

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
August 16, 2005**

A meeting of the Fayetteville City Council was held on August 16, 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 Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Reynolds

Pledge of Allegiance

CONSENT:

Approval of the August 2, 2005 City Council Meeting Minutes.

Pulled from the agenda.

Survey & Research Center Proposal Approval: A resolution approving a proposal from the Survey Research Center (SRC) at the University of Arkansas in the amount of \$29,312.05 with a not-to-exceed cost of \$30,000.00 for the development and implementation of a citizen survey; and approving a budget adjustment in the amount of \$5,000.00.

Resolution 160-05 as Recorded in the Office of the City Clerk.

Broker of Record/Benefits Consulting Services Contract: A resolution approving an agreement with Hoffman-Henry Insurance in the amount of \$19,500.00 to provide broker of Record/Benefits Consulting Services for 2005-2006 with four 1-year renewal options.

Resolution 161-05 as Recorded in the Office of the City Clerk.

Clela B. Stroud Water Agreement: A resolution to approve an agreement with the Clela B. Stroud Trust in which the City agrees to provide adequate domestic water to the trust land and the trust agrees to pay the City \$40,000.00 as its cost share and remove a reversion clause in the land upon which the City's water tank is located.

Resolution 162-05 as Recorded in the Office of the City Clerk.

WL-4 Easement Purchase: A resolution approving a lump sum allocation in the amount of \$457,750.00 for the purchase of easements required for the construction of Gravity Sewer Lines from the Gregg Avenue Lift Station to the New Hamestring Lift Station/Wastewater System Improvements Project (WSIP) WL-4; and approving a 10% contingency in the amount of \$45,775.00.

Resolution 163-05 as Recorded in the Office of the City Clerk.

Botanical Gardens Grant Request to Arkansas Parks & Tourism: A resolution authorizing the Fayetteville Parks and Recreation Division in conjunction with the Botanical Garden Society of the Ozarks to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in the amount of two hundred fifty thousand dollars (\$250,000.00) for the construction of Phase 1A of the Botanical Gardens.

Resolution 164-05 as Recorded in the Office of the City Clerk.

Federal Aviation Administration Grant Acceptance: A resolution authorizing the Fayetteville Municipal Airport staff to accept a grant in the amount of \$116,605.00 from the Federal Aviation Administration and the Arkansas Department of Aeronautics to fund an Airport Master Plan update.

Resolution 165-05 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda with the August 2, 2005 City Council minutes removed. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

UNFINISHED BUSINESS:

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. This item was tabled at the August 2, 2005 City Council meeting until the August 16, 2005 City Council Meeting.*

Alderman Marr moved to table the appeal until the September 6, 2005 City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

This appeal was tabled to the September 6, 2005 City Council meeting.

R-PZD 05-1463 (Oakbrooke Subdivision): 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. *This item was left on the first reading at the July 19, 2005 City Council meeting. This item was left on the second reading at 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 7-0. Alderman Reynolds was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning: I believe there have been a couple of meetings since the last Council meeting. The applicant has a presentation as well to present some of the hopefully compromises between the neighborhood and this development.

Tracy Hoskins, Paradigm Development: We brought a presentation to present to you after the public comment tonight. We are here to answer any questions that you might have.

Karen Stewart, a Citizen: I have the property just north of this development and we have had communication problems with this development since April 13. I think there are some things that have not been addressed. I would love to support this, but I feel like the developer has not given a Bill of Assurance and that we can bank on his word. I also feel that the engineers have not properly addressed the detention pond that exists and how that is going to affect the Hamestring Creek and the gully that runs just north of there. Also, some of the neighbors, the Fetner's and also the Berry's that live on Ruppel Road next to this property told me that they would like to have had some kind of a privacy fence. A large scale development is what a PZD is adhered to and sometimes in a large scale development, fences are allowed.

Also in one of the other statements in his covenants that he presented yesterday, said that no privacy fence shall be over four feet tall, yet in his covenants he also suggests that RV's, boats and things like that should be screened with a privacy fence. Well I don't think a four foot privacy fence is going to cover much of an RV or a boat. I would like to see that part of it be changed to an eight foot privacy fence just around the perimeter or for the screening, the other parts are fine.

Also at the other meetings I have not spoken and addressed access. There are two access roads into this development. Both of the accesses to the north are less than 300 feet apart that is redundant to me, if we can't have an access to the northern part of the property. New Bridge

Road, which will run to the north of this property, will be extended when Ruppel Road is extended and that will extend that road at least 200 feet to 300 feet. That means that from where the proposed new Ruppel Road will be, to the first entrance it will be over a 1000 feet. To have two accesses to the north property that are less than 300 feet and none for the next 1000 feet is redundant. If you are not going to give us an access there, don't give us the second one either. If you look at your maps you can see that on the maps.

Alderman Ferrell: Did you tell me that you were going to develop some property.

Karen Stewart: No we are not now.

Alderman Ferrell: You were thinking about it though?

Karen Stewart: We were thinking about it but there's only 400 units left on the Hamstring lift station, after all that's in the works go through, there will be only 400 flushes left. Also, I think that the traffic on Ruppel Road, especially after we get Oakbrooke and then also Bellwood and then we have another one going in on the east side of Ruppel. I think that the infrastructure needs to be fixed first. I would appeal to the Planning Board to slow down and wait, make these families that you want to move into town take up residency in some of the smaller homes in the downtown area and make those downtown areas vital again, if they are only rent houses. I have heard there is not affordable housing, there is a lot of affordable housing out there. My friend who just moved into town, lives on the other side of Bridgeport, they paid \$150,000 for their home. Now days that's affordable housing.

Tom Fetner, Bridgeport Resident: I am here as the spokesperson for some of the residents of that subdivision. We have had numerous discussions with the developer and we have a list of concerns. We have three items that we would like to see addressed in the covenants. He did that, he sent a copy to the City Clerk, however I don't believe that is a part of the ordinance that you have. We would like to see the ordinance amended to include those new covenants and then I think that we are okay with the development. We do still have concerns about the infrastructure of Ruppel Road, the intersection of Ruppel and Mount Comfort and the traffic coming through Bridgeport as a result of those areas not being able to handle the traffic that this will generate.

Mayor Coody: Jeremy, how would we incorporate these if the petitioner is willing to do these three conditions?

Jeremy Pate: I believe the best way instead is not incorporating an entire covenant, which it is extremely hard for the City to enforce covenants, but to incorporate those specific conditions. The Planning Commission voted to have specific conditions of approval; these would be simply amendments to those conditions to add them as conditions of approval for this project. But it would need to be an official amendment to the actual ordinance that is presented before you tonight.

Mayor Coody: Mr. Hoskins, I know that when I spoke with you earlier, just to make sure you knew these conditions were being floated, to make sure you knew you about this. One of the things on Condition #3 was that where they were talking about a Club House you said that you

may want to build houses there. I didn't know if that was communicated or if that's your plan but I wanted that stated. Is the Club House satisfactory with you?

Tracy Hoskins: On lots 52, 53 and 54 in Oakbrooke Phase II that we were reserving for the Club House or Club House amenities, etc. we would also like to reserve the right to be able to put houses on them as well, just as the surrounding houses. We were just trying to reserve those three lots in an effort to do a Club House situation, where one of the kids could walk down the street and buy a candy bar or a soda pop or what have you. Just a neighborhood amenity for Oakbrooke and Bridgeport or Bellwood or the subdivision to the south of us, etc. Just kind of a little community where you can go and pick up a few little things. We don't have any intention of any strip centers or any gas stations or McDonalds or anything like that in this location.

Mayor Coody: Mr. Fetner, instead of just a Club House if that were also used for homes would that fall within the perimeters that you would like to see or is there a reason that you would prefer the Club House instead?

Tom Fetner: Yes sir, I think that we would agree with that. Our concern was that it seemed to be loosely written, the way the PZD had the different uses in there, we just didn't want to see a gas station or a strip mall, a 7-11 or what have you. If there were going to be houses in there that would be acceptable to us. If it was a Club House with a snack bar and a little souvenir stand, that would be okay. We just do not want a strictly commercial enterprise there.

Mayor Coody: So if the language in #3 were to read lots 52-54 to be designated for Club House use only or for homes would that be acceptable?

Tom Fetner: Yes sir that would be acceptable.

Mayor Coody: This is from the neighborhood; they sent it to me and the Council. The three conditions and I will read these for the benefit of everyone are, Condition #1, the homes are to be a minimum of 1,400 square feet of heated and cooled space to be compatible with the established neighborhood, Condition #2, attached homes on lots 56-73 only. All other lots shall be single family detached homes. Condition #3, lots 52-54 to be designed for Club House use only or for homes. The Club House will be allowed to sell food and neighborhood related items. Those are the three requests the neighbors have made and I understand that the petitioner has agreed to these. Is that true?

Tracy Hoskins: Sure.

Alderman Lucas: Jeremy, the Club House that sells candy bars and stuff how is that going to be designated, because if in five years or something they want to let someone come in and have a concession stand, they lease it out to someone. I don't think that's what they are in favor of. Are they going to be allowed to do that?

Jeremy Pate: If the Council restricts it to a Club House only and with this specific language and the conditions that the Mayor read, I would think that's the only thing that Planning Staff would be able to permit.

Alderman Lucas: But, it could be leased out to someone to manage?

Jeremy Pate: It could, yes madam. Just like a home could be leased or rented.

Alderman Lucas: A concession stand or a convenience store could be leased out in that space?

Jeremy Pate: Correct. That existing home is larger, I am not sure how large it is, but it is a different character, it wouldn't really fit in with the neighborhood as it is currently constructed. It also has a pool which could potentially be utilized for the neighborhood. So, I think capitalizing on those existing resources is something that the developer was looking to do. Originally they had included some neighborhood shopping and some eating places to expand some of those uses, but it is my understanding that if the amendment takes place those would be removed. It will simply be a Club House, so we will anticipate snack shops and things of that nature.

Virgil Neuroth, Fayetteville Chamber of Commerce: I just want to give some numbers that we obtained today on housing in Fayetteville. These are compiled from real estate transfers for the second quarter of this year. There were 390 transfers and the average cost of the transfer, or the value of the house was \$204,555. A year ago the same quarter the average transfer for 336 homes was \$194,891. In all of Washington County there were 911 transfers in the second quarter of this year with a value of \$183,470. Last year the average was \$158,142. Those are just some numbers that you might be interested in of the housing cost in Fayetteville.

Alderman Lucas: Property is going up.

Alderman Jordan: Jeremy, let's talk about the units on Hamestring lift station. At the last Council meeting we were told that there was about 430 left.

Jeremy Pate: I believe that is correct.

Alderman Jordan: Has this development been included in this 430 count?

Jeremy Pate: It was not and that is something that we do want to bring to the Council's attention. Tim Conklin and I discussed this afternoon that we believe it should be included in part of that assessment.

Tim Conklin, Planning and Development Management Director: At the last Water and Sewer Committee we did discuss that we have been monitoring the Hamestring lift station for the last several years. Last May we presented to the Water and Sewer Committee that an interim measure most likely would have to occur between the opening of the West Side Treatment Plant, lift stations and line work completion. This past July, RJN Associates did update the model and re-calibrate it. Initially as we were counting off units that were approved by the Planning Commission, we looked at large scale developments and subdivisions, we anticipated around 1,200, and the report did come back at 435 units. Oakbrooke was not included within the RJN report; there are 109 units in this development. We've had two meetings with the developers that we have identified out in west Fayetteville. We've discussed this with them and intend to bring to the City Council on September 6 a recommendation for some type of development assessment, impact fee or method of looking at how to expand capacity in the interim. At the last Water and Sewer Committee they gave the go ahead to amend RJN's contract to look at some preliminary design engineering solutions that will be under way. With regard to

Oakbrooke, this evening you do have the option to amend this ordinance to potentially add a condition that at the time of final plat, whatever is determined to be an assessment within the basin, potentially could be charged. We don't have a number this evening; we have indicated that in the last two meetings with the development community. That is something that you should consider. The developer was just informed of this late this afternoon. Basically we have 435 units and this is 109. That is kind of where we are at with regard to the Hamestring lift station basin. There are solutions out there; the other solution is there is the potential for them to fund and build lift stations and force mains to serve their individual developments. It's very common for that to be completed where they could pump back to the Noland Plant and bypass Owl Creek and Hamestring. That's where we are at this evening.

Alderman Jordan: This development is about 109 units.

Tim Conklin: That's correct.

Alderman Jordan: On Ruppel Road how many trips a day would that be?

Tim Conklin: It would be 1,090, ten trips per house.

Alderman Jordan: How wide is that road there Tim?

Tim Conklin: I don't have that number. We can find out for you.

Alderman Lucas: Tim said 109 units; explain to me how you came up with that? On the first Phase it is 58 single and 30 attached lots or units?

Jeremy Pate: They are the same in this case; every unit is on a separate lot. So the number of lots equals the same amount of units.

Alderman Lucas: It says that you can have two or three attached units.

Jeremy Pate: Correct, but if there were three they would be on three lots.

Alderman Lucas: So we really don't know how many attached we are going to have since they can be two or three?

Jeremy Pate: This is assuming the amendments occurs, on lots 56-73 would be allowed to have attached units and on 56, 57 and 58 you could have three attached units. The number of units corresponds exactly to the number of lots.

Alderman Lucas: In the first phase how many units do we have?

Jeremy Pate: Phase I has 68 lots and that means 68 units. Some of those are attached and some are detached and Phase II has 41. There are 110 lots total, lot 110 is where the tree preservation area and detention is.

Alderman Ferrell: What was the last subdivision to be approved in this area that is being served by these lift stations?

Jeremy Pate: Likely it was either the Clabber Creek Subdivision or Bellwood which is directly south of this property.

Alderman Ferrell: Neither one of those were asked to contribute?

Jeremy Pate: No, those were actually reflected in the 435 unit number that we have left, so all the approved subdivisions by the Planning Commission up to the cut off date when we submitted were included in those numbers. That does include Bellwood to the south, Bridgeport Phases 7 and 8 to the north and the Springwoods Subdivision that were approved. There were several in this report that were actually included in that.

Alderman Ferrell: Some of them just very recently?

Jeremy Pate: Actually we have seen very recently more growth on the east side and south east. So we haven't really seen as much recently.

Alderman Ferrell: One of the reasons that I kind of like this is the diversity of the proposed buildings and the cost of them. There is the possibility for some people to get into some homes. It seems to me like the developer has tried very hard to comply with the wishes of the people that are living around there. I understand that we are moving forward with the problem on our sewer, working out some kind of a scheme to get people to contribute because we are in that situation.

Mr. Hoskins, I understand you were just asked today about this new charge. What is your take on that?

Tracy Hoskins: Well, I actually was notified about 15 minutes before this meeting of this proposition. Tim and I spoke a few days ago about the overall notion of an assessment district for improvement of the wastewater situation on the west side of town. Of course, I support that as well, I think it is something that probably needs to be done and I think a lot of the developers would rather contribute to that than have their projects put off for who knows how long. I am a little surprised and I have asked what the assessment would be and there are no numbers to that yet. It's not an ordinance yet and we have capacity. I would have assumed, I don't know when they ordered this report, but I think Oakbrooke was well on its way of coming through the system. I would have assumed that Oakbrooke would have potentially been involved in those numbers. So, I was a little bit surprised, I also have not had a whole lot of time to digest it actually.

Alderman Ferrell: I guess my thought on the deal was that since you had agreed to the three stipulations or amendments. I am just trying to figure out if it is possible to move this along, how we could do that. He doesn't know what the cost would be to him.

Mayor Coody: I don't think anyone knows right now what the cost would be, although it would be kept as reasonable as possible. There has been an on going discussion with a lot of the development community to try to resolve these wastewater issues as quickly and as amicability as possible. I think everyone wants to contribute rather than to see everything shut down.

Alderman Ferrell: I understand that. But if you or I were doing it just like him, I don't think we would want to sign anything carte blanche, not knowing what it would be.

Mayor Coody: I understand that.

Alderman Thiel: It hasn't been that long ago that we passed a resolution on this Council that if the treatment plant, whenever we continue to annex and approve rezoning's on the west side that if we reached capacity before our plant was built they just basically would not be able to build. So we are offering these developers the ability to build at this point if they make it possible for them to build. Otherwise they just will not have that ability. I don't understand what the concern is. He may obviously and some of the future developers out there may have cost that they will have to pass on but it's either that or not build there. We can't go beyond and not be able to serve the people that are already on sewer in the City of Fayetteville. That's been the concern about all these annexations out west all along. That's just an understanding whenever the developers come in, that they are dealing with an area that is basically adding on to the capacity of our treatment plant.

Alderman Ferrell: I think he fully understands that. I was just trying to figure out a way to perhaps move it along. Like I said I can't blame him because he doesn't know.

David Jurgens, Water and Sewer Maintenance Superintendent: We had a couple of meetings with the developers in the area and what we are doing right now is we have underway an evaluation of short term, mid term and long term circumstances and ways that we can provide adequate capacity on the west side of town. We have been working with the developer and talking about several different funding options for that and we are still evaluating what those funding options are. In a parallel tract we are evaluating what those capacity physical improvements may be. There are three or four different alternatives out there that we are looking at. We have already got a contract in place with the RJN Group that has done most of the other modeling in the west part of town. So there are simultaneous actions of looking at the different methods of funding and the wastewater improvements that might be needed in the short term until the plant comes on line. There are also the engineering evaluations of what type of improvements there could be both short term and that would serve the long term needs as well in the same part of town. We have been making good progress, they are not super fast solutions but we are trying to make sure we have well thought out solutions so that everything that we can possibly do will last a long time and will be a forever improvement will be done that way. We want to think through anything that would be a short term needed improvement, that we do the minimum possible to accomplish the short term needs as well.

Mayor Coody: What has been the perspective of the development community folks that you have dealt with?

David Jurgens: They have been very positive in working with the city staff in trying to figure out the solutions.

Alderman Cook: What is the time frame of when we might have a figure together if we go this assessment route?

David Jurgens: In the plan that we presented to the Water and Sewer Committee two months ago we were looking at trying to have the funding mechanism and the temporary solution identified by the September 6, 2005 meeting and we are still aiming towards that goal.

Mayor Coody: Mr. Hoskins what is your take on the assessment district? We have been talking to a lot of the big developers out there and they seem to be recognizing the benefit to doing this. Is this something you would be relatively comfortable getting into?

Tracy Hoskins: Of course I don't think any developer likes to sign up for something that he doesn't know what the cost is. Do I understand that there is not capacity at this time for this subdivision?

Mayor Coody: No there would be, but it is going to be limited. Basically from what I understand an assessment district would as we start to use up these remaining 300 lots would put a mechanism in place to where we could and you could continue to do your work and still have capacity issues taken care of for the short term while we get the sewer system built.

Tracy Hoskins: Again like I said, I told Tim several days ago that I was definitely in support of an improvement district, whatever kept things rolling. I would hate to see a moratorium. I am not opposed to contributing to it; I am a little uncomfortable not knowing what the price will be. In this particular development with the saving of all the trees we have done quite a few things in this development that are costing us some money but if it is something we need to do to get this approved that's fine.

Ginny Masullo, Ruppel Road Resident: I am aware of a lot of the traffic problems in our town. Ruppel Road I feel is very unique. Have any of you driven on that road personally, during school hours, when you would be taking children to school? That road is probably one of the most dangerous roads, that section of Ruppel Road. I want to say clearly that I am not at all opposed to this development. I think this is a beautiful development. I think the one that is going in across the road, I don't think it has been approved yet, that is going to be 1,600 homes, I was assured that the sewer was included in those calculations.

Jeremy Pate: That development has not come through the City Council yet, but the assessment would be the same what ever the City Council decides to assess for that.

Ginny Masullo: And the calculations for the sewer were included with that proposed development? Is it about 1,600 homes?

Jeremy Pate: It is not included in this model.

Ginny Masullo: Would it be the Hamstring station?

Jeremy Pate: Potentially yes.

Ginny Masullo: So, is it included in the calculations for the sewer? I am a little confused.

David Jurgens: It is being included in the calculations for improvements that are being evaluated. All of the developments that have reached approval status are included in the numbers of homes that exist and the numbers that are available right now. All the proposed developments that are coming forward are being identified in the proposed improvements that are being evaluated as we speak.

Mayor Coody: Is the 1,600 homes included in the calculation.

David Jurgens: I don't know if that number is correct.

Ginny Masullo: Well, it is over a 1,000.

Alderman Marr: I want to be clear, it is not included in the 400 balance but it is included in the solution that is being planned.

David Jurgens: That's correct. The 400 slots identities every thing that has been approved.

Ginny Masullo: So, we're really short in the sewer right now and I understand that there are proposals being made. So, we have a backup of the sewer, we have a backup of the traffic. Again, Ruppel Road is very unique, that section. We have tremendous development going on there. At the south end of Ruppel Road, just on the other side of the Youth Center is another development that has been approved for approximately 117 homes. Jefferson School will be moving there, across from the Youth Center, on the south end of Ruppel Road. At the north end of Ruppel Road we have the middle school and we have an elementary school just beyond that. We have a lot of traffic that will be for children, I am not just talking vehicle traffic, I am talking, this is a road that is going to need sidewalks, this is a road that is going to need bicycle lanes or we are going to have big regrets in the form of fatal accidents. If you will go back and look at the County records there have been a significant number of accidents on that road, fortunately not fatal. It is a very curvy road with no shoulder. I understand the difficulties in getting this infrastructure in as we are growing so rapidly. I understand that we have plans for Ruppel Road, but I think that we will be making a grave mistake if we do not make some kind of way. I know each Ward has their concerns, but somehow this Council is going to have to decide priorities on the roads instead of just deciding their Ward. We are going to have to work together. Please, I implore you, Ruppel Road is a fatal accident waiting and if you are going to pour all of these developments on it. Please find a way to fix this road before you build all of those developments or while these developments are being built. At least that section that is between the Youth Center and the schools. This is for the children.

Mayor Coody: I think that Ruppel Road is on the bond issue for sure and I think this will be one of the top priorities if I understand.

Ginny Masullo: My understanding about the bond issue is it has been tabled because of the sewer, I understand that, so we have the traffic backup or do we have the sewer backup, it is a problem. I understand that it is a problem but I implore you in the very difficult job that you have to figure out a way to fix this road or I think when you will look back on your work and you are going to have some regrets.

Mayor Coody: Well, we are working on it and we are not putting this off any more than we have to.

Joe Ferrell, Walnut Grove resident: This will back up into Walnut Grove. The thing that is really important is Ruppel Road's traffic and there is no way out for that many automobiles. There is no way to handle that traffic with the roads that we have. If they back up into our area, we only have Salem Avenue that goes out. There are too many homes in there and we have a lot

of kids running around and school buses and everything else. I can't see how you could put a road in there. We have to get that straightened out. It is almost impossible to put that many people in there without having the roads big enough to handle it.

Mayor Coody: We do have a plan to improve Ruppel Road and make it a four lane boulevard all the way from south of the Boys and Girls Club to the mall area. We are going to be doing that as quickly as we can. It will take; if this subdivision is approved tonight it would take a year and a half to three years to get all the houses built and people living in them. We are going to try everything we can to get Ruppel Road built before then.

Karen Stewart: It was brought to my attention a few minutes ago that Mr. Hoskins was going to build houses on those three lots that were to be preserved for Phase II.

Mayor Coody: Are you talking about where the club house is?

Karen Stewart: Yes.

Mayor Coody: To be quite clear it would be a Club House or he could build houses there. But, I think the plan is still to build a Club House.

Karen Stewart: I understood that he could also build houses there on those three lots.

Mayor Coody: As an option, yes.

Karen Stewart: The reason that I object is because Phase II has no green space. All the green space for this PZD is in the one unit. Also they are going to lose some tree canopy because of the new retention pond that is going to be built. So, that means that Phase II is not going to have any green space at all if those three lots are built on. Also in this development he has no plans for trails. Where are the kids going to play or ride their bicycles if there are no facilities? My understanding of the PZD is that it is designed that way to take advantage of grouping the houses, smaller houses in an area that way it will allow for more green space and more public access to green space. That is my objection, if you take these three lots away that means Phase II has no green space at all.

Jeremy Pate: The initial review of this plat had both phases as one. We were looking at the overall picture and what we have done, because of the purchase of the property is to split those into two phases. We did evaluate tree canopy separately but the green space does have public access easements that have been determined by the Planning Commission to be appropriate to allow for this neighborhood to all utilize this opens common green space in the middle.

Mayor Coody: So the green space was calculated on both phases or was it not?

Jeremy Pate: It was calculated separately. There is no minimum green space percentage with a subdivision. With a PZD we do try to find pockets and this worked out well.

Tracy Hoskins: We are still paying parks fees on 109 lots. These three acres that we set aside for tree preservation. As far as lots 52-54, there was never an intention for any of those lots to be

green, they would have one of two buildings on them, either something that was Club House oriented and parking for that or homes.

Alderman Marr: If this wasn't a PZD what would be the maximum units that could be developed?

Jeremy Pate: That is a very good question. There are two zoning districts on this property. Phase I is primarily RSF-4, I believe, Phase II is split into a portion of RSF-1, part of this property was annexed into the City in August, 2004 when this was part of an island. At four units per acre in Phase I that would be roughly 80 homes. On Phase II another eleven acres, assuming that was half and half, I would say 30 for a total of about 110 lots. That is a rough estimate.

Alderman Marr: So roughly the same density as is in the PZD.

Jeremy Pate: Yes, roughly the same density. If it were all zoned RSF-4, if this project was not coming through as a PZD we would likely recommend it to be zoned RSF-4 simply because that is the way this area is being developed. So, if you look at that it would probably be a more realistic density. Additionally without the PZD, we would not have the ability to look at that open space as preserved open space. The interior would likely be lots to be developed or the backs of lots to be developed.

Alderman Marr: If this was denied and the developer moved forward with developing the property under the existing zoning, basically it is the same density. Are there any other requirements that would have to go to the Planning Commission or Council that have been offered here?

Jeremy Pate: No, those are not hinges that we have the ability to control at all through the Planning Commission.

Alderman Lucas: There wouldn't be attached homes though.

Jeremy Pate: Correct. They would have to meet all the minimum lot requirements, lot sizes, etc. per the zoning district. The only other thing is if the applicant did choose to rezone everything RSF-4 that would come back before the Council to determine if that was an appropriate zoning. Staff would likely recommend that zoning in that area based upon the response times and the surrounding property. Property to the southwest is actually zoned for multifamily but it was not developed as that.

Alderman Marr: The wastewater assessment that you have been talking about, what I am looking at tonight does not contain any requirement of participation under the current package that we have?

Jeremy Pate: Under the current ordinance that you have in front of you, no it does not nor does it contain any of the discussions that we have had over the past few weeks. We would recommend that to be amended if that is the Council's desire.

Alderman Marr: How have you made that a requirement? How has the wording been when you don't have calculations and numbers? Give me an idea what the condition would be.

Tim Conklin: This is the first one we have had to deal with since we have received the report. The condition could be worded to state that prior to or at the time of final plat an assessment impact fee or developer contribution be made to participate in the funding of lift station capacity, interim enhancements within the Hamestring, Owl Creek basin. Once again that would have to be determined by the City Council. There are several options being evaluated, each of those options will result in a different amount of capacity being generated and the number of dwelling units that could be built over the next three years within this basin.

Alderman Marr: It concerns me to put a condition on that, that is so open ended and ambiguous when on September 6, 2005 we are suppose to have some targeted idea of what solutions and pricing may be. Also, I would like to have the time again to drive out during school hours. Therefore I am going to move that we table this until the September 6, 2005 meeting for further analysis and financial data.

Alderman Jordan: On the road in this particular development how much improvements will the developer be required to make on Ruppel Road?

Jeremy Pate: Staff is recommending an assessment for this particular development. Due to the fact that we are looking at potential improvements in the future and we don't want that money to be wasted, we are looking at an assessment for both phases in the amount of around \$31,000. There is actually very little frontage that this property has on Ruppel; however there is a rough portionally test that the Planning Commission applies to these developments. There is an assessment for the bridge and the improvements to Ruppel Road and that is around \$31,000.

Alderman Jordan: When will that be assessed?

Jeremy Pate: It will be assessed prior to final plat, prior to the construction of any homes.

Alderman Marr moved to table the ordinance to the September 6, 2005 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

This ordinance was tabled to the September 6, 2005 City Council meeting.

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 Ruppel 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 left on the second reading at the August 2, 2005 City Council meeting.*

Alderman Jordan moved to table the ordinance to the September 6, 2005 City Council meeting. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

This ordinance was tabled to the September 6, 2005 City Council meeting.

ANX 05-1580 (Sloan Properties): 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. *This item was left on the second reading at the August 2, 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 Reynolds was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I think Mr. Sloan has done a good job of visiting with everyone adjacent to this that would possibly have concerns. It sounds like everyone is quite happy with it.

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

Ordinance 4741 as Recorded in the Office of the City Clerk.

RZN 05-1581 (Sloan Properties): 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. *This item was left on the second reading at the August 2, 2005 City Council meeting.*

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

Ordinance 4742 as Recorded in the Office of the City Clerk.

Solid Waste and Recycling Services-City of Elkins: 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. *This item was tabled at the August 2, 2005 City Council Meeting until the August 16, 2005 City Council meeting.*

Alderman Ferrell moved to table this indefinitely. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

NEW BUSINESS:

Hay Group Salary and Benefits Survey Contract: An ordinance waiving the requirements of formal competitive bidding; and approving a contract with Hay Group, Inc. in the amount of \$28,000.00 to accomplish the Salary and Benefits Survey Project; and approving a travel contingency not to exceed \$1,600.00.

City Attorney Kit Williams read the ordinance.

Bruce Johanson, Johanson Group stated the Johanson Group has been in existence since 1973 and has worked with compensation related issues for over 30 years. He described the businesses that his company has worked for. He gave a brief description of his company. He stated this issue came up a couple of years ago and it was talked about at the Council meeting that the next time this came up it would go out for competitive bidding. He stated he was surprised that it is not out for competitive bidding. He stated they would like to participate in competitive bidding. He feels the project can be done for at least half of the projected amount. He spoke of the advantages his company has. He stated his company is here in Fayetteville and the funds spent would be put back into the community.

Mayor Coody: I know we did talk about opening this up to bid. What is the reason that we did not do that?

Michele Bechhold: We did intend to complete an RFP process this year; however the fair labor standards act issues have taken most of the time of the HR staff. We determined that when we reevaluated our time line that in order to meet the expectations of the employees and have a salary survey completed by the end of 2005, the best option would be to request that Council to consider this bid waiver so that we could complete the survey and have the results in within the 2005 calendar year. Hay Group has our benefit data, which is in their proprietary data base that is one of the things that we believe, will save billable time and staff time as well. Our basic goal is to get the survey completed, have that to meet the employee expectations and have that to provide to Council during the budget discussions for the 2006 budget.

Mayor Coody: How long do you think it will be before we get this information back from Hay Group?

Michele Bechhold: November, for the November budget discussions.

Mayor Coody: Mr. Johanson you have heard the explanation why the staff wants to stay with Hay Group, do you have any response to that?

Bruce Johanson: My understanding is if you are able to do an RFP and turn that around, from the day that you are going to be putting together would take probably somewhere between six to eight weeks. So it would still meet your November time line. It doesn't take very long to put a proposal together with an RFP.

Mayor Coody: If we were to not go with Hay Group but go with the Johanson Group, do you think they would be able to accomplish our goals in the set amount of time? Is the time the only

factor why we are staying with Hay Group and do you think the Johanson Group could meet that?

Michele Bechhold: A part of the process is also the selection process itself. Mr. Johanson is the best able to provide us with an estimate of how long his firm would take to do this. I certainly wouldn't know that. Part of our process as you know is a selection committee process. We would also have the RFP with a two or three week deadline, then we would have a selection committee that would have to review all of the RFP responses, perhaps do interviews on those, make a decision, create a packet and take that to Council. That does add quite a bit to the timeline. As stated in the packet, I think January, 2006 would be the earliest that we could provide the survey results if we do select another vendor and the bid waiver is not approved.

Alderman Thiel: I am extremely disappointed especially if Mr. Johanson contacted the Mayor and HR a month ago and you didn't at that time take that seriously. This discussion was around several years ago and I strongly support using someone locally if they meet the requirements. I am disappointed that if I vote against this, that I would be voting against getting the employees wage package completed by budget time. I feel like the ball got dropped here a little bit by somebody. I feel we do need to bid this out, we should have in the past and we did say that we would do that in the future. Regardless of time restraints that is something I think should have been prioritized. I feel very strongly that we should bid this out.

Michele Bechhold: The calls and the conversations that I have had with Mr. Johanson have certainly been taken seriously. We did intend to do an RFP process but as the settlement of the lawsuit continued to take most of the resources of the HR Department, we had to reevaluate what we would be able to do and accomplish within the timelines that we have.

Alderman Rhoads: The estimated time of completion, I think you stated is January. Is it January because of the selection process and the things you described or is it that late because of getting someone new in there?

Michele Bechhold: A lot of it is because of selection process. Some of it is the estimated time for a new consultation to become familiar with our processes, with the Wage and Benefit Committee, our survey instruments and what form of data that we have had in the past. We estimated that January, 2006 would be a realistic date.

Alderman Rhoads: In the RFP is it possible to put in a timeline that they have to meet?

Michele Bechhold: It is possible. October 18th was an estimate of when we would be able to bring a recommendation to select a consulting firm to Council. That leaves a fairly short amount of time to send out all of the documents, look at the survey group, send out all those documents and get those responses back. The Wage and Benefit Committee members have expressed some concern of maintaining complete accuracy of the data if the survey itself were rushed with a short time frame.

Kit Williams: The new State law is in effect that doesn't require competitive bidding if the amount is under \$20,000. Mr. Johanson said he could do it for half the price that would take his bid below \$20,000. So it is possible the City would not have to go through the normal process with an RFP. This could significantly cut the time of looking for a company.

Alderman Rhoads: My thought process isn't really aimed at trying to find someone locally as much as it is to find the best group that can serve this need. If we truncate the process to the point that our selection keeps us from getting the best then I probably wouldn't be for that.

Mayor Coody: Mr. Johanson did speak to me and I turned it over to HR because I don't try to direct staff to go to a particular business. I let staff make these decisions through the selection process. I don't think it would be a good idea to inject politics into a business decision like that.

Alderman Marr: We had this discussion two years ago. I certainly understand the issues with lawsuits and settlements and negotiation. They are very time consuming. I think in the future we should be doing the selection on the off year so we are not in a crunch time. I do think we should go to bid. We said that two years ago and now we are sitting here 24 months later with not enough time to do it. I don't know our processing; I trust Michele's judgment on knowing the time it takes to do an RFP. I like the idea of putting it out and seeing if we get something below that amount that is competitive and review them. That would save us from maybe not having to bring this back to the Council.

Alderman Ferrell: I would like to see us go for a RFP.

Steve Davis, Finance and Internal Services Director: It is my sense that the Council wants us to do competitive selection. We will have a RFP on the street by one week from Wednesday. If it comes in under \$20,000 we will award the contract without any further delay. We can not award a contract to a single source, above \$10,000 without a bid waiver, even under the new rules. So, we have to have some competition.

Alderman Marr: Can we have a really tight turn around time?

Steve Davis: The problem that we have run into on the short turn around on the request for proposals is that most of the competition self selects out.

Alderman Rhoads: Having come from an environment where there were more irons on the fire than there was fire, I understand what the HR Department is going through. One needs to keep in mind all the things they are responsible for and that they do a pretty good job on those things.

This ordinance was left on the first reading.

HMR Tax Revision: An ordinance amending §§ 35.19 & 35.30 to change the definition of concession stands as it pertains to the collection of HMR tax.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I have received some calls on this and I think there are questions on how this should be implemented. I would suggest that this go to the Ordinance Review Committee to iron out some of the issues.

Alderman Ferrell: I have had some calls from some people that think we want to get rid of Bikes, Blues and BBQ. I don't think that is the case. I don't feel that way.

Mayor Coody: Every year we hear the same negative rumor. We keep proving that we are not out to kill it, we do every thing we can to help.

Nelson Driver, Event Director for Bikes, Blues and BBQ read some notes from some Dickson Street businesses that support Bikes, Blues and BBQ. He suggested we check with other cities to see how they handle these types of issues.

Mayor Coody: We have heard from local businesses that they have to charge the tax and vendors that come in from out of state do not have to charge the tax.

Alderman Thiel moved to refer this to the Ordinance Review Committee. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** was absent.

This Ordinance was left on the first reading.

ANX 05-1603 (Lane): An ordinance annexing that property described in Annexation Petition ANX 05-1603 for property located north of Huntsville Road (Highway 16 East) and Deerfield Way containing approximately 5.3 acres.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: It says public water is not adjacent to this site. How close is the water? I support this annexation due to the close proximity to the river and the White River and my concern of the use of septic tanks. The use of septic tanks this close to a water way really concerns me.

Jeremy Pate: We actually have a subdivision that has been submitted to the Planning Commission that is adjacent to the south. This would connect to that property and means would be extended to access this property.

Alderman Ferrell 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 Reynolds** was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4743 as Recorded in the Office of the City Clerk.

RZN 05-1604 (Lane): An ordinance rezoning that property described in Rezoning Petition RZN 05-1604 for approximately 1.6 acres located north of Huntsville Road (Highway 16 East) and Deerfield Way from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 Units Per Acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: These 1.6 acres that has been requested to be rezoned would be RSF-4. The remaining property would remain R-A.

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 Reynolds was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell 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 Reynolds was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook: They are just rezoning this piece and the rest of that land is going to be used for detention?

Jeremy Pate: That's correct. The majority of the property is currently an excavated pit that was utilized with the construction of Highway 16.

Alderman Cook: Did the subdivision to the south not have detention designed in it because this was coming through?

Jeremy Pate: The project was designed to have detention within this particular area.

Alderman Thiel: That's interesting. It wasn't annexed yet?

Jeremy Pate: Correct, that is something we do a lot.

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

Ordinance 4744 as Recorded in the Office of the City Clerk.

ADM 05-1663 (Nelson Crossing): A resolution approving a variance from Chapter 167 Tree Preservation and Protection in the manner recommended by the Planning Commission for Large Scale Development (LSD) 05-1593.

Jeremy Pate gave a brief discussion of the project. He stated the 20 off site trees would need to be on property either owned by the City or the developer. He also stated they are looking at changing the ordinance.

Alderman Thiel: I feel like the property owner should have the right to go ahead and plant on that property if he can. I would not want us to dictate where mitigated trees are to be planted. I would just as soon see this continue to come before the Council and not revise the ordinance.

Jeremy Pate: There is a huge disincentive with the ordinance that is currently written.

Kit Williams: We feel like there is a very simple fix to this, changing an an to an or under the wavier provision. He read the section they are proposing to change.

Alderman Thiel: Will the discussion of the ordinance go to the Tree and Landscape Committee or will it come to the Council?

Jeremy Pate: I believe it depends on how extensive it is.

Alderman Thiel: If we are going to change that ordinance let's have as much discussion as we can before it comes to Council.

Steve Clark, Clark Consulting: It was not our intent to take the tree out. It was certainly accidental; it was an out of town crew. We apologize.

Alderman Thiel moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 7-0. Alderman Reynolds was absent.

Resolution 166-05 as Recorded in the Office of the City Clerk

Ben Israel, Dixie Development: I want to thank the City staff for helping us work through this problem. Prior to the tree coming down there four trees on the site, three Bradford Pears and one Sweet Gum tree. There are 106 trees going back on the site. There are going to be 26 times the number of trees on the site than there were before we bought the site. That was before the penalty, the penalty would have created another 109 trees on the site which would have been 52 times the number of trees than were originally there. We are going to spend 16 million dollars out there. The tax rate when we bought the place was \$23,000 per year for property tax, we are estimating the property tax when we finish will be \$155,000 per year. We are predicting the sales tax revenue will be in excess of \$425,000 per year and we are creating new jobs. We have torn down one of the worst looking buildings on one of the best corners and we are replacing it with one of the best buildings in Northwest Arkansas. We accept the penalty but it seems like you are punishing someone that is doing a lot of good for the City for doing something that was in error. I encourage you to look at the ordinance. We are pro trees.

Mayor Coody: I don't feel that we want to punish you because you are doing very much for the City. I am sorry this happened. We do want to express our gratitude for your high quality developments and your efforts to plant trees in town.

Multi-Craft Contractors, Inc. Rehabilitation Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Multi-Craft Contractors, Inc. in the amount of \$27,554.00 to provide emergency rehabilitation to the effluent filtering system at the Noland Wastewater Treatment Plant; approving a contingency in the amount of \$2,446.00; and declaring an emergency.

City Attorney Kit Williams read the ordinance.

Alderman Jordan 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 Reynolds 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 Reynolds was absent.

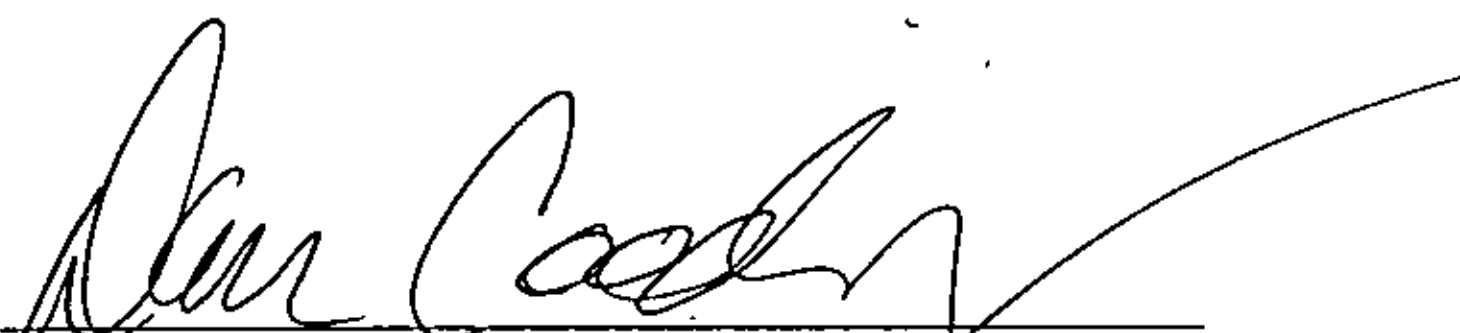
City Attorney Kit Williams read the ordinance.

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

Ordinance 4745 as Recorded in the Office of the City Clerk.

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

Meeting Adjourned at 7:55 PM



Dan Coody, Mayor



Darius D. Smith

Sondra Smith, City Clerk/Treasurer