Council was held on August 2, 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, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor Coody presented Barry Harper a proclamation recognizing the Fayetteville High School Bulldog Band as official ambassadors of the City of Fayetteville, Arkansas to the Tournament of Roses Parade in Pasadena, California in 2006.

Barry Harper thanked the Mayor and the City.

Alderman Ferrell moved to move New Business #6, Mount Sequoyah Street Extension, to the front of the agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

<u>**Mt. Sequoyah Street Extension:**</u> A resolution to make an exception to the policy of not extending streets over Mt. Sequoyah.

Alderman Ferrell: The developer had a press conference last week and I have communicated with people. What I had indicated was that I would ask tonight that this be tabled indefinitely.

Alderman Ferrell moved to table this resolution indefinitely. Alderman Lucas seconded the motion.

Tom Hennelly, H2 Engineering: The resolution that was passed in 1996 requires that we bring any type of request like this to the Council and it was difficult to get it on the agenda. I would like to thank Alderman Ferrell for stepping up to the plate for us, even though he may have opposed the ideal itself, he was willing to allow us to come before you and at least give us a chance. I do appreciate Alderman Thiel and Reynolds and their help, although they adamantly opposed this, I understand their support of their Ward.

A week ago we had a meeting with the neighborhood association and there were some things that were brought up during that, that I think need a little clarification. The Mayor was enthusiastic about this project in that there was a 30 acre land donation associated with it, which he was a big proponent for. He made it perfectly clear to me, crystal clear, that he was in opposition of a connection over the mountain. Through his department heads in engineering and planning he tried to discourage us from doing this, but I can be bull headed at times. I do think, and still think that the merits of this project, as a whole, with the land donation, the density and the tree preservation that are incorporated in it were far over shadowed by this one issue. We have revised the plat to remove that. I appreciate your time. Thank you.

Mayor Coody: Thanks Tom. I appreciate your statement because I was getting blasted for being supportive of this when that was the opposite of the truth. Thanks for your statements.

Alderman Thiel: Mayor, the neighborhood up there has indicated to me that they would prefer that we actually vote this proposal down, or reject the proposal. They would just feel more comfortable with us doing that, it would be making a statement that this Council is still very supportive of the original resolution. Tabling indefinitely they do not feel like it makes a strong enough statement. They are also concerned that we are just basically tabling this indefinitely; we are not voting it down. So, I will vote against the motion to table this indefinitely.

Mayor Coody: In order to save some time would you consider amending your motion?

Alderman Ferrell: What does table indefinitely mean?

Mayor Coody: It means that it goes away basically.

Kit Williams: Well, it doesn't go away, it goes to the table and stays on the table until someone brings it off the table.

Mayor Coody: Yes. But if it is tabled indefinitely it takes a long while to come back up.

Alderman Ferrell: Have we ever had anything come back from being tabled indefinitely?

Kit Williams: I think we actually have. We have tabled a raze and removal indefinitely, I think before and when we didn't get enough action on it we brought it back, if I remember right.

Some people say it is the same thing as killing a motion, to table it indefinitely; it is not exactly the same. Even if you vote this down, someone else could bring a new resolution forward.

Alderman Ferrell: I guess go ahead.

Mayor Coody: We have a motion on the floor.

Alderman Lucas: Can we not just vote on that motion.

Victoria Sowder, a Resident: Thank you Mr. Mayor and ladies and gentlemen of the City Council. I just wanted to say I appreciate very much the Barbar Group and H2 Engineering being sensitive to the concerns that were voiced very vocally by our established Mount Sequoyah neighborhoods. I am grateful also to be asked by my neighbors to say thanks to the City Council members who have been supportive of Resolution 19-96. I can say most definitely, representing our four neighborhood associations that they would feel much better if this was shown historically as being defeated, rather than simply tabled indefinitely. I will say also that my neighbors and I look forward to working with H2 Engineering and the Barbar Group to develop our input into their plans for a very nice neighborhood, that would serve as a great compliment to our historic and established neighborhoods, in a very non-connected physically way. Thank you very much.

Mayor Coody: We really appreciate the opportunity for the 30 acre contribution of the 40 acres that we have so long sought for the City. This is going to make quite an addition to the park on Mount Sequoyah. That would make it 97 acres right in the heart of town of beautiful woods. We appreciate that contribution very much.

Upon roll call the motion passed 5-3. Alderman Ferrell, Lucas, Reynolds, Cook and Rhoads voting yes. Alderman Jordan, Thiel and Marr voting no.

This resolution was tabled indefinitely.

<u>**Recognize Fayetteville High School Bulldog Band:**</u> A resolution to recognize the accomplishments of the Fayetteville High School Bulldog Band and proclaim the Fayetteville High School Bulldog Band to be official ambassadors of the City of Fayetteville, Arkansas to the Tournament of Roses Parade in Pasadena, California in 2006.

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

Resolution 148-05 Recorded in the Office of the City Clerk.

Alderman Jordan asked if it was possible to move the two Oakbrooke items together, one after the other on the agenda.

Kit Williams: You certainly can with a suspension of the rules; you can move things around on the agenda if you want to, just like we did on the Mount Sequoyah resolution. If the other Aldermen agree with you then certainly you can do that.

Alderman Thiel: Do you want to move them both to New Business.

Alderman Jordan: Yes, or we can do them both on Old Business, it doesn't matter. I just thought you are going to hear one then it will be a while and you will hear another one.

Alderman Jordan moved to move New Business #4 R-PZD 05-1555 (Oakbrooke Subdivision) below Unfinished Business #5 R-PZD 05-1463 (Oakbrooke). Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the July 19, 2005 City Council meeting minutes.

Fairlane Apartments Park Land Dedication: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.34 acres of land and approximately $14,060.00 cash in lieu of the required park land dedication for the Fairlane Apartments.

Resolution 149-05 Recorded in the Office of the City Clerk

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

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. This item was tabled at the July 19, 2005 City Council meeting until the August 2, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning: The applicant has submitted documentation indicating that the island that was being created, which was the basis for the recommendation for denial from staff and Planning Commission, documentation has been submitted to the County to annex that three acre tract as well so that will not be creating an island. That will be before you a couple of agendas from now, as soon as it gets through the County process.

Pam Jones, Dixie Development: We have really worked hard to annex in this three acres, we appreciate your patience regarding that. It did take a lot of effort. We hope that you will consider our request for annexation. I can answer any questions that you might have.

Alderman Thiel: I would like to make a statement about annexations in general. I guess if I believed that if we quit annexing property, that it would stop growth and sprawl, then I probably would not support annexations, but I don't think that is the case. I think this is a project that I think is important that it is part of the City. I think the developer will do improvements to the main streets, build to City standards and the sewer will go into our sewer system. So, I do support this annexation. I do think we are going to have to start looking a little closer at our annexations until we determine how soon we are going to get our treatment plant. I will support this.

Alderman Lucas: I am very grateful that you were able to bring forward this island and I appreciate the efforts you went through to do that. It would have been very difficult for me to support it if it had been an island.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Ferrell, Lucas, Jordan, Reynolds, Thiel, Marr and Rhoads voting yes. Alderman Cook voting no.

Ordinance 4732 as Recorded in the Office of the City Clerk.

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. This item was tabled at the July 19, 2005 City Council meeting until the August 2, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan: How many units is this going to be.

Jeremy Pate: If it was developed to maximum density it would be about 97 units, what we are seeing is an average of somewhere between 2.6 and 3.0 dwelling units per acre. When this subdivision develops, dedicates right of way and park land, this would be between 60 and 70 if that were the plan.

Alderman Jordan: Which lift station will be affected by this?

Jeremy Pate: I believe the sewer would drain toward the Hamestring lift station.

Alderman Jordan: How many units are left on the Hamestring lift station right now?

Ron Petrie, City Engineer: We have been waiting on the report from RJN to give us those numbers. We had a meeting with them today to discuss the preliminary numbers. According to them there are approximately 400 units remaining in these two basins, Hamestring and Owl Creek, 400 in each basin.

Alderman Jordan: We have been under the assumption that it was about 1,200 units but it is actually 400.

Ron Petrie: That's right. We will get the final report this Friday and we will share that with the Water & Sewer Committee.

Alderman Jordan: Would you consider that a concern?

Ron Petrie: Sure, it is a concern. We have laid out an action plan, in this basin, back in May to the Water & Sewer Committee. 400 are going to make it critical that we move ahead with our last two action items, which is to determine a cost effective solution. There are several which will be paid mainly by developers within these basins. We want to bring an assessment district to the City Council. We are hoping to get that to the Council in September to address additional capacity in these basins.

Alderman Jordan: So we do need to address that situation with an assessment district.

Ron Petrie: It is critical that we address it quickly. It is not at the point that it is an emergency, but it will be soon.

Alderman Thiel: Once the capacity of both these lift stations is determined, if we do go ahead and approve this zoning at 4 units per acre, the staff will be basing the large scale developments that come through on a first come first serve as to that capacity. So, at any point when that capacity has been reached I am assuming staff will let us know unless we do get something in the works before that time. So, regardless of how we make a decision on this, there is still going to be that determination made by the staff.

I really appreciate Lioneld and the entire Water & Sewer Committee really pushing that this be determined so staff will know where we are at.

Ron Petrie: We will count these off when the developments get approved at Planning Commission, when we actually have real new lots. 400 is your worst case scenario. You have to look at the lots that we have already counted off that will not come on line for another two to three years. Hopefully if everything goes as planned we will have a solution and we will have a fix in place and be able to make some type of assessment to whoever develops in these basins, so that it is being paid totally by private development and not the City.

Mayor Coody: That doesn't mean that we can only have 400 more homes for those that have plans in the works because it takes three years to go from approval of a subdivision to basically having someone move into a house. So everything is counted almost three years in advance at this point.

Ron Petrie: That's right. Everything has been approved but is still under construction at this time so you have lots that have been taken out of the capacity that will take three years from today before someone is actually flushing toilets.

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

Ordinance 4733 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. ***This item was tabled at the July 19, 2005 City Council meeting until the August 2, 2005 City Council meeting.***

Alderman Marr: The applicant contacted me and asked that we table this for two weeks until the next Council meeting. They are in the process of working on a Bill of Assurance to address some concerns that have been expressed. Due to personal situations they had to be out of town tonight.

Alderman Marr moved to table this appeal to the August 16, 2005 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

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

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. ***This item was tabled at the July 19, 2005 City Council meeting until the August 2, 2005 City Council meeting.***

Jeremy Pate: Staff received a letter from the applicant today asking us to withdraw this item from the agenda.

Kit Williams: Since this is an appeal I don't think we actually have to vote. I think they can withdraw their appeal themselves and if they have done that it is simply withdrawn.

This appeal was withdrawn by the applicant.

R-PZD 05-1463 (Oakbrooke): An ordinance establishing a residential planned zoning district titled R-PZD 05-1463, Oakbrooke Phase I, located west of Rupple 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. ***This item was Left on the First Reading at the July 19, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: There will be a Ward meeting Friday night to discuss this.

Katherine Sherer, a Real Estate Agent: Fayetteville is a forerunner in keeping the aesthetics of this town beautiful and the idea behind Oakbrooke is right behind that. The homes are going to be old style with new floor plans inside. It is important that the outlining areas don't become another sea of tract style homes that are just small square footages and everything looks alike and it is kind of like Springdale. We just don't want to see that. I just think we need to keep it beautiful. Here is an outlying area that is getting ready to develop and they want to use good turn of the century designs. It is going to not only be good for Fayetteville but the home values are going to stay up higher. It is a good idea and I have been waiting for somebody to come up with it. I had not heard anything until just now and I am really excited about it.

Mel Milholland, Milholland Engineering: We had a Ward meeting the other night on this project. Residential PZD's are relatively new to the community of Fayetteville. I think staff, Planning and the Council decided a couple of years ago that this was the direction you wanted to go in Fayetteville to accomplish residential homes in another fashion rather than just a standard RSF-4 subdivision. On this project we worked very close with the staff to do everything they felt like we needed to do regarding trees and preservation of green space. My understanding of the purpose of the PZD is to provide for the flexibility of the type of homes and different size lots and a variation of buildings. Not necessarily multi-housing but single family and at the same time provide a larger green space. I feel with this project we have tried very hard to do that. I do feel that the community comfort level is the old zoning but with this new PZD zoning we are uncomfortable. This is what we thought you wanted to see. It is a little different format than the RSF-4 but yet accomplishes the same thing and gets more green space. I would like the Council to consider what was approved in the PZD zoning for residential use. I think this is a good example of what that ordinance intended to do. I really feel that the folks will eventually accept this, like all ordinances it takes them a while for them to. They have a concern about change, it is quite a change from the standard RSF-4, but it is accomplishing the same thing. I think it will be a good subdivision.

A Citizen (No name was given): I was very excited to learn about this particular project. I think if you want to find the future you need to look to the past. This is kind of where this goes. This has a lot of really unique features. It de-emphasis cars, there is affordable housing in it, it is walkable, it is very ascetically pleasing and I think it is the wave of the future. I strongly encourage you to do everything you can to approve this and approve other housing developments like this. It truly does help us from an economic development point of view to have this kind of development and to have these kinds of developers here that are really looking into the future and planning really quality type developments. I particularly like the mixed income type things and I think it is important to you to have some more affordable housing.

Tom Fetner, Bridgeport Resident: I don't think that any of the residents disagree with what has been said so far. We do still have a few issues we would like to discuss. Alderman Jordan has set a Ward meeting for us for Friday night. If we can get together Friday night, I think we can work out the few issues that we have left and we will feel more comfortable with it at that point in time.

This ordinance was left on the second reading.

<u>The following item was moved from New Business.</u>

<u>R-PZD 05-1555 (Oakbrooke Subdivision):</u> An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1555, Oakbrooke Phase II, located west of Rupple Road and east of Bridgeport Phase II, containing approximately 11.5 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

<u>RZN 05-1546 (Mathias):</u> 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. ***This item was Left on the Second Reading at the July 19, 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.

City Attorney Kit Williams read the ordinance.

Tom Hennelly, H2 Engineering: This was initially tabled due to a traffic issues that were related. We have addressed those issues with staff and resolved them in the large scale that is to follow and come through the Planning Commission. We have addressed those items.

Jeremy Pate: The primary issue with this particular request is the access onto Highway 45 in this location because of sight distance issues. The Engineering staff will be looking at that very carefully to determine if an access is needed what the best way would be to access onto Highway 45 from this location. We have not actually seen development plans; the large scale development would follow this rezoning request.

Terry Box, a Resident: My father and the family trust own the property directly north of the Mathias property. This does not border the Box property, but the rest of the property that they own does. We want to voice our support of the R-O zoning for this property. We do have some reservations based on some discussions that we have heard in the past, on what they might do with the remaining part that they are not asking to be rezoned right now. There are some that have said they may want to do a higher density residential area there. We would be opposed to that. We think the best use long term is R-O for all the property on Box Avenue.

Alderman Ferrell: There is C-1 and R-O west of you, right?

Terry Box: The east side is Box Avenue, the south side is bounded by the Mathias property, the north side is R-O, half of the west side of the property is C-1, the other half is already R-O. In our opinion the best use in the future would be R-O.

Alderman Reynolds: I talked to Mr. Mathias and he said he was going to leave that R-O.

Alderman Cook: One of my problems was the traffic on Mission and Highway 45. As that cul-de-sac develops over time it is going to create more traffic through there. If they could design a way to connect that cul-de-sac to Vandergriff Drive and create a connection then I would not be concerned about the zoning as far as density.

Terry Box: We discussed that with the Planning Commission in the past. My father would give road right-of-way if a road could be built. The problem would be the engineering, but we are willing to work out something on that.

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

Ordinance 4734 as Recorded in the Office of the City Clerk.

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. ***This item was Left on the Second Reading at the July 19, 2005 City Council meeting.***

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 Ferrell was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: How many units will be on which lift station?

Jeremy Pate: I don't really have an idea exactly how many units, based on the total residential components that we are looking at tonight, all of Mountain Ranch; we are looking at about 1,200 units if they maxed it out. There are three different discharge points that this sewer would go to. I would say roughly a third of this would flow to the west that would be approximately 400 units.

Alderman Jordan: How do the developments match up with our hillside specifications?

Jeremy Pate: At RSF-2 those are half acre lots minimum so those would easily comply with what we are looking at.

Alderman Jordan: What about the intersection in that location.

Ron Petrie: We are currently awaiting final construction plans from the engineers, for the school section. There are two parts to this, one is the intersection itself and the other one is associated with the school, just south of the intersection. We have worked out the details but we are still waiting on the final construction plans. The City Council has approved a cost share for the intersection itself to widen that and allow for a five lane road with a boulevard.

Alderman Jordan: The 400 units would they go to Owl Creek?

Ron Petrie: Both. They would go to Owl Creek first and then Hamestring.

Alderman Jordan: How many more units can we put on Owl Creek?

Ron Petrie: That is the 400 number that we mentioned earlier.

Tom Terminella, Developer: The land mass is such that there are actually three different interceptors that surround that property. Our plans include visiting with City staff. The long term cure for that valley is getting to the Shiloh interceptor to relieve the inceptor lines at Owl Creek and Hamestring. We will cooperate fully. We feel we will be able to work with staff to come up with multiple solutions until the new plan comes on line.

Alderman Jordan: So you don't have a problem with the assessment district then?

Tom Terminella: There are assessment districts from here to Bentonville and we've been able to work with the municipalities and come up with fixes.

Jim Bemis, Resident: Every time I step up here I am going to be talking about the traffic that we have on Wedington, Highway 62, Rupple Road and Persimmon. I am a supporter of Mr. Terminella's project. I am deathly afraid of what is going on at Rupple and Wedington. You can have a perfect development but you aren't going to satisfy me until those roads are planned and on paper. I understand it might be 16 years before Rupple is completed. You are doing exactly out there what you did to College, Lafayette and Maple. I promise you that you will rule the day that you didn't do the planning that you can do now on a flat prairie and pasture land. Please do it.

Charlie Sloan, Land Owner: Cooperation has been 110% with Mr. Terminella. We encourage you to pass this and work with him.

Alderman Jordan: What is your feeling on the assessment district?

Charlie Sloan: We are willing to work with you.

Alderman Thiel: I am very pleased with this on this hillside. I strongly support this aspect of your rezoning request to the R-2 on the hillsides.

Alderman Jordan: I want to thank Mr. Terminella for working with Shirley and myself. I think it is a very good development. I appreciate his patience.

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

Ordinance 4735 as Recorded in the Office of the City Clerk.

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. ***This item was Left on the Second Reading at the July 19, 2005 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4736 as Recorded in the Office of the City Clerk.

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. ***This item was Left on the Second Reading at the July 19, 2005 City Council meeting.***

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4737 as Recorded in the Office of the City Clerk.

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. ***This item was Left on the Second Reading at the July 19, 2005 City Council meeting.***

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 Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4738 as Recorded in the Office of the City Clerk.

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. ***This item was Left on the Second Reading at the July 19, 2005 City Council meeting.***

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 Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.
Alderman Marr: I would like to thank the staff for the consolidated map. To the comments Mr. Bemis made, I think many of us hear you loud and clear and I think that the Street Committee will address that. I hope it doesn't take 16 years to resolve this problem; we certainly will be fighting to make sure it doesn't.

Alderman Lucas: I have known Mr. Terminella for a long time and he promised that he would protect our mountain over there and I think with this development he certainly is going to. I also want to thank Mr. Bemis because he is our conscience and he keeps us on track. It is very important with our school there and the development that is going on in that area that we really watch how we put our streets in and do it in a timely manner.

Mayor Coody: Mr. Terminella, apparently you have won over the Council with your good design and your working with the neighborhood and everyone to make this project well respected. You are setting a good model for other developers to use. Thank you very much.

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

Ordinance 4739 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

King Electrical Contractors, Inc. Change Order: A resolution approving a change order to the contract with King Electrical Contractors, Inc. in the amount of $60,000.00 for electrical utility relocation associated with the Mountain Inn Project; and accepting the promise of East Square Development Company, LLC to reimburse the City of Fayetteville in an amount not to exceed $60,000.00.

Alderman Ferrell: The letter we received from them said they would reimburse the City not to exceed $60,000. If it should get higher what is the process for that.

Kit Williams: It certainly would have to come back to you before any more money can be spent.

Steve Davis, Finance and Internal Services Director: Based on our latest calculation it appears that we will have money left over in the contingency so that we will not be incurring any additional exposure in terms of funding this request nor will we have to ask the developers for any cash, because it is all coming in under that $887,000 cap that was established early on.

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

Resolution 150-05 as Recorded in the Office of the City Clerk

<u>**ANX 05-1580 (Sloan Properties):**</u> An ordinance annexing that property described in Annexation Petition ANX 05-1580 for property located at Hunt Lane, south of Highway 16 East containing 31.59 Acres.

Jeremy Pate gave a brief description of the property. The Planning Commission voted 7-0 to forward this item to the City Council and staff is recommending approval of this request.

Alderman Thiel: The sewer flow will go to the Noland Plant?

Jeremy Pate: Yes.

Alderman Thiel: Are we tracking the Noland Plant capacity still?

Jeremy Pate: In looking at the preliminary numbers for the Noland Plant, I don't believe that any of the actual lift stations are any where near what we are looking at on the west side. We are going to try to get a City wide map together to look at those numbers. It looks like we are under capacity for that area in dry weather flows.

Alderman Thiel: Have you had any concerns about this?

Jeremy Pate: I have not, the only question that came up was there is a small gap, I have not confirmed this, but we do believe that is actually right of way. Not all of these properties are proposing to develop.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

<u>**RZN 05-1581 (Sloan Properties):**</u> An ordinance rezoning that property described in Rezoning Petition RZN 05-1581 for approximately 31.59 acres located at Hunt Lane, south of Highway 16 east from R-A, Residential-Agricultural to RSF-4, Residential Single Family, 4-Units Per Acre.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

R-PZD 05-1555 (Oakbrooke Subdivision): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1555, Oakbrooke Phase II, located west of Rupple Road and east of Bridgeport Phase II, containing approximately 11.5 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

This item was moved to Unfinished Business to follow Oakbrooke Phase I.

VAC 05-1522 (Springwoods): An ordinance approving VAC 05-1522 submitted by Patrick Hargus for property located at Highway 112 and Truckers Drive (The Springwoods Planned Zoning District) vacating a utility easement as indicated in the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: We do have the descriptions and the easements in hand, they are currently getting signed. Jeremy gave a brief description of the property and the easement.

Alderman Thiel: I don't mind vacating this but it would have been nice to wait until we had the other easement located.

Jeremy Pate: The issue is we have an easement in place and if we had constructed the sewer lines in that exact location it would have taken out a lot of very nice mature trees. We have worked with the property owner and our land agents to exchange the easements. This ordinance is subject to those easements being recorded and received by the City.

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 Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4740 as Recorded in the Office of the City Clerk.

<u>**Mt. Sequoyah Street Extension:**</u> A resolution to make an exception to the policy of not extending streets over Mt. Sequoyah.

This resolution was moved to the beginning of the agenda.

<u>**Appointment of Negotiation Team for Farmington Sewer System:**</u> A resolution to appoint a negotiation team to work with Farmington on the issue of accepting Farmington's Sewer System into the Fayetteville Sewer System and issues related thereto.

Alderman Ferrell moved to amend Section 3 of the resolution to state, *the City Council, City of Fayetteville, Arkansas hereby directs the negotiation team that any acceptable agreement with the City of Farmington must insure that Fayetteville resident, business and industrial rate payers will be held harmless by insuring that in town rates will not increase nor otherwise be adversely affected because of any agreement with the City of Farmington.* Alderman Jordan seconded the motion.

Alderman Marr: If we put this in this resolution are we going to bind any negotiation from the other side. It certainly addresses what we are all concerned about but I don't know how we could prove or disprove that any change wasn't a result of that as it related to cost or maintenance. Those are my concerns because I completely agree with Alderman Ferrell.

Alderman Ferrell: I think Section A of the resolution addresses that.

Mayor Coody: Kit, what is your take on this? What do you think about any kind of negotiating problems with this?

Kit Williams: I think these are really policy decisions that the City Council is making. This whole negotiation does raise many issues.

Alderman Cook: Direction is what we need and I think that is why we brought this resolution forward. It is a policy decision.

Steve Davis: The whole point of bringing this forward is to provide assurance not only to us the negotiating team but also to the City of Farmington that the Fayetteville City Council is interested in seeing what can come out of this negotiation. Right now we are faced with the need to comply with our Federal permit to split the flows of our system so that the wastewater that is generated in the west and flows to the west plant we can't do that without dealing with Farmington in some fashion. Farmington has a contract with us that runs through March, 2009 that if we fail to get a resolution to the existing contract we will have to deal with their waste flow to Noland until 2009. If we do not have an agreement to take over their system we will have to negotiate an operating contract. Our existing operating contract with Farmington and Greenland does not contain any flow limitations at all. If we are concerned about the loading at the Noland Plant then we need to negotiate a new contract.

Alderman Jordan: This has been a concern of mine and at first I was not thrilled about taking over Farmington's wastewater treatment problems. The thing that I came to a conclusion on is right now there is a moratorium in that City, if somehow that moratorium is lifted and they decided to grow, we have to basically serve that City. We would have no control over what they do at all.

Mayor Coody: There would be impact fees and there would be things like that so that if it did grow rapidly at least we would get the money back in the treasury to some infrastructure work.

Alderman Jordan: I understand that but the point is this, under the present contract if the moratorium is lifted we would get no impact fees and we would still have to service whatever they grow to.

Kit Williams: That is correct. The moratorium is because they have already reached the capacity of their lift station and they do not have the money to expand their lift station. It is their requirement under the current contract to expand their capacity in their lift station not Fayetteville's. If we take over their system and we assume responsibility then one of the issues is do we have to then increase their capacity in their lift station allowing them to expand at whatever rate they would like. That is something that concerns me and that I would like to get the feel of the City Council about and their input on that.

Mayor Coody: Whatever the negotiating team comes up with is going to have to be approved by the City Council.

Alderman Jordan: Another concern of mine is if a developer comes along and he takes care of that lift station and that moratorium is lifted where are we then under the current contract?

Mayor Coody: We would be handling the extra flow.

Alderman Jordan: That's exactly right.

Alderman Ferrell: It would seem like to me during negotiation we certainly need to address that.

Upon roll call the motion passed unanimously.

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

Resolution 151-05 as Recorded in the Office of the City Clerk

<u>**Solid Waste and Recycling Services-City of Elkins:**</u> A resolution authorizing City staff to enter into negotiations with the City of Elkins, Arkansas to provide Solid Waste & Recycling Services to the City of Elkins, Arkansas.

Gary Dumas, Director of Operations: We have three options on the purchase of carts, either the City of Elkins will purchase them, their residents will purchase them or we can give them the opportunity to buy the carts over a period of six months with the billing done by the City of Elkins.

Mayor Coody: This is just to negotiate; this is not approving anything correct.

Gary Dumas: Right. All we are doing is setting the parameters. Essentially the negotiation is our rate structure plus this.

Alderman Reynolds: Gary, I am glad you did what you did on this. I think those people will be more responsible if they have to buy their carts. I didn't think it was right for the Fayetteville taxpayers to buy cart for another City.

Alderman Thiel: We have been told that residential solid waste and recycling does not pay for itself that the commercial side basically subsidizes the residential side. Is that still a safe assessment?

Gary Dumas: It is a safe assessment that recycling does not pay for itself. The only option for carts is 64 and 96 for the City of Elkins because those two sizes adequately cover the cost for the garage, recycling and yard waste services.

Alderman Thiel: We are going to provide them with recycling bins.

Gary Dumas: Yes, and we charge them for those bins also.

Alderman Thiel: The combination of solid waste and recycling, does that pay for itself?

Gary Dumas: If you exclude the 32 gallon cart size, yes.

Alderman Thiel: Because we are dealing with another city we are also looking at a cost benefit to the citizens of Fayetteville and also a benefit to the City of Elkins because they would be encouraged to recycle. I understand that the Elkins representatives are under the impression that we will be charging the same rate that we are for our citizens, is that correct? Is there going to be a cost to the citizens of Fayetteville to do this in our solid waste program?

Gary Dumas: No, it will make the system money.

Alderman Thiel: Because of the commercial part that we will be taking over?

Gary Dumas: Yes, and because we are not offering the 32 gallon cart size. That size cart does not pay for the service that is provided.

Alderman Cook: I would like to have more information, a spread sheet that proves that this is a cost effective thing to do, a number analysis.

Alderman Reynolds: If we do this, I would like for us to get the cost separately and in six months revisit this and see if it is feasible to the citizens of Fayetteville.

Gary Dumas: Certainly.

Alderman Lucas: Will everyone in Elkins use this system?

Gary Dumas: Everyone will be using the system. They can choose whether or not to recycle but they will be charged for the recycling service.

Alderman Ferrell: Can we amend this resolution as we did with the City of Farmington.

Alderman Ferrell moved to amend the resolution to state, Alderman Ferrell moved to add Section 2 to the resolution to state, *the City Council, City of Fayetteville, Arkansas hereby directs the negotiation team that any acceptable agreement with the City of Elkins must insure that Fayetteville resident, business and industrial rate payers will be held harmless by insuring that in town rates will not increase nor otherwise be adversely affected because of any agreement with the City of Elkins.* Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr: I want to thank the Mayor and staff for bringing forward opportunities that allow us to leverage expense basis and be rate neutral to the citizens of Fayetteville. I am not going to support this because I philosophically have a concern that I don't think we should be in the trash hauling business. I think we are a municipality that provides core services for our City. When we begin to take our model outside of our City limits then we are becoming a business. I think it is private businesses responsibility to provide services in the market. Elkins came to us to create a new competitor in the market. I have a hard time about our management issues, timing issues and taking things away from the services that we do. There are a lot of other things we need to be focusing on right now. It's not that I think it is a bad concept, it's that I philosophically disagree with it.

Mayor Coody: When did Elkins come to us?

Gary Dumas: It must have been four or five months ago.

Mayor Coody: Their rational for coming to us was what?

Gary Dumas: Their contract was expiring with their current provider and they wanted an alternative.

Mayor Coody: Basically if there is no competition that's not a very good example of free market enterprise. But, introducing competition into this does further the free market approach. We would be providing that competition if we could be competitive and they so choose to use us.

Alderman Thiel: I tend to agree with Alderman Marr. However, there are a lot of people that are very supportive of recycling because our land fill is filling up. I don't know if their commercial business that they are dealing with is going to have any incentive what so ever to recycle. With us only offering only two carts there still is and incentive to recycle.

Alderman Thiel moved to table the resolution to the August 16, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled until the August 16, 2005 City Council meeting.

Cross, Gunter, Witherspoon & Galchus P.C. Change Order: A resolution to approve an amendment to the contract for professional services with Cross, Gunter, Witherspoon & Galchus, P.C. in an amount not to exceed $50,000.00 to continue representation of the City in the Peter T. Reagan, ET. AL. v. City of Fayetteville lawsuit; and approving a Budget Adjustment.

Kit Williams gave a brief description of the case. He stated they are working together but have not resolved the issue.

Alderman Thiel: Do you feel this is going to cost us more than this. Do we have any idea where this is going to end and what the cost to the City will be?

Kit Williams: At this point we really don't know what the final cost to the City will be. There are still some major disagreements between us and the attorneys representing the firefighter's plaintiffs. We are trying to resolve that.

Alderman Ferrell: How much of the $20,000 have we spent so far?

Michele Bechhold, Human Resources Director: We have actually paid almost all of that $20,000 and we have not paid the June bill yet. This $50,000 is based on if we settle the lawsuit and move forward in a supervised settlement.

Alderman Marr: Did the law firm give time estimates relating to the rate per hour charges by each attorney?

Michele Beachhold: There is not a specific time estimate. I do have the rates and we are receiving a 10% discount on the rates and they are not charging us for travel. I do not have a specific number of hours that they estimated per individual on the case.

Alderman Marr: How did they give you this $50,000 target?

Michele Bechhold: That is a number that I estimated. If they don't bill us that much, those funds will not be expended.

Alderman Marr moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 152-05 as Recorded in the Office of the City Clerk

Trail Construction Program Staffing Addition: A resolution authorizing the Transportation Division to hire Nine (9) additional full-time employees (Trail Prep and Trail Concrete Crews); and approving a Budget Adjustment in the amount of $267,936.00 to implement an In-House Trail Construction Program.

Gary Dumas gave a brief description of this proposal.

Alderman Jordan: What does the CIP Sales Tax Reserve do?

Steve Davis: It is the monies that are left over from projects that have been completed or additional revenues that come in that have not been programmed for a project from sales tax or interest earnings in prior years. The Reserve Account is basically money the City retains in case a project runs more than we originally expected in the planning process or if a project comes up that wasn't programmed.

Alderman Jordan: We could use it for an emergency situation like a street or a bridge?

Steve Davis: Only if it was a capital related emergency.

Alderman Jordan: I do have a problem with it coming out of that reserve. Is there any other place that money could come from?

Steve Davis: Yes. We could get it form interest income.

Alderman Rhoads: If we didn't use the money for this what could we use it for?

Steve Davis: Any capital project the City has.

Alderman Rhoads: Are there any other projects that had any merit?

Steve Davis: I don't believe we examined other capital projects.

Alderman Thiel: Will the balance of this come form the Parks Development Fund. How does this affect their CIP project?

Gary Dumas: In the proposal that you have before you there is no Parks Development Funds used in future years. It is a Council decision on how you use HMR funds in the future.

A discussion followed on the funds and where they will come from to fund this resolution in the future.

Alderman Thiel: I am not opposed to being more aggressive in our trails program. I am concerned about hiring nine people for eight years.

A discussion followed on the amount of money that has been spent in the past through subcontracting this service out and the advantage to bringing this in house.

Gary Dumas stated we would get more trails for the money with this brought in house.

A discussion followed on the trail system, the paving of the trails, the equipment used in building the trails and what is planned for Ward 1 and Ward 4 as far as trails is concerned. A discussion also followed on the cost per foot to build these trails in the past and the future.

Alderman Cook suggested we state a dedicated amount to trails each year. My issue with this is the funding for this and the other costs that are not included in this. I am very supportive of trails.

Alderman Lucas: I am concerned about sustaining this program and where the funds will come from. I would feel more comfortable if we saw this at budget time so that we could see the entire picture.

A discussion followed on the timing of this.

Mayor Coody said we stated the trail program as it is right now is not meeting any serious goal. He said we are not making the kind of progress on trails that he anticipated that we would and he asked the staff to come up with a program to match the success rate that we have had with the sidewalks, street paving and curb and gutter.

Alderman Marr: I strongly support the trails program. I believe trails provide a quality of life. It is my opinion the trails system is an infrastructure that is missing and needs to be added. I believe we need to do this and I believe that we need to do it tonight: It is not my vision to have a trail that is just a flat piece of asphalt, that doesn't have benches and trash cans and things like that on it.

William Alder voiced his support for the trails system.

Jessie Thomas voiced his support for the trails system.

Alderman Lucas: Although I am concerned about using the reserve funds, I think we need to do this now.

Alderman Jordan: I think this is important for people that have health problems. I think this plan will provide alternate transportation and will be an economic engine for this City and most progressive cities have a program like this. This is a leap of faith that I am willing to take so I will support this program.

Alderman Marr moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 6-2. Alderman Lucas, Jordan, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell and Reynolds voting no.

Resolution 153-05 as Recorded in the Office of the City Clerk

Economic Development Fund Grant: A resolution approving an Economic Development Fund Grant in the amount of $54,000.00 to the Northwest Arkansas Aviation Technology Center at the Fayetteville Municipal Airport to Facilitate National Accreditation; and approving a budget adjustment.

Kit Williams: Basically this is not just a grant that the City is proposing here but it is an agreement to purchase services from the Northwest Arkansas Aviation Technology Center.

Ray Boudreaux, Airport Director: This is an opportunity to keep that school viable for the future. The need for these professionals will be more and more every day?

Alderman Thiel: This is for rent and utilities for one year. Do you feel confident this will be the last time that you ask for funding?

Mike Kratchner, NWA Aviation Technology Center: I believe so.

Alderman Thiel: My concern with this is not the viability of the technology center. My concern is funding this from the Economic Development Fund. I would rather see these funds come from the Airport Fund.

Mayor Coody: We have two options if we want to see the Airport Fund break even and not be a drain on the General Fund then this would need to come from the Economic Development Fund.

Alderman Ferrell voiced his support of the school.

Alderman Ferrell moved to amend the resolution to remove the word grant from the resolution and replace it with the word agreement. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel moved to amend the resolution to have the funds to come from the Airport Fund. Alderman Marr seconded the motion. Upon roll call the motion passed 7-1. Alderman Ferrell, Lucas, Jordan, Thiel, Cook, Marr and Rhoads voting yes. Alderman Reynolds voting no.

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

Resolution 154-05 as Recorded in the Office of the City Clerk

<u>APAC-Arkansas, Inc. Contract Approval:</u> A resolution awarding a construction contract to APA-Arkansas, Inc., McClinton Anchor Division in the amount of $1,165,206.00 and approving a change order reducing the contract amount by $486,923.00, to construct the west general aviation apron; approving a 5% project contingency of $29,130.00; and accepting grants from the FAA and Arkansas Department of Aeronautics.

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

Resolution 155-05 as Recorded in the Office of the City Clerk

<u>Mally Wagon Road Sewer Service:</u> A resolution to allow extension of sewer service outside the City's corporate limits on a 25 acre parcel on Mally Wagon Road less than a quarter mile from the city limits.

Crystal Geodereis with J.B. Hays Investments gave a brief description of her proposed project. She stated she would like to provide affordable housing on the property that she is requesting sewer extended to. She stated that even though this property is outside the city limits it will be developed to City standards. She asked this to be tabled until the next meeting so that she might get with planning regarding some questions they have with the project.

Alderman Lucas: Have you talked about being annexed into the city?

Crystal Geodereis: We were concerned about where the annexations were going. This area would have been annexed had the annexations not been tabled last year. It was apparent that maybe there was an issue with annexations so we decided to take this route. This needs to be done and if it is going to be done it needs to be done right.

Alderman Cook: It is City ordinance that we don't provide sewer service outside the city limits. It's not just a discussion about whether we want to provide service to this development, it is a policy decision that we would be changing in the City.

Kit Williams: It says within our ordinance that the City sewer system shall not be extended outside the City's corporate limits except on express approval of the City Council. That has not happened much before but they do have the right to do this.

Alderman Thiel: As long as this development goes through the Planning Commission and the process that something in the City would. This might be an interesting policy decision by the Council and maybe a good one, as long as we have adequate space in our treatment plant.

Alderman Marr moved to table the resolution to the September 6, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled until the August 16, 2005 City Council meeting.

<u>**Legacy Building Site Easement:**</u> A resolution to convey a twenty foot easement for access and to restrict construction of structures around the proposed Legacy building on the site of the demolished Shulertown Market building.

Alderman Rhoads: I was asked to bring forward this resolution. I think there is an amendment to it since agenda session.

He gave a brief description of the resolution.

Alderman Marr: We have not had any negative calls about this in Ward 2. We support this change. The design if it is very much in line with what type of development we want to see with our Downtown Master Plan.

Mayor Coody: It is a phenomenal design and we wish you well on the project.

Alderman Reynolds moved to amend the resolution to add a Section 3 to match the resolution that was handed out at the City Council meeting. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

Alderman Lucas: This is an easement that we are giving to someone, if they bought it how much would it cost?

Kit Williams: Basically they really are buying it.

Alderman Lucas: I know they are giving us office space. What is the dollar value of this easement?

Kit Williams: It is very difficult to determine that because this is a parking lot and it is very unlikely that the City would build something on this parking lot.

Mayor Coody asked shall the resolution pass. Upon roll call the resolution passed unanimously. (There was no motion and no second on the resolution)

Resolution 156-05 as Recorded in the Office of the City Clerk

<u>**Razorback Road Utility Relocation:**</u> A resolution to approve the Arkansas State Highway Commission's highway utility construction/relocation agreement for the widening of Razorback Road in the amount of $233,846.80 and approving a budget adjustment in the amount of $1,451,347.00.

Paul Libertini, Engineering gave a brief description of the resolution. The correct numbers are $233,846.80 and the budget adjust is $1,451,347.00.

Alderman Jordan moved to amend the resolution to the amount that was stated. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 157-05 as Recorded in the Office of the City Clerk

Wedington Drive Utility Relocation: A resolution to approve the Arkansas State Highway Commission's highway utility construction/relocation agreement for the widening of Wedington Drive from Rupple Road to Double Springs Road in the approximate amount of $1,022,538.93 and approving a budget adjustment in the amount of $1,754,694.00.

Paul Libertini gave a brief description of the resolution. The correct numbers are $1,022,538.93 and the budget adjustment is $1,754,694.00.

Alderman Jordan moved to amend the resolution to the amount that was stated. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 157-05 as Recorded in the Office of the City Clerk

PUBLIC HEARING:

Raze and Removal of Structure on 2016 W. Stone St.: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Paul Brickman located at 2016 W. Stone Street in the City of Fayetteville, Arkansas.

Chad Ball, Code Compliance Administrator gave a brief description of the property.

Mayor Coody: The appropriate letters have been sent out over the past few months.

Chad Ball: Yes

Alderman Thiel: He still has 90 days to this on his own?

Chad Ball: Yes. If you approve this resolution, we will post the resolution for 30 days, send a final notice letter informing him that we will begin our process of raze and removal in 30 days. The removal process itself takes about 30 days.

Mayor Coody: Mr. Brickman how can we resolve this?

Paul Brickman, Owner: This house is in pretty bad condition. I bought it in a tax sale less than a year ago. If I put money into it and the old owner comes back on me, state law says I don't get a dime until after two years. I am willing to move forward right now and rebuild it. Today, I submitted a building permit application to do that.

Chad Ball: Upon approval of the Building Safety Director's approval of the permit then we back out and with his approval they do whatever they need to do to make the necessary repairs.

Alderman Marr: One of the things that concerns me is properties in this condition are the kind of properties we want cleaned up and not in our City. Sometimes when people file for a permit to stop this process months go by before work is done which doesn't alleviate the problem. What kind of protection does the citizens and this Council have that if Mr. Brickman has filed this permit that there is going to be continual work to get this done.

Chad Ball: I would defer the official answer to the Building Safety Director but they usually want a time table and if the time table for the first permit is not met we go on with our process.

Mayor Coody: So if we approve this tonight it will be in the process but there will be some working with Mr. Brickman from the Building Safety Department.

Chad Ball: Yes we will continue to work with Mr. Brickman.

Alderman Reynolds: Mayor, I am in favor of this resolution to keep the ball rolling.

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

Resolution 159-05 as Recorded in the Office of the City Clerk

Meeting Adjourned at 10:15 PM.

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk