

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 of Fayetteville Arkansas
City Council
Meeting Minutes
October 4, 2005**

A meeting of the Fayetteville City Council was held on October 4, 2005 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Lioneld Jordan called the meeting to order.

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

ABSENT: Mayor Coody

Pledge of Allegiance

Vice Mayor Jordan: The Mayor has been out of town during the past week. He went to Washington D.C. to testify before the United States Senate Committee on Homeland Security and Government Affairs regarding "Recovering from Hurricane Katrina; responding to the needs of those displaced, today and tomorrow.

He then went to Albuquerque, New Mexico to the United States Conference of Mayors regarding the Urban Water Summit.

Sergeant Shannon Gabbard and Captain William "Casey" Brown of the Police Department introduced the 2005 Citizen's Police Academy Graduates.

Vice Mayor Jordan thanked the graduates for serving our community.

CONSENT:

Approval of the August 25, 2005 Special City Council meeting minutes and the September 6, 2005 City Council meeting minutes.

Approved.

Arkansas Parks & Tourism Grant – Botanical Gardens: A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in the amount of \$250,000.00 for the construction of Phase 1A of the Botanical Gardens.

Resolution 198-05 as Recorded in the Office of the City Clerk.

State and Tribal Assistance Grant (STAG) – Sanitary Sewer System Improvements: A resolution authorizing the Mayor to apply for and accept a State and Tribal Assistance Grant (STAG) from the U.S. Environmental Protection Agency for Sanitary Sewer System Improvements; designating the Mayor as the City's authorized representative in all matters relating to the procurement and administration of said grant; and approving a budget adjustment recognizing \$481,200.00 in Grant Revenue.

Resolution 199-05 as Recorded in the Office of the City Clerk.

South Fayetteville Community Development Corporation - Waiving of Fees: A resolution to waive the Building Permit Fee and other developmental fees for South Fayetteville Community Development Corporation.

Resolution 200-05 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

ANX 05-1488 (Collins/Kinghorn, 533/534): An ordinance annexing that property described in annexation petition ANX 05-1488 for property located at 6102 and 6110 Lake Sequoyah Drive, containing 17.33 acres. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting.*

Jeremy Pate stated the applicant would like to table this item indefinitely.

Alderman Marr moved to table the ordinance indefinitely. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled indefinitely.

Planning Commission Appeal: Collins/Kinghorn Rezoning: An ordinance rezoning that property described in rezoning petition RZN 05-1489 for approximately 17.64 acres located at 6102 and 6110 Lake Sequoyah Drive from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting.*

Jeremy Pate stated the applicant would like to table this item indefinitely.

Alderman Marr moved to table the ordinance indefinitely. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled indefinitely.

C-PZD 05-1670 (Pratt Place Inn, 481): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 05-1670, Pratt Place Inn, located at the west end of Markham Road, containing approximately 72 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief update of the project. He stated this development would increase the traffic by 446 trips per day on an average week day. The existing zoning of RSF-4 and R-A would allow for 207 dwelling units and would generate approximately 1,981 vehicle trips per day on an average week day.

Alderman Lucas asked about the sewer problems.

Jerry Kelso, Crafton Tull and Associates: We are not aware of any sewer problems.

Kenneth Smith a resident he would like the undeveloped open space to remain as open space. He would also like the track runners to be able to continue to run on the property. He stated he is in favor of this rezoning.

John McDonald, Track Coach, U of A stated they use the property. He stated they are allowed to run there for free.

Sandy Edwards, Associate Vice Chancellor for Development, U of A stated that throughout her dealing with the Archer's she has been impressed with their initiative to maintain a strong and positive connection with the University. She stated they have improved the grounds by adding trees, landscaping, burying electric and phone lines and renovating buildings. They keep the grounds well maintained and available to the track teams. In dealing with the University the Archer's have been responsive, caring and community minded. They have been insistent that we contact them when issues arise. She stated they encourage the Council to approve this request.

Ann Foster stated she helps the Archer's with the Pratt Place barn. She stated she monitors the noise at various locations during events. She stated has not been able to hear any noise when she does the monitoring.

Alderman Marr: Do you use a device to monitor the noise?

Ann Foster: No.

Jamie Hall 1655 Markham Road stated he believes he is the closest property on Markham Road to the Archer's place. I agree with this PZD zoning. I have never noticed any noise from any events at the barn. I have noticed a little extra traffic but not enough to inconvenience me.

Felicia Farris 2215 Haskell Heights voiced her concern about trees that have been removed from the property and the run off caused by the tree removal. She voiced her concern about the barn that was built for horses but has been used for parties. She asked the Council to look at the property.

Doug Albert stated he has provided landscape services for the Archer's for over 10 years. He stated the reason the trees were removed was to provide for the barn. They do not have horses at this time because the fencing is not complete.

Tim Crane, a resident stated he has had good experiences with the Archer's but he feels there is reason to be careful. He stated in general he is in favor of this because of the alternative. He stated he is concerned about the removal of the trees and the damage to other trees. He does not want anything built on Planning Area 3.

Alderman Ferrell: Did you purchase your property from the Archer's?

Tim Crane: Yes.

Alderman Thiel: According to the PZD, will dwelling units be allowed on Planning Area 3?

Jeremy Pate: There are no dwelling units on Planning Area 3, structures could be allowed in this area as a conditional use but would have to be agricultural use.

Alderman Lucas: Could they add on to the house?

Jeremy Pate: They could eventually add on to a house but they have a maximum square footage. They could not add any additional dwelling units to the planning area without requesting a rezoning request. There is no conservation easement proposed.

Alderman Marr asked about street improvements.

Jeremy Pate stated that once they get an idea of exactly how many vehicle trips will be generated through each phase of this development they would access the streets to see if they need to be approved.

Alderman Lucas stated that she would like to be assured that should this go forward that the sewer be studied around the property and below the property at the bottom of the hill.

Jeremy Pate: We can include that as part of our down stream assessment.

Alderman Marr: This PZD would supercede any current Bill of Assurances on this property?

Jeremy Pate: That is correct.

Albert Skiles, Architect for the project stated there are complaints about increased traffic, we acknowledge that. The bottom line is this is an enterprise that is extremely low impact. A lot of these issues about the details of the project are handled through large scale development. What we are doing here is to approve or disapprove a template. I urge you to consider this as a matter of preservation of something that is very valuable to Fayetteville.

Beverly Roberts, caretaker stated there is no noise from the property. Trees on the property have been marked so they will not be cut. This is a wonderful place to live. The Archer's could sell this property and it could become anything.

John Williams: They do have events in the barn. It is a fantastic barn and a great place to have a party. He voiced his concern about the sewer system or septic system.

Darlene Gooding a landscaper for the Archer's stated she could not think of a more beautiful place to go and have dinner. She stated this is a wonderful place.

Alderman Ferrell asked if new structure and existing structures will be on sewer instead of septic.

Jeremy Pate stated he believed that is correct.

Jerry Kelso said the Archer's have hired them to do a full structure analysis of the barn and we will make sure this barn will be up to code if this zoning passes. That will have to be addressed and permitted.

Lynn Wade, 100 North Sang voiced his concern about the lack of the conservation easement. He asked if Planning Area 1 can be altered since there is no conservation easement to provide the protection that we have been promised. This is bringing a commercial activity into a residential area please consider these issues in this rezoning.

A discussion followed on conditions of approval and Planning Area 1.

Jeremy Pate stated this is a template that has been developed and the Planning Commission and staff will see this and make approval or denial on the development based on the final plan.

Kit Williams: I think the City Council wants to be able to assure the neighbors that the future development that they would be approving tonight, that those locations may not be identical as shown on the plat that they would not be in a very different location that would affect the neighbors.

Jeremy Pate stated they would anticipate these cabins would be generally located in the areas shown.

James Coger stated a lot of the cabins on the property did not have water, electricity or indoor plumbing. His main concern is Markham Road and bringing it up to code. This would be starting a commercial development. He voiced his concern about the notification process. He voiced his concern about some of the existing buildings on the property. He also is concerned about the increase in traffic to Markham Road. He also voiced his concern about the barn that has had parties in it. He is also concerned about the sound to the neighborhood from the property. He is concerned about the PZD process.

Scott Harden stated the Archer's have a real since of ownership. He sated he would like to see this developed with this PZD than sold off for houses or apartments.

Tom Terminella stated we are talking about spot zoning a commercial application in the middle of a dead end residential area with under improved access and utilities. Please hold these folks to the same standards as you hold other folks to. Those streets are narrow going to the property.

Alderman Lucas: Will there be another access to the property.

Jeremy Pate: All of their access points shown in their plan are from Markham.

Alderman Reynolds: Is the recourse on future complaints from neighbors?

Jeremy Pate: If it is a zoning violation they would need to lodge a complaint in the Planning office and we would make sure the zoning is enforced.

Alderman Ferrell asked if the streets will be altered, fixed or built to carry the load.

Jeremy Pate stated yes.

Alderman Ferrell asked how many acres are zoned RSF-4.

Jeremy Pate: 49.1 acres. 207 dwelling units are currently allowed. The plan is to leave a large amount of that property undeveloped.

Alderman Marr said he came tonight thinking the impact of developing this as RSF-4 was much more significant than what is being proposed. There are things in the package that concern me. I would not be supportive if this became a commercial node.

This ordinance was left on the second reading.

R-PZD 05-1636 (Wellspring): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1636, Wellspring, located at Ruple Road and Highway 16, containing approximately 152 acres, more or less: amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the September 20, 2005 City Council meeting.*

Alderman Marr moved to table this ordinance until the October 18, 2005 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the October 18, 2005 City Council meeting.

The following item was added to the City Council agenda:

Re-approval of Resolution # 188-05. This item was approved at the September 20, 2005 City Council meeting but the amount in the resolution that was to be paid to Landers Ford was incorrect.

William's Tractor LB75B Backhoe and Landers Ford F550 4x4: A resolution authorizing the purchase of one (1) Skid Steer Loader and one (1) LB75B Backhoe from William's Tractor in the amount of \$77,192.41; and the purchase of one (1) F550 4x4 Cab and Chassis with Dump Body from Landers Ford in the amount of \$38,243.00 for use at the Fayetteville Municipal Airport; and approving a budget adjustment in the amount of \$115,435.00.

Alderman Marr moved to add the William's Tractor LB75B Backhoe and Landers Ford F550 4x4 resolution to the agenda. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the resolution.

Kit Williams: There was a clerical error when this was originally passed. Approving this again will clear up the clerical error.

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

Resolution 201-05 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Alderman Ferrell moved to suspend the rules and move New Business #13 VAC 05-1689 (JDM Investments) to New Business #1. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

VAC 05-1689 (JDM Investments): An ordinance approving VAC 05-1689 submitted by Roger Trotter for property located between 2716 and 2728 North Candlewood Drive, vacating a right of way as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the Vacation. Planning Commission voted 5-2 in favor of the vacation request.

Alderman Thiel asked if a full 50 foot will be maintained as a utility easement.

Jeremy Pate: Correct.

Alderman Cook: When we do plats if we work for future connectivity based on the right of ways, do we require stub outs?

Jeremy Pate: We typically do require stub outs. That is something the Planning Commission determines.

A discussion followed on connectivity.

Eva Madison, 2600 Candlewood Drive spoke on behalf of the Candlewood Property Owners Association. She stated they support this right of way vacation. They have three arguments against the use of this right of way. Safety is an issue, traffic cuts through this subdivision which causes a safety issue. She gave a summary of the traffic problem in this area. The second issue is connectivity. She stated the connectivity would be for only eleven homes. She stated there are other developments that do not have connectivity. She stated exceptions are made regarding connectivity and they would like the Council to make an exception tonight as well. The third issue is fairness. She stated the Candlewood home owners were completely unaware of the potential of a street between these homes because of a lack of notice from the City. The City did not require the developer to stub out the street or provide any other notice to the residents of Candlewood that a street might come through. She stated the developer built these two homes with part of the driveway in the right of way.

Alderman Rhoads: What is the City's current position in regards to this stub out?

Jeremy Pate: The Planning Commission is recommending that it be vacated; Planning staff is recommending that it be constructed as part of the development to the north.

A discussion followed on the vacation and some of the issues that have been raised.

Jeremy Pate stated it is their policy to allow driveways in the right of way. He said these properties were permitted showing the right of way on the site plan and an additional set back. That is why these two homes are 100 feet apart as opposed to your typical 16 feet. He stated that connectivity was not required in some of the subdivisions in this area due to being surrounded by developed lots so there was not a way to connect a street.

Alderman Ferrell stated that when the home owners made improvements to their properties there was no knowledge that there was an easement through there or they would not have spent the time, money and resources to do that. If it had been stubbed out to where it was obvious, then it would be a different story.

Evelyn Brooks, 2728 Candlewood stated they purchased their property in May, 2004 and had no knowledge of any of this. She stated they found out about the right of way in April, 2005. She stated they did not have a survey completed when they purchased the property. She said this

right of way if not vacated would be devastating to her family, to her neighbor and the neighborhood.

Pat Brown, 2716 Candlewood Drive stated the lack of stub out is a concern of his. I would ask that you approve the vacation.

Jay McClelland, JD Investments: They do not want this easement from Candlewood due to safety concerns. He stated they would have to remove trees to provide for this connection.

Alderman Marr: I am typically a big proponent of connectivity but I also believe in the do right rule.

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

City Attorney Kit Williams read the ordinance.

Alderman Reynolds 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 Cook stated he is also in favor of connectivity. He stated the easy thing would be to vacate this right of way, but he did not take this job to make friends and there are times when he has to think beyond what he personally feels and he has to make decisions that he thinks is right for the City of Fayetteville. Typically he is very supportive of neighborhoods and their needs. He stated he will vote against this not because of the neighbors but because it is the right thing for the City of Fayetteville.

Alderman Lucas stated she is opposed to the City giving up property and she is in favor of neighborhoods. She stated there are other areas in the City where streets are not stubbed out but streets could be built. She stated she is not in favor of vacating the road.

Alderman Rhoads stated he is also for connectivity but he feels the right thing to do is vacate this.

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

Ordinance 4767 as Recorded in the Office of the City Clerk.

Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A – Wastewater Treatment: An ordinance authorizing the issuance and sale of the City's not to exceed (1) \$27,000,000 of Sales and Use Tax Refunding and Capital Improvement Bonds, Series 2005A, and (2) \$65,000,000 of Sales and Use Tax Capital Improvement Bonds, Series 2005B, for the purpose of Refunding the City's outstanding Sales and Use Tax Capital Improvement Bonds,

Series 2004, and financing a portion of the cost of improvements to the City's Wastewater Treatment Sewerage and related facilities; authorizing the execution and delivery of a Trust Indenture pursuant to which the Series 2005 Bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the Series 2005 Bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the Series 2005 Bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; authorizing the execution and delivery of an Escrow Deposit Agreement providing for the Defeasance and Redemption of the Series 2004 Bonds; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Steve Davis: The reason why we are doing this tonight is because on July 5th the City Council approved a \$65,000,000 loan agreement with the Arkansas Soil and Water Conservation Commission which is partially funded by an EPA grant. EPA procurement rules require a sealed bid purchasing process. The low bid was above the amount of money that the City certified and it was beyond the 25% threshold for us to negotiate with. There is a new law that has been passed that allows the City to negotiate this contract. The City has completed the negotiation process. He stated this contract is a cost plus guaranteed maximum price contract. The estimated completion time is May or June, 2008. We had to transfer the \$65,000,000 loan from Arkansas Soil and Water to a market based bond issue.

Alderman Cook 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.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4768 as Recorded in the Office of the City Clerk.

EPA and Audubon Arkansas Cost Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost share in the amount of \$25,000.00 with the U.S. Environmental Protection Agency (EPA) and Audubon Arkansas to fund the collection of Water Quality Data along College Branch in the City of Fayetteville to assist staff with storm water ordinance revisions in compliance with Federal MS4 Storm Water Regulations.

City Attorney Kit Williams read the ordinance.

Melissa Terry with Audubon explained the cost share.

Alderman Thiel stated she is in favor of this.

Alderman Reynolds: Will these funds cover three years?

Melissa Terry: Yes sir. This will allow us to collect data for three years.

Alderman Marr thanked the City Attorney on getting this ordinance drafted and the Council for putting this on the agenda. He stated this is a really good step in terms of Fayetteville's storm water management water quality initiatives.

Alderman Ferrell: What length of time will this study be good for?

Melissa Terry: For the length of time the data is collected, three years then it will become historical data.

Alderman Ferrell: At the end of three years will there be a proposal to continue testing or will you use that historical data to make projections.

Melissa Terry: I hope so. We hope this will continue to grow and expand.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4769 as Recorded in the Office of the City Clerk.

Fayetteville Municipal Property Owners' Improvement District #9 – Biella: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 9 – Biella.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4770 as Recorded in the Office of the City Clerk.

Southwestern Bell Telephone Service Agreement: An ordinance waiving the requirements of formal competitive bidding and approving a five-year renewal of the service agreement with Southwestern Bell Telephone, L.P. in the amount of \$69,000.00 to provide Plexar Custom Telecommunications Service.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook 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.

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

Ordinance 4771 as Recorded in the Office of the City Clerk.

Fayetteville Depot, LLC Lease Agreement: A resolution approving a lease agreement with Fayetteville Depot, LLC for property located at the northwest corner of Dickson Street and West Avenue to provide parking enforcement and revenue collection services for a proposed parking lot.

Sharon Jenkins gave a brief description of the lease agreement. She stated the owners of this parking lot have requested the City to enter into a lease agreement to provide parking services on this property. Staff recommends approval.

Alderman Thiel stated she agreed with the continuity of parking lot management throughout the city and the revenue stream this will provide. She stated her concern is the budget adjustment that is proposed with this lease agreement. She is also concerned with the City hiring a new person to maintain this lot.

Sharon Jenkins: We will be asking that the new position be approved regardless of this lease agreement. There are many things that new person will do other than provide parking service for this lot.

A discussion followed on parking in the downtown area and the residential parking in the downtown area. They also discussed the charge for parking in this lot and what hour's people will pay to park in this lot. Sharon also explained this contract.

Alderman Lucas: I am concerned about requesting an additional person. She also asked if the money the City would receive from this agreement would pay for the expenses and the expenses of cleaning the lot.

Sharon Jenkins: Typically your citation revenues will cover your salaries.

Gregg House explained how they got to the point of this lease agreement with the City. He stated they saw this as a pilot project and that they are going to charge for parking on this lot with this lease agreement it will generate funds for the City and they will have enforcement and cleaning by the City on the lot.

Alderman Marr: For me I think there are two separate issues, our parking management strategy to get a downtown parking deck is one and whether to contract services for a private land owner to manage parking is another. I think we need a strategy to address downtown parking and I think we are in the process of that with residential meetings. When I look at this contract of services that we are suppose to provide and hear that the Depot Group will be doing this regardless. He stated there are several issues in the contract that he is concerned about.

A discussion followed on the contract and the issues that the Council is concerned about.

Alderman Ferrell stated he did not feel the funds generated would pay for the expenses on this lot.

Alderman Cook stated he is also concerned about the contract. He stated he thinks we are getting the cart before the horse. He said we need to have discussions on parking and get everyone on board before we make decisions like this.

Alderman Thiel stated she is also concerned about us rushing this issue before we have a study of the paid parking in the downtown area.

Alderman Rhoads moved to table this resolution until the October 18, 2005 City Council meeting. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Reynolds** abstained.

This resolution was tabled to the October 18, 2005 City Council meeting.

Associated Time & Parking Controls, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Parking Revenue Collection Equipment from Associated Time and Parking Controls, Inc. in the amount of \$46,805.10; approving a 10% contingency in the amount of \$4,408.50; and approving a budget adjustment in the amount of \$51,213.60.

Alderman Ferrell moved to table this ordinance until the October 18, 2005 City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the October 18, 2005 City Council meeting.

Parking Management Division Position: A resolution authorizing the addition of one (1) full-time position in the Parking Management Division; and approving a budget adjustment in the amount of \$3,282.00.

Alderman Rhoads moved to table this ordinance until the October 18, 2005 City Council meeting. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the October 18, 2005 City Council meeting.

RZN-05-1687 (Hopmann): An ordinance rezoning that property described in rezoning petition RZN 05-1687 for approximately 0.18 acres located at 935 North College Avenue from R-O Residential-Office to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the sign requested and the code regarding signs.

A discussion followed on the zonings in this area and the signs that can be allowed.

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.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion failed 4-4. Alderman Rhoads, Ferrell, Lucas and Jordan voting yes. Alderman Cook, Marr, Reynolds and Thiel voting no.

This ordinance was left on the second reading.

RZN-05-1688 (JDM Investments): An ordinance rezoning that property described in rezoning petition RZN 05-1688 for approximately 6.34 acres located at 2806 Crossover, north boundary

of Candle Wood Subdivision from R-A Residential-Agricultural to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. Planning Commission voted 7-0 to recommend approval. He stated 24 units would be allowed on the property.

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.

Jay McClelland with JD Investments stated they have meet with the neighborhood and the church on this project.

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.

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

Ordinance 4772 as Recorded in the Office of the City Clerk.

RZN-05-1711 (Mathias): An ordinance rezoning that property described in rezoning petition RZN 05-1711 for approximately 1.25 acres located at Highway 62 West from R-A, Residential-Agricultural to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. The Planning Commission voted 6-0 to approval this rezoning.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: The neighbors didn't have any problem with the fact that this C-1 will back up closer as houses develop along Old Farmington.

Jeremy Pate: No.

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.

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

Ordinance 4773 as Recorded in the Office of the City Clerk.

VAC 05-1632 (East Square Development): An ordinance approving VAC 05-1632 submitted by Bob Kohler for an alley located on the City Block between East Avenue and College Avenue and Center Street and Mountain Street, as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation. Planning Commission and staff recommended approval.

Alderman Lucas: This will not cost the City; the developers are paying for the relocation cost?

Jeremy Pate: That is correct.

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

City Attorney Kit Williams read the ordinance.

Alderman Marr 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.

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

Ordinance 4774 as Recorded in the Office of the City Clerk.

VAC 05-1686 (Schultz): An ordinance approving VAC 05-1686 submitted by N. Arthur Scott for property located at 1921 South Vale Avenue, vacating a portion of the right of way as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation. Planning Commission voted 7-0 in favor of this vacation and staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

Alderman Reynolds 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.

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

Ordinance 4775 as Recorded in the Office of the City Clerk.

R-PZD 05-1543 (Vantage Center): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1543, Vantage Center, located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.7 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the PZD. Planning Commission and staff recommend approval.

Alderman Marr asked if this was going to be a standard model for their apartments.

Kim Fugitt stated he is not sure if they will even build these again.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4776 as Recorded in the Office of the City Clerk.

Amend Title XI: Chapter 117, Article IV: Taxicabs: An ordinance amending Title XI: Chapter 117, Article IV: Taxicabs, of the Code of Fayetteville to provide a Rate Structure and Zone Map for the City of Fayetteville Taxi Coupon Program.

City Attorney Kit Williams read the ordinance.

Steve Davis: One of the taxi companies has requested that the waiting time be amended from \$10 to \$18.

Alderman Cook: Why are we setting the rates, why don't we let the taxi's set their own rates?

Steve Davis: This ordinance gets the City out of the business of setting taxicab rates except for our taxi program that is run through our Community Development Department. Those taxi rates are set by Zone A and Zone B. Zone 1 is \$8 if the trip originates and ends in the same zone, if it is a trip that encompasses two zones it is \$12, all other taxi travel is established by the free market.

Brice Curry, Dynasty Cab voiced his concern about the fees not being prorated if a cab is put in service other than the first of the year. He stated the registration fees are high.

A discussion followed on prorating the fee for cabs.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4777 as Recorded in the Office of the City Clerk.

2005 Millage Levy: An ordinance levying a tax on the Real and Personal Property within the City of Fayetteville, Arkansas, for the year 2005 fixing the rate thereof at 2.0 mils for General Fund – Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mil for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Steve Davis: This is the annual millage levy for the City of Fayetteville. We need to have our levy to the Quorum Court in October. This year we are asking for two mils for the General Fund to provide funds for us to get close to balancing the budget in the General Fund.

Alderman Thiel: The amount that is being requested in the budget for the library this year is \$1.5 million dollars from the General Fund?

Steve Davis: Yes that is correct.

Alderman Thiel: Two mils will generate \$1.781 million dollars.

Steve Davis: That is correct.

Alderman Thiel: So basically those two mils are paying for the library operations?

Steve Davis: You could consider it that way, yes. The opportunity to pass these two mils will be available every year.

Alderman Cook: I agree that we need to start thinking about other funding options rather than depending on sales tax. My problem is the General Fund; we are shifting more and more funds to operations. If we pass these 2 mils then I think it should be ear marked for something specific.

Alderman Ferrell: It is my understanding that the library will seek funding other than from the City.

Steve Davis: The resolution does not address whether the library should seek its own millage or move off the City's General Fund. It recommends that the library board do a strategic service plan and a long term financing strategy for continued library services.

Alderman Ferrell: I would like to see us forgo the 2 mils for the City and let the library decide their fate.

Alderman Lucas: If the library brings something forward after the first of the year, when will they start getting the money?

Steve Davis: October, 2007.

Alderman Lucas: If we fund this through his 2 mils when would we get the money?

Steve Davis: October, 2006.

Alderman Lucas: So we would have funding for a year until they were able to pass millage and get their money. I think this is a good idea. We need to have this to get us through until the library gets something passed and then we can look at not funding this. The people in Ward 4 have not been opposed to an increase in taxes they know we need funding.

Alderman Marr: I think it is smart business to diversify your revenue income stream between sales tax, franchise fees and property tax. I think there are a lot of good reasons to do it and to

diversify. The more we help cities like Farmington, Greenland and Elkins create sewer systems and trash systems the more we are going to give them the ability to have commercial and force us to have another revenue stream. I think the best argument for it is the annexation debate which speaks to the fact that today we benefit from the sales tax of many of these places because people are shopping here when we get nothing from the property tax perspective and yet we have a cost of increase services. I think that is a very strong argument that also supports diversification of revenue. I don't disagree with the comments on the library but I think it is not only bad timing but it is the wrong timing right now. I think the library is one of the best amenities that we have in the City. I think it is our job to educate individuals on why we need to diversify revenue streams. I also think we need to discuss how to earmark the money.

Alderman Thiel: On a \$150,000 appraised value home the increase in taxes would be \$60.00 a year?

Steve Davis: That is correct.

Alderman Thiel: I have had some calls in Ward 1 about this millage increase.

Alderman Marr: We have as well. I don't take it lightly any time we add to what we are going to charge someone for fees or services. That is the reason we would like more information as to what this will be going to.

Steve Davis: Would it be helpful for us to prepare a chart showing where the City's General Fund money has gone to over the past five years.

Alderman Thiel: That would be great. Alderman Thiel also asked if a study on departments and their efficiency had been considered. She stated a study like this would be a way for us to recognize the need.

Jeff Erf asked who initiates the process for a vote on library millage.

Kit Williams: The library board.

Jeff Erf: What assurance do you have that they would actually do that? As I recall last year the library's budget before the new library and the increase in operating and maintenance was about \$1 million. So what we are talking about is an additional \$500,000 for operation and maintenance, now we are including their entire budget. There is \$1 million of General Fund money that we are unable to cover with current revenues. My concern is raising the property tax, I agree with diversity and I have no problem with the higher tax but I want to know where it is going and how it is going to be used. I am concerned that this is not going to fix the problem of the budget short fall every year. I would rather see you go through the budget and see what you can take out.

Kit Williams: Technically the library board would request the election but the City Council would actually call for the special election if it is requested.

Alderman Thiel: Could the City Council call for the election on its own?

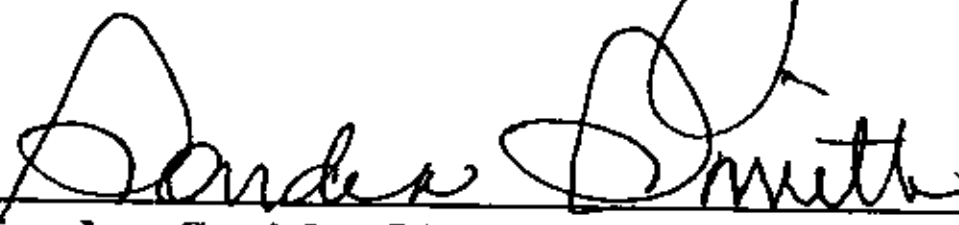
Kit Williams: I don't think so. I would have to research that.

This ordinance was left on the first reading.

Meeting Adjourned at 11:15 PM.



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer