

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 17, 2007**

A meeting of the Fayetteville City Council was held on April 17, 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

CONSENT:

Approval of the March 20, 2007 City Council meeting minutes and the March 27, 2007 Special City Council meeting minutes.

March 20, 2007 Minutes were removed.

March 27, 2007 Minutes were approved.

Ford Escape Hybrid Purchase: A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.

Resolution 63-07 as Recorded in the office of the City Clerk.

Bid #07-26 Scott Construction Equipment: A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.

Resolution 64-07 as Recorded in the office of the City Clerk.

Bid #07-27 Diamond International: A resolution awarding Bid #07-27 to Diamond International for the purchase of one (1) asphalt distributor truck (chassis only) in the amount of \$59,988.54 for use by the Transportation Division.

Resolution 65-07 as Recorded in the office of the City Clerk.

Bid #07-28 Clark Machinery Company: A resolution awarding Bid #07-28 to Clark Machinery Company of Fort Smith for the purchase of one (1) chassis-mounted asphalt distributor in the amount of \$76,356.00 for use by the Transportation Division.

Resolution 66-07 as Recorded in the office of the City Clerk.

Bid #07-31 Williams Tractor of Fayetteville and Hugg & Hall Equipment: A resolution awarding a portion of Bid #07-31 to Williams Tractor of Fayetteville for the purchase of one (1) compact track loader in the amount of \$39,504.38 and to Hugg & Hall Equipment for the purchase of one (1) trailer to haul the track loader in the amount of \$6,924.61, both for use by the Water & Sewer Division; and approving a budget adjustment in the amount of \$46,429.00.

Resolution 67-07 as Recorded in the office of the City Clerk.

Bid #07-32 United Rental of Fayetteville and Hertz Rental: A resolution awarding a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) trench roller in the amount of \$30,202.18 and to Hertz Equipment for the purchase of one (1) trailer to haul the trench roller in the amount of \$3,835.96 both for use by the Water and Sewer Division; and approving a budget adjustment in the amount of \$34,400.00.

Resolution 68-07 as Recorded in the office of the City Clerk.

Bid #06-36 Downing Sales & Service: A resolution awarding an additional purchase from Bid #06-36 to Downing Sales & Service for the purchase of three (3) additional recycling trucks in the amount of \$442,314.00 for use by the Solid Waste & Recycling Division.

Resolution 69-07 as Recorded in the office of the City Clerk.

Boston Mountain Solid Waste District Recycling Grant: A resolution authorizing the Solid Waste & Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to partially fund the purchase of a new baler for the recycling center.

Resolution 70-07 as Recorded in the office of the City Clerk.

Sugar Creek Rolloff, LLC: A resolution authorizing the mayor to execute a contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 71-07 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 7-0. **Alderman Rhoads** was absent during the vote.

UNFINISHED BUSINESS:

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. This resolution was Tabled at the April 3, 2007 City Council meeting to the April 17, 2007 City Council meeting.*

Alderman Jordan: I went through the neighborhood last week and showed them pictures of what was being proposed and they did not have a problem with this. I did not feel it was necessary to have a neighborhood meeting because I had met a lot of the folks door to door. They seemed to be okay with it and if they are okay with it, I am relatively okay with it.

Alderman Thiel: When the city sold this property our biggest concern was that we were leaving it industrially zoned and that was a concern of the neighborhood. The owner said that with these new plans they have omitted the mixing feature and anything that was considered industrial; they have decided that they probably will not use it there. Are we going to consider at all rezoning this property to commercial because that is what it sounds like it is going to be used as.

Alderman Jordan: I would not have a problem with that. I agree with Alderman Thiel if you want to look at that in the future.

Alderman Thiel: What is before us is fine.

Alderman Ferrell: I think they have tried to accommodate some of the concerns that were voiced early on. I am glad they were able to do that.

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

Resolution 72-07 as Recorded in the office of the City Clerk.

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. This ordinance was left on the Second Reading at the April 3, 2007 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 Thiel: The City Attorney just handed me something tonight to clarify the definitions of kennel and or pet shop. The City Attorney thinks kennel and pet shop should be separated. He states kennel should be defined as *a structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility used for commercially boarding more than three dogs or cats or combination thereof at any time shall be considered a kennel.*

I think this is alright because kennels are only allowed in zones R-A and I-2. By eliminating the kennel and or pet show definition that we have herein and changing it to this definition, not mentioning the zoning because of the definition, I suppose that it automatically falls over to the zoning issue. Although the problem with not mentioning that the zoning is only allowed is because for several years both Animal Services and the Planning Division had forgotten that concept. That is one reason we decided we wanted it in the ordinance specifically that these were only allowed in districts so designated by the zoning codes. I would still like to add that to the end of a kennel. The definition of a pet shop would now be *a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and or fish to the general public.* I would also want that a pet shop is only allowed in those districts and we can designate those districts.

City Attorney Kit Williams: Districts are designated in the memo.

Alderman Thiel: But that needs to be part of the definition.

City Attorney Kit Williams: Mainly commercial if you look on page 2 you can see that pet shops are allowed in most commercial districts and by conditional use in R-O.

Alderman Thiel: The reason I think the zoning needs to be in the animal ordinance is because people that are interested in the animal ordinance then it is easily ascertainable to them. I see nothing wrong with adding specifically what zones those are allowed in in those definitions.

Mayor Coody: Since these changes have been brought forward just this evening and we are looking at them for the first time do you want to move and try to read this for the third and final time tonight or do you want some more time?

Alderman Thiel: It has already been read for the third time.

Mayor Coody: I realize that but I didn't know if you wanted to wait until the next meeting to actually finalize this and get this approved or if you wanted to go ahead and do that tonight.

Alderman Thiel: Yes I am because all this does is separate it and define it.

Alderman Thiel moved to amend the ordinance to separate kennel and pet shop and add that kennels are only allowed in R-A and I-2 and pet shops are allowed as right in C-1, C-2, C-3, Downtown Core, Main Street Center, Downtown General and by Conditional Use in R-O. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams: In my memo I also talk about the definition of hobbyist. The basic difference between that and what we have now is that a kennel would be defined as someone that has two or more litters, someone that is regularly having litters not just one a year. A hobbyist would not only be someone that is affiliated with some national group or a hunter but would have not more than one litter a year. I think we need some diffarreation between those two groups. This legislation gives an advantage to a hobbyist by lowering their license fee. I thought that we needed something that would be pretty clear and easy for Animal Services to be able to see beyond just the fact "do you have a hunting license or a dog or cat that is registered in some organization." I could not come up with a short definition. It was a lot more difficult to try to nail this down without being too restrictive and yet make it as clear as I could. I would ask that you consider whether you want to do this or go with the original definition you have that does not speak to the number of litters that someone might have.

Alderman Thiel read the new hobbyist definition for the public.

I personally think this is probably an improved version of a hobbyist although we compromised on this with a lot of people. I personally prefer this over the one we had.

Alderman Thiel moved to amend the ordinance to change the definition of hobbyist. **Alderman Lucas** seconded the motion.

Emily Williams: On the definition of kennel or pet shop I asked specifically for a clarification of that over a month ago. I also asked at the last meeting what that meant and for a clarification of the definition. Apparently no one addressed it so that is why it is just now getting to you.

The problem with the definition of a hobbyist as it is in the ordinance now the organizations that are listed as needing to have a membership in them are actually organizations in which most individuals don't hold a membership. I think the definition the City Attorney has given is a little cumbersome and doesn't address that same issue. I typed something up if you are interested in seeing it. Because the organizations listed are not organizations individuals who hold memberships in, they are registry organizations primarily, my suggestion was that it be changed to something along the lines of *is a member of a clubs or group affiliated with recognized animal organizations, animal sports club or hunting groups or holds a license with the Arkansas Game and Fish Commission, examples of recognized organizations would include but not be limited to the American Kennel Club, The United Kennel Club, Cat Fanciers Associated, Therapy Dogs, Inc., etc. Individuals who are not members of affiliate clubs or groups would be allowed to register as a hobbyist if they offer proof of entry, participation in events put on by recognized organizations for dogs or cats. Any hobbyist who breeds more than one litter in a twelve month period would lose their status as a hobbyist for a period of one year.*

The reason I prefer this definition is the intent of being a hobbyist is to compete with your dog, to participate with your dog and maybe breed a litter for the betterment of that breed if you are doing a specific breed. I think this definition addresses all those things, differentiates from a kennel but doesn't make it too difficult to actually do things with your animal and keep them unaltered if you have to for that sport or what you are doing with them.

Alderman Thiel: The only reason we brought up the hobbyist idea was for people that showed animals and wanted to keep a lineage going. We felt that would justify reducing the rate to \$25. That is all we are doing with the hobbyist definition is reducing the rate if you want to keep your animal in tact. We felt like if you were a hobbyist and you were raising your animals to show or you wanted to raise a registered breed per year that you could afford the \$75. The hobbyist idea was a major concession. I feel like what we have here is fine. I do not see that we need to tweak that any more.

Emily Williams: Because you can't be a member of those organizations that you list. The original definition was what I was addressing.

Alderman Thiel: We are talking about the amendment.

Emily Williams: I misunderstood you I apologize.

Judy Bond, owner of pure breed dogs: At our last meeting I applauded the way you had it written. I think it is very important that if you are going to put a better dog on the ground you need to belong to a professional organization regardless of how many breeds I have. I am required by each of these organizations to provide certain things when I sell a dog. The way you have it written is wonderful. We need to put better dogs on the ground. Showing a dog is expensive. Paying \$75 per dog to license is a drop in the bucket and if you are a true show person you don't think a thing about paying that. Belonging to these organizations keep you up to date on things that are going on with the breeds and the DNA studies that are being done. If you are not going to belong to it then you really don't care about your breed. I think we need to keep it where you have to belong to some organization affiliated with your breed.

Jeremy Pate: Is the intent of the definition from a zoning perspective to allow hobbyist activity within single family residential zones?

Alderman Thiel: No.

City Attorney Kit Williams: That was not my intent on doing that. I was differentiating between a hobbyist and a kennel. If you are going to say any one that raises any animal must be in a kennel then certainly that is a decision you can make but that was not what I understood your difference of what you wanted for the hobbyist and for the kennel.

Alderman Thiel: The hobbyist definition was only so we could have a different rate for unsterilized animals. That is why we had a hobbyist definition.

City Attorney Kit Williams: But a hobbyist would not raise in a kennel because a kennel is two or more litters a year.

Alderman Thiel: That's right. You are tying it together, this didn't.

City Attorney Kit Williams: Jeremy's question was that if someone gets a hobbyist permit they can't do it in residential single family or any kind of residential zones. I did not think that was what your intent was.

Alderman Thiel: Is that your question Jeremy?

Jeremy Pate: Yes, in a single family residential zone could you be a hobbyist?

Alderman Thiel: Yes.

Jeremy Pate: We often get calls on code compliance request and in working with Animal Services we go out and try to ascertain whether it is a pet owner with a lot of pets or is there an actual kennel. This would differentiate a little more clearly if there is one litter per year and we can ascertain that it would be allowed as long as they had a hobbyist license. That makes that a lot easier.

Upon roll call the motion passed 6-2. Alderman Jordan and Lucas voting no.

Delford Taylor, Arrowhead Street: I have lived on this street for over 17 years. During that time we have called repeatedly to have stray dogs picked up and have something done with them and nothing has been done. They are still there. The opinion that I got was some people didn't know we had a problem with cats. I can show you 100 cats tonight running loose. Some of them are within walking distance of my house. I am opposed to this ordinance the way it is written. You can't go around the outside of the problem to solve it you have to go to the core of the problem. The problem has never been addressed about the stray animals we have all over town. What good is a city ordinance if you can't enforce it or won't enforce it?

Mayor Coody: We do enforce our ordinances. A lot of time when Animal Services is called out to collect a loose dog it is gone before they get there.

Delford Taylor: I have heard that excuse and one of the other excuses I have heard is the kennel is too full or we don't have enough people. You approved all these other towns to use our kennel how did you think that was going to work if they are that over crowded?

Mayor Coody: That is a program that we signed on with other cities for many years.

Delford Taylor: One of the other problems that I have is if I keep my dog in the back yard where it belongs and my neighbor does the same thing what difference does it make if they are spayed or neutered. We have a city ordinance that says you are to keep your dog on your property if you do that what difference does it make if they are spayed or neutered.

Mayor Coody: That would be true but a lot of folks don't keep them on their property. I think that is the problem.

Delford Taylor: These people just turn their dogs out and there is no control of them. We have stray dogs all over town with no collars and no identification. Arkansas still ranks way up there in cases of reported rabies every year. What better way is there to spread rabies but to have a bunch of stray dogs running our neighborhoods?

A ten by ten pen is 100 square feet but a ten foot chain covers 314 square feet. Someone brought up they saw a dog on a chain with no water what makes you think for a second that dog would be any better off in a pen than he was on that chain because if the owner neglected him on that chain he is going to neglect him in that pen. I have a hard time thinking there is any difference between

a thirsty dog in a pen and a thirsty dog on a chain. You are saying one guy neglected his dog so we are going to make everyone take them off a chain.

He also voiced his concern about the number of deer in the city.

Jill Hatfield, Animal Services Director: There is a difference in the City of Fayetteville between the Humane Society of the Ozarks and the Fayetteville Animal Services. Fayetteville Animal Services is animal control, sheltering and the clinic program. We have a problem with stray dogs and cats and we are trying to work on that. That is one of the reasons why we are coming forward with the new proposed ordinance, to try to work on the fact that dogs and cats need to have collars, tags and identification. That is the whole point to the ordinance of licensing your animals. We don't have enough officers to patrol everyone's neighborhoods all the time. We respond on complaints. It is a compliant based response. We have five officers. When we get a call on a dog or a cat a lot of times they are gone. We ask for help from the community to contain the dog or cat until we get there. A lot of the issues are I am a responsible owner and my dog stays in the back yard and never gets out. That may not be the case with your neighbor who lets the dog or cat out. We try to educate folks. It is unfortunate that we do not have some mechanism that magnetizes animals to us when we go to catch them. We need help from the community. This proposed ordinance will help us better identify these dogs and cats. The reason for spay and neutering is animals get out and those that get out are reproducing. The shelter is full, it is not from the county or other cities it is Fayetteville animals. We offer sheltering contracts with cities that do not have a shelter. That helps us to produce revenue to shelter everyone else's animals and the animals of Fayetteville. When we get complaints about chaining it is animals that are living on chains and do not have shelter, food or water. We can ask them to give the animal's food, water and shelter but we can not ask them to take them off the chain. The chaining situation is breeding un-socialized aggressive animals. Until we address the chaining issue we are not going to be able to take care of some of those aggressive or dangerous dogs that are out there that may chew up a child, cat or something else. I am not saying that chaining is less humane than a pen. A pen is protection from a child wandering into a yard where an aggressive dog is. It is a safety issue.

Jennifer Shreve: I urge the Council to vote for these changes to the animal ordinance.

Ms. Shreve handed out photographs of animals. She also gave a brief history of the Humane Society of the Ozarks, the prices they charge and the services they offer. She feels their program and other programs will eventually lead to fewer animals going into the city shelter and fewer euthanizes.

She stated she feels chaining should be banned in our community due to the safety of citizens and it is a humane issue for the dog. I would propose a Habitat for Humanity for Dogs. This would be organizing volunteers and funds to help owners replace the chains with proper enclosures for dogs. I would like to educate people about what might be a better situation for dogs. This would help people on limited incomes and people with physical challenges provide enclosures. I urge the Council to institute these changes for our city's safety and for the humane care of its animals.

Joann Southern: I have a cat that I adopted from the shelter and had no idea until a few days ago that I was a criminal because I did not have my cat on a leash when she was outside.

She said if cats are dumped are they the home owner's cat that they are dumped at because that person is feeding and watering them. She asked at what point does it go from kindness to being responsible for the cat.

I have been turned away from the shelter because it was full. I think we need to rethink the cat part of the ordinance.

Joe Alexander: I found that about 70% to 80% of the people that I talked to where opposed to this ordinance. I would ask that the City Council not be in a rush to enact this ordinance but please give adequate time to consider these suggestions. I don't think people should judge for the cat what is best for the cat. I think the kindest thing is to let them follow their natural instinct and live the kind of free live they want to.

Eva Madison: The Humane Society of the Ozarks is a private nonprofit. We do not have a shelter. There are certainly issues to be addressed with cats but those cat provisions have been city ordinance for 16 years. I think it is certainly fair that citizens are questioning city ordinance but I hope that the City Council will not let current ordinance interfere with these important revisions that are before the Council tonight. With respect to the 10x10 pen and the issue of chaining, is the 10x10 pen ideal, certainly not. We want dogs to have a lot of space to run. We would like for them to be inside or be in a fenced yard. The committee that looked at that said that is not realistic for the City of Fayetteville. We modified the recommendations to go with 10x10 not because it is the best but because it is the easiest for the citizens of Fayetteville to accomplish based on what is generally available. The cost of a pen is an investment but pets are an investment and if you are not willing to pay for the costs that goes along with a pet you need to think about whether to have one or not. A pen is far better than chaining. Dogs on chains become incredibly aggressive. It is a form of physiological abuse to a dog. With a pen you do not encounter a child wondering into the yard and with a trolley system the owner is to be present. I hope the City Council approves the ordinance as proposed by the Ordinance Review Committee.

Alderman Ferrell: You were in on the recommendations of this ordinance?

Eva Madison: Yes

Alderman Ferrell: Was there a reason when you looked at the existing cat laws that you didn't recommend revision to that?

Eva Madison: I don't know that we gave the cat provisions a hard look. The committee got together for other reasons. We were brought together because of concerns about aggressive dog behavior in the city. I know the Humane Society has really struggled with the city ordinance because we have people calling us about cat colonies that they want to help and we are not in the position to advocate violating a city ordinance. It is certainly an issue that I would welcome discussion on.

Dita, a resident asked the council to approve this ordinance. She voiced her concern about chaining a dog. She stated chained dogs are 2.8 times more likely to bite. She also stated that un-sterilized animals often display more behavior problems than those that are altered. She said

six out of ten un-neutered male dogs will bite versus two out of ten neutered male dogs. She stated if people can not afford to spay or neuter their pet perhaps they shouldn't have a pet. She stated it is a very small amount compared to the cost to house litters from a pet at the shelter.

One day I would like to see the animal shelter be a no kill facility. The only way to do this is to keep down the pet population. I would like to applaud Fayetteville Animal Services and staff for what they are doing and all the hard work that they have put into these proposed amendments. We are the animal shelter in Northwest Arkansas and we need to lead by example and show the surrounding cities and counties a progressive forward humane thinking that will lead to a positive outcome in keeping animals safe from abuse, exploitation and homelessness.

Judy Bond: I agree with the no chaining. Dogs are loving animals. She stated she thinks dogs need to be kept inside. For the safety of our city and our children we need to pass this ordinance. I have heard that hunting dogs don't hunt if they are spayed or neutered but I have talked to several trainers and they said that most dogs are spay or neutered that go on the fields. Only breeding pairs are not spayed or neutered. Service dogs are also spayed or neutered. I encourage the passage of the ordinance because it will protect our city and our pets.

Carmen Nelson told the Council about animals in Tontitown that she had to attend to due to the owners not taking care of the dog. In the city if this happens we have an ordinance in place where officers can rescue animals. She stated the city shelter does a fabulous job on animal adoption counseling. She stated animals need to be integrated as part of your family.

Nan Lawler voiced her concern on chaining animals. She thinks this ordinance is wonderful and she is very proud of our animal ordinance. She is also proud of our animal shelter. She thinks these changes will improve the shelter.

Alderman Thiel: I continue to hear from people concerning the cats and the no kill shelter possibility. These proposed revisions were brought forward as a way to deal with some of the dog issues we have in Fayetteville in the most humane way possible. The intention of that committee was not to make it impossible for someone to own a pet their intention was to help pet owners be more responsible. I don't believe that this committee believed that the ordinance would increase the euthanizing rate but just the opposite. The more animals that are sterilized the less animals will end up in the shelter. I think the people at the animal shelter are very compassionate and will work very hard to ensure that none of these revisions make it impossible to own a pet. I think these revisions will ensure that pets are being taken care of humanely for their sakes and for the safety of citizens who are around those pets. Many of us would like to see a no kill shelter and find a humane way to deal with the feral cat population. I think that conversation needs to happen soon in another committee formed specifically with those goals in mind. I have asked the Mayor to consider that if this ordinance gets passed. It will take time to figure out what is best for Fayetteville.

I would like to amend Section 92.20 under the animal license and tags at the end of subsection one, with exceptions for any animal under six months of age the amendment would read *if an actively licensed and practicing veterinarian believes it would be unwise to subject the animal to the sterilization procedure for medical reasons a medical exception will be granted. In this case the veterinarian who makes this determination must provide a signed statement which describes the medical condition that provides grounds for the medical exemption, including his or her*

opinion as to whether the medical condition is temporary or permanent and if the condition is temporary it includes a prognosis of the date on which the sterilization can be preformed safely.

Alderman Jordan: That just basically means if there is a medical condition they just...

Alderman Thiel: That would exempt them.

Alderman Thiel moved to amend the ordinance to add a medical exception. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell: There are a lot of people that spent a lot of time on this ad hoc committee. I am an animal lover. I think it is a pretty good measure of a person when they are willing to work to try to get an ordinance that they think is going in the right direction. Unfortunately this one kind of headed south for me in certain areas.

I think Mr. Gibson asked some pretty good questions and drew some pretty good conclusions that deal with common sense. This ordinance in my opinion if implemented would require a significant investment in man power if it was going to be enforced the way the amendments and every thing require. There are some good parts and I think there was some good intent in this but as written I will not be able to support it.

Alderman Allen: How much additional man power are we talking about in order to be able to enforce this ordinance?

Alderman Thiel: I think Animal Services has indicated and I have indicated during our last budget discussion that we definitely need to improve our rate of having animals licensed. Any city with the population that we have requires animals to be licensed. This is not something new.

Alderman Ferrell: Just 3% of them are licensed.

Alderman Thiel: And that is an issue regardless of the \$60.00 increase over what is charged now for intact animals. We need to do a better job. I mentioned at the last budget meeting based on our current level if we had another officer that was pretty much dedicated to making sure most animals were in compliance, it would more than pay for that position and a vehicle. I think it is very important that people are in compliance because then the animals that are out there we know they are vaccinated and we know they are being taken care of properly and they are a less danger to the citizens. I think it is critical that animals that live in the City of Fayetteville are licensed.

Alderman Ferrell: I don't believe it is going to end up being one person. Who is going to check that they are having one litter per year, who regulates that?

Jill Hatfield: The Animal Control officers with the day to day operations of Animal Services and knowing our neighborhoods and our community, there's not a substantial amount of breeders in our city, definitely in the county but the city does not have a large percentage of anyone who breeds or competes or has a large number of hunting dogs that the hobbyist permit is going to affect. I don't see a huge amount of man power going to patrolling or enforcing the hobbyist permit.

Alderman Ferrell: There are not as many people now.

Alderman Thiel: The purpose for increasing the fee for intact animals was to reduce the over all population of animals in this city. Jill has proven the potential cost saving projections of reducing the population that we have that comes into the shelter. I could almost assure you that if we had another officer and we enforced and made a difference through enforcement and get more people to get their animals spayed and neutered it would in the long run reduce the overall cost to the city to run this shelter. Now bear in mind our population is increasing too.

Jill Hatfield: Tacoma, Washington has a low cost spay and neuter program like we do they reduced their population in one year by 20,000 animals. We are smaller we take in an average of 5,000 animals a year. Once we started this low cost spay and neuter program in 2003 we saw a reduction by about 500 animals by 2005. That saved us about \$12,000. The cycle that we are on and that we will continue to be on will be to shelter and euthanize. I think what we tried to do was to be as humane as we can in this situation but still make everyone happy those people who love animals and want to be responsible owners and those people who do not want strays and want us to pick them up and get them out of sight. That's what we have tried to do. It is a difficult task to try and make everyone happy.

Alderman Jordan: Mr. Taylor brought up some really good points tonight. I have lived in that neighborhood for over 30 years. When I first moved into that neighborhood we did not have any dog laws. The dogs would run in packs. We tightened it up and it got better. Unfortunately I think in the area that we live in we are having problems. I will probably support this tonight but I want to see an improvement. If I don't see an improvement I will bring this back to the Council myself because we have a problem on the south end of town and it has to be addressed. I call in two or three dogs a week. Brenda, I think you brought up some very good points tonight and as they say you don't know if it will work unless you try it.

Mayor Coody: I think all of us want to see improvement or this ordinance would not be in front of us. We have dog problems all over town, there is no doubt about that we just don't have enough folks to go catch them all. If we did we wouldn't be sitting here arguing about this.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Ferrell voting no.

Ordinance 5002 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. ***This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.***

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 7-0. Alderman Lucas was absent during the vote.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This item went before the Sidewalk and Trails Committee and I believe it was received favorably. I did not hear any concerns about this request.

Alderman Cook thanked Jeremy for coming to the Sidewalk and Trails Committee. As usual our concerns are pedestrian access and making sure pedestrians have full right of way. This is a minor change that deals with the already developed urban part of the city, some of the newer development. This will be a minimum standard most likely we will see larger than this. Overall I think it is a fair change.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. **Alderman Thiel, Allen and Lucas** were absent during the vote.

Ordinance 5003 as Recorded in the Office of the City Clerk.

The following item was added to the agenda.

Mayor Coody: Missy with our HR Department asked to get this on the agenda. This is concerning the continuation of medical insurance for permanently disabled employees who otherwise would lose access to medical care while waiting approval of long term disability insurance or social security disability.

Alderman Cook moved to add the following item to the agenda. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Thiel and Ferrell** were absent during the vote.

Medical Insurance Temporary Continuation for Permanently Disabled Employees: A resolution authorizing the temporary continuation of medical insurance for permanently disabled employees who would otherwise lose access to medical care while awaiting approval of the Long-Term Disability Insurance or Social Security Disability Benefits.

Missy Leflar, Human Resource Division Manager: Thank you for having me here this evening. This is a benefit we would like to add to our benefit package that will not need to be utilized except in rare circumstances. When it is utilized it will be utilized for someone who is permanently disabled and in dire need. We have worked in some stringent requirements where it would only apply to employees who through illness, injury, disease or other events have become permanently disabled and are still awaiting receipt of their long term disability benefits or social security disability benefits and due to circumstances beyond their control would lose their access to medical care and prescriptions. The city would provide access to that by way of paying the employees part of the medical premium for them until the employee is approved for social security disability benefits or long term disability benefits, whichever ever comes first. There is a built in cap on it in the unlikely event the employee would be denied both then at some point when they had exhausted their administrative appeals the benefit would stop and they would be offered coverage. That is just so the city would not be in avertedly put in a position of offering free medical benefits for life time. It is intended to make sure that somebody does not lose their access to medical care. We presently have an employee in this situation and payroll asked me

for a policy. I met with payroll and HR and we came up with this formula. It was very carefully thought out. By our guesstimate it will be utilized once every ten years but when it is needed it could be the difference between somebody having access to medical care in those months while awaiting receipt of their long term disability benefits. Since the city is so good about offering a competitive benefits package to its employees which has reduced our turn over we would like to add this one benefit.

Mayor Coody: Thank you for bringing this forward Missy, we appreciate it very much.

Alderman Rhoads: Historically it happens once every ten years or so or there about?

Missy Leflar: It has happened by institutional memory twice ever.

Alderman Rhoads: When it happens it is the maximum of about \$4,600 cost?

Missy Leflar: That would be a worse care scenario, \$4,600 over a twelve month period.

Alderman Jordan: I have seen that happen to an employee once before and what occurred was they can no longer work but the decision hasn't been made that they would be disabled so all the medical expenses fell on them. It was devastating to them and their family. I am fully supportive of this. It is really the right thing to do.

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

Resolution 73-07 as Recorded in the office of the City Clerk.

NEW BUSINESS:

Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 19 Oakbrooke Subdivision Infrastructure Project.

City Attorney Kit Williams: Mayor the petitioner has requested that this be pulled. We can't really pull it but we can indefinitely table it. I would recommend before we read it that we indefinitely table it.

Alderman Jordan moved to table the ordinance indefinitely. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was Tabled indefinitely.

Mount Sequoyah Methodist Assembly Center – Waive of Building Permit Fees: An ordinance to waive the building permit fees for the remodeling of a building owned by the nonprofit Mount Sequoyah Methodist Assembly Center.

City Attorney Kit Williams read the ordinance.

Jim Twiggs, representing Mount Sequoyah: I am here to answer questions if you have any.

Mayor Coody: This is primarily based on remodeling part of the facility that was used for the Katrina relief if I understand correctly.

Jim Twiggs: We have a building that is called Sequoyah that has ten rooms that is in dire need of repair. Traditionally we get volunteer teams to do this work. We bring in skilled electricians and plumbers to work and volunteers to put the buildings back together, sheetrock and paint them and so forth.

Mayor Coody: We really appreciate your efforts in the Katrina relief response. The city worked hard and well with Mount Sequoyah in that effort. We appreciate your efforts there.

Alderman Thiel: I brought this forward because the fees we are referring to amount to \$476 and it is not waiving future building fees it was just for this one particular project. This was used to shelter and I think our policy has been to help and assist attainable, affordable, emergency and transitional housing and I felt this fell in line with the other waivers that we have done for Habitat for Humanity and Seven Hills Shelter. I felt like this was definitely worth our consideration.

Alderman Allen: I am going to vote for this. I thought this was the sort of thing that churches in the Methodist Assembly ground, that this was part of their purpose.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Thiel 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 5004 as Recorded in the Office of the City Clerk.

VAC 07-2549 (Spencer): An ordinance approving VAC 07-2549 submitted by Darryl Spencer for property located at 1791 N. Trillium Lane vacating a 25' sewer easement on the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The Planning Commission voted 8-0 and staff recommends approval of this ordinance. The sewer line that was installed by the developer was not located within the easement that was platted. The applicant would like to construct a pool in the back yard however most of the yard is covered with utility easements. In this area the sewer easement was not necessary. The sewer line was not actually within the sewer easement so this request is to vacate that easement.

Alderman Lucas: I brought this forward, I generally am not in favor of vacating easements but he is going to dedicate an easement where the sewer line actually is so it just seemed like something we should do.

Mayor Coody: Thanks for bringing this forward.

Darryl Spencer, property owner: The other utility lines are also outside the easement; they would be within the 15 feet that we would dedicate. It is really not an ideal location where we would put the swimming pool but in consideration of that I would ask your consideration to pass this tonight.

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.

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

Ordinance 5005 as Recorded in the Office of the City Clerk.

Fayetteville E911 House Numbering: A resolution to change the names of several streets or roads within Fayetteville because of duplicate or confusing street names within annexed areas.

Tim Conklin, Planning & Development Management Director: Last fall we annexed areas west of Fayetteville into the City of Fayetteville. Since then we have been working on our addressing system. We have discovered that we do have two systems currently in place. One is a five digit system which is a county system and a four digit system which is a city system. We have seven street names that are duplicate that staff is making recommendations to change.

West Hillside Drive was changed to West Scarborough Drive; the residents on that street have requested that be changed to Stonehenge Drive. That is one suggestion that has been approved by the City of Fayetteville. An amendment to the resolution would need to be made to change that street name.

Staff sent out postcards to all the affected people in this area. If this passes we intend to send out additional information about when the change will occur and also a packet of numbers for their mailboxes and houses.

Alderman Ferrell: Was there a question on Timber Ridge Lane?

John Goddard, IT Department: There are two Timber Ridge Lanes. One has a space in it and the other one does not.

Alderman Ferrell: Was there any citizen concern on that?

John Goddard: I don't know of any particular citizen concerns about that. I think there are some 911 concerns about having two Timber Ridge roads in town and the possible confusion for 911.

John went over the proposed changes.

Alderman Lucas moved to amend West Scarborough Drive, to Stonehenge Drive. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

Ed Cast, Forest Hills Subdivision presented a petition opposing the renaming and renumbering of their addresses. He voiced his concern about the numbers that are embedded in concrete in the houses and some of them also have brass plates. As far as duplicate street names we have those all over this country and if you can't keep them straight I don't know what to tell you. 911 has no problem finding you. As far as changing five digits to four digits that would be more confusing. These addresses and streets have been out there for seven years. Three weeks ago 911 was called and within minutes they arrived. I think it is ridiculous. It is like moving without packing and it is a headache.

Mayor Coody: We understand that and we hate to have to go through this. Are there any viable alternatives to this renumbering and renaming? Our main issue here is public safety if 911 were called and they went to the wrong Timber Ridge that could mean the matter of life and death for some folks.

John Goddard explained the difference in our addressing scheme and the one that currently exists out there. He stated it is his belief that we will have a better 911 system if this changes.

Aaron Patton, resident of West Ridge Subdivision: I am affected by the five digit issue and not a name change. I would like to see a study of what the alternatives could be as far as going from a four to a five digit system. I am not quite sure why that would be necessary. I have house numbers that are built into my house.

Mayor Coody: Has anybody on staff looked at other alternatives and looked into if there is any easier way to do this to not so dramatically inconvenience all the neighbors out there.

John Goddard: The only alternative I would see is to leave it as it is. I am really most concerned about a system that has been with the city for a long time and helping the police and fire get to the location.

John explained the problems the city would face in leaving the numbering system as it is. He stated he thinks you would be introducing a potential for problems. I would prefer it to change. I know that is an expense on the individual property owners but I think in the long run it is going to provide more safety.

Chief Tabor, Police Chief: I'm sympathetic with these people possibly having to change these numbers. It is not an issue of the computer system knowing where you are at the issue is the officer in the car or the fire truck knowing where you are at. I think it is very important from a public safety standpoint that each street have a very specific name.

Chief Tabor gave examples of street name problems.

Alderman Ferrell: When a person calls 911 does that have the number and the location.

Chief Tabor: Yes it does.

Alderman Lucas: If we changed just the street name but left the house numbers the same would that be a big issue.

Chief Tabor: I don't think that is as big of an issue, with time the officers could learn the difference. It is that big jump in numbers that makes it difficult because we don't jump equal amounts. It makes it more difficult to find that address quickly, it can be done but seconds count.

Chief Johnson, Fire Chief: I concur with Chief Tabor. I believe it is important for the city to keep with this logic of numbering streets north, south, east and west. A lot of times there are similarity's in names but a lot of times the block number in itself will jog the memory of an emergency service responder as to where they are going depending upon the name of the streets. The larger issue here is to stay with our philosophy in numbering and naming streets and not grant exceptions. When you grant an exception for the numbering then we are also opening the door if there are other annexations for other exceptions and therefore emergency service responders will have to memorize the exceptions to the logic that we have for numbering. I feel that it is important to stick with the sequence of numbers that we have. We have formed a committee to review all street names to make sure that we don't have a duplication of the names. I can understand the newly annexed residents of the city and their concerns. I am speaking purely from emergency response and reducing that time in getting from the stations.

Kathy Stocker, Dispatch Manager: In the past when you called 911 you were making the call from your regular telephone and we got the exact location because it was in the name of your address and the name you had your phone bill in. Now we receive 76% of our calls from cell phones and depending on the technology of the cell and the technology in the dispatch center that call may not apply to the exact location. It may apply to a tower site and it might give us a two mile radius from the location so we still have to talk to the people and try to get the information from them.

We have a lot of training in our dispatch center about these tricky street names. When people have an emergency they are not as calm as they should be and they are not talking clearly. When you have these duplicate names there is an issue. The longer it takes us to get that information from the caller the longer it takes the officer or the firemen to get there. It really is important to clear up not only the street names but the addressing. If they are not calling from their land line we may not have their exact address.

She went on to explain their process.

Alderman Ferrell: Did you say 76% of your calls are cell phone calls?

Kathy Stocker: Yes.

John Goddard: We are sitting at the easiest point to fix this right now. In ten years we may not have 389 addresses it may be 700 to 800 addresses to change. Now is the easiest and best time to change this.

Alderman Lucas: How will the numbers be in a new development around Forest Hills?

John Goddard: That is a good question, if we follow the scheme that we have used with the rest of the city then it will not match what is there if we leave it the way it is.

Alderman Lucas: So you would go with the grid of the city?

John Goddard: If we try to follow the grid that is there, then we are just adding to the complexity of the numbering system within the city. My judgment right now would be that we would want to closely follow the system that is there. I would leave that to our committee.

Ashley Cory, West Ridge Subdivision: I am a new home owner and just got finished changing my address and really do not want to do it again. I feel there should be some other option that should be looked at before the decision is made. I am not affected by the street name change just the address change.

Mrs. Gribbs, Harmon Road South: How come before you annexed me the county always knew where I was and Wedington Fire Department knew where I was. Does that mean they have a better system than our police and fire department have now?

Mayor Coody: I appreciate your perspective but I really believe that the county has a system and the city has a system and that is the problem. The county is a five digit system and the city is a four digit system on a completely different grid and if we were hybrid somehow then that would cause confusion between county and city services. It is not that our system is better or worse than the county, I am sure both systems are fine but finding the address when they are in areas where they should be in the other area I think that is the fundamental problem. If it was not for that we would not be having this discussion.

Mrs. Gribbs: I hope you don't do this but I am well aware that you are probably going to do whatever it is that you like.

Perry Franklin: After 38 years of working in the city I am finally a citizen of this fair city and proud to be. In this world that we live in with computers today a number is a number. I agree that street names need to be changed if they are duplicated. The officers are going to have to learn where we live whether we change this or not, most of us that are affected by this live on Harmon Road. I just don't see changing the numbers just for the sake of being a Fayetteville number instead of a county number.

Mayor Coody: So your suggestion would be that we leave the house numbers alone and change the street names.

Perry Franklin: Yes.

Mayor Coody: Then as the land develops around there stay with the city grid?

Perry Franklin: 25 years from now when that happens maybe that can be addressed. There is so much land in there that is not going to be developed for years.

Mayor Coody: How many houses are being impacted by this?

Tim Conklin: Approximately 389.

A citizen: As far as changing the street names I don't think that will have to be done. You can change it to street, avenue, circle and any other name you can come up with. Leave the street name alone, just change the ending.

A discussion followed on how to change the street names.

Alderman Jordan: Is there any way we can do some sort of dividing line. If we had a city road that ran along side this and everything on the west side would be county numbers and everything on the east side would be city numbers. That way they could keep their numbers.

John Goddard: Just keep in mind as we annex the different area you are going to get a completely different numbering system. So you are still creating multiple numbering systems around the city.

Alderman Lucas: Does the county have a grid as to how they number?

John Goddard: Yes they do.

John Gibson, Washington County: Yes the county has a grid. He explained the location of the county grid. He stated it divides the county in half but it does not divide the city or anything else in half.

I live on Harmon South. I don't want to change my address but when I think about the pain a heart attack might bring on while waiting for an ambulance it is probably not too bad of a price to pay. All I would ask is that if you do this please send something to everybody that says the City of Fayetteville is changing my address. I have been in the 911 business since 1986 and I

understand the importance of grids and having even addresses on one side and odd addresses on the other side and having a consistent addressing grid. With that said I have no more neighbors now but I will change my address.

Mayor Coody: Can you answer the question between the five digit and four digit number and how that would work if we were to leave it as it is and what kind of issues that would that cause?

John Gibson: For instance if you are going out Wedington Drive to Double Springs, I think the 6,600 block is about the last block in Fayetteville then you are going to be in an 18,000 block in the county. There is a tremendous jump in numbers and it is no longer consistent inside the City of Fayetteville. Central EMS deals with two, three, four and five digit numbers and they have come to recognize that if it is a five digit address it is probably in the county. Cell phones are beginning to be a real problem because all the technology that the cell phone companies have promised us has not been delivered yet and we still have a lot of difficulty locating people. So carrying the street name and address is going to be more and more important.

A resident of the West Ridge Subdivision: I understand the issues on Wedington, Harmon and maybe even on Double Springs, but within subdivisions what does it matter. What does it matter if I have four or five numbers?

Alderman Lucas: What makes the difference on the house numbers?

John Goddard explained to the Council what the difference is.

Alderman Allen: I feel very sympathetic to the neighbors about the situation. I would not like to change my numbers but I would find it all worth wild if I was having a heart attack or a break in or my house was on fire and I knew that it could make a difference in the time that someone could get to my house to bring me help. With the growth that we are experiencing it just seems like if we leave this one pocket it is only going to be compounded as the city grows. As much as I know that is not a popular thing to say if you think about your own safety even though it may be very inconvenient in the long run it is a better thing to do.

Alderman Ferrell: You have a finite amount of addresses that are under consideration right now if we pass this resolution. It would only be the three hundred that would be the odd balls. Would other ones start coming into compliance if that was part of the resolution?

John Goddard: There is an outside boundary that is around the city it goes even beyond our planning area where we have an arrangement with the county to number based on our city grid right now. That goes out some distance. However with this annexation we went well into and beyond that area that we have arranged to number. We are good until we start getting out into those five digit numbers. All of our planning area is in the city grid and even beyond in some cases. As we move into these areas I think we should ask them to come into our grid system when it is lightly populated.

Alderman Ferrell: Ultimately if growth comes you will have to go into five digits within our city.

John Goddard: If we grow way west then we will eventually get into a five digit number but it is following the grid that we have not the grid that is there. We would not jump from 6,600 to 14,000.

Alderman Ferrell: Currently EMS dispatches whether it is two numbers or five.

Alderman Jordan: I would like to see some more discussion on it.

Alderman Ferrell: I would too.

Mayor Coody: This is not an easy situation at all. The balance is between the inconvenience of one time changing out addresses and public safety.

Alderman Jordan: We need to try to come up with some middle ground.

Alderman Lucas: Safety is an issue.

Mayor Coody: These people will not live at these addresses forever. There will be another resident in these houses one day because people move and people die. We have to look at the long term down the road and what is best for the whole city. Staff can see if they can come up with a way to make something work to where we can pretty much pacify 389 homeowners as best we can and that is also workable for our system for the future. If there is something out there we need to look for it if there is not then we need to come back and make the hard decision whether inconvenience should trump public safety.

Alderman Ferrell moved to table the resolution to the May 1, 2007 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

This resolution was Tabled to the May 1, 2007 City Council meeting.

Solar Splash International Boating Competition: An ordinance to waive various provisions of § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011; and approving the agreement with Solar Splash International.

City Attorney Kit Williams read the ordinance.

David Wright, Parks & Recreation Department: We as a staff are honored that they have chosen Lake Fayetteville to host this competition. They have asked us if they could utilize our facility through 2011, a couple of things to keep in mind if you approve this, we will close the lake Thursday through Sunday. It will not be open for fishing activities however we do allow the fishermen who have boats in the rental slips to come in the morning take their boats and go to another one of our lakes and then we have slot at night where they can trailer their boats back in and put them in their slip. The lost revenue that we may have from daily fishing permits they compensate us for those fees. There is a \$1,600 fee that we will collect from Solar Splash on an annual basis. We will evaluate that fee on an annual basis.

Mayor Coody: This is a really good event. It was fun to go out there last year and see people from all over the world.

Doctor Alan Mantooth, U of A: This year it is going to be even more world wide.

Alderman Lucas: I think it is wonderful that you brought this to Fayetteville.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5006 as Recorded in the Office of the City Clerk.

RZN 07-2504 (Sloan/Cobblestone): An ordinance rezoning that property described in rezoning petition RZN 07-2504, for approximately 17.22 acres, located south of Salem Road and east of Crystal Springs Subdivision in the interior of the Cobblestone Subdivision from RSF-4, Residential Single-Family, 4 units per acre, to RSF-8, Residential Single-Family, 8 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Planning staff is recommending approval and the Planning Commission voted 8-0 in favor of the ordinance. Jeremy gave a brief update on the project. There was no public comment at Planning Commission.

Alderman Jordan: I think it is a real good development but I would like to hold it on the second reading.

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 Thiel was absent during the vote.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

ANX 07-2507 (Spencer): An ordinance annexing that property described in annexation petition ANX 07-2507, for property located at 835 South Lewis Woods Lane, west of Lake Sequoyah, containing approximately 13.22 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. He stated the Planning Commission voted 8-0 in favor. The owner is not requesting to rezone this property. They are already receiving city services. We had no public comment on this item. Staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Cook** voting no. **Alderman Thiel** was absent during the vote.

Ordinance 5007 as Recorded in the Office of the City Clerk.

Amend Chapter 155, Appeals: An ordinance repealing and replacing Chapter 155, Appeals, of the Unified Development Code to amend and clarify the appeals process for decisions made under the authority of the Unified Development Code.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an ongoing effort to cleanup our code. We forwarded copies of this to several staff members who made comments. Jeremy explained the changes to this section of the code.

Alderman Cook: I appreciate staff clarifying our ordinances.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook 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 Thiel** 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 Thiel** was absent during the vote.

Ordinance 5008 as Recorded in the Office of the City Clerk.

Roll Off Service, Inc: A resolution denying renewal of the contract with Roll Off Service, Inc. to haul and dispose of solid waste within the city limits of Fayetteville.

Tom Smith, Owner of Roll Off Service: We have been working with your Solid Waste Division on an alternative agreement. It appears Roll Off Service made some late payments last year. I apologize for that. We have put together with Gary Dumas a very aggressive penalty in place in the event that we make a late payment again. I would appreciate the city's consideration in entering into an agreement so that we can continue to provide service in Fayetteville.

Gary Dumas: We have worked with Roll Off to put together an agreement that is extraordinarily aggressive in the penalty portion. I am not making a recommendation for or opposing the new agreement.

Alderman Ferrell: In reading this background information I discovered there was some inconsistency in the City of Fayetteville's ability to be able to audit. Are you agreeing if you continue to serve that you will fully cooperate in an audit if the city sees fit to have one?

Tom Smith: The city performed an audit at our office and we fully cooperated with the city and provided all information requested. I think what the finding was that it was a little difficult for all parties to perform an audit because of the software that we had in place at the time. Since then we have upgraded and we have a more user friendly software that will allow us to do an audit.

Alderman Ferrell: So your answer to me is yes you will be fully cooperative should they need an audit.

Tom Smith: Absolutely, we always have been and always will be.

Gary Dumas: I refer to the first page of the memo dated March 6, 2007. The auditor was not permitted by Roll Off Service to continue the review of the documents for September 17 through September 30, 2004. As a result of an incomplete audit Roll Off Service was accessed \$17,256.91 in under paid fees to the city.

Tom Smith: I was involved in the audit myself and as I recall the city was there for two days and the auditor concluded that it was difficult to continue. As far as my knowledge goes we did

not ask anyone to leave and we provided all the information that was asked. Let me clarify all that we were capable of retrieving from our software.

Alderman Ferrell: Gary, who provided that information that, said they were asked to leave.

Gary Dumas: The Management Accounting Coordinator at that time.

Alderman Ferrell: Do you have any reason to refute his word?

Gary Dumas: None at all.

Alderman Lucas: When we first set this up the idea was to have a consistent contract for all haulers, was it not?

Gary Dumas: Correct. All the haulers have the same contract except the one before you has that last addendum on the back.

Alderman Jordan: How many late payments did Roll Off have?

Gary Dumas: Most of them have not had a late pay. I think two or three have had a late pay. Roll Off has been fairly problematic as you can see from the memo.

City Attorney Kit Williams: The copy of the contract that we have is not signed. Do you have a signed copy?

Gary Dumas: We have a signed copy.

City Attorney Kit Williams: Mr. Smith you read this about the probationary term being for one year and the late payment assessed the first occurrence 25% penalty, second occurrence 50% penalty and third occurrence being a termination.

Tom Smith: Yes I read it and I acknowledge the language in the contract. Mr. Dumas sent two letters last year regarding late payment. Upon those reaching me we immediately responded and took care of those.

City Attorney Kit Williams: Can you assure the City Council that you are going to make all the payments on time for this calendar year if this is approved by the City Council?

Tom Smith: Absolutely.

Alderman Rhoads moved to amend the resolution to adopt the modified contract. Alderman Ferrell seconded the motion.

Alderman Rhoads: A yes on this vote means they are in for the term of this contract.

City Attorney Kit Williams: That is correct.

Alderman Rhoads: I am making the motion to get it off dead center. I guess I would generally support giving them another chance. I think we have tough enough provisions to take care of it if he fails. I am not sure the city is going to be damaged much by giving him a second chance.

Mayor Coody: With this motion and second a yes vote will modify the contract and approve the contract and Roll Off will still be doing business in Fayetteville. Is that right?

City Attorney Kit Williams: Under the probationary term as shown in the modified contract.

Alderman Lucas: I can't support that. I don't feel like it is fair to the other haulers that have been abiding by the contract. I don't think we should be providing special conditions for someone that doesn't follow the contract.

Alderman Ferrell: I think with the side boards we have on this it is a go or show deal. I like to see people stay in business.

Mayor Coody: A yes vote supports Roll Off with the modifications and a no vote denies them the ability to do work in Fayetteville is that right?

City Attorney Kit Williams: A no vote will not approve it. You would still need to approve the original resolution that would be unchanged.

Upon roll call the motion failed 2-5. Alderman Rhoads and Ferrell voting yes. Alderman Jordan, Gray, Cook, Allen and Lucas voting no. Alderman Thiel was absent during the vote.

Alderman Gray moved to approve the resolution. Alderman Lucas seconded the motion. This motion was not voted on.

Tom Smith: The situation on this motion before you there is always another side to the story. The audit that was performed is invited at any time to see what Roll Off Service has done in the past. It is important for you to realize during the period of time since this agreement has been put forth you have had other haulers make late payments just like us that have not followed the agreement just like we missed. With that being said out of all the nine haulers that you have in your area there have only been two haulers audited. Roll Off Service being one and Ozark Disposal being the other. Ozark Disposal is a company that has two trucks. For us not to have this pass is devastating to our company because our main facility is located inside the city limits of Fayetteville. If this is not passed according to this resolution it would not grant us the right to do business in Fayetteville. Not only to haul trash in Fayetteville but the largest and the first C & D recycling facility permitted in the State of Arkansas is in your city. We recycle approximately 900 tons of C&D material in your city. If you do not pass this that leaves us to go to the next step which is argue, fight, kick and scream because basically I will be backed into a corner. I would appreciate your consideration. Look at all the facts and see if we are really as bad as the paper that you have read portrays us. I don't think so. I challenge you to do that. We have put forth and stepped beyond the call of duty to put very aggressive restraints in place to ensure that the City of Fayetteville gets paid on time because that is what it all boils down to. I would encourage you to table this tonight and let me provide you with the information you need to understand and know before making a large decision. Because it is a big one for us or

reconsider what I have asked and if I need to change the terms in the agreement we can do as such.

City Attorney Kit Williams: I would actually join with his request that you table this tonight. This is a very important long range decision. I know the city has had years of problems dealing with Roll Off and I share some of Mr. Dumas's frustration. He has tried for years to try to get them to fully comply with the contract that he has not had problems with other companies complying with. However I think that with the major decision that this will be we should give Roll Off every opportunity to rebut and provide any kind of other information they might have for your consideration at another meeting. This is a very important decision and I think we should go very slowly on it and make sure we have heard everything that could possibly be relevant to this decision.

Tom Smith: I chose to come forward tonight without legal council. My decision to do that was to deal directly with the City Council and to have a face to face and a one on one and to give you the information and to allow people to ask questions. My goal is to work with the city. Gary Dumas has worked well with me during this period of the new agreement and I appreciate that very much. I have opened our doors to work with the Solid Waste Division to see if there is anything in the future that we might be able to work jointly on. The first step is to get over the big step and that is to get rid of any animosity that may be there from the Solid Waste Division or the City Council. I think this animosity may have started years ago when I hired a person that use to work at the city and I apologize sincerely for that. I didn't know the politics that were involved. I definitely owe the Mayor an apology for anything that may have come from that. I think overall that has given me a black eye on how we do business and that's not who I am. We are real people we do stand up for what we believe in and we do not plan on going anywhere.

Gary Dumas: This agreement is to haul and dispose of solid waste picked up in Fayetteville so the operation of the transfer station that Roll Off operates, picking up materials outside the of the city, they would still have the ability to collect scrap metal.

Mayor Coody: So the recycling operation is unaffected.

Gary Dumas: Yes.

Tom Smith: I had our attorney look at it and he doesn't have the same opinion that Mr. Dumas has. His belief is that it would actually affect the hauling because we would be hauling solid waste in the city limits of Fayetteville and the language hauling is used in the agreement.

Alderman Ferrell moved to table the resolution to the May 1, 2007 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

This resolution was Tabled to the May 1, 2007 City Council meeting

The Links at Fayetteville Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2452, The Links at Fayetteville, located at the northeast corner of

Wedington and Ruppel Road; containing approximately 152.23 acres; amending the official zoning map of the city of Fayetteville; and adopting the Associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an appeal by the applicant for this project which is a rezoning and development application. It is a concept master development plan. A motion to approve this at the Planning Commission failed 3-3-2 vote. One member was absent. It takes five votes to forward something to you in the affirmative from the Planning Commission.

Jeremy gave a brief summary of the project and its location. He stated staff recommended denial of this proposal as it is currently submitted. He stated staff denied due to traditional neighborhood form and this area is identified as a city neighborhood area within our Future Land Use Map. We feel this property could more readily meet the goals associated with city neighborhood areas including utilizing small to medium size blocks. I think the addition of public streets in this area would go a long way toward changing staff's recommendation in order to break up the block size and create more of a cohesive unit and disperse traffic in a better way.

We received a traffic study for this project today however we have not had time to review it. I would caution the Council in making your decision based on what the traffic study says. This is a zoning decision. We need to decide if this is the appropriate master development plan for these 152 acres.

Jeremy continued to go over the projects and the staff recommendations. He stated 14,000 vehicle trips per day you can liken that to College Avenue trips per day or some of the more heavily traveled arterials in the street system.

Mayor Coody: That would be interior to the development?

Jeremy Pate: That would be what traffic is generated from this development. Staff is recommending denial of this planned zoning district.

Alderman Jordan: And the Planning Commission denied it as well.

Jeremy Pate: That is correct.

Jerry Kelso, civil engineer for the project: We are prepared to give you a presentation however it is late in the evening and we would be happy to wait for the next meeting to do that. It will also give us a chance to give our presentation at the ward meeting.

Alderman Jordan: I talked to them about presenting this at the Ward 4 meeting. Do you want to see the presentation tonight and see it again in two weeks?

Mayor Coody: How long is the presentation?

Jerry Kelso: About 30 minutes.

Mayor Coody: How about at the next meeting if that is alright. It is late. We could discuss some of the issues that the Planning staff has brought up.

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 Thiel was absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: In looking at the reference sheet you gave us. With the proposed Wellspring the estimate was it would generate \$19,709 today and the Links is \$14,141. What is the reason for the disparity?

Jeremy Pate: Mostly it is the difference in the nonresidential. The commercial in Wellspring was around 468,000 square feet of nonresidential and this is approximately 120,000. Commercial development doesn't typically generate as much as a lot of residential in some cases, especially single family residential. That is probably the biggest difference.

Alderman Jordan: You will have the new traffic study for us in two weeks and we can look that over too.

Alderman Lucas: This is a zoning.

Mayor Coody: I think the main sticking point of the Planning staff and frankly that some of us I suspect have is the idea of using the linear parking lots for the streets. The feeling I get is that is the number one hang up on this project, having 14,000 to 15,000 vehicle trips per day and all of them using the parking lots as the through streets.

Kim Fugitt: How far do you want to get into it tonight? That is a part of the presentation and a big part of what we would like to discuss when that time comes. It does take some time to develop the evolution of that and how that takes place. If you look at the linear dimensions of the parking lots that Jeremy spoke of that is true when you look at the north south dimension. When you look at the east west dimension that distance becomes about 100 to 150 feet which I believe that most prudent people would take that shorter route to a public street as opposed to taking a three quarter mile route through a parking lot to get to their destination. I have a little bit different perspective about that linear parking lot. That is something we can discuss at the full blown presentation.

Alderman Cook: When is the Ward 4 meeting?

Alderman Jordan: The Ward 4 meeting will be at 7:00 PM April 30, 2007 in Room 111.

This ordinance was left on the Second Reading.

VAC 07-2484 (Rhoads): An ordinance approving VAC 07-2484 submitted by Jorgensen and Associates for property located at 2791 North Shadybrook Cove to vacate 12.5' of a 25' utility easement, a total of 1,277 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an existing platted utility easement on the north side of the property. On the north side of the property the utility easement is actually only 10 feet on the south side it is 25 feet. It has been determined in our field investigations that this entire utility easement is not necessary to serve the existing utilities and any planned utilities within this vicinity. The applicant is requesting to develop a pool and other equipment in this area to serve the back yard. Staff is recommending approval after reviewing this request of vacating one half of this 25 foot utility as requested. The adjoining property owners and all utilities have consented to that vacation. There are two conditions of approval. Staff recommends approval as did the Planning Commission.

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

City Attorney Kit Williams read the ordinance.

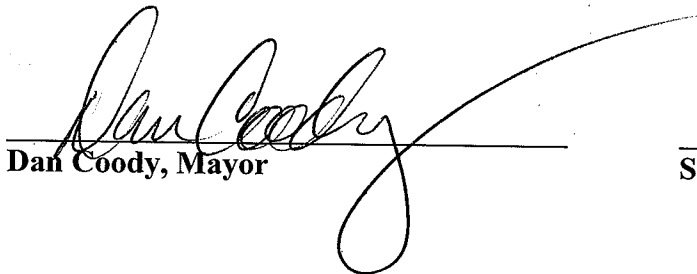
Alderman Ferrell moved to suspend the rules and go to the third and final reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** recused. **Alderman Thiel** was absent during the vote.

City Attorney Kit Williams read the ordinance.

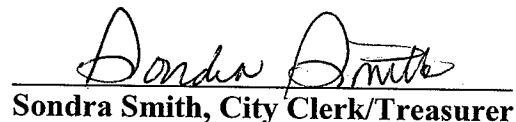
Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Rhoads** recused. **Alderman Thiel** was absent during the vote.

Ordinance 5009 as Recorded in the Office of the City Clerk.

Meeting adjourned at 9:45 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer