Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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

City of Fayetteville Arkansas
City Council Meeting Minutes
November 7, 2006

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

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

Alderman Cook announced the Board and Committee vacancies.

CONSENT:

Approval of the September 19, 2006 and October 3, 2006 City Council meeting minutes.

Approved

AB Reprographics, Inc: A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of $20,753.27 for the Electronic Document Management System.

Resolution 175-06 as Recorded in the Office of the City Clerk.

Cando, Inc: A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of $157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% project contingency in the amount of $15,798.00.

Resolution 176-06 as Recorded in the Office of the City Clerk.

Peyton Properties, LLC: A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for $200,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

Resolution 177-06 as Recorded in the Office of the City Clerk.

GN Contractors, LLC: A resolution approving a contract with GN Contractors, LLC in the amount of $275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of $55,114.00.

Resolution 178-06 as Recorded in the Office of the City Clerk.

T-G Excavating, Inc: A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of $4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of $220,683.00.

Resolution 179-06 as Recorded in the Office of the City Clerk.

Insituform Technologies, Inc: A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of $323,650.00 for Sanitary Sewer Lining Services.

Resolution 180-06 as Recorded in the Office of the City Clerk.

Arkansas Democrat Gazette: A resolution approving one-year agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

Resolution 181-06 as Recorded in the Office of the City Clerk.

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

UNFINISHED BUSINESS:

R-PZD 06-2169 - 6th & Wood: An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located south of 6th Street near Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. ***This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: Mayor, Brenda and I had a neighborhood meeting in this area and we had a pretty good turnout. It seems like this is going to be a pretty good project and the neighbors were in favor of it. The problem that exists down there is from a past development and I hope that our Engineering Division will follow through on this past construction and make sure that they complete their project before they get finals on them. If they do that this neighborhood will be very happy with this administration.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4940 as Recorded in the Office of the City Clerk.

RZN 06-2240 Combs: An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. ***This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.***

Alderman Rhoads 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.

The Petitioner stated we attended a Ward 1 Meeting on November 1st. Out of that meeting it came to light that they would like to see this property instead of being zoned RMF-6 where we could do multi-family, they were okay with RSF-8. We are requesting that we change the zoning request.

Alderman Thiel: That is definitely what we heard at the meeting and I actually pulled up the map in that area and there's already a good deal of RMF-24 in that area so do we need to make a motion to make this change tonight.

The Petitioner: Yes ma'am. I am asking that we change the petition from RMF-6 to RSF-8. The same acreage applies and in light of the work that has been done we certainly hope that we could get this passed through three readings tonight?

Alderman Thiel moved to amend the ordinance to RSF-8. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

Laverne Cooper: We had been opposed to the apartment houses being put up over there. I think this will be much better for the community out there in the neighborhood and I appreciate them changing it.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4941 as Recorded in the Office of the City Clerk.

PUBLIC HEARINGS:

Mayor Coody opened the Public Hearing.

Raze and Removal at 1762 Stirman Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of $10,000.00.

Yolanda Fields, Community Resources Director stated there has been no change. We have received the determination from our Building Safety Inspector that this structure needs to be razed and removed. Notification on this violation was issued to the property owner in May of this year and we have had no action on this location so I move for approval of the Raze and Removal and the budget adjustment.

Alderman Cook: One comment that we made at Agenda Session was my concern of the budget adjustment coming out of that ambulance money but we were assured that that money will be reimbursed so I will support that but I do have concerns about that $10,000.00.

Mayor Coody: Is this that out of the $50,000.00 that we over budgeted for ambulance?

Alderman Cook: Yes sir.

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

Resolution 182-06 as Recorded in the Office of the City Clerk.

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing

Buffco Inc. Taxi Service: A resolution granting a Certificate of Public Convenience and Necessity to Buffco Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

Seargent James Harter: There was an issue from Council on the insurance and I was going to see if Danny Buffington was here tonight. He is the new owner and he wishes to change the ownership to his name and also change names of the cab.

Mayor Coody: Is all the paperwork in order?

Sergeant James Harter: There was a question on his insurance and he was expected to be here tonight to demonstrate that the insurance could be in his name.

Mayor Coody: But he is not here?

Sergeant James Harter: Apparently not.

Alderman Rhoads moved to table the resolution to the November 21, 2006 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion to table passed unanimously.

This resolution was tabled to the November 21, 2006 City Council meeting.

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing

JC Animal Farms Entertainment: A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

Sergeant James Harter: On behalf of Casey Brown stated, I have a response to Alderman Thiel and that was on the horse requirements for vaccinations. Under Section 117.87 horses are required to have veterinarian proof of vaccinations for tetanus, rabies and the eastern western encephalitis as well as a coggins negative test. We have done some research on the camels and I spoke with four different people representing the Little Rock Zoo, the Passion Play in Eureka Springs, the Texas Camel Corp. out of Texas and then someone from the Tulsa Zoo. We've provided that to Jill Hatfield, Director of Animal Services and if she is here we are going to defer those questions as far as recommendations to her.

Jill Hatfield, Director of Animal Services: I think we have substantiated that the owners are willing to do everything of the requests at this point.

Alderman Thiel: So they are willing to vaccinate?

Jill Hatfield: Yes.

Sergeant Harter: The only question is what are we going to require?

Alderman Ferrell: If they agree to comply with what Jill say's it seems to me that's all we need.

Mayor Coody: What is your recommendation on this?

Sergeant Harter: If it is left to me I would say we go with a TB and Brucellosis and they are already qualified and forgo the rabies based on my research.

Alderman Thiel: I think the rabies is necessary based on what our veterinarian told us at the Agenda Meeting. Horses and camels both can carry rabies and even though they don't bite. We are requiring the horses to be vaccinated for rabies

Sergeant Harter: Okay, I can tell you from the people I spoke with two recommended rabies and the other two didn't.

Unknown speaker from the audience: We spoke to one of our friends who has camels in Oklahoma and he stated that he would not ever give his camels a horse rabies shot. He said if he had to do anything it would be a sheep vaccination because they are more close to the animals.

Mayor Coody asked the City veterinarian to make a recommendation.

Dr. Amy Kasprisin: As I understand the rabies vaccination is labeled for a horse and also labeled for cattle and I don't know if there is any difference between that however we do have some recommendations as far as what vaccine to use for rabies and it is just a precautionary measure. It's not simply a matter that they should not have rabies they can be vaccinated for rabies and it is recommended in more than one literature. It may be a very low risk that they can carry rabies but if there was a person or a child that was bit then it may alleviate some of the concern. It's not so much that the camel would transmit the rabies.

Mayor Coody: Do you have a recommendation that you could live with so we can get this approved?

Dr. Amy Kasprisin: As I understand there was testing for tuberculosis and brucellosis for these camels. Is that true, was that established?

Mayor Coody: Apparently so yes.

Dr. Amy Kasprisin: Because on the health certificate it said not applicable on brucellosis. May I see a copy of that please?

Mayor Coody: Is there a way that we can get you all to agree to do whatever needs to be done and you can get the Doctors approval? Doctor if they do what you think is right then you can approve it and we can go ahead and approve this based on your approving of the permits is that right?

Alderman Thiel: That sounds good to me.

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

Resolution 183-06 as Recorded in the Office of the City Clerk.

Mayor Coody closed the Public Hearing.

NEW BUSINESS:

Barloworld Freightliner Repair Unit # 477: An ordinance waiving the requirements of formal competitive bidding and approving a quote from Barloworld Freightliner of Springdale in the amount of $26,706.34 to repair accident damage to Unit # 477, a front-load refuse collection truck.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: This item has been approved by the Equipment Committee.

Alderman Jordan 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 Jordan 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.

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

Ordinance 4942 as Recorded in the Office of the City Clerk.

R-PZD 06-2191, University Club Tower: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2191, University Club Tower, located north of Lowe's Home Center, east of College Avenue (Highway 71), containing approximately 10.39 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 item. He stated that staff is recommending approval of this item. One of the specific items I would ask the City Council to consider, the Planning Commission did recommend in favor 8-0 of this proposal however condition #1 is a determination of standards for the 24 foot street connecting College Avenue and Timberlake Court. This was the item that was discussed primarily with this planned zoning district. The Planning and Engineering Division is recommending that this be a private street that connects Timberlake Court to College Avenue. The applicant is also requesting that this be a private street. The Planning Commission did recommend this street be constructed and dedicated as a public street. We would ask the City Council to consider that waiver request and consider staff recommendation and the Planning Commission's recommendation. We would also ask that the City Council leave this on the first or second reading tonight.

Don Pitts, Owner of Lokomotion: I have no opposition to Mr. Chapman building the condos on the hill. We have two parcels of land that takes care of the Lokomotion development. We have approximately seven acres on the south side of the creek that runs just north of the bluff below the property that is being considered for the Condo. In addition to the land that we own we have a deeded private road that runs between our south line and the base of the bluff that is our only access to the property. At present we are permitted to build on the road and have no setbacks.

He went on to voice his concerns about a public road being built and the effects it would have on the value and investment of the Lokomotion property.

Mayor Coody: Mr. Pitts, I have not been on the road but I have driven by it. It looks like a developed spring that is back in the hill there.

Don Pitts: There is a developed spring on the bluff on the right side as well as one in a spring house on down.

Mayor Coody: That will be preserved I hope?

Don Pitts: Well, that's not on my property. That is on the property where they are proposing the street. I have drainage systems to take care of both those springs as well as the ravine in place.

Mayor Coody: Jeremy, do you have any information on those spring structures?

Jeremy Pate: I do not specifically but that would be part of our engineering review of construction plan if this does get approved.

Mayor Coody: That is one of those old historic things about Fayetteville and that would be a sad thing to lose. It seems like it would be easy to leave alone, if you could look into that I would appreciate it.

Alderman Thiel asked the applicant and Jeremy Pate if this was the street that would remain private.

Jeremy Pate: That's correct. We would recommend that it would remain private as Mr. Pitts has discussed.

Alderman Ferrell asked Mr. Pitts if he still had a pond in the back of the property.

Don Pitts: We have a large spring that comes out on the east side of the property behind the cabin that runs a 2'x3' stream that goes into that little lake and then there is a spring house that sits at the base there that belongs to Mrs. Blair. We take care of all the water that comes out of that spring house. There is a second springhouse down by the go-kart track that has a building and then the one that you referred to in the bluff. So there are three springs down through there.

This ordinance was left on the First Reading.

R-PZD 06-2256, 932 Garland: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 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 item. He stated that the Planning Commission did vote 8-0 in favor of this project and staff is also recommending approval.

Alderman Cook: I would request that this stay on the first reading if possible and my main reason is after tonight I will have another Ward 2 person sitting next to me. That person at the next meeting will be voting. I know Mr. Mansfield has a presentation tonight but the next person sitting in this seat will probably need to see that presentation all over again. I would request that we hold this off until Ward 2 is completely represented.

Alderman Jordan: It was shown at the Ward 4 Meeting. I know that's in Ward 2 but we are right across the street and a lot of people from our Ward lives in that area and they didn't seem to have too much trouble with it.

Alderman Lucas: I think it would be good to hear the presentation tonight and the next time. Some people may be watching tonight that can't watch next time and this is a pretty big project. It's very important in that area.

Mayor Coody: Would the architect or whoever the petitioner is like to come up and make the presentation for us.

Alderman Rhoads: If we are going to hear this tonight and if what we hear is all pretty positive is it not possible to approve this on three readings tonight?

Alderman Cook: If you want to approve it on three readings I will vote against it immediately.

Alderman Rhoads: I respect that. Okay.

Yume Rudzinski, Architect with Architects 226: The idea with this project when we approached it was to provide a building that would represent itself as a gateway to the University. We noticed that in this neighborhood lacks cohesiveness in that area and we wanted to provide a building that would start to become a signature piece for the entrance into the University and also to the City. In the Boulevard that it's on it's one of the premiere boulevards in Fayetteville allowing it for a structure that's taller than the rest of the houses that are around there.

She went on to discuss the project. She stated the idea is to do a truly mixed use building to promote more activity around that area.

Alderman Thiel: There's parking for the residential portion in behind?

Yume Rudzinski: That's correct.

Alderman Thiel: Is there any parking for the proposed commercial there?

Yume Rudzinski: Yes. We have allowed enough parking for the commercial and the offices. There are two levels of parking and we would designate certain areas for the residences and then the rest for commercial and office use. There is enough to accommodate all of that in the two level parking.

Alderman Thiel: But they would have to go around behind?

Yume Rudzinski: They would actually enter in.

She went on to describe where they would enter on the map.

Alderman Reynolds: What is the Material that we are looking at for the exterior?

Yume Rudzinski: On the ground floor we are looking at using stone. Right now we are not sure.

Alderman Reynolds: Is there going to be brick involved in it?

Yume Rudzinski: I don't think so. The stone would be on the bottom and then above on the bar that faces Garland we are hoping to use a really nice non-reflective metal for those units.

Mayor Coody: The plan is not to use E.I.F.S. right?

Yume Rudzinski: No.

Alderman Ferrell: Since you are going to have other commercial buildings and the University on that area is there any way to forecast how many people will walk?

Steve Mansfield, the developer of the project: We don't have specific numbers. Some of our other projects that are very close to campus, we actually have somewhere between 60% and 70% vehicles per bedroom so there is a larger percentage of walkers than we have people using cars on a daily basis. At this site on ball games the pedestrian traffic is quite heavy. One of the things that we have tried to do is try to move the sidewalk closer to the building and create green space between the pedestrians and the street for safety and attractiveness. We have also widened the sidewalk in multiple areas so that it varies from eight feet to as much as sixteen feet so we have outdoor patio seating near cafes and have a pedestrian walk way that people would find attractive.

Alderman Lucas: The traffic on that corner at Harps and the shopping center is horrendous, is that going to be addressed?

Steve Mansfield: We have just recently met about some of the street improvements that will be required to do in order to alleviate some of that on the other projects so that is work being done right now.

Alderman Jordan: So when are we going to know something on that?

Jeremy Pate: This same applicant also is doing the Wedington Circle PZD and that project is just kicking off. The subdivision won't generate any traffic but we are looking at what the Street Committee and the Council discussed in closing the eastern portion of Mt. Comfort which we are looking at options of how to do that and the best means to do that. Traffic calming was discussed in that neighborhood and those would likely come as the buildings come in and actual traffic is generated, those would come through. We would likely be working with the Highway Department in terms of the overall widening of Garland and how to reroute James and Mt. Comfort in that area.

Steve Mansfield: I think all this will be resolved in the next 45 days.

Alderman Cook: You mentioned in here that even though a traffic study wasn't required you were working on one. Are we going to see one or is that something that you are not going to provide?

Steve Mansfield: We were not planning on providing it at this time. As Jeremy said we are going to have to come back through. We are asking for a few things that are out of compliance, as of right zoning, so we just wanted to make sure. As with all the developments I have been involved with I think it is very important to get comment from all the neighbors who will be affected by this project. We did have a meeting in Ward 4. We invited local citizens to see the project beforehand and in reality there really was no opposition or negative comments. I feel comfortable that we have designed a building that will be a benefit to the city.

Mayor Coody: It's a nice design.

This ordinance was left on the First Reading.

ADM 06-2294 Amend Chapter 161, Zoning Regulations: An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the Planning Commission's vote was 8-0.

Mayor Coody: Thanks for bringing this up because I know we've had some people come up that have wanted to have these use units in an R-O zoning but we wouldn't allow them and it seemed perfectly suited for the area and this would be a way to encourage people to walk and have different businesses near by in residential areas that would enhance residential areas that have cracked from it. I appreciate you bringing this forward.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan 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 Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Rhoads was absent during the vote.

Ordinance 4943 as Recorded in the Office of the City Clerk.

ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations: 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 Supplementary District Regulations for the Downtown Master Plan Area.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Program Development Director briefly went through each exhibit with regard to the implementation of part of the Downtown Master Plan.

Alderman Ferrell asked if no banners would be allowed up unless the streets are closed for six hours.

Tim Conklin: And it is a City sanctioned event. That is correct.

City Attorney Kit Williams: There is a reason for that. Even though we've had banners across the street before they've never been allowed under our code. That has been a problem that we've struggled with. In order to ensure that we will not be sued successfully by billboard sign companies that sometimes go around and sue cities we have to be very careful that if we do allow something like this banner that they are restricted in a very rational basis so that if we make it wide open then we don't have any control of what's going to be there. I crafted this language that required a very independent way to decide what banners go up or not and that is with a street closing. Those would be the events that would be allowed to have a banner that would be put up by the city, they would have no commercial content and I think this is probably a safe way to do it.

Alderman Ferrell: So there was a dialogue or discussion with the people associated with the major festivals and things that we have traditionally had banners for?

City Attorney Kit Williams: We talked about it at Ordinance Review; we talked to the Downtown Dickson Partners, so yes there were a lot of discussions.

Alderman Thiel: This was discussed by the Planning Commission and then at the Ordinance Review Committee and we all felt more comfortable following our City Attorney's

Alderman Ferrell: What I'm wondering is if we have a list of the one's that would be sanctioned for the closing. The reason I'm on this, I used to work for the telephone company and they used to call and say hey can you hang this banner for us and we put the banners up. My recollection was there were no streets closed and in my opinion the community benefited from this. If you have to shut a street down for six hours that seems like overkill to me.

City Attorney Kit Williams: The problem you have is that a City Government is not allowed to pick and choose which causes it thinks are worthy of being advertised and which are not. If we decide we like this charity event but not that one that is improper according to the Federal Court and we can't make decisions like that and so if we wanted to have banners without any kind of other restrictions we certainly can do that. The problem is any non-profit anywhere would be able to have that banner up and that is what concerns me.

Alderman Ferrell: You have been very consistent in your sensitivity to the sign ordinance and the liability in the continuing ordinances that come forward in trying to protect us. Was there any thought given to grandfathering some of the ones that we've had in the past that we have not had a problem. Can somebody tell me the ones the streets close for?

City Attorney Kit Williams: You have Autumnfest, Springfest, the Joe Martin Bike Rally and Bikes, Blues and BBQ. One other reason I did that is it would be a notification of the street closings and therefore it helps as a traffic safety justification for this particular banner as opposed to trying to justify which organization we like and which organization we don't like.

Daniel Hintz, Executive Director of Fayetteville Downtown Partners: We have been under contract with the City of Fayetteville to oversee the downtown banner program for the past two years and we have been asking for clarification on this issue so we are glad we are finally able to speak to this issue. In lack of this type of guidance from the City we have implemented somewhat of guiding principals for this program saying the event has to happen in downtown and it has to be a non-profit. This hasn't been official because we did not have any official guidelines so we built those ourselves and ran those past the Planning Staff early on and that's what we've been working on.

Tim Conklin finished describing the exhibits. He asked before you pass this ordinance there are several references in Exhibit E and F that talk about a downtown entertainment district. We did not create an entertainment district as part of the downtown code. I would recommend that we amend those exhibits to state downtown area and that would clarify those ordinances since we do not have an established zone.

Alderman Ferrell moved to amend the ordinance to state "Downtown Master Plan Area." Alderman Jordan seconded the motion. Upon roll call the motion to amend passed 6-0. Alderman Rhoads was absent during the vote.

Philip Pumphrey, Executive Director of Ozark Regional Transit expressed his concerns with the ordinance.

Alderman Ferrell asked if there was any chance that they could pull 174.13 (C) out and re-look at that. He stated I understand Kit's concern but it seems to me that we might be able to massage this a little bit and find a way to grandfather some of the one's that we have allowed in the past.

Alderman Ferrell moved to amend the ordinance to delete 174.13 (C) 2.

City Attorney Kit Williams: Subsection "C" is all in one. You can't take out a subsection 2 because then you have no way to justify or to decide what kind of banners can be put up. You have to do all of "C" if you want to do that. I just want to remind you that this Council has not had to face the appeals to the Supreme Court that the sign ordinance generated. It generated seven or eight appeals to the Arkansas Supreme Court when it was first done. We need to be careful when we are thinking about doing something to the sign ordinance that can be looking like we are creating an exception that is allowing something that is similar to a billboard that the courts might say is functionally equivalent.

Alderman Ferrell: We have never had any court action on a banner have we?

City Attorney Kit Williams: We actually have been sued over signs since I've been here.

Alderman Ferrell repealed his amendment and asked that this ordinance be left on this reading and see if there is something that can be done with it.

Alderman Thiel: It is easy to leave it on this reading however it's been a long time getting here. Personally I would like to see us pass it tonight and this could be brought back up. I personally will not be able to support a change based on our City Attorney's opinion.

Alderman Ferrell: The way it reads the Mayor would have to be the one that decided which street closed.

City Attorney Kit Williams: The Code might actually indicate somebody else but whoever it was would work for the Mayor. The buck stops up there when it comes to controlling the streets.

Alderman Reynolds: On C.2 you would be taking the teeth out of this. I think let's leave it on the second reading and then come back and work it out where you can close East Dickson for the Ice Cream Social and they could still have what they need.

Daniel Hintz thanked the staff and Kit Williams and he stated I am glad we are finally here. He stated Fayetteville Downtown Partners conducted the initial research and drafted the early versions of all these ordinances. We presented these findings to the staff at the beginning of the year.

He went on to describe the philosophy behind all the components of their findings of the ordinance and expressed their concerns with the ordinance.

Doug Wallace, Fayetteville Downtown Partners read a statement from two small businesses of the mil district off of 6^{th} Street.

City Attorney Kit Williams: You notice when Tim was talking about sidewalk café's he was saying that they should not be limited only to the downtown entertainment zone. So I would think that in Section 178.01 Purpose Section, we have now already amended the downtown entertainment district to be the downtown Master Plan Area. If you would just put "and elsewhere" in there the Planning Commission won't be confused and think it is only for the Downtown Master Plan area.

entertainment district to be the downtown Master Plan Area. If you would just put "and elsewhere" in there the Planning Commission won't be confused and think it is only for the Downtown Master Plan area.

Alderman Thiel moved to amend the ordinance to state "and elsewhere." Alderman Lucas seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

Real Estate Sales Contract with Habitat for Humanity: An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of $152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance. He stated that staff was asked to look into what was being done up north and to work with our Washington County Habitat and look at what the University Community Design Center was doing. He discussed their findings.

He handed out a signed agreement between Habitat for Humanity, Seven Hills, and Sage House stating that Habitat for Humanity will connect to the new street that would be constructed by Seven Hills if the Sage House Board agrees to relocate within the commonly planned property.

Alderman Jordan: That was one of the situations that came up in the Street Committee. We are talking about disjoined pieces of property and we did not have a true plan of what we were looking at. I don't think there was anybody on the Street Committee that is not supportive of attainable housing. It's just that we are looking at what streets cost today and we wanted a plan; we just didn't want to say lets just do this or that. I don't want any one to think that we do not support attainable housing in this city because I have and always will.

Tim Conklin: With regard to the actual contract, it is a real estate contract selling approximately eight acres of land for approximately $19,000 an acre. It does have a 180 day closing date with a 60 day extension. If there does need to be an amendment to the contract in the future with regard to what is worked out as we work together as a city and the three different agencies that can come back before Council.

Alderman Jordan thanked the Mayor for the work that he has done on this.

Jim Culberson, a volunteer land planner for Habitat for Humanity in Washington County stated that Habitat is currently building their 37th house and that puts us on a pace of about five homes per year. He stated that lot acquisition has become a limiting factor for Habitat's performance for us to be able to move on and keep doing what we are doing in this market. It has become obvious to us that if we are going to continue our program we are going to have to develop a neighborhood. We have been looking at this property on Huntsville Road and over the last several months we have worked out a situation that seems to be mutually beneficial to all parties. Mayor Coody charged us with doing as high of quality as we could. We are delighted with where this process has placed us right now with the possibility of having a wonderful new neighborhood and designs that are exciting.

Aaron Gabriel with the University of Arkansas Community Design Center gave a presentation on the type of neighborhood that Habitat for Humanity is trying to bring.

Mayor Coody: We have this to accomplish too, getting affordable housing here. We all know that Habitat is an excellent planning program and if we accomplish this tonight we will be able to see some homes be built for years to come. It will elevate how Habitat does business in all of Washington County. If there is a way that we can do an exceptionally high energy efficient home I would like to see the City do it; where we get a bunch of City employees out on a Saturday and we can get a lot of work done. This is a good program and I really appreciate everybody working together.

Alderman Cook: So basically it is going to be a city street? We are going to kick in $53,000 and Habitat is going to tie into this street, am I reading this correct?

City Attorney Kit Williams: That is correct. We need to pass this tonight because for their grant application they need to be able to show that they have an agreement to own this land. We will have to come back in the future because there is going to be some movements around of what parcel they actually own. We will come back with an amended ordinance and contract.

Mayor Coody thanked Aaron Gabriel for his presentation and he stated we appreciate everyone working with us on this. We are going to team up and make this the best project ever and we are very excited about it. For the first time I think we are really going to be bringing our program together and we are going to see some solutions. It's been a long time coming.

Alderman Jordan thanked Alderman Thiel for the work she has done on this project and for working on obtaining affordable housing.

Alderman Reynolds asked how far south this property line goes. How much property is left between this property and 15th Street? Is there going to be a commercial strip through there?

Mayor Coody: At the very south end of our property there is Comb's property. When we designed this I'm sure the Engineering Staff will have stub outs going both south and probably west so we could hook up some connectivity through there.

Alderman Reynolds: I wondered why they weren't going through.

Mayor Coody: Well, it's not our property but one day that will develop.

Alderman Thiel stated I believe that is RMF-24 south of there, it's not commercial already.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4944 as Recorded in the Office of the City Clerk.

Cato Springs Road Properties: An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

Mayor Coody: We are trying to build a new police and courts building here downtown to give the police some more breathing room. Basically we have a whole police department in 17,000 square feet and that's about 1/3 of what they need. If we build this building this will not satisfy the needs in the long term but it will certainly satisfy our needs for the near term and this is something that will help the police department and the courts and the prosecutor because they are busting the seams down there. We need to find funding from different sources.

City Attorney Kit Williams read the ordinance.

Alderman Jordan suggested that someone talk about the two options that were discussed on Saturday during a strategic planning meeting.

Mayor Coody: I want to make an amendment on the Wilson Springs property I think that everyone can live with.

Susan Thomas explained the two options that were discussed at the strategic planning meeting. She stated we are looking at a total construction cost estimate of $8.8 million; a detail of that estimate was requested and was placed in your boxes yesterday. One option pulls together $5.5 million in existing assets with the city to be allocated toward the police facility. Option two pulls together $4.3 million leaving different amounts to be financed with Amendment 78 bonds. The differences in the money being pulled together and allocated to this project; option one for Wilson Springs uses all of the remaining funds from Wilson Springs $2.3 million versus option two; leaving part of that amount in there for economic development and only pulls $1.1 million of that out. Both options are the same. There forward approximately $900,000.00 of Cato Springs money, the money expected from the sale of the Tyson property and the industrial parcel that you dealt with this evening, police impact fees, and part of the 2007 Highway 265 CIP allocation.

Mayor Coody: On the Highway 265 allocation what we did before the bond issue was put to the public, we budgeted some money and because we had obligated ourselves to pay about $7.7 million our match of the state funds of the $15.4 million job we were going to start building our nest egg where we could match the states need because we didn't know if the bond issue would pass. Once the bond issue passed, in that bond issue was funding to make that match. Since we had that match made that freed up this money we were saving to do this and other deeply needed infrastructure improvements and facilities for the city.

Alderman Jordan: So you're telling me the money we set aside for Highway 265 for road projects is going to be just put in the capital?

Mayor Coody: Some yes, but not all of it. We are setting $2 million aside.

Susan Thomas: $2.1 million. In the 2007 CIP for Highway 265 for the bond project.

Alderman Jordan: But that was set aside for street projects correct?

Mayor Coody: Highway 265 in particular.

Susan Thomas: It was set aside in the event that the Transportation Improvement bond did not pass. It was set aside to have money available for 265 improvements.

Alderman Jordan: Isn't that some of that maintenance of roads made that we collect every year?

Paul Becker, Finance and Internal Services Director: Next week we are going to go over the budget and the proposed allocation. What this would include is a portion of this would go toward a police judicial facility and the remainder we would push forth for needed programs such as the street outlay program.

Mayor Coody: You've put two increases in the street overlay program lately haven't you?

Paul Becker: Right, and at the last meeting of the Street Committee we discussed the need and I was asked to look at that situation of fully funding what they would need in the street overlay program which we did.

Alderman Jordan: But that's keeping it in the street program.

Paul Becker: That's correct. We will have in excess of $2 million for the street overlay program in the proposed budget.

Alderman Lucas: How much have we put back for Highway 265?

Paul Becker: We had allocated $2.1 million. We are talking about using a million for the police facility and we are talking about taking $1.6 million and programming it into the street overlay program.

Alderman Ferrell: When we talked about this Saturday was this Highway 265?

Susan Thomas: The document that you were given on Saturday was not changed. It was listed as an item on that and it was reported when I read it in the same manner that I just read it to you.

Alderman Jordan: I just didn't catch it.

Alderman Reynolds: We are going to have our matching money in the pot for the 265 project?

Mayor Coody: That was approved in the Bond Issue, yes.

Alderman Reynolds stated we have all met numerous times to try to find money for this facility and we have asked Paul to dig into it to come up with enough to get the architect and get this building started and that's where we are now. Lioneld, this project 265 is not going to be affected by a fund.

Alderman Jordan: I understand that Alderman Reynolds, but I don't want to start taking all the street money. I don't want us to get in a situation where we start taking money from the street program to put in capital projects because that is set up for our street program. I want to go on the record that I am not crazy about doing this kind of stuff and moving stuff around like that. What happens if we get in trouble again, do we just shift more money from the street program. That was set aside for maintenance for roads for this city. When we took it out we said okay we are going to invest our money in 265. That was actually maintenance dollars for our road program and now part of that is being moved somewhere else.

Mayor Coody: First of all let me say we're not in trouble here. We are just trying to make this work to where we can build a new police facility. This was all gone over clearly Saturday and this is no surprise from what was discussed last weekend.

Alderman Jordan: Well I just didn't catch it but I'm not crazy about doing it now that I know.

Mayor Coody asked Susan Thomas if this was the same memo that she sent out earlier.

Susan Thomas stated there was only one memo.

Mayor Coody: But this was in the memo that went out before the Saturday meeting or did we just hand it out Saturday.

Susan Thomas: No this was just a discussion page for Saturday's discussion that we went through. Also, the Amendment 78 short term financing that we do, whether it's the option one or two or some other option, that service payment will have to be made out of the CIP so this is not the only reallocation of CIP dollars that you will be looking at to fund this project. There will be several, you are looking at $750,000.00 up to $1 million or if you decide to do even more than that, that service will have to be reallocated out of the 2008-2012 CIP. I understand that this might make people uncomfortable when we have to look at that document and reallocate that large amount of money but it's not only the 265 project that will have to be reallocated. There will be other debt service payments that will be met out of that same CIP.

Mayor Coody: But the CIP covers more than just roads, it covers a broad range of things that we do. We wouldn't be canceling all of our CIP projects for this.

Susan Thomas: It's a matter of prioritizing and I think that what we need to keep in mind is that this is a financing plan for a project that will come together in a more solid fashion next year when it's time to actually go out and do the financing for it. I know there have been some concerns about taking the economic development money out of the Wilson Springs account or any of it out. On the basis that we have a firm come in here that we want to incentivise to land in Fayetteville and if that comes up before you make your financing decision and perhaps you rework the resolution and put it back into an economic development fund. Your hands are not tied; you have to make the decision on priorities. I think you all are very much in favor of building this building.

Mayor Coody: But we still have $2.1 million in the overlay program.

Alderman Jordan: So we're still going to be able to pave the 19 miles of roads that we are talking about.

Mayor Coody: 20 miles.

Paul Becker: 2008 would be a time where we would normally look back at this capital program and do an entire reallocation.

Alderman Jordan: So we can look at it again.

A discussion followed on where some of the proceeds were coming from and how much was being allocated.

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

City Attorney Kit Williams read the ordinance.

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.

Alderman Ferrell stated this is an ordinance and sequentially we have this ordinance and we have some resolutions coming up which are all geared at taking care of the funding to build the police and courts building.

Mayor Coody explained that the Cato Springs money was a $2 million piece of property that our old Water and Sewer building was on. We sold it to Bio Based for $1 million making a contribution for economic development for the City of Fayetteville to bring that company to town. We are about to talk some more about that in just a minute.

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

Ordinance 4945 as Recorded in the Office of the City Clerk.

Wilson Springs Property: A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

Mayor Coody asked if the City Council would make the amendment instead of saying resolution transferring the remaining balance that it read "a resolution transferring $1.1 million of the proceeds" and that would leave $1.2 million in that fund that we could earmark for economic development.

Alderman Ferrell moved to amend the resolution to state "a resolution transferring $1.1 million. Alderman Jordan seconded the motion. Upon roll the motion to amend passed unanimously.

Alderman Ferrell: We had an ordinance and resolution tied together sequentially to fund this. We talked about holding back some money for economic development but the commitment was made that if we have a project come along we would make funds available to go toward the project if it was a good fit to the City etc. So I just wanted to make that clear.

Steve Rust, Economic Development thanked the Mayor and the City Council for setting aside that economic development money. He stated that it would be an excellent opportunity in the near future to leverage that money and land a big project.

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

Resolution 184-06 as Recorded in the Office of the City Clerk.

South Industrial Park and the Tyson Site: A resolution directing the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.

Alderman Cook asked what if we sell this land above and beyond the $1.1 million that we have listed here. Can anything above that go back to the street money that we borrowed?

Mayor Coody: That is up to the City Council.

Alderman Jordan: I just want to be sure that the same kind of commitment for the overlay program is there as we have for our economic development because that's important too. I want that kind of commitment from this Council that they will be as committed to this street overlay program.

Mayor Coody: I would say the City Council and Administration has showed remarkable support for the street program.

Alderman Jordan: I recognize that. It's just that we made a commitment on the Street Committee that we would continue so we don't get behind and that is why I have been so guarded with this and I do apologize.

Alderman Thiel: Why don't we make an amendment to this that it is a resolution directing $1.1 million from a portion of the future sale?

Alderman Thiel moved to amend the resolution to state $1.1 million from the proceeds of the sale. Alderman Cook seconded the motion. Upon roll call the motion to amend passed unanimously.

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

Resolution 185-06 as Recorded in the Office of the City Clerk.

Wilson Estes Police Architects: A resolution to approve a contract in the amount of $458,661with Wilson Estes Police Architects, plus up to $30,000 for reimbursable expenses and to approve a budget adjustment of $100,000.

Susan Thomas stated that the committee did excellent work and they worked very diligently to do what is in the best interest of the City. Just a reminder that when you did the space needs study you did sign a contract with Wilson Estes for the entire project.

She went on to give a description of the building and the space needs of the departments.

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

Resolution 186-06 as Recorded in the Office of the City Clerk.

GCM Building Lease: A resolution to approve a thirty month lease with GCM, LLC for about 3,200 square feet within the GCM Building for $45,250 the first year and an estimated total cost of $114,825.

City Attorney Kit Williams handed out a new resolution that more accurately reflects what the lease actually said.

Mayor Coody read the resolution.

City Attorney Kit Williams: This lease has been signed by GCM. Bryant from the City Prosecutors Office who is going to be occupying this space and he helped draft the lease and get it signed so he might want to answer any questions that you all might have about the use of this building by the City Prosecutor. He is here to testify about the crowded conditions of the City Prosecutors office.

Alderman Reynolds moved to amend the resolution Alderman Jordan seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Ferrell: Kit, it says about 3200 square feet, what do you mean?

Coy Hurd, Building Services and Project Manager: We had talked about 3200 square feet and there were a couple of offices down at the end of the hall and I said why don't you throw those in as well and he said okay, we'll call it 3200. It's actually 3200 plus.

Alderman Ferrell: But the money we are talking about is definitely that amount of money.

Coy Hurd, Building Services and Project Manager: Yes.

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

Resolution 187-06 as Recorded in the Office of the City Clerk.

Mayes Lot Split Appeal: An appeal of the Planning Commission's decision to deny a lot split for Mayes located at 445 N. Canvas Road.

Jeremy Pate gave a brief description of the item. He stated staff and the Planning Commission did not recommend approval of this lot split finding it was not particular in size in which it's being subdivided. I did not meet our UDC requirements and was not compatible with the lots immediately adjacent.

Robert Brigg, speaking on behalf of David and Julie Toothaker who own the property immediately to the west of the proposed lot split expressed his views and spoke against the lot split. He stated the lot split is incompatible in size and shape with the adjoining land owners. He suggested that any lot proposal that violates those protective covenants is inconsistent with the land use within the subdivision as the owners expected it to be when they purchased their property.

Alderman Reynolds asked why Mr. Toothaker's name is not on the petition.

Linda Mayes, the applicant stated my husband and I are asking for a tandem lot split on our property. She discussed their plans for the property and clarified any existing confusions. She pointed out on the map the area that is being discussed and she thanked the City Council for coming and touring their property and for making the right decision.

Mayor Coody asked Jeremy Pate are we seeing something different than what the Planning Commission saw?

Jeremy Pate: The Subdivision Committee saw a tandem lot and the Planning Commission saw a flagged lot but as noted in the conditions of approval both were discussed. The two site plans proposed by the applicant which the Planning Commission had both site plans in front of them, they had either option.

David Toothaker, neighbor of the property: You asked why I have not signed that petition. I am not against development on Canvas Mountain. I wish this lot were a different shape. My wife and I did not feel like that this one lot split should preclude our neighbors who may have a very valuable and viable lot to split from this. My opposition here tonight is about the impact of the further reduction of ground cover and surface soil, the roofline, the foundations, sidewalks, etc. If the grade wasn't so steep I wouldn't be standing in front of you with a drainage concern and that is specifically the thing I wanted to bring back to your attention tonight. The comments you will hear from the opposing land owners tonight are about protecting our neighborhood, not our property.

Mr. Carfagno, property owner to the north of the property expressed his concerns with the lot split. He stated this would be a lot behind a lot and there are no lots behind a lot in Canvas Mountain Subdivision. He stated we don't want to lessen our value of our property by having them split the property in half and most of us are here to oppose the lot splits across the top.

Tomas Jandic, neighbor on the southern side of the property stated he was opposed to the lot split. He stated the reason is the subdivision offers privacy and I don't want to see a lot split.

Gary Wiles, a neighbor spoke against the lot split and stated that he was opposed because of the privacy they currently have in the subdivision.

Ruston Cole, resident of Canvas Mountain Neighborhood spoke in favor of the lot split. He stated I see no reason why the request should be denied.

Bryan Bunch, the surveyor on this project stated all the lots in the subdivision are different. He stated a lot split has already been done once in the subdivision and it would seem unfair to not allow Ms. Mayes to do it. He asked the City Council to take that into consideration.

Alderman Reynolds asked Bryan to show them the lot that is already split on the map.

Bryan Bunch pointed out the location on the map.

A discussion followed on tandem lots located within the subdivision and where the drainage issue was located.

An unknown citizen stated that on lot 4, it may have been a tandem lot but it has access off of Wyman Road and that is how that home was built. It is not like this one where there is a driveway going up an alley way to get to the lot behind it.

Linda Mayes clarified any confusion regarding the tandem lot on lot 4.

Jeremy Pate stated it looks like those lots were platted when the subdivision was platted with a few tandem lots. We discussed several lot splits at Planning Commission too. Most of those that we could find were never approved so they were illegally split through the County. I have not researched Lot 4 specifically but I have not found any records of the Fayetteville Planning Commission approving any other lot splits in the subdivision thus far.

Alderman Ferrell: The POA allows for lot splits and there are other tandem lots. We received letters from people who are both for and against it. I have received more and more emails over the last couple of days from people that are pro on this. After visiting out there and seeing the slope and the drainage, I think there has been some remediation action taken down there. Also at the bottom of the hill the Mayes left a buffer strip of trees along there, in addition the hillside is thick with grass vegetation. I've looked at both sides and I think the POA allows it and I would move that we approve it.

Alderman Cook: I am going to go with Planning Commission and staff on this mainly because I don't like tandem lots because it creates very messy situations when it comes to access to these lots. Currently there is no right of way access to the back of this lot. There is a 30 foot utility easement there but no right of way access. So that will have to come back and be requested for later on to get access there. You can look at this map throughout here and there are all kinds of crazy easements to get to these lots that have been divided and if we approve this we are just continuing that.

Alderman Rhoads asked Kit what is it that we are to make our decision on. What are the standards of the guidelines that we have to make our decision on?

City Attorney Kit Williams: I think I would really defer to Jeremy on that.

Jeremy Pate read the restrictions listed in the Unified Development Code. He stated what we look at is do the lots proposed meet the minimum standards. If it does not the applicant has the right to ask for a waiver of those standards from the Planning Commission. The Planning Commission decided not to waive those standards and obviously that appeal has been brought to you for you to decide if it is an appropriate subdivision of land.

Alderman Ferrell asked Jeremy what were the common conditions.

Jeremy Pate: There are eight standard conditions should the lot split be approved.

He read the eight conditions. He stated we provided two site plans that the Planning Commission looked at. You actually only have one in front of you. The applicant is requesting a tandem lot with zero frontage. The waiver request would be a waiver of the minimum lot frontage which is 75 feet.

Alderman Ferrell moved to approve the appeal with the described conditions. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-1. Alderman Cook voting no.

Resolution 188-06 as Recorded in the Office of the City Clerk.

Emerald Point ADM 06-2282 Appeal: An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point).

Jeremy Pate gave a brief description of the appeal. He stated in response to some drainage concerns that were created by property to the north additional detention was required for this property. That required changes to the approved preliminary plat to increase the detention requirements. The applicant has since petitioned for a change to the approved preliminary plat and is requesting to remove the middle stub out on your plats in front of you.

He described the stub outs indicated on the preliminary plat. He stated that staff did not support the request to remove this additional stub out. The Planning Commission supported that recommendation 6-2 to deny that request.

Ira Zakariadze, the developer and petitioner stated this is just a 10 acre piece of land on Double Springs Road adjoining to Legacy Point Subdivision and the small mini-storage piece over there. He stated that Fayetteville City Codes allows street block length up to 1400 feet. That means we can build a street up to 1400 feet long without any intersections. Our main street is only 1,189 feet long and it connects with Double Springs Road. By ordinance requirements if we have this street that long we can have no stub outs at all however, we are currently being asked to put three stub outs which we agree and are willing to do two of them and remove one stub. I would just like to mention that removal of this stub out would ease our problems dealing with the increased drainage problems for this development.

Alderman Thiel: I noticed that you have lot 36 and 37 that actually face Integrity Way. If that is done away with that is just going to be one big lot so you are going to lose a lot there.

Ira Zakariadze: I am only losing one lot. With the amount of water that comes from the mini-storage property, I am going to lose 3 or 4 lots.

Alderman Thiel: I see you have a detention area that is already taking up three lots; most subdivisions do have to have detention area. You are only going to lose one lot by closing off Integrity Way. If you left Integrity Way you would have to lose that lot 34 to move your detention over.

Ira Zakariadze: I am still hoping to have detention the size that it is now without increasing it.

Alderman Thiel: I thought the whole idea was that you had to increase your detention size and it would have to take Integrity Way.

Ira Zakariadze: I'm looking at some possibility to increasing. This plan was approved four months ago and it is still on the City Engineering table because we don't know what to do with the increasing water flow from the mini storage property. In this case we can maintain that detention pond as it is.

Alderman Thiel: If you can then why do away with Integrity Way?

Alderman Jordan: The thing is if you are going to leave the detention pond the same size, why would you want to take the street out, unless you are going to enlarge the detention pond because of the water.

Ira Zakariadze: Yes, we are going to enlarge the detention pond.

Alderman Reynolds: Jeremy, taking Integrity Way, was that the same thing the Planning Commission looked at or are we changing that here and taking the street away.

Jeremy Pate: That is the same thing.

Alderman Reynolds: So you are going to have a large lot 36 that is going to run deep because you are going to have to do away with lot 37 because you are going to do away with the street to enlarge the pond.

Ira Zakariadze: That is exactly right.

Alderman Jordan: And then we lose the connectivity running south because that road won't be there.

Alderman Thiel: But you could extend your pond in lot 34 and keep Integrity Way.

Ira Zakariadze: We connected with south property owners under City requirements as far as length of and the connectivity size. That is why we are asking to leave this at two stub outs and get rid of the third one.

Alderman Cook asked Jeremy Pate if he knew how much needed to be added to the detention pond.

Ron Petrie: Ira is working on that with the adjacent property owners to see if those effects can be mitigated to be reduced. I have not heard an update lately but he has definitely been affected by that adjacent property owner. A huge reason why you annexed this area is in my opinion for this type of development that occurred and they definitely redirected all the water onto Mr. Ira's property. It was built into the County without any supervision or review by the County or the City.

Alderman Reynolds: So did you buy the property after the mini storage or before?

Ira Zakariadze: About the same time. Of course we cannot start development until we can somehow manage to direct his water ahead of time. This would ease our problems to eliminate that third stub out.

Alderman Thiel questioned the logic behind the Georgia Trail stub out being so close.

Jeremy Pate stated I believe the one to the west is only there to provide frontage for those small lots that he is subdividing.

Alderman Thiel: So it's not connectivity, that's just a driveway. It's a cul-de-sac that provides no connectivity.

Alderman Ferrell asked Ron Petrie how much lot line is left there between his property and the mini storage.

Ron Petrie: They really have no room to correct it and they directed all the water to go south. Once it gets on to Mr. Ira's property it doesn't go anywhere.

Alderman Jordan asked Jeremy Pate what is your recommendation here?

Jeremy Pate: We are recommending the stub out for the preliminary plat that has already been approved, stay as it is, in terms of street layout. Our concern was Mr. Zakariadze was right. It meets our minimum standards; you have a block length of 400-1400 feet. We also have standards that we can't approve a subdivision that we feel would create or compound a dangerous traffic situation. We felt it was important to have those intersections in adequate spacing.

Ira Zakariadze: 40 something lots is 20 town homes.

Mayor Coody: But it is the number of families and cars so essentially it is 40 residential units.

Alderman Jordan: Do you think there is something you could do different?

Jeremy Pate: The only thing we have discussed in our meetings with Ira and the property owner to the north is if the detention numbers were actually finalized we could come up with what exactly is it that is needed for detention.

Mayor Coody: How long would it take to finalize that?

Ira Zakariadze: The mini storage owner is not cooperative at all. He is not working with us. We are trying to get a survey done to reassess his situation. I am already punished for four or five months.

Alderman Lucas: It seems to me that we've got two things here. I understand your situation with the drainage and everything and you are trying to reserve lots but you would lose one lot if you used 34 now. Is that a possibility of enlarging the pond that way? Is the land inductive to that? Rather than have the street be unsafe we could go ahead and then you could work it out possibly as to how much land there would have to be for the detention pond.

Alderman Jordan: But you are not sure that the 34 lot would work.

Jeremy Pate: Until the detention and drainage is finalized and we understand what is going to happen, that is up in the air for us to make that decision about how much land is needed.

Mayor Coody: How long will it take to get those calculations finalized?

Jeremy Pate: That is something for his engineer to provide.

Mayor Coody: Does that rely or not rely on the owner of the storage units?

Ron Petrie: It depends, if you want to use the worst case scenario that would take a day. If you want to make assumptions on mitigation and find out the answers the gentleman to the north is looking at taking some water to the north through the subdivision to the north. If you want to wait to find those answers to size the pond then now you have a third party trying to get answers so it's very hard to give a day.

Alderman Lucas: I really don't want to eliminate Integrity way. I wish there was some way to help him with his detention pond and drainage.

Mayor Coody: Ira, I think the City Council is leaning against letting you take out Integrity Way. I think it is in your benefit to ask to table this and try hard to get the calculations.

Alderman Jordan: That makes sense. If we table it for a couple of weeks that gives him two weeks to do whatever he needs to do.

Mayor Coody: Do you think you could expedite this and calculate the drainage?

Ira Zakariadze: Thank you for your consideration. We will try to expedite.

Alderman Reynolds: If he would look at keeping lot 36 and 37 and then taking out lot 34 to enlarge the detention pond, that would help us and keep that street in there.

Ira Zakariadze: I'm afraid if I am not solving this problem completely I would lose several lots there.

Alderman Jordan moved to table the appeal until the November 21, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion to table passed 6-0. Alderman Cook was absent during the vote.

Sunbridge Villas R-PZD 06-2213 Appeal: An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

Sunbridge Villas R-PZD 06-2213: An ordinance establishing a Residential Planned Zoning District title R-PZD 06-2213, Sunbridge Villas, located northwest of Sunbridge Drive and Villa Blvd., Villa Mobile Home Park, containing approximately 20.92 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Jeremy Pate gave a brief description of the item. He stated this PZD was not forwarded to you because it was a split vote of 4-4 at the Planning Commission meeting and it takes five votes to get to the City Council. Staff did recommend approval of this planned zoning district as a preliminary plat and zoning approval. I would like this project left on this reading. There are some issues we would like to work out and we will be submitting a new Exhibit "C" which is the conditions of approval. One issue that needs to be addressed is there is a request for cart service as opposed to dumpster service which is required for any dwelling unit over single family.

Alderman Thiel: You are not recommending cart service because of the street sizes or what?

Jeremy Pate: The ordinance just simply states that all developments other than single family are required to have a dumpster service.

Alderman Thiel: I would really like to see that come forward because there has always been a move to try to have recycling in apartments and this would just be a start toward looking at ways to do that.

City Attorney Kit Williams read the ordinance.

Alderman Cook: Their statement of commitments mentions the City Water Department stated they would replace existing service lines. I did not know the City replaced any service lines.

Jeremy Pate: It is part of an on going project from our Water and Sewer Division to replace some water lines in this area.

Mayor Coody: Are they mains and not private lines?

Ron Petrie: I believe it is the service line connection

Hugh Earnest: I believe it is a routine replacement process for that area.

Alderman Cook: I just want to make sure we are not running the main line into these lots. When I see service line that's what I think.

This ordinance was left on the First Reading.

The following item was added to the agenda:

Komatsu Jaw Crusher: An ordinance waiving competitive bidding and approving the purchases of a 2002 Komatsu BR380 JG-1 24x42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5x12 Foot Deck Screen Portable Screen Plant through Ritchie Brothers Auctioneers up to a maximum amount of $318,000.00, and approving a budget adjustment in the amount of $318,000.00.

Alderman Thiel moved to add the Komatsu Jaw Crusher to the agenda. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: I talked to the Equipment Committee members and they were not excited about putting this on the agenda because it has not been before the Equipment Committee.

Mayor Coody: The trouble is we just found out about this two days ago and the auction is tomorrow. So they have not had a chance to bring it to the Equipment Committee.

Terry Gulley, Transportation Manager: I heard about this Friday and we checked into the ability for us to bid on an auction item. We can bid on this. I know it is late notice and I apologize for that. This is a program that we had looked at initiating, we just had not done it due to financial considerations because we were looking at full price equipment which would be in the neighborhood of $500,000 plus.

Mr. Gulley gave the Council a brief explanation of the equipment that will be sold at the auction and the condition of the equipment. He stated this is time sensitive due to the auction being tomorrow. He stated he wanted to give the Council the opportunity to look at this and show them the potential savings that he felt they could realize from it. He stated in the packet is information on the cost savings of purchasing the equipment and where the funds would come from to purchase the equipment.

Mayor Coody: One thing that is very interesting to me is that we can recycle concrete this way and we will not have to landfill, haul it or dump it, we will be able to use it again.

Terry Gulley: Our waste material now goes to OMI we have a dump site out there that is rapidly filling up. We looked at this as an environmentally way that we could possibly mine that past dumped concrete out of there and crush it and use that material and hopefully prevent having to buy up to $150,000 of crushed material every year. They do this on the State highways.

He stated he thought this was a very vital option to save us some money and offset the spending that we do.

Alderman Reynolds: I went and looked at this equipment and I talked to the Equipment Committee and they are not interested.

Mayor Coody: So we need to buy brand new equipment whenever we can buy almost brand new equipment for less.

Alderman Cook: Are we going to continue to have the volume necessary to justify spending this kind of money for this equipment? My concern is the maintenance of the rock crusher.

Terry Gulley: There are masses amount of concrete products at OMI that we can extract and crush. We are going to have to find another site somewhere soon to start dumping this material that we are digging out of ditches. This is a potential to be able to use the OMI site for several more years. Once we crush all the rock we have we still have the option of selling the machine and recovering a portion of our cost. It is not something that we are going to wear out quickly because I anticipate building a stock pile of materials.

Mayor Coody: So we have to buy new material now.

Terry Gulley: We buy $150,000 a year.

Alderman Rhoads also asked about the maintenance issue.

David Bragg: The maintenance cost that we estimated is in Terry's information. The jaws on the crusher are a normal wear item. We can certainly get the vast majority of our money back if we do not need this in two years.

Mayor Coody: It could pay for itself the first year and a half.

Terry Gully: I am constantly looking at ways to reduce cost and there are many areas where I can not reduce cost but this is an area where I can. We estimated our maintenance and repairs based on another piece of equipment that we have. I feel we can easily make back the money that we are going to spend and then we will be looking at $150,000 per year that we will not have to spend. Even with the maintenance cost I am looking at paying this back in five years with a $40,000 profit at the end of the five years.

Alderman Thiel stated this sounds like it will save us money, it also sounds like we will utilize material that we are currently land filling and that we can probably make our money back in a few years on this equipment. Mr. Gulley is the expert on our staff regarding this.

Alderman Rhoads: His rational made good sense to me. It would be great if we had time to take it before the committee but if there is a timing issue to get this then we need to act now. We have a fail safe that if the equipment is not good we can get rid of it in the future.

Alderman Ferrell: I think it is a good idea to look at things that come to us as opportunities. One of the things we need to learn about is a cost benefit analysis. The US military bought this equipment and the maintenance was very high. They basically tear themselves up. Plus you are going to need stationary people to run them. There is cost associated with this.

Alderman Lucas: Will it require more people?

Terry Gulley: No. I can't tell exactly what it is going to require until I run it. We will not be running this every week. It will be set up to where it is run in slack periods of time. We can crush rock in the rain. It is an opportunity we are trying to look at. I am looking at ways to reduce cost and this is one that stands out to me plus the ability to mine waste product. Again I apologize for the short notice. For the last two days David and I have researched this fairly extensively. Both of the pieces of equipment are mobile.

Mayor Coody: We talk big about recycling, we talk big about trying to do the right thing by the environment and we talk big about trying to save money by mining concrete out of a land fill that we are just filling up the earth with and buying new material instead of recycling what we have. We talk big about it but if we do not really support it we might as well quit talking about doing the right thing with cycling or cost effectiveness. If you remove your waste from your processes then you save money and you put that money back into your other programs. The money that we would save would go back into the street program, the material we would gain would go back into the street program and we would make money back on this equipment.

The staff that we have has done a marvelous job being very careful and very smart about how we do business. We will add 10% more people but we will get 200% more work done out of it. We will add one piece of equipment and triple our productivity. If this crew says that with this equipment we can really do some good, I trust them; I trust them 100% because they have a track record nobody else in the state can match.

So if we are serious about recycling, saving money and getting more work done for less cost then we should support this. If they did not think this was serious or an opportunity they would not have brought this to us tonight. They would have gone and bought brand new equipment and gone through the Street Committee when we had plenty of time and paid another $150,000 or $200,000, to get essentially the same piece of equipment that we could get tomorrow if the Council approves spending up to and not to exceed the cost out lined in this request.

Terry Gully: $200,000 should buy this crusher that is as far as we would go if it is more than that we are gone.

A discussion followed on the equipment that is proposed to be purchased and the maintenance.

Alderman Cook 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.

Alderman Ferrell: The Mayor told you why you should buy this. The Equipment Committee did not recommend this. All you are hearing is the good stuff about why they want it. You are not hearing everything. You are not hearing what a cost benefit analysis will give you.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 2-4. Alderman Thiel and Rhoads voting yes. Alderman Cook, Ferrell, Lucas and Jordan voting no. Alderman Reynolds abstained.

The Ordinance Failed.

Meeting adjourned at 10:20 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer