Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

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 - Conrad Odom
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
December 7, 2004

A meeting of the Fayetteville City Council was held on December 7, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Mayor Coody presented a plaque to Dawn Warrick, Planning Department for her nine years of service to the City.

Tim Conklin, Planning thanked Dawn for her hard work in the Planning Department.

Airport Board Annual Report: Doc Wallace of the Airport Board gave the 2004 annual report on the airport. He introduced the current Airport Board members to the City Council. He also thanked the staff for their efforts.

Mayor Coody thanked Doc Wallace for his leadership and participation on the Airport Board. He stated he is very pleased with the direction that Drake Field is headed.

CONSENT:

Approval of the Minutes: Approval of the November 16, 2004 City Council meeting minutes.

Fire Safety House Purchase: A resolution awarding Bid #04-79 to Surrey Fire Safety House on the amount of $23,845.00 to provide a new fire safety house to the Fayetteville Fire Department; and approving a budget adjustment in the amount of $25,287.00 for same.

Resolution 186-04 as Recorded in the Office of the City Clerk.

OMI Contract Amendment No. 10: A resolution approving amendment No. 10 (A) to the contract with Operations Management International (OMI) in the amount of $16,416.00 to fund out-of-scope flood emergency expenses incurred during Spring 2004; and approving a budget adjustment in the amount of $16,416.00.

Resolution 187-04 as Recorded in the Office of the City Clerk.

OMI Contract Amendment No. 11: A resolution approving amendment No. 11 to the contract with Operations Management International (OMI) in the amount of $4,484,325.00 for the operation and management of the Fayetteville Wastewater Treatment Plant for 2005.

Resolution 188-04 as Recorded in the Office of the City Clerk.

Garver Engineers Contract Amendment: A resolution to approve contract amendment No. 4 with Garver Engineers, LLC for additional design, bidding and construction phase services for the Gregg Street waterline relocation in the lump sum amount of $121,500.00.

Resolution 189-04 as Recorded in the Office of the City Clerk.

Aspen Ridge Development Park Land Dedication Requirement: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept approximately 1.24 acres of land and approximately $93,425.00 Cash in Lieu of the Required Park Land Dedication (less Credit for the Developer's cost to construct Indian Trail) for Aspen Ridge Development.

Resolution 190-04 as Recorded in the Office of the City Clerk.

Riggins-Stonebridge Development Park Land Dedication Requirement: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $64,935.00 cash in lieu of the required Park Land Dedication for Riggins-Stonebridge Development.

Resolution 191-04 as Recorded in the Office of the City Clerk.

Transportation Division Dump Truck Purchase: A resolution approving the purchase of one (1) 15 yard dump truck for the Transportation Division from Diamond International in the amount of $84,426.47.

Resolution 192-04 as Recorded in the Office of the City Clerk.

Animal Services Van Purchase: A resolution approving the purchase of one (1) Dodge Sprinter 3500 van for the Animal Services Division from the Breeden Dodge of Fort Smith in the amount of $43,360.00.

Resolution 193-04 as Recorded in the Office of the City Clerk.

Police Pursuit Motorcycle Purchase: A resolution approving the purchase of two (2) police pursuit motorcycles from Denny's Harley Davidson of Fort Smith in the amount of $37,700.00.

Resolution 194-04 as Recorded in the Office of the City Clerk.

Mid-South Sales Contract: A resolution approving a contract with Mid South Sales of Fayetteville to provide engine oil and lubricants for the Fleet Operations Division.

Resolution 195-04 as Recorded in the Office of the City Clerk.

New World Systems Contract: A resolution approving a contract with New World Systems in the amount of $67,700.00 to provide CAD Mapping and Automatic Vehicle Locator (AVL) Software and support to the Fayetteville Police Department.

Resolution 196-04 as Recorded in the Office of the City Clerk.

Smith Communications, LLC Bid Award: A resolution awarding Bid #04-85 to Smith Communications, LLC in the amount of $164,361.00 to provide IP Mobilenet Equipment and Tower Site Upgrade to the Fayetteville Police Department; and approving a budget adjustment in the amount of $159,849.00.

Resolution 197-04 as Recorded in the Office of the City Clerk.

Sage House Replacement Lease: A resolution to end the current lease of City property to Sage House and approve a replacement lease of City property to Sage House.

Resolution 198-04 as Recorded in the Office of the City Clerk.

Seven Hills Homeless Center, Inc. Lease: A resolution to approve a lease of City property to Seven Hills Homeless Center, Inc.

Resolution 199-04 as Recorded in the Office of the City Clerk.

Solid Waste and Recycling Division Commercial Collection Vehicle Purchase: A resolution approving the purchase of three (3) front-load commercial collection vehicles for the Solid Waste and Recycling Division from Downing Sales and Service in the amount of $526,709.61.

Resolution 200-04 as Recorded in the Office of the City Clerk.

AVFUEL Corporation Contract: A resolution approving a fuel services contract with AVFUEL Corporation to provide aviation fuel, refueler trucks, and other services to the Fayetteville Municipal Airport.

Resolution 201-04 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS

RZN 04-1243 (Medley): An ordinance rezoning that property described in rezoning petition RZN 04-1243 as submitted by Ronald Dean Medley for property located at 3507 W. 6th Street containing approximately 1.03 acres from R-A, Residential Agricultural to C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the November 16, 2004 City Council meeting.***

Alderman Jordan 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 Jordan: I would like to know why staff denied this.

Dawn Warrick, Planning: Staff believed that the request which was originally to zone the property C-2 Thoroughfare Commercial was not consistent with our adopted General Plan which identifies this area as Mixed Use. We had concerns with regard to future development of the site in addition to the inconsistency with the Land Use Plan; this property has a lot of environmental obstacles. We were concerned as well about the potential maximum development under a C-2 designation.

Alderman Thiel: This ordinance is C-1 not C-2 zoning. The applicant wanted C-2 but staff recommended C-1 therefore that is what we are deciding.

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

Mr. Williams read the ordinance.

Alderman Jordan: Dawn would you tell us the difference between C-1 and C-2 for the public please.

Dawn Warrick: The intensity of uses in a C-2 zoning district is greater. C-1 is more retail and neighborhood shopping type uses. C-2 is categorized as trades and services and it allows such things as used car lots and other more intense commercial, thoroughfare commercial. It is basically what you see up and down North College Avenue.

Alderman Lucas: Is there any way for this to be zoned R-O.

Dawn Warrick: The Planning Commission was concerned about a C-2 zoning district which was the original request. They did ask staff if we could support any type of designation aside from the Residential Agriculture that is the current zoning for the property. Staff was not

comfortable with the commercial designation. However we did state that R-O would appropriately fit within the mixed use category which is identified on the Land Use Plan and we could support an R-O designation.

Alderman Lucas: Can we as a body change it to R-O or do we have to vote on it as it is.

Dawn Warrick: I believe you have that ability to make an amendment to the ordinance that is in front of you.

Alderman Marr: This particular area would not constitute a commercial node in the staff's opinion?

Dawn Warrick: No sir.

Alderman Marr: It is for that reason that I think it is inconsistent with our 2020 Plan, I don't think it has commercial nodes. I think we are creating College Avenue on Sixth Street. Therefore I am not going to support the zoning.

Alderman Lucas: I feel the same way.

Alderman Jordan: I agree, I think we are creating a potential North College again and I don't think that fits. I can't support this either.

Mayor Coody: It looks like the Council is headed against this, do you have another zoning in mind or do you want to leave it Residential Agricultural?

Alderman Jordan: I would not have a problem with it being R-O.

Mayor Coody: If the rest of the Council feels like this, there should be a motion to amend this to change the zoning.

Kit Williams: Yes, the City Council does have the right to not follow the advice of the Planning Commission or the request of the petitioner. You can if you want change the ordinance.

Mayor Coody: The City Council may be thinking of rezoning this to R-O Residential Office.

Dawn Warrick: The uses permitted by right include single family, two family dwellings and professional offices.

Mayor Coody: With two family dwellings, multi family how many units per acre are allowed in R-O?

Dawn Warrick: I believe the maximum is seven; I would have to double check that.

Mayor Coody: I don't know what your plans are for this acre but it looks as if the City Council does not want to go with the full commercial use that you would like to see it developed to.

Dean Medley: I only have one problem with this, when you have a piece of property that is isolated and this piece of property would be isolated, it is surrounded by C-1 and C-2 that leaves

me R-O. If I understand R-O, you can live on the property and you can work out of the property. My understanding of R-O will not benefit me at all. I am having a problem understanding why, if the Planning Commission was okay with C-1 why the City Council is not okay with C-1.

Mayor Coody: I think the reason, that has been expressed tonight, is they do not want to see a repeat of the development on College Avenue which is basically a long commercial strip development. Our 2020 Plan has more commercial node development with buffers between commercial nodes. From what I am reading from the Council this would be contrary to that plan. Dawn am I missing something.

Dawn Warrick: No sir that is correct.

Mayor Coody: Is that roughly right Council?

Alderman Jordan: Yes.

Alderman Marr: On page 18 of 30, I do think there are significantly other tracts of land that are RSF-4, RMF-24, and R-O that show abutting to this property.

Mayor Coody: The road frontage may be C-2.

Alderman Marr: We are not talking about just rezoning the road frontage.

Mayor Coody: I know but that is probably Mr. Medley's perspective.

Alderman Thiel asked exactly where the property was on the chart. She asked if the rest of the R-A property that surrounds this property will eventually come before the City Council for rezoning.

Dawn Warrick responded that the property immediately west of this has been submitted to the Planning Commission for consideration.

Mayor Coody: What is the zoning request on that?

Dawn Warrick: C-2.

Alderman Thiel: It kind of bothers me to single out this one small piece of property and say that it is limited use.

Mayor Coody: It looks to me that C-2 is also further to the west. The property adjoining to the west is C-2.

Dawn Warrick: Not immediately adjoining but the next one over. There are three warehouses immediately west and then 62 Auto Salvage.

Mayor Coody: This is situated between two C-2 parcels. So even though the Council might not want to see commercial development up Sixth Street whether this piece of property is rezoned R-O or left R-A, we are still going to see commercial development even beyond this piece is that right?

Dawn Warrick: There will likely be additional commercial development on Highway 62. The property that is east of the subject tract is a property that is combined it's not just C-2 it incorporated a portion of this RMF-24 to the rear. We have spoken to that applicant about a Planned Zoning District. There are very strict covenants on that particular property because it was originally part of the tract that was sold when the Lowe's project developed. Therefore I don't know for sure that we are going to see a standard C-2 development on the property to the east.

Mr. Medley: If you look at the map half of the Advance Floor Company building is C-2, the other half is R-A. Does that mean that they can only work in part of that building as commercial and the other part has to be agricultural? I am not trying to create a problem here. There is a problem if you don't rezone this property C-1 or C-2. I do not want an undesirable business on my parent's property but I do want it to become something that can be used. If it can't be used then it is a valueless piece of property.

A discussion followed on the type of businesses that would be allowed in a C-1 and C-2 zoning.

Alderman Reynolds: I would not vote for C-2 but I think at this time C-1 would be adequate.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-4. Alderman Reynolds, Thiel, Rhoads, Odom, voting yes. Alderman Cook, Marr, Lucas and Jordan voting no. Mayor Coody voted yes thus breaking the tie.

Ordinance 4645 as Recorded in the Office of the City Clerk

2005 Proposed Annual Budget and Work Program Adoption: A resolution adopting the proposed 2005 Annual Budget and Work Program. ***This resolution was tabled at the November 16, 2004 City Council meeting until the December 7, 2004 City Council meeting.***

Geary Lowery a resident asked if the budget still included the $150,000 for the Dickson Street Partners.

Kevin Springer, Budget and Research stated yes it did.

Geary Lowery voiced his concern about the money that is being spent on Dickson Street. He spoke of his concerns regarding curb and gutter, sidewalks and street in the city.

Jeff Erf, a resident asked about a chart that was in the budget documents in the past that shows the General Fund expenditures and revenues over the past several years. He stated that he did not see it in this year's budget. He asked if our expenditures were still exceeding revenues and if those expenditures were still increasing at a higher rate than our revenues.

Kevin Springer: The graft that Jeff was referring to was not included in the 2005 proposed budget document however we did include it as part of the mid year budget briefing that we had in August. At that time the trend was still expenditures over revenues. The recommendation was that we needed to do something to get those trends together.

Jeff Erf: I tried to figure out how much General Fund expenditures per person the city spends. I compared the year 2000 to 2005. In 2000 the city was spending $361 per person based on population, dividing the total expenditures by the population, in 2005 that number is $474 per person. It is alarming to see it jump like that, inflation accounts for some of that. My concern is if the trend continues, it seems the more people that move here it is costing the city more to provide services. It sounds like the solution might be to raise taxes.
Alderman Marr: The calculation that you did was it off of 2004 population or projected 2005 population?

Jeff Erf: I used the population served for 2000 and 2005.

Alderman Marr: So your source is population served?

Jeff Erf: Yes.

Alderman Marr: I would like to see that source.

Kevin Springer: It is on Page 179 of the main budget document.

Mayor Coody: There are a lot of factors that have to be considered. Some of these things are fuel and wages that are beyond our control.

Kevin Springer: We go by the Northwest Arkansas Planning Commission projections. When you look at the population served you have to look at where they served well. Did we have enough fire protection? We have added 12 fire fighters since last year and we are building a new fire station. We have been running behind for years and we are trying to catch up.

Mayor Coody: That accounts for more sidewalks, street paving, curb and gutter, water and sewer lines.

Kevin Springer: If you look at the city wide budget yes. If you look at the General Fund the majority of the General Fund is Public Safety, Police and Fire.

Jeff Erf: I guess my point was that we are also adding people and apparently the growth isn't paying for itself. The alternate to taxes is increasing our user fees and adding impact fees.

Alderman Marr: Kevin can you get us the Northwest Arkansas Regional Planning Commission population number.

Alderman Thiel: I would like the information that Jeff just gave us, the population in 2000 versus the 2005 population cost per person served.

Kevin Springer: Compare the population amounts to what was adopted in that years budget?

Alderman Thiel: Yes.

Alderman Marr: I would like to see the population number you are using.

Alderman Jordan: I asked for this and was told how to calculate this. I would like to know how much these individuals pay versus how much it cost to serve them.

Mayor Coody: We collect the lowest sales tax of any city in Northwest Arkansas, 1.75 cents instead of the 2 cents that Rogers, Springdale and Bentonville charges. We also do not collect any millage for property tax for operations. Springdale charges 5.7, Bentonville 5.5, Rogers 3.9 and Fayetteville charges zero. We can't continue to expand services Mayor Coody explained the increase in cost that the city has had this past year in products and services.

Geary Lowery stated he could show the City Council a way to get all the roads in the city repaired.

Mayor Coody asked him to send him a letter.

Alderman Reynolds moved to table the resolution until the December 21, 2004 City Council meeting. Alderman Odom seconded the motion. Upon roll call the motion to table passed unanimously.

The Resolution was tabled until the December 21, 2004 City Council meeting.

Highway 71 East Square Redevelopment District Project Plan Adoption: An ordinance adopting the Project plan for the Highway 71 East Square Redevelopment District, finding the Plan is economically feasible and authorizing the issuance of Tax Increment Financing Bonds to fund the improvements outlined in the plan. ***This ordinance was left on the First Reading at the November 30, 2004 City Council meeting.***

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

Mr. Williams read the ordinance.

Sharon Davidson a resident voiced her concerns on this TIF consuming the time of city employees. She is also voiced her concern about TIF's taking money and resources from various public tax paying entities such as schools and city services. She continued to speak on TIF's in other cities.

Mayor Coody: I might just get you to focus on the Highway 71 East Square TIF.

Sharon Davidson: Excuse me sir this is all relative. I have not been here for a long time and I see no time limit.

Mayor Coody asked if Chief Johnson was at the meeting.

Sharon Davidson left the podium.

Cyrus Young: What you are doing tonight is forming a TIF District is that correct?

Kit Williams: The TIF District has already been formed. Tonight we are approving the Project Plan for the TIF District that was formed previously.

Cyrus Young: The District is formed and that means the base is set for the property taxes right?

Kit Williams: Yes that is part of the Project Plan. The County Assessor fixes the base.

Cyrus Young: Any natural increase in the property taxes over a period of time that goes toward the project is that correct?

Kit Williams: If the project is approved that is correct.

Cyrus Young: You talked about the city buying the property and tearing part of it down so the TIF District would pay the city to do all of this.

Kit Williams: Actually the City would not be doing that the City would be using the TIF bond proceeds to do that. The District is really not separate from the City Council. The City Council controls the TIF District, its funds and the Project Plan, so they make that determination.

Cyrus Young: So this Council will be the Boards of the TIF is that correct?

Kit Williams: That is my understanding, they will control it, I don't know if they are officially a board but they will be controlling the TIF District. The City Council remains in control it is not under control of any other entity.

Cyrus Young: Who will issue the bonds?

Kit Williams: The TIF District will. The bonds are specifically designed by statue as only to be supported by the obligation of the tax increment difference not by the general revenues of the city. The bonds must state on them that they are not a bond that is a debt of the City but is only supported by the tax incremental financing not by the general revenues of the City.

Cyrus Young: The TIF will issue the bonds and the Council is the TIF?

Kit Williams: They control the TIF.

Cyrus Young: They are either the TIF or they aren't. In other words if they are not going to be the TIF than who is going to be the Board of the TIF?

Kit Williams: The statue does not set forth a Board for the TIF District. It does say that the TIF District is controlled by the City Council, they have to do it by ordinance, and they can modify the TIF District borders or the Plan in the future after having public hearings so the City Council remains control over the project but they are not a special TIF District Board.

Cyrus Young: That's the same set up as the incinerator. What happens if no one buys the bonds?

Kit Williams: Then there would be no money in order to do the project.

Cyrus Young: Then would you dissolve the TIF?

Kit Williams: It would be up to the City Council to decide what to do. The legislation indicates that selling bonds is only one of the options, there can be a pay as you go using the tax increment even without bonds.

Alderman Thiel: The city is not going to purchase this property until the bonds are issued, we are not going to purchase this prior to those bonds being issued are we?

Kit Williams: That's correct, in fact I think not only would the bonds have to be issued so that we would have sufficient funds on hand to be able to purchase these buildings and do the demolition. I would also recommend that that we have a very strong contract with the proposed developers to buy the property back from us at fair market value. They would also have to agree to build the project. The primary reason behind this TIF District is to not only to clear this blight but to have something good to replace it with. I don't know if the City would want to buy all these properties if in fact the project was not going to go forward. I would expect to be able to present to you the contract with the developers where they would be contracting and agreeing to buy the property back and to have the project built as part of the whole process.

Alderman Thiel: There is concern about the appraised value of this property after the buildings have been razed and removed. The value is considerably less than the purchase price of the buildings. Would the Council look at a fair market value not necessarily the appraisal the developers obtained for this project.

Kit Williams: I think that's correct. The Project itself does talk about the real property assessment cost and it has those all laid out. It also states *upon completion of removal of the blight the developer will purchase the raw land of the project site at the established appraised fair market value.* We have been offered the appraised fair market value by the appraiser who has been working for the developers. I don't think the City Council is necessarily bound to take that. Keep in mind the reason this project is being proposed is that without some financial help from the tax payers this project would probably not go forward. This building has been sitting there for a long time deteriorating. When we got into this project, it was always assumed that we would lose money on this project by paying more for the cost to acquire and demolish the buildings than we would ever get back from selling the property. However we still want to make sure that you are happy with the appraisals and that you feel like that is in fact a fair market value.

Alderman Thiel: I think the public would need to be assured that ultimately we are getting a value back in the entire area as far as property values going up, enhancing this area and bringing in more tax dollars, all the things this TIF is supposed to do. To assure the public we would be recovering our cost over time. I think the public needs to be reminded again that only the area that's in this TIF is the only area that will be affected as far as taxes.

Kit Williams: The taxes won't be any different for the people that are actually paying them it will just simply be that the TIF District will be allowed to take the amount in excess of the taxes paid each year and use that money for this project. The people paying the taxes won't have to pay anymore with the exception that when property gets more valuable all over the city then the tax payers will be paying a little bit more because their property has gone up in value.

There will be another time that I would want to present a contract to the Council with the developers. I have not begun any type of contractual negotiations with them at this point in time.

At that point in time you will need to weigh in on what you believe is the fair market value and whether or not you approve the contract the city might have with the developers.

John Nock: The statue does allow for the opportunity to purchase and sell back land at a deficit for economic returns. Based upon our calculations the sales tax of approximately $153,000 annually will be collected just from the project alone of the hotel, not the surrounding developments that are being improved as well. HMR taxes the first year is expected to be $60,000 with inflation over the next 25 years you are looking at over $5 million coming in from sales tax and over $2 million coming in from HMR taxes. The property values currently are approximately $6,000 in property taxes. Just that project being revitalized will begin to throw off an increase of property taxes to a tune of over $8 million. On a conservative basis there will be just from the property alone $15.4 million in tax collections. In addition to that the jobs created from the project and the economic incentive should also be a concern for the city. The mid range job will pay $30,000 to $35,000.

Alderman Cook: Where did the demolition and abatement numbers that where included in our plan, where did those numbers come from?

John Nock: We got three separate bids from three separate contractors.

Alderman Marr: What was the spread between the three?

John Nock: Almost a half million dollars. A lot of that was because of the land fill requirements. One of the bidders could satisfy that with a Class IV landfill themselves, the other bidders where assuming they would use the same that the city is using right now which is the only landfill in the area.

Alderman Cook: Are the offer and acceptances on the other pieces of property, are those prices set?

John Nock: TIF's in other parts of the country have utilized condemnation, we went with the notion that condemnation was not going to be something that the City of Fayetteville wanted to utilize so we negotiated what we thought was the appropriate price.

Alderman Cook: What happens if the $3.5 million is not enough for the initial Phase I, demolition, abatement and assembling the property?

John Nock: As you know the total project is in excess of $22.5 million. All of the private purposes of the project are being funded by private dollars. The statue is very clear that if you utilize those dollars that are collected through Tax Increment Financing for private purposes the bonds themselves could no longer be tax exempt so we have been very careful of that to market the bonds. We could ask for more money but this is what it would take to get economically the response that we need to get the project done. If there is more that is required then we would pay for it from the private side.

Alderman Cook: Where does the initial investment come from? Is it taxpayers putting the money up or is it the bond proceeds. I think Kit answered that it is the bond proceeds initially.

John Nock: The dollars that we are talking about spending are all coming from bond proceeds that are coming from taxes from property; they are not coming out of the city's General Fund. In fact none of it is coming directly per say from the City of Fayetteville but instead the statue is set up from the state side to reallocate tax dollars as they are already sitting there. They are dollars that are sent back to the City as the governing body for those dollars. They are dollars that otherwise the City would have no control over and would not receive any of those dollars under the current system of collection of taxes.

Kit Williams: As long as the city doesn't have any millage that would be correct.

Alderman Cook: What happens to those bond proceeds if the project goes in the can?

John Nock: Bonds always carry risks that is why they get a favorable or higher interest rate depending on what the project is. In this particular case the bond holder takes the risk, this is not a good faith in credit of the city it is strictly based upon the revenues, therefore the risk goes to the bond holder. There is no consideration, lending or any other good faith from the City of Fayetteville to the bonds.

Alderman Cook: The plan speaks of estimated project and non-project cost, Phase I is the project cost where there any non-project cost that weren't included in this plan.

John Nock: The cost that could occur in projects that are considered no-project cost would be the financing cost and project cost in excess of the $3.5 million. Those paid professionals the city engages to satisfy that their risk is truly assessed, such as investment bankers, bond counsels and other professionals that need to give you the appropriate comfort level to go forward with the project. The other thing is the feasibility study that was done by the University of Arkansas that is a non-project cost but required by the statue. Cost that are required because this is a TIF project.

Alderman Cook: Are the non-project cost rolled into the TIF bonds?

John Nock: Yes, all project and non-project cost would be rolled into the bond and would not be a secondary cost to the City.

Alderman Cook: Do we have an agreement with the developers that basically says if we buy these properties and prepare them for construction, do we have a contract that states that they will build what they state they will build. I don't want to do all this and then they decide they can't finance this and they want to do something else with it.

Kit Williams: We don't have that in hand yet. That is what I want to protect the city.

John Nock: It has always been our assumption that would be appropriate and we are certainly willing on our side.

Alderman Thiel: Have the bonds been secured, have you found someone that will fund the bonding for this project? Who is required to get the bonding for this the city or the developer?

John Nock: This is not a city backed debt but it is in fact going to be a tax exempt municipal bond. Bonds can not be issued or marketed until they are approved by the Council. I think your

advisor said he was 100% confident that the $3.5 million was doable. The rest of it they still needed to study and look at those improvements and over time how quickly dollars generated from revenues collected would be satisfactory to cover additional improvements.

Kit Williams: I think that is correct, he wanted this to be in two phases to do the streetscape and Phase II a couple of years down the line after he has seen these projects actually get built and get on line which will make a significant different in the tax increment. At that point he could come back before the City Council and recommend further bond issuance. This was our financial advisor, Kruse and Associates that spoke to the City Council.

Alderman Reynolds: This map indicates this has a lot of City, County, State and Federal property involved in this District, how is that going to affect the income in this District?

John Nock: Because those properties are tax exempt by nature they don't pay any property tax currently. However some of those properties may sale and become private properties and then they would increase from a zero tax base to a current tax base.

Richard Alexander: This is a four piece puzzle it is not doable without any one of the pieces. The pieces are the TIF District, new market tax credits, sales tax rebates from the State level and private financing. We have to have some idea what the purchase price back to the project is so we can put the funding in place, that's why we got the appraisal. We instructed the appraiser to look at the property as raw dirt in a blighted area, not raw dirt with a $22 million hotel on it. That came out to about $6.00 per foot. We purchased recently from the City the old library, that property was appraised pursuant to the city's appraiser at $6.00 per foot and that is not in a blighted area and had a perfectly nice building on it.

Mr. Alexander spoke of other properties in the area and their value. He stated they are ready, willing and able to do the project.

Alderman Cook: Regarding Phase II our Bond Counsel basically said that the public improvements was up in the air, it depends on how well the TIF goes whether that will be funded and at what level it will be funded. Is that piece of the plan still up for debate? If we vote on this plan as it is what's mentioned in that $6.5 million is that what's going to be done. If we vote on this plan in front of us is that Phase II spelled out?

Mayor Coody: No, that wouldn't be Phase II spelled out at all.

Kit Williams: Well it is spelled out but the City Council has the right to amend a Project Plan in the future.

Alderman Cook: We have talked about changes to Highway 71 but we have to get approval from AHTD first and they might not agree with that, so we might not be able to do that part of the project. For some people that might not even be their priority, to me this is the carrot for the taxpayers, the public improvements that we can get out of this project. There is no guarantee it will happen.

Mayor Coody: There are a couple of carrots one is the public improvements the other is the removal of the Mountain Inn and the building of a new facility there. We do want to do some public improvements down there but with the ultra conservative approach of the Bond Counsel.

Alderman Thiel: One thing that has concerned me about Phase II of the project is that we have already made a request for funds from the federal government for basically the same project that we are talking about in this. I would be concerned that by doing that through the TIF we would jeopardize getting the federal grant for improvements on College.

Mayor Coody: The appropriations bill will be reviewed by the new congress. There is no guarantee that we will see a penny of that although they are going to be working very hard to keep that appropriation in the bill. The $4 million that is ear marked currently wouldn't cover the entire project. I don't see these conflicting as much as complementing each other. If there were the funds raised for the public improvement of the TIF, that wouldn't be just for College Avenue that would be for all the areas within the TIF. It would take supplemental funds that the TIF would provide to really finish the job.

Alderman Jordan: The thing I look at when I see this TIF District is we are talking about cleaning blight in an area. We are looking to make things better. If I live near North College and my property taxes are going to be increased, what's in it for me? What can this TIF money be used for.

Alderman Odom: You are only going to be paying higher property taxes because the value of your home is going to be greater.

Alderman Rhoads: If it's your nest egg then you will have a bigger nest egg and better retirement probabilities.

Alderman Marr: To me the other event for the home owner is their ability to go out and do an appraisal at a higher value and borrow money and do more to their home if they want to because they now have a higher basis.

Mayor Coody: Increases for property taxes are capped anyway.

Alderman Jordan: The perception is they are raising my property taxes and building a new hotel and what am I getting out of it.

Alderman Odom: This doesn't actually raise the property taxes. The increase in the value increases your taxes and that's what is going to pay off the TIF bonds.

Kit Williams: The millage rate doesn't change.

Mayor Coody: Property taxes on that same house have been increasing over the years without any improvements. Probably just a quickly as they would with improvements.

Alderman Jordan: I do want us to remember that hopefully some of these funds can be used to improve the District.

Mayor Coody: Yes. Anything in the public domain directly affects that homeowner.

Alderman Jordan: Can any of the funds be used for affordable housing.

Kit Williams: I don't see that as part of the powers in here.

John Nock: The Project Plan states the purposes that you can do. You could do public housing however keep in mind in order to do public housing you must be able to generate an economic model to do so.

Alderman Marr: I whole heartily supported the District when we established it and the Project Plan. When we were setting this District our finding was the blighted area that needed to be done and generation of jobs that was the purpose of why we wanted to do this. I don't think it can be argued at all that we currently have a piece of property that is in need of renovation and redevelopment. It is the closest thing to blight in NW Arkansas that I think we probably have in terms of property value that once was an economic item and today we don't collect any significant value from it. I have had citizens say to me that you are going to buy this and then sell it for fair market value which is something less than that. That is the intent of this legislation.

Alderman Marr read part of the Plan that stated, *which is less than its cost to the local government,* he stated that says to him that in the creation of this the government is going to take care of this item, otherwise you don't need it. If you can get the financing yourself why would you come and ask us. The reason we would want to remove this is for safer conditions. The two issues that citizens have talked about when they came to the podium was we don't want such regeneration that we can't continue to live in Fayetteville and don't condemn my property. I don't think we want to condemn the property. I think in our prior discussions the District decided we didn't want to condemn the property, which meant you need to negotiate in good faith, set contract values and that is what it is going to be to tear it down and redo it. The other finding in the Plan says we are suppose to do is *contain a finding that the plan is economically feasible.*

I heard men stand in front of us at the last meeting and tell us that $3.5 million could be financed if this project didn't even exist. The model that this financial economic thing is built on is the most conservative. In the worst case scenario if it didn't get built, then the issue is that you are limited to collect that amount money in 25 years. The termination clause of this says *the District can't be existence for a period of longer than 25 years unless the bonds that have been issued would not be fully paid until which the date 25 years from the date of creation.* Worst case scenario would be if you didn't have enough increment and you got to the 25th year then you would keep going because you still have outstanding debt until that debt is retired. I don't see the risk, we are not raising taxes, we are only using the proceeds from the increment to finance it, we are getting rid of blight, we are creating jobs, and we are prospering downtown. When people look at new areas they look at vibrant areas downtown and the re-development of downtown. That is why we invest in downtown and Dickson Street because businesses look at what your downtown area is to decide whether or not they are going to relocate there. Because if downtown is crap then the rest of your town is, that is the assumption. I think it is important to keep your core solid. I think this is a major step to do that. I haven't heard any thing tonight that says this plan isn't economically feasible and that there is risk being taken on by the City to a degree that we can't handle it in 25 years. This is the only finding that I have found in this section other than the detail that Kit has talked about that we as a Council are suppose to do in the Project Plan. If we didn't think that we needed to redevelop this then we should have never set a boundary which is the first action we took. I think got great answers on the questions that citizens have asked. I think the bottom line is, is it economically feasible. I think we have heard it is and it is without the project ever being built. I think someone in the future is going to be

sitting here trying to figure out how to spend the money that I believe this project is going to generate.

Mayor Coody: One of the things the TIF regulation was put together for was to introduce a tool to redevelop blighted areas where private money won't go because there is no private incentive and no private motive. Private people are going to stay away from something like this because there is no way to make any money at it so it continues to stay blighted. This tool was set up to allow governments and private businesses to be able to take care of blighted areas. This helps provide an incentive for private folks to come in and invest their money, whereas there would be no incentive otherwise. That is the entire intent of the legislation. As far as condemnation goes we did talk about not wanting to condemn. My impression was the Council did not want to remove people from their homes. I think the conversation for the next TIF District, if we want to do one, shouldn't be that we have a history of not condemning property but if there is someone that has a derelict commercial property then the city can come in and condemn that property, not removing someone from their home but making a TIF project work. That's why condemnation in some cases might be appropriate.

Alderman Marr: Luckily we don't have that in this scenario.

Kit Williams: When I drafted this ordinance I said under Subsection K *that no non-project costs are anticipated to be paid out of the TIF proceeds.* There is a resolution that will be coming before you stating your intent to pay the city back for the cost that is incurred for economic forecasting and the bond proceeds. We probably need to amend Subsection K to say that non-project cost include financial advise, bond cost, economic forecasting, etc. rather than non are anticipated. If that is what the Council would like to do.

Alderman Reynolds: In the TIF District at what point are we going to put the utility lines under ground?

Mayor Coody: I don't know.

Alderman Reynolds: To me that is part of the blight of the old hotel.

Mayor Coody: You are right. If we redevelop College Avenue one of the things that we will want to do is move the utility lines off the main thoroughfare. That will take a lot of planning with the utility companies to get that done. That is a goal that we would have but we do not have a timeline or direct cost for that.

Alderman Rhoads: This Council or future Council's will have their hands on the controls.

Alderman Lucas: I am very much in support of this. Even without the hotel being built the revenue is there to pay off the bonds for Phase I the demolition of the Mountain Inn. This is getting rid of a terrible blight that we have in the city.

Alderman Marr moved to amend Section K of the ordinance to include non-project cost. Alderman Lucas seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

Alderman Lucas 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.

Mr. Williams read the ordinance.

Alderman Cook: You are still going to negotiate with them as far as the final price? Us voting on this doesn't change that?

Kit Williams: It does not change the fact that I will be coming back to you with a proposed contract for the sell of what we will acquire back to them and them building the project if we go forward and buy it and demolish it. The contract will come back before you.

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

Ordinance 4646 as Recorded in the Office of the City Clerk

NEW BUSINESS:

R-PZD 04-1154 (Cliffside): An ordinance establishing a residential planned zoning district titles R-PZD 04-1154, Cliffside located east of Happy Hollow Road, South of the Cliffs Apartments, planned unit development, containing approximately 26.114 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.

Dawn Warrick gave a brief description of the project.

Alderman Lucas: I noticed this is going to be reduced, is it still going to be four lanes?

Dawn Warrick: A collector street is typically a three lane street which provides for two travel lanes and a turning lane.

Alderman Lucas: So we are going to reduce the width of the street then.

Dawn Warrick: Happy Hollow is over built at the further north end, there is not an opportunity for it to go further north because of slope and development that is existing. It will transition to some degree at the northwest corner of this property.

Alderman Lucas: I noticed that part of that says no dead end. When you have a turn around or circle is that a dead end?

Dawn Warrick: My understanding of that is the cul-de-sac's in this case are not considered dead ends. The stub out to the east is not a street that someone would have to drive on in order to get to any of the lots within this development therefore it does not prove as a stopping point for traffic flow within the development. Traffic can flow on all the streets without coming to a point that it is a traditional type dead end with no outlet.

Alderman Lucas: I am very glad to see that a sidewalk will be built on Ray Avenue to allow children a place to walk to school. I think that is a great idea, we need sidewalks around our schools that is so important.

Dawn Warrick: The applicant will be improving Ray Avenue from 4th Street north which is adjacent to Happy Hollow School. The school right now parks along Ray Avenue and the applicant will be providing some on street parking to accommodate the loss that they will have. They will still have parking on the street; it will be a curb and guttered street with sidewalk and storm drain.

Alderman Lucas: Great. Where is the street going to come into the school?

Dawn Warrick showed the Council the access to the school.

Mayor Coody: I don't see how on earth there could ever be enough traffic on Happy Hollow Road to justify a continuous turn lane even if it where fully developed residently as densely as it could be. I don't see the need to have that road designated a collector street.

Dawn Warrick: The initial construction that will be done adjacent to this project boundary will be solely to provide curb, gutter, storm drain and 14 foot pavement which is a traditional 28 foot street. What we typically require of a development is what we believe to be equivalent to the impact on traffic that they are bringing to that particular street or area. What we have sited for a condition is that a 14 foot from center line street improvement with curb, gutter, storm drain and sidewalk will be accessed.

Mayor Coody: How does that square with this being a collector.

Dawn Warrick: It will be located at the appropriate point so that the right of way is available for it to be expanded to a collector if necessary.

Alderman Lucas: It goes down to that intersection that we are going to straighten out.

Dawn Warrick: It will provide for turning lanes should they be necessary. A collector street does not have to have a continuous turn lane; the right of way is there in case it is necessary.

Alderman Thiel: I really like this project. I appreciate that staff encouraged the smaller lots and reduced set backs to hopefully provide affordable housing and also encourage the developer to make these attached town houses rather than duplexes so that they would also be sold as affordable. I also appreciate the existing tree canopy preservation on this property. I know there are concerns about the traffic but I think there are certainly ways in and out of this project.

Alderman Reynolds: One of the parents was worried about having bike lanes from this project to the school.

Dawn Warrick: We have not made a recommendation for bike lanes specifically. Bicycles are permitted on the public street. What we were more concerned about were pedestrian connections to insure that there was a walking trail and sidewalk connection.

Alderman Thiel: They are improving Ray Avenue with adding sidewalks.

Alderman Jordan: What about the drainage how will that affect the neighborhood down below?

Dawn Warrick: City ordinance does not permit post-development to be an increased amount than pre-development.

Brian Scott with Project Design Consultants described the drainage plan and the work involved in saving a large amount of trees.

Mayor Coody: Do you plan on using a detention pond?

Brian Scott: There are detention ponds on site and we meet all of the city requirements.

Jeff Erf a resident expressed his concern about creating more chaos in this area and if a traffic engineer had studied this.

Dawn Warrick: In conversation with the school district representatives, they understand that they may need to have a new plan of attach with regard to drop off and pick up with Happy Hollow because of the changed street configurations. In staff's opinion this is a solution as opposed to a problem because it allows people to go two different directions as opposed to funneling everyone up and down Ray Avenue only, which is currently the only option in this location. We feel this offers them a new opportunity and the developer is aware that this may funnel additional traffic into his development.

Seth Kaffka representing the developer stated they did give this proposed site plan to the teachers. They presented it to the teacher and the parents at the PTA meeting and they were very excited at the proposed relief in their traffic, the off street parking and allowing for two ways of getting out of the proposed addition.

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

Mr. Williams read the ordinance.

Alderman Lucas: Have the numbers on the lots been corrected.

Dawn Warrick: Yes, I believe we have gotten new numbering.

Alderman Thiel 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.

Mr. Williams read the ordinance.

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

Ordinance 4647 as Recorded in the Office of the City Clerk

Ecological Engineering Group Contract: An ordinance to waive the requirements of competitive bidding and to approve a proposed contract with the Ecological Engineering Group in the amount of $129,989.00 for a four year Physical and Biological Stream Assessment and Monitoring Program.

Mr. Williams read the ordinance.

Gary Coover, City Engineer: We are in the first year of a five year program as part of the national pollutant discharge elimination system Phase II permit program to insure we have clean streams and clean storm water. At the end of the five years the EPA will measure and see how well we have done.

Mr. Coover explained what has been done so far in this program and why they need this company to assess our streams.

Marty Matlock with Ecological Engineering Group explained to the Council what they will be doing under this contract if approved. He stated to protect the streams ecological system they have to measure what works and what doesn't work and modify according. He stated they will be monitoring 38-40 stream site segments.

Alderman Thiel: Dr. Matlock gave an extensive presentation to the Environmental Concern Committee and they were all very supportive of the City Council supporting this.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4648 as Recorded in the Office of the City Clerk

Youth Center Inc. Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center Inc. in the amount of $250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2005.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4649 as Recorded in the Office of the City Clerk

Council on Aging Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Council on Aging in the amount of $50,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2005.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4650 as Recorded in the Office of the City Clerk

Legislative Packet Approval: A resolution to recommend the approval of the Legislative Packet of the City of Fayetteville.

Mayor Coody: This is a series of recommendations made by our City Attorney to send to Little Rock to clean up legislation that is ambiguous or confusing.

Kit Williams: I spoke with Steve Davis and other members of the city staff to come up with some of these recommendations. I would hope you would pass this resolution so that we can hopefully before the legislation session meets, we can meet with our legislators and encourage them to pass these bills and any other bill you might be interested in.

Alderman Thiel: I support everything you have proposed here and I think it is a good step that we are drafting a resolution and taking it forward.

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

Resolution 202-04 as Recorded in the Office of the City Clerk.

§34.27 "Sale of Municipally Owned Real Estate" Amendment: An ordinance to amend §34.27 Sale of Municipally Owned Real Estate to add an exemption for lands acquired pursuant to approved redevelopment Project Plans.

Mr. Williams read the ordinance.

Kit Williams: I brought this forward because if you did not exempt the property that you voted to acquire in the Project Plan tonight it would be an extremely long process to sell it.

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

Mr. Williams read the ordinance.

Alderman Rhoads 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.

Mr. Williams read the ordinance.

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

Ordinance 4651 as Recorded in the Office of the City Clerk

Sign Appeal Process Clarification: An ordinance clarifying and streamlining the process of appealing administrative decisions or interpretations regarding signs and granting of variances from the requirements of Chapter 174, Signs, Unified Development Code.

Mr. Williams read the ordinance.

Kit Williams: About a year or so ago we amended the sign ordinance to make it in conformance with the Federal Judges decision in a case that involved the City of Fayetteville. However there were several other sections that dealt with the sign ordinance that were not affected. It was our opinion that we should make these changes so that the City Planner makes the decision and any appeal from that decision would go to court rather than through the Board of Adjustments and City Council.

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

Mr. Williams read the ordinance.

Alderman Thiel: I just want to commend our City Attorney for looking into this situation and following through with it. He continues to do things like this which is beneficial to our city.

Alderman Jordan 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.

Mr. Williams read the ordinance.

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

Ordinance 4652 as Recorded in the Office of the City Clerk

Scull Creek Trail Corridor Development: A resolution to consider spending as much as $1,000,000.00 of the proceeds from the sale of the Wilson Springs Property in the development of the Scull Creek Trail Corridor.

Alderman Cook: I brought this forward because I believe trail construction in the City of Fayetteville is good in a lot of ways.

Mayor Coody: I just passed out the recommendation that I made back in June of this year regarding the Wilson Springs proceeds and the way we could spend the money. There has been some concern that we might piece meal this Wilson Spring's money and wind up not having done with it everything that we could have. The trail system here is a home run hit with the citizens. There are a lot of folks that don't use them, don't understand them, don't need them, don't want them and think it is a waste of money. The people that use the trails and have seen what we have done at Mud Creek understand what a trail system can do for this community. It is very important that we continue trails throughout town. We need to support the trail system as much as we can.

Alderman Jordan: Alderman Cook said spending as much as up to $1 million. Mayor you said $500,000 for this project. Are you saying to spend up to $500,000 Mayor? Is there a limit on what you want to spend?

Mayor Coody: I'm just saying earmark $500,000 for the Scull Creek Trail construction.

Alderman Cook: I asked for $1 million because our rough estimates to complete this trail are around $4 million including this $1 million. We have an opportunity for matching grants and other matching money that would potentially help us do this corridor with this $1 million. This corridor is important for many different reasons. A lot of people feel that trails are for recreation, I don't feel that way at all. I think they are transportation related; they get more cars off the road especially this corridor because it runs through the middle of town and connects a lot of people to some of the destination points in Fayetteville. In a lot of ways this is a backbone to our trail system. This is good for environmental reasons and will give us an opportunity to clean up Scull Creek. It is a great north south connector. We spent time and money putting together the Fayetteville Alternate Transportation and Trails Plan, this trail is one of the top five in that. We need another project we can work on. We spent time and money doing Mud Creek, it is a

great trail and we are getting ready to finish Frisco Trail this will connect those. We are starting to see the overall loop that people want to see, that's trail connectivity and that is when we really do see the transportation element of that. There are safety reasons, this is an option to get people off the street because a lot of people don't want to ride their bikes or walk because they have to walk in the street. This is an opportunity to provide off street transportation also. Those are some of my reasons why I support the $1 million.

Alderman Jordan: So you are saying for $1 million we can get a $4 million trail, in your estimation.

Alderman Cook: In my estimation. Steve can speak to some of the grand opportunities that are out there and other ways that we can use this money.

Alderman Jordan: Mayor do you think with the $500,000 we can complete the trail?

Mayor Coody: Oh no. We couldn't build the entire trail for $500,000.

Alderman Jordan: I was talking about the grants.

Mayor Coody: If we have been having millions of dollars available for grants, there is no reason why we shouldn't have been getting those grants as of today. An additional million dollars should not put us in any ball park that we haven't already been in. The letter from the Secretary of Environment's office in Oklahoma, I asked them to write that to us and to their Senator that is on the appropriations committee in Washington D.C. We asked that appropriations committee for $1 million to go toward the Scull Creek Trail corridor because of the Illinois River connection with Oklahoma. We didn't get it this year that doesn't mean we are not going to keep trying for federal appropriations for this corridor.

Steve Hatfield: The match is not a direct 4-1 match. What I think Alderman Cook is referring to is there is a multitude of grants that would be available and a lot of them are targeted to an urban stream situation, not just a stand alone trail. To get this project detail designed enough to where we were ready to do the whole project at once so that we could go after multiple grants at the same time and have time to put that entire package together. Stream restoration is a big thing, Illinois River is another big component and the other big component as far as the trail part is that our most residential and employment densities are along that trail corridor. The potential of U of A students that live along there and a lot of apartment dwellers could use that trail to get to work, school and shopping areas.

Mayor Coody: I don't think you will need to talk us into the concept of the trails especially Skull Creek Trail which has been my top priority for a long time now, I was hoping we could have started on that before now. The question is the grants and the appropriations of monies. How much money aside from Wilson Spring's funds do we have budgeted for 2005?

Steve Hatfield: $350,000.

Mayor Coody: Which is a good start but we need to add more to it. The question is do we add $500,000 or $1million to this $350,000 and if so what would we not get for the remaining $500,000 of the Wilson Springs money.

Steve Hatfield gave a presentation on the trail plan.

Alderman Thiel: Why is Indian Trail prioritized number one, we are not moving on that instead we are considering moving on priority number three. How do we get to these priorities in the first place and why are we not dealing with them 1, 2, 3, 4?

Steve Hatfield: We are dealing with them in some sort of rational order, we created a trail matrix through the committee that evaluated the right of way that is available, and how many are served, how many employers are served and the scenic quality. There were about eight different criteria that we used to look at each trail. Indian Trail is not being left alone it is currently being worked on. There is one development in that part of town that we are already in the process of securing that piece of the corridor. So we are actively pursuing that corridor as well. It is all a matter of trying to package these as a complete project and be able to get the support for those projects. We will be working on two or three tails parallel at the same time.

Alderman Lucas: You said you had budgeted $350,000, is that in the parks fund.

Steve Hatfield: Yes, and that is not specifically for Scull Creek Trail.

Alderman Lucas: But it is for trails.

Steve Hatfield: Yes, trail development.

Alderman Lucas: How do you figure how much to budget for trails in your park finances? We have finances from the HRM taxes for parks and then we get money in lieu of land for parks. Can that not be used for trails also? How do you prioritize how much you are going to budget for trails?

Connie Edmondson, Parks Director: We look at all of our needs when we look at budgeting for trails or any other project. Trails were one of the number one items as well as neighborhood parks and the community park from our Park Master Plan. We get from the Budget Department how much money is available and then we sit down with our Parks and Recreation Advisory Board and determine the priorities. The $350,000 is out of sales tax for trail development. Most of the parks development money for this year went towards the community park.

Alderman Lucas: Towards the community park? So you are putting it aside for the community park?

Connie Edmonston: Yes. We are working on several projects at one time; we can't just work on trails only.

Alderman Lucas: How much did you set aside for the community park?

Gary Dumas: Approximately $1million.

Connie Edmonston: I don't have those figures with me. Part of that was out of parks development and part of it was out of sales tax. We had money in there for Braden Park development and funding in there for Lake Sequoyah and Gulley Park.

Alderman Lucas: How much have you spent on trails this year?

Steve Hatfield: I don't have a final number but is will be over $450,000.

Alderman Lucas: Is that counting the completion of the Lake Fayetteville Trail?

Mayor Coody: No, that was almost $1million by itself.

Steve Hatfield: The completion of the Mud Creek Trail, Walker Trail, Walker Senior Trail and Frisco Trail. Some of the completion will be covered by a grant.

Alderman Thiel: We are looking for trails as transportation is any funding for the trails coming from the Transportation Division Enterprise Fund. That would not come out of the General Fund at all.

Gary Dumas: That is the Street Fund and I suppose if you would rather allocate funding for trails instead of street overlay and sidewalks you could. When we do sidewalks depending on the location if it coincides with the Trail Master Plan we do widen those sidewalks to accommodate the trail system. There is some money that is available to the Street Division from the General Fund if you chose to reallocate that toward any activity that is a Council prerogative. It is just a question of priorities, we have a multitude of priorities that we try to address in the city, and we have several projects and limited dollars to address the projects.

Alderman Thiel: I am trying to emphasis that we are talking about transportation trails we are not talking about walking trails through parks. If the grants were available we would be looking at federal transportation grant money.

Gary Dumas: Through 2000 there was money available through various transportation bills. Whether that will be in the next transportation bill is unknown.

Alderman Reynolds: I don't have a problem with trails; I walk every day at the Walker Park Trail. The people that have talked to me are really interested in drainage, streets and sidewalks. They would like to see the main priority things done in this town. I am not sure about this million dollars right now for this project.

Alderman Lucas: I kind of feel the same way, the people that have talked to me feel that way. When you look at what we have spent this year. The million for the bridge, the $400,000 on trails and then we also bought Sequoyah Woods. I am all for trails and Scull Creek but I think we need to slow down a little bit and work it in as we can. Asbell has begged for a park for several years. I think we need to look at some of the other things like street and sidewalks.

Alderman Cook: The reason I asked for this money from Wilson Spring's money is because we set that money aside for special projects. When Wilson Springs was sold there was a lot of comments form citizens that we should use that money to buy green assets within the city. The money we spent on the bridge that money was already encumbered within the parks fund that they had already designated for that bridge. We are stumbling for our next step in trails, we have $350,000 budgeted for next year and that will not go very far. We are looking for the next step in our trails system, to me this is it because it is the backbone there is a lot of connectively with

this one piece of trail, it is an urban corridor and there is a stream that we need to protect also. It has many other reasons to support it other than trail building.

Mayor Coody: We aren't looking for our next trail corridor, Scull Creek should be it. We also need to look at a connection between getting the bridge on Front Street fixed up to where that connects to east and west Mud Creek Trail. It is a physical connection now but it is not a physiological connection because it feels dangerous and confusing. We also need to connect East Mud Creek Trail and West Mud Creek Trail to the sidewalk that we are building on Gregg Street so that will connect up to Scull. Scull Creek needs to be our next corridor along these other connections, so we are not looking for our next project, it is in the cue and it is prioritized to where we need to be focusing on that. The question is, is this the best funding mechanism for it.

Gary Dumas: I would hate for this issue that is being discussed at the Council level now to be a decrease in the level of effort we are putting towards trails. As the citizen survey said quality of life is an important element of what makes Fayetteville, Fayetteville. There has to be a balancing act between the needs of asphalt for the streets and what some might call lesser amenities. I don't think trails are a lesser amenity. It is a balancing act in how we use the resources that we have. I think the proposal that the Mayor has is a reasonable proposal that keeps us moving forward fairly aggressively with the trail program along with funds for the street program and economic development. If we are successful in getting a grant we can always come back to the City Council or if we have an opportunity to submit a grant we have to come to the Council and ask the Council to approve that. I don't think we have ever hesitated to come forward if we had a grant opportunity.

Geary Lowery a resident spoke of wants and needs. He said I know Alderman Cook wants this trail but do we need it. He stated the trails are not used 24/7 like we use the roads because of the darkness, safety and weather. He said we need to spend our money on what we need and not on what we don't need. He said most of the trails are in Ward 2 and Ward 3. He feels we need the money for storm drainage. He suggested we prioritize and get the residents input on spending this money. He stated that most of the people in this city drive to where they need to go. He stated he thinks the citizens would say the first priority of this city would be streets, roads, curbs, gutters and sidewalks.

Pete Heinzelman a resident spoke of Scull Creek and it being Fayetteville's major water way running south to north. He said Scull Creek has two major assets a major non-motorized transportation route and it links every other trail system that we have. He said it is also along a very potentially beautiful creek way. He is very much in favor of the development of this trail way. He said he thinks it is a very important thing for this community to be working on because it is going to have a lot of advantages.

Wade Coldwell, Chairman of the Parks and Recreation Advisory Board stated the number one form of recreation in this country is walking; it is also the cheapest form of recreation. He stated we had meetings and planning sessions to prioritize the goals for our park system. The number one goal was a community park and the number two item was trails. He has had tremendous comments on the Mud Creek Trail. He discussed the trails that are lighted. He stated a trial system like this promotes and encourages people to recreate. He said it is not just a commuting corridor but a social corridor. He feels this should have been done many years ago and that we are playing catch up.

Cynthia Kalke, Sidewalks and Trails Task Force asked the Council to commit up to $1 million towards this trail. She stated if there is the opportunity to get matching grants we need to take them.

Sam Lafoy, Sidewalks and Trails Task Force spoke of how much faster it is on the trails to get from one point to another. She spoke of how interconnected Fayetteville can be with the trail system and how quickly you can get around using the trail system.

Len Shaper, a resident: I think you should consider this resolution. The trail is part of our economic development and I think it is appropriate to use Wilson Spring's money for the Scull Creek Trail.

Alderman Lucas: I think the Scull Creek Trail is very important but I think we need to do a balancing act. Sometimes we put so much emphasis on one area and we forget other areas, that is what I am talking about. We have resources that come in for parks and trails and I think we need to utilize those funds for a while and attend to some of our other areas of concern. There are some schools that do not have adequate sidewalks.

Duane Woltjen a resident stated the paved trails are a great asset to senior citizens. He stated if you have a plan and haven't funded the plan you have a much harder time of getting funding in the future. He said if you allocate this money now it gives you a stronger hand when you apply for a grant. It gives you leverage when you apply for those grants.

Mayor Coody: It sounds like we are being misunderstood; no one is saying we don't want to build Scull Creek Trail. If grants are available we should have been going after it long before now. We have money allocated and we have other money available. The question is how much do we want to earmark for this project. I don't think the difference between what we have available versus this resolution has stopped us from getting grant money.

Steve Hatfield: No.

Alderman Thiel: I think there needs to be a compromise. I think your proposal of $500,000 might be more acceptable to some members of the Council than the full million.

Alderman Thiel moved to amend the resolution to consider spending up to $500,000 from the Wilson Springs proceeds on the development of the Scull Creek Trail Corridor. Alderman Jordan seconded the motion.

Alderman Rhoads: On you list we have $1.8 million for economic development, $2 million for street improvements, $750,000 for Botanical Gardens, $500,000 for Scull Creek and $250,000 for the Master Plan. I don't recall what has been committed of these amounts except for the $750,000 for the Botanical Gardens.

Mayor Coody: None of the other recommendations have been acted upon by the Council.

Alderman Cook: Fayetteville Downtown Partners $150,000 out of economic development.

Alderman Rhoads: Have your recommendations changed at all?

Mayor Coody: No, I am still satisfied with it.

Alderman Marr: I support building the Scull Creek Trail corridor. I think it is important to specify funding. I think this is a critical backbone to out trail system because of linkage. Most trails are in Ward 1 or Ward 3. You have to think of your pedestrian network like you would in a transportation network system. You have an interstate and your local roads, your trails are your interstates in your pedestrian corridor and your sidewalks are your local roads. I think we have to have the interstate piece. In Ward 2 other than road repair what I heard a lot was pedestrian friendliness, connection to the university in a pedestrian aspect to get cars off that area. I hope the next item is how we plan to allocate all of the Wilson Springs funds instead of bringing these in one at a time.

Mayor Coody: If there is a desire to ear mark this money once and for all we could make a recommendation to adopt my recommendation.

Alderman Rhoads: This list has been discussed and so far I have not heard that the list is bad or wrong, we know the money is not going to be spent without our approval. It gives us the flexibility to make decisions as we go along.

Alderman Marr: I think what I am hearing is when are roads going to be a debate. I would encourage our Street Committee to talk about what those projects might be so they can bring some ideas forward. The longer the money sits there it begins to cost more to build things and the value of the funds begins to diminish. It is important to get a plan in place and to use the money at present day value so that we don't lose the value.

Alderman Jordan: The Street Committee is planning on meeting within the next couple of weeks to do that very thing. Probably within a few weeks we will have a plan. I am tried of chewing on this list I am ready to approve something.

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

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

Resolution 203-04 as Recorded in the Office of the City Clerk.

2004 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2004 fixing the rate therof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library, and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Mayor Coody: This is the millage that we have been charging for years now. There is a need to hire more firemen and policemen. I have asked the City Council to consider raising our

discretionary millage 2.5 mills so we can hire 12 firemen and 12 policemen. The 12 firemen would be used to staff the new fire station at the Tyson building. The 12 firemen would be brought on in 2005. We wouldn't see any money from the millage increase until October 2005. Same as the police personnel. We have been talking about our low tax rate in Fayetteville, the need to expand services and the need to expand revenues for months. The one thing I really don't like about this besides the fact that we need to increase revenue to fund more fire and police is the fact that we had to wait until the County told us what our millage roll back was going to be. We just found that our within the last couple of weeks and we thought we had more time to make our recommendation to the Quorum Court but the County Clerk informed us they need the information tomorrow.

Alderman Rhoads: Could you explain the roll back process from with the County how that works, please.

Steve Davis: A roll back situation occurs when in our case Fayetteville city limits experienced an increase of property values in excess of 10%. Amendment 59 to the Arkansas Constitution limits the growth from year to year to no more than 10% overall for the taxing unit for property. Since 2004 was a re-assessment year for the County it includes re-assessment for existing properties as well as new construction. Because of those two events in 2004 we had an approximate increase of 12% in real estate values. Once the city went over the 10% threshold the County Assessor determined we had a potential rollback. If we had a roll back we would have to reduce our millage to ensure that the city received no more than 10% revenue off of the increased values. Because of the formulas we could have a 12% increase in property values and not have a roll back situation. The County Assessor made that determination and we received notification from the County Assessor on November 22, that after her calculations we did not have a roll back even though we did have a 12% increase in real estate values.

Mayor Coody: So we did not know exactly what this 1.8% was going to be until we got the notification of the roll back. We didn't know what to give the County until we got the roll back that is why we asked for an extension.

Steve Davis: We asked for a 60 day extension in October that expires December 8th.

Kit Williams: Steve did you have a conservation with the County that if we passed the 2.5 millage levy tonight as suggested whether that would affect the roll back with us?

Steve Davis: Yes sir I did have that conservation with her and she said it would not impact our roll back situation.

Mayor Coody: These 12 policemen that we would hire would they be patrolmen?

Chief Johnson: Yes.

Mayor Coody: How many patrolmen do we have at any given time in Fayetteville?

Chief Johnson: Scheduled through the three shifts?

Mayor Coody: Yes

Chief Johnson: Depends on the week, we can average between 7 and 10.

Mayor Coody: If we hired 12 more patrolmen what would that number turn into?

Chief Johnson: That depends; we would schedule the officers to work when we have the highest volume for calls for services.

Mayor Coody: That would be quite a boost of the percentage increase of the number of police on the street is that right?

Chief Johnson: Yes sir, the number of officers on the street in addition to our overall ability to answer calls for services and our investigative services also. It still has a significant benefit to the entire organization.

Mayor Coody: It will help with the Code Zero calls as well? I am willing to take the heat to ask for the increase in property taxes. Since we don't collect any and haven't for a long time we are at an extreme disadvantage, even if we do boost this 2.5 mills from zero. We would still be by far the lowest city property taxing entity in the corridor and this would allow us to take care of a lot of catching up on the fire and police personnel. For the accessed value of a $100,000 home would be a total tax increase of about $50 per year.

Alderman Marr: The very original budget done by the Police Department in an ideal world based on our current population and growth would have had how many officers requested in the increase. The very initial submission.

Chief Johnson: I believe there were 23 officers. That budget proposal also included positions for detectives and a variety of personnel.

Alderman Marr: Of those 23 positions how many are in our budget without this property millage in the current budget that we are set to address at the next meeting?

Chief Johnson: Our target budget allows for two new officers.

Alderman Marr: 21 less than what you originally requested?

Chief Johnson: Just for clarity, when I asked for those officers I did it with the understanding that it would put tremendous pressure on the General Fund with really no expectation that I would realize all those gains in this budget cycle.

Alderman Marr: What did you hope to get?

Chief Johnson: I hoped to get whatever was affordable considering the budgetary constraints.

Alderman Marr: Are you confident to be able to say to the citizens of Fayetteville that the police portion of this 2.5 discretionary millage it is your full intention that this is needed and that this is not an extra.

Chief Johnson: Yes, definitely. I have plenty of justifications for that.

Alderman Marr: Are there any programs that you cut in the current budget not counting this 2.5 that would not have to be cut in order to get officers on the street.

Chief Johnson: There are no programs that would have to be eliminated.

Alderman Marr: So the bike patrol will continue and the resources officers in the schools.

Chief Johnson: Yes. I still reserve the right and the responsibility to make those programs be more efficient than they currently are but there are no plans to totally eliminate those programs.

Alderman Marr: What about car unlocks?

Chief Johnson: That is an efficiency issue; there is a certain cinergy that exists between those non-enforcement activities. I am just not sure it is in the police Departments or the citizen's best interest to have that level of expertise, talent, salary and cars out unlocking vehicles doing a private sector business. We can continue to do it in emergency situations but as a public service it is questionable. It is something I believe the Mayor intents on the Council addressing at some point.

Alderman Marr: Does the current budget allow for that.

Chief Johnson: It is not a budgetary issue. We unlock about 5,000 cars a year. It takes a lot of time and gas. It is one of those services that have been identified as a non-core service.

Mayor Coody: One factor that I think needs to be brought up is with these new high technology doors, side air bags, curtain airbags and high tech unlocks we could do damage to the vehicle.

Alderman Thiel: Why does the Council have to address locking and unlocking cars? Isn't that just a policy decision? We received notice that you were going to start that policy some time ago. I assumed it had been stopped.

Mayor Coody: I had too frankly but apparently it has been going on and the City Council does have a real interest in this, we didn't want to do anything the Council didn't want.

Alderman Thiel: My interest is to stop it. Can we vote on this right now?

Chief Johnson: We have reduced the number of unlocks significantly by creating a list of vehicles we simply can't unlock. We will continue to unlock cars in emergency situations. If it is the Mayor's desire at this point that we totally eliminate it we will do it. That is something we can talk about as an operational issue later on.

Mayor Coody: This came up in the zero based budgeting conservation about a year ago, there was no clear direction so I guess there was no clear action.
Alderman Lucas: I think in emergency's we should always do it other than that we have lock smiths.

Alderman Marr: It came up in the budget work section about why we needed to bring on firemen in 2005 for a station that would not be completed until 2006. You answered that in

terms of the training cycle. By bringing those individuals on do we get any savings like we had this year as it relates to overtime?

Chief Bosch: We will phase those in over the year, three at the beginning of every quarter which will allow us to utilize some of our overtime budget cost to pay those salaries. It will reduce our overtime and give us the staffing necessary to maintain out staffing levels.

Alderman Marr: Can that program be done in less time than a 12 month period?

Chief Bosch: We could do that; we could hire 4 in January, April and July and basically see the same type of savings that we saw in 2004. We were trying to stretch it out for as long of a period as we can so we can see some additional savings if possible.

Alderman Marr: The basis of my question is from June to June rather than January to December.

Chief Bosch: We can do that, what we will see is if we hire part of them in June we will still see some overtime at the beginning of the year.

Alderman Marr: If that fire fighter program of 12 fire fighters instead of being transitioned over a 12 month period. Would it allow us to do something less than the 2.5 mills?

Steve Davis: If you phase the fire fighters in beginning July 2005 for example?

Alderman Marr: Yes.

Steve Davis: Yes.

Alderman Marr: Do you know roughly what that would reduce these 2.5 mills to?

Steve Davis: One half years cost for the firefighters would be about $300,000.

Mayor Coody: So it would be about ½ of a mill.

Steve Davis: It would be close to ½ of a mill.

Mayor Coody: Since we wouldn't be collecting this until the end of 2005 anyway we would be phasing in firefighters before we really had the money to pay for them.

Steve Davis: That's true.

Alderman Marr: If I understood you right at the budget session we would start collecting the millage in October of that year. So if we brought them on in July we would have from July to October.

Steve Davis: We would have from July to October and then the full year cost would be in 2006.

Mayor Coody: Then we would have to boost the millage in 2006 to cover the full year cost.

Alderman Marr: This millage can not according to our City Attorney be dedicated to police and fire because it is a general purpose discretionary millage. If we get to budget year 2006 and someone decides we are not going to put it to police and fire will we as the Council have an opportunity to revisit and either reduce or do away with that millage if it goes towards something that we don't agree with.

Kit Williams: The millage has to be adopted every year. The City Council has the right to adopt up to five discretionary mills for the general government and then you also have the right to budget. You can budget as you please with that general revenue that comes in.

Alderman Marr: Or choose not to continue it?

Kit Williams: Yes.

Mayor Coody: I give my personal assurance that if we pass this millage for fire and police personnel you will get for that millage fire and police personnel.

Alderman Odom: This 2.5 millage proposal has not been a part of our budget talks until today. I quite frankly haven't had enough time. I understand we are under some type of deadline but this is pretty important.

Mayor Coody: We have been talking about having to increase the revenue stream for months. Whenever I brought up how we can increase our revenue to fund more fire and police, I have said it in such a way hoping the conservation would start and it never started so I thought there was no support for it by the Council. I did not want to bring something forward because I felt there was no support from the Council. I was not being assertive enough.

Alderman Cook: I agree with Conrad. I think we need time to get comments from the citizens. I would then most likely support it because I think the fire, police and the roads are the three biggest priorities that we have in the City. I don't deny that we need the millage or that we need the extra personnel in fire and police, I certainly hope that we discuss that along with the street proposal. I think we should bring those all together at once so people can see exactly what they are paying for.

Alderman Thiel: It is my understanding that if a millage is put before the voters it can be designated for a certain use.

Kit Williams: The Library millage has a specific place in the constitution that authorizes it as well as the police and fire pension plans. I would have to research and see if there is specific millage that the voters could vote in. We would have to find the authority to give us the right to make that kind of tax.

Alderman Thiel: The voter's can't vote in a millage?

Mayor Coody: You are talking about the difference between dedicated millage and discretionary millage.

Alderman Thiel: Right. I am also uncomfortable about voting on this tonight. I think this is going to be something that will be controversial. We have been putting a lot of things on the back burner that might factor into our revenue stream for next year.

Alderman Reynolds: I am going to support this for one reason we need a fire station in south Fayetteville and we have to have the employees to man it.

Alderman Lucas: Is there any other way that we can fund these policemen and firemen?

Steve Davis: There are limited sources; if we had capital expenditures that were in the General Fund that we could move to another funding location we might be able to free money up that way. Our total capital expenditures in General Fund are about $50,000 so that is really not an opinion. We could generate some increased revenues through user fees; I think that would be limited to around $200,000. My expectation is that as we go through the budget, there is millage and there is approximately $800,000 we could raise by increasing the franchise on the electric, gas and telephone utilities. It will have more of an impact on those folks that are on a fixed income. I don't think there is any other real source of money to fund 12 firemen or 12 additional policemen.

Alderman Lucas: Would voting in a millage affect the TIF?

Kit Williams: No, it would not affect the TIF.

Alderman Rhoads: It would affect the amount of money that you would realize from the millage right?

Kit Williams: In the future.

Alderman Rhoads: If you did another TIF District in Fayetteville you would continue to cut into that?

Kit Williams: The city would not be seeing increases. Once you pass it and issue bonds then it is going to be in existence until the bonds are paid off. The millage must be decided and passed every year by the City Council.

Alderman Marr: It is not easy leadership but it shows leadership to bring forward something that is not popular. We have talked about diversifying our revenue during the three years that I have been on the Council. We continue to be dependent upon sales tax totally, we continue to annex land and don't get the benefit of the property value piece of that, our school systems do. Citizens look at their total tax bill and they don't really care what goes where, they look at their total bill. We run our city without the use of a revenue stream. A revenue stream is important and necessary to be diversified. I think it is very smart to bring it forward. I think we are fighting with fire when we continue to bypass the discussion of looking at this as a revenue stream. I don't think Fayetteville is going to fall apart and every thing is going to move north because I think we have a great quality of life, a great University and amenities in this city. We do stand at risk at losing retail business and new malls coming in and our sales tax going somewhere else and having nothing to look at and being a year behind to be able to talk about this. I will take responsibility too.

Alderman Jordan: We are running $1.7 in deficit is that Correct?

Steve Davis: That is correct.

Alderman Jordan: Will the increase help us with the deficit not this year but the following year?

Steve Davis: My expectation is if we can move Central Emergency Medical Services from tax payer funded to a public utility model and if the library moves to their own independent millage, we have an opportunity to balance the General Fund budget in 2007.

Alderman Lucas: I struggle with the fact that we have not had enough input from the citizens, but we have had input from the citizens that they want police and fire safety. I don't feel uncomfortable supporting this because of that.

Alderman Cook: My problem is the short timing. I would support the full 5 mills if we had a plan for police, fire and roads. I do support the general idea I am just uncomfortable at this eleventh hour.

Mayor Coody: If we don't do it we will be a year out and again strapped with too few patrolmen and too few firemen and we will have to live with this situation for another year. We have been talking about this for the four years that I have been in office.

Alderman Thiel: This is a less regressive tax than sales tax and some of the other forms of revenue sources that we might have.

Mayor Coody: Do the senior citizens of a particular income bracket have their property tax rates fixed?

Steve Davis: I believe the appraised value is capped for those that are 65 and older and I believe there are other provisions for those that are disabled. Every property owner for their home occupied house has a homestead credit also of $300.

Brice Curry, a resident stated for a business owner we still pay property taxes that a home owner no longer has to pay. When you enact this tax you will really be increasing the tax a business owner will have to pay.

Mayor Coody: Do we collect millage on personal property?

Steve Davis: The ordinance states real and personal property.

Mayor Coody: Is there a cap on what I pay the City of Fayetteville on property taxes?

Steve Davis: Not on property, there is on the sales tax when you buy it but not on property.

Mayor Coody: We wouldn't be doing this just for the police, we are doing this for ourselves, we are paying for the benefit for living here in town.
We had to wait until we got the word from the County about our roll back number because that would affect whatever millage that we would pass for 2005. We just got those numbers back

two weeks ago. We spoke to the County yesterday and they stated they needed our millage rate passed and given to them tomorrow. We were not expecting that, we thought we would have more time. This is unfortunate and I hate it but if we don't pass something tonight we will not be able to until this time next year. We will continue to be dramatically short of manpower in our police force and we will not be able to staff the new fire station we want to build on the southeast side of town. If we implement this millage we would still be far below what every city in the corridor has been charging for years.

Geary Lowery stated that we need more policemen and firemen. If your property goes up in appraised value then you taxes go up we should expect that. He asked if your homes and lives are worth 20 cents per day. When it comes to the needs of the community, this community needs more policemen and firemen. This is not something we want it is something we need and we need to increase our taxes to get them.

Alderman Marr: Are we absolutely positive that there is no way that Washington County can extend by longer than one day our submittal of this. Did we ask is there any way possible under any law to extend this further?

Mayor Coody: Sondra did you ask that question?

Sondra Smith, City Clerk: I did not ask if there was any way possible under any law that we could extend the deadline. I did send them a letter on October 8, 2004 asking for a 60 day extension. December 8, 2004 would be the end of the 60 day extension. The County Clerk told me she absolutely had to have this first thing in the morning. I assumed she knew what she was talking about and I did not go into detail as to why she absolutely had to have it by Wednesday morning. She did tell me the Quorum Court meets Thursday. I did not ask for another extension or what else we could do to extend this deadline.

Mayor Coody: What I can do if this gets voted down is call Jerry Hunton and ask him by the mercy of the court if they could give us another two weeks or so to figure this out.

Kit Williams: I would recommend that you pass some ordinance tonight. I would not recommend that you not pass a millage assessment ordinance because we might find out that we can't extend this.

Mayor Coody: We would need to pass at least the 1.8 mills tonight.

Alderman Rhoads: I think I would be more apt to vote for the 1.8 mills. I was looking over the third quarter performance reports from all of the different departments and on the Fire and Police Departments. As I look at their reports they both have had good years. Response time is down for the Fire Department, if you look at some of the things that they use for their performance measures, over time they are down drastically for the police. There are a number of things that indicate that yes we do need more police, we want to maintain the reputation that we have. Maybe with 1.8 and what I am reading here we might be able to make it work by completely cutting out unlocks and things like that. Just maybe do it the old fashion way where you tighten your belt here, you quit doing some things here and eliminate some jobs that aren't core or necessity. I support the 1.8 and then hopefully we could get some mercy from Judge Hutton and we could then perhaps change our mind and up it two weeks from now.

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

Mr. Williams read the ordinance.

Alderman Thiel 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.

Mr. Williams read the ordinance.

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

Ordinance 4653 as Recorded in the Office of the City Clerk

A discussion followed on when to have a city council meeting to revisit the millage if another extension is granted.

PUBLIC HEARINGS:

Mayor Coody opened the Public Hearing.

Cardinal Cab Company; Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Cardinal Cab Company for the operation of a taxicab service within the City of Fayetteville, Arkansas.

Greg Tabor, Police Department: Currently we have two cab or limo companies operating legally inside the City of Fayetteville; it appears we also have several operating illegally. We will be making attempts over the next few weeks to address those people that are not operating in compliance with the ordinance.

Mayor Coody: Who has been operating illegally?

Greg Tabor: There are several, I believe Mr. Curry operates a limo service and he does not have a certificate. CTS does not have a certificate even though they have applied for one we put them off because this ordinance was in the process of being changed. There are some more since this has come to the forefront. We are trying to watch the streets for cars and limo signs because there are people out there that we have never heard of.

Last Tuesday the Council asked us to make some recommendations on the number of cabs that we need in the City of Fayetteville. We have failed on that. It seems that most of the information out there on cabs is based on the city's voucher program. The Community Resource Division runs a program to where they give coupons to citizens for taxi service. In 2002 and 2003 they gave approximately 11,000 of those coupons out. In both years 65% of those coupons went to Tony C's and 35% to Cardinal. That is the two cab company's that are currently operating legal inside the city limits. We talked to both of these companies about their call volume. Tony C's averages between 1,500 and 1,600 calls per month, Cardinal around 1,400 so there are approximately 3,000 cab trips in the City of Fayetteville every month. The average

response time for Tony C's is 25 minutes and the average response time for Cardinal is 37 minutes. I might add that when I spoke with Judy at Community Resources she said it is very common for them to get complaints about people waiting two hours on taxi cabs. The average trip distance for Tony C's is 3.5 miles the average trip distance for Cardinal is 2.8 miles.

Mayor Coody: Why would it take two hours to get a cab?

Greg Tabor: I don't know the answer to that unless there are so few that they are all busy.

I might point out the question Alderman Reynolds had about for hire tags. It is the opinion of our City Prosecutor that any vehicle for hire must have for hire tags whether it be a cab or a limo, if the car is for hire it must have for hire tags on it.

Cardinal Cab has completed the necessary paperwork for a certificate; he has also provided a copy of his insurance to me. Cardinal has requested a minimum of two cabs be permitted and a maximum of three. They have two cars insured through their insurance policy. The policy is vehicle specific, he can not trade out if one of his vehicles if it breaks down, he can not bring another one in.

Alderman Lucas: So there are two cars insured?

Greg Tabor: That is correct, according to his agent.

Alderman Reynolds: So will we decide what two cars pass inspection for the decals and that is all he will be allowed to operate?

Greg Tabor: He only has two insured; it is a requirement to have them insured so those two are the only ones possible that he could bring to be inspected.

Alderman Marr: To your knowledge have there been any complaints on this cab company.

Greg Tabor: Not that I am aware of, but I don't know if those would come to the Police Department. The only compliant that I heard was from the Community Resource Division and that was the lengthily wait time.

Curly Prim, Owner of Cardinal Cab stated they do the best they can with what they have. They try to get there as quickly as they can but the way the traffic is anymore the response time is hindered by the traffic. We are in the process of updating our cars; we try to treat the people right. I have for hire tags and insurance. I try to do things by the law.

Mayor Coody: Where is your shop that you dispatch out of?

Curly Prim: I am out of Springdale.

Mayor Coody: So that is why it takes 2 hours?

Curly Prim: A lot of times they will call you and say it took two hours to get to them but if you will look at our records it will show you the time we pick up and drop off. We have meters in our vehicles.

Alderman Reynolds: Do you run Fayetteville and Springdale.

Curly Prim: We usually try to have one cab in Fayetteville and one in Springdale.

Alderman Reynolds: You heard the Police Department say that you have two cars insured and that is the only two that you will be able to use if they pass our inspection?

Curly Prim: Yes. They will pass your inspection.

Kit Williams: What the City Council is doing here is finding that a taxi cab service is required by the Public Convenience and Necessity and that the applicant is fit, willing and able to do it. If you determine that then in fact you should pass this resolution.

Alderman Rhoads: If we felt we needed two cabs or two hundred cabs we could approve as many as we feel we need to.

Kit Williams: Yes you can, as long as you believe there is a public need for it you can approve it.

Robbie Robertson, General Manager of Cardinal: What I understood about the insurance is that we are only allowed those two cars; if one went down we could only insure those two. If we lost one I can call and have one taken off and another one put on. So we can always have two on at all times. I always have a third backup, it takes me 24 hours to get one switched for insurance.

Kit Williams: As long as the vehicle has been inspected and is properly insured and you are authorized to then you would be able to have two. It would have to meet all of the requirements.

Robbie Robertson: Regarding response times sometimes those long waits are during the peak times when people are going to and from work. We have people that make time calls to go to work or a doctor's appointment; they call us and let us know what time they need us. If we get six calls at 9:00 we take them as we get them.

Alderman Lucas: Do you let them know that it is going to take that long.

Robbie Robertson: Usually it doesn't take that long, but if we have a lot of them if they ask how long it is going to be and we know we will tell them. If it is an emergency we will try to work them in quicker or have them call emergency services. I have even called Tony C's myself to see if he had one available to pick them up.

Alderman Reynolds: If you use a third car, a backup car, it has to have a decal on it.

Robbie Robertson: I have it painted and decaled. It wouldn't take me long to get it down here, get it inspected and put it on line. I could probably do that within 24 hours. I will already have it sitting there if we need it.

Alderman Rhoads: Could I clarify the process, Kit are we trying to determine who the finest cab operator in the world is or are we trying to determine just what the need is?

Kit Williams: Just whether there is a need and if there is a need for taxi cab service is this person capable, willing and able to perform that.

Alderman Rhoads: I don't want to usurp the police's function of screening them and determining who is qualified. We are to make that decision as well?

Kit Williams: Well, yes it says that *the City Council will find whether the applicant is fit, willing and able to perform such public transportation and to conform with the provisions within this subchapter.* You will rely upon what the Police Department has said and the Fleet Department to properly inspect the vehicle.

Alderman Rhoads: And what we hear tonight?

Kit Williams: Yes.

Alderman Rhoads: Does this give them a license for a year?

Mayor Coody: Is this an annual license?

Kit Williams: No. I think that once they get it as long as they comply with our ordinance they will maintain that certificate. You can probably revisit it and revoke it if there is a problem.

Alderman Rhoads: Can the Police revoke it on their own if they don't have insurance.

Kit Williams: That vehicle would be disqualified whether they have a certificate of insurance or not they still have to have a qualified vehicle.

Alderman Rhoads: Can the Police revoke it themselves without having to come to us.

Greg Tabor: I believe the ordinance says that the Police Chief or his designee can suspend and then it would come back to the City Council.

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

Resolution 204-04 as Recorded in the Office of the City Clerk.

Alderman Rhoads moved to add amending Chapter 117 to the agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

CTS Airport Shuttle and Limousine Service; Certificate of Public Convenience and Necessity: A resolution granting a certificate of Public Convenience and necessity to CTS Airport Shuttle and Limousine Service for the operation of a limousine service within the City of Fayetteville, Arkansas.

Greg Tabor: CTS is only asking for a limo and airport shuttle certificate, they are not asking for a taxi cab. Mr. Huddleston has provided an application for the certificate, two insurance policies and seven vehicles to be on his certificate. I checked with his insurance agent and he does have seven vehicles with both of those policies insured. I think you have over the last week or two some correspondence from the City Attorney describing what his opinion of a limousine is and what it would take to operate as a limousine according to this ordinance. Mr. Huddleston is one company that was operating illegally. He does not have a certificate. He did apply for one and we held him off until this procedure could be ironed out. I believe prior to that time he had been issued some citations by the Police Department for operating his company or his drivers outside the ordinance. We have also received several complaints; I believe mostly form other cab companies about CTS. I believe their compliant was that he has a scanner in his vehicle or office; he would hear their calls for service and would call his drivers and jump on their calls.

Alderman Reynolds: Does Mr. Huddleston have for hire tags on his limos?

Greg Tabor: I do not know the answer to that but according to the prosecutor he will be required to do that.

Alderman Marr: Can you refresh my memory on the memo? What is the major difference between a taxicab service and a limo service?

Kit Williams: You would initially look at the ordinance which defines the terms. According to our ordinance it defines a limousine *as transportation service over the streets of the city in a type of automobile commonly referred to as a limousine and having a manufactured seating capacity of at least eight persons including the driver, this definition excludes taxicabs.* You would either have taxicabs or limousines. Probably the first rule in interpreting an ordinance or a statue is to construe it just as it reads. I looked up the definition in a dictionary. There were two definitions for limousines. A limousine is either a *large luxurious often chuffer driven sedan that sometimes has a glass partion separating the drivers seat from the passengers compartment.* So it is either a large sedan or *a large vehicle for transporting passengers to and from an airport.* A lot of times it is going to be a van it is not going to be a sedan. If it is to and from an airport then it still qualifies as a limousine. If it is just going to drive around town it would have to be a large sedan, according to our definition with a seating capacity of eight people which is a large sedan, a large stretch sort of vehicle I think.

Geoff Huddleston, CTS: Basically what our company does is go to and from hotels and to the airport and back. We also have a stretch limousine, it is a 120 stretch, it is one that we don't normally use because a lot of our business in Northwest Arkansas doesn't require a stretch. We have a Mercedes sedan, a suburban, a navigator and an expedition that we use. That is about 90% of our business, about 10% of our limousine business is with a stretch and that is all over Northwest Arkansas. The stretch business isn't a really good business it's there, it is a part of it but it is nor our core business. Our core business is when corporate executives come in to see Wal-Mart, Tyson's, J.B. Hunt or the University. We also do a lot of hotel business. We have two large buses which are designed specifically for airport shuttle; they have the capacity of holding 12 passengers and their luggage. We have vans that we use that are 8 passenger Chevy astro vans. We do have airport cars that work out at the Northwest Arkansas Regional Airport that come into town. Those cars will not be used in the City of Fayetteville to pick up a passenger for any reason. We are not going to go and sit on Dickson Street and try to pick up

passengers, that is not what we are looking for, that is not what we want to do. We are basically wanting to run our corporate business, stretch business and our shuttle business to and from the airport.

As far as the tickets, yes one of my drivers was ticketed in the City of Fayetteville and we have paid those fines. We did take care of that. We do have for hire tags on the vans that work in Fayetteville; they will be on every car that we work in Fayetteville. We do have insurance.

Alderman Reynolds: So you are a limo and you are not a taxi service.

Geoff Huddleston, CTS: No sir, we are not. We are basically a limo and an airport shuttle service. We are not going to go to someone's house pick them up and take them to the grocery store or the doctor's office. We don't do that. As far as having a scanner, I don't own a scanner and no one in my company owns a scanner. The only time we pick up form the hotels from someone else's calls is when they don't show up when they are suppose to and the hotel calls us. We will then go pick up the passenger and take them to the airport. That is basically what we do?

Alderman Reynolds: Who ran the operation that is called rides for tips or tips for rides?

Geoff Huddleston, CTS: I have no idea I have nothing to do with that, I have no idea who that gentleman was.

Alderman Reynolds: You weren't involved in it?

Geoff Huddleston, CTS: No sir.

Alderman Reynolds: As long as you are a limo service and not a taxicab business. If the police find you picking up passengers elsewhere then you will be ticketed under this new ordinance. We are trying to clean it up, you understand that.

Geoff Huddleston, CTS: We do have passengers in our sedans that we do take out to dinner, but we are not going to be soliciting any business other than to and from the airport and the shuttles. You are not going to see one of my shuttle vans sitting on Dickson Street trying to pick up people because I don't want to pay the fine. I just paid one fine; I am not going to do it again.

Alderman Reynolds: I believe you and I think you will live up to it, if not the Police Department will take care of you.

Geoff Huddleston, CTS: Yes, and I don't want to deal with that again. Once was enough for me.

Kit Williams: Do all of your limos have a manufactured seating capacity of eight people?

Geoff Huddleston, CTS: All of our stretch.

Kit Williams: I am talking about all of the vehicles you have.

Geoff Huddleston, CTS: The suburban, expedition and navigator have it. The Mercedes does not have it, it is a six passenger.

Kit Williams: Unless the City Council sees fit to amend the definition of limousine then that would not qualify.

Alderman Rhoads: So there are only four that you are going to use in Fayetteville.

Geoff Huddleston, CTS: We have the two 12 passenger vehicles that we will be using from the airport and then the 8 passenger astro van.

Alderman Rhoads: Seven vehicles, but not any vehicle that is less than eight passengers.

Geoff Huddleston, CTS: No sir, no vehicle that is under eight passengers.

Kit Williams: You at one time said you would take your clients to a restaurant. Where would you pick them up from to take them to the restaurant?

Geoff Huddleston, CTS: They may come from their hotel; they may hire us for the night from their home.

Kit Williams: So this is the limos not the airport shuttles.

Geoff Huddleston, CTS: The two buses and the van will do nothing but to and from the airport. They will not go anywhere else and pick up anywhere else. Limousines are hired by the hour. We may pick them up from the airport and take them to a restaurant and then take them back to the airport.

Alderman Reynolds: You named seven vehicles that you are going to use in Fayetteville, correct?

Geoff Huddleston, CTS: Correct.

Alderman Reynolds: According to the insurance company you have seven vehicles insured. What about the other car that you said you are not going to use in Fayetteville?

Geoff Huddleston, CTS: It doesn't have the same insurance on it for the City of Fayetteville.

Alderman Reynolds: So you are not going to use it in Fayetteville?

Geoff Huddleston, CTS: No sir.

Alderman Reynolds: Just the seven.

Geoff Huddleston, CTS: Yes.

Alderman Marr: Often I will go out of town and will have a car there to drive me where I am going for the day and at the end of the day pick me up. I consider that a for hire driver, I do not consider it a taxicab. We don't allow for hire driving unless it is an eight passenger vehicle?

Kit Williams: That is the way the definition is now. Certainly you are entitled to alter that definition and not have the requirement for an eight passenger vehicle.

Geoff Huddleston, CTS: When I originally read the ordinance it said six passengers including the driver. That was the original ordinance.

Alderman Reynolds: We are just trying to define between a taxi and a limo.

Alderman Marr: I think it is a real situation where you give people who do for hire driving, that's what I call it I don't know what it is called in the industry.

Geoff Huddleston, CTS: We call it sedan service.

Alderman Marr: Some car service that picks you up takes you where you are going and comes back and gets you. You have reserved the car and it is not running around.

Alderman Reynolds: He is allowed to do that.

Alderman Marr: We will revisit the ordinance later.

Tony Catroppa, Tony C Cab Company: Mr. Marr I would like to answer your question. You asked what is the difference between a taxi and a limo, a taxi is $7,000 per year to insure and a limo is under $1,000 that's the difference.

Brice Curry a resident: I am here because I do have a limousine service in this town. I have had my limousine service in this town for probably three to four years. I do not have a license and did not know that there was a license required. That is my fault because I do own a business and I have licenses from the state, but I did not know there was a city license. I run four limousines in this town, two of them are stretch limousines and then I have what is called limousine coaches, these are customized buses; they are built by limousine companies. The limousine coaches that are buses, one of mine seats 22 people and the other one seats 15. They are built by limousine companies, they have the interior of a limousine and they look like a limousine so we consider those limos. Almost any limousine company that is out there runs what they call their limos but then they also have sedans. The reason for these sedans is corporate business so they don't have to worry about a shuttle. Every company that is out there that is a reputable good limousine company run sedans.

You are getting into what is a taxicab and what is a limousine, sometimes in this town there are a few cars that are driven around that look like what we call our sedans. Maybe you need to look and see what you really want a taxicab to be in this town. A limousine is a totally different thing you have a different driver. That is pretty much what we do when we run our sedans. I have applied for my license through the Fayetteville Police Department and all my cars are insured. I don't pay a $1,000 per year for insurance on my limousines. Every one of my limousines are anywhere from $3,000 to $4,000 to insure because they are not $5,000 cars. All my cars are expensive you are welcome to come out and look at them, they are state of the art cars and I keep them up. They are nice, if I get a dent in one it's repaired, if I have a bad tire I put a new tire on. They are serviced constantly. I consider myself a very excellent and experienced limousine company.

Alderman Reynolds: I looked at his vehicles and he has a nice fleet.

Alderman Thiel: Are they eight passengers?

Alderman Reynolds: They are more than eight passengers which classifies them as a limo.

Tony Catroppa: I am sorry but a taxi is a taxi and a limo is limo. I am the largest taxi service; the reason being is liquor liability because I have eight clubs. I want to make sure my clients get home safely, if they crash and burn then I have a lawsuit. Liquor liability is almost prohibited. If these people are going to use these cars as taxis. If I quit there is not going to be a taxi business on account of the insurance factor. I have 27 cars, I am self insured, I have a $5 million financial statement or I couldn't do it. If you have to have taxi's that have to pay $7,000 a year in insurance then you are not going to have any taxis. I worked with you to try to tell you what is going on here. If you let these people tell you that these limos are not taxi's and let them bring them in then there is not going to be a taxi business, mark my words, there will not be one.

Curly Prim: What kind of license does a limo driver have to have to operate a limo? On a taxicab you have to have P for passengers anything over 15 passengers you have to have a different qualification. State of Arkansas law states that anyone hauling people for passengers for hire has to have for hire tags on their vehicles, it doesn't make any difference what it is. I have seen a lot of these limos out there that do not have them. Integrity and honesty should be one of the main factors in granting a permit to someone. He ran his cars even after the City Council told him not to run his cars in Fayetteville he continued to do it. Is integrity any part of our business or not.

Geoff Huddleston, CTS: You have to have a passenger endorsement for anything under 13 passengers plus the driver. Anything above that you have to have a CDL, it doesn't matter if you are a limousine, a taxi or whatever.

Alderman Rhoads: Would it be beneficial to hear the other resolution at the same time and then after we hear everything decide?

Mayor Coody: You mean the next resolution Tony C's?

Kit Williams: You could continue the public hearing and open it for the final company.

Alderman Marr: What would be the basis for that?

Alderman Rhoads: It sounds like there is competing interest, as opposed to deciding on one and then hearing different factors that may have an influence on this one that we are talking about now. I would rather not make that decision until it is all said and done.

Mayor Coody: Is that the Council's wish? We will go ahead and change the conservation now to the Tony' C's taxi and limo service Certificate of Public Convenience and Necessity.

Greg Tabor: To go back to CTS for just a second, the City Attorney and I had some conservation earlier this week about Alderman Marr's question. I think when we did the ordinance our initial thought was if a four passenger sedan could be a limo or a car for hire you

are not going to know that it is a limo or a car for hire at first look. Whereas if it was just a taxicab you would know it has to be operating as a taxicab when you see it on the road, I think that was what we were thinking when we did that. I believe that Kit feels like you, that maybe the ordinance needs to be changed and that any vehicle going to and from the airport should be classified in the limousine status.

Kit Williams: I think it would make it easier to enforce this ordinance to ensure that limousines were not operating as taxicabs if you kept the definition of a large sedan or a seating capacity of eight. It makes it more obvious if they see a limousine acting as a taxicab as opposed to a limousine. If they are driving a small vehicle or a vehicle that would normally be a taxicab, which is seven persons or less, and going around to a restaurant and it is not a taxicab but is licensed as a limousine it is pretty easy to see it. If they are the same vehicle and we don't have a requirement that changes the difference in seating capacity it makes it much more difficult for the police to be able to enforce the law and ensure that limousines are operating as limousines and taxicabs are operating as taxicabs.

Alderman Marr: But doing that would limit the fact that in Fayetteville you could not have a sedan car for hire like Mr. Curry's business, not bus limos or limos, but the traditional car that picks you up is that what I am hearing.

Kit Williams: Not in this particular ordinance. That is an enforcement issue.

Alderman Marr: I guarantee it is happening every week.

Greg Tabor: I believe the way the ordinance was written you could come from the airport into Fayetteville and be dropped off in a four door vehicle and not be in violation of the ordinance. It is only if they came to the motel the next morning and picked you up that they would be in violation of the ordinance.

Kit Williams: No, I don't think that is correct. I think the definition of a limousine says a large vehicle from the airport.

Alderman Marr: Just the fact that we've had this discussion come up in all three of these, I believe this needs to be further defined because I think it happens. I have watched it happen. People coming to Fayetteville from Bentonville and not having an office in each town. I myself use a service when I go out of town. I don't know that we want to limit that if we are going to be where the world's number one retailer is. One of the largest vendors to that retailer is housed in Fayetteville.

Alderman Thiel: I agree, when you go to New York you get a yellow cap or a sedan and they are very easy to identify, the sedans all look just a like. Maybe that is what we need to do make a uniform color on everything. The ideal of the stretch limo being the only sedan, I think we need to readdress that issue.

Kit Williams: That is certainly your prerogative.

Mayor Coody: We just need to define limo then.

Alderman Rhoads: Can we do it here and now and try to knock this thing out so these people don't have to come back? If we need to distinguish them for enforcement, then Kit would color code work?

Kit Williams: There are things to identify them in the ordinance, designation of vehicle by insignia or the like, Section 117.42.

Alderman Rhoads: Is there enough significant stuff so they can enforce it properly?

Greg Tabor: It has a light on top.

Alderman Rhoads: That is easy enough. Then all we have to do is eliminate the eight passengers and take it down to a driver and five passengers for limos and therefore you could have the car for hire.

Kit Williams: You could just change the eight to 6 or 5.

Alderman Thiel: Do we have to designate the number of passengers?

Kit Williams: You can just say commonly known as limousines and leave it at that if you want to.

Alderman Lucas: How would you identify if it was a limousine or a taxi?

Greg Tabor: In the ordinance a cab has to have a light on top.

Kit Williams: If you didn't have the eight passengers in the ordinance it would just be a large luxurious sedan and so a town car would probably fit that.

Mayor Coody: Do we need to amend the ordinance.

Kit Williams: Yes.

Alderman Rhoads moved to amend the ordinance to delete the language that requires eight passengers. Alderman Marr seconded the motion. This motion was not voted upon by the Council. The Council had to Suspend the Rules to add this discussion to the agenda before a motion to amend the ordinance could be made.

Kit Williams: The amendment would read *limousine service will be defined as transportation service over the streets of the city in a type of automobile commonly referred to as a limousine. This definition expressly excludes taxicabs.*

Alderman Lucas: Where does it identity that a limousine service is going to be to the airport?

Kit Williams: You would have two kinds as I quoted the dictionary before, if you don't have it specifically designated in here then you go to the dictionary and the dictionary says a *large vehicle from the airport or a luxurious sedan.*, That is your definition that the police could use.

Greg Tabor: Is it my understanding then on a five person one it could only come and go from the airport? Is that the way the ordinance is now?

Kit Williams: No it could be a large vehicle from the airport, it would not have to be a sedan, it could be a bus or a van or something like that from the airport. The limo itself would be a large luxurious sedan.

Greg Tabor: There is no way you can do a car for hire except from the airport?

Alderman Rhoads: They can go to the airport; they can drop people off at a restaurant and so forth.

Kit Williams: In addition to that you can have vans and buses from the airport which would not qualify as an in town vehicle.

Mayor Coody: Is everyone clear?

Council: No.

Greg Tabor: I think you see why this has been avoided for so many years.

Mayor Coody: We have a motion and a second to amend but is everyone comfortable with the amendment?

Alderman Reynolds: We have had a lot of meetings and have been a year to trying to get it this far. What we are trying to do is to get it where everyone is not using scanners or whatever and picking up calls from cab companies and taking people places. We are trying to define it to where everyone is running legal and the Police Department can watch that and take care of that law. I think that us changing this will put us back where we where.

Alderman Lucas: Maybe they all should be taxicabs.

Kit Williams: Before you can consider this you will have to suspend the rules, because this is not on the agenda to change this and place the amendment of this section of the code on the agenda.

Alderman Thiel: I do not understand why if it is an eight passenger stretch limo or a sedan for five passengers makes this such a big change. I don't understand that part.

Alderman Reynolds: Well maybe you need to be on the taxi committee so you can help work this out.

Alderman Thiel: Ok, so as long as it is a stretch or a long limousine then?

Kit Williams: What I would recommend is that we go ahead and complete the public hearings that we have already scheduled tonight and then if this needs to be changed again, Alderman Thiel is on the Ordinance Review Committee and we can make whatever changes that needs to be made at that committee.

Alderman Rhoads: Except we have everyone here that we need, we have all the taxi companies; we have the Alderman, the police folks and the finest City Attorney.

Mayor Coody: Kit you have read your amendment to the ordinance; we need to suspend the rules to put this on the agenda if we want to resolve this.

Kit Williams: Yes you would have to.

Greg Tabor: The way the ordinance is right now it would be impossible for Alderman Marr to hire a car to go from his office in Fayetteville to go to his office in Bentonville. Because it is not a stretch limo commonly driven by a chafer or it is not coming to or from an airport. He would have to use a taxi for that purpose.

Mayor Coody: Unless we amend it.

Greg Tabor: Even with it amended I believe.

Kit Williams: No, I think if it was amended it would be alright because it doesn't have to be a stretch limo, it has to be a luxurious sedan.

Mayor Coody: Because we are deleting the passenger requirement.

Alderman Marr: I actually realize that we want to get this thing done put I think that we are at a point where it isn't going to happen. We are better off looking at cities from the definition standpoint because this is not a problem that is unique to Fayetteville. Anywhere that has a business center and an airport uses for hire drivers and taxicabs and limos. I think we are missing an avenue in all these definitions that is used in our city. If we can't do it now then we are better off to do it at another meeting.

Mayor Coody: Is it your intent that we go through the public hearing and determine the Certificate of Necessity and then amend the ordinance to define passenger capacity later.

Alderman Reynolds: We could sit here and work it out.

Mayor Coody: I think there is a motion and second.

Kit Williams: The motion was to suspend the rules and add this to the agenda was that the motion.

Sondra Smith: No the motion was to amend the ordinance.

Mayor Coody: That is not a valid motion. Is there a motion to suspend the rules and a second to put this on the agenda?

Alderman Rhoads moved to suspend the rules and add amending the ordinance to the agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: We are talking about Section 117.60 Definition of Limousine Service.

Mayor Coody: Kit you have a good head on your shoulders and you have been hearing what has been going on, what recommendation would you make to this Council that you think might make everybody as happy as they can be.

Kit Williams: I think if you simply strike *and having a manufactured seating capacity of at least eight persons including the driver* the situation that Don is concerned about will go away. We will be relying totally upon the normal definition of a limousine which is either a luxurious sedan or a large vehicle that serves an airport.

Alderman Rhoads: We will still be able to define a taxicab by a flashing light on top.

Kit Williams: Yes and the rest of that definition is that *this definition expressly excludes taxicabs.*

Alderman Rhoads moved to amend the ordinance to strike and having a manufactured seating capacity of at least eight persons including the driver. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr moved to approve the Certificate of Public Convenience and Necessity for CTS Airport Shuttle and Limousine Service. Alderman Cook seconded the motion. Upon roll call the resolution passed 7-1. Alderman Thiel, Cook, Marr, Rhoads, Odom, Lucas and Jordan voting yes. Alderman Reynolds voting no.

Resolution 205-04 as Recorded in the Office of the City Clerk.

Tony-C Taxi & Limo Service; Certificate of Public Convenience and Necessity: A resolution granting a Certificate of Public Convenience and Necessity to Tony-C Taxi & Limo Co., LLC for the operation of a taxicab and limousine service within the City of Fayetteville, Arkansas.

Greg Tabor: Mr. Catroppa has applied for both a taxi and a limo. He has filled out the application for a certificate. He is asking for a minimum of six vehicles and a maximum of 12. He did provide a copy of a letter from the Arkansas Department of Finance and Administration that he is self insured. I think Kit was looking into that to see if that is in compliance with the ordinance.

Kit Williams: The ordinance states that you will provide a policy it doesn't say you can be self insured. Even if you have a number of vehicles within the State and you fulfill whatever the State requires. The state allows you to be self insured, but that is not what your ordinance says.

Alderman Rhoads: If you are self insured, you can issue yourself a policy?

Kit Williams: No, you have to fulfill some financial stipulations with the insurance commissioner I think. I am not an expert on this; you have to have a certain number of vehicles and try to show that you are financially sound enough to pay. I had experience with that and sued a trucking company that was self insured and they did not pay.

Alderman Rhoads: Does the applicant have excess or umbrella insurance or any thing above the initial self insured?

Greg Tabor: All he provided me was a letter of self insurance.

Mayor Coody: The letter was from whom?

Greg Tabor: The Department of Finance and Administration.

Alderman Rhoads: Mr. Captronna: Do you have any kind of insurance above your self insured retention?

Tony Captronna: I just did what the State required. I gave them my financial statement put up property and then they self insured me. That was all that was required.

Alderman Rhoads: I am not suggesting that you go out and buy a bunch more insurance, I am just wondering if you already have insurance in place above what your self insured retention might be then they could issue a policy and then you would meet the requirements of the ordinance.

Tony Captronna: I don't believe so. All I have is what was required by the State. It is quite an ordeal to get that, I worked on it a year and a half to get that self insured certificate.

Mayor Coody: It looks like the two options are that we have to turn down Mr. Captroppa or amend the ordinance.

Alderman Marr: It is on State letterhead, it's approved by the State, and it was good enough to get recognition at a State level, a higher governing body than we are. It is probably stronger in some cases than the ability to pay a premium. I am curious why we have it listed as an insurance policy and not coverage.

Tony Captronna: I have $5 million in land and assets up that if anything happens they take them. I was a year and a half in the process of doing it so I don't understand.

Mayor Coody: Do we need to amend our ordinance to allow this?

Kit Williams: Yes, you would have to and it will be a more difficult than the last amendment.

Mayor Coody: Do we need to add this to the agenda as well?

Alderman Marr: Do you think it is something that could be solved tonight?

Kit Williams: I would recommend if you want to do this that you grant him a stay of grace until the City Council can meet again and allow us to actually draft the language.

Alderman Rhoads: Is it not just as simple as the applicant must produce some form of coverage versus a policy?

Kit Williams: I wouldn't want to say some form of coverage. That is not very good language.

Alderman Rhoads: You are absolutely right.

Alderman Marr: There is a number on this form. I would say this is a self insured policy with a policy number.

Kit Williams: But that does not fit the ordinance. The ordinance states the insurance shall be maintained with an insurance company authorized to do business in the State.

Mayor Coody: We could add or proof of self insurance as shown by the State of Arkansas. Do we have to add this to the agenda as well?

Kit Williams: Yes. I still do not recommend amending the Code of Fayetteville at midnight.

Greg Tabor: He has until December 31, 2004 to get us a certificate of insurance.

Mayor Coody: So we can hammer this out in the next couple of weeks and make the amendment at the next City Council meeting?

Kit Williams: I would recommend that you ask him any questions that you might have at this point in time and therefore he will not have to return.

Mayor Coody: Do we need to vote on his certificate tonight.

Kit Williams: You can go ahead and vote on it and if it passes it will be on condition of him meeting our ordinance.

Alderman Marr moved to approve the Certificate of Public Convenience and Necessity for Tony-C Taxi & Limo Service. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Resolution 206-04 as Recorded in the Office of the City Clerk.

Mayor Coody: We will revisit the insurance issue at our next meeting.

Alderman Marr thanked everyone that helped on the homeless vigil.

Meeting Adjourned at 12:05 AM

Sondra Smith

Sondra Smith, City Clerk

Dan Coody

Dan Coody, Mayor