

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 - Robert Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council
Meeting Minutes
February 7, 2006**

A meeting of the Fayetteville City Council was held on February 7, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody

Pledge of Allegiance

Alderman Cook announced the Board and Committee openings and encouraged citizens to apply.

CONSENT:

Approval of the January 3 and January 17, 2006 City Council meeting minutes.

Approved

Elm Springs Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2006.

Resolution 15-06 as Recorded in the Office of the City Clerk.

Goshen Animal Sheltering Services: A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2006.

Resolution 16-06 as Recorded in the Office of the City Clerk.

Wittenberg, Delony & Davidson, Inc. – Fire Station #5 Design: A resolution approving a contract in the amount of \$70,000.00 with Wittenberg, Delony & Davidson for design and oversight of the replacement for current Fire Station #5.

Resolution 17-06 as Recorded in the Office of the City Clerk.

Fire Station Construction Bond: A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of fire station improvements within the city.

Resolution 18-06 as Recorded in the Office of the City Clerk.

Walker Park Sign - Right of Way Variance: A resolution approving a variance from the Master Street Plan setback requirements to allow for the construction of an entrance sign at Walker Park.

Resolution 19-06 as Recorded in the Office of the City Clerk.

Arkoma Playgrounds & Supply: A resolution accepting a proposal in the amount of \$79,699.00 from Arkoma Playgrounds & Supply for the installation of new playground equipment at the Yvonne Richardson Community Center.

Resolution 20-06 as Recorded in the Office of the City Clerk.

Advertising & Promotion Commission: A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to collect and account for the 1% A&P Commission Hotel, Motel, and Restaurant Tax.

Resolution 21-06 as Recorded in the Office of the City Clerk.

Code Compliance Site Clean-up: A resolution awarding Bid #06-CC01 to Robert Evans in the amount of \$25,000.00 to provide site clean-up services for the City Code Compliance efforts.

Resolution 22-06 as Recorded in the Office of the City Clerk.

Van Scoyoc and Associates Contract: A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of \$84,000.00 to provide lobbying services to the City of Fayetteville.

Resolution 23-06 as Recorded in the Office of the City Clerk.

Dead Horse Mountain Bridge: A resolution expressing the willingness of the City of Fayetteville to utilize Federal-aid monies for the replacement of structure No.17332 over the West Fork of the White River on Dead Horse Mountain Road.

Resolution 24-06 as Recorded in the Office of the City Clerk.

Traffic Signal Morningside Drive: A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15th Street and Morningside Drive.

Resolution 25-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

John D. Lindsey, LLC. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. *This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.*

David Jurgens, Water and Wastewater Director: I recommend we go with the alternate alignment between the building and the creek and that the City Attorney work that out with the owner's attorney. Several of you have addressed wanting to get the statement from the owner concerning damages and move forward with the owner concerning the alternate alignment. Then we will work with the Corps on the issue. After discussions with our consultants we will pursue a nationwide permit or an amendment to our existing permit through the 404 program so that we can get that accomplished in the amount of time we require to not hold up the project.

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

Alderman Thiel: We do have an affidavit from them?

City Attorney Kit Williams: We do not. We will get that though and if we do not get it we can bring it off the table.

Alderman Thiel: This will not slow down the treatment plant construction?

David Jurgens: I believe we can do this without slowing down the completion of the project.

Upon roll call the motion passed unanimously.

This resolution was tabled indefinitely.

R-PZD 05-1776 Wedington Circle: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan. *This ordinance was left on the Second Reading at the January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting.*

This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.

Alderman Lucas: I think this is a good development. They have met with the neighbors as well as the staff. I want to stress that James Street, Mount Comfort and Garland intersection must be corrected to a tee intersection in order that traffic will not have to go through the Hendricks neighborhood to turn left on Garland. That is something that we need to work on. As far as the speed humps and the narrowing of Stephens, is that going to be done?

Gary Dumas, Director of Operations: The cost is amount \$3,000 per devise. I think there are neighborhood traffic issues in this area already so I would assume we would be installing these.

Alderman Jordan: I think that is what we discussed at the Street Committee.

Alderman Cook: I struggle with this development. It is a logical place to put a development but to add a driveway onto Wedington at the crest of the hill makes me nervous. I think this will put more traffic into the neighborhood. We have discussed some traffic calming and that is a good thing but there are still going to be issues with some of the current streets. I am afraid we are going to put the development in there and then we are going to create worse problems. As far as the development I don't have a problem with it. I will probably support this but I struggle with the consequences of it.

Alderman Marr: I think this is an excellent example of infill, it is the kind of development that we want to see. It is in a University connection area, it has two bus stops nearby. I think we have had enough discussion at the Street Committee that hopefully we have sent a very strong message to the administration that we want to see a resolution to Mount Comfort, Garland and James intersection at this location.

Alderman Reynolds: The City Council experienced that intersection yesterday and it was not good. I think this is a very dangerous intersection.

Gary Dumas: We will have a recommendation to you at the next Street Committee meeting on how to close that intersection until the bond program comes through.

Alderman Reynolds: It will be done before this development is finished?

Gary Dumas: If the Street Committee concurs with the staff recommendation, yes.

A discussion followed on intersections in the area.

Alderman Jordan: I too have a problem with the intersection coming out on Wedington and the intersection at James and Mount Comfort. The intersection is in the Bond issue for that area and also the traffic calming helped me. I wanted to make sure that all the bases were covered and I think they have been. I think it is a good development and good infill.

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

Ordinance 4826 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

BioBased Realty: An ordinance waiving the requirements of formal competitive bidding and approving a contract for demolition services with BioBased Realty, LLC, BioBased Technologies, LLC, and BioBased Systems, LLC, in exchange for a \$17,000.00 credit toward the purchase of the Water and Sewer Operations Center on Cato Springs Road.

City Attorney Kit Williams read the ordinance.

Ray Boudreaux, Aviation & Economic Development Director: Essentially what they are doing is asking for permission to go ahead and demolish the buildings for a credit in order to use the LEEDS credit for their LEEDS Platinum qualifications.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4827 as Recorded in the Office of the City Clerk.

Duncan Associates – Road Impact Fees Study: A resolution to approve and adopt the road impact fees study of October 24, 2005 by Duncan Associates.

Tim Conklin, Planning & Development Management Director: In 2004 Duncan & Associates prepared a road impact fee study. This past spring Duncan & Associates was contracted to update the road impact fee study based on the new cost estimates for the proposed street bond program. They completed this in October, 2005, what is on your agenda is the adoption of a study it is not an adoption of an ordinance that would impact a road impact fee. It is based on a consumption methodology or approach. Basically the consumption methodology holds the amount of vehicle miles traveled in Fayetteville and the amount of arterial and collector roadways we have in the City. It is a ratio of one to one so as new development occurs it looks at the cost of replacing that capacity. It generally under estimates the true cost. There is also an improvement based methodology where you have a defined improvement and the cost is calculated and the capacity is calculated and the impact fees based on that. This is more of a conservative approach and generally under estimates the true cost. It is basically looking at the cost of the planned improvements for the capacity needed to serve new development in Fayetteville. Part of this methodology excluded the reconstruction of the existing two lanes in the arterial systems because those are already providing capacity within the arterial roadway network.

Alderman Thiel: We currently cost share with developers on improvements that is in front of their project, they build the streets within their project and that will continue.

Tim Conklin: That is correct.

Alderman Thiel: All this will serve is we will no longer do cost shares with them, instead they will just pay this impact fee, is that correct?

Tim Conklin: One of the recommendations that is within the study is if the road that is adjacent to their project is an arterial type road but is substandard and is needed to serve their development they would be responsible for that. If we have a developer that builds an arterial roadway system, all four lanes, then the developer would need to be given credit for his cost of that roadway system, impact fee funds would go back to the developer.

Alderman Thiel: I am trying to understand if this is an improvement over what we are doing now.

Tim Conklin: If we went forward with a street bond program the ability for us to recover money to help pay for the new capacity that is being created for new development, this is the methodology that has been developed to achieve that.

Alderman Lucas: I think this is something for the Street Committee to review and come back with a recommendation.

Alderman Lucas moved to refer this resolution to the Street Committee. Alderman Ferrell seconded the motion.

Alderman Ferrell: Are there any other cities in Arkansas that have a road impact fee using this rational?

Tim Conklin: The City of Conway hired Duncan and Associates and they do have a road impact fee based on the same methodology.

Charlie Sloan, developer: I don't understand why there would be a credit or not a credit against giving up right of way. At what point if I am doing a major or minor arterial am I getting a credit back and what would I be expected to build? Are the people that are buying my lots being double taxed, I have to add that cost to the lot. It is not very clear to me.

Alderman Jordan: I think some of those questions will be addressed at the Street Committee level.

Tim Conklin: I think it is going to come down to whether or not the street is needed to serve that development at that time.

Charlie Sloan: There are some developments that have only 50 feet of collector street to contribute to and then there are others of us that build a collector street, both sides of it. I have been told this is to make that fair. That is what I want to know, are we going to get to that point?

John Nock, developer: I think the streets are a main concern and a main priority for the citizens of Fayetteville. We do different developments in town and when I look at the various fees I wonder if it is going to take Fayetteville off the list of being able to do attainable housing. Fayetteville needs to do more to allow attainable housing and if we do additional fees, if we do enough, we pass those fees on to the end user and the price of the homes goes continually up. Fayetteville has worked very hard to overcome the image of being un-business friendly and I think whatever we can do to have an open discussion to make sure that reputation stays in place I think is real important. I am all for helping the streets but I think we really need to look at if this is the best way to do it. Are we just putting the tax in a fee in one spot rather than across the board.

Alderman Cook: If we don't have the infrastructure in place I don't care what price range the house is in you are not going to be able to sell it. That is what we are trying to do is build the infrastructure with growth and this is one of those methods to help finance that.

Alderman Marr: It is interesting to me that we have the discussion that this will stop attainable housing when we don't have the fees today and we still don't see attainable housing. I hear the argument but it doesn't make sense to me.

Alderman Thiel: It is my understanding with the legislation that enables impact fees in Arkansas that the developers will not pay this up front now as they do the water and sewer fees. This fee, since it was enacted after the State legislation, will be passed on directly to the person that buys the home.

Kit Williams: That was some of the goal of the legislation that it would try to move the cost from the developer to the home buyer.

Alderman Ferrell: I think some of these fees need to be adjusted, I think some of them are counter productive especially when you look at the commercial and retail that can stop a business from opening. I think we do need to talk about it.

Upon roll call the motion passed unanimously.

This resolution was referred to the Street Committee.

ADM 05-1841, 05-1842, 05-1879 Hillside Overlay District: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to amend various sections of the code in order to implement hillside preservation and protection, establish a Hillside Overlay District Zoning Boundary and Map, and adopt the Hillside Overlay District Best Management Practices Manual.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief summary of the meetings regarding this ordinance. He also gave a PowerPoint presentation. Tim stated there was a lot of discussion throughout the process with regard to whether houses and structures should have a professional engineered foundation and GO Tech report. It was the recommendation of the Ordinance Review Committee that this amendment be brought forward along with these amendments to the ordinance that structures

within the zone be required to have an engineered foundation. The biggest benefit that hiring Design Workshop brought to this process was looking at roadway design.

Alderman Ferrell: I noticed some of the mandates that are in here are going to require permits. Is this going to be done with existing City staff?

Tim Conklin: That is something we are looking at. It is going to depend on the development activity within the area. It would impact some of our staff.

Alderman Ferrell: Is staff's expectation that they will not need any additional staff?

Tim Conklin: At this time that is correct.

Alderman Ferrell: Do you have any concerns about any parts of this ordinance. The mandating of the GO engineering of foundations and the treating of residential and commercial differently as far as canopy preservation.

Kit Williams: I do think we treat commercial and residential differently in many different areas in our zoning code already. I think that is probably okay under the law. Regarding the GO technical engineering the biggest problem I have with this is the inclusion of the hill tops within the regulations. There is some question what the justification is if there is a flat portion on the hill top that we are going to make that house be GO technically engineered for its foundation.

A discussion followed on the ordinance.

Harriet Jansma a resident stated this was a model process and they had reached a consensus. She stated this is a workable way to solve this very important problem for Fayetteville. She stated they had had a great process in developing this ordinance.

Alderman Lucas: Who determined the height of 60 feet?

Tim Conklin: I believe it was the Ordinance Review Committee, but I will have to check on that.

Alderman Marr: There was a lot of debate between 48 feet or 60 feet. We struggled a lot with reducing the footprint which would allow heights.

Alderman Ferrell: There is no height restriction on commercial if they are in the overlay district?

Alderman Thiel: 75 feet which is what it is now.

Tim Conklin: We have not amended the C-2 zoning height restriction.

Alderman Marr: So the current height that is allowed in the C-2 is the same height allowed in the overlay.

Alderman Ferrell: I know there was a tremendous amount of work that went into this but I would like to see it left on the first reading.

Pete Heinzelmann stated he is very pleased that Fayetteville is taking on this task. He voiced his concern about the height issue. He stated that 60 feet in his opinion is too high for residential housing. He stated he would like the Council to reconsider the height issue, he stated he felt 45 feet was plenty.

Fran Alexander commended the Ordinance Review Committee for including the geological hazard issue in the code. She stated she would be more comfortable if the ordinance had something in it that said according to the geological conditions or something to indicate that it is the geology which the engineering should be based on not just simply some stamped out foundation specs.

John Nock, a developer stated he has attended several of the meetings on the Hillside Overlay District and he appreciates all the time that has gone into it. He stated his concern is that we do a broad brush stroke for the whole overlay without understanding what might happen on an individual track. I have been assured throughout the process that if we utilize the PZD process, just like any other special notion that would go into any other development, could be utilized on this issue as well. I still understand that assurance is there that we can use a PZD to not just look at the engineering and the aesthetics but also every aspect that goes into that whole process and that requires a lot of time and investment up front from the developer that is going to use it and not everyone is going to want to use that process. I just want to make sure that is still being talked about. That the PZD will be the alternative and we will still be looking at best practices but we are not engineering the whole development at one time.

Kit Williams: I don't think that could be correct when you look at the changes made to the tree preservation ordinance, the grading plan required for single family homes, the PZD ordinance is not going to change the grading plans for homes or change what is required for tree preservation of single family homes so I don't think the PZD is going to trump every thing.

Tim Conklin: It is the intent to allow PZD's as we have allowed PZD's to provide flexibility with our other development regulations. I think the intent is to achieve greater intent of preservation of the hillside through the PZD.

Kit Williams: Are you saying that homes on a hillside if they are in a PZD would not necessarily have to do a grading plan but if they were not in a PZD they would?

Tim Conklin: No, we are not talking about a grading plan; I think we are talking about undisturbed areas and tree preservation and clustering units. If we need to clarify that we can go ahead and determine which section of the ordinance we need to clarify that in.

Alderman Thiel: Yes the PZD will be allowed and I think we need to be careful about that. I was looking at the idea of zoning, that's what a PZD is, the zoning variance. My concept of the Best Practices Manual was that there was guidance in there about how to do a subdivision or a plat. Which is what you are talking about, that would allow for clustering and some of the concepts you are talking about, that would not have necessarily the setbacks that we have provided here, any time we look at a large scale development as opposed to an individual lot.

Tim Conklin: We tell the development community if you are bringing a PZD to us please do not ask for less tree preservation and less compliance with certain ordinances. We allow that flexibility to achieve greater compliance and above compliance and that is the intent.

John Nock: So if I understand correctly the PZD process will not alleviate any of the issues that are in this proposed ordinance. In fact any PZD will be additionally encumbered by whatever this ordinance may be is that correct?

Kit Williams: That's what I am hearing.

Tim Conklin: The idea with the PZD is to gain greater flexibility with our code if you have certain circumstances.

John Nock: What I am hearing is the PZD is not going to change the status once this is adopted, if so then these are the practices. I would hope this would stay on this reading so we can resolve this, because if a PZD is not going to be able to be used as an alternative to this that is a major difference from what we as developers were told.

Alderman Thiel: I thought we had seen a conceptual plan on Southpass and I thought it was largely done based on this?

John Nock: It is a conceptual plan which is still being defined but I am not sure that Design Workshop has taken every aspect and conformed it to this ordinance.

Alderman Marr: With our current PZD ordinance a developer has to meet the minimum qualifications of the ordinance. You thought the PZD being used in the Hillside Overlay would not make you meet those requirements.

John Nock: Setbacks are certainly dealt with under a PZD differently than a large scale development. Under this we have another requirement that is coming into play that is affecting your setbacks. It is another layer that a PZD normally would not have to deal with.

Tim Conklin: It was always the intent with the scope of services with Design Workshop for them to assist the City in developing a Best Practices Manual and assist the City in modifying our Unified Development ordinances to implement those Best Practices. Not all of those Best Practices are being implemented. It shouldn't be a surprise because that was always the intent to implement it with ordinances and we went back and forth with Design Workshop to try to implement that. If we need to clarify our PZD ordinance section with regard to hillside we certainly can do that and bring those amendments forward. When someone walks into the Planning office it is our intent to achieve greater compliance with our ordinances.

John Nock: That is definitely something we need to look at is setbacks and the other things that this may affect. This process is much more than engineering foundations, we are talking about aesthetics, long term ownership and things of that nature. If we are not careful we are missing the overall picture of this.

Tracy Hoskins, developer stated it was obvious in the first meeting that this was much more than a hillside ordinance. He presented a letter to the Council regarding the items he agreed with

regarding the ordinance and the items he did not agree with in the ordinance. He stated that most of them feel that the ordinance should be limited to 15% slopes.

Alderman Thiel: We are not increasing the lot size requirement in fact we are actually reducing it in this ordinance. We are reducing the setbacks required; we are doing that to allow flexibility.

Bill Goliff, 907 East Arlington stated he thinks it is important to have a strong hillside ordinance. He stated he felt the hillside ordinance should be extended to the flat land.

Bob McKinney, a resident voiced his concern about hillside areas that are currently having problems.

Alderman Cook: For me this ordinance from the very beginning when we started the discussion on hillsides was never about aesthetics or view shed or any of that. To me it was about maintaining the integrity of the hillsides, storm water management, the people that live down hill and about houses sliding off the hill. For me it was more about trying to protect the home owners and the home buyers in their investment and the people that live down stream from them.

Alderman Thiel: You said exactly what I feel very strongly about. This issue about the view shed is not the main issue.

Alderman Reynolds: I do support this but I think we are a little bit from having it where we need it to be.

Alderman Ferrell: There is some section of the people that think there is a perceived ownership of a vista on a mountain side.

Alderman Marr: This ordinance started almost three years ago with this Council passing a resolution to down zone all RMF-24 zoning on a hillside. That is what we sent to the Planning Commission, which would have been nothing but single family development on our hillsides. The Planning Commission took that recommendation and decided that we should encourage and not limit the development and so we looked at how to make that happen. This entire thing has been about how to have development on our hillsides, protect those around it, reduce setbacks, and allow clustering and Best Management Practices. I don't know how it could be any more developer friendly and not keep exactly what we have today. The reason that we are doing this is because we want to prepare for where it is going to go. The land that is going to be developed in our city is the remaining land that is undeveloped which when you look at the maps is our hillsides.

Alderman Lucas: I agree with what has been said and I agree that this is a good ordinance. I think the citizens want us to be responsible in guiding development and I think that is what this is.

This ordinance was left on the First Reading.

ANX 06-1867 (Wales): An ordinance annexing that property described in annexation petition ANX 06-1867, CC2005-38, for property located at 2055 North Fox Hunter Road, containing 1.4 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the annexation. He stated the Planning Commission recommended this annexation 7-0. Staff is also recommending approval.

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4828 as Recorded in the Office of the City Clerk.

R-PZD 05-1619 (Westbrook Village): An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1619, Westbrook Village, located at tracts 1 and 2 of the original Salem Village P.U.D., containing approximately 1.42 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the residential planned zoning district. Planning Commission recommended 7-0 in favor of this ordinance and staff is also recommending approval.

Rod Scott a resident stated there is a small piece of property that is owned by the property owners association that may be needed for an alleyway and the neighborhood association is not interested in giving that up and not getting anything in return. I would like to see a little more discussion on this.

Les Broyles a partner in the project stated he believed the property Mr. Scott is concerned about is in an easement. These lots are all equal to or larger than the minimum lot size that exists in Westbrook Village. This is currently zoned residential office. This reduction to residential zoning is similar to what's out there and would be the highest and best use of the property.

Alderman Lucas: Is there a problem with ownership with that property?

Jeremy Pate: Not that I am aware of. I think it was all plated as right of way to serve these lots originally with the original development.

This ordinance was left on the First Reading.

RZN 06-1852 (Scholars Inn): An ordinance rezoning that property described in rezoning petition RZN 06-1852 for approximately 1.74 acres located at 1125, 1137, 1153, 1189 north West End Avenue from RSF-4, Residential Single Family, 4 units per acre to RMF-24, Residential Multi-Family, 24 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated there is an issue with the current land use in its existing zoning. Staff and the Planning Commission did recommend this for approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4829 as Recorded in the Office of the City Clerk.

RZN 06-1868 (Chambers): An ordinance rezoning that property described in rezoning petition RZN 06-1868 for approximately .20 acres located at 347 North Willow Avenue from RSF-4 Residential Single-Family , 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. The Planning Commission voted 7-0 to recommend this property to the City Council. This would bring the property in compliance as far as zoning criteria goes. Staff is recommending approval.

Alderman Cook: How would this rezoning affect the current use of the property?

Jeremy Pate: Nothing more than they are doing now. The uses in RSF-8 are the exact same uses as in RSF-4 which is the current zoning. A lot of the discussion about this item has been the conditional use. That is something that is allowed in either zoning district.

Alderman Thiel: I am in favor of this.

Alderman Marr: When we look at the Washington Willow neighborhood, what density is that built out to be?

Jeremy Pate: It is probably closer to 6 to 7 units per acre.

Karen Reece, president of the Washington Willow Neighborhood Association stated her and many of her neighbors oppose this rezoning because the property owners wish to build a structure within the setbacks. She stated they oppose this rezoning.

Jeremy Pate: Staff actually recommended denial of the original request, the garage is currently built on the property line and we requested at least a five foot setback. The applicant went back through with the rezoning with the five foot setback.

Claudette Hunnicutt a resident stated no one objects to this family building a garage, what we object to is the studio apartment on top of the garage. She is concerned about this becoming a rental property.

Matt & Julie Chambers, owners stated the current garage structure is in decay and is falling down. Matt stated the structure they have planned will not move any further toward anyone's property than the current one. In the variance we have agreed to a provision that the property will always have a home owner living on that property. This will not be a rent house.

Alderman Ferrell: You will have an apartment and a house if this is granted.

Julie Chambers: A conditional use has already been granted and with that part of conditional use was a deed restriction that we will have to change our deed to state that the owner of the property will have to live in one of the two structures at all times.

Alderman Ferrell: Is there any intent to rent.

Julie Chambers: At this time there is not intent to rent but if something happens to us it could be rented.

Alderman Ferrell: If a citizen wanted to give a Bill of Assurance could they?

Kit Williams: I think the conditional use that was already granted by the Planning Commission has taken care of the issue of whether or not they would be allowed to have an auxiliary structure with another resident in it. This is really a rezoning issue which has to do with the setbacks as opposed to whether there is going to be another structure there or not. The conditional use was granted by the Planning Commission.

Jeremy Pate: The property would have a deed restriction on it. The property owner of record has to live in at least one of the structures.

Alderman Ferrell: I would have a lot less heart burn in supporting this if I knew that there wasn't that possibility.

Alderman Marr: I want to be clear on this that item is not an item of discussion.

Jeremy Pate: That is correct.

Alderman Marr: The item we are talking about tonight is if we would grant the rezoning of RSF-8.

Jeremy Pate: If you feel based on the findings presented by staff that rezoning this property from RSF-4 to RSF-8 is appropriate in this neighborhood.

Julie Chambers: Our existing home and property is in violation of the current zoning in four different accounts, our lot width is too narrow, we set over the front setback, over the north setback and over the west setback. That's why it is easier to just rezone this property.

Alderman Lucas: The issue is RSF-4 as opposed to RSF-8 and the setback on the back part of the property where this is going to be built.

Jeremy Pate: RSF-4 currently has a 20 foot rear setback and an 8 foot side setback. The RSF-8 zoning that they are requesting has a five foot rear setback and a five foot side setback. As Ms. Chambers noted the existing structure already encroaches on that it actually has a zero foot setback and on the north side it is right on the property line.

Julie Chambers: We will adhere to the five foot setback if this is granted.

Steve Frankenberger: I have a problem with deed restrictions because enforcement of them is up to the neighbors. Everyone's property values will benefit if we have more conformity in the uses and move it back to more single family housing if we can.

Don Hunnicutt: This house is not out of compliance it has been grandfathered in with all the setbacks. The reason it is nonconforming is because they want to put a garage apartment within five feet of the back property line.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading

Smith 2 Way Tower Appeal: An appeal regarding the conditional permit submitted by Michael Smith and Gary Cochran for Smith 2 Way Radio for property located at 520 N College Avenue.

Kit Williams: This is an appeal that was brought forward by three Aldermen.

Jeremy Pate: The Planning Commission recommended 5-2 in favor of a request to remove two existing towers behind Smith 2 Way Radio and replace them with a tower of maximum height of 90 feet. The original proposal was for 100 feet. Planning Commission recommended that be

reduced by 10 feet. The proposal is to remove the two nonconforming towers and the chain link fence.

Dave Reynolds representing Smith 2 Way Radio passed out information to the Council. He presented a PowerPoint presentation to the Council regarding the removal of the existing towers and described the single 90 foot tower that would replace the two existing towers. He stated they have been granted the conditional use and will improve the area where the tower will be installed. He stated the tower is currently used by the University, State, County and City systems. He stated this new tower would give them a line of sight and by extending the tower to 90 feet they will be able to do that. He also stated it will allow them to upgrade some of their antennas. He said this will also provide a collocation facility for a cell tower, it is not a cell tower, it is something we use in our business every day to work on public safety type of equipment. He said it needs to be at their location because they need it at their location.

Mr. Reynolds spoke about current towers within the City and how some of them have exceeded their capacity. He explained the reasons a tower needs to be at the Smith 2 Way Radio location. He also discussed the screening that would be used around the tower.

Alderman Marr: Do you currently have cellular service at the existing tower?

Dave Reynolds: At the existing tower on College we do not have a cellular carrier there now.

Alderman Marr: An option available to you today is to, through the administrative process; extend the existing tower to get your line of sight to the Mount Sequoyah tower, why did you choose a new tower versus using that process?

Dave Reynolds: We talked with staff about this, through the administrative process we have to replace it with a like kind tower so we would have to rebuild a guide tower on College. We didn't want to do this. To make the process right, to put up a tower that is consistent with current camouflaging and a lesser impact than a guide tower, then it has to come through as a new tower.

Alderman Marr: Did you consider any other technology, some other structure other than a pole?

Dave Reynolds: This would meet current stealth requirements. A flag pole will not support what we need to do at Smith 2 Way.

Alderman Marr: You said the Planning Commission spoke about camouflaged options like a tree on this project.

Dave Reynolds: Yes.

Jeremy Pate: That discussion is in the minutes. The Planning Commission as a whole decided not to go that route.

Alderman Lucas: Are you going to have one single carrier on there?

Dave Reynolds: At the 90 foot level no, it would hold one.

A discussion followed on the location of the tower and if it could be located in another area.

Steve Frankenberger a citizen voiced his concern about the proposed tower and what it will actually look like. He stated he is concerned with the number of proposed cell phone towers.

Rena Hunt a citizen stated her concern about the tower being in the historic district. She stated she went door to door and gathered 77 signatures opposing the erection of the tower. She stated this would butt up to a residential neighborhood. She wondered if this could be placed on City property. She stated she is concerned about this affecting property owners in the area if they need to build on their property in the future.

Scott Lunsford a resident passed out information to the Council. He gave the Council a copy of the type of tower that is being proposed. He pointed out sections of the code regarding the fall zone and that this could be an impact to the adjoining properties. He also pointed out a section of the code regarding camouflaging and stealth technology for new towers. He stated he believes the camouflaging that has been approved does not meet the criteria. He also pointed out a section of the code regarding collocation on a pole or tower that currently exists. He stated there are three different kinds of technologies that are being talked about. He stated Smith 2 Way has a wonderful list of services they provide to the community with their two way radio technology. He also believes they can continue to update and modernize that two way radio technology without jumping to this class of industrial structure. They are asking for a clear line of sight to the Mount Sequoyah tower for data transfer. He stated he is in favor of giving them the additional height on the existing tower type that they have to achieve the line of sight required to get to Mount Sequoyah this technology does not need to jump up to an industrial classification tower to accomplish that. The third item is the cellular technology and they can collocate for this purpose. He stated the newer taller tower would provide better cellular coverage for the vicinity than the existing towers. He said the existing towers do not provide cellular coverage now.

He spoke of collocations in the area and the extent of usage on these collocations. He addressed Smith 2 Way's plans. He stated if they will collocate and upgrade their existing two way radio and data transmission equipment that they have and use the type of tower that is there along with the beautification of the site, this will have the lowest impact on the neighborhood. He stated the City of Fayetteville should market its own property and existing structures as suitable collocation sites. He spoke of ways to hide towers and ways to have them blend in with the area.

Claudette Hunnicutt voiced her concern about this proposed tower. She stated she feels this will diminish the value of her property. She spoke of towers and their locations in Fayetteville. She stated most of them do not impact a residential neighborhood but this one will impact a residential neighborhood.

Nan Lawler a resident stated she has seen cell towers camouflaged as trees. She would like the City to think about disguising towers in the future.

Tim Clinger a resident stated he thinks we have a choice on how we want our City and that corridor to look. He asked the Council to have Dover Kohl give them some guidance about what kind of visual corridor we would like to see in this area.

A citizen asked how high this tower can be if they collocate it.

Jeremy Pate: The maximum height level of any cell tower or telecommunications tower in the City is 150 feet. The Planning Commission approved a maximum height for this one of 90 feet if there is an additional height that is requested it would have to come back through as a conditional. He could extend the existing tower to 20 feet above the existing tower.

Justin Ikeman representing Smith 2 Way Radio stated they are trying to present to the Council that the need for the cell tower is two fold, one being the coverage issue and two being the split with the VA tower. There are very few locations in this specific area where we could put a cell tower. There is an over capacity at the VA tower. There are some references in your information about gaining space on top of the court house which is going to be done I believe at the end of 2006. However in order to cover the area we are intending to cover we have to have a station in that area that will be able to hit those weak areas and be in proximity to the VA tower so it can split and relieve some of its stress. That information is what has been provided to us from the RF Engineers and that is what we are basing our opinion on that we need to have additional cell coverage in this location.

Dave Reynolds: As far as from an engineering standpoint in the tower industry, there is not such a thing as a fall zone. This fall zone is a document we have to produce for Planning. It is very rare that there is a storm strong enough to blow over a tower but when they fall they do not fall like a tree they are designed to crumble on themselves. These towers are engineered well above federal standards and well above any building standard. It would take extreme weather to cause them to collapse.

The camouflage issues do not fit. With this we are within the City statue for camouflage. It doesn't matter how you disguise it someone is not going to like it. We have looked at those issues seriously by us, staff and the Planning Commission. It was decided that was not the way to go.

Between Lafayette Street and Dickson Street up to the top of the hill on North Street along College there are no other towers to collocate on. The City ordinance states it should have the most positive or best visual impact on the community. I believe we have established there is a need. The question is where should it be. We can take down the existing towers and collocate on top of one tower, accomplish all three goals and only increase the height by eight feet or we can increase the height by eight feet and let Smith 2 Way increase their things and then we can go behind Curry's video and build a cell tower. Where we are looking at is the superior location. Where else would you put it?

As far as replacing it with a guide tower or the type tower that is there now according to the City staff and your ordinances that is not an option.

Jeremy Pate: With an administrative review you would have to replace it with an existing tower of like type or expand that no more than 20 feet in height.

Dave Reynolds: As a new tower it has to be a monoline or alternate type tower, so that is not within the ordinance to replace it with a taller guide tower. We wanted to stay within the ordinance as much as possible that's why we are here.

Kit Williams: The aesthetics can certainly be considered. The law with the limitations on the City's power there are only really two. The regulation that we are enforcing shall not unreasonably discriminate among providers of functionally equivalent services, in other words we can not discriminate in favor of one cell company over another. The second one says shall not prohibit or have the effect of prohibiting the provision of personal wireless services, so we can not say no cell towers in Fayetteville. We have not done that. I don't think it means that we are required to give cell tower companies everything they want.

He read what one case said. He stated our ordinance does require the applicant to attempt to find a collocation. He also said we normally try to require cell antennas to be with our water towers, this is not perfect for everyone. It is up to you all to decide what you want to do but as long as you are not discriminating and not prohibiting the service and basing it on substantial evidence I think it is within your realm to decide this.

Alderman Marr: In our code it says they should provide a map that shows other potential stand alone locations for your facility that have been explored. I have heard today about collocating towers and what existing towers there are but what other sites were studied as stand alone locations for this.

Jeremy Pate: It is on page 21 of your original packet.

Dave Reynolds: In the desired area that they need to be in to provide this coverage there are no other towers there are no places to collocate.

A discussion followed on the map and the area of no cell coverage.

Alderman Ferrell: The North Street tower is that something you looked at. Would that be in your line of sight?

Dave Reynolds: From that location that would not help us.

Jeremy Pate: To cover this specific problem I think it is more capacity than coverage in my opinion in what has been presented to us. There is coverage it may not be 100% or the best possible but there is coverage. Based on the information that we have been provided adding more antennas to the existing Washington Regional or the VA is not necessarily an option. It is always a challenge to find a place to locate these. Off the top of my head I can't think of another place for this.

Alderman Ferrell: What did you say about a tower behind Curry's video?

Dave Reynolds: If this was strictly a cell tower it could go behind Curry's video or somewhere else over there my point was we have to have a tower there anyway, why not have a dual purpose tower.

Alderman Marr: What I have heard tonight from the residents is going up with an antenna on the existing tower to get the data and radio service is a better option because it is a less solid structure, the aesthetics and visual compatibility is more appealing to the historic neighborhood and the residents there than what is proposed. I think we have adequate coverage. I am also supporting this appeal because I believe if we were going to put something here in our downtown

master area it should be a more camouflaged structure. I also saw tonight for the first time the number of locations that are planned for the City. I think when we talk about capacity issues if those towers are coming through for processing I think that will do as much for capacity as what we are dealing with today. I think by allowing them to use the antenna that is less intrusive it will allow them to continue their business and be aesthetically appealing and compatible and fitting for this neighborhood.

Alderman Ferrell: I don't think we can discriminate against any neighborhood. There is going to have to be a tower and it will have to go somewhere and so it is going to move to a different neighborhood. I don't think we can show a difference to any neighborhood.

Alderman Marr moved to grant the appeal and deny the conditional use. Alderman Cook seconded the motion. Upon roll call the motion passed 7-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Rhoads voting yes. Alderman Ferrell voting no.

The Appeal was granted. The Conditional Use was denied.

R-PZD 05-1735 Paddock Road Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1735, Paddock Road, located southwest of the intersection of Paddock Road and Happy Hollow Road; containing approximately 9.77 acres; amending the official zoning map of the City of Fayetteville, and adopting the associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. He stated staff is recommending approval of the project. The Planning Commission voted 4-3 in favor however it takes 5 votes to carry a PZD to the City Council; therefore the applicant has appealed this decision. He stated there were several conditions of approval. He stated one of the conditions of approval needs to be amended by the City Council to specifically state *the street stub out to the west shall be revised to move directly north of the adjacent property line to the west*. The intent of that is to allow for the street to be constructed and stubbed out to entirely one side of the property.

Alderman Thiel moved to amend Condition of Approval #5, that the stub out to the west be realigned to the north. Alderman Reynolds seconded the motion.

Richard Covey stated his property is to the west of this property and he is in favor of moving the alignment to the north so it will be completely on his property and not divided up between two pieces of property.

Upon roll call the motion passed unanimously.

Alderman Thiel stated this PZD is very nice, the density is appropriate with what was approved to the east of this project. They have also tried to preserve as many trees as possible.

Jeremy Pate: The density to the east Timber Trails is around 4.5 units per acre, the other PZD in this area Benton Ridge was a little under 5 units per acre.

Alderman Thiel: I did hear from someone that was concerned about the traffic on Happy Hollow. That is a situation that with all of this development that we are creating, we are going to at some point have to address.

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.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to approve all the waivers listed in the Planning Commission meeting and conditions as recommended by staff. **Alderman Marr** seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marr thanked the staff for the work they have done on this. He stated he thinks there are some great conditions of approval that make this a really good development.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4830 as Recorded in the Office of the City Clerk.

ANX 06-1853 (Nock/Broyles): An ordinance annexing that property described in annexation petition ANX 06-1853, for property located north of Weir Road and east of Salem Road and Howard Nickell Road, containing approximately 39.11 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. He stated staff recommended denial of this request because it did not meet the criteria set forth in the guiding policies. We did recommend that additional property owners to the south be contacted for a more comprehensive annexation and zoning request. The applicant did choose to bring this forward without those properties.

Alderman Lucas: Where would the sewer come from for this area?

Jeremy Pate: The sewer would likely come from around the Crystal Springs subdivision. It would have to travel outside of the City to get to this property. This property touches the City at only one specific point.

Hank Broyles one of the owners stated they think this property deserves consideration for the following reasons. One half of the property is on the east side of Ruppel Road and goes through and fronts on Salem Road. The other is on the west side of Ruppel Road, it is approximately three blocks north of Holcomb Elementary School and six blocks north of Holt Middle School

and three blocks west of the new property that Fayetteville School has recently purchased. He stated impact fees would be as much as \$290,000 and mitigation of parks would be \$75,000 and the City Council would be in control with what is developed on Ruppel Road. Ruppel Road is projected to be a major thoroughfare for the City and a major investment of its streets capital fund. Attainable housing is what is needed in proximity to these schools and residential single family 4 zoning will allow us to build these houses while single family residential 2 zoning will not allow us to do this due to the lot cost.

Alderman Lucas: This has not been brought to the Ward 4 meeting.

Alderman Jordan: I would be hesitant about approving anything until it is shown at the Ward 4 meeting. I would propose we show it at the Ward 4 meeting this month.

Alderman Lucas: It is close to Holcomb Elementary and this is one of the things we need to look at when we look at the annexation issue.

Alderman Ferrell: I looked at it today and the lay of the land is desirable for development. It seems to me that it is inevitable that is going to be a part of the City of Fayetteville.

Alderman Marr: Did you all talk to any of the other property owners so you could bring in sections so this would not be as disjointed as it is?

Hank Broyles: It was about 50/50 some wanted to go in and some did not.

Alderman Marr: The only thing that gives me heart burn is the cost of putting sewer across non city land to get to what might be city land.

Alderman Cook: This completely flies in the face of our annexation policy we have. This is barely even touching Fayetteville. It does not follow the policy we have now.

Alderman Lucas: I saw in the Planning Commission minutes that you offered to give the City two acres for a future fire station. Does that still apply?

Hank Broyles: Early on in trying to work with the City and attempting to get utilities we stated we would help the City out if they would let us run utilities up to our property in anticipation that this property would be annexed in the future. We offered to provide the two acres at that time.

Alderman Lucas: Is that still on the table?

Hank Broyles: Not right now no.

This ordinance was left on the First Reading.

RZN 06-1854 (Nock/Broyles): An ordinance rezoning that property described in rezoning petition RZN-06-1854 for approximately 39.11 acres located north of Weir Road and east of Salem Road and Howard Nickell Road from R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He stated originally they wanted a zoning of RSF-4 and they felt it was not compatible with the area. The Planning Commission did recommend 6-1 the approval of RSF-2 to the City Council.

Alderman Marr: What zoning did the staff recommend?

Jeremy Pate: We recommended RSF-4 as well.

Alderman Reynolds: How much money or land was there involved for park land?

Hank Broyles: Around \$75,000 for parks.

Alderman Reynolds: Is that a couple of acres?

Hank Broyles: Exactly.

Alderman Reynolds: So if we have plenty of parks in that area then two acres could go for a fire station.

Alderman Jordan: We don't have plenty of parks.

Hank Broyles: If we are not going to get zoned RSF-4, Single Family Residential 4, we do not want to annex. There is too much money involved in the price per acre for us to develop RSF-2. That would not be successful for us in this location.

Alderman Ferrell: What was the rationale for RSF-2 as opposed to RSF-4?

Jeremy Pate: The Planning Commission came up with the RSF-2 and essentially when we look at a rezoning request there are five different criteria we look at.

John Nock: We are looking at 4 units per acre. That is what we think is appropriate for that area.

Jeremy Pate: The Planning Commission has recommended that a density as high as 4 units per acre at this time is incompatible and would not be supported by the Planning Commission.

This ordinance was left on the First Reading.

Fayetteville Government Channel Policy: A resolution approving revisions to the Fayetteville Government Channel Use and Programming Policy.

Susan Thomas: Handed out the new policy with the new paragraph that allows a citizen to come to an Alderman to appeal a Telecom Board decision. The Alderman would then file that appeal on behalf of the citizen in writing at the Clerk's office. That is the only change from the previous policy that you had.

Kit Williams: That is basically the same procedure that is used for appealing a Planning Commission appeal except for conditional uses which require three Aldermen.

Alderman Marr: One of the things we talked about at the Council was whether changes in policy and procedure should come to the Council. I am one of those that feels like it should. When you talk about the Government Channel and what could be appealed or not be appealed I think it is something that the elected officials should have some say in. Once we approve this how do we ensure that someone later comes along and says we want to take out the appeal that there would be some mechanism of that coming back to whoever the elected body is at that time.

Susan Thomas: I don't think there is a mechanism in place to ensure that. If you want to establish a precedent, which I think you are by acting on this tonight, that you want to approve or view any changes to the policies.

Alderman Marr: It just makes me nervous at least while I am here if someone is going to change it I would want to have some say in that.

Kit Williams: You would have to go back and change the actual ordinance that establishes the Telecom Board.

Alderman Marr: That's fine I will do that.

Kit Williams: However I doubt that the Telecom Board is going to try to take your appeal process out and if they did I am sure we would hear about it.

Alderman Thiel: I think we should leave this alone with the exception of this one change.

Susan Thomas: Generally speaking we tried to remove procedural items out of the policy.

Alderman Marr: Will there still be procedural guidelines that someone is using?

Susan Thomas: The Telecom Board has asked the Government Channel to outline the appeal process and make it very clear and straight forward. We intend to put that on the web page.

Alderman Cook moved to accept the amended version of Exhibit A. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 27-06 as Recorded in the Office of the City Clerk.

BMW Investments, LLC: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with BMW Investments, LLC in an amount not to exceed \$535,934.80 for the widening of Ruppel Road adjacent to the Clabber Creek Subdivision, Phases 3, 4 and 5.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: Mr. Scott called this afternoon and because the hour would be so late for his neighborhood he would request that we hold this to the first or second reading.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Goodwin & Goodwin, Inc: A resolution approving a construction contract with Goodwin & Goodwin, Inc. in the amount of \$722,890.50 for water and sewer relocation for highway improvements to Razorback Road; approving a project contingency in the amount of \$72,000.00; and approving a budget adjustment in the amount of \$314,231.00.

Ron Petrie, City Engineer: At the last Water and Sewer Committee meeting they voted to forward this for approval.

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

Resolution 28-06 as Recorded in the Office of the City Clerk.

Crossland Heavy Contractors Contract – Wedington Drive Water and Sewer Relocation Project: A resolution approving a construction contract with Crossland Heavy Contractors, Inc. in the amount of \$1,591,426.20 for water and sewer relocation for highway improvements to Wedington Drive; approving a project contingency in the amount of \$160,000.00, and approving a budget adjustment in the amount of \$252,837.00.

Ron Petrie: This is for the Highway Department's widening out to Double Springs. We are replacing the 8" line with an 18" line along this stretch. This was also approved by the Water and Sewer Committee.

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

Resolution 29-06 as Recorded in the Office of the City Clerk.

Meeting Adjourned at 11:55 PM



Dan Coody, Mayor



Dander Smith

Sondra Smith, City Clerk/Treasurer