

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Vacant
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
September 19, 2006**

A meeting of the Fayetteville City Council was held on September 19, 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, Rhoads, Ferrell, Lucas, Jordan, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Mayor Coody

Pledge of Allegiance

Nominating Committee Report

Alderman Cook read the Nominating Committee Report. A copy of the report is attached.

Alderman Thiel: I would like to add something. The Environmental Concerns is missing one person and we have not had a full committee for some time now. We had another applicant that came for an interview but he had not completed his voter registration in time. I think he became registered a week after his paperwork was submitted and our policy has always been that you are to be a registered voter on or before the deadline of the application. He did apply and he would make a very good committee member, he is an Environmental Scientist for CEI Engineering. We all were impressed with him but then we discovered this little glitch that he did not get registered to vote until a few days after the deadline. I don't like making exceptions but the Environmental Concerns Committee really does need to have a full committee. I am asking the full Council if they would consider adding him to the list.

Alderman Ferrell: Kit, what are your thoughts on this?

City Attorney Kit Williams: This is a committee that was established by the City Council and you control its membership so if you want to make an exception in this case you can.

Alderman Cook: One of the things Don Marr started when he was the chairman of the Nominating Committee was verifying voter registration that everyone has to be a registered voter in the City of Fayetteville to serve on the committees and that is one thing that I have stood on since being chairman of that committee also. We have made exceptions when we have had issues where we do not have enough applicants to fill positions and their applicant may have been a day late, we have made allowances for that. That is one thing I have always been very strong on is that you have to be a registered voter by the deadline for the application.

Alderman Jordan: So your recommendation as the chair of that committee is not to add?

Alderman Cook: I did not add him to the report but Alderman Thiel asked that we discuss it at the Council level and I certainly agreed with that.

Alderman Thiel: Up until several years ago the Nominating Committee met as needed but because of the cost in advertising and so forth it was determined several years ago that we would just do it quarterly that way the City Clerk's office would just do advertising quarterly. My point is if we were still under the old scenario we could probably get this done in a month but it will be another quarter before we can fill this position. I am urging the Council to consider this. In this case I would like to see this exception. Our policies do change based on a lot of things, they are not necessarily in stone.

Alderman Cook: Kit would that be an amendment to the Nominating Committee report or how would we do that.

City Attorney Kit Williams: That would probably be the best way to handle it.

Vice Mayor Jordan: What comments do we have from the Council on this? Who else is on the Nominating Committee?

Alderman Rhoads: I agree.

Alderman Lucas: I have a struggle with this because there might have been others that would have come forward and applied for some of the positions if they had known they could become a registered voter after they applied. I think this person would be good for the committee so I don't know.

Alderman Ferrell: Was the bio on this applicant included in the bio for the other applicants that we had?

Alderman Thiel: No we got it afterwards.

Alderman Thiel moved to amend the Nominating Committee Report to add Phillip Penny, Jr. to serve on the Environmental Concerns Committee. Alderman Reynolds seconded the motion. Upon roll call the motion failed 3-4. Alderman Reynolds, Thiel and Rhoads voting yes. Alderman Ferrell, Lucas, Jordan and Cook voting no.

Alderman Cook moved to approve the Nominating Committee Report as read. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the July 17, 2006 City Council and Planning Commission joint meeting and the August 15, 2006 City Council meeting minutes.

The July 17, 2006 City Council and Planning Commission Joint Meeting Minutes were removed from the agenda by City Clerk Sondra Smith.

The August 15, 2006 City Council Meeting Minutes were approved.

Time Striping, Inc: A resolution approving a contract with Time Striping, Inc. in the amount of \$29,504.70 for Airport Parking Lot Rehabilitation; approving a ten percent project contingency in the amount of \$2,950.00; and approving a budget adjustment in the amount of \$35,296.00.

Resolution 152-06 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC; Van Asche Drive Extension Project: A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$135,750.00 for Construction Phase Services on the Van Asche Drive Extension Project.

Resolution 153-06 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC; Mount Comfort from I-540 to Ruppel Road: A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$320,050.00 for traffic studies, design surveys, and conceptual design services for Mount Comfort Road from I-540 to Ruppel Road.

Resolution 154-06 as Recorded in the Office of the City Clerk.

Arkansas & Missouri Railroad Safety Improvements: A resolution approving payment to the Arkansas & Missouri Railroad in an amount not to exceed \$362,000.00 for safety improvements to the crossing at Van Asche Drive and Gregg Avenue.

Resolution 155-06 as Recorded in the Office of the City Clerk.

Wayne Gentry d/b/a Nu Look Contract Amendment: A resolution approving Amendment #1 to the contract with Wayne Gentry d/b/a Nu Look in an amount not to exceed \$20,000.00 to continue the Redevelopment Program through the end of 2006.

Resolution 156-06 as Recorded in the Office of the City Clerk.

Northwest Arkansas Housing Coalition Ten-Year Plan To Reduce Homelessness: A resolution supporting the development of the Northwest Arkansas Housing Coalition Ten-Year Plan to Reduce Homelessness.

Resolution 157-06 as Recorded in the Office of the City Clerk.

Animal Services Building Contract: A resolution approving a contract with Roberts-McNutt, Inc. in the amount of \$43,817.00 to re-roof the Animal Services Building; and approving a project contingency in the amount of \$4,382.00.

Resolution 158-06 as Recorded in the Office of the City Clerk.

Alderman Reynolds moved to approve the Consent Agenda as read with the July 17, 2006 minutes removed. **Alderman Cook** seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Annexation of Island Surrounded by the City of Fayetteville and Farmington: An ordinance to annex into the City of Fayetteville, Arkansas a parcel of land completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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.

Tim Conklin, Planning Development Management Director: At the last Council meeting there was a public hearing on this item. Tonight you have the ability to pass the ordinance annexing this property into the City of Fayetteville. The City of Fayetteville currently has more linear feet of corporate city limits than the City of Farmington does, that is why we are able to annex this into the city. You do have to annex the entire area, you are not allowed to remove any individual parcels. At the last Council meeting there were several property owners in that area that had a desire to be in Farmington however in order to use the state law you have to take the entire 405.47 acres into the city.

Alderman Cook: Our city budget relies on sales tax revenue and we already enjoy the sales tax revenue from the county residents as we stand without having to offer them city services. As we annex more and more land we have to offer them city services without any extra income coming in. As we add more land it puts more strain on our budget.

Alderman Thiel: We have a percentage of property tax now and probably at some point in the future we may have to consider more. We are deriving something from these annexed areas and we are already providing some services to these areas anyway. These areas are going to develop and I want them to develop to our standards, we will generate impact fees from these annexed areas.

Alderman Reynolds: This annexation will give us our western boundary so we can plan with this and get this land developed as we need to meet city standards.

Alderman Ferrell: The task force did a tremendous amount of work in preparing this and they have recommended it to the Council for approval.

Alderman Lucas: Fayetteville is moving that way. We are seeing developments going in that direction, it is going to be developed so it should be a part of Fayetteville since we do provide services for it.

Tim Conklin: There is also an ordinance that the Council passed that set a special election for October that would extend, if the voters of Fayetteville and the qualified voters within the proposed annexation approve, would extend the city farther to the west.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Cook voting no.

Ordinance 4923 as Recorded in the Office of the City Clerk.

Annexation of Island Surrounded by the City of Fayetteville: An ordinance to annex into the City of Fayetteville, Arkansas a parcel of land completely surrounded by the incorporated limits of the City of Fayetteville, Arkansas. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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.

Tim Conklin: This parcel of land is completely surrounded by the City of Fayetteville. When we considered this annexation in June it was not. It is a city policy to annex lands that are completely surrounded by the City of Fayetteville. This would continue to follow that policy, not annexing the lands has caused some issues with regard to planned improvements.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Cook voting no.

Ordinance 4924 as Recorded in the Office of the City Clerk.

ADM 06-1955, 06-1956; Amend Title XV: Downtown Master Plan Zoning Districts and Map: An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Downtown Master Plan Zoning Code and Zoning Map. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: The donut hole as we have named it there has been some discussion since the last meeting between the property owners in that and the residents that live there and I think there has been some agreement on amendments to that donut hole area.

Tim Conklin displayed the map they have been discussing and the proposed changes to the map.

Alderman Cook: Several neighbors met and discussed these changes. They took these changes to all the property owners in that area and there seems to be complete agreement on these changes. From what I understand this proposed change is in agreement with everyone.

Alderman Cook moved to amend the map as presented by Tim Conklin. Alderman Ferrell seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Reynolds moved to reconsider the Greg House area on the map. Alderman Rhoads seconded the motion. Upon roll call the motion passed 4-3. Alderman Ferrell, Reynolds, Thiel and Rhoads voting yes. Alderman Lucas, Jordan and Cook voting no.

Alderman Thiel: I still support this, the area we are talking about has always been commercial and we are not going all the way up to Lafayette. I understand there are still some neighborhood concerns but their concerns are mostly about the use and not so much the height. I think they like the idea that the residential will buffer any of the sounds they may hear now. The other area that we talked about we talked about a parking deck there.

Greg House discussed the area and his plans for the area. He stated that on the north half of the depot lot they had planned a parking deck. He stated the intent was to put three stories of parking with three stories of living above the parking. We are not doing any bars or dance halls, there might be some office space but no commercial uses in that portion.

Paula Marinoni, a resident asked why this needed to be zoned for six stories.

Tim Conklin: The height definition that we are proposing is measured from the existing grade.

Paula Marinoni voiced her concern about this being zoned six stories.

Tim Conklin: If it is changed to Main Street Center, it is a six story maximum building height.

A discussion followed on the grade in this area.

Michael Pritchard stated he felt the council should maintain the blue zoning in this area because it provides protection from the neighborhood zoning which has a lot of residents in it. He stated four stories provides ample ability to develop and that six stories will provide a very large dominating building right next to a residential area and will have a bad effect. He stated overall in terms of the entire neighborhood, the whole city and what we are trying to do to preserve some of the residential quality and historic quality in this area and the view shed of Old Main that leaving this as a blue zone makes sense. He stated in zoning decisions such as this there will be individual cases where people will say it will be better for them economically to have this happen to their piece of property.

Irene Pritchard, 339 North Gregg Street stated her property would be the most impacted by the six story condo that Greg House is proposing. She stated she is across the street and she does mind the height. She stated she would like for this to stay blue.

Rob Lewis, property owner of 322 West Watson Street, stated the Dover, Kohl plan as well as the plan that came from the Planning Commission showed this area in yellow. He stated the Dover, Kohl plan points out there is to be a regional core which is basically downtown and then they identified four Main Street Center areas. He explained the difference between the blue areas and the yellow areas. He stated this fits the Main Street Center. He also stated the proposed map shows many new buildings because this is identified by them as one of the under utilized areas that could accommodate the infill and the density that we need for the Dover, Kohl plan to work. He stated he feels it is really important that this area stay yellow. He presented petitions from every land owner in the 300 block of west Watson and the 300 block of West Lafayette supporting this. He thanked the Council for their time and effort in this.

Margaret Konert, 616 West Reagan, stated she was here to speak about the value of the quality of life. She stated that mixed use increases the value. She expressed her concerns about thinking that development equals more money by building bigger buildings, sometimes it's the opposite. She stated she believes in neighborhood development, strong families and housing that families can live in that is affordable. She stated she believes in mixed use. She said where she lives is priceless and that there is no amount of money that anyone can pay her for what she has in her neighborhood. She stated she thinks it is very important that we value that as highly as we do condos and big buildings. She stated she really wants to support neighborhoods because she believes neighborhoods are what make the condos near them valuable.

Alderman Thiel: You live on Reagan Street and we are not discussing that area.

Margaret Konert: I think it is important that the whole blue area stays blue.

Eric Lloyd, stated this is about property rights. He also stated some of the developers should be given a medal for the properties they have rebuilt in this area.

Mark Risk, property owner on Reagan Street and Northeast Avenue: He stated his clients have a real estate contract on property they own in the area with the stipulation that a six story building be on the property and if this proposal to keep it at four stories passes that deal will fall through. His property owners will be damaged substantially.

Paula Marinoni suggested splitting off behind the depot and addressing it separately, leaving it blue and let the rest stay yellow.

Greg House explained the project he is proposing to the Council.

Charlie Ward property owner, voiced her concern about where the different boundaries are.

A discussion followed on the area and the zoning for the area by Dover, Kohl and the Ordinance Review Committee.

Vice Mayor Jordan asked shall the amendment pass. Upon roll call the Greg House amendment passed 4-3. Alderman Ferrell, Reynolds, Thiel and Rhoads voting yes. Alderman Lucas, Jordan and Cook voting no.

Alderman Ferrell explained the concerns he received from an apartment building owner about the zoning for his property.

Alderman Ferrell moved to amend the map to leave Maple, Reagan, Lafayette and Gregg Streets out of the Master Plan. Alderman Reynolds seconded the motion.

Alderman Cook: We have had three versions of this map that have shown that area green. I am a little surprised about this amendment.

A discussion followed on the zoning for the area Alderman Ferrell is requesting to be amended.

Mark Risk voiced his concern about the zoning creating a nonconforming use for some of his property. He stated this would be a down zoning for some of the properties in the area. He asked for more time to look at this. He is concerned about this devaluing the land. He stated they would like to be removed from the plan.

Mark Kinion stated he thinks that by taking this out of the Master Plan it is just chipping away at something that people have worked on. He does not agree with removing it from the Master Plan.

Margaret Konert: She stated this is very personal to her because it is her home. She stated it comes to what are we valuing. She stated she wants life style, where we live and Fayetteville to count just as much as those dollars.

A discussion continued on the zoning for this area.

Irene Pritchard stated she does not have sympathy for property owners in the area saying they did not know this was happening because this process has been going on for over two years. She stated this area is a neighborhood and it is one of the few diverse neighborhoods in Fayetteville. She stated there are affordable rentals in the area. She feels the area needs to stay Neighborhood Conservation. She stated this area is all residential.

Sikes Harvey stated he owns an apartment building on Arkansas Avenue. He stated it is a quiet neighborhood environment. He stated his property is currently zoned residential multi-family 40 units per acre and there is not one single family residence on Arkansas Avenue. He stated leaving this area in the Downtown Master Plan and zoning it duplex or triplex hampers the property value and the ability to gain value from the property if it were to be destroyed through some unfortunate accident. He stated it would leave him with the choice of building something affordable. He stated height is not an issue for him but use is. He talked about the university wanting this property. He asked for support of this amendment.

Evelyn Stilwell, Arkansas Avenue and Lafayette stated they need this neighborhood to stay the way it is.

Paula Marinoni discussed the property that is currently owned by the university in the area. She stated if this is passed tonight it would be a severe violation of trust to the public. She stated they need to put language in the plan for this area that if someone's building burns down they can rebuild with a similar building. She stated the Downtown Master plan called for preserving neighborhoods, the history and historic buildings.

Rob Lewis stated he thinks the Greg House is a historical house in Fayetteville and it needs to be preserved. He stated the West Lafayette Historic Neighborhood Association has never contacted him or other property owners in the area. He stated he is not sure about the relevance of what has been brought forward by this Neighborhood Association.

Bob Kelly stated he has a substantial investment in property in this area. He stated he is concerned that this is a chipping away of the process. He supports taking this out. He does not want to lose the quality of life.

Alderman Cook gave the definition of Neighborhood Conservation and the zoning for this definition. He stated pulling it out at this point does not seem right.

Alderman Thiel stated she agreed with Alderman Cook. She is also disturbed about the fact that they hear reference to a Neighborhood Association and when they hear that they believe that is reprehensive of that neighborhood and all the people that live or own property in that neighborhood. She asked what the process is if a property burns and they want to rebuild the same type of structure. Does that take Council Action?

Tim Conklin: He talked about the use units for this area and the ability to rebuild in this area.

A discussion followed on the use units and rebuilding.

City Attorney Kit Williams: There would have to be a rezoning no variance or conditional uses would allow the rebuilding of multi-family in Neighborhood Conservation

Alderman Lucas: It is zoned RMF-40 now?

Tim Conklin: Yes.

Tim went over the zonings for the area.

Alderman Lucas: Are there height limitations?

Tim Conklin: Height limitations and side set backs.

Upon roll call the amendment to the map failed 3-4. Alderman Ferrell, Lucas and Reynolds voting yes. Alderman Jordan, Thiel, Cook and Rhoads voting no.

Alderman Lucas stated she would like to amend the map to rezone the area to Downtown General.

Alderman Thiel: That is what came from the Planning Commission, what went through all the meetings and it was changed at an Ordinance Review meeting.

Tim Conklin showed the Council on the map the area they were talking about.

Paula Marinoni addressed the comments about her neighborhood. She discussed the items she has had to fight in her neighborhood to try to save it. She stated she has put tremendous effort into saving her neighborhood. She stated their goal is to preserve the livability and the right to live there peacefully and quietly and the quality of life. She stated it is a residential neighborhood. She asked this to be left green.

Mark Kinion stated there is a clear line written in the sand about how people feel about this area. He stated he is a neighborhood advocate but he does believe in development. He loves the vitality of living close to this area. He stated he thinks you have to look at this as Ward 2 and he appealed to the integrity of the City Council to table this until Ward 2 has equal representation on the City Council.

Alderman Ferrell stated he rejects the notion that it gives any inference of impropriety. Nobody has any control over when an alderman will resign and leave, so I reject that notion.

Michael Pritchard stated to rezone this blue will mean this will no longer be a residential neighborhood except for large apartment buildings.

Mark Rick: I can not remember one time in the past few years when I was notified about signing a petition to become a historic district. I have not been notified about any meeting recently. He pointed out on the map the area and said this is in the University's master planning area.

Sikes Harvey stated he admires anyone that participates in the neighborhood associates because they are a vital link between government and neighborhoods. They serve a protective purpose and they are a good thing. However I have never been contacted by the North Lafayette Neighborhood Association. I do not live at the property however my ownership of the property is a matter of public record as is my address and telephone number. Although I would prefer to be left out of the Master Plan, given the choices before us now I would support Alderman Lucas's amendment and I would ask my elected aldermen to do the same.

Irene Pritchard stated looking at the total Downtown Master Zoning Plan that she would think there is enough blue and green already. She said this area is residential. She asked for the Council to keep this green.

Lindsley Smith stated she lives on Ralston Avenue and she is pleased that they are still in the green area.

Bob Kelly property owner in the neighborhood stated they are all concerned that this will be a good neighborhood when this zoning is done. He stated for years this was zoned blue and it was a compromise to the area. He stated it was a surprise that the zoning had been changed. He supports the blue zoning for this area.

Alderman Lucas: I am a strong supporter of neighborhoods and always have been. She stated this area is zoned RMF-40. She is surprised this neighborhood had not down zoned this in the past. It seems like blue protects it more.

Tim Conklin stated the allowances in the different zonings. He stated the idea was to have a code that allowed a mixture of uses.

A discussion followed on the use units for this area.

Alderman Thiel stated you either like the concept of mixed use or you don't.

Alderman Cook: I think the concern that I hear is the Downtown General is more of an erosion of the residential aspect of that area. It does allow for eating places, neighborhood shopping and those items which I think is some concern of that area. The discussion was if we change it to green there are other uses in the Neighborhood Conservation that are more than just residential but those have to go through a conditional use process so there would be public input on those. Eating places and neighborhood shopping are given by right.

Alderman Reynolds: Eating places are allowed to serve alcohol if permitted.

Alderman Lucas moved to amend the map to rezone the area to Downtown General. **Alderman Thiel** seconded the motion.

Alderman Lucas moved to table her amendment to the next meeting. **Alderman Thiel** seconded the motion. Upon roll call the motion to table passed 4-3. **Alderman Lucas, Jordan, Thiel and Cook** voting yes. **Alderman Ferrell, Reynolds and Rhoads** voting no.

The amendment was tabled to the October 3, 2006 City Council meeting.

Alderman Cook: Is a Planned Zoning District not an option?

Tim Conklin: A Planned Zoning District is an option. Once we adopt the Downtown Zoning Map it does not mean that someone can't apply two weeks later and try to have it changed.

Alderman Cook moved to table the ordinance. **Alderman Thiel** seconded the motion. Upon roll call the motion to table passed unanimously.

The ordinance was tabled to the October 3, 2006 City Council meeting.

First Security Bancorp Contract: A resolution approving a five-year contract with First Security Bancorp and its wholly-owned subsidiary, Crews and Associates, Inc. to provide investment management services to the City of Fayetteville. *This resolution was Tabled at the September 5, 2006 City Council Meeting to the September 19, 2006 City Council Meeting.*

Paul Becker, Finance Director: You should have been provided a copy of First Security Bancorp's response to Garrison's concerns from the September 5, 2006 meeting. I feel that First Security Bancorp's responses adequately address the issue. I think the actions of the selection committee were fair and unbiased, I believe they followed procedure; I believe they had adequate information besides the RFP with their interview process to make an informed decision. Therefore I support the recommendation of the selection committee.

Mr. Becker suggested an amendment that they not use Crews and Associates for purchase or sale of portfolio assets to take away any perceived conflict that they may have since that is a wholly owned subsidiary.

Alderman Thiel: What if Crews and Associates had the best bond offer in the area because we are using First Security we would not be able to take advantage of that.

Paul Becker: You are absolutely correct. That is a decision for the Council to make.

Alderman Thiel: I agree with the suggestion but we are taking out an entire brokerage firm if we use First Security as our financial advisor. That is a concern.

Alderman Rhoads: Kit indicates in his memo that he has asked that they prepare a written response to each concern that directly answers Garrison's allegations. He states that First Security Bancorp has responded and a copy of their letter is attached. Do you believe that letter responds to the concerns?

Paul Becker: In my opinion it adequately addresses a response to them.

Alderman Rhoads: You too Kit?

City Attorney Kit Williams: I think they do close enough. One of the things I tried to emphasize in my memo is that a RFP is not like a contract or sealed bid where you have exact specifications for the product that you are looking for and the contractor must have precise things in the bid or it is not an acceptable bid. A request for proposals is similar to a request for qualifications in that you are asking much more general questions and that is why you go through a selection process. That is why you have the oral presentation before the selection committee for the first chair winners and any concerns I think at that point in time, any questions can be answered during the selection process. I think from a legal point of view First Security Bancorp is legally qualified to be our investment management agency. It is your judgment on how directly you think they answered every question. I think they have met the legal standard whether or not it is in the best interest is something that the selection committee looked at and made a decision on and it is at the City Council level for you to make the final decision.

Alderman Rhoads: I don't think I am necessarily in favor of Paul's amendment. I think we need to go out and find the best deal that we can and all of this is going to be transparent and if Crews gives us the best deal then we should get the best deal.

Alderman Thiel: I am still concerned that the RFP states that incomplete proposals will not be considered. This RFP was not adequately filled out. I am concerned about the public perception and future potential bidder's perception of a process that allows us to accept a RFP that by our own standards should not have been considered because it was not completed as requested.

I think there is definitely a perception of conflict of interest if Crews and Associates are used. I think First Security is legally qualified to do the job; I am not questioning their ability to do the job. I am questioning this process and the fact that it has been publicly aired and the public perception of this process. I would prefer that this go back out to bid again. From what I have heard from the public about this I think everyone will feel more comfortable if this whole process is done again.

Alderman Ferrell: This process has been under scrutiny for a second time by the City Attorney and the Finance Director and I feel the public can feel confident in the process that we use to award these contracts.

Alderman Rhoads: What I have read and what Kit said is this process is a little bit different than some sort of sealed bid for something that is very objective that you can quantify. The follow up interviews is when things get clarified. That gives me confidence especially when your Finance Director and your City Attorney are telling you that they think the process is appropriate.

Alderman Reynolds: Most committees have one alderman on it. I have been on numerous committees and we all work diligently to get the job done and do it well. I have a lot of faith in the people that worked on this.

Alderman Rhoads moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 5-2. Alderman Ferrell, Lucas, Jordan, Reynolds and Rhoads voting yes. Alderman Thiel and Cook voting no.

Resolution 159-06 as Recorded in the Office of the City Clerk.

ANX 06-2183 Lierly Lane Subdivision: An ordinance annexing that property described in annexation petition ANX 06-2183 (CC2006-16), for a part of Lierly Lane Subdivision located south of Lierly Lane, containing approximately 20 acres. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project.

Alderman Jordan: Is this the same development that the County approved that now is coming to the City. Have there been any changes to it?

Jeremy Pate: Not that I am aware of but I am not sure what the County saw. The Planning Commission reviewed a preliminary plat for this just as they do with any subdivision in the planning area. When this item came before the Water and Sewer Committee the developers and applicant submitted a plan to you which is the plan that is in your packet and what was approved with the City contract for extending sewer. The applicants at that point in time when they came through the City of Fayetteville showed a decentralized sewage treatment plant on the site and they showed lot standards that met our minimums in the County which is a 10,000 square foot minimum. That can accommodate a duplex or a single family home. There are no land use regulations currently in the County. In terms of the overall layout of the subdivision what was shown to you is pretty much what has been shown before the Planning Commission.

Alderman Jordan: The sewer is going to go to this development and it is going to develop. There is no stopping that, it is going to happen. It was going to happen anyway except it would have been County regulations.

Jeremy Pate: That's correct.

Alderman Lucas: Are the duplexes allowed in RSF-4?

Jeremy Pate: They are allowed by conditional use. At this time the Council has already acknowledged that they will be constructed on this property.

Alderman Lucas: So there is no way we can change that?

Jeremy Pate: You have already agreed to that as part of the sewer contract.

A discussion followed on the project and the location of the duplexes on the property.

Alderman Jordan: I will tell you what I think we need to do. I think this needs to be shown at a Ward 4 meeting. That would be my recommendation to see if we can work something out.

Alderman Lucas: I don't like the way this was handled and I am very uncomfortable with it.

City Attorney Kit Williams: I want to remind you how this came before you. It came before you because as one point it was approved by the Water and Sewer Committee and then it came to the City Council as a whole. At the City Council meeting there was a contract that was attached to resolution 76-06 that resolution was passed April 18, 2006. In that contract Exhibit B talks about the property shall be zoned as modified RSF-4 with de facto conditional uses allowing 16 duplexes on the lot shown on Exhibit B. The development of the property will consist of 16 duplexes and 43 single family units. Lot lines will be adjusted from the current plan to meet the city minimums. This was approved by the City Council in April. I know that the Water and Sewer Committee felt almost forced by the Department of Health to approve this. At this point in time we have contractually agreed to allow this to go forward in this configuration. It does not mean that you have to annex them, we have only agreed to provide sewer. However if you do annex them you have to let them develop as you agreed to in this contract.

A discussion followed on the proposed annexation.

Jennifer Price, 4089 North Lierly gave a brief history of the project. She told the Council she was not notified when this was approved in April. She also said this is urban sprawl. She stated this will add further problems to the school system. She asked the Council to urge the County to adopt zoning regulations in the planning areas.

Mike Threlkeld, 4222, Lierly Lane stated he is concerned about not receiving notification about the City Council meeting in April. He also stated the duplexes are a big concern for the neighborhood. This is creating a peninsula where you have RSF-4 surrounded by homes on larger areas. He stated he likes the idea of the Ward 4 meeting to see what they can come up with. He is also concerned about this causing suburban sprawl. He stated this does not fit with the community.

Wade Perish stated his concern with this being inconsistent with what is currently there. Last week the Quorum Court passed a resolution regarding one acre for single family homes, this will be inconsistent with that. He recommended that the City Council and Planning Commission develop a comprehensive plan with the County to address this new resolution. You could put together buffer zones to protect as you move out with your annexations in your growth areas. He stated based on what he has gathered this developer has shown a tendency to try and circumvent regulatory authority over the past several years every time he has been given the opportunity. I know there is a contractual obligation but if you can find a way to test the strength of that contract I hope that you will do so.

Dr. Diana Haberman, Hughmount Road stated this subdivision is right below them. She discussed the projects this developer has planned. She stated she is upset that they were not notified about the meeting in April. She expressed her concern about the traffic this will produce. She asked for protection for the people in the planning area.

A Resident of Velma Drive stated this development changes the whole character and completion of the community. Our community is a quite nice community and we do not need his kind of development.

Alderman Reynolds: Is there a question about the neighbors not being notified by the County, City or developer?

City Attorney Kit Williams: I can't speak to what the County does. When this was presented to the County we would have no reason as a City to notify the County residents of what is going on in the County because we have no zoning capabilities in the County. They should have been notified when it went to the Planning Commission.

Jeremy Pate: The notifications went out in 2005 for the preliminary plat and we publish in the newspaper and put a sign out for the annexation rezoning. I think a lot of the concern is there was no notification when this came before you for the resolution for the sewer. Those agendas go out but there is no notification of adjacent property owners that the city does for those types of applications.

Alderman Thiel: The provisions the County has just required has no weight on this what so ever?

City Attorney Kit Williams: I would think that this is too far along; it has already been approved by the County.

Jeremy Pate: The resolution that was passed by the Quorum Court was to direct the County Planning staff to come up with ordinances for zoning.

Alderman Thiel: There is not a lot that we can do about this at this point; this project is going to be built. The question is do you want it built to city standards and it to have city fire protection? We can not change this.

Alderman Jordan: When this was presented to me a few months ago, I voted against this. I did not want to run city services outside the city limits because of the very thing we are dealing with tonight. That was a concern of mine. It was presented that it was going to be built anyway and

that it was going to be built to city standards. I didn't pay close enough attention to what we were really looking at and I apologize for that. I don't see much that will be accomplished from any more meetings because it is simply going to be built this way. I will not make this kind of mistake again. We will not be running city services outside the city limits in this kind of situation. We will know what is going in there before I ever make a decision like that again.

Alderman Lucas: I agree with you completely. I hate to see step systems and regarding this we were pressured with the Health Department's letter. I will not have this happen again. I will not support another thing like this.

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

Ordinance 4925 as Recorded in the Office of the City Clerk.

RZN 06-2184 Lierly Lane Subdivision: An ordinance rezoning that property described in rezoning petition RZN 06-2184 for approximately 20 acres, a part of Lierly Lane Subdivision located south of Lierly Lane from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

Alderman Lucas 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.

Alderman Thiel: The Planning Commission will be required to issue conditional use permits on these duplex lots?

City Attorney Kit Williams: It is because we have agreed by contract to duplexes being built.

Alderman Thiel: Will they have to do a large scale development?

Jeremy Pate: They will have to do a final plat to record these lots. The lots will be adjusted somewhat to accommodate zoning requirements.

A discussion followed on the proposed project.

Mike McDonald, Hometown: Right now the infrastructure we have installed is based on the duplex layout that is at the back of that contract. Those 12 lots are along the west property line where the electrical easement was. The other 4 duplexes are spread in the center of the project. We felt like the proposal that we gave you in April isolated those 16 units from the neighborhood as best as we could.

Liz Lester, 3052 Hughmount: The utility cut is my east boundary. Our neighbors to the south of us own that entire six acres. We are the neighborhood these duplexes are going up against.

Speaker unknown: I would like to speak to the green space they have left open and urge that if this is going to allow such a high density neighborhood with the duplexes that not be allowed to be developed. That it be some sort of park or left as green space and that there will be some assurances that there will be a POA to take care of that green space that is left there.

Alderman Thiel: If we have to accept as is then that has to stay like it is. Is that right?

Jeremy Pate: I believe so yes.

City Attorney Kit Williams: I think it is a good idea to have a POA established to take care of the green space so it can actually be a benefit to that neighborhood.

A discussion followed on the green space and the contract that was approved by the Council.

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

Ordinance 4926 as Recorded in the Office of the City Clerk.

RZN 06-2181 Life Covenant Church: An ordinance rezoning that property described in rezoning petition RZN 06-2181, for approximately 1.36 acres, located at 1855 Porter Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

Alderman Lucas 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.

Alderman Cook: It is surrounded by all kinds of zonings.

Jeremy Pate gave a brief history of the project.

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

Ordinance 4927 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

RZN 06-2199 Red Arrow Downzoning: An ordinance rezoning that property described in rezoning petition RZN 06-2199, for approximately 88 individual properties, located south of Eighteenth Street, east of I-540, and west of Razorback Road from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.

Jeremy Pate gave a brief description of the rezoning. He stated the Planning Commission and staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook 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.

Alderman Jordan: This is something that is very important to that neighborhood. It is a small neighborhood. Over the last few years we have had apartments built all the way around us. I thought that whole area was RSF-4 and then found that some of it was RSF-24.

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

Ordinance 4928 as Recorded in the Office of the City Clerk.

RZN 06-2201 Mariscal: An ordinance rezoning that property described in rezoning petition RZN 06-2201, for approximately 1.50 acres, located at 4041 Wedington Drive from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the proposed rezoning. The Planning Commission voted 6-1 to recommend approval of this rezoning request. Staff did not find in favor of this rezoning request sighting the interim Future Land Use Plan that we are looking at. The interim plan shows residential in this area and it also indicates that it should be part of a larger traditional neighborhood development pattern.

Alderman Lucas: I would like the developer to come to the Ward 4 meeting and present this to get some input.

Alderman Thiel: What would staff recommend this be zoned as?

Jeremy Pate: I think one of the primary concerns we have in this location is one access is Wedington. We had concerns about access. A zoning action changing it from something agricultural obviously a low use to something as high intensity of a use as a restaurant or something in the C-1 neighborhood district especially with peak hour traffic periods, we had some concerns about that. We mentioned in our staff report a Planned Zoning District to look at potential for cross access and maybe working that out to have the access off of Meadowlands Drive as opposed to a direct access to Wedington. An R-O District would allow for more office use, it would not be nearly as high of a peak hour traffic period. There are also residential units directly behind this and so looking at the buffering between those uses is something we would consider as well.

Alderman Thiel: I agree with the idea of a PZD.

Dave Mersky representing the applicant: They have a restaurant and they want to move to this area. The information that I received back before the Planning Commission meeting was that there were not many issues with traffic. The only issue was that the Master Plan did not show the property to be zoned this way.

Jeremy Pate: I believe our comments have mentioned that and it is part of the Planning Commission review.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading

Sweetser Construction Contract: A resolution approving a construction contract with Sweetser Construction in the amount of \$3,165,079.80 for the Van Asche Drive extension project; approving a project contingency in the amount of \$158,254.00; and approving a budget adjustment in the amount of \$2,173,496.00.

Ron Petrie gave a brief description of the project.

Alderman Thiel stated she supports this.

There was discussion on the street and changing the design of the street.

Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 160-06 as Recorded in the Office of the City Clerk.

Amend §117.41 of the Code of Fayetteville – Taxicabs: An ordinance to amend §117.41 of the Code of Fayetteville to eliminate the administrative fee for replacement taxicabs.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: I would like the ordinance to say that the old decal be removed and presented to the shop superintendent for a new decal.

City Attorney Kit Williams: You can certainly put that in. What I would do is rely upon the Police and the Fleet Departments to handle the administrative decision on how to enforce this. I don't think we need to add that to the ordinance.

Captain Brown: This is just a way to transfer that registration without having to pay an extra fee. They will still be inspected and we will collect the \$300 for the shop's time for inspecting.

Alderman Ferrell 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.

Tom Brinkley, Brinkley Limousine Service stated he thinks the ordinance is a little vague regarding limousine's. He stated that he feels the fee is excessive for a limousine. He voiced his concern about being checked by the Police Department. He stated he felt like the ordinance is too vague.

Captain Brown: Officers were put on Dickson Street this past weekend in response to several complaints about taxicabs and limousine's operating illegally and they did write tickets to some of the limousines.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4929 as Recorded in the Office of the City Clerk.

Cherokee Nation Contract Amendment #1: A resolution approving Contract Amendment # 1 to the contract with the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's transfer station.

Gary Dumas, Operations Director gave a brief summary of the contract. We are working with them to get a certificate from the lien holder and we will have that in order by this Friday.

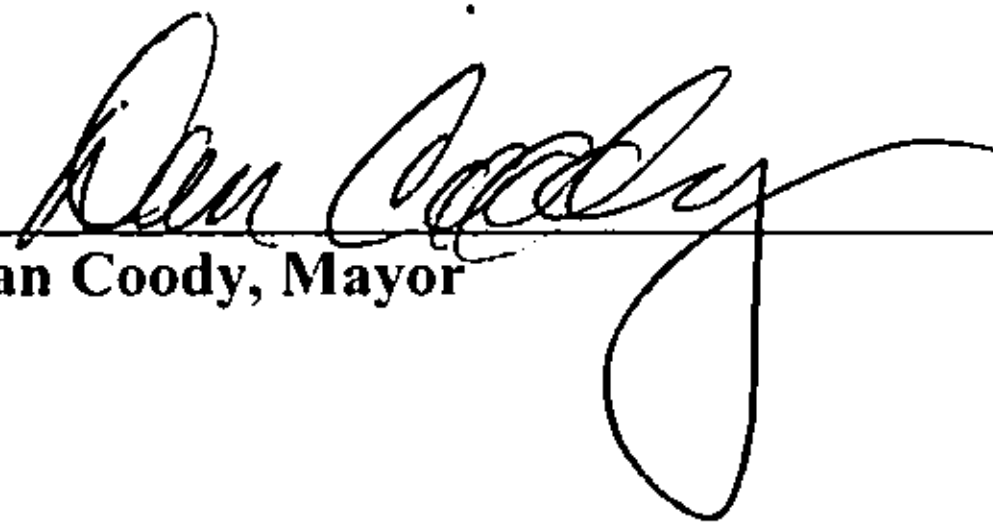
Alderman Ferrell: Kit, are you comfortable with this?

City Attorney Kit Williams: I think if you look at the entire situation that is facing you which includes a significant cost savings then I think this is a reasonable accommodation to make for this particular bidder.

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

Resolution 161-06 as Recorded in the Office of the City Clerk.

Meeting adjourned at 10:25 p.m.



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer

Nominating Committee Report
Meeting: Monday, September 11, 2006
Room 111, City Hall 5:00 p.m.
Members Present – Kyle Cook, Shirley Lucas, and Brenda Thiel

The following is being submitted to the entire City Council for consideration.

Construction Board of Adjustments and Appeals

The Committee recommends the following candidate for appointment:

- *Teresa Kolb* – One unexpired alternate term ending 3/31/07.

Environmental Concerns Committee

The Committee recommends the following candidates for appointment:

- *Nancy Varvil* – One unexpired citizen-at-large term ending 12/31/06.
- *Scott Longing* – One unexpired citizen-at-large term ending 12/31/08.

Telecommunications Board

The Committee recommends the following candidate for appointment:

- *Richard Drake* – One unexpired term ending 6/30/10.