

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Nancy Gordon Allen
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
December 19, 2006**

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

ABSENT: Alderman Cook

Pledge of Allegiance

Fayetteville Public Library Board of Trustees Recommendation

Mayor Coody recommended Don Marr be appointed to the Fayetteville Public Library Board of Trustees.

Nominating Committee Report

Alderman Thiel gave the Nominating Committee Report. A copy of the report is attached.

Alderman Thiel moved to approve the Nominating Committee Report. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Alderman Thiel moved to approve the Housing Authority's appointment of Mark Kinion to the Fayetteville Housing Authority and Mayor Coody's appointment of Don Marr to the Library Board of Trustees. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Alderman Thiel moved to add the Frank Sharp Conservation Easement to the Agenda and moved Item # 9 under New Business to Item # 1 under New Business. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

The following item was added to the agenda.

Frank Sharp Conservation Easement: A resolution accepting a Perpetual Conservation Easement from Frank Sharp as Trustee of the Sharpridge Trust of an approximately twenty (20) acre significant natural area on behalf of the people of the City of Fayetteville, Arkansas.

Mayor Coody: Frank Sharp has generously worked with us to dedicate 20 acres of beautiful land to the City of Fayetteville through a conservation easement program. This is going to be used for a trail corridor. I hope this begins a process of other people donating trail corridors and other special pieces of land to the City in this new process. There are some benefits to the land owners that take advantage of this program and also it's a benefit to the City and its citizens as well. I want to thank Frank for his patience in working with us to set this program in place to where not only he can take advantage of it and do some very good work for the City but others can follow in his steps and do the same thing with other pieces of land that they might want to see come in to the public domain.

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

Resolution 210-06 as Recorded in the Office of the City Clerk.

CONSENT:

Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.

Approved

IBM AS400 Records Management System Server: A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908 for the Fayetteville Police Department.

Resolution 211-06 as Recorded in the Office of the City Clerk.

T-G Excavating, Inc: A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

Resolution 212-06 as Recorded in the Office of the City Clerk.

Garver Engineering, Inc: A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857 for Construction Phase Services associated with

construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.

Resolution 213-06 as Recorded in the Office of the City Clerk.

Document Retention Schedule: A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

Resolution 214-06 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

PUBLIC HEARINGS:

Mayor Coody Opened the Public Hearing

Revoke Permit for Casa Torres: A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

Captain Brown with the Police Department gave a brief description of why the Council should consider revoking Casa Torres's license. He stated that there have been various violations. He went over the criminal reports concerning Casa Torres and stated that the owner was found guilty of five criminal citations. He also stated that Casa Torres has not paid any liquor HMR taxes since April 2005. He went on to describe other violations that have occurred.

Alderman Reynolds asked if they had a City privilege license and if all restaurants that serve alcohol are supposed to have a license.

Captain Brown: Yes sir. There is a beer and wine and then also liquor.

Alderman Reynolds: Who patrols that to make sure that the restaurants are serving alcohol has that privilege license on the wall?

Captain Brown: I don't know who does it on a pro-active basis. If we have a complaint then we will go check it. We do not proactively patrol for that.

Alderman Reynolds: I would like to see the Police Department actively patrol the restaurants in and out the door and make sure that they have their ABC permit and their privilege license on the wall because there are some in town that do not have a privilege license.

Sergeant Harter: I can attest to that. Shelly Turberville's office coordinates with my office and we make sure that everyone has renewed, if they haven't we have commonly written citations for non-renewal of the City license.

Captain Brown: So that would be complaint driven. We don't actually go out and look. But once we are notified of a violation we will go out and check.

City Attorney Kit Williams asked Captain Brown if he could explain the most recent incident there so that the public will know why this was brought to the City Council's attention.

Captain Brown: The most recent incident is still under investigation which involved a shooting and that particular incident happened at a time in which that business should've been closed. That is what brought it back to light. To me this is not like a couple of minors slipped through and were served alcohol, this is repeated violations and they are knowingly violating these things.

City Attorney Kit Williams: Do you know the status of their state alcohol permit?

Captain Brown: I do not. Alcohol Beverage Control might have an answer to that question.

Mr. Robinson from the Alcohol Beverage Control: Currently the State Permit is active. It has been my understanding through conversation with the owners that they intend on possibly canceling that permit which they would have to send a cancellation letter to the state in Little Rock. It is currently active and valid until they do so. There are violations pending through our office but it is current at this time until they decide to put in a cancellation or the Administrative Director actually cancels or revokes that permit.

Alderman Ferrell: Could you give me an example of a case of what it takes for you all to suspend somebody's license?

Mr. Robinson: When we have a violation I go in, determine the violation, write it up and I send it to Little Rock and the director there and the on staff attorneys review the violations. They are the ones that determine any type of suspensions or revocations or anything of that nature.

Alderman Reynolds: With the amount of violations that this business has, if we pulled their license they are not allowed to operate correct?

Mr. Robinson: As far as a city privilege license for alcohol if they don't have that it would mean the City would be able to fine them for any alcohol operation within the City of Fayetteville. As far as the state permit, it is different. They can hold the state permit but if they can't operate within the City then it's going to be a bad reflection and they are not going to be able to operate.

Alderman Reynolds: I just wanted to make sure that if we act that the State is going to act and we are going to get something done with this.

Mr. Robinson: Right now violations are pending that I have currently written up for this last incident and I have been in conversation with the owners and let them know that they are pending at this time and as soon as it comes down to me as an offer of settlement I will go over them at that time.

Alderman Reynolds: Are you a new agent or are you in addition to Mr. Jones?

Mr. Robinson: I am, I just started up here around mid October and will be working this area in Washington County. I am more than happy to cooperate in any way as far as the State is concerned.

Alderman Rhoads: How did we give notice of this public hearing?

Captain Brown: A letter was hand delivered by Sergeant Harter to Mr. Torres on the 6th day of December at 3:40 PM notifying him of this hearing.

Alderman Rhoads: Kit, how do we give the public notice of this hearing?

City Attorney Kit Williams: Obviously our agenda is published in the paper prior to the meetings and of course as you are all aware there have been numerous articles on it, no other official notification that I am aware of.

Alderman Rhoads: Isn't there a Spanish speaking newspaper circulated in northwest Arkansas? I am just wondering if we published this where Latinos can read the notice and be here to speak.

City Clerk Sondra Smith: Our agenda does go out to several different people on the agenda list, a lot of the radios and even the Spanish stations in northwest Arkansas are notified of our agenda every time we send an agenda out.

Alderman Rhoads: Including this public notice?

City Clerk Sondra Smith: It's on the agenda.

Claire Whisman, a resident a few blocks from Casa Torres stated that she was in favor of revoking their city permit. We live in an area which has always been bordered by the major commercial area of College Avenue but none of the rest of our College Avenue neighbors have this kind of problem with the Police and that kind of thing. There are also two schools that are within about three blocks of the establishment. I would be in favor of revoking their license.

Susan Pittman, a resident of less than half a mile from Casa Torres stated that on numerous occasions between the hours of 1:00 or 4:00 AM there is music and the bass coming through the house where it wakes up the family. So I just wanted to come here today and say that we have experienced some disruption from the music. It seemed very rarely was the restaurant ever open.

Lisa Thompson, a resident of the area stated that she has three children still in the home. We do expect the commercial enterprises to be good neighbors and Casa Torres has not been a good neighbor. I think you should revoke their license.

Alderman Reynolds: I know there are two schools close to this business but you've got to think about right next door to this is a children's restaurant McDonalds. Right behind it we have a city park and with guns going off we don't need that. I hope that we act firmly on this.

Alderman Allen displayed posters from the restaurant which listed the times the establishment was open. She stated this place does not belong in a neighborhood and I wanted to make a special point of it since this is near my neighbors.

Alderman Rhoads: Is the owner of the establishment here or is anyone going to speak on their behalf. Does he understand what is about to happen?

Miguel Torres, the owner: Yes.

Alderman Rhoads: What does he have to say about it?

Translator for Miguel Torres: He says that he is going to move out from there as soon as possible and he already gave the keys and everything to the landlord so he won't have any business in there any more.

Alderman Rhoads: So he is not protesting the potential revocation.

Translator for Miguel Torres: No, he already turned the permits back to you guys. He told me that we have to write a letter and send it to Little Rock with the permit and that's it. We are not fighting about it.

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

Resolution 215-06 as Recorded in the Office of the City Clerk.

Mayor Coody Closed the Public Hearing

UNFINISHED BUSINESS:

R-PZD 06-1884, Westside Village: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

Jeremy Pate, Director of Current Planning gave a brief description of the item and passed out a memo that listed the conditions of approval which have been worked out by the Street Committee. He went on to list the conditions of approval.

Alderman Jordan stated the Street Committee did discuss this. One of the main questions was when you see street #2; we want that to remain a public street simply because the City would have some control over that street. Although we didn't want to maintain the swell in the middle in which they agreed to do that if I remember correctly. We decided that the radius, the developer is wanting 15 feet and then the City is recommending 25 feet so we went between. I think everyone was in agreement with that.

He went on to thank the developers for their efforts in this and the staff and Administration.

Alderman Jordan moved to adopt the recommendations of the Street Committee. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

City Attorney Kit Williams asked **Jeremy Pate** if they should make a formal motion accepting that Commercial Design Standards have been met with this.

Jeremy Pate: That is all a part of the conditions of approval so I don't think it takes a separate motion.

Mayor Coody stated we appreciate you guys bringing in real top notch urban planners for this kind of project. The ideas of old traditional neighborhoods are really taking root in Fayetteville and we appreciate it.

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

Ordinance 4959 as Recorded in the Office of the City Clerk.

Proposed 2007 Annual Budget & Work Program: A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

Paul Becker, Finance and Internal Services Director gave a presentation to the Council which described comparisons to last year's budget.

Alderman Reynolds: I had a personal meeting with Paul and Kevin and I got my stuff worked out and I hope everybody else did the same thing.

Alderman Lucas thanked **Kevin Springer** for the report on the projects.

Mayor Coody stated that **Alderman Cook** wanted him to ask about the potential addition of the Trails Maintenance Worker for the Parks Department.

Alderman Allen stated that she wanted more information on the non profits and what decides which ones are considered to be funded by the City.

Paul Becker: They are open to submit requests for budgets and we present them to the Council. The recommendations were based on what they received last year.

Alderman Allen: So the non-profits that aren't here simply just did not ask for funding from the city.

Kevin Springer, Budget Manager: The outside agencies must provide a service to the city. We cannot just give money out for grants. What we do is an Alderman may support one of the

agencies and they may bring up funding requests. The agencies that currently receive funding from the City are the ones that get a request form for next year.

Alderman Allen: We had Dominic Swanfield who addressed us two weeks ago and no one said anything so I wanted to respond to his comments and ask the Council members to explain some things to me if they could. I wanted to know whether or not the Police would prefer to have an additional officer hired or if they would rather have more salary if they were given the choice. I wanted to ask the Council why the officers cannot use the vehicles for those of them that live in the City. I wanted more understanding of the Police funding because to me that's at the top of our pyramid. Being safe is the first thing we offer our citizens.

Mayor Coody: Chief, do you want to address this question?

Police Chief Tabor: It would be the Police Administration's opinion that if we were allotted more money in our budget, we would have other priorities above home storage units.

Mayor Coody: Do you have a rough idea of how much money it would cost if we were to do this program.

Police Chief Tabor: Approximately \$50,000 per car to buy and equip it with a computer, a video recorder and all the things it takes to outfit that car. Then you would have to calculate the maintenance, the gas and all those things on top of that.

Mayor Coody: How many cars do you think it would take?

Police Chief Tabor: I really don't know since we do not have a policy describing who would get one. We would have to first come up with that policy. When Chief Hoyt was here during budget time we started looking at that and we made some wild guess as to who would get them. I believe it was about 17 back then but we haven't worked on it since that time.

Mayor Coody: But if you rounded it up to 20 since we have more people now it would be roughly \$1 million.

Police Chief Tabor: That would be a \$1 million just for capital cost and then you would have the operating cost on top of that.

Alderman Allen: I was wondering if the police officers had their choice would they rather have another officer hired or that salary disbursed in raises.

Police Chief Tabor: Even though we need more police officers I am a firm believer in taking care of who we have first. That would be my opinion. I don't know if every police officer has that same opinion. I asked that question around the station a few days ago and it was very apparent from the people I asked that they would rather work a little harder with the number of people that we have and make a little more money.

Alderman Reynolds: This home storage unit started in Springdale by way of a federal grant several years ago.

Police Chief Tabor: That is correct. They allowed them to purchase 20 cars when they initially started.

Alderman Reynolds: Is it still going on?

Police Chief Tabor: I believe the grant stopped. Once you get the grant and get it initially, you have probably saved money on some cars because those cars are going to last longer and people are going to take better care of them. It is the initial outlay of the cost is what's so prohibitive.

Alderman Reynolds: It would cost us a fortune.

Alderman Allen: I know they do it in Rogers and Bentonville too and I thought it was worth exploring.

Police Chief Tabor: I'm not sure if Bentonville and Rogers started theirs as a grant or not, but Springdale definitely did.

Alderman Allen: I called their Police Chiefs and asked if they had the program and they do. I do not know how it is funded. I had a question regarding the Boys and Girls Club. I asked about some concerns that I had concerning the children particularly the Jefferson School students that came from lower economic areas and was told about an outreach program. I have since talked to parents, teachers, and principals and understand that in order to get a scholarship to the youth center you have to have a parent who works 30 or more hours a week or is a full time student. I thought that eliminated a lot of scholarships for students who need it. Also, the Boys and Girls Club outreach children only goes to Garland Square on Tuesdays and to Willow Heights on Thursdays. I don't want to be a killer of the Boys and Girls Club I just want us to make sure that we are servicing all children particularly those who might not have other access to the Boys and Girls Club whose parents might not have the ability to get their children there. I think this is something that we could take a better look at.

Alderman Thiel: We are going to be discussing the Fayetteville Youth Center later on in the meeting. I think that would be a good time to bring these things up and possibly look at their contract a little closer.

Alderman Allen asked about the non-profits. She also inquired about combining the Ozark Military Museum and the Arkansas Air Museum to have the same person serving that instead of two separate salaries there. She stated I also wondered who financed the Lights of the Ozarks and why it is that staff puts that up instead of the folks who ran the jail that used to do it. She stated that in a lot of the non-profit descriptions I found them to be very vague and double talky. I just thought it would be better to be specific about what they are doing so that we are real clear.

Paul Becker: All I can say is that once these are in the budget that is not a guarantee that these organizations will receive funding. They come before the Council and at that point they explain some of these issues. I am really not qualified to answer some of them. These people will be coming before the Council and I'm sure they would be happy to answer your questions. When we talk about our commitment to Police we do have to remember that \$12.5 million out of the \$34.3 million in the General Fund Budget is allocated to Police and Police safety. I think the Council has always considered that a top priority and I think that demonstrates it.

Alderman Ferrell: I had a question for the Downtown Partners.

Paul Becker: Downtown Partners is here and that is later on the agenda.

Alderman Jordan: Paul, I asked during the budget session at the Airport about some funds that were not in the budget. I know that you provided that information but I have misplaced that and I would like to see if you could get me a copy of that.

Paul Becker: I would be happy to.

Alderman Thiel: The other amendment was to add the aerial expansion ladder truck and the need for that based on the high rises that we are starting to get and there was some question about approaching the University for contribution toward that because we have to protect their high rises. My question would be has there been any overture made to start that conversation.

Fire Chief Johnson: We are gathering data to support our wants but it is a work in process and we will be moving in that direction. If we are successful their fair share can be reached in a number of ways. It does not necessarily have to be money from one entity to another. There are a number of things that they are looking at and it is in progress.

Paul Becker: We will fund it with a transfer and then we will take a reading at the appointed time and use as much impact fee money as possible. So we will probably be less than the total cost. I am asking that we budget that one.

Alderman Lucas: It will come out of the Emergency Fund.

Paul Becker: Yes. And we will probably also reimburse a portion from the impact fees.

Mayor Coody explained what the emergency fund was.

Alderman Ferrell: When was the last time we used the emergency fund?

Kevin Springer: We are actually using a little bit of it every year to pay for fire apparatus. It's not just an emergency fund; it is a replacement of public safety vehicles and emergency fund.

Alderman Ferrell: So this would augment the annual fleet budget amount?

Paul Becker: Yes, it would augment the capital program for the replacement vehicles. There is a requirement that we keep a minimum of \$3 million available for disastrous situations.

Alderman Thiel moved to add a Fire Department Ladder Truck to the 2007 Budget. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Mayor Coody: We'll move along to the second amendment that Kyle Cook wanted me to bring up which is to add a Trail Maintenance Worker IV position to the Parks and Recreation Division. The total requested cost is \$58,707 and funding would come from General Fund reserves. I think adding this to the balanced budget would bust it by roughly \$60,000. The more trails we build

the more maintenance workers we are going to need. It's just a matter of if we should do it now or if we should budget it in the next year's budget.

Alderman Thiel: I know this was in the budget last year and I think the choice made by the Council was to add a Code Enforcement Officer which was also necessary.

She went on to express what the public wants to see done. She stated I do think it's something we needed last year. We need it even more this year. I will support it because I think it is something that the public wants us to do.

Alderman Rhoads: What would the Trail Maintenance Worker IV do to earn \$58,700?

Mayor Coody: That includes a vehicle, mower, gasoline and all the capital too. The salary is \$33,000.

Connie Edmonston, Parks and Recreation Director: The capital would be a weed eater, a blower, a vehicle which was \$13,000 and a zero turn mower and those are the capital items and those add up to \$22,000. Then we have annual operations cost for that which would be for their gloves, safety vests, glasses, uniforms, fuel and small equipment maintenance and vehicle maintenance. We have an annual cost of around \$37,000. The initial cost would be \$60,000.

Alderman Thiel: Some of that capital equipment, could that not come from any other fund that is not General.

Connie Edmonston: The maintenance issue cannot be used for HMR or Parks Development fund. It must be acquisition, development, and promotion.

Alderman Thiel moved to add a Trail Maintenance Worker to the 2007 Budget. Alderman Rhoads seconded the motion. Upon roll call the motion failed 2-5. Alderman Thiel and Rhoads voting yes. Alderman Ferrell, Lucas, Jordan, Reynolds and Allen voting no. Alderman Cook was absent.

Alderman Rhoads: When we say this fund or that fund, is that the same thing as an account?

Paul Becker: Not precisely. The funds are isolated for specific use, for example Street Fund gets turn back money from the state and the county and it will only be used for street purposes. That's why you classify it as a fund.

Alderman Rhoads: How many different funds do we have roughly?

Kevin Springer: 22.

Alderman Rhoads: How many accounts do we have?

Kevin Springer: About 4,000.

Alderman Jordan: I read yesterday in the paper that the salary was coming out of the Street Fund and the Water and Sewer Fund, would you please explain that?

Paul Becker: The Sustainability Coordinator is to be funded by energy cost savings, electricity and energy, etc. which we do have a schedule on how much it has risen. Energy costs are spread throughout several funds. The General Fund is the primary fund and it would be allocated to the General Fund, the Water and Sewer and the Street Fund operations based on utility savings cost.

Alderman Jordan: So we are talking about many departments?

Paul Becker: That's correct.

Alderman Jordan: It's not coming out of the Capital Program or the Maintenance Program?

Paul Becker: No it is not, it is strictly operations.

Mayor Coody: We passed out the utility expenditures from 1995-2006. This shows the growth for utility costs year to year. Right now we are up to \$1,861,463 for year to date through September 2006 and all this across all funds.

Alderman Jordan: Whatever cost savings we are getting out of these utility funds is basically going to pay the salary of this individual?

Mayor Coody: Yes, at least.

Alderman Jordan: I know that Alderman Cook wanted to be here before we passed it. He was wondering if we could do the passing of the budget on the 28th when we do Agenda Session.

Mayor Coody: We would have to have a Special City Council meeting.

Alderman Jordan: Well, you are going to be there anyway.

Alderman Rhoads: I'm not sure that I will be there on the 28th.

Alderman Reynolds: I'm not sure I am going to be there.

Alderman Allen: I wanted to ask a little more about Mr. Sustainability. Could you tell us a little more about him or her?

Mayor Coody: As far as the job description, basically we lifted it from the Seattle, Washington sustainability coordinators positions and it is a long list of things that would be everything from making sure each division is doing what we can to increase sustainability meaning there are ways to cut waste by being more efficient with utility usage, packaging, and other things. There are about 15 jobs within this job description that fundamentally this person will be in charge of making sure that the City of Fayetteville is as environmentally thoughtful and efficient as we possibly can.

He went on to describe the goals for this position.

Alderman Allen: So this position would be paid approximately.

Mayor Coody: They would be paid approximately \$60,000. If we want to get somebody good, they are sought after these days, there are more job openings nationwide than there are people to fill them so we would need to pay that to attract somebody good.

Alderman Allen: And the plan was that if they were not able to show us that they could do their job within the course of a year they would go away and we would not sustain them?

Mayor Coody: Yes.

Alderman Allen: It is not something that could be done from within?

Mayor Coody: There is no way that you could add this to anybody's overworked schedule and be effective, that's the problem.

Alderman Rhoads: If this person could also train people to do some of these things then it becomes much more effective and perhaps train people well enough to where they could put themselves out of a job or go on to bigger and better things. I hope that is part of the charge the person has. One person, no matter how good they are at their job will not be as effective as if you have everybody realizing this is what we all need to do and it gets done.

Mayor Coody: We would be using some interns from the University that would come in and help. There is a lot of data entry for trying to assess what our carbon output is and our impact in climate change that takes a lot of number crunching. There are interns available at the University that could work with us for nothing essentially that could work with the sustainability coordinator.

He went on to describe the responsibilities of the sustainability coordinator from Seattle, Washington. He stated we just need one to get us kicked off. Later on if someone wants to add or subtract staff that's for a different City Council and different Mayor to worry about. There are a lot of things we need to do in Fayetteville to make this part of the United States aware of the potential of what we can do to save money and to save environmental deprivation at the same time. If I didn't think it was important, I wouldn't be working so hard to get this person added to the staff. *degradation*

A discussion followed on whether or not they should go ahead and approve the budget or wait until December 28th following Agenda Session.

Tim Smith, a citizen questioned the Sustainability Coordinator position. He stated when you start allocating money to another position, be careful when you have department heads who are responsible for wisdom below them. I think that is where it needs to remain. When you bring all power into one person's position then you lose the democracy that we have in this country and that is supposed to be disseminated out and that would be at the department leaders.

A representative of the Air Museum asked what was the recommendation about the smoke detection system for the city owned hangar. Was that a consideration?

Kevin Springer: It wasn't recommended.

Tim Smith: There is an extinguisher system that has been repaired and a control panel and keyboard that is being replaced. These were things that we had started asking through the museum on behalf of the city to get some funding to do those things. The repairs were made and you have one motion detector and a sprinkler system protecting that building that has no smoke detection in it. I requested to add smoke detection to the east and west wing and the hangar bay. He expressed his concerns about the building being protected.

Alderman Ferrell: I like the way that the budget preparation started earlier and the way that they came forward with it. I will always support fire and police, but with the amount of new positions being added here I won't be able to support, but I like the start on the new way that we are doing this.

Dominic Swanfield, with the Fraternal Order of Police explained who in the city was below the minimum and questioned the pay plan for 2007. He stated that he felt everyone should be brought up to market pay:

A discussion followed between Alderman Thiel and Dominic Swanfield regarding a memo from Gary Dumas with responses to some of Dominic's concerns.

Dominic Swanfield stated that we are behind compared to the market.

Alderman Ferrell stated that he met with the Alderman Compensation Committee and they went over some of Dominic's Concerns. He asked would you say the major exception at the meeting yesterday was the realization that instead of getting 50/50 that it might be a different amount each year for two years.

Dominic Swanfield: I had a chance to look at my data and I felt that there were a few little things and we don't know what it's even going to be.

Alderman Ferrell: From the very beginning we indicated that not every employee was going to get a raise but that we would get to a minimum and we would get to the market. If it's 50/50 or whatever it is, that's addressed to get the employees to market. Part of the agreement was that there would be a cost of living increase.

Dominic Swanfield: As a guarantee?

Alderman Ferrell: The policy that this Council voted on said that.

Dominic Swanfield: So there would be a COLA next January?

Alderman Ferrell: I don't know when it's going to be. We said there would be a COLA but I don't have that in front of me. We also said that every four years we would take a look at the overall thing and every two years we would take a look at where we are on the market.

Dominic Swanfield: Correct.

Alderman Ferrell: We would be at market in two years; we just couldn't afford to do it all at one time. So know that we are going to market and there is going to be a COLA unless something happens and we run out of the emergency fund.

Dominic Swanfield: Would you not agree that by funding \$450,000 that that would place all city employees at market?

Alderman Ferrell: If somebody can come and write us a check for \$450,000 out of somewhere else it could be done in less than two years.

Alderman Thiel: Where does that number come from?

Alderman Jordan: That is what MAG recommended.

Dominic Swanfield: So you do agree that after tonight there will be City employees that are being paid below market value.

Alderman Ferrell: No, what I said was come January 1st no one will be below the minimum and that within two years the MAG target was to have everyone at market, is that your understanding?

Dominic Swanfield: Yes sir.

Alderman Jordan: The way I understood was that in two years everybody would be at market and then if their not we would make whatever adjustments we needed to do to get them to market.

Alderman Reynolds: Being on that committee I will affirm that it should be that way.

Dominic Swanfield: The COLA issue, I don't know when it's been set in stone. There are not very many things that the City does not fund at 100%, but when it comes to the employee's raises or adjustments it has become a common occurrence.

Alderman Ferrell: If I am sitting here next year and other members of the Compensation Committee that said we would give a COLA, come back and smile at me because that was the intent of MAG to give you a fair package.

Alderman Allen: I was just going to make a comment that since I was not a member of making the budget, then I won't vote with my peers. I look forward to being a part of that this next year so that I will have better understanding.

Alderman Rhoads moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 6-1. Alderman Ferrell voting no. Alderman Cook was absent.

Resolution 216-06 as Recorded in the Office of the City Clerk.

Mayor Coody thanked the staff for doing such a good job on the budget.

ADM 06-2322 North Street ROW Dedication Variance: A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the

existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

Alderman Jordan stated this has been through the Street Committee and I guess Ron can give us the final details on everything.

Ron Petrie, City Engineer: We handed out an exhibit at Agenda Session that showed the recommendation of the Street Committee and the revised recommendation from staff. That is 32 feet of right of way from the existing center line. That is what we are requesting it at this time.

Alderman Thiel: Now that is also what they had requested?

Ron Petrie: Yes ma'am.

Alderman Thiel: So we've got them satisfied, Engineering satisfied, I think we should go with this.

Alderman Jordan moved to amend the right of way dedication from 55 feet to 32 feet. **Alderman Thiel** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

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

Resolution 217-06 as Recorded in the Office of the City Clerk.

Stadium Centre Cottages Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 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 December 5, 2006 City Council meeting.*

Alderman Jordan 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 Rhoads** was absent during the vote. **Alderman Cook** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: This was a special Ward 4 Meeting that we held for the neighborhood in this area and their concern was the thru traffic with the density of the new development. What they would like to have is a cul-de-sac in this new one to where they do not have the cut through traffic. I know Mr. Hennelly said he would prefer a "T" but in visiting with Mr. Pate, he doesn't think the "T" is going to work so we may be back to the cul-de-sac.

Jeremy Pate stated that staff does not support not connecting neighborhoods. As a City Council it is your policy to promote connectivity between neighborhoods. We felt it was a relatively low density. It is 17 dwelling units adjacent to a commercial center. We feel that dead end streets

are more difficult for services including school buses, trash trucks, fire department, etc. all create more congestion at one intersection as opposed to connecting these neighborhoods. We find that in most subdivisions, first phase of Bridgeport opposes the second phase of Bridgeport and the third phase of Bridgeport, but in the end they all become one neighborhood. We fully support this plan as it was originally proposed with the connection in terms of the actual logistics. He went on to voice concerns regarding the connection.

Alderman Thiel: I generally try to go along with the Alderman and their response to citizens. I don't think this is going to create a cut thru. In this case I am concerned that you have made a dangerous situation for emergency vehicles. In this one case I am going to have to continue supporting what staff recommended.

Tom Hennelly: There are configurations that are common to allow a vehicle to pull in, back up and pull out instead of making one continuous circular movement around a cul-de-sac. It's not uncommon to do that. The radiuses at the intersection within the development here have been increased to 40 foot radiuses. The Fire Marshall did not think there would be a problem with it. This can easily be configured where you have a common collection center for the roll out dumpsters.

Alderman Thiel: So it doesn't allow for recycling.

Tom Hennelly: It does if you had a common area where all that was collected there would be one stop for the solid waste collection and they would pull up to the short stub street, back out and then drive back out of the development.

Alderman Thiel: On this Lot #10, how are they going to get out of their driveway?

Tom Hennelly: That is a 22 foot street and that driveway has shown to be on the western edge. I know that this is an unusual configuration. We have staff, Planning Commission and neighbors that we are all trying to satisfy.

He went on to describe the improvements that they would make to the area.

Alderman Lucas: I think that all concerned have worked hard to come to a consensus on this. I am generally for connectivity in all areas but in this case the neighborhood has a way in and out and the development has a couple of ways out so it's not one way in for either one of these neighborhoods. It does protect an established neighborhood that has been there a long time. This is something we worked out with them so that they would feel a little more comfortable. I appreciate what Tom has done to work through this.

Larry Lames, a resident from Sandra Street stated at the beginning we did not understand what was happening. Nobody is ever going to be satisfied with all phases of this development but everybody has made concessions. We are trying to live with this new development. We think that because Old Farmington Road is considered a connector then the entrance should be off of Old Farmington Road, not through a small established residential neighborhood. We think that we have come up with a good plan and we hope you support us.

Alderman Jordan: I am going to make an amendment to go to the cul-de-sac because of comments from Mr. Pate.

Tom Hennelly: If we could get you to approve this with a condition that we satisfy the Fire Department and the Solid Waste Department. If we are unable to do that then we'll put a cul-de-sac in there. The loss of unit #11 with the cul-de-sac would really be significant.

Alderman Jordan: If you could work it out then I won't put the cul-de-sac in there, but make it happen.

Tom Hennelly: If we can't satisfy them and get written authorization to Planning that they are okay with this configuration then we will lose unit #11 and put a cul-de-sac in.

Alderman Lucas: And you are going to put a new walk way through there?

Tom Hennelly: Yes ma'am. We have connected Sandra to this development and to the commercial development to the south with a sidewalk and that is also connected to Old Farmington Road. It would be reflected in the final plat at Planning Commission if we lost that one lot.

City Attorney Kit Williams: This is amending it; they want to substitute the newly drawn plat that has been submitted to the City Council tonight.

Alderman Jordan moved to adopt the new plat. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4960 as Recorded in the Office of the City Clerk.

Easement Vacation for Archer (VAC 06-2289) Appeal: An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. *This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a description of the vacation. He stated the applicants have submitted five different options. He referred to option #4 and stated this is the one we discussed with the

applicants. This is essentially the road improvements that Mr. Archer would agree to construct if a portion of the right-of-way is vacated. He went on to describe option #4.

Alderman Jordan: What we discussed with the neighborhood and Mr. Archer was everybody seemed to be in agreement of not vacating that road up there. The sidewalk would remain on the south side and then where Sang is we could meander the sidewalk up that whole side. That is what I remember being discussed last night and being agreed upon.

Alderman Lucas: There will be a curb and gutter on the south side.

Alderman Allen: Jeremy, I wondered if the applicant had offered a Bill of Assurance with this about the sidewalk.

Jeremy Pate: No, Ma'am. It would be a part of this ordinance and the conditions.

Alderman Allen: Would the sidewalk be lighted?

Jeremy Pate: I would have to ask the applicants that.

Alderman Allen: What would the sidewalk be made of?

Jeremy Pate: Asphalt was the recommendation the Planning Commission approved.

Alderman Allen: It seems like those who would be most apt to use the sidewalk would be those who have come from a ballgame. It would be dark and there would be need for lighting.

Jeremy Pate: As part of the Planning Commission's review of the large scale they were required to install two street lights at the two intersections.

City Attorney Kit Williams: The sidewalk will be within the right-of-way. So it's not going to be that far from the road so it would still receive light from the street lights.

Ron Petric: There will be some other exceptions where we'll need to in only one location go outside of that 30 feet to save a very large oak tree.

Mayor Coody: Why asphalt instead of concrete?

Jeremy Pate: The Planning Commission discussed the use of concrete versus asphalt and it was felt that the concrete application here would be extremely bright and would not go along with the character of this area.

City Attorney Kit Williams *read the proposed amendments to the ordinance.*

City Attorney Kit Williams: We need to ask the applicant what he remembers.

Mayor Coody: Mr. Archer, is everything that Kit just mentioned squared with your memory of everything that has been agreed to.

Julian Archer, the applicant: Yes. It comes down to the sidewalk and the reason you have option #4 diagramed the way it is, it wasn't until today in a meeting with Ron Petrie and discussing the possibility of having the sidewalk on the south side and moving our horse fence to accommodate the sidewalk weaving through the trees. We would like you to take that as the issue under consideration.

City Attorney Kit Williams: I thought that maybe at this point we don't need the 5th condition which talks about Solid Waste having access.

Jeremy Pate: That is correct because it would remain a public street, two-way and paved so section #5 could be eliminated. I would ask that on section #1 an additional sentence be added: Any portion of the sidewalk located outside of the right-of-way shall be located within the public access easement just in case any portion meanders around a large tree and gets outside of that right-of-way, an access easement would be filed over that.

Alderman Lucas: This is west of Sang, we talked about meandering it the same way east of Sang, can we include that in here?

City Attorney Kit Williams: I don't think that we can. We would have to look at what was appealed. It was a vacation to the west of that and not anything farther down the hill and so I don't think we can consider any of that.

Lynn Wade, a citizen of 100 N. Sang Avenue stated I appreciate what the staff, Council members and the applicants have done. He stated his concerns about the area east of Sang.

City Attorney Kit Williams: I would yield to Ron on the ditch as opposed to the storm sewer pipe up there.

Ron Petrie: If it remained a public system I would say it should be brought up to public standards and not be an open ditch. That is what I would recommend.

City Attorney Kit Williams: In regards to the PZD that has already been approved which did not have the sidewalk meandering, instead had the sidewalk by the street; obviously the City Council would have the right to amend the PZD ordinance that was passed if that was your desire. The applicant can bring it forward or the City Council can bring it forward. Tonight you have a vacation ordinance that has been amended and that is what is before you right now.

Alderman Jordan: So we vote whether we are going to vacate that area and make it a one-way street?

City Attorney Kit Williams: No, the street will remain a public two way street. It would only be vacating that portion of the right-of-way which is south of the sidewalk on several conditions one of which being if the sidewalks goes beyond the right-of-way we have an access easement for that part of the site.

Alderman Lucas: So what are we vacating?

City Attorney Kit Williams referred to the drawing on section 4 which showed the existing right of way.

Alderman Jordan: Are you talking about on the south side?

City Attorney Kit Williams: Yes, the south side only.

Ron Petrie: It's approximately 10-15 feet south of the existing fence.

Alderman Jordan: So the first thing we have to do is approve the vacation of this?

City Attorney Kit Williams: The ordinance will do everything that you want it to do at this point in time after you amended it.

Alderman Jordan: This is not going to address how the sidewalk is going to be built and it is not going to address whether that remains a one-way or two-way street.

City Attorney Kit Williams: It will remain a public street so therefore it's a two-way street and the sidewalk will be built out of asphalt and it will be to the standards that the City Engineer will check out and approve and is pretty well set if this ordinance passes.

Alderman Jordan moved to amend the ordinance. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent.

Alderman Jordan thanked the neighborhood, the staff, and everyone who has worked on this.

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

Ordinance 4961 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

The following item was moved from Item #9 under New Business to Item # 1 New Business.

Morningside Drive and Fletcher Street: An ordinance to vacate the street right-of-way obtained for the connection of Morningside Drive and Fletcher Street.

City Attorney Kit Williams: Since this vacation goes over property that I have ownership interest in I am going to have to recuse and have the Assistant City Attorney David Whitaker sit in for me.

City Attorney Kit Williams recused from this agenda item and Assistant City Attorney David Whitaker took his seat.

Mayor Coody: This was brought forward by Alderman Reynolds prompted by a lady that lives near Huntsville Road who was mowing a piece of the right-of-way and wanted to control it. I guess Alderman Reynolds wants to vacate the entire right-of-way up to Fletcher Street?

Alderman Reynolds: Either up to Fletcher or up to an area, and I want the Trails Coordinator to speak on that. The lady's grandson is here that asked for this and I'd like for him to speak.

Assistant City Attorney David Whitaker read the ordinance.

Matt Mihalevich, Trails Coordinator pointed out that the right-of-way does have a purpose according to the Fayetteville Alternative Transportation and Trails Plan it shows that as an on street linkage for pedestrian access. He stated since it wouldn't be a street, the intent of the master plan is to show that that would be a connection for a trail. He discussed a memo that he provided to the City Council. He stated I just wanted to add a Section 3 that says it is also a multi-use trail easement. Then we can still vacate but have an easement.

Mayor Coody: I think we need to do that.

Alderman Thiel: I agree whole heartedly that we need to keep the trail easement but they want sidewalks too. I have been hammering for a sidewalk on Morningside Drive since I have been elected. We have part of the sidewalk and we need to finish that and then it could connect both ways to this trail which would be great.

Alderman Reynolds: When I brought this forward I had no idea they had changed this to a trail corridor.

Emily Williams, a citizen stated her family is who will be affected by this proposed trail. The reason the land was taken for the City was to build a road. That's not going to happen. She stated to go in and build a trail like you are talking about you are going to destroy massive numbers of trees and rock formations. You are going to be destroying more property that is privately owned so that you can build a trail that people will not be able to use because of the terrain itself. There are already trails back there that are of the type that you are talking about when you talk about people wanting to be in nature. The other part of what I wanted to address is what putting a trail there is going to mean personally to those of us who live there. This property was only given up under threat of condemnation. This area that you are talking about runs through the back yard of the home I live in. You are opening up my back yard to daily access to the public. Please consider this very carefully before you decide that you need to keep it on the map as a trail and keep an easement as a trail. I am asking that you vacate it and please don't vote to keep an easement for a trail.

Alderman Ferrell: Emily, I appreciate the fact that you have let people come through there. I know that there are rocks up there bigger than dump trucks and it certainly doesn't lend itself to building anything other than to be the way it is.

Alderman Thiel: The transmission line that is shown on the first map does go behind your house. This other trail loop is a different trail loop, that is the Sequoyah Reserve.

Emily Williams: I think it still goes across our land but we have no idea when it was put there or why.

Alderman Thiel: We are not looking at that part; we're just looking at the part that is shown here which does go right behind your house there.

Emily Williams: I have felt for years like I was living under a constant threat. It is in my back yard.

Alderman Thiel: In looking at this, the loop that starts at the south end of Mt. Sequoyah Woods and comes down and back around, we don't have that easement do we?

Matt Mihalevich: No.

Emily Williams: We were really surprised when we found out it had been gone on the map.

Alderman Thiel: That is a better trail map but we don't have that easement. We have this easement.

Matt Mihalevich: We would be interested in shifting it a little bit. It could work better for constructability if we moved it, but if we vacate this without any easement on it we have lost our bargaining power totally. There are things we can work out here to make it more feasible.

Mayor Coody: If we keep it we could move it at some later date.

Emily Williams: I don't think it is appropriate for any of our family members to get in that type of discussion tonight. Personally I feel it might be something the family might be interested in doing at some point because we already have trails back there. It probably is appropriate to vacate this because it's not an appropriate trail but you are going to hold it over our heads for another five or six years so we can get something else from you instead. We have allowed a lot of access to that area and it just leaves a bad taste in my mouth.

Jeff Williams, a citizen: I was going to yield to the grandson of the lady you are doing this for.

Alderman Reynolds: When I brought this forward I did not know that this map existed. I thought we had a street right-of-way that was never going to be used because there is an ordinance that says this can't be built. So for the reason this was bought, it will never be used for that. I'm sure that if the grandson knows that there is going to be a trail, I'm sure he doesn't care. He is looking for someone that is going to take care of it instead of her keeping this right of way up right next to her house. When I found out that we were the owner of the land I brought it forward to get it done.

Mayor Coody: If the whole purpose of this is to keep the right-of-way mowed, couldn't we just mow our right-of-way.

Alderman Reynolds: You don't have a department that has a piece of equipment to get in there and take care of it.

Mayor Coody: How is it being mowed now?

Alderman Reynolds: The little lady has to pay to have it mowed and has for twenty years. What we need to do is put this on the table and the Council needs to walk this and see what they can and can't do without violating this piece of property because it's a beautiful piece of property.

Jeff Williams gave a history of his grandparent's property. He listed the actions that have been taken by the City over the years. He asked the City Council to do the right thing and vacate this property back to the landowners from which it was taken so many years ago.

Alderman Thiel: We still have to retain the utility easement don't we?

David Jurgens, Water & Wastewater Director: A 30" line is existing and we are replacing the 24" line a little south from here. At some point we are going to have to replace this 30" line or put in another line parallel to it. This vacation has not gone through the normal process that vacations go through. My recommendation to you would be to have this go through the normal staffing process so that there we can be a deliberate action rather than a hasty action.

Alderman Reynolds: I asked this Council to go out and tour this piece of property before you make any moves on it to change it.

Alderman Thiel: I would also think it's a good idea that staff reviews this because it does have a lot to do with utility easements.

Emily Williams: We have never questioned the City's need to retain utility easements across that. There is a water main in there and we know that. We are not saying that those things should be given up.

Alderman Reynolds: At least we'll get things working.

A discussion followed on where the ordinance should be left.

Alderman Thiel moved to table the ordinance indefinitely. Alderman Reynolds seconded the motion. Upon roll call the motion to table passed 6-0. Alderman Rhoads was absent during the vote. Alderman Cook was absent.

This ordinance was Tabled Indefinitely.

City Attorney Kit Williams returned to his seat.

RZN 06-2336 Sloan-Broyles and Persimmon: An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff is recommending approval as did Planning Commission 8-0.

Alderman Jordan 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 Rhoads was absent during the vote. Alderman Cook was absent.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

ADM 06-2382 House Vacation Extension: An ordinance approving ADM 06-2382, for property located at the southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated we are recommending that the easement be vacated and the utilities be relocated when the project happens as opposed to having a timeline that doesn't coincide with the project that's occurring.

Alderman Jordan 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 Rhoads** was absent during the vote. **Alderman Cook** was absent.

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. **Alderman Cook** was absent.

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. **Alderman Cook** was absent.

Ordinance 4962 as Recorded in the Office of the City Clerk.

Amend Chapter 34, Purchases and Contracts: An ordinance to amend §34.23 of the Fayetteville Code Purchases and Contracts not in excess of \$20,000 by enacting a sole source subsection.

City Attorney Kit Williams read the ordinance.

Peggy Vice, Purchasing Manager stated there are unique things to a specific manufacturer and those things are impossible to get quotes for. If we feel that it can be quoted then we will research it. If we find out it can't be quoted then we sign off on it.

Alderman Ferrell read several examples that were provided in the agenda packet. He stated this saves time and time saves money.

Alderman Ferrell 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 Rhoads** was absent during the vote. **Alderman Cook** was absent.

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. **Alderman Cook** was absent.

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. **Alderman Cook** was absent.

Ordinance 4963 as Recorded in the Office of the City Clerk

Fayetteville Youth Center, Inc. Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000 to provide public recreation services for the youth and citizens of Fayetteville for 2007.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks and Recreation Director: I just wanted to make a recommendation that we do continue this. This has been a joint agreement that we have had for the last 40 years; it has worked and benefited our citizens.

Eric Schultz, Director of the Boys and Girls Club briefly described the outreach program.

Mayor Coody asked how much a scholarship to the Boys and Girls Club was worth.

Eric Schultz: \$60 is our membership for one year.

Mayor Coody: So it's worth \$60?

Eric Schultz: That's correct.

He went on to describe some of the services the Boys and Girls Club provides.

Alderman Thiel stated that the after school day care program is the one that people do have to meet certain qualifications for.

Eric Shcultz: If you are speaking specifically of Owl Creek, the majority of those kids that come to the club, they come for either cost of membership or for free and a majority of them are on scholarship. We offer licensed day care programs at all of our elementary schools and those are paid for programs.

Alderman Thiel: There are 1,100 scholarships and that includes the 117 that are outreach?

Eric Schultz: That's correct.

Alderman Thiel: Youth and families and that's paid for. And that's 1 out of 6 of the membership?

Eric Schultz: Approximately, we have about 6,500 active members.

Alderman Allen: There must be a lot of misinformation out there. I'm getting my information from teachers and councilors at the schools. Is that method to determine how one gets a scholarship accurate?

Eric Schultz: We basically follow DHS guidelines. If they qualify for DHS they qualify. It's based on the number of people in your household and an income guideline.

Alderman Allen: I just have a lot of concern that we are not reaching everybody equally and some of these children are so at risk that they are the ones that need it most.

Eric Schultz discussed the loss of the Community Development Block Grant funding. He stated we felt it was important to service the kids from Owl Creek everyday to the club. We are open during the school year seven days a week. We have had to make some adjustments with less funding.

Alderman Allen: I was told that about 20 children who were at Jefferson are in the program. The children who have a parent that can drive them there are the ones who are involved and that seems like it will miss an awful lot.

Eric Schultz: They are involved in which particular program?

Alderman Allen: In the after school program.

Eric Schultz: The majority of our kids that are involved are the kids that are coming from Owl Creek unless we go out and outreach to them through the program I spoke of earlier.

Alderman Allen: You feel that the outreach program that goes one day a week to Willow Heights and Garland Square is adequate.

Eric Schultz: I think it's good with the funding we have available. We would like to expand that program. Over the years as the dynamics of our community change it's going to be more important to outreach all kids in all areas.

Alderman Allen: I think it's important to all kids but I wanted to see if you saw this as a priority.

Eric Schultz: Definitely, I think our outreach program is awesome. It's only 117 kids. Does it need to get bigger, of course, and we will work at doing that but we're not there yet.

Alderman Allen: I just wanted to address my concerns about making sure that we reach these at risk children in the most effective way possible.

Eric Schultz: I would be willing to say we are going to do that and I'd love to show you the programs that we are offering now and to keep discussing ways that we can enlarge and grow those programs.

Alderman Jordan: I would like to work with Alderman Allen on that as well and get with you on reaching some of the inner city kids.

Alderman Ferrell: I guess we all can improve. I both see and hear a tremendous amount of good that the Boys and Girls Club does and the service to this community. You make the lives of a lot of young people much better in this community.

Alderman Lucas: I love to go in there because there are kids everywhere just doing all sorts of things. They are so happy. I think you do a great job.

Alderman Thiel: I just want to note that the contract we are doing is with the Fayetteville Youth Center Inc. and they are also jointly responsible with the Fayetteville School systems to provide staffing and programming maintenance, promotion development at Asbell, Holcomb, Vandergriff, and the Boys and Girls Club on Ruppel. It's a little bit bigger than just the Boys and Girls Club.

Eric Schultz described the programs included in the partnership with Parks and Recreation.

Alderman Thiel: We are getting a big bang for our buck. I totally agree with Nancy and every year we have asked the question as to what you are doing as far as outreach and scholarships. We may have to consider more funding to make those happen but that is something that is near and dear to all of us.

Alderman Jordan 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 Rhoads** was absent during the vote. **Alderman Cook** was absent.

City Attorney Kit Williams read the ordinance.

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

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. **Alderman Cook** was absent.

Ordinance 4964 as Recorded in the Office of the City Clerk

LSD 06-2278 Shoppes at Shiloh Appeal: An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.

Jeremy Pate: The applicant has requested that this item be tabled indefinitely. Staff was not supportive of what they were proposing. They were not supportive at the Planning Commission. I believe what they are intending on doing is going ahead with the Planning Commission's recommendation and beginning construction. If at such time they want to bring this back before you they can do that if it has been tabled. So we recommend that it be tabled indefinitely.

Alderman Jordan moved to table the appeal indefinitely. Alderman Lucas seconded the motion. Upon roll call the motion to table passed 6-0. Alderman Rhoads was absent during the vote. Alderman Cook was absent.

Alderman Ferrell: Jeremy, were you guys able to work out the curb cut?

Jeremy Pate: Not yet, they have elected to just go forward with what the Planning Commission approved at this time.

This ordinance was Tabled Indefinitely.

CUP 06-2295 DIDICOM Appeal: An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.

Jeremy Pate gave a brief description of the appeal. He stated staff did recommend approval and the Planning Commission agreed with the findings that we require for a cellular tower that is part of our ordinance and voted 6-2 in favor of this request. I understand that three alderman have appealed based on comments by neighbors.

Alderman Jordan: The main reason I appealed this is that the Planning Commission had okayed a cell tower inside the city limits. I also found out that they had one that was going to be approved anytime. I could not understand why we would put two cell towers together within 300 yards. I wanted some clarification on if the other one has been approved then do we need two of them together.

Jeremy Pate: I can confirm on Friday it was approved. Both applicants are going forward with their application. The Planning Commission could not consider that and our ordinances don't say that you consider something that might be constructed, it says if it is under construction or existing. So they were simply following the ordinances in their recommendation.

Alderman Jordan: If the one in the county has been approved would it have the ability to handle everything? Why do we need two of them together?

Jeremy Pate: If there were a tower in the county already standing there today, we likely would not have recommended approval of the other one. There's not a tower standing in the county today and we don't know if there is going to be one.

Alderman Lucas: Jeremy, on page seven it states the pole was conditionally approved on November 7th so that wasn't taken into consideration?

Jeremy Pate: No, our ordinances state that it has to be in existence or under construction and neither of those were. The approval that was intended to be earlier did not occur and so it was actually Friday, December 15th when it was finally approved by the county.

Alderman Lucas: So it wasn't conditionally approved on November 7th?

Jeremy Pate: It had a condition upon them providing the standard reports that they have to provide.

Alderman Lucas: The National Environmental Policy Act Report.

Jeremy Pate: That's correct.

Gary Ludwig, a representative of Smith Communications, LLC stated they have a permit from the County, a notice to proceed and we are under construction.

He briefly gave the history of Smith Communications, LLC. He stated on November 13th the Planning Commission tabled the conditional use permit for a couple of weeks. Commissioner Ostner asked that the applicant contact the county applicant. At the November 27th meeting when asked if they had contacted the county applicant Didicom stated they did nothing and that the carrier called Smith Communications. I have been in all the negotiations and Smith has only had two phone calls from their carrier and those were on November 9th and 10th. That would be reason #1 for denial. He went on to list reasons for denial. He stated we are under construction at this time.

Mayor Coody: 195' tower? What is the limit that we attach on ours?

Gary Ludwig: 150'.

Alderman Ferrell clarified that the county pole is high enough to accommodate other carriers.

Gary Ludwig: Correct. The carrier that we are working for has requested 195'. That is why we went to the county knowing what we've been through in the city. This search area has been before the Planning Commission and the City Attorney's office as a possibility site for 6-8 months. It just so happened that one carrier went to one construction company and the other carrier went to another and they both ended up in the same spot.

Alderman Jordan: The thing I keep trying to come back to, if you have permission to build your tower in the county why does it make you any difference if one goes up in the city.

Gary Ludwig: I'm looking at your ordinance and the City says that they can't be within 300 feet of each other.

City Attorney Kit Williams: I don't think that is what the ordinance is saying. Even though the Planning Commission might have said please contact the other carrier the ordinance does not say that. The ordinance says describe your efforts to co-locate your facility on one of the poles

or towers that currently exists or is under construction. If you believe the applicant, they didn't get under construction until this weekend, not when the Planning Commission was meeting and deciding all this. They were under no obligation under our ordinances to try to co-locate on an unapproved tower at that point in time.

Alderman Thiel: You mentioned the Planning Commission and how they voted. The Planning Commission did not vote for this unanimously.

Alderman Allen: This body appoints the Planning Commission and I would say they make an awful lot of effort to do the right thing.

Gary Ludwig: I agree, the Planning Commission was informed that we were going to build the tower. That is the point I am trying to make.

Dave Reynolds, representing the county tower stated I have my clients, our customers, our tower and our permit that is under construction that is going to be built. There is plenty of room. If this other company wants to co-locate on our tower, we can't co-locate on theirs because it's not tall enough. That is why we are here.

Walton Morris, a representative of DIDICOM stated DIDICOM submitted its application well before the County application got started. The City's process takes a while to go through. This tower is being built for Alltel and Cingular and will go on the tower toward the end of 2007. DIDICOM builds for them every year. The customers of ours prefer to use DIDICOM and don't want to be forced to do business with someone they don't do business with.

He pointed out the 11 conditions of approval that DIDICOM agreed to meet. He stated it is not fair to DIDICOM to be penalized and have long term customers stolen from it because the cities procedures are longer. He pointed out the problems he found with the county tower. He asked the City Council to deny the appeal and affirm the Planning Commission's actions.

Alderman Ferrell: Did you say that DIDICOM's application was placed with the City prior to the county application?

Walton Morris: That is my understanding Mr. Ferrell.

Alderman Ferrell asked if there was any confirmation of this.

Walton Morris: My partner who has been handling this is out of town and he asked me to appear before the Council tonight so I can't state that.

Jeremy Pate: The application was submitted to the City October 5th. The person representing the county just spoke and said they submitted their application in November. He did not give a specific date but that is what he just said.

Walton Morris: I have been informed that DIDICOM did the balloon test that you require in September and did the public notification at that same time.

Alderman Ferrell asked Mr. Ludwig what his recollection was on the application date with the County.

Gary Ludwig: That happened the first week of November. We were given that week and there were a couple of questions, we came back within three days and they gave us the permit to build in the County, it was administrative review contingent upon the NEPA Report. It was completed and supplied to them last Wednesday. They reviewed it as complete and we had the notice to proceed at that time.

Alderman Reynolds: Jeremy, when Smith came in the first time for their permit it was behind their building. So they dropped that site and it went away until they came up with this site at the County so they could build a 190' pole. Did they build the one on Leverett Street?

Jeremy Pate: Yes, there is also one being constructed on Deane Street this year and there is also one under application on Old Wire all by the same applicant.

City Attorney Kit Williams: Did they not build the one on Joyce Street, oh no I guess that was on Zion.

Jeremy Pate: I think that was at the end of 2005 or early 2006 on Zion.

Alderman Reynolds: Are there any rules about building something like this in our growth area?

Jeremy Pate: No sir.

Alderman Reynolds: The County has the right to do whatever they want to do?

Jeremy Pate: That's correct.

Alderman Reynolds: If we take that in we are going to get that some day.

Jeremy Pate: Yes sir, if we annex that property.

City Attorney Kit Williams: I need to advise you that when we are dealing with cell towers there are federal laws that restrict the powers of cities to deny cell towers. We also are allowed to have reasonable regulations which we tried to put into the code. In looking at the code there was not another tower under construction or existing and therefore my advice to the Planning Commission on that night is that we did not have a legal right to turn down with a single citizen complaining and the rest of the complaining being the other cell tower company. We can consider some esthetics. That has to be supported by a lot of evidence before it is reasonable for a city to turn down a cell tower application. I would have great difficulty in finding when looking at our Unified Development Code grounds to turn down this particular application because there is not an existing tower. When it was considered by the Planning Commission there was not any hint of construction at that time because it had not been approved. My recommendation would be to follow what the Planning staff recommended that the tower that was first proposed and went through our process and has met the terms and conditions of this particular chapter. I support the Planning staff's recommendation of approval of that conditional use.

Alderman Lucas: I was one of the ones that signed the appeal. At that time I did not know all of this and I thought it was worth an appeal to hear all the facts. I think there is not much we can

do about the one in the county. I think the one in the city has met all of the requirements so I will not support the appeal.

Alderman Jordan: If I had to bring the appeal forward again I would simply because I didn't know. When you look at two cell towers together you think why do we need two of these together. If you look at it realistically the one in the county is going to go up one way or the other. The one in the City; if our attorney advises that it would be shaky to turn it down then I don't see much recourse than to deny the appeal.

Alderman Lucas: We might look at the Planning area to see if there is something we can do to see that this doesn't happen again.

Jeremy Pate: We don't have any jurisdiction under state statute to do that but Washington County now has zoning. In speaking with the Washington County Planner, from now on a cell tower will take a conditional use permit in the county. The Washington County Planning Ward will be evaluating those under the Conditional Use Permit process. So at least there will be a process in place.

Alderman Lucas: I know we do streets in the planning area, there's nothing we can bring forward for cell towers?

Jeremy Pate: No Ma'am.

Alderman Ferrell: Jeremy, the way it is right now, there will be a tower constructed in the county and then if we deny the appeal there will be one constructed in the city.

Jeremy Pate: Yes sir.

Alderman Lucas moved to deny the appeal. Alderman Reynolds seconded the motion. Upon roll call the motion passed 5-1. Alderman Ferrell voting no. Alderman Rhoads was absent during the vote. Alderman Cook was absent.

Community Access Television Contract Renewal: A resolution approving a contract in the amount of \$93,000 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

Susan Thomas, Public Information and Policy Advisor gave a brief explanation of the contract.

Alderman Ferrell: I asked about an amendment to the proposed contract. I am concerned about what a citizen turns on and looks at or a child or visitor to this city.

Alderman Ferrell read his amendment that was previously submitted to the Council titled Section #14.

Alderman Thiel: I don't have a problem with adding this section, however, I will say that I watched the Telecommunications Board meeting which reciprocated this and I really did not see what I found to be anything that necessitated this. I respect Alderman Ferrell's concern about the public perception of these committees that everyone should be respectful of everyone.

Alderman Allen: I respect your concerns Alderman Ferrell. I do think that confrontations can be interpreted in a lot of different ways and I wonder how this would be judged.

City Attorney Kit Williams: It would be judged by the City Council so if staff felt that they needed to bring something to you that would justify saying that they were in breach of contract it would be up to you to decide whether or not the conduct that the staff complained about or someone complained about was sufficient in your eyes to decide that they had breached the contract.

Alderman Allen: So to actually watch and be kind of a jury to decide whether or not it was contentious?

City Attorney Kit Williams: You wouldn't want to decide whether or not it was contentious but whether it was rude or disrespectful. It would be your decision.

Susan Thomas: I think we have made some substantial improvements last year as far as communication and getting along. I think there is a long way to go. I think that with the substantial equipment changes that we are proposing in the next year along with some substantial structural changes I hope this is the last time we have to discuss behavior issues with the Peg Center in front of the Council.

Mayor Coody: It was a productive meeting this morning between the CAT staff and the government channel staff and apparently it was amicable. The working class folks that actually run the cameras and do the production work get along real well.

Alderman Allen: It seems a bit ironic to me for us to be judging the speech of the free speech. I guess I don't clearly understand what happened that was so contentious. Is it so aggressive that we can not bring it forward and speak of it?

Alderman Ferrell: There was a round table discussion and I think when we are in that public persona we need to have our best foot forward. I have had a lot of comments from people concerning this and most of them have feelings about this and most of them are supportive of it. I am only addressing one thing; I am asking if we can resolve this very easily.

Sky Blaylock, CAT: I just wanted to say how much we appreciate the city's funding and the wonderful facility that we have. We have one of the best and oldest Public Access facilities in the country. We have state of the art equipment; we are able to train people to get jobs, to communicate and to be tolerant. I still need to listen and that is something that I have been working on. I would like you to know that next year is going to be the best ever.

Scott McClendon, attorney for CAT: You as a City Council need to realize the Telecom Board approved the contract, they deal with this every month. It did not contain any sort of play nice clause. Apparently the people that were concerned about having been wronged in this episode are not complaining. That is my main point. If you watch the video of any of these meetings there has been nothing that would anywhere come close to being rude or disrespectful even if those terms had any sort of legally binding or enforceable definition. The best thing that you could do for the Telecom Board and anybody that appears before it is buy them a copy of Roberts Rules of Order and give them the authority to enforce those rules. Those debates need to

be controlled some people do not have a problem doing that but some of your appointed volunteer boards do. This particular contract clause is also kind of one sided; CAT is the only entity that can be found at fault under this and create a breach of the contract. This is bound to lead to litigation if you leave it in there because somebody is going to do something that hurts somebody's feelings and we are going to end up here again and I know that none of you want that. I don't want it; I am not getting paid for this. I would recommend that you adopt the contract as it was originally presented on the agenda by the Telecom Board absent Section 14.

Mayor Coody: Marvin do you have anything to add?

Marvin Hilton, Cable Administrator: Not really, I would just like to move on. Does anyone have a question?

Mayor Coody: Are you going to make an effort to do better next year?

Marvin Hilton: Oh sure absolutely. I am going to do as well as I can.

Mayor Coody: So basically I think we have heard the same thing from both parties. Whether we pass the amendment or not, I think it is going to improve. So whatever you guys want to do is fine.

Alderman Ferrell moved to amend the contract with the insertion of Section #14 the way that he read it. Alderman Reynolds seconded the motion.

City Attorney Kit Williams: The reason it addresses only CAT is because that is who we are contracting with, you can't put other people in and expect to have any power over them besides we already have supervisory power over city employees and city officials. What we don't have any power over, unless it is in this contract, are our independent contractors. That is why nobody else was listed in here, only CAT their Board members and employees.

Alderman Jordan: I have run a lot of meetings, whatever we put in the contract it still goes back to the individual that is in charge of the meeting, it just does, that is just the way it is. If I am running a meeting and I feel that someone is out of line it is my job as the chair and that is according to Roberts Rules of Order. The chair is the chair and the chair is in charge and sometimes he does not like being in charge and sometimes he has to say things he does not like to say but he has to maintain control of that meeting. That is your job as the chair and you may not like that and if you can't you need to vacate that chair. Whatever is passed tonight will only be as good as the authority that the person takes that is in charge of that meeting. That is the bottom line.

Mayor Coody: That's exactly right.

Alderman Lucas: I agree with that generally but the Telecom Board is volunteers that come forward and volunteer to serve the city and they deserve respect. They should not have to ride herd especially on people that are employed by the city and people that have a contract with the city. They deserve respect because they volunteer their time to work for the city and I appreciate that and admire that. I regret that circumstances brought this forward but I think it is very important that we pass this amendment.

Tim Smith: I have been associated with CAT as a producer for the last two years. I rise in opposition to this amendment. I feel like this is not specific enough, it is too wide open. I believe in individual accountability, if an individual messes up and an individual does something, that individual needs to be held accountable. It could be too easy to be arbitrary with this, use a comment that someone doesn't agree with brand that and then the whole deal is flushed down the toilet. I find this too wide open, I think you need to throw out the amendment and stay with the contract as CAT has proved over the years to be very effective and to do a good job. Disagreements occur, people are going to disagree and that is healthy. The worse thing I see in these governmental meetings is everybody slapping each other on the back and playing games. We need to talk, we need to dialogue, we need to get out there and let people know what is going on and not play these games. I think it is a healthy thing and that is why I rise in opposition to this.

Paula Marinoni, resident of Fayetteville: Many people know me from Community Access Television from the shows that I have done. I have probably done about 100 shows. I think they are positive, I think they contribute to the community and I hope people learn something from it. I learn from a lot of shut-ins who watch Community Access Television and who the shows mean a lot to. I had my first Community Access show back in 1970. This fighting has been going on for eight years. This is an on going thing; Community Access is not the problem. If any manager watched what was going on they would see what the problem was and they would take care of it. You said the only way you can address this is through them because you have an agreement with them but you are the administration over the people who work for the city. At one point it was so hostile that I hated walking into that building and I quit filming for about four or five years. It is a hostile work environment that is being presented by the way it is set up; they shouldn't have to work that way. If you would take that off of them and let them be creative and let them attract good people. People do not want to be on the Telecom Board because of that environment. People do not want to come and produce films because of that environment. You are spending money that is not being used to its fullest potential because they are continually choking these people. I tell the people that call me that if they enjoy the shows that I do please do me a favor and call Community Access Television and tell them thank you because all they get is abuse from the city that is a perception. I am sorry that is the perception but year after year does anybody ever tell them thank you? I take offense to that being in there, I think it is arbitrary, how do you enforce it, Marvin will be down their throats. You are creating and allowing a hostile environment to persist and you are keeping positive programming from the citizens of Fayetteville because you are not allowing them to do their jobs.

Alderman Allen: I think it is just such an irony that we are trying to make sure that the CAT Board is not saying anything inappropriate when the whole purpose of the CAT Board is free speech. It concerns me that we would be trying to monitor what is offensive and what is not. We always have access to the remote. I have tried to find what is offensive on the CAT channel because I am up real late at night. I think there are some things that are real stupid but not anything that I am offended by but that is in my eyes. I think that becomes a complicated thing. I really appreciate Alderman Ferrell's feelings about this and I am not trying to lessen them in any way. My hope would be that maybe just this conversation would take care of the problem. Maybe that would be a way for the people to be aware of the fact that it is problematic and that we do all want to be more dignified in the way we treat each other.

Alderman Ferrell: I didn't just jump up and do this

Alderman Allen: I am sure you didn't. I didn't mean to be putting it down.

Alderman Ferrell: You didn't. I made inquiries from city staff about what is going on, and then I had people start telling me. This is not something new. Kit said in the past there was a problem on the air with meetings and that it had to be addressed. I can share your idea of the irony. I have never said a word about the programming. I think this can be a tool for the Telecom chair.

Alderman Thiel: I think there does need to be something changed, I just don't know if this is necessarily it. The Telecom Board recommended this contract before this amendment was made. I think there is entirely too much oversight. I don't see any nonprofit that we fund in this list that we have any type of oversight like this. I just don't think this is necessary. I think there are a lot of issues that have improved. I think Susan Thomas has been very active in trying to get everyone together down there. I think some of the things Paul Marinoni alluded to are an issue. It does not matter who the provider is, who the director is, for the last so many years there has been a problem. By signing off on this I think we are saying that the public access provider is the bad guy in this. We are changing a contract that came from the committee that you are saying is being offended by this. I hate to differ with you on this but based on those things I will vote against this. I just don't know that this is necessarily the best way and it sends a message that I don't think I want sent from me.

Alderman Jordan: The Telecom Board was in charge of that specific meeting. You can pass whatever you want to pass but it still comes back to someone being in charge of the meeting.

Mayor Coody: Regardless if this passes or fails, I feel certain we will see improvement. We have had assurances tonight that there is improvement on the way and they are going to do better in 2007. The CAT programming and the process has gotten better because we use to get complaints all the time and those complaints have dropped off. I think just bringing this up and discussing it and getting confirmation that everyone will work better together this is going to be as good as the amendment if the amendment does not pass.

Upon roll call the motion to amend failed 3-3. Alderman Ferrell, Lucas and Reynolds voting yes. Alderman Jordan, Thiel and Allen voting no. Mayor Coody chose not to vote to break the tie therefore the amendment failed. Alderman Rhoads was absent during the vote. Alderman Cook was absent.

The Amendment Failed

Alderman Jordan moved to approve the resolution. Alderman Allen seconded the motion. Upon roll call the resolution passed 5-2. Mayor Coody voted yes to pass the resolution. Alderman Lucas, Jordan, Thiel and Allen voting yes. Alderman Ferrell and Reynolds voting no. Alderman Rhoads was absent during the vote. Alderman Cook was absent.

Resolution 218-06 as Recorded in the Office of the City Clerk.

Fayetteville Downtown Partners Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$40,000 to assist in the implementation of the Downtown Master Plan.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Program Development Director gave a description of the contract. He stated the funding for this is to help implement the Downtown Master Plan. This is the final year; the funding is coming from the Wilson Springs sale proceeds. It was included in the budget that was adopted this evening.

Alderman Thiel: I support this. I think they have done a great job and I am pleased with what they are providing the City for the funding. Because the funding amount is half of what it was last year, I support going ahead and making the amendment that we pay them all at the beginning because that is the same amount we paid at the beginning of last year.

Alderman Ferrell asked Fayetteville Downtown Partners, what are your occurring revenues that are going to keep you afloat for the other three quarters? In your planning why do you have to have this money in the first part if you knew you had the whole year?

Daniel Hintz, Executive Director of Fayetteville Downtown Partners: Many of the services they are asking us to do were within the first five to six months of the year. We can provide the services as we have done to your satisfaction and we are committed to providing every component that the City is asking for us.

He went on to describe the details of the contract.

Alderman Ferrell: You do have recurring secured funding to keep you going the rest of the year?

Daniel Hintz: Yes, we would continue to apply for grants, A& P funding for the Fayetteville Arts Festival so we can continue providing those services and apply for grants for the Arkansas Arts Council. We are currently under negotiations and several contracts for services with different entities to provide specific services for the downtown area.

Alderman Ferrell: Are you saying in most of the income you are expecting for the rest of the year will come from contracts for services?

Daniel Hintz: Fayetteville Downtown Partners is looking at foundational funding. We are currently under negotiations with several different entities to provide more funding for specific deliverables. A lot of our services will be paid for services.

Alderman Ferrell: You don't have any money promised?

Daniel Hintz: No, but we are currently under negotiation with several contracts and writing grants.

Alderman Allen: Where did you grow up?

Daniel Hintz: Milwaukee, Wisconsin.

Alderman Allen: I think the verbiage is complicating and I am hoping that maybe you can be more specific in what it is that you are trying to do through the Downtown Partners.

Daniel Hintz: Certainly, and as more things come on with the Downtown Master Plan we can be more specific. All that is going through Planning Commission and Ordinance Review, those are deliverables that are being made more and more clear as the Master Plan manifests itself.

Alderman Thiel: The Ordinance Review Committee has seen Daniel a lot because he has really been beneficial. In my experience they have been very helpful.

Tim Conklin: I would agree with Alderman Thiel. Downtown Partners has provided research on outdoor cafes and dining's, etc. and helped to provide support and set up meetings with neighborhood associations.

Alderman Allen: I think the verbiage is confusing to the general public.

Tim Conklin: That has been a challenge for City and staff to explain some of the goals because experienced based economy is part of the Downtown Master Plan goals.

Alderman Allen: I was not meaning in any way to put down the work that you have done or it's validity. I was just suggesting that I thought that might eliminate some confusion.

Daniel Hintz: Communication of complex ideas is not the easiest thing to do. It is a significant goal of ours as a non profit organization to strengthen our business practices in order for us to have that based funding every single year. We can tell you that this is a continued priority for the organization.

Alderman Ferrell: I hope you do it. I have real reservations about the planning of starting out with just enough money to get by but I do remember the positive things that you have done. I remember observing this and I'll support this.

Alderman Lucas: I was very skeptical of supporting Fayetteville Downtown Partners early on because I thought there were other areas in the city that could use an organization like that to promote them. I have been very impressed with what you have been doing. I also realize that you are supposed to be self sufficient. Do you not have any business memberships that come in every year?

Daniel Hintz: We have chosen not to be a membership organization because some of the conversations we had very early on with the Chamber of Commerce and other membership organizations. We are here for public benefit and we wanted to make sure we didn't confine our scope of work to a very specific sector because downtown has so many constituents that if we were a membership organization, we would have to define ourselves by that membership. In response to the self sufficient question, the first year the \$150,000 we received was 67% of our budget. We made it this year and the City Contract was 47% of our budget. We hopefully provided all the services the city required of us in the contract.

Mayor Coody: Are you closer to the Business Improvement District?

Daniel Hintz: This is very much about a face to face process. We are working on it at this point. We are at about 34% of the total assessed value or 65 petitions out of the 328 property owners and we continue to get in petitions. We will continue this process until either the property owners say no or we get it done.

Alderman Thiel moved to amend Section 7 of the ordinance. **Alderman Reynolds** seconded the motion. Upon roll call the motion to amend passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Cook** was absent.

Alderman Jordan 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 Rhoads** was absent during the vote. **Alderman Cook** was absent.

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 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Cook** was absent.

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. **Alderman Cook** was absent.

Ordinance 4965 as Recorded in the Office of the City Clerk

New World Systems - Handheld Electronic Ticketing Devices: A resolution approving a revised contract for the purchase of handheld electronic ticketing devices, software, and software maintenance from New World Systems Corp. in the amount of \$195,525; and approving the associated budget adjustments.

Mayor Coody asked if the Council had any questions for Tracy Risley.

There were no questions or comments.

Alderman Jordan moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Cook** was absent.

Resolution 219-06 as Recorded in the Office of the City Clerk.

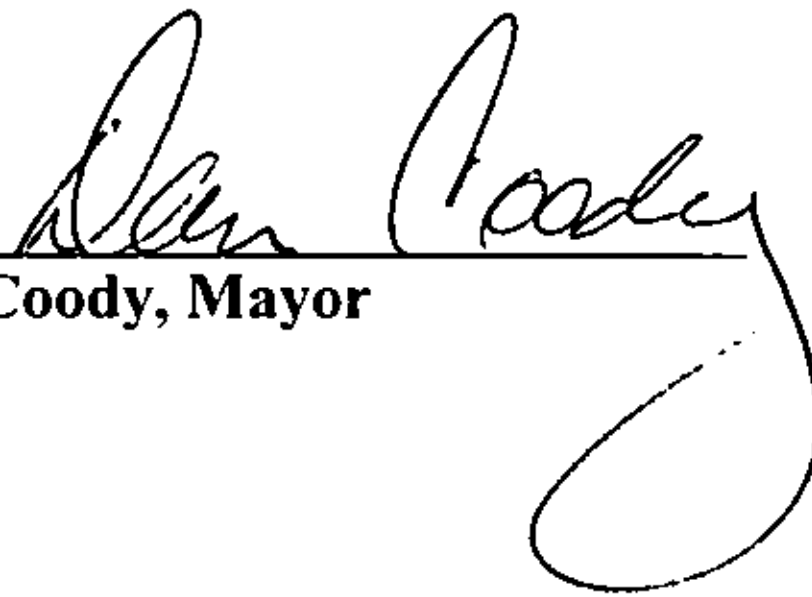
Mayor Coody presented **Alderman Reynolds** with a plaque which expressed appreciation of his service to the City of Fayetteville. He thanked him for all the time that he put into our town and for making it the great town that it is.

Alderman Ferrell thanked **Alderman Reynolds** for his service and for taking him under his wing after he was elected. He stated we are going to miss you.

Alderman Thiel: I'll second that.

Alderman Reynolds: Thank you all, I appreciate it. I am going to miss it. I have had a lot of good times up here and I've seen a lot of things go on in the last 14 years; a lot of growth and changes; but they have all been good. I just want to make sure that you guys follow through on the bond issue for the roads, the sewer plant, and make sure you get a business license passed please. I have enjoyed it.

Meeting adjourned at 11:15 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer