

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
April 3, 2007**

A meeting of the Fayetteville City Council was held on April 3, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

Mayor Coody was absent until 6:40 PM

Pledge of Allegiance

Vice Mayor Jordan announced that Mayor Coody was attending the Alternative Fuels and Vehicles Institute and would be coming to the City Council Meeting later.

Louise Schaper -- USGBC LEED Silver Certification for Blair Library presentation

Louise Schaper, Library Board Director presented the City Council with a framed official certificate for the Blair Library Construction. She stated since it's a city building it is your certificate. It was awarded last fall by the U.S. Green Building Council and it came in at a silver rating. We held our official ceremony in December however the certificates didn't arrive until last month so we wanted to bring it to you. She went on to describe the requirements for receiving such an award.

CONSENT:

Approval of the March 6, 2007 City Council meeting minutes.

Approved

Park Land Dedication Fund Project: A resolution approving budget adjustments in the amount of \$19,500.00 from the Southeast Park District to build an ADA accessible trail in Mt. Sequoyah Woods, and \$4,100.00 from the Southwest Park District to install stone pavers at the Wilson Park Castle.

Resolution 53-07 as Recorded in the office of the City Clerk.

Multi-Craft Contractors, Inc. Airworks Division Bid # 07-25: A resolution awarding Bid #07-25 and approving a contract with Airworks Division of Multi-Craft Contractors, Inc. in the amount of \$51,559.09 for the renovation and replacement of the HVAC system in the Central Dispatch Center; approving a project contingency in the amount of \$4,850.00; and approving a budget adjustment in the amount of \$56,409.00.

Resolution 54-07 as Recorded in the office of the City Clerk.

Waste Management of Arkansas, Inc: A resolution authorizing the Mayor to execute a contract with Waste Management of Arkansas to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 55-07 as Recorded in the office of the City Clerk.

Ozark Sanitation, Inc: A resolution authorizing the Mayor to execute a contract with Ozark Sanitation, Inc. to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 56-07 as Recorded in the office of the City Clerk.

Compensation and Classification Phase III: A resolution approving a contract with HR Factor in the amount of \$46,885.00 to complete Phase III of the Compensation and Classification System Project; and approving a contingency not to exceed \$1,000.00.

Resolution 57-07 as Recorded in the office of the City Clerk.

Arkansas Historic Preservation Grant: A resolution authorizing the Long Range Planning Division to apply for and accept a 2007-2008 Certified Local Government Grant in the amount of \$7,313.00 to fund travel and training for the Fayetteville Historic District Commission and approving a budget adjustment recognizing the grant revenue.

Resolution 58-07 as Recorded in the office of the City Clerk.

Safe Neighborhood Heroes Grant: A resolution authorizing the Fayetteville Fire Department to apply for and accept a Sam's Club "Safe Neighborhood Heroes" Grant in an amount not to exceed \$1,500.00.

Resolution 59-07 as Recorded in the office of the City Clerk.

Fayetteville Arts Council Establishment: A resolution creating the Fayetteville Arts Council and establishing the bylaws, rules and procedures to govern such council.

Resolution 60-07 as Recorded in the office of the City Clerk.

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

City Clerk Sondra Smith: Mayor Coody submitted a veto in writing so we have to present it to the Council tonight. You may choose whether or not you would like to place it on the agenda.

Mayor's Veto

Alderman Allen moved to add the Mayor's Veto to the agenda. **Alderman Thiel** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams: At the last meeting I was concerned, I did not think you could actually veto without putting it in writing and filing it in the Clerk's office and that was in fact correct. Every vote that happened after that was of no effect. The override could not be done until this meeting which also means that the position that was then voted on to place another person in the position could not be done because there was not an open position. Tonight it is up to the City Council to decide if you want to do anything in relation to this veto. Secondly you would need to appoint someone to the Planning Commission. Ms. Clark has submitted her resignation so regardless of the veto there is a position that is open in the Planning Commission and someone would need to be appointed to that.

Alderman Cook: Based on our discussion at Tuesday's meeting I'll just go ahead and make a motion to appoint Matthew Cabe to fill that position.

Alderman Cook moved to appoint Matthew Cabe to the Planning Commission. **Alderman Thiel** seconded the motion. Upon roll call the motion passed unanimously.

Matthew Cabe was appointed to the Planning Commission.

UNFINISHED BUSINESS:

ANX 06-2288 (Broyles): An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, and 3677 Weir Road, containing approximately 10.61 acres. *This ordinance was left on the Second Reading at the March 20, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning: I don't have anything further to add on the annexation. The Planned Zoning District which is the item that follows this we didn't get a chance to present that last time so if you have any questions on the annexation I would be happy to answer those.

Alderman Jordan: I haven't heard anything against it. It's been through the Ward 4 meetings and we've looked at this project quite a bit. There will be some discussion on the residential PZD that I may want to talk about but as far as the annexation goes we have looked it over and I don't have a problem with it.

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

Ordinance 4996 as Recorded in the Office of the City Clerk.

R-PZD 06-2281 (Holcomb Heights): An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision: containing approximately 13.47 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 March 20, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the R-PZD. He stated staff is recommending approval of this Planned Zoning District.

Alderman Thiel: Those look like multi-family, is that not correct.

Jeremy Pate: Those are all single family detached homes.

Alderman Thiel: That is one very large house.

Todd Jacobs, Project Manager: This project is high quality and we are proud of it as a design group and the development team as well.

He went on to give a power point presentation on the project.

Alderman Thiel: At the very last minute we received this request for a change in the street dedication in the cost share.

Alderman Jordan: Honestly I would like to take this to the Street Committee next week if that is doable.

Alderman Thiel: Can we do that though and still approve this PZD?

Alderman Jordan: Yes that would be fine. Some of the PZD is hooked into what we are deciding to do on the roads if I remember correctly.

Lex Broyles, Project Developer: We have committed to doing 5% attainable housing in this project and in all our future projects. After meeting with Alderman Lucas, Alderman Jordan, and Gary Dumas it's something they have presented to us and we have accepted. One of the reasons that is so difficult, is it is difficult that you are not seeing it anywhere and compounding that is the fact that we have to line up Weir Road with Gypsum Road coming out of Crystal Springs. That's our land to the north that we have right now that is undeveloped because it's an awkward triangle so it takes our land and we're having to do the entire cost of moving the street, losing density and everything else. What we've asked for is a cost share on the road. We would still curb and gutter like we would and improve the road but just a cost share on the movement itself which we thought was fair. It is something that would make it a little more assessable for the attainable housing.

Alderman Jordan: What I wanted to do before I actually made a commitment like that, I wanted to run that through the Street Committee and I wanted to be sure that the Council was on board with it. I wanted the Street Committee to see the designs and the different ways that we could do that.

Alderman Thiel: That is fine but procedurally I was wondering how we would do this, would we have to go back and amend this PZD? If we are not going to make that a part of the condition at this time and we approve this PZD tonight then we would have to come back and amend it wouldn't we?

Alderman Jordan: Everything seems to be tied to the cost share. To me the best course of action is to hold it to the third reading tonight, have a Street Committee meeting next week and then at the next City Council meeting we will have everything thrashed out.

Alderman Ferrell: I applaud the developers and the Alderman that are working on this to have a have 5% attainable housing goal and I think this is something that would be good for our whole city.

Lex Broyles: As much as our team would like to take credit for that this has been a very coordinated effort between our group, Jeremy Pate, staff, Ron Petrie, Lioneld Jordan, and the Mayor's office. It's the contributions of this entire group that has made this project something that we are proud of. It really exemplifies the 2025 Plan and this is a project that we haven't had any comment from the public all the way through this process. That's from a lot of meetings from the neighbors of Ward 4 and again the contributions from the city.

Alderman Allen: I think that is such a wonderful way to go about the attainable housing to put 5 % or whatever percent within the project and make it a part of the whole rather than setting aside the attainable housing to be tomorrow's loans. This way is very effective and I applaud you for that.

Alderman Cook: Did we discuss this at Street Committee 1 ½ years ago?

Alderman Jordan: It's the same intersection. We did kick that around. It's the one that cuts a pie across there and I wanted the new Street Committee to be refreshed on what we have.

Todd Jacobs showed a few more slides of what the project will look like.

Alderman Lucas: Is the attainable housing contingent upon the city cost sharing with the street?

Alderman Thiel: That's a very good point because that's not in the conditions of approval.

Lex Broyles: No ma'am we are not doing a quid pro quo but we are asking in good faith if you guys could help us out on that.

Alderman Lucas: Then can we not go ahead and approve this and work the cost share out? It's going to have to come back to the City Council isn't it if we cost share.

Ron Petrie, City Engineer: The cost share would be a formulation by the Council.

Alderman Jordan: So we could go ahead and approve this tonight and then come back with the cost share and we could meet as a Street Committee anyway.

Lex Broyles: That would be our preference.

Alderman Thiel: I certainly applaud the attainable housing being volunteered but is it part of the condition? I can't find it.

Jeremy Pate: It is not currently. Those letters were submitted to you with the Final Agenda packet and we have not included those as conditions of approval at this time.

Alderman Thiel: So they're not a condition of approval?

Jeremy Pate: Not right now they are in offer and a commitment by the applicant to you. I asked the City Attorney if the applicant is committing to that if it could be part of the statement of commitments in conditions of approval if he felt it was appropriate.

Alderman Thiel: I think we are accepting that it is a condition of approval.

City Attorney Kit Williams: It depends on the applicant if he wants it to be within the conditions of approval. Otherwise it is an oral offer that is probably not enforceable.

Lex Broyles: As long as it does not cause a delay we do not have a problem with it being a condition of approval. We don't want a delay.

Alderman Thiel moved to amend the ordinance to add as a condition of approval the project will have 5% attainable housing as defined. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed unanimously.

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

Ordinance 4997 as Recorded in the Office of the City Clerk.

ADM 07-2477 (BioBased): A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC. *This resolution was Tabled at the March 20, 2007 City Council meeting to the April 3, 2007 City Council meeting.*

Alderman Jordan: Mayor I would like to leave this tabled because I would like to put together a meeting with the neighborhood to discuss this building design.

Alderman Jordan moved to table the resolution to the April 17, 2007 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the April 17, 2007 City Council meeting.

Amend Chapter 92 – Animal Ordinance: An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville. *This ordinance was left on the First Reading at the March 20, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Over nine months ago an Ad Hoc committee was formed to review and update the current animal ordinance for a couple of reasons. One was to update the wording and basic fees, the second was to deal with citizens concerns about dogs running at large, barking and aggressive behavior. I believe the committee dealt with those issues by bringing forward a progressive, proactive ordinance. The committee was made up of the following people: Jill Hatfield, Animal Services Director, Dr. Amy Kaspriss, Animal Shelter Veterinarian, Tony Rankin, Animal Services Officer, Mitzi Odell, Animal Services Coordinator, Dominic Swanfield and Kevin Phillips, Community Policing Representatives, Brian Thomas, Assistant Prosecuting Attorney's office, Lib Horn, former Animal Services Director, HSO Representative, Eva Madison, local attorney and Humane Society of the Ozarks Representative, Harve Thorn, Therapy Dog Trainer, Robert Brandon, local attorney, and myself. These people both the city personnel and citizens should be commended for the time and effort they put into these revisions. In addition there were many concessions and changes made based on the public input at those meetings.

The committee concentrated on dog issues in response to the complaints that the Animal Services staff were receiving. We didn't really review the existing leash or confinement laws for cats. However from emails and calls we have received it is evident that this policy probably needs to be reviewed. I would be very reluctant to simply amend a proposed ordinance to allow cats to run at large without thoroughly reviewing this policy. It's a complex issue. Model trap neuter and release programs can be a very successful way to deal with cats, however they are costly and they take a large community involvement. I believe that an ad hoc committee with a new focus should be formed to study the entire cat issue.

I have also heard from people wanting a no kill shelter. That possibility could also be discussed by this committee. However getting the pet population under control is the first step to a no kill policy. The incentives this ordinance provides along with a low cost spay and neutering offered

by the city, Humane Society of the Ozarks, and the county will make a difference. After we hear from the staff and the public tonight I plan to make an amendment to this ordinance to go into effect six months from its adoption rather than the usual 30 days. That should give everyone the time to get their pet spayed or neutered if they choose to do so and to provide the proper enclosures. This ordinance went through the Ordinance Review Committee and was recommended for passage to the full council.

Jill Hatfield, Animal Services Manager gave a description of the new proposed ordinance. She spoke on the dangers of chaining an animal and went on to describe the details of each section of the new proposed ordinance.

Alderman Thiel: Under definitions, I received a call about the lead. We had originally talked about four feet and I wanted to emphasize that that has been extended to six feet but the animal must be kept within four feet of the owner. That is only in public events of 100 persons or more. That's not walking the dog in the park. That's for the safety of people like at Springfest and events like that where you have dogs that are running too far out and trip people and that sort of thing.

Alderman Ferrell: Would you have any idea of what percentage of the existing animals in Fayetteville that are spayed and neutered are licensed in the city, specifically on cats?

Jill Hatfield: I don't have specifically on cats, I can tell you about three percent of the animals in Fayetteville are licensed. It runs anywhere from 2,600 to 3,000 licenses sold per year.

Alderman Ferrell: I know you guys did a lot of work on this and some of it I like and some of it I don't. The numbers say from 2003 until this last year there were 9,000 animals that have been spayed or neutered. Could you give me a breakdown on how many of those were paid for by the dog's owners and how many of them were low income individuals who received assistance in the cost.

Jill Hatfield: The 9,000 that we quoted were within three programs. The three programs available today are the city's program, Washington County's program which is free to their citizens and the HSO Program which gives a coupon of a discounted amount and they go to their own veterinarian. About 7,000 of those animals were done at the city shelter and those were low cost spays and neuters. We did those at a \$10.00 cost to the citizen.

Alderman Ferrell: A lot of my concern, what does a person have to do to demonstrate that they can be considered for a low cost spay or neutering?

Jill Hatfield: Through the city program, they basically have to fill out an application and they have to give some form of income level such as an income tax statement, recent check stub and then we ask to make a copy of the photo I.D. so we can check the person on the check stub. That is all we require. So it's relatively easy. We also provide a rabies vaccination for \$10.00.

Alderman Ferrell: That sounds like a pretty good deal to me but I'm worried that there are parents that are not going to come down there and show their W-2. So that child is not going to be able to have a pet or they're going to be a renegade. Do you plan to implement this with existing staff?

Jill Hatfield: Correct.

Alderman Ferrell: So there won't be any additional vehicles?

Alderman Thiel: No, we talked about this at the budget meeting that this probably will require additional staff at some point. We need this enforcement to be better than 3%.

Alderman Ferrell: How will this affect the community's we contract for service with? Will their animals be subject to the same things that the dogs in Fayetteville will if they are picked up and brought to our pound?

Jill Hatfield: No, they will not. If an owner comes to reclaim, they have existing fees that they pay through their city. We just shelter.

Alderman Lucas: Jill, are they going to go out and measure confinements or is it going to be complaint driven?

Jill Hatfield: Right now that is how we do most of the things that we do because we do not have the staff. Our biggest key is complaint driven. We don't have the staff at this point to go out and educate as much as we'd like to. I'd be the first to say there are a lot of opportunities that we miss and we miss those opportunities because we are busy enforcing, trying to adopt, and euthanizing.

Alderman Jordan: I have had a few phone calls on this. There are two concerns that I keep hearing over and over again. One is the lease laws for the cats. The other one is they see cats and dogs running loose all the time. How are we going to enforce a stricter law if we're not enforcing the law that we have right now.

Jill Hatfield: That is part of it. It's sort of like when we do policing of the speed limit, some of us get caught and some of us don't. It is difficult and we can't be there at every time that a dog or cat is at large. When we're called we go out there. We have animal services officers that are on call 24 hours a day to try to go to the trouble spots where animals are let go and there's no fences. At this point it is very much complaint driven.

Mayor Coody: I will point out that there is a difference between not enforcing our ordinances and not being able to catch every thing at the same time. We do enforce the ordinances.

Alderman Jordan: I don't disagree with that, that's just some of the complaints we are getting.

Joe Alexander, a citizen gave the council a stack of petitions that have been signed by people who are opposed to the new ordinance. He stated if you pass this ordinance I would say you are not representing the majority of the people in Fayetteville. He stated the definition of dangerous animals is too broad. I would only call a dog dangerous if he has a history of biting or attacking people and not just because he seems to be doing his job as a watch dog to guard his owner's property. He also addressed the conditions required to fit the definition of a hobbyist. He stated I don't like all these conditions required to fit the definition of a hobbyist, I like people to be free to pursue their hobbies without the government defining what makes them a hobbyist. The definition of kennel and pet shop, I don't like the idea that this activity has to be confined to places that are specifically zoned for that. Personally I do not see a population problem with dogs and cats around Fayetteville. I see a few dogs and cats running around here and there but it does not seem to be a big deal. I don't like the restrictions of selling or giving away a viscous

animal, if someone wants to buy this animal they should be able to buy or receive one as long as they are properly notified that the animal has been deemed to be viscous. I agree that everyone seems to think that the idea that cat's have to be on a leash is ridiculous and Alderman Thiel said that she thinks that should be revisited and I would certainly agree with that.

Jennifer Shreave, a citizen stated I am here to urge the Council to vote for the proposed changes to the animal ordinance. While I support all of the proposed changes I would like to focus on the two I feel the strongest about. The first one is the banning of chaining dogs to a stationary tether or a stake in yards by owners; first of all we have a safety issue. When you take a social animal like a dog and chain it to a stake, this will lead to boredom, chronic barking, frustration, anger and finally aggressive and dangerous behavior such as biting and attacking. She went on to discuss statistics on dog bites caused from dogs being chained. I would like to urge the Council to make Fayetteville the second Arkansas city to ban chaining. The second point I wanted to make was with regards to increasing the yearly license fee for unneutered and unspayed pets, unaltered animals are more likely to wander and behave aggressively. If neutering decreases roaming by 90% we can make a real dent in this. I urge the Council to please institute these changes and to make our community a safer and more humane place for all us.

Christian Gunn, President of the Humane Society of the Ozarks read a letter from Eva Madison, the former President and a member of the Animal Ordinance Ad Hoc committee. The letter simply urged the City Council to adopt the proposed ordinance. It also addressed her concerns about chaining or tethering animals.

Jeremy Gunn, a citizen described an instance of an animal that was chained up. He stated nothing can really be done about it. I am for this proposal just for that reason because I like to know that if I drive by and see a dog that is chained in the front yard and it's the 6th time this year that I've seen puppy's for sale, I'd like to know that I can call the city and they will do something about it.

Judy Bond, a certified dog trainer stated I want to encourage the passage of this ordinance for the safety of our animals.

Carmen Nelson, a business owner encouraged the City Council to pass the ordinance. She stated as a volunteer at the shelter, it's heartbreaking that you see full bred, wonderful animals coming in because they have no tags and they are not micro-chipped. If we could pass this ordinance and people could have their tags on their dogs, they will go home and I won't have to see any kind of animal at the shelter.

John Paully, resident of Ward 1 voiced his concerns regarding the ordinance. He stated I was wondering mainly how the City Council was going to consider measures of success for when these laws are implemented. These sort of spay or pay type of laws tend to increase cost and I'm all for putting more animal officers on the street. I feel we're extremely understaffed. The next question is regarding how you classify keeping a dog in your yard. We had a discussion at the last meeting about these ordinances pertaining to the underground electronic fences and I never really received an answer to that and the discussion lead toward saying that they would not be allowed because the way to restrain the dog is either on a trolley system when you are at home or if they are in a fenced yard. I wanted clarification as to whether those are going to be allowed or prohibited.

Alderman Thiel: There are some POA's that do not allow fences and so that is a concern too. To some extent that might be a little bit complaint driven and some areas where a dog has stayed within a confined electronic fence forever, that would never be a problem.

Mayor Coody: I believe the first question was what metrics we would use to judge success.

Alderman Thiel: I think that is very important. The euthanasia rate would be a very good way of measuring whether or not it was successful and whether or not we were getting less dogs and cats into the facility. If this is passed, it is very important and we do need an officer that all they're doing is making sure the licensing is being complied with. The fees themselves would compensate that employee. Some cities have at least one officer and that is all they do.

John Paully: So are you saying the underground fences will be allowed.

Alderman Thiel: According to the definition, yes, if it prevents the animal from escaping I suppose it could be.

Jill Hatfield read the definition in the ordinance. She stated really everything that we do when we deal with living creatures is a unique, case by case basis. We don't really find that there are any two instances that are exactly the same so we have to deal with them with the person and the animal that that particular situation is talking about. How do we know we are successful, again it goes to the intake rate, how many animals are coming in and how many animals are euthanized. That is considering that the adoption and the reclaim rate stays the same. I think our re-claim rate would go up if more folks would actually license their animals.

John Paully: I would urge the committee to at least consider hiring another officer. It would be nice to have people patrolling trying to keep those things in line.

Lib Horn, a resident stated the current ordinance met our needs when it was passed back when we were a small city. Ordinances have to change to meet the current needs of the city. I like this ordinance because I think it meets the needs that we have now. I really like the part that encourages spay and neutering. The only way we can ever have a no kill shelter is to get the population under control. Ms. Thiel said let's wait six months to get it enforced. During that time people will have time to use the shelters low cost program and the county and the Humane Society's low cost program. We all believe this is critical, we must stop the killing. For too long we have dealt with the over population problem by killing the surplus, that's wrong and we don't want that to be the way Fayetteville deals with things. Mr. Ferrell, the child will be able to have the animal if he gets it from the shelter, it will be neutered before it leaves there, if he doesn't get it from the shelter, he can use one of the programs and the Humane Society's program has a little bit higher income limits than the city's does so we will manage to get that animal spayed and neutered for that child.

Alderman Ferrell: Let's just say you have a 12 year old boy and you want a dog and you go down there, your father works very hard for a living. They say you can get this dog but Dad you have to take off work to go down there to show your W-2, tell me how I can get that dog without my dad having to take off work.

Lib Horn: You can't get the dog if you are only twelve because the twelve year old can't make a contract. Your dad has to come down and help you get it in the first place so while he is there he can show the income.

Alderman Ferrell: So you are not going to get one unless you have an adult there?

Lib Horn: Because a child can't make a contract. You are making a contract with the city based on the care you will give this animal that you will obey the city's ordinances and treat the animal humanely and if you no longer want it you will return it.

Alderman Ferrell: You just talked about the six month grace period, and you said take them and have them spayed or neutered during that period of time, after the six months is up will the help for the spay and neutering program from the city and the Humane Society of the Ozarks and the other one still be in full?

Lib Horn: Yes, that is an on-going program. It will go on until we don't need it anymore.

Alderman Thiel: We have a full time veterinarian. We have a good program and it has been going on for several years.

Nan Lawler, resident of Ward 1: I have seen Fayetteville's animal ordinance just get better and better. There is quite a push to confine cats and a lot of responsible people do confine their cats. I have some misgivings in terms of the enforcement realizing how few people license their dogs to begin with. I want to encourage you to pass this amendment; I think it is worth a try.

William Couch, a citizen stated I've had hunting dogs all my life. I've had dogs since I was big enough to walk and I have never had any of them go to the animal shelter or any of them bred that I didn't want bred. I think all this criteria is a crock.

Emily Williams, a citizen stated in the definition of kennel it specifically mentions individual, it doesn't tie it to a hobbyist, somebody who may breed once every year, every two years, and every three years. It talks about having to be zoned for business and that is something that needs to be looked at again as to whether or not that is really the definition that you want in there. The other thing I want to address is the chains. I have done a lot of rescue in my life. Dogs are social animals and they need company. I hate chains with a passion, at the same time we need to be very careful with the ordinance about chains. There are people who chain their dogs for what they feel are necessary reasons. They are doing what they feel they can do and what is best. I would like to see the city address this problem in a constructive way instead of just suddenly at the end of the six month grace period going and saying it's against city ordinance. I would like to see you do something to try to help people who have dogs on chains who cannot put up a fence for whatever reason. If you are going to tell them they cannot put a dog on a chain then we need to as responsible citizens, not just the city, council and animal shelter, we need to do something to try to help them get the dog off the chain if they are willing to do it. Some of the people are willing to do it they just don't have the means of doing so.

Alderman Thiel: In response to your question about the kennel or pet shop definition, that has always been in existence, that's business. We didn't change anything. Whenever we visited with Planning staff about this we discovered that was the ordinance. It just wasn't in this ordinance. We came back and changed this because we don't want kennels next door to residents. It's a big problem in residential areas but as used herein the term kennel or pet shop can be construed to include any individual or establishment with the intent and purpose of raising, training, boarding, or selling cats, dogs, birds, mice, rats, fowl, or fish, or other small

animals for higher profit. I think that is pretty clear. I think the Animal Services Director and officer understand what the intent and purpose is. I think it is also going to be complaint driven.

Emily Williams: I understand that but that wasn't what I was asking and I'm not sure it actually is clear cut because it lists individuals with the intent of raising and selling a litter of puppies. So that does mean that even though somebody doesn't have what is recognized as a kennel, we're talking about the person who is considered a hobbyist. This does not affect me, but I believe the way that is worded it says if someone has a litter of puppies even if that's the only litter they have and their intent is to sell them and they are not in an area that is zoned for that then they would be in violation of the ordinance. I just don't like to see ordinances that say this is the ordinance but we'll overlook it.

Alderman Thiel: It says intent and purpose of raising. I think that "intent and purpose of" clearly defines that that is a business.

Emily Williams: Does it?

Alderman Thiel: Purpose is the word we added.

Emily Williams: But your purpose is to sell a litter of puppies whether it's one litter or ten litters. I'm just saying it may not be as clear cut as it seems to you because you've read it so many times.

Alderman Thiel: Well we changed it and actually revised it, on your comments.

Emily Williams: All I'm saying is I think there may actually be an issue there that we are not aware of. I don't like to see an ordinance that says it's only going to be enforced if someone complains. I would like it if it could be looked at and made sure that that is what it says so if somebody does breed one litter of puppies they are not in violation of this ordinance because where they live is not zoned for that.

Mayor Coody: Kit, I suggest you come up with the right answer on this one.

City Attorney Kit Williams: All I can say Mayor is I'm glad the City Council rezoned our land to residential agricultural so we don't have a problem with that.

Alderman Thiel: I would like to make the amendment to add a section to the ordinance that states that it will not go into effect for six months.

Alderman Ferrell: Does that mean if this is amended between now and passage, the amended would go into effect in six months.

Alderman Lucas: We probably would never get it to where it will please everyone but I think it's a move in the right direction. I have gotten a number of calls saying please approve this.

Alderman Thiel moved to amend the ordinance to have it effective 6 months after passage.

Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Alderman Cook: There is one comment in here that says the animal shall be micro-chipped at the expense of the owner. How much does it cost to micro-chip?

Jill Hatfield: At the expense of the owner right now at the shelter it is \$20.00.

Alderman Cook: I had another call about the size of the pen being 10x10 for dogs and cats. I've seen some rather large dogs and there was some concern whether 10x10 was large enough for some breeds of dogs. I was just curious where the 100 square foot came from.

Alderman Thiel: We looked at other cities. Maumelle has 150 square feet per dog over six months, Lawton, Oklahoma 100 square feet, Sulphur Springs, TX 100 square feet. East Long Meadow, Massachusetts 100 square feet, San Bernardino 100 square feet, it varied and that's why we rounded it up to that. We went back and forth and settled on what seemed to be the most common.

Alderman Lucas: Something about what could be purchased.

Jill Hatfield: Right, we did at one time go by 10x15 but when you look at purchasing a kennel that is a special purchase and they don't make them that size. So we went back to a 10x10 which is standard and they are around \$150 to \$250. We looked at the ease of the citizens and it being cost effective for them.

Alderman Cook: Just an observation, one of my dogs is one that ran away from his owner because it was tethered to a tree and got frustrated and finally we just kept her. Another one we got from the shelter. We love our dogs. One thing that makes me nervous is it puts a lot of pressure on the animal control officer because there is a lot of instances in here where it's up to their discretion, the way they see things going and that is going to put a lot of burden on them. I think that overall the changes that are in here are good changes because responsible owners most likely won't be affected at all by these changes. Your changes are reasonable I'm just concerned about the burden it puts on the control officer.

Alderman Lucas: One of things that we talked about was it gave them something to back them up to what they could do in enforcing things. Whereas now we weren't backing them with our ordinances.

Alderman Cook: I agree that you are not going to make something perfect. I know there is going to be issues where some people are going to say that dog is driving me crazy and then there are going to be neighbors going back and forth with each other. Who's going to get involved with that? I would hate for the city to even get involved with that. It's going to happen at some point, it probably does now.

Jill Hatfield: It does, most of our barking complaints go that way.

Alderman Cook: That is going to be a difficult situation but I agree with your comment.

Alderman Allen: I'm hoping we can figure out some way to handle the "acts in an aggressive manner". Still I have some concern about it being arbitrary. I think they can act in an aggressive manner and it not be anything that goes beyond that kind of concern.

Alderman Lucas: I believe them when they act that way.

Alderman Allen: I think sometimes they are playing and I thought there might be a wording we could use so it wouldn't be as arbitrary as to what that really means.

Alderman Thiel: I might just say that that was something that was discussed a whole lot. There were a lot of concerns about that and how that would be judged. You have to remember this is like anything else, we added that this person has the right of law to argue. It takes an observation by the animal control officer and the Animal Services Director. One committee member wanted there to be a section in here that dealt with animals that had never bit anybody but might have that potential. They are not put down or anything, they just have to have stronger restraints. I don't think it's that difficult to comply with. They need to have a locked enclosure so that children can't get in.

Alderman Allen: I just wondered if there was anything on the books about the number of dogs or cats a person can own.

Jill Hatfield: No, there isn't. Due to the variety of sizes of lots and houses and such, that is one of the benefits of the 10x10 to allow people who have certain areas to go with the amount of animals in a space rather than how many per person.

Alderman Jordan: I need clarification on something. We are talking about the minimum pen size being 10 x 10. I understand the reason behind not wanting to chain a dog, but if a dog is on a stake in the ground and it's a 20' chain and it's a large dog, what we're saying is it's better to put it in a 10x10 pen than to put it on a 20' chain. Why is that?

Jill Hatfield: There are several options. You can put them in a fenced in area that is bigger or on a trolley system.

Alderman Jordan: But they could put a large dog in a 10x10 pen.

Jill Hatfield: Yes, they could. Part of that was the safety of children so the enclosure helps with that type of situation where it is an enclosure and it's not a trolley situation where the dog is out there.

Alderman Jordan: I understand but that doesn't seem very humane to me.

Alderman Thiel: I think the big argument by one of the committee members was that the animals that were chained sometimes a child can wander in and there is no fence around the dog and that child gets bit, where if it is in a pen or if it is on the trolley system with the owner there, that's the key. We are looking at both the humane treatment of the animals but the committee was also very balanced and some of the committee members were concerned about the citizens and the children and the bite statistics we have in this city. We do have a considerable amount of bites and a big part of those have come from chained animals because a child can get in there.

Alderman Jordan: I am not disagreeing with that, but I have a feeling that folks are going to take a 10x10 pen and slap a large dog in it and I do have a problem with that.

Alderman Ferrell: I'm an animal lover, and my concern is there is a certain part of this that's going to be like herding cats and that is what I'm trying to figure out.

Alderman Thiel: We have heard from a lot of people and I would like to move this forward.

Alderman Cook: You have been working on this a long time and I understand that but this is the first time that we have debated it amongst ourselves and the public and that is my only concern.

Alderman Thiel: Okay, let's leave it on the second reading.

This ordinance was left on the Second Reading

Alderman Thiel: I do want to point out that the 100' pen that you are referring to, that is the minimum size. People can get bigger.

Alderman Jordan: I understand that. I would rather see it bigger.

Alderman Lucas: But what if they have a little dog.

PUBLIC HEARING:

Public Hearing for Monthly Sewer Rate Ordinance.

Mayor Coody opened the Public Hearing

There was no public comment

Mayor Coody closed the Public Hearing

UNFINISHED BUSINESS

Amend Chapter 51 – Sewer Volume Based Rates: An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates. ***This ordinance was left on the First Reading at the March 20, 2007 City Council meeting.***

City Attorney Kit Williams read the entire ordinance.

Alderman Thiel: I think the fact that it is a reduction in fees, is probably why no one is here.

Alderman Jordan: This is only until after the rate study comes in right?

David Jurgens, Water/Wastewater Director: These numbers were derived from the evaluation of the rate study and the preliminary looks from the rate study that is underway as we speak. We do not anticipate at this point with what we've seen thus far that there would be any recommendation for a sewer rate increase at this point immediately following the rate study. We will have one in the future but we are not looking at having one for outside city customers based off the rate study at this time. This number that is proposed in this ordinance was based off of the latest information from the rate study.

Alderman Cook: What is the status of the rate study?

David Jurgens: We are looking at the rate study coming out probably late spring early summer. We are looking at in the next two or three months. It has taken us a little bit longer than we originally planned.

Alderman Cook: I will say that \$4.66 was calculated last fall or summer.

David Jurgens: Yes sir, but when we met with HDR, the rate consultant a month and a half ago they said they thought that number was still valid.

Alderman Cook: We are doing this based on negotiations with Farmington. This is tied with our Farmington Wastewater Service Contract. Going back and looking at the Black and Veatch Study there were some concerns about not being able to replicate those rates based on the assumptions that they made. So we went back and brought HDR in and they looked at them and made the same comment, they couldn't quite replicate it and we asked them to calculate it and this is the number they came up with. If we move to reduce Farmington's rates we should reduce that for all outside customers because that's the fair thing to do pending the next rate study.

Alderman Ferrell thanked Alderman Cook for the time he spent working on this project.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4998 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Fayetteville and Farmington Wastewater Service Contract: A resolution approving a contract between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide wastewater collection and treatment system service and operations and maintenance service to the City of Farmington; and approving a budget adjustment in the amount of \$650,000.00 to implement the refund of a portion of rate payments made from February 9, 2004 through April 30, 2007.

David Jurgens: This contract was approved at the Farmington City Council meeting last night and they delivered two signed copies to the City Clerk's office this morning. It has taken a long time to get to this point and we feel it is equitable and resolves problems that were existing from the previous contract in 1993 and we're glad to be at this point.

Alderman Thiel: Where does this budget adjustment come from?

David Jurgens: This will be coming from the fund balance of Water and Sewer.

Alderman Lucas: Farmington has to adopt a sewer ordinance to match ours, is that right?

David Jurgens: Yes Ma'am or they can adopt our ordinance by reference.

Alderman Lucas: How soon was that going to happen?

David Jurgens: That is already in place because that requirement was in the previous contract as well. The field folks enforce our ordinances just exactly like they do in Fayetteville.

Alderman Lucas: Impact fees, I saw in here where Fayetteville has impact fees, Farmington has impact fees, I'd like to know who gets these impact fees and how does that work?

David Jurgens: What will happen is residents of Farmington will pay impact fees to Farmington and they will also pay impact fees to Fayetteville because their added wastewater will have an impact on both cities systems. The Farmington rate will be based on whatever the impact fee study comes up with. There's one anomaly and that is if there are Fayetteville customers whose wastewater flows into Farmington and back into Fayetteville, those customers by this contract will pay both fees as well. The impact from their wastewater affects both the Farmington system and the Fayetteville system.

Alderman Lucas: So everybody out there will be paying two impact fees?

David Jurgens: Everybody in the Farmington system or that flows into the Farmington system, yes.

Alderman Lucas: On page 29 of 38 it says "if Fayetteville annexes basin I54 or basin I55, I think that is kind of a typo. Are we going to annex something else?"

David Jurgens: This is a 15 year contract. The reason why is basins I54 and I55 are currently not in either city. If you look at the map at the basins in the very bottom we included those votes in the Farmington calculation for determining what percentage of each city paid. Those two basins are assumed by the contract to be Farmington basins. We were trying to make sure that we thought everything through for the next 15 year period.

Alderman Lucas: Thank you very much. I know it states in another place that if Farmington annexes them, we still pay for the cost of sending service to the area?

David Jurgens: If Farmington annexes those they are already paying the cost of the pipes to service that area. That is included in the Farmington percentage.

Alderman Lucas: I thought it stated in here that if Farmington annexed them we still had to pay for the cost of it.

David Jurgens: No ma'am, that is only if Fayetteville annexes them.

Alderman Ferrell: Approximately how many customers are you talking about that would have to pay both the impact fees?

David Jurgens: For both impact fees the Fayetteville portion of the population is 4,318 at 2030 and so the 2030 anticipated population flowing into the Farmington system in 4,318 and that's population numbers and not households.

Alderman Ferrell: Do you have an estimate on households?

David Jurgens: It would be that number divided by 2.6. We're looking at about 1,800 or 1,900.

Alderman Ferrell: And they are cognizant of this?

David Jurgens: It would be any new developments that would be going in that basin and we would inform them of the same method that we would inform any other. Any development going in that area would certainly be aware of it.

Alderman Cook: The issue with that is Farmington's capacity is limited at this point so their impact fee will help increase their capacity so that is why they have their impact fee and then we have ours to cover our Wastewater Improvement Program.

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

Resolution 61-07 as Recorded in the office of the City Clerk.

ADM 07-2532 (Bungalows at Cato Springs PZD Modification): An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1797, Bungalows at Cato Springs, located on the north side of Cato Springs Road and west of Cline Avenue, containing approximately 5.52 acres, more or less, to reflect revised planning area boundaries and site layout as described and depicted herein.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Planning staff recommends approval of the ordinance amending this already approved Planned Zoning District, it was before the Council in December of 2005 and it was approved as a concept PZD at that time. The applicants came forward with a preliminary plat for development, meeting all the criteria established by that meeting. What the Council dictated to them and one of the conditions of approval is compared on pages 6 and 7. The determination made by the Planning Commission was to have that stub out and this project is now under construction. Instead of having lots off the end of the cul-de-sac the lots get shifted to each side of the road. So this is simply a modification to take out the planning area that was indicated at the end of that cul-de-sac and make it much like the other planning areas that were already approved. The number of lots would remain at 31 which is the same number of lots approved by the Planning Commission as part of the preliminary plat.

Alderman Thiel: I asked at the last meeting whether or not all the neighbors have been notified and I have not been contacted by any. When I look at this new configuration I think some of the residents that were most concerned were those back two existing lots on Pine Avenue and they actually have improved the density behind them and the rest of the density stays the same along the other existing lots. Everything on the north and west of this is not adjacent to existing homes.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Gray 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 Gray 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 4999 as Recorded in the Office of the City Clerk.

Amend Chapter 152, Administration: An ordinance repealing and replacing Chapter 152, Administration, of the Unified Development Code to designate and clarify the administration, interpretation and enforcement authority of various sections of the UDC.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an ordinance amendment that Planning staff is requesting that you make to the Unified Development Code; it would repeal and replace Chapter 152. Our current Chapter 152 is quite outdated and there are a number of chapters that have no administrative authorities so this would catch us up to that.

Alderman Jordan 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 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 5000 as Recorded in the Office of the City Clerk.

Amend Chapter 177, Landscape Regulations: An ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with Urban Tree Wells.

City Attorney Kit Williams: I've talked with Jeremy about this and in order to further clarify and make this better grammatically I have rewritten this, not to change the intent. The effect of this is going to be exactly as explained to you by Jeremy at Agenda Session. If possible I would like you to amend this ordinance to what I just handed out to you. I will then read that.

Mayor Coody: Before we make this amendment, lately I have seen some tree wells that are 3x8 or 3x10 so they are narrower but longer so they have the same number of square feet. Would this lock us out of being able to use narrower but longer tree grades?

Jeremy Pate: The current ordinance and we are not proposing to amend that, currently states the minimum width of the urban tree well shall be 4 foot; minimum area shall be 16 feet. It would always be larger than that, I think you could probably get narrower but we are trying to maintain clearance which is an 8 foot sidewalk and we want to make sure that there is an unencumbered area for sidewalk. I would really have to check with Sara Patterson on that.

Mayor Coody: I think what grades must be out there is to maintain a wider sidewalk but still add plenty of moisture into the tree roots so if you would ask about that, we can always amend this later to see what's on the market these days. I see the intent and I really appreciate it.

Alderman Cook: Can I ask that this come before the Sidewalk and Trails Committee?

Jeremy Pate: Sure.

Alderman Cook: We have a meeting next Wednesday.

Alderman Allen: Would there be less probability of these trees surviving?

Jeremy Pate: The actual tree grade size is not getting any smaller. What we are looking at is instead of a 10 foot wide sidewalk and a 4x4 tree grade we are narrowing the amount of concrete so it's an 8 foot wide sidewalk and you will still have a 4x4 tree grade with structural soil.

Mayor Coody: Do you know, is the sidewalk in front of city hall an 8 feet sidewalk?

Jeremy Pate: I don't know.

Alderman Cook moved to amend the ordinance as requested. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Jordan 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.

CAJ, LLC Cost-Share Agreement: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with CAJ, LLC in the amount of \$42,470.00 for the upsizing of approximately 1520' of 8" water main to 12" water main.

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: This is in the city limits isn't it?

Mayor Coody: Yes ma'am.

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

Ordinance 5001 as Recorded in the Office of the City Clerk.

City Council's Support of Road Impact Fees: A resolution to express the City Council's support of road impact fees and to encourage citizens to vote for the road impact fees on April 10, 2007.

Alderman Jordan: I brought this forward after numerous calls from citizens in my ward and other wards. The amount of time that we have spent on this particular ordinance, I know we have worked with staff for a couple of years and we've went through the study and passed that. We had Duncan and Associates come back in, we've put it before the vote of the people and now some of the citizens want to know where the Council stands on the ordinance itself so I brought this forward to see where everybody is.

Alderman Ferrell: I'd like to recognize Alderman Jordan's leadership on the Street Committee as far as trying to build streets; you did a good job at it. We have moved forward and got some bonds for the sewer and the streets. This says the City Council expresses its full support of the Road Impact Fee ordinance and I would like to amend that because I don't support it. Several of the paragraphs I don't agree with.

Alderman Ferrell moved to amend the resolution to state a majority of the City Council hereby expresses their support. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Mike Henry, a citizen stated last year when the City Council wanted help getting the sales tax increased citizens of Fayetteville were there with you and worked very hard to make sure that that it received a majority of voter support. Now we find ourselves on the other side of this issue. There are so many unintended consequences to this proposed ordinance that are going to be very bad for Fayetteville. This is going to cause commercial projects to move out of our city. When those commercial projects move out of our city we lose the real estate tax that would have been derived and the sales tax that comes with them.

Mr. Henry went on to speak against the passage of the impact fees. He stated this is something that does not deserve the support of the City Council and does not deserve the support of the voters because instead of reducing taxes it's going to increase taxes.

Jeff Erf, a citizen stated I would like to urge you to pass this ordinance tonight and I would encourage people at home to vote for the impact fees. Also, just a reminder if the road impact fees are implemented it has been estimated that they will generate about \$3.4 million a year for road improvements. I think that is very important and it would be very helpful. I think the road impact fees would be very fair.

Mayor Coody: Tim, does the \$3.4 million amount include the backing out of what a developer wouldn't have to do that we are requiring them to do now that they wouldn't have to do if the impact fees are approved?

Tim Conklin: I used the May 2006 Impact Fee Study and I adjusted the fees and used the same methodology with regard to projects and their impact and what type of credit they would get. It's difficult to answer without seeing some of the traffic studies. The impact fee is based on trip generation and what type of infrastructure is needed for that project for that new development. It's a case by case basis.

Alderman Ferrell: If somebody had a commercial property and they were adding 5,000 or 6,000 square feet to their property, but they were not adding any employees, would they still sustain a street impact fee?

Tim Conklin: The addition of the 5,000 or 6,000 square feet would require an impact fee.

Alderman Ferrell: I was looking at some other cities on the web that have impact fees and if you are not adding employees they exempt storage, outbuilding and things like this. I don't see how that's going to generate more traffic.

Tim Conklin: If it's a warehousing use for storage we would apply the warehousing storage rate. If it's retail office we would apply the retail rate. It's somewhat difficult from project to project. We would sit down and look at the traffic study, what infrastructure is needed to serve that development and then report those decisions to Planning Commission and the Council.

Jim Bemis invited the Council to a public forum that would be held regarding the road impact fees. He stated you will see some excellent presentations and you will get some real facts.

Alderman Thiel: I am a little concerned. In a way I am expressing how I'm going to vote on this. Support or not support on this is not necessarily an indication of how I'm going to vote. However, I am speaking at this level as a representative of the citizens of Fayetteville and Ward 1 and I thought about the points made about the commercial. Then, I also looked at the fact that this is going to create a revenue stream that will off set future sales tax for infrastructure. If we would have done this many years ago, we wouldn't be in the position we are in now. We wouldn't be trying to reconstruct streets and widen streets and deal with intersections all of it at one time. That in itself is creating traffic problems. At some point you do have to start doing this. We had a situation where one developer had very little frontage so they did not have a very large amount of street to improve based on our current policy. It was unfair to the next developer who had that little section and a lot more. He didn't have much more land but he had a lot more frontage. The point is I think this will make it more equitable for all the developers;

diversified revenue is always a benefit to the city, obviously the more we can do, the less costly it is. Commercial is going to locate here because people want to live here. People are not going to live here if infrastructure does not keep up with the growth. People want good streets. This is just another way of providing that. I certainly think the public should vote for this. I as an Alderman will support this resolution.

Alderman Ferrell: I would like the people that are going to vote to consider this. We had a developer tell us that he had a 200 room hotel that he was trying to contract to bring in. They went out the back door when they heard about this. Continue to figure for a minute if other retail and commercial goes to other places, then what is going to happen to the taxes? If they go somewhere else we are not going to have that sales tax here or the property tax for our schools. Before you go and mark your X, keep that in mind.

Alderman Lucas: I appreciate the help from the citizens from Fayetteville who helped us with the sales tax. It was very good. The citizens voted for that sales tax, they picked up their fair share and we promised to diversify and not put the entire burden on the shoulders of the citizens so I am in support of impact fees. It seems reasonable that since the citizens have picked up their share that the people who cause the impact pick up their fair share. I think if the citizens will support this, it will be another means of bringing in revenue to improve our infrastructure and it's going to have to be paid for in some way. So maybe if we can diversify it maybe it won't be too heavy of a burden on any one person.

Alderman Allen: I also support the impact fees. I can't think of any fairer way than to say that those who create the impact, pay for the impact. If we don't do it that way, we are going to end up with a sales tax and that is going to hit the little guy that could least afford to pay. Unless he is creating the impact, he shouldn't have to pay so I will be in support of this and work towards its passage.

Alderman Gray: I have some concerns about it. I said in my campaign that I supported impact fees and I do as a general rule. I have some concerns about this one and great concerns about someone who is building a one bedroom house having to pay the same amount as someone who is building a five bedroom house. I feel like the five bedroom house owner is probably going to have a greater impact on the roads. I do have some concerns but I also am listening to what our street chairman says and that we're \$40 million behind on taking care of our streets and I know that is not a good thing. Is that right?

Mayor Coody: Well, we have about \$44 million dollars worth of road improvements in town that we need to do right now.

Alderman Gray: That is not budgeted, is that right.

Mayor Coody: We do not have the money right now to do that.

Alderman Jordan: Let me assure you, it is not budgeted.

Alderman Gray: I do have some concerns and I'm going to continue to research it myself and listen to my constituents as they call me and I would encourage every constituent in town if you cannot attend the meeting tomorrow night you can certainly watch it on Channel 16. I know there would be a lot of information that we can all benefit from.

Mayor Coody: I want to read this press statement because a lot of people have taken comments out of context and I can see why because they have been fully expressed and I will read the same thing that I gave to the press.

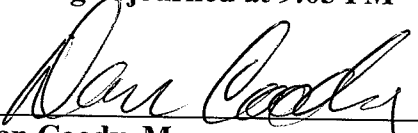
Mayor Coody read the following: I have supported the impact fees we have put into place so far but I find it hard to reconcile some of the negative impacts of this one. While I do not oppose the concept of street impact fees I think the consequences may outweigh the benefits of this legislation as it is written. I appreciate the Council and street committee's efforts to bring this forward but I cannot bring myself to cheerlead for something that I do not completely support. If we see a proposal in the future that is less regressive and can be more useful as a tool for managing and planning our growth, I would be more likely to support it.

I just wanted to be on the record clearly stating this so people won't think that anything less or more is the case.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 5-3. Alderman Lucas, Jordan, Thiel, Cook, Allen voting yes. Alderman Gray, Rhoads and Ferrell voting no.

Resolution 62-07 as Recorded in the office of the City Clerk.

Meeting adjourned at 9:05 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer

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