City Council
Meeting Minutes
February 3, 2004

A meeting of the Fayetteville City Council was held on February 3, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Alderman Davis was absent until 8:00 PM

The meeting was called to order by Mayor Coody.

Mayor Coody: Before we start the Consent Agenda, I would ask that we add a change in the Fayetteville Water Rate Schedule to the agenda.

Alderman Cook moved to add the Fayetteville Water Rate Schedule, Customer Service Charge Revision to the agenda. Alderman Jordan seconded. Upon roll call the motion passed 7-0. Alderman Davis was absent.

CONSENT:

Approval Of The Minutes: Approval of the January 20, 2004 meeting minutes.

Telecommunications Task Force: A resolution to establish a Task Force to recommend a plan and an implementation strategy for a Telecommunications Policy and Infrastructure Development.

Resolution 12-04 as Recorded in the Office of the City Clerk.

ADEA Post Closure Trust Fund: A resolution authorizing the Fayetteville Parks & Recreation Division to apply for a Post Closure Trust Fund Grant from the Arkansas Department of Environmental Quality (ADEQ) for the C & L Landfill study and remediation.

Resolution 13-04 as Recorded in the Office of the City Clerk.

Wastequip May Fab Bid Award: A resolution approving the purchase of 2 to 8 yard trash containers from Wastequip in an amount not to exceed $63,000.00 to service multi-family and commercial solid waste customers.

Resolution 14-04 as Recorded in the Office of the City Clerk.

Bes-Pac Bid Award: A resolution approving the purchase of trash compactors and roll-off container/compactors in an amount not to exceed $85,859.00 from Bes-Pac, Inc., and Downing Sales, Inc.

Resolution 15-04 as Recorded in the Office of the City Clerk.

ESRI 2004 Service and Maintenance Fees: A resolution approving the annual maintenance agreement in the amount of $20,692.30 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 16-04 as Recorded in the Office of the City Clerk.

Hansen 2004 Service and Maintenance Fees: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of $44,852.10 for software service and maintenance fees.

Resolution 17-04 as Recorded in the Office of the City Clerk.

Van Scoyoc Associates: A resolution approving a memorandum of agreement with Van Scoyoc Associates and a budget adjustment in the amount of $85,000.00 to provide consulting legislative services in the amount of $75,000.00, plus expenses up to $10,000.00.

Removed from the Consent Agenda and moved to New Business, Item Number 1.

Rules of Order and Procedure - Handbook Arkansas Municipal Officials: A resolution to clarify that the Rules of Order and Procedure of the Fayetteville Mayor/City Council should follow the "Procedural Rules for Municipal Officials" by the Arkansas Municipal League.

Resolution 18-04 as Recorded in the Office of the City Clerk.

Rules of Order and Procedure – Voting: A resolution to modify Section B.4. **Voting** on the Rules of Order and Procedure of the Fayetteville Mayor/City Council.

Resolution 19-04 as Recorded in the Office of the City Clerk.

Alderman Lucas asked that item number 8, Van Scoyoc Associates be pulled from the Consent Agenda and added to new business.

Alderman Jordan moved to approve the consent as read with Consent Item Number 8 Van Scoyoc Associates removed. Alderman Marr seconded. Upon roll call the motion to approve the consent passed 7-0. Alderman Davis was absent.

Mayor Coody: Do we need to wait and discuss the item pulled from consent or can we discuss it now?

Kit Williams: We can discuss it now if you want to.

Alderman Lucas: I noticed on the memorandum of agreement that it says they agree to expenses exclusive of out of town travel. What we received from the city states the travel will be included in the $10,000. Will it be $10,000 or $10,000 plus travel?

Mayor Coody: I see the conflict there. We have a university representative here that can probably give us insight. The university has never spent that much including travel.

Alderman Marr: Mayor, I have a Point of Order question. Has this been pulled from the consent agenda or are we answering questions to see if it stays on consent and if it has been pulled from consent is it going under New Business, Old Business or before either New or Old Business?

Mayor Coody: It was pulled from the Consent Agenda.

Kit Williams: It is at your pleasure, if you want to put it in New Business, you can certainly do that.

Alderman Marr: So we can place it anywhere on the agenda?

Kit Williams: Basically it is your agenda. Procedurally it is normally moved to New Business, if there was just a question or two sometimes you handle that without formally moving it, but if the City Council wants to put it in New Business then we should wait and put it at the end of New Business.

Alderman Lucas: Let's put it in New Business then.

Alderman Marr: I am not opposed to it if we have someone waiting, my point is what we do in these occurrences, then we have people throw those up in the future when we pull things off consent and why do we put some pulled items at the end and some at the beginning. I would just like us to be consistent.

The Consent item that was pulled was moved to New Business, Item 1.

OLD BUSINESS:

Impact Fees for Road, Police and Fire Improvements: An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of $25,890.00 with a contingency amount of $1,500.00 and approving a Budget Adjustment of $27,390.00.
This Ordinance was left on the first reading at the January 6, 2004 City Council meeting.
This Ordinance was tabled at the January 6, 2004 City Council meeting until the February 3, 2004 City Council meeting.

Staff asked to table this to the February 17, 2004 City Council meeting.

Kit Williams: I might suggest that we put it on the second reading and then not advance it if that is what staff wants, there is no reason to table it, it will come up automatically on the next agenda.

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

Mr. Williams read the ordinance.

The Ordinance was left on the Second Reading.

R-PZD 03-6.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 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 ordinance was left on the first reading at the January 6, 2004 City Council meeting.
This ordinance was left on the second reading at the January 20, 2004 City Council meeting.

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

Mr. Williams read the ordinance.

Alderman Thiel: For the record would the developer state the changes. The people that are concerned about this I want to reassure them that this is the way that it will be, according to the changes.

Julie Zimmerman, Crafton, Tull and Associates: I would like to hand out a drawing showing the changes. Originally there were 43 units proposed, lots 1 and 2 were multi-family which limited two units per lot and then lots 3-20 were two family and lots 21-33 were single family. January 26, 2004 a meeting was held with the adjacent property owners, since that meeting the following changes were made: lots 7, 8, 9 and 10 were changed to single family lots, lot 13 was changed to a single story duplex, and lot 22 was changed to a duplex lot. These changes brought us down to 40 units which lowered the density to 4.8 units per acre. We put single family next to existing single family lots which was a concern and we put single story units next to the property owners that were concerned about having two story units next to their property.

Alderman Thiel: I am really pleased that we were able to get back with the neighborhood and pretty much satisfy them. I will approve this now.

Alderman Reynolds: You all were great to work with and I want to thank you very much for showing up at the Ward I meeting and for helping to solve the problems associated with this development.

Kit Williams: I would recommend that we do an amendment to the ordinance to add in the title as amended by the City Council with agreement of the applicant and on Section II where it says as approved by the Planning Commission on December 8, 2003 and further amended by the City Council on February 3, 2004.

Alderman Thiel moved to amend the ordinance to add as amended by the City Council in the title and in Section II add and further amended by the City Council on February 3,

2004. Alderman Reynolds seconded. Upon roll call the amendment to the ordinance passed 7-0. Alderman Davis was absent.

Alderman Cook: I appreciate Alderman Thiel and Reynolds work and the developers desire to meet the goals of the neighborhood. I am still struggling with the density and the fact that the people that live around this neighborhood have bought into these houses and expect a single family neighborhood. I struggle with the fact that we are dropping in some multi-family in there. While I am for infill and higher density within our city boundaries and I appreciate their desire to create more green space within this area but the density issue, while it is better I still struggle with that. There have been other examples within the City of Fayetteville where we put higher density within single family and to me it doesn't work very well. You put that in an urban environment and it works, I don't have a problem with that but out here on the edges where it is expected to be single family I have a problem with that. I have trouble supporting this. While I appreciate the efforts that have been done up to this point I still struggle with the density issue.

Alderman Lucas: I feel the same way that Alderman Cook does; I appreciate all the work that you did. There are two things we are doing here, we are waiving on the length of the cul-de-sac and we are also rezoning from a single family to a multi-family.

Alderman Thiel: I did question Tim about this on the council tour, if these lots that have been changed now to single family, if those lots would always be single family even though we are zoning this as a PZD and Tim assured me that they would.

Alderman Cook: I have supported higher density in certain areas of town. This is a RSF-4, R-1 by right and to me that changes my attitude with what this project is.

Alderman Marr: Did the changes that were made truly satisfy the existing residents. Do they consider this to now be compatible with their neighborhood?

Alderman Reynolds: At the Ward I meeting after we talked with the developer I asked for a show of hands and the neighborhood all raised their hands that they were satisfied with this final package. We told them when we left there that we were going to vote for this and they said that was fine. There is not anyone here tonight from that neighborhood, I think they are very satisfied with this.

Alderman Marr: Do you mind sharing with us how many people were at your meeting.

Alderman Thiel: All the people that live along the east side of this property.

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

Ordinance 4538 as Recorded in the Office of the City Clerk.

R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue,

north of Township on Brophy Circle containing 6.01 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 ordinance was left on the first reading at the January 6, 2004 City Council meeting.
This ordinance was left on the second reading at the January 20, 2004 City Council meeting.

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

Mr. Williams read the ordinance.

Alderman Thiel: I would like to ask our landscape administrator a couple of questions. In this planting schedule that we have been given, do any of these coniferous trees replace the existing residous trees?

Craig Carnagey, Landscape Administrator: No madam, I think what you are looking at the applicant has essentially provided a blanket of an evergreen screen. I think we should understand this to be more of intent to provide whatever screen is necessary on the site; however a degree of ground trooping is going to be required to find the exact location of where these trees need to be planted. There is a 15 to 20 foot buffer of deciduous trees mixed with other coniferous in there and in order to find where this screen is going to go I think the applicant needs to be out there and determine exactly where those trees will be planted. I would propose that I be there when the applicant actually does that and we can determine the best spaces for these trees.

Alderman Thiel: Is this going to actually screen that much, has he got enough room there to plant enough trees?

Craig Carnagey: That is a subjective judgment call, my answer to that, I went out to the site today, I looked at the screen, and I think the individual impact to the sight would be no greater than what you see currently at Brophy Circle, the development to the south of this proposal.

Alderman Thiel: From down on North College?

Craig Carnagey: Right.

Alderman Thiel: Except this goes further on up the hill.

Craig Carnagey: Actually further on up the hill there is more of kind of a buffer, the majority of that is a tree preservation area. The area of concern is on that western edge and I believe that Brophy Condominiums actually has a larger buffer of deciduous trees, plus with this evergreen screen that they are proposing there will actually be more of a buffer than what is existing currently at that development directly to the south. Plus the grade is a little bit lower than that development to the south so my assessment is that the visual impact will be no greater than what currently exists as far as the homes you see off of College right now.

Mayor Coody: When I look at this map, the tree buffer on the west side, I know some of that is utility easement, how much, there is no tree planting shown in the utility easement.

Craig Carnagey: No sir, no tree planting in the easement, the buffer that I am referring to is outside of the easement. The map that you have in front of you, the scale is a little bit deceiving, it does not show that actual buffer being there but I do have the large scale drawings and I think if you take a look there, I measured it this afternoon, this smallest sliver of tree buffer that exists is approximately 15 feet and it is well treed. There are gaps in there where I can see some evergreen trees being placed, both within the buffer and right adjacent to the buffer on either side east or west. There are a lot of young trees in there and I think in the summer time you won't see much of this development at all. During the leaf off period, you may see some of the roof lines from the other buildings.

Mayor Coody: Does that say 30 foot spacing or 30 inch spacing?

Craig Carnagey: 30 foot, however like I said I would request that there be some ground trooping to this plan. I think it needs to be walked and those spaces need to be identified, even staked out within that buffer. Right now he's just showing a blanket, we are going to put whatever trees you want wherever you want them on this western edge is essentially what he is saying with this plan. I think you have, along with that plan plus the Bill of Assurance, I think you have a pretty good guarantee that we will get a screen there one way or another. Plus their mitigation dollars that the applicant is submitting certainly can go back in that area if you find some problem areas and fill in those holes with those mitigation dollars.

Alderman Thiel: I want to really be clear that this Phase III is already pretty much buffered, the upper part.

Craig Carnagey: Right.

Alderman Jordan: On the street, does the city maintain that street or does the owner maintain that street?

Bill Rudasill with WBR Engineering: Which street, are we talking about the existing one that is currently there?

Alderman Jordan: Yes.

Bill Rudasill: No that is currently a private drive. The owner, Mr. Brophy maintains that street.

Alderman Jordan: I also noticed that there is a five foot easement around each of the buildings is that correct?

Bill Rudasill: Yes.

Alderman Jordan: That basically means the ground will not be disturbed within the five feet?

Bill Rudasill: Outside those five feet the ground will not be disturbed. That's for digging the basement, porches coming off the back of the building and stuff like that.

Alderman Jordan: If part of the tree canopy gets into that five foot buffer will that tree be preserved.

Bill Rudasill: No, it has not been counted as preserved. Let me qualify that statement, if you do not disturb more than 20% of the canopy a tree can be counted as preserved, if it is more than 20% it cannot be counted as preserved.

Mayor Coody: There was a question earlier about fill to bring these lots up to a level to build on is there a concern about that, is there a problem with grade?

Alderman Cook: Especially unit 15,16, 27 and 28, you have given us these cross sections of driveways and there is a big gully through there and it has been filled in to the development up to this point, but you are talking about filling in more to finish this development too and I certainly have some concerns with that. If you go out there now and you see what's been built, these houses are built into the hillside and it's either you cut into it or you fill it up to be able to build in this space. My personal opinion in the long run is that is not good, that is just the way I see it and I struggle with that.

Bill Rudasill: The intent here is to dig into the hill, build a basement into the hill, a lower level into the hill. Where we are on the up hill side of the down slope the fronts will be brought to the front of the building and then a retaining wall will be placed and it will go back down to natural grade for the stem wall and footing system around the building. The ground past the front of the building will not be disturbed other than to dig the footing and put the building in place and it will stay within that five foot region that we have shown around each one of those buildings.

Alderman Jordan: How tall will your tallest retaining wall be?

Bill Rudasill: The tallest retaining wall between the buildings I am not actually sure exactly the height but the majority of them will be three to four feet tall at the front and then it will go down to ground. The building heights on those specific buildings there should be nothing more than six foot below the first floor, four to six feet is what they typically are.

Alderman Jordan: So that would give us a finish out at the peak at about 27 feet.

Bill Rudasill: Somewhere in that neighborhood. That is from the first floor up.

Alderman Jordan: That's right and that doesn't include the retaining wall right?

Bill Rudasill: Right.

Alderman Lucas: I am concerned about the way it is going to look when you look up and the green space. I still have the struggle with the traffic going down that private drive and then trying to get on College and then the increased traffic on Township. I just worry about traffic safety there. I don't know how that can be addressed; it is really going to throw a lot out on Township.

Kit Williams: I wanted to ask the developer, do you now have a signed Bill of Assurance.

Bill Rudasill: Yes sir.

Alderman Jordan: I have some concerns about this development. There are three things that I have a problem with, one is the traffic I think that is going to be too much traffic being put down on North College, there is no way you can make a left turn down there. That is a real concern of mine. The way it looks from the road, if you have a building that is 27 feet tall that is one thing but when you put a four feet retaining wall and you are driving below and looking up it actually looks taller than what it is so you will really pick those up from the road. I also have a concern about the existing sewer lines that we have in there when we bring in a lot of heavy machinery and things there is a good possibly we will damage a lot of those sewer lines and I do not know to what extent it could but we certainly could. I have some problems with this development; I will be honest with you. I agree with Alderman Cook's comments that we have all kinds of development all over town that is slipping off into the canyon because we built on the sides of hills and being in the building profession I do have problems with that. That's my concern.

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

The Ordinance Failed.

WIV-Fayetteville Cost-Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.
This ordinance was left on the second reading at the January 20, 2004 city Council meeting.

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

Mr. Williams read the ordinance.

Alderman Thiel: Did staff get an opportunity to speak to the mall about cost sharing?

Tim Conklin, Planning: I have had several conversations with Alice Church, the mall manager. She has been in contact with her corporate offices; I still do not have a definite answer whether or not they will participate in this project. At this time I do not have a definite answer yes or no.

Mayor Coody: One thing that I might add is once that I found out that Mrs. Church had not had much luck, I found out the gentleman that she has been contacting and I left a voice mail for him this afternoon, he was out of the office but I fully expect to hear from him or the president of the company tomorrow, I will be talking to them, so if this is approved I will still be asking them to contribute if they can. I didn't realize that Alice Church had not had any luck talking with the mall people until this afternoon.

Alderman Thiel: If we approve this there will be no point in them bothering.

Mayor Coody: There is some merit to that argument.

Alderman Thiel: I kind of regret that this was not discussed with them before hand really.

Alderman Rhoads: Is there an urgency to approve it tonight.

Tim Conklin: I don't believe two additional weeks is going to be a problem. I would like to say that as a policy we do try to create these looped systems and have redundancy in our system. There are other property owners and other cost shares that we have done where we haven't tried to recoup the cost based on existing development. The mall was built in 1972, went through a major expansion in the mid 90's, this is something we are trying to complete as part of our water system to have reliable service. I am hopeful there is an opportunity to have them participate even if they don't participate it is something that we should do to make sure we do have a very good reliable water system in probably one of the most important regional commercial areas in the City of Fayetteville.

Alderman Lucas: How much are we talking about that they would possibly cost share with us?

Tim Conklin: The discussions I've had with Alice Church are a 50/50 cost share.

Mayor Coody: It would be about $15,000. If it is not an emergency, I was asked to let them try to go through their channels. I just found out today that that was not working very well, so if you would like to postpone this until the next meeting, I will get more involved and start from the top down and not try to wait on the channels from the bottom up.

Alderman Thiel: I would appreciate that, Mayor.

Alderman Reynolds: I would like to see it happen.

Alderman Rhoads moved to table the ordinance until the next City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed 7-0. Alderman Davis was absent.

The Ordinance was tabled until the February 17, 2004 City Council meeting.

Mount Sequoyah Woods Conservation Easement: A resolution to reaffirm its commitment to sell most of its development rights to the Fayetteville Natural Heritage Association, Inc. on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03.
This resolution was tabled at the January 20, 2004 City Council meeting.

Alderman Jordan moved to remove the resolution from the table. Alderman Thiel seconded. Upon roll call the motion passed 7-0. Alderman Davis was absent.

Kit Williams: There have been some proposed changes to the resolution that was presented at the earlier meeting. I think there are members of the Fayetteville Natural Heritage Association here; they prefer the version that might be amended tonight by the City Council.

Alderman Thiel moved to amend the resolution. Alderman Reynolds seconded.

Alderman Jordan: So we are voting on the amendment right?

Mayor Coody: On the amended version.

Pete Heinzelmann, Fayetteville Natural Heritage Association: The changes that we made, we included the dollar figure for the purchase of the conservation easement. This helps us when we seek contributions for the easement because the city has already agreed to purchase the property. The easement will ensure that the property will always remain as a natural park and not be changed to something else 25-50 years from now by another city administration. That was your intent when you purchased the property. That's the main change in what the original wording was.

Kit Williams: It might be a good idea for you to read section one which is the operative section just so everyone will know what we are voting on.

Mayor Coody read Section I.

Alderman Marr: If something happens to the Fayetteville Natural Heritage Association is this land still protected?

Pete Heinzelmann: Yes, our assets if the organization is dissolved would go to a similar 501-C3 organization.

Mayor Coody: Is that worked out in your Bylaws to who it would go?

Pete Heinzelmann: Not the exact entity but it would go to an organization that would fit with the mission of our organization, a conservation organization.

Kit Williams: This is not the actual sale of that, this is the agreement to sell so when it comes back to the City Council after they have raised the $300,000 those details can be worked out.

Upon roll call the amended resolution passed 7-0. Alderman Davis was absent.

Resolution 20-04 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Van Scoyoc Associates: A resolution approving a memorandum of agreement with Van Scoyoc Associates and a budget adjustment in the amount of $85,000.00 to provide consulting legislative services in the amount of $75,000.00, plus expenses up to $10,000.00.

Alderman Lucas: Is the travel included in this $10,000 or would that be over and above the $10,000.

Collis Garran, Dean of Graduate School for the U of A: The travel is included in the $10,000, the local travel they are referring to is in D.C., in the three years we have used them they have never used their $10,000 total allowed amount.

Alderman Lucas: So their travel back and forth to Fayetteville is included in that amount.

Collis Garran: Yes.

Alderman Lucas: I think this is great and I am counting on them to do us a lot of good.

Alderman Marr moved to approve the resolution. Alderman Lucas seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 21-04 as Recorded in the Office of the City Clerk.

R-PZD 04-1.00 – Southern View II: An ordinance establishing a residential planned zoning district titled (R-PZD 04-1.00) located on Futrall Drive and Old Farmington Road east of I-540 containing 6.713 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.

Mr. Williams read the ordinance.

Jerry Kelso, Crafton, Tull and Associates gave a brief presentation on the project. This is a mixed used development with commercial on the bottom floor and residential units on the second and third floor. The total proposed residential units is 113, the total square feet of commercial is roughly 42,000 square feet.

Kim Fugitt, Project Architect gave a brief description of the exterior of the buildings and the project. There will be six of the buildings on the six acres; each building will have 19 apartment units and approximately 7,000 square feet of commercial space on the ground floor. There are twelve two bedroom apartments and seven one bedroom apartments; one apartment is on the ground floor to provide any kind of accessible living units for those that may be unable to reach the second and third floor.

A discussion followed on the ground level apartment and the apartments to the north of this proposed project.

Alderman Thiel: Did this go through the commercial design standard process?

Dawn Warrick: Any Planned Zoning District which has commercial components is required to be review for commercial design standards and it was approved by the Planning Commission for those standards.

A discussion followed on the project.

Jim Lindsey spoke about the project.

Mayor Coody: I want to thank you and your staff for being willing to try something that is way outside your box.

A discussion followed on the project.

Alderman Cook: As a PZD is that locked in that the first floor must remain as commercial or at some point in the future could that be turned into apartment space or what ever?

Tim Conklin: What has been shown and proposed is to lock in the first floor excluding the one assessable unit as commercial.

Alderman Reynolds: I want to thank you for jumping into this venture. I really like it, I think it will cheer up the neighborhood out there and that new traffic light alignment will help you.

Alderman Jordan: Traffic Count?

Dawn Warrick handed out the traffic counts that were taken by the city's Transportation Division.

Alderman Thiel: There are 114 new apartment units in this project.

Tim Conklin: There is 6,733 square feet of retail per building for a total of 40,398 square feet of retail.

Alderman Thiel: How many units did we add whenever the property north of there, which was commercially zoned, was rezoned multi-family, how many units are in that complex?

Tim Conklin: 300 units.

Alderman Thiel: I am concerned about the amount of apartments we are adding right now when construction has not even started on the new treatment plant. I think this a great effort on Mr. Lindsey's part. I feel 540 has a lot of apartments and that is the front door into this city, I would like to see more of it developed commercially. Even though this is mixed and it does have the commercial, it still adds 114 more units. I have reservations about how this is going to look from 540.

Alderman Marr: What is your current occupancy of the 300 apartments that you have recently built?

Mr. Lindsey: Companywide in Fayetteville we are at 97%. That project is new and it was built after the kids came back to school and we have just finished the last building in the last few weeks. That project is right now at 50%. I would say by May we would be in the 80% to 85% and by next August that project will be 100% rented.

Alderman Marr discussed housing for students and housing close to the university. He spoke about the continued same look of apartments at every intersection. There is a lot about this project that he likes, that we are having a major developer in our area try something new that is a very different look. He thinks it is very hard to argue for urban infill and mixed use and not be willing to step out and have someone who is willing to take a little bit of risk with you do that.

I appreciate that very much, I like the concept. Part of the appeal to me is the fact that it may visually hide some of the things that are repetitive on 540 when this development gets built. I am excited about some commercial in this area.

This Ordinance was left on the First Reading.

Southern View Phase II, Money in Lieu of Land: A resolution accepting the parks and Recreation Advisory Board's recommendation to accept $40,086.00 cash in lieu of the required park land dedication for Southern View Phase II.

Alderman Jordan moved to table the Resolution until the February 17, 2004 City Council meeting. Alderman Cook seconded. Upon roll call the motion to table passed 7-0. Alderman Davis was absent.

Re-budget 2003 Budget Items: A resolution approving a budget adjustment to re-appropriate $58,605,226.00 in order to retain project funding for identified and scheduled capital improvements and fund increased workers compensation premiums.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 22-04 as Recorded in the Office of the City Clerk.

ADM 03-29.00 – Chapter 167 Tree Preservation Amendment: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide amendments to and clarification of various provisions concerning tree preservation and protection.

Mr. Williams read the ordinance.

Alderman Thiel: Is the Tree and Landscape Committee in favor of this?

Audience: They have reviewed this for several months, they have reviewed this amendment and they are in full support.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4539 as Recorded in the Office of the City Clerk.

Attendance Requirements for Planning Commissioners: An ordinance to repeal §33.111 removal of Planning Commissioners and enacting §33.300 attendance requirement for all members of citizen committees, boards and commissions.

Mr. Williams read the ordinance.

Alderman Cook: While this is a commission of citizens and they volunteer their time for this position and it is a very time consuming position it makes it difficult to find every day citizens that can afford the time and the money to be on this commission. My experience at other committees is if we put someone on this committee we certainly expect them to take this seriously. Showing up for meetings and agenda sessions also in the Planning Commissions case is a very important process. My experience on the Parks Board we had a couple of instances where we didn't have a quorum so we couldn't vote on issues. My intent was to try to add a little more authority to the fact that we want people to show up to the meetings, it is very important that people take it seriously and go to the meetings and stay informed. It is not an easy task.

Alderman Thiel: There has never been a lack of people applying for the Planning Commission. I don't think we would have trouble finding people that are interested in serving on the Planning Commission even if a requirement like this was approved.

Alderman Marr: I want to think Alderman Cook for bringing this forward. When I ran for office I was standing in front of this Council with a peer Planning Commissioner who was being denied reappointment because of one of the reasons being attendance. We decided at that time to evaluate everyone's attendance. When there were no attendance requirements to any percentage it was very hard to determine what counted in attendance. There also was difficulty as to who could sit on Sub-division. We need to address what the standard expectation is and put it in the requirement and before we reappoint someone we need to see if they have been attending meetings. I think there is a big importance on agenda session and I think that is missing in this, we should be talking about a 50% attendance requirement for agenda sessions that are scheduled or some number, but I think we need to address it. If we want people to volunteer, let's not make the meetings the length of the Council meetings, how you do that is you get things on agenda session to allow you to have questions. One issue I have is that we have talked about three consecutive meetings and we have not talked about a percentage.

I would like to see us make the changes only relative to the Planning Commission and the Parks Board and not every city committee. I do think there is a difference. I think when you apply you are making a conscious decision on the time commitment if you apply for Planning Commission and Parks. Commissioner Allen made a statement that I love she said "I never want the Planning Commission to be so exclusionary because of work problems, but I do think that commissioners need to know up front what's expected of them so they can make a decision about whether or not they have time to apply". I think that is a valid statement, they need to know that it's more of a commitment just like when you run for Council it is more of a commitment.

I would like to amend this to add 70% attendance requirement as opposed to three meetings in a twelve month and that the Planning Commissioner has to serve 12 months on the Sub-division Committee meeting during their three year term. It would be broken up during the three years.

We have three appointments coming up in March for the Planning Commission. We do not have one single commissioner who is reapplying because they have served their term. This is a great opportunity to make these changes when we have new people coming on. If you look at the attendance you will find the problem is not with many of our commissioners, it is very concentrated.

Alderman Reynolds: The Planning Commissions job is tough; they give us a lot of their time. I agree with Don on the 70% of the meetings.

Alderman Lucas: Is that 70% of the regular meetings and not the agenda sessions?

Alderman Marr: I would like some requirement on agenda but I do think it should be less because some people serve on Sub-division. Maybe 70% for attendance at regular or special Planning Commission meetings and 50% attendance at tour and agenda session and 12 months of service on Sub-division.

Alderman Reynolds: We need to make sure that every commissioner serves on that Sub-division committee that rolls over yearly because it is unfair for someone to serve two, three or four years on that committee.

Alderman Marr: I really would like us to change this from being for all committees to being for the Planning Commission and the Parks Board because I think they are the majority of where we are talking about development process.

Sharon Hoover, Planning Commission: We did establish a By Laws Committee. Sub-division committee was lacking a commissioner and I could not find anyone who would volunteer, this is when we started this discussion about coming to meetings. The By Laws Committee met several times and I believe you have the minutes of the summary of what was discussed in that meeting, it is along the line of the proposal that you have made.

She spoke about the PZD ordinance, the amount of work involved in a PZD and that this is causing Sub-division meetings to last longer.

Alderman Marr: Was there consensus on the commission about the agenda session?

Nancy Allen, Planning Commission: We got to consensus on attending the regular Planning meetings on Monday nights and the six month stance on Sub-division but we could not reach a consensus on attending agenda and tour.

Sharon Hoover: We discussed if the time frame changed and it wasn't at 3:30 in the afternoon and the time slot moved that that would be more agreeable to people and make that more available. We asked staff to look and see if there was another time slot that would work and we came up with the problem with because we do agenda and then we go on tour at the same time, it was getting dark. We discussed splitting agenda and tour and doing them on separate days but that got into the process of getting the material early enough to review and we came back to where we are now. There was consensus if it could be at a time that was after work hours or near the end of the day.

Alderman Marr: Does the majority of the commission attend agenda session. Do you think there is value in having an attendance requirement related to agenda session?

Nancy Allen: I think there is strong value in that. An average of five commissioners goes each time.

A discussion followed on attending Planning Commission tours.

Alderman Reynolds: The tours on the Planning Commission are very important if you don't do them you are cheating someone. The Sub-division committee you must be a second or third year commissioner to serve on the Sub-division committee.

Dawn Warrick: That is usually the standard that the more seasoned commissioners will serve as Sub-division member, it is the desecration of the chair.

A discussion followed on the Sub-division committee and serving on this committee.

Alderman Cook: I think the 70% rule for regular and special meetings and leave out the 3 consecutive meetings is okay. I agree with serving 12 months within a term on the Sub-division. Parks and Planning are the ones that are definitely most important on this.

A discussion followed on the attendance and the percentage.

Alderman Marr: The amendment would be any member of the Planning Commission or Parks Board appointed by the Mayor and City Council shall immediately tender his or her resignation if the citizen's attendance falls below 70% for the regularly scheduled or special scheduled commission or board meeting within the twelve month period. Tour and Agenda would be a 60% attendance requirement and add that a Planning Commissioner would serve a 12 month term within their three year term on Sub-division broken into increments as set by the commission itself.

Alderman Rhoads: If this is passed is it effective for the existing member?

Kit Williams: Yes, it would go into effect 31 days after you pass it.

Alderman Cook: It is important to be informed, to know the issues and to attend the meetings. I just want people if they get appointed to serve their term properly.

This Ordinance was left on the First Reading

Water Rate Schedule, Customer Service Charge Revision: This was added to the agenda at this City Council meeting.

Mr. Williams read the ordinance.

Mayor Coody: I want to thank Geary Lowery for looking into this and discovering this for us.

Alderman Lucas: I want to thank him for calling us. It is very important that citizens help us out and we listen. I appreciate Geary Lowery for calling us about this.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance

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

Ordinance 4540 as Recorded in the Office of the City Clerk.

Mayor Coody asked shall the Emergency Clause Pass. Upon roll call the Emergency Clause passed unanimously.

Meeting Adjourned at 8:09 P.M.

Sondra E Smith

Sondra Smith
City Clerk