Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

City of Fayetteville Arkansas
City Council Meeting Minutes
June 19, 2007

A meeting of the Fayetteville City Council was held on June 19, 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

Mayor Coody welcomed the Spring International participants that were attending the City Council meeting.

Karen Minkel presented the Mayor and the City Council with the Congress for the New Urbanization 2007 Charter Award for Excellence for region, metropolis city and town that was presented at the annual CNU Conference.

Karen gave the Council members a brief synopsis of the award packet. She said there were over 115 nominations for the awards.

Mayor Coody: The staff has done an excellent job on this. We could not have done this without your work and your help. We have some very excellent staff and I want to thank them from the City Council. Thanks Karen and Tim and thank the staff for us.

Nominating Committee Report: Alderman Cook read the Nominating Committee report. ***A copy of the report is attached.***

Alderman Cook: The Planning Commission had one unexpired term and two applicants. There were two votes for Porter Winston and one vote for Tracy Hoskins. As this report reads, two to one, Porter Winston is what our recommendation is.

Mayor Coody: Was that considered a split decision?

Alderman Cook: Two to one was for Porter Winston.

Alderman Lucas moved to approve the Nominating Committee Report. Alderman Thiel seconded the motion.

Alderman Ferrell: Is it just the majority carries?

City Attorney Kit Williams: The Nominating Committee is just a report and a suggestion to you. It is up to the City Council to make the final decision which is being made tonight.

Alderman Rhoads: Is it my understanding that by the full Council accepting this that we are voting on who will be on these boards including the Planning Commission?

Mayor Coody: That is normally how we do it.

City Attorney Kit Williams: Yes. If there is any disagreement then there would need to be an amendment to substitute a different person or any other change that you wish to make.

Alderman Rhoads: In other words the full Council is free to accept everything in the Nominating Committee report and can single out the Planning Commission and have a discussion on that?

Mayor Coody: Yes.

Alderman Rhoads: I would move that we do that to get those folks out there for discussion. I would ask that we approve the Nominating Committee report short of the Planning Commission.

City Attorney Kit Williams: You probably need to do an amendment to the motion so that you can remove the Planning Commission from consideration at this point in time.

Alderman Rhoads: It was not my motion but I would ask Kyle to make that amendment.

Alderman Cook: Personally I would just as soon vote for all of them. You can feel free to make the amendment. I will not support that. I am going to support what we have on the Nominating Committee list.

Alderman Rhoads moved to amend the motion to remove the Planning Commission appointments for consideration from the Nominating Committee Report and vote on the Planning Commission appointments separately. Alderman Ferrell seconded the motion.

Upon roll call the motion failed 2-6. Alderman Rhoads and Ferrell voting yes. Alderman Allen, Lucas, Jordan, Gray, Thiel and Cook voting no.

Upon roll call the Nominating Committee Report as read was approved unanimously.

A discussion followed on the current board openings and when applications can be received.

A discussion followed on the Youth Activities Committee. Alderman Rhoads stated we should do away with that committee and Alderman Jordan agreed.

City Attorney Kit Williams: I will look to see how it was created and prepare an appropriate resolution or ordinance to end it.

Historic District Commission Appointment:

The Mayor is recommending the following applicants for appointment:

Karon Reese – One Term Ending 6/30/10
Cheri Coley – One Term Ending 6/30/10

The Historic District Commission appointments were included in the Nominating Committee report. The appointments were approved as recommended.

CONSENT:

Approval of the June 5, 2007 City Council meeting minutes.

Approved

Fourth Judicial District Drug Task Force Grant: A resolution to accept a federal grant in the amount of $178,719.00 and a state grant in the amount of $35,744.00 for the Fourth Judicial District Drug Task Force for 2007-2008.

Resolution 110-07 as Recorded in the office of the City Clerk.

Amend Police Department Policy: A resolution approving an amendment to Fayetteville Police Department Policy 1.2.1 Limits of Authority.

Resolution 111-07 as Recorded in the office of the City Clerk.

Bid # 05-73 Barloworld Freightliner: A resolution awarding an additional purchase from Bid # 05-73 to Barloworld Freightliner for the purchase of one (1) additional tandem axle dump truck in the amount of $90,233.00 for use by the Water & Sewer Division.

Resolution 112-07 as Recorded in the office of the City Clerk.

Bid # 07-43 Williams Tractor: A resolution awarding Bid # 07-43 to Williams Tractor for the purchase of one (1) tractor drawn disc mower conditioner in the amount of $14,699.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 113-07 as Recorded in the office of the City Clerk.

Bid # 07-44 Countryside Farm and Lawn Equipment: A resolution awarding Bid # 07-44 to Countryside Farm and Lawn Equipment of Springdale for the purchase of two (2) John Deere 6615 Tractors in the amount of $93,894.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 114-07 as Recorded in the office of the City Clerk.

Bid # 07-45 Williams Tractor: A resolution awarding Bid # 07-45 to Williams Tractor for the purchase of one (1) large round baler in the amount of $21,998.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 115-07 as Recorded in the office of the City Clerk.

The following was removed from the Consent Agenda so it can be amended.

Bid # 07-48 Prestige Ford: A resolution rescinding Resolution No. 63-07; awarding Bid # 07-48 and approving the purchase of one (1) Ford Escape Hybrid from Prestige Ford of Garland, Texas in the amount of $24,199.00 for use by the Police Division, Parks Patrol.

Alderman Ferrell: We received a bid from a vendor and they would not honor the price.

The above item was removed from the Consent Agenda.

Alderman Jordan moved to approve the Consent Agenda with Bid # 07-48 Prestige Ford removed. Alderman Cook seconded the motion. Upon roll call the Consent Agenda passed unanimously.

The following item was added to the Agenda:

Bid # 07-48 Lewis Ford: A resolution rescinding Resolution No. 63-07; awarding Bid # 07-48 and approving the purchase of one (1) Ford Escape Hybrid from Lewis Ford in the amount of $24,496.00 for use by the Police Division, Parks Patrol.

Alderman Ferrell moved to remove Bid # 07-48 Prestige Ford from the Consent Agenda and replace the resolution with a resolution for Bid # 07-48 Lewis Ford. Alderman Jordan seconded the motion. Upon roll call the motion resolution unanimously.

Resolution 116-07 as Recorded in the office of the City Clerk.

UNFINISHED BUSINESS:

Reliance Standard Insurance Coverage: A resolution approving an addendum to the contract with Reliance Standard for employee Life and Long Term Disability insurance coverage. ***This resolution was Tabled at the June 5, 2007 City Council meeting to the June 19, 2007 City Council meeting.***

City Attorney Kit Williams: Missy did most of the negotiations on this. She deserves our recognition because she was able to secure a $70,000 payment for the widow of an employee. The new insurance contract really had a gap in it and without Missy's work I don't know if we would have been successful or not.

We have to do a memorandum of agreement that states that the rates are guaranteed for a couple of years for our life insurance coverage that we provide our employees. We also agree to stay with this company for at least one more year beyond what we originally agreed. If we do not the only penalty is that we would have to pay the $70,000 back. I think Missy and I are in agreement that this is a good deal for the City of Fayetteville and certainly for the widow of our employee.

Alderman Ferrell: I am certainly glad that we were able to take care of an employee but are we assured that we do not have the potential for any more gaps?

City Attorney Kit Williams: No, there are other gaps but I think the former employees have been notified. There are no gaps for current employees that I am aware of.

Missy Leflar, Human Resources Division Manager: We have double checked on that and we don't believe there are any more gaps on existing employees on this life insurance. The gap was caused by the fact that the life insurance went into effective on November 1, 2006. It had a provision in it that the broker at that time did not make known to the City or the City Council. I watched the DVD where he made the presentation to ascertain that fact.

Alderman Ferrell: We asked questions about if everyone was going to be covered.

Missy Leflar: You were assured that there would be no loss in coverage. However there is a provision in that insurance policy that said if you were not actively at work as of November 1, 2006 and did not return to work you would not be covered by the life insurance. That is what happened to this long standing 30 year employee, who became ill before November 1, 2006 and then passed away in December, 2006. Because of that provision he was not covered. Reliance does not have to pay his widow but they are willing to do so under what seems to be reasonable terms. There are other things in this agreement, we expect them to continue their good customer service, and it needs to be subject to being in the budget because one Council can not bind another. It will be looked at each year by mutual agreement, both sides have to agree to renew each November. Assuming the customer service remains good the current rates are suppose to be locked in through November 1, 2009. After that date any renewals would be at an applicable rate determined by actuarially reasonable underwriting guidelines and the experience during the initial policy period. This would be my understanding as standard industry standards for rates. I think this is a responsible thing to do for not only the existing city employees but certainly the deceased employee who died thinking he had coverage for his widow. We always want to try to do what is best for the employees.

Alderman Ferrell: I concur. I just wanted to be confident that all current employees are covered and the former retired employees are cognizant of what the deal is right now.

City Attorney Kit Williams: The former employees will have a right, I guess, to insure themselves but they will no longer be covered without charge.

Alderman Lucas: I am glad that you worked this out. Thank you very much. I am glad you explained how the rates would be figured in 2010, that's the year that we are adding on. I feel a little more comfortable with this if you feel it is the standard way of figuring rates.

Missy Leflar: Yes.

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

Resolution 117-07 as Recorded in the office of the City Clerk.

Walker Park Cell Tower: A resolution to approve a twenty-five year lease with Callahan Tower Joint Venture for a small lot in Walker Park for a monopine cell tower at an annual rent of between $12,000.00 and $54,000.00, plus a $20,000.00 contribution to the Walker Park Mural Project. ***This resolution was Tabled at the May 1, 2007 City Council meeting to the June 5, 2007 City Council meeting. This resolution was Tabled at the June 5, 2007 City Council meeting to the June 19, 2007 City Council meeting.***

Dave Reynolds, Smith Two Way: I would like to point out that we brought a sample of the material from the tree. The antennas instead of being white or painted go in a brown sack covered with the needles so they are very well disguised. The arms are painted the same brown as a branch.

Alderman Allen: How many more of these cell towers do you think we are going to need in Fayetteville?

Dave Reynolds: We have one going in at the fire station on Highway 265, this one at Walker Park and one in south Fayetteville. We are building one in the county out on Wedington Drive that is close to the city limits. At this time we do not have any plans for more of these but I would suspect that in the next year to two years that we would see one at the U of A and possibly out in the Mount Comfort area. Other people can bring them forward but that is all I know about.

Alderman Allen: How long do you feel that this method of technology will be the kind of technology used for cell towers before it becomes obsolete?

Dave Reynolds: There has been a lot of discussion about that. Right now the feeling is between 25 and 30 years before it is practical to switch to all satellite type technology. That will be the next big change that will require a change in towers. There have been changes that have changed the type of modulation and greater band width but it does not change the setup. It has required more towers and that they are more concentrated in areas to provide different services. The next big change to get away from a tower or to shorten a tower we see would be the switch from towers to satellite type phones.

Mayor Coody: It seems we could kill two birds with one stone if we had satellites replacing all the cell towers, we could off set global warming by blocking out the sun with all the satellites we are going to need.

Alderman Allen: When the Council over turned the Planning Commissions decision about the cell tower near the Washington Willow area how did you handle that? What did you do to compensate for the fact that did not occur?

Dave Reynolds: Cingular did not want to pursue it any further at that time. It was pointed out at that meeting that there was a very nice spot on top of North Street at the water tanks to build a cell tower. I had no idea that city property was there. That is when we got into this discussion as to why that tower was not built on city property first. Ever since then we have tried to come back with these deals.

Alderman Allen: What kind of a radius do you need between towers?

Dave Reynolds: Right now it is a two to three mile range. They would like to have a one to three mile range if they can in the more populated type areas. The big tower on the hilltop is kind of obsolete now because it covers too large of a geographical area.

Alderman Allen: If you had one a few miles away from this could you co-locate and not need this tower. Say three miles from this?

Dave Reynolds: Probably not three miles maybe one mile. Walker Park and 15th Street is a very fast growing part of town.

Alderman Allen: I looked on the internet about the dangers of living near cell towers. A lot of medical folks felt there were some extreme health concerns.

City Attorney Kit Williams: The medical allegations, health danger allegations that you can find are not able to be considered by local government. The federal government in passing the law mandated that we can only consider certain things for cell towers and specifically prohibited local governments from attempting to get into this field of alleged dangers from cell towers. This is a very controversial subject. The cell tower industry will strongly disagree with those sources. Because of that the federal government in passing the law said specifically that local governments can not consider those allegations. We can consider reasonable zoning laws and aesthetic, those are allowed to be considered.

Alderman Allen: I don't believe that this cell tower would have been located in Wilson or Gulley Park. I believe what hurts part of our city hurts all of our city. I do not believe a cell tower belongs in a city park where there are a large number of people. If the reason I can vote against this is because of aesthetics that will be my reason.

Alderman Jordan: There was an Act passed, the Telecommunications Act which prevents citizens from opposing towers based on concerns about radiation emissions. Local officials can maintain control over the number, size and placement of the cell towers. Kit, do you agree with this?

City Attorney Kit Williams: To a certain extent. We can not make decisions that would prohibit the cell companies from being able to provide service. We were able to turn down the cell tower that was located near the Washington Willow area because that cell tower was not for coverage, it was for capacity. My review of the law did not indicate that we had to agree if it is capacity situation and not a coverage situation. If it is a coverage situation then we have some controls over where they would be placed. I would not agree it is just in numbers, we can't say there can only be five cell phone towers in town and that is it. You have to look at each one on a case by case basis. You have to determine if there is a coverage issue problem, what are the aesthetic considerations and actually that is to be decided by the Planning Commission. The only thing this body, unless it is an appeal, the only thing this body should be considering tonight is whether or not you wish to lease any land to the cell tower company if in fact the Planning Commission grants a conditional use. The other cell tower this company is building near the fire station is in Routh Park in Ward 3.

Alderman Allen: I see a difference with Routh Park as it is not a primary gathering place. My objection is to a park that is a gathering place for many and the inequity of this. I think that has to be considered.

Alderman Ferrell: I have to disagree with Alderman Allen. Am I accurate in understanding if this does not go in Walker Park it is going to go across the street or a good chance?

Dave Reynolds: It is a very good chance. It will be somewhere in that area.

Alderman Ferrell: If they need one in Gulley Park and we are offered the revenue, I may get into trouble with the citizens, but I will carry it through here if they can come up with one like this to give us a recurring source of revenue. I do not look at that as depilating a park.

Dave Reynolds: This would not look right in Wilson Park. An exact copy of this tree stands about 300 feet behind Mount Vernon in the national park.

Alderman Thiel: We had a meeting at St. James Methodist Church and I did not get the feeling that anyone was extremely concerned about it that lived in the vicinity. When I first heard about it my first reaction was it would not be in another park but when I discovered there was no need for this in another location and the more I looked at where this is located and how well concealed this is going to be then I thought that is kind of a mute point. At the end of the term when it is terminated they have to remove everything.

Can we have the revenue from this, because it is located in Walker Park, go into the parks fund for operations?

City Attorney Kit Williams: I don't think you can word this lease like that. You can designate that the money from this goes to certain funds.

Alderman Thiel moved to amend the resolution to state the proceeds from the cell tower lease will be designated to the Park Fund. Alderman Lucas seconded the motion.

Alderman Ferrell: I support the tower; I do not support the amendment. I can see other places saying they want money earmarked as well.

Jeff Erf, a citizen: If you are going to earmark it I would like to see you earmark it for Walker Park.

Alderman Thiel: I did consider that. I certainly advocate for as much maintenance as possible for Walker Park and I will continue to do so and I know Adella will. I feel this money will benefit Walker Park as well as the other parks. I respect Mr. Erf's suggestion but I think I will leave the amendment as it is.

Alderman Gray: I support that as well. I think our city parks need the revenue.

Upon roll call the motion passed 6-2. Alderman Allen, Lucas, Jordan, Gray, Thiel and Cook voting yes. Alderman Rhoads and Ferrell voting no.

Alderman Cook: To me the main topic is a policy decision of do we want cell towers in our park system. I have a lot of concerns about that. We try to preserve our park system as a natural place for people to come and enjoy. I think as we start placing towers in this park it will continue in other natural areas throughout the city. The money is certainly enticing; the city can use that revenue. I support the ordinance that Kit drafted that we want to use our city property as much as possible. I never envisioned when we passed that change that we would be talking about park space but that we would be thinking about water towers and city structures. For me the policy decision is to add them to the parks or not and I really support not putting them in the parks or natural spaces.

Alderman Allen: I believe there are some things more important than money.

Alderman Rhoads: My kids play soccer, they use the skate board park, the BMX thing, baseball and I think they will not mind the pine tree looking cell tower. I think the primary purpose of Walker Park is youth activities.

Alderman Thiel: This is just the first step in this process. This will have to go before the Planning Commission for a conditional use. The one at Fire Station 5 will be up before the Planning Commission looks at the conditional use for this one in Walker Park. If we find that one really objectionable we will have an opportunity to turn this conditional use down.

Jeff Erf: I am opposed to the resolution. I think it is a bad policy and a bad precedent to put cell towers in established community parks. I wonder how bad the city's financial situation is if we resort to putting up cell towers in our parks. It is a bad idea. I am concerned that it will take out that area for any future use that the Parks Department might want to use.

Will this structure have a strobe on top of it?

Dave Reynolds: It will have no light on it at all.

Jeff Erf: The Parks and Recreation Advisory Board have discussed this resolution and were opposed to it. I think you should support their action on this.

Mayor Coody: There is a resolution that the City Council put forward a while back basically saying that if a cell tower company wants to locate a tower in town that the first option should have the cell tower placed on public property. It does not necessarily mean a park. We have cell towers on our water tanks and sprinkled around town on public property. The theory is none of us like cell towers, we all have cell phones but none of us like cell towers, it has become a necessary evil. If we are going to have to look at the visual pollution of a cell tower then at least the taxpayers should have the benefit of the revenue that would come from that cell tower. If it does not go in at Walker parker it will be across the street. This area is going to get a cell tower and if it is going to be going up in this direct vicinity then the citizens might as well recoup a half a million dollars over ten years that we would not get if it were on outside public property. This is not some carte blanche thing to sprinkle cell towers over the parks. Cell towers only go where the cell tower companies need them. If they do go up the first option if there is available public property is to try to place them there so the taxpayer will get the financial benefit.

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

Resolution 118-07 as Recorded in the office of the City Clerk.

R-PZD 07-2531 (P.A.H. Facility): An ordinance establishing a residential planned zoning district titled R-PZD 07-2531, P.A.H. Facility, located at Ivey Lane, 1/4 mile east of highway 265; containing approximately 3.00 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 June 5, 2007 City Council meeting.***

Alderman Rhoads 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 7-1. Alderman Cook voting no.

Ordinance 5026 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

R-PZD 07-2551 (Champions Club Condos): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2551, Champions Club Condos, located at the southwest corner of Razorback Road and 15th Street, east of the Crowne Apartments; containing approximately 4.42 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Mater Development Plan.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Division: Gave a brief description of the property. He stated there are a couple of waivers that are being requested for this project. One is for the breezeway for the entrance onto 15th Street to span over a utility easement and there are a couple of waivers for the green space requirements mainly due to the fact that they are proposing more of an urban type development pattern. Andrew explained the green space waiver.

A discussion followed on the project.

Alderman Thiel voiced her concern about so much residential at this location and that at one time they had talked about more mixed use particularly at the corner.

Andrew Garner: There is some commercial being developed adjacent to the west of this property.

Alderman Thiel: But that is all the way down to I-540.

Andrew Garner: No it is right adjacent to this property.

Alderman Allen: Can you tell me about the design standards whether they changed or evolved?

Andrew Garner: In general the Planning Commission and Planning staff has been in favor of the design. This came through last fall with essentially the same type of building facade. They made a slight modification on the height of a retaining wall. We really did not have any negative feedback at all about the building. It is not subject to our commercial design standards at this time because they are only proposing residential for development. We generally looked at it for land use compatibility.

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

City Attorney Kit Williams read the ordinance.

This ordinance was Left on the Second Reading.

VAC 07-2568 (Mathias Shopping Centers, Inc.): An ordinance approving VAC 07-2568 submitted by Crafton, Tull, Sparks and Associates for property located at 1267 North Steamboat Drive to vacate utility easements across the subject property as the utilities have been relocated to allow development on the site.

City Attorney Kit Williams read the ordinance.

Andrew Garner: Gave a brief description of the vacation.

Alderman Lucas: I want to make sure that there is a cross access drive. I see it is connecting Steam Boat Drive and Colorado Drive allowing residents to access multiple commercial sites. I want to make sure that is still in there.

Andrew Garner: Yes. There has been an easement plat actually platted.

Alderman Lucas 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 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 5027 as Recorded in the Office of the City Clerk.

Amend Chapter 161: Zoning Regulations: An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height stepback of buildings located in the Main Street Center Zoning District.

City Attorney Kit Williams read the ordinance.

Tim Conklin: Planning and Development Manager Director: Staff has brought this forward to clarify how we measure building height in the main street center zone. Basically we are establishing two zones.

Alderman Ferrell: They can still go for a variance.

Tim Conklin: That is correct. They could ask for a planned zoning district or a height variance to the Planning Commission.

Alderman Cook: I would like to hold this on the second reading if we could.

Alderman Lucas: Does this eliminate the setback?

Tim Conklin: It basically creates two business height zones. Tim explained the ordinance.

A discussion followed on the proposed ordinance.

Alderman Lucas 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.

(ADM 07-2566) Amend Chapters 151, 161, 162, 163 and 166: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Regulations, Chapter 162: Use Units, Chapter 163: Use Conditions, and Chapter 166: Development in order to assign Use Unit 29: Dance Halls, Use Unit 40: Sidewalk Cafes, and use Unit 5: Government Facilities to appropriate zoning districts and to remove references to the C-4 Zoning District and replace with the Downtown Core Main Street Center, and Downtown General Zoning District in the commercial design standards, and to add Animal Ordinance definitions to Chapter 151: Definitions.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance.

Alderman Cook: I think these are all good changes.

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.

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 5028 as Recorded in the Office of the City Clerk.

(ADM 07-2588) Amend Chapters 151, 161 and 163: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 161: Zoning Regulations and Chapter 163: Use Conditions in order to clarify Artist Studios and Home Occupations and to permit their use in the Downtown Core, Main Street Center and Downtown General Zoning Districts.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance.

Alderman Allen: Some home occupations might not be suited. You are saying that any of those would have to have a conditional use?

Tim Conklin: We are saying they are conditional uses right now and we are recommending they be allowed as of right in the downtown core main street center and the downtown general zoning districts. Currently in the code it says home occupation, so if you occupy a dwelling and want to have a business that is not allowed by right. If you have a business it is allowed by right. We are recommending that you be allowed to live in your house and have a home occupation without having a conditional use approved by the Planning Commission.

Alderman Ferrell: Provided you stay within the parameters of the code.

Tim Conklin: Provided that it is no greater than 300 square feet of that structure. If it is more than 300 square feet you would need to meet the building codes that are adopted by the city for that type of use, which those uses are currently as of right for an artist studio, professional office, restaurant and that type of thing.

Alderman Allen: I was just thinking of things that might not be particularly appealing. I was just wondering if this was all inclusive or if there would be some things that would be accessed individually.

Tim Conklin: Home occupations do not outline all the different types of uses that you would have. Tim read the list of uses.

Alderman Gray 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.

Daniel Hintz, Executive Director of Fayetteville Downtown Partners: One of the reasons we brought this recommendation for consideration with city staff we identified this as one of four necessary components for the creation of the cultural arts district as part of that infrastructure. It supports artistic entrepreneurs, considered part of our small business community and it strengthens Fayetteville's brand as an epic center for arts and culture. This was identified through several public meetings through the ordinance review committee and vetted through quite a bit of our businesses in the downtown area.

Alderman Thiel: This went through the ordinance review committee and was recommended.

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.

Alderman Cook: I think the home occupation definition 30% of one floor not to exceed 300 feet is pretty minimal quite frankly of how much space it would affect in one structure. Will there be some opportunities for questionable businesses; we can always have that in any area. As far as the downtown area I think that is a reasonable change. I think there is a lot of that that actually occurs in the downtown area right now. I don't see a problem for that.

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

Ordinance 5029 as Recorded in the Office of the City Clerk.

Smith Communications South Industrial Park Cell Tower Site: A resolution to approve a lease with Smith Communications for a cell tower site in the South Industrial site for an initial rental of $850.00 monthly with 50/50 revenue sharing of all cell phone antenna revenue after the initial sublessee.

Ray Boudreaux: We are leasing a small lot, 75 x 75 in the south industrial park across from the Arkansas Western Gas site, for $850 per month the subsequent users pay 50% to the city after the initial construction of the tower.

City Attorney Kit Williams: We will also have the right to place a couple antennas for the city if 911, police or fire need some locations for antennas without charge to the city.

Alderman Allen: I think this is an appropriate place for a cell tower. When this technology becomes extinct will this tower be removed?

Ray Boudreaux: Yes.

City Attorney Kit Williams: Paragraph 10 states removed at the end of term. The only thing that will be left is the foundation.

Alderman Thiel: Isn't there a trail in this area?

Ray Boudreaux: Yes, but it is north of there, way north of there.

Alderman Ferrell moved to approve the resolution. There was no second to the motion. Upon roll call the resolution passed unanimously.

Resolution 119-07 as Recorded in the office of the City Clerk.

Meeting adjourned at 7:40 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Approved
6-19-07

Nominating Committee Report
Meeting: Monday, June 11, 2007
Room 326, City Hall 5:00 p.m.
Members Present – Kyle Cook, Adella Gray, Robert Rhoads

The following candidates are being submitted to the entire City Council for consideration.

Audit Committee

- ***Anthony Bryant*** – One unexpired term ending 12/31/09.

Board of Adjustments

- ***Bob Nickell*** – One unexpired term ending 03/31/10.

Construction Board of Adjustments and Appeals

- ***Dennis Becker*** - One unexpired term ending 03/31/10.

Environmental Concerns Committee
There were no applications received.

Fayetteville Arts Council

- ***Julie Gabel*** – One citizen at large term
- ***Michael Landman*** - One citizen at large term
- ***Bryan Gott*** - One citizen at large term
- ***Mark Landon Smith*** – One citizen at large term
- ***John O'Connell*** - One citizen at large term
- ***Dede Peters*** – One working artist term
- ***Kathy Thompson*** - One working artist term
- ***LaDawna Whiteside*** - One working artist term
- ***Hank Kaminsky*** - One working artist term

Historic District Commission

- ***Cheri Coley*** – One term ending 06/30/10
- ***Karon Reese*** – One term ending 06/30/10.

Planning Commission

- ***Porter Winston*** – One unexpired term ending 03/31/09.

Public Facilities Board
There were no applications received.

Telecommunications Board

- ***Fred Cusanelli*** – One term ending 06/30/11
- ***Shelli Bell*** – One term ending 06/30/11

Tree and Landscape Advisory Committee
There were no applications received.

Walton Arts Center Council

- ***Curt Rom*** – One term ending 06/30/10
- ***Jeff Schomburger*** – One term ending 06/30/10

Walton Arts Center Foundation

- ***Jeff Dunn*** – One term ending 06/30/10

Youth Activities Committee
There were no applications submitted.