Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy 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

City of Fayetteville Arkansas
City Council Meeting Minutes
January 2, 2007

SCANNED

A meeting of the Fayetteville City Council was held on January 2, 2007 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 Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Oaths of Office of the 2007 Elected Officials – Judge Rudy Moore

Alderman Gray, Cook, Rhoads and Lucas took their Oath of Office. City Attorney Kit Williams took his Oath of Office.

Mayor Coody congratulated Alderman Gray on being elected and welcomed her to the Fayetteville City Council.

Report on the Firemen's and Policemen's Pension and Relief Fund – Mayor Coody

Mayor Coody read the report on the Firemen's and Policemen's Pension Plans. A copy of the report is attached.

Election of Vice Mayor

Alderman Allen moved to elect Alderman Jordan as Vice Mayor. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Alderman Jordan was elected as Vice Mayor.

CONSENT:

Approval of the December 5, 2006 City Council meeting minutes.

Approved

WSIP Deed Restriction Covenant: A resolution approving the filing of a deed restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers Section 404 Permit Number 14207.

Resolution 01-07 as Recorded in the Office of the City Clerk.

Adjustable Frequency Drive Unit Purchase: A resolution approving the purchase of one (1) Adjustable Frequency Drive Unit from WESCO Distribution, Inc. in the amount of $31,891.85 for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

Resolution 02-07 as Recorded in the Office of the City Clerk.

Bell-Corley Construction, LLC Contract: A resolution awarding a contract to Bell-Corley Construction, LLC in the amount of $1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport; approving a project contingency in the amount of $63,500.00; and approving a budget adjustment in the amount of $33,500.00 for same.

Resolution 03-07 as Recorded in the Office of the City Clerk.

Assistance to Firefighter's Fire Prevention and Safety Grant: A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of $12,000.00.

Resolution 04-07 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 unanimously.

UNFINISHED BUSINESS:

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. ***This ordinance was left on the Second Reading at the December 19, 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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: I haven't had any calls.

Alderman Lucas: I haven't had any either.

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

Ordinance 4966 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Northwest Arkansas Economic Development District Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of $62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: They are doing a really good job. Some of us remember the situation we got into and they have really handled it well. I haven't heard anything bad at all. Everything has been very positive.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4967 as Recorded in the Office of the City Clerk.

Amend Chapter 174 & Chapter 153; Signs: An ordinance to enact a replacement Chapter 174 Signs and § 153.08 (G) Signs to clarify sign regulations in Fayetteville.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: At Agenda Session we discussed leaving this on the first reading so that it could go to Ordinance Review Committee. I have had several calls and I think there will be people attending that meeting to discuss concerns about it.

This ordinance was left on the First Reading.

Amend Chapter 159; Road Impact Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159: Fees by enacting § 159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Development Program Director gave a brief description of the item. He stated I have been requested to provide a comparison of fees within Northwest Arkansas and I will put that together between now and the next Agenda Session. He stated in the study it talks about that if you have development on a substandard street and you are required as a developer to improve that and provide access to your development you should not be given credit for those improvements to provide that access to your development. It does recommend that credits not be given for those types of local improvements that are needed on substandard streets.

Alderman Ferrell asked Tim Conklin to compare and contrast the road impact fees to other impact fees in relation to geographic application.

Tim Conklin: There are two ways that you can calculate a road impact fee. One is an improvements based method where you define a particular project and the capacity that is going to be created by that project and then calculate the fee based on that project. There is this improvements based methodology. Basically it looks at how many miles of roadway we have in Fayetteville today, how much capacity we have today within the system, and how much traffic we have on that roadway system. There is a ratio that they have calculated based on a number of existing trips on our roadways and the amount of roadways. The basic assumption is that we are going to try to keep that ratio of amount of vehicle miles traveled within our system and amount of existing roadway equal. As new development occurs it consumes part of that capacity. What Duncan & Associates has done with their methodology is calculate how much of that mile of roadway is consumed by a single family home and what it costs to replace it. It's a system wide approach. The difficulty in improvements based is trying to estimate the amount of capacity and whether or not you'll reach that capacity over time. This method typically underestimates a full cost because currently we have more than one to one ratio; we have more miles of roadway than the traffic. The study underestimates the true cost because it's hard to predict where the traffic is going to occur.

Alderman Ferrell: It would be more of a macro than a micro approach to the same deal.

Tim Conklin: Its more macro, it's looking at total miles of roadway, how much traffic is on that roadway today and how can we keep that ratio of the number of vehicles within our roadway system and amount of miles of roadway system equal on a one to one ratio.

Alderman Ferrell: Don't we have some State roads that will become City roads? What does that do to our formula when they come into the City?

Tim Conklin: I will have to ask the consultant that question.

Mayor Coody: The one that comes to the top of my head is Gregg Street.

Alderman Ferrell: Gregg came to my mind but I thought that ultimately we might have some more and it might be good to have an idea of what that application would be.

Tim Conklin: Okay, I can find that question out for you.

Mayor Coody: On these amounts that we have on this table, is that fixed or subject to change? What's the status on that?

Tim Conklin: The State law requires us to have a Capital Plan. We have developed that through the Street Committee. The Capital Plan I would like to add to your packet is the remaining unfunded projects that have been identified that were not included in the first phase of the bond program.

Mayor Coody: I'm sorry, the table I was talking about was funding the amounts, like $4,000 per 1,000 square feet of commercial, the actual rates for the impact fees. Is that fixed or subject to change?

Tim Conklin: There would be a maximum amount of fees that you could charge based on this methodology. You as a City Council, it's a policy decision whether or not you want to implement the maximum amount. That would be a discussion for the Council to have on how you implement it is it 100% or do you implement it per time?

Mayor Coody: I know when we did water and sewer impact fees we gave credit back to the citizens because of the sales tax that they would be spending here in town. I suspect the Council will consider issues like that as well.

Ben Israel with Dixie Development stated I can understand that when buildings are built that we have to have more fire protection. It seems as if we are saying that all Fayetteville roads have to become toll roads, but if you lived here before the ordinance was passed you don't have to pay. All the roads that are built are going to be used by all the citizens and there is going to be quite an impact on an individual development.

He gave examples of the impact this would have on different developments and projects. He stated there must be a way that you can have all citizens paying for roads. He stated I think you should think of all the ways you can raise money to build roads. I would hope that when you do you would consider keeping us competitive at least with everybody in the area. I would rather you find some other way to raise the funds.

Mayor Coody: Tim, when businesses get built now, if they are on a standard road but they need to make road improvements, they have to pay to do offsite or the road improvements out in front of their place.

Tim Conklin: That is correct.

Mayor Coody: So, how would this affect that process that we do now?

Tim Conklin: The impact fee would spread the cost over the entire city for all development. With regard to existing projects on the ground, when we did the water and wastewater fee we had a six month effective date. Under State law the fees have to be collected at Certificate of Occupancy whereas water and wastewater can be collected at the time of connection.

City Attorney Kit Williams: That is only ours. Ours is grandfathered in. Everybody else's has to be at Certificate of Occupancy.

Tim Conklin: This would impact the actual Building Permit Process when the fees would be collected. It would be a different way of doing onsite improvements where we expand capacity because if we have a cost share with a developer and he gets credit, we would be collecting impact fees at the time of C of O when the project gets built out. It would be a change in the way we are doing things today.

Mayor Coody: If I'm building a commercial building on a standard street I would have to pay money to improve the street per whatever the staff recommended; I'd have to build those improvements today right?

Tim Conklin: That's correct.

Mayor Coody: But if this passes I wouldn't have to build those improvements, I would have to pay the impact fee, is that right?

Tim Conklin: If their capacity expanded improvements we could cost share with the developer and the developer could be reimbursed. Then when the project is built, an impact fee could be collected at that time with the Certificate of Occupancy. There are projects already spending significant amounts of money to improve roadway capacity.

Alderman Thiel: In many cases the cost to the developer will be about the same as it is now if they have improvements that have to be made offsite, right?

Tim Conklin: That's correct, adjacent to them it could be equal. It could be more for those developments that are not adjacent to the arterial system that are not making those improvements but their developments will be generating traffic that use those improvements. That's the equal part.

Mayor Coody gave an example of a previous instance that this occurred.

City Attorney Kit Williams: I should also point out for Mr. Israel that since he did a redevelopment project, he would get a credit under this statute for the existing development that was already there that you took down. You would only pay for the increased capacity that your new development brought forward.

Alderman Jordan: According to the BWR study done in 2003, we were looking at us being behind $44 million. We are not going to catch up at the rate we are going. The Mayor put me on the Street Committee and we are trying to figure out how to build roads. This is not a perfect plan but if you're $44 million behind you have to do something because we are right now building the future of this city. We have got to have growth pay for itself. We are determining the future of this city for the next 50 years or longer.

Mayor Coody: When would the City Council decide on the actual amounts that we are talking about that we would send to the voters?

City Attorney Kit Williams: That will be part of the ordinance. There can be motions to amend that and change that. Staff has talked about that and also about if someone has a building permit already; like we did with the water and sewer impact fees; we gave the people the right to go forward if they had a building permit. The time this will be collected is at the Certificate of Occupancy which comes right at the end of the process. We need to look at the building permit issue so that is phased in and everybody goes into it with their eyes open.

Mayor Coody: I want to make clear that these are the maximums that the consultants said and we have the right to change our minds and use whatever numbers we come up with. One of the concerns I have is the $4.00 per square foot for retail. We rely on retail for our bread and butter and I want to find a way where we can collect the impact we need to but not hurt retailers so much that it is a problem for them to do business in Fayetteville.

Alderman Ferrell: Are we going to thrash this out as to what those numbers plugged in there are going to be or are they going to sweeten it a little bit? How are we going to work that?

City Attorney Kit Williams: There might be some proposals too; it's just up to the City Council about whether or not you have a Table A which is an important table. So it's up to you all to decide whether or not you want to go with this, with the maximum or somewhat less on some of these categories.

Alderman Thiel: I would like to look at some systematic way of considering a different percentage based.

Tim Conklin: The City did have a sales tax study that was completed by the U of A Center for Business. I could put that as a part of the agenda for you to look at to see where our sales tax revenues are being generated. We would want to base it on some type of study like we have done in the past.

Mayor Coody described the water and wastewater impact fee process for the people watching at home.

Tim Conklin: There are credits that have been calculated within the study already. Any additional credits would need to be based on some additional studies. That is what I will find out.

Alderman Jordan: We have a Street Committee meeting on January 11th. Tim could you pull your figures together and we'll discuss that somewhat at the January 11th Street Committee. Then it would be ready by the time we come back to City Council.

Tim Conklin: Certainly.

Mayor Coody thanked Alderman Jordan and the Street Committee for trying to do better for the infrastructure of the City. We appreciate you, the Street Committee and the City Council.

This ordinance was left on the First Reading.

RZN 06-2366 (Wonnacott): An ordinance rezoning that property described in Rezoning Petition RZN 06-2366, for approximately 1.50 acres, located at 655 and 657 north Genevieve Street from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Alderman Jordan and Alderman Lucas stated that they had not received any calls on this.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4968 as Recorded in the Office of the City Clerk.

RZN 06-2344 (Dunnerstock and Windsor SD): An ordinance rezoning that property described in Rezoning Petition RZN 06-2344, for approximately 34.44 acres located at the northeast corner of Double Springs Road and Sellers Road, from R-A, Residential Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Senior Planner gave a description of the item. He responded to a previous question the City Council had at Agenda Session regarding the fire response time. He stated the roads were in their existing condition. We had them look at it as if the roads would be improved and the Master Street Plan's streets were built out to their designated criteria. They assumed that Persimmon Street would be paved and improved all the way to this property. They assumed the

speed limit would be 35 mph. The fire response time reduced down to 6 1/2 or 7 minutes form 7 1/2 minutes they had originally.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

R-PZD 06-2349 (Westbrook Village II): An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive; containing approximately 1.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: I know the developer has worked with the neighborhood on this. I think they are pretty well set with it. I don't have a problem with it.

Alderman Lucas: I don't either.

Alderman Thiel: So they don't have a problem with that much density?

Alderman Jordan: No.

Lex Broyles, developer of the project stated this was misdesigned in the original design before we were involved on the zoning out there. We have worked with the POA on this and included in your packet what went to the Planning Commission; a signed letter from the POA supporting our project. This is going to be the final development that I think will really finish this project that will be a big relief to a lot of people out there.

Alderman Lucas: Have you put the fence up?

Lex Broyles: It is pending on approval. We are not going to build the fence until we get through City Council. We would like to request that we go through all three readings tonight since there are no comments from the public.

Alderman Lucas: How soon will you start on that fence?

Lex Broyles: As quickly as possible.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Allen: Will the addition of these units change the amount of the originally allotted green space?

Lex Broyles: No Ma'am it will not. The development is originally zoned for more lots than they built so this isn't being built on a green space. These were originally R-O and they are going to be changed to residential instead of residential office.

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

Ordinance 4969 as Recorded in the Office of the City Clerk.

VAC 06-2362 (Springwoods): An ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4970 as Recorded in the Office of the City Clerk.

Aspen Ridge Expiration Date Extension: An ordinance repealing and replacing Ordinance No. 4848, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2007.

City Attorney Kit Williams read the ordinance.

Alderman Thiel asked if the applicant was present.

The applicant was not present at the meeting.

Alderman Thiel: I am surprised the applicant is not here because of the way this project is going. Ron, do you see this new developer as doing a better job and trying to comply with some of the stormwater regulations?

Ron Petrie, City Engineer: We have seen a noticeable change with the new construction manager on the several attempts that we have dealt with the issues. They were resolved in a much expedient pace than before. I sure appreciate that.

Alderman Thiel: Obviously this is about a six month extension so we'll see how it goes.

Ron Petrie: You are actually starting to see the public improvements being installed. It's been a long time coming and now that they have some momentum going I would hate to see that stop and them not finish. I know the issues with the neighbors have been plentiful and most of those issues are dealing with construction. Once the actual construction is completed a lot of those issues will be resolved. I don't want to speak for the neighbors but I think if we let them finish it we can get those issues resolved.

Alderman Thiel: By giving them a six month date that does keep the momentum going which is good.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4971 as Recorded in the Office of the City Clerk.

City Attorney Kit Williams thanked Representative Jim House and Lindsley Smith for meeting with the staff and for trying to do some things to try to implement the 2025 Plan. It was very nice to see them here and to listen to us. I hope we can move forward at State Legislature with some of the things to help implement the plan.

Meeting adjourned at 7:15 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer