

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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
July 17, 2007**

A meeting of the Fayetteville City Council was held on July 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, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Hugh Earnest invited the City Council to a celebration of the near completion of the Seven Hills Shelter. He thanked the Council for their support in the land lease.

Mayor Coody read an appreciation note that was received from ICLEI for the City of Fayetteville hosting the 2007 ICLEI National Climate Workshop.

CONSENT:

Approval of the June 19, 2007 City Council meeting minutes.

Approved

Golden Circle Ford, Bid # 07-51: A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.

Resolution 123-07 as Recorded in the office of the City Clerk.

Landers-McClarty Ford, Bid # 07-52: A resolution awarding Bid # 07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.

Resolution 124-07 as Recorded in the office of the City Clerk.

Landers-McClarty Ford, Bid # 07-53: A resolution awarding Bid # 07-53 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

Resolution 125-07 as Recorded in the office of the City Clerk.

Landers-McClarty Ford, Bid # 07-54: A resolution awarding Bid # 07-54 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.

Resolution 126-07 as Recorded in the office of the City Clerk.

Landers-McClarty Ford, Bid # 07-55: A resolution awarding Bid # 07-55 to Landers-McClarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.

Resolution 127-07 as Recorded in the office of the City Clerk.

Urban Table, LLC: A resolution approving a lease with The Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area.

Resolution 128-07 as Recorded in the office of the City Clerk.

Arkansas Urban and Community Forestry Assistance Grant: A resolution authorizing the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project; and approving a budget adjustment recognizing the grant revenue.

Resolution 129-07 as Recorded in the office of the City Clerk.

Garver Engineers, LLC Amendment No. 1: A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road.

Resolution 130-07 as Recorded in the office of the City Clerk.

Stephens Insurance, LLC: A resolution to approve a contract with Stephens Insurance, LLC to provide annual insurance benefits, consulting and brokerage services for the amount of \$50,000.00, plus additional service fees not to exceed \$37,630.00 and to approve a budget adjustment of \$51,380.00.

Resolution 131-07 as Recorded in the office of the City Clerk.

Scull Creek Trail Lighting Phase II, Bid # 07-01: A resolution approving the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.

Resolution 132-07 as Recorded in the office of the City Clerk.

Scull Creek Trail Lighting Phase II, Bid # 07-59: A resolution awarding Bid # 07-59 and approving a contract with King Electrical Contractors, Inc. in the amount of \$36,141.00 for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a 10% project contingency in the amount of \$3,614.00.

Resolution 133-07 as Recorded in the office of the City Clerk.

Kenneth E. Schoby Offer and Acceptance Contract: A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

Resolution 134-07 as Recorded in the office of the City Clerk.

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

Alderman Thiel moved to suspend the rules and move New Business C. 8. CUP 07-2560 Bohot Appeal to before Unfinished Business on the agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

CUP 07-2560 Bohot Appeal: An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

Alderman Thiel moved to table the appeal to the August 7, 2007 City Council meeting. Alderman Gray seconded the motion.

Alderman Rhoads: Why.

Alderman Thiel: Ms. Bohot requested this to be tabled. Some of the citizens that live there did not want us to do that but when they discovered that we were going to be missing one of our aldermen they felt strongly that they would like it tabled too.

City Attorney Kit Williams: Alderman Lucas asked that it be tabled since she could not be here tonight.

Alderman Thiel: That is correct.

Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This appeal was Tabled to the August 7, 2007 City Council meeting.

UNFINISHED BUSINESS:

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 setback of buildings located in the Main Street Center Zoning District. *This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 3, 2007 City Council meeting and Tabled to the July 17, 2007 City Council meeting.*

Alderman Thiel 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.

Alderman Allen: I had several citizens' email or call with concerns about this. I would like for us to continue the discussion tonight but I would like to leave it on this reading.

Tim Conklin, Planning & Development Management Director: The Planning Commission unanimously voted to approve this amendment. Staff has brought this forward to clarify where you measure building height from when the building is placed on the lot. This does not change the maximum within the main street center zone. It still has the four stories or 56 feet or six stories or 84 feet as a maximum height. Basically if the building is brought up to the front property line, 0 to 15 feet from the front property line, you are limited to four stories or 56 feet if the building is 15 feet or further back from the front property line you can go six stories or 84 feet. We are trying to clarify if all buildings have to have this step back if they are in the center of the lot. The idea originally was to bring the buildings up to the front of the property line to create more of a main street feel.

Alderman Thiel: How did the neighborhood meeting go? Were there a lot of people that are concerned about this?

Alderman Allen: Actually we've had several meetings this week and this item was not brought up during any meeting. The calls and emails have been received since the meetings.

Alderman Cook: The meeting that we had Thursday this was the first topic of discussion and frankly people were more interested in the next topic that we were going to discuss. There have been questions since that meeting.

Tim Conklin showed his power point presentation regarding this ordinance to the Council.

Alderman Ferrell: Did I understand you to say the reason you pursued this was because you had engineers and architects ask for an amendment to the plan?

Tim Conklin: They asked where we measure the four stories or 56 feet because their buildings were not all the way up to the front property line.

Alderman Thiel: For clarification.

Tim Conklin: Yes for clarification.

Alderman Cook: Do you think this change will create a situation where nobody will build up to the street? That we will not see four stories at all that every one will build six stories? Do you think it will create a situation like that?

Tim Conklin: At this point I think if the ordinance is left in place and we require the 15 foot step back I think people will maximize the buildable area and they are going to bring their buildings up to the front property line. The end result would be similar to where we started from because the land is very valuable. If they are going to be allowed to go four stories and they are set back 25 feet, I think it is going to impact their design and what they are thinking and they will just bring their building forward in order to regain that square footage. That is my personal opinion based on property values.

Alderman Allen moved to table the ordinance to the August 7, 2007 City Council meeting. **Alderman Cook** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

This ordinance was Tabled to the August 7, 2007 City Council meeting.

Amend Chapter 161: Zoning Districts: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. ***This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: Since the last discussion on this we had a neighborhood discussion. There were quite a few comments and concerns. We had a sound demonstration on Sunday. We took readings from different property boundaries around the Smokehouse and it was every educational. I think we all learned a lot from that. There are still questions about what is appropriate.

Police Chief Greg Tabor: Alderman Thiel asked if we could tell if the noise level has actually gone up at the Smokehouse. I was unable to do that. What I can tell you is there has been a significant increase in the amount of complaints from the end of 2006 and 2007 about loud music coming from the smoke house.

Police Chief Greg Tabor gave a demonstration of the sound decibels.

A discussion followed on where the readings are taken.

Alderman Cook: I appreciate Officer Slaughter and Tim Conklin coming on a Sunday.

Police Officer Darrell Slaughter gave a report on the readings at the Smokehouse.

Mayor Coody: I appreciate you going to all the trouble on this and thanks for the information.

Police Chief Greg Tabor: Keep in mind that we are not talking about changing the noise ordinance so even if the stage is on the west side and it is quieter to houses, if we get a complaint we are still going to measure it because the noise ordinance has not changed from that property line. They are still going to be in violation even though it is quieter at the houses.

Police Officer Darrell Slaughter: I talked with Mr. Bourdeaux and they are going to be looking at affixing something behind the stage because right now it is just the privacy fence. I think it would lower the reading.

Mayor Coody: That seems like a really simple way to solve this. Thanks for your input on this and for going out on Sunday.

Alderman Cook: There is no easy resolution to this. I think most people feel the 75 decibels that is being recommended is too loud. At our meeting on Thursday it was mentioned maybe a compromise of somewhere around 67 decibels. Even 67 decibels in some of these instances would be a violation.

Alderman Allen: It is very complicated in that 68 decibels was the recorded number for conversation, when we were not aware that he was checking it. Right now it impacts just the Smokehouse but that might not always be the case.

Alderman Thiel: Is this the only business that has outdoor music right now that is this close to residential?

Tim Conklin: I would say this is probably the location where it backs up to a single family home.

Alderman Thiel: I think that is too loud for the residents, if their homes are vibrating that is an issue but I also respect this business. As small of an area that they are looking at I think there are products on the market that would buffer the sound. It seems like they could work something out.

Tim Conklin: The proposed amendment is to consider the downtown general zoning district instead of a residential district from 1:00 PM to 11:00 PM to consider it as a commercial district. If it is considered a commercial district then during certain times the noise would be measured within that zone based on commercial.

Mayor Coody: The only reason that we are considering this to be a commercial zone is for this one situation right?

Tim Conklin: This is what brought it to our attention.

Mayor Coody: Mr. Bourdeaux I understand you might be considering some kind of acoustical fix for this is that right?

Tom Bourdeaux, Owner of the Smokehouse: Yes. What we are willing to do is redirect the music, according to some of the neighbors I think that will be a huge help in the situation we face now. I have not talked to an acoustical engineer about specific products available on the market. There is an existing structure in the corner of the garden that has housed some picnic tables under roof and what we would like to do is expand that a little bit and fill up the cracks that exist between some of the boards. That would make it a little more sound proof than it already is. Even if we do these things we will still be in violation of the law. What we are trying to show is that we are making a lot of effort and being very responsible and responsive to the neighbors and to their concerns. We are working with them now and in the future so that we can have a higher decibel level that will protect us from those that might be mad at us for any reason and call in a complaint. The officers would then come and measure and we would be in violation. We look at it as a very local issue. We also see this as a localized solution because these areas on Locust Street would be the only ones that would be affected by the passage of this overlay ordinance. We are willing to do pretty much any thing we can to make their particular instances go away. We would like to be able to maintain the ability to have events in our garden.

Alderman Cook: I would like to leave it on this reading and give Mr. Bourdeaux an opportunity to do his remedial work that he thinks might help the situation and work with the neighbors a little bit more and see if we can come to some solution. Give him an opportunity to correct the situation and see if we can come to some agreement with the neighborhood as far as a fix that satisfies everyone.

Tom Bourdeaux: I have sort of a basic disagreement with that. We can do this all day long and we can build a wall but because of the way the ordinance is written we will still be in violation of the law.

Mayor Coody: It sounds like if locust are violating the ordinance and conversations are then I think you are in a no win situation.

Mayor Coody asked the neighbors if Mr. Bourdeaux goes to a lot of trouble to try to solve this problem for their benefit is this something that if you think they make a good effort would you be able to meet them half way. If it is something you could live with would you be able to work with them.

Kim Coates, 224 Locust: Personally I was very pleased Sunday afternoon when we did the noise level testing with the stage on the west side. It lowered the decibel level from my patio about 10 decibels. So it was a significant decrease and helped a lot by just doing that. I think the additional measures that Mr. Bourdeaux is planning on will really help. I personally think this can be a privately resolved issue. I personally think that some of the private measures that the residents and the business owner are talking about could probably resolve a lot of this without a lot of city input.

Sylvia Scarborough, 216 N. Locust: Sunday night was the first time any thing had been changed at all. By turning the speaker the opposite direction it really lowered the decibel level. I feel if he put some sort of sound barrier in front of the west wall that would cut down tremendously. He could probably meet the 60 decibel limitation, I believe, with some effort.

Mayor Coody: Do you think that if he were to make these efforts even if it were 62 decibels it is something that you could probably live with and meet him halfway on?

Sylvia Scarborough: If it was 62 decibels at the property line, I speak for myself, I could compromise with that but I think he can meet 60. One problem is a lack of cooperation with the people that play the music. Maybe they should have the band play the fine if they go over the decibels. I would like to see them do some work, move the stage, put up a sound barrier and see if he could meet that 60 decibel level.

Alderman Ferrell: When they did the testing and they moved the stage was there a discernable difference to you?

Sylvia Scarborough: Oh yes. The noise has been channeled towards us.

Alderman Allen: You said your next event is this Saturday?

Tom Bourdeaux: Yes.

Alderman Allen: When is the next event after that?

Tom Bourdeaux: The next Friday and Saturday.

Alderman Allen: I wonder if it might be possible to allow a grace period for that event.

City Attorney Kit Williams: No, this is an ordinance and if you want to change an ordinance you have to do it with another ordinance. You can't just grant a grace period.

Alderman Allen: I meant with the neighbors.

Tom Bourdeaux: A variance can be granted by the Mayor for a couple of events.

City Attorney Kit Williams: It is suppose to be an unusual sort of event, a unique event.

Alderman Allen: I guess what I was asking if the neighbors could give a grace period of not calling in to complain for that one event and see how that event goes.

Mayor Coody: I would like to cut to the chase here and see if we can come to some kind of temporary agreement knowing that Tom is going to put up some kind of acoustic blockage. If they turn the stage around to face east and they keep a handle on the volume do you think you will be able to do that.

Tom Bourdeaux: Oh sure.

Mayor Coody: If they do that and take those measures will you bear with them until they get the band shell built which I suspect will be in the near future will it not?

Tom Bourdeaux: Yes. We really want to use the existing structure that we have but fill up some of the gaps that exist. We can do that fairly quickly.

Mayor Coody: I think if you would do that I am assuming the neighbors would work with you on this and kind of get you through this next couple of weeks.

Mayor Coody asked the neighbors if they would be willing to do that. He said I have two affirmatives.

Alderman Allen: The officer also explained to us that if calls are made anonymously that there is no citation given is that correct?

Police Officer Darrell Slaughter: Yes. A reading will be taken but no enforcement action.

Mayor Coody: We are going to leave this on this reading and hope that you guys can work this out like good neighbors and make something happen that everybody can live with. Is that a fair assessment Tom?

Tom Bourdeaux: Yes. It might be worth taking a reading at our property line after we make some of these changes to see where we are. I still believe we would be up around 70 or 75 decibels.

Mayor Coody: Let's do all these measures that we can and see where we are at that point and if we need to adjust something we can at that point. Let's see if we can fix it without turning the world upside down on this.

Alderman Cook: I will assure you that Nancy and I will do everything in our power to make sure that everyone does their part and we will do whatever we have to do.

This ordinance was Left on the Second Reading.

NEW BUSINESS:

Fayetteville School Board Support: A resolution in support of the Fayetteville School Board's careful study and consideration of options for the Fayetteville High School.

Alderman Thiel: I would like this resolution to be read in its entirety.

City Attorney Kit Williams read the resolution.

Alderman Allen: I hope I can speak for the other aldermen that signed this resolution. We as elected city officials do not want in any way to over step the purview of the school board elected officials but we can not work in a vacuum on issues that affect all the citizens of Fayetteville. With that being said this resolution merely asks the board to give great weigh to the city's 2025 Plan in deciding the location of the high school. The 2025 Plan clearly discourages sprawl. We as representatives of the citizens also have concerns for the assorted cost of infrastructure. I am hoping that this resolution rather than being contentious can be the catalyst to open further dialogue between the two entities especially in issues that drive growth.

Alderman Thiel: Nancy pretty much summed it up. I don't think this Council is trying to dictate to the school board but obviously when the school board makes a decision it affects our funding priorities. I feel like based on our funding priorities and our existing infrastructure and our 2025 Plan that I whole heartily agree with Nancy that the school board should take a careful study and consideration of the options for the Fayetteville High School. We are not necessarily dictating that they leave the high school where it is located now; obviously they have looked at the cost associated with that. We certainly would recommend that they would carefully consider the things that the City Council has to look at and the tax payers of the City of Fayetteville have to consider.

Mark Kinion, Wilson Park Neighborhood Association: We had our annual meeting and there was unanimous support of the members present. A resolution was drawn up and unanimously adopted to support this resolution. That represents about 250 to 280 families in the Wilson Park Neighborhood area.

Jean Perry: My interest in the location of the high school is both personal and professional. I am here today representing Build Smart and we support the resolution and urge the City Council to do so as well. We are 350 members strong, we are a diverse group but all of us urge that great care be taken by the school board in determining the location of the high school. We believe this resolution would encourage the school board and administration and the city to work together. This is a project of enormous consequence for every citizen in the greater Fayetteville area. Wherever the district builds they will ask voters for a millage increase. If they build in a location without established infrastructure it likely will require new dollars from the city. As a consequence this decision requires a greater cooperation than the two governments have seen in quite some time and I urge that.

Michelle Halsell: The concern that some people have expressed is whether or not you have a voice in this decision. I think it is important for all of us to remember that in this town there are three big players, the City of Fayetteville, the Fayetteville School District and the University of Arkansas. You all are stake holders of one another and as stake holders in each others decisions and in each others future you really do have an obligation to work together on these important decisions. This is not an insignificant decision; it is a decision that has a lot of magnitude on our future here in Fayetteville. Fayetteville has spent a great deal of time, energy and effort in creating our 2025 Plan. Preventing sprawl is very important so locating a school at the edge of town runs counter to that entire plan. I think it is important for you to step in and weigh in on this decision. I think you have a right as a stake holder to weigh in and I think you have an obligation as city leaders and as elected officials to put your weight behind the new location of the high school being more centrally located. I encourage you to vote in favor of this resolution.

Dot Neely, Ozark Headwaters Group of the Sierra Club: The Ozark Headwaters Group Executive Committee has discussed the proposals for relocating Fayetteville High School and the Executive Committee unanimously agrees that a more central location for Fayetteville High School should be sought. The first option would be to work with the site where the school is presently located. We support the resolution.

Tim Kring: I really appreciate Nancy's comments regarding a desire to increase dialogue and I think both entities are trying to do that.

Mr. Kring read a prepared statement about his concerns. He asked the Council to consider two things; passage of the resolution will result in an expectation of strong city support for our millage campaign if we retain the current campus. How should we as elected bodies, members of either body, appropriately influence another body as individuals or as the elected body in a resolution? Where do we draw that line?

Mayor Coody: We have had meetings with the school board before because they have a concern about the way we do business affecting their property tax and their income. We do work together. There are times when we do affect each other's future so we try to get together and visit about these things.

Tim Kring: I think that is a great way to do. Sometimes passing resolutions at each other is inappropriate. I think face to face is better.

Alderman Cook: Are we going to have a meeting with the school board to discuss this?

Susan Thomas, Public Information and Policy Advisor: I have been in correspondence with Susan Norton at the school district and we are having a planning lunch tomorrow to talk about the next time the two boards get together.

Alderman Cook: Is there a horizon on the decision of the high school?

Tim Kring: No.

Alderman Cook: I would support us gathering with them again and discussing at least this topic.

Mayor Coody: I certainly agree.

Alderman Jordan: I think communication is the key. I think a meeting between the Council and the school board is something we need to do. I would support the efforts of the school board on the millage issue for the centralized school. I think putting a school in the other location certainly creates sprawl and I think the infrastructure would be difficult in that area.

Alderman Thiel: I think this resolution has generated a lot of discussion and input. It is a very big issue. I think everyone needs to get involved. If nothing else I think this resolution has brought to the public's attention this issue and the fact that there does need to be a lot more discussion. Hopefully the school board will not rush into this decision because it is a big decision.

Alderman Ferrell: I have received a lot of communication and correspondence on this as have all of us. I fully support the idea of Alderman Allen bringing this forward. I think this is not only logistical but an emotional time over this. I have no problem with people communicating their thoughts on this. I don't want to complicate the task of the school board. I think it is their jurisdiction and their responsibility. They are an anatomist body just as we are. I understand and appreciate the fact of everybody's interest in this. It is not for me to make that decision but I can certainly listen to people. I think it is up to the school board to make that.

Alderman Rhoads: As much input as we take on a bi-weekly basis I hope the school board will appreciate the same. As far as the measure itself, I have to vote my conscience and my heart. I will support this resolution.

Alderman Gray: I will support this resolution. I said in my campaign that I wanted the City Council to work with the school board so I would certainly support correspondence and joint meetings. I will support this resolution.

Alderman Allen: I want to make certain that folks understand that we are not trying to jump into the preview of the board, that we are two different entities. In this instance I see it being different; we are talking about things that affect every citizen in the community in terms of land use and millage. We can't work in a vacuum in this instance. A resolution is simply a point of view that we have.

Alderman Ferrell: I welcome dialogue from the school board.

Mayor Coody: When you look at the success rate of the Fayetteville School District, they have done a phenomenal job. When you look at the facilities they have to work out of that is doubly impressive. We need a new school here in town. I guess the only question is where it should be.

Alderman Allen moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-1. Alderman Ferrell voting no. Alderman Lucas was absent.

Resolution 135-07 as Recorded in the office of the City Clerk.

ANX 07-2620 (Keenan): An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the annexation.

Alderman Rhoads: I have had no comments about this.

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

City Attorney Kit Williams read the ordinance.

Alderman Rhoads 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.

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 Lucas was absent.

Ordinance 5037 as Recorded in the Office of the City Clerk.

RZN 07-2621 (Keenan): An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Rhoads 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.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5038 as Recorded in the Office of the City Clerk.

RZN 07-2592 (Bellwood S/D Ph II): An ordinance rezoning that property described in rezoning petition RZN 07-2592, for approximately 8.41 acres, located west of Ruppel Road, south of Bellwood Subdivision Phase I from RMF-12, Residential Multi-Family, 12 units per acre, to RMF-18, Residential Multi-Family, 18 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning.

Alderman Jordan: I would like to have this shown at the next Ward 4 meeting if that is possible.

Dave Jorgenson: I will be glad to do that.

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

City Attorney Kit Williams read the ordinance.

This ordinance was Left on the Second Reading

VAC 07-2644 (Zaxby's): An ordinance approving VAC 07-2644 submitted by Jim Harrelson with Engineering Services Incorporated for property located on 6th Street between Lewis Avenue and Eastern Street to vacate a portion of a utility easement on the subject property.

City Attorney Kit Williams read the ordinance.

Mayor Coody: Does this building exist already?

Jeremy Pate: It does not. This is a large scale that was approved earlier this year. Construction has begun however during the permitting process it was discovered in 1980 the City Council vacated an alley through the property. The alley was vacated however the utility easement was retained. Due to this oversight we can not issue a building permit on the property because the actual easement would run right to the structure. Planning is happy to see this property developed.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5039 as Recorded in the Office of the City Clerk.

Growth Group, LLC: A resolution approving a lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00.

Paul Becker, Finance Director: This is requesting that we enter into a lease for space at the EJ Ball building so that we can move some of the IT equipment over there. The reason that we are requesting this is because we have physical space shortage in this building for IT but even more important we have reached electrical power capacity. We can't add new equipment or storage space. If the HVAC equipment malfunctions we would have to shut the computer down. The HVAC is very critical to computer equipment because it provides humidity control, air volume and temperature control. The risks are if the power becomes over extended the system will shut

down, that will shut down all the IT equipment in the city other than police and police dispatch. This system is also the primary backup system for police dispatch. The alternatives are to remodel and upgrade the power in this building, that is estimated in excess of \$500,000 to do. We looked at space in the GCM building but we would have to upgrade power there too and spend over \$500,000 to do that. This property is available and suitable for our purpose. At this point in time it would be the best solution to our problem. The long term plan is we are building a new judicial facility, I would suspect within five years we will look at the police facility and either move it or do some major renovations there. At that point in time we could bring that back into that portion of the building that has the power to drive it. The EJ Ball building has the power and the UPS facility there. We would have to purchase a generator to drive the UPS. I think that would be the best alternative for something I consider as a critical problem right now.

Alderman Thiel: The cost of the equipment, the generator, can that be utilized in our building in the future. So some of this cost will be recouped or would be needed anyway.

Paul Becker: Yes.

Alderman Thiel: So really we are looking at \$18,000 a year for the lease and that is until we find a more appropriate spot when we have our new facility built.

Paul Becker: I believe that analysis is correct.

Alderman Ferrell: Thanks for that explanation. The problem I had with this is that it wasn't budgeted for but when I found out that we had public safety backup involved in it that's different. What I am gathering from what you are saying is that whenever we do make a move we will not have this recurring expense any more. This will be absorbed into whatever city building we move this into.

Paul Becker: That's right.

Alderman Ferrell: On the budget adjustments that we have been having. Will you know when we are at a point that we will have to do something to take action on cutting spending from a fiscal point of view? Will you tell us something when we get to that point?

Paul Becker: Yes. We are still in a phase where we don't know what our revenue stream is going to do in the long run. We have sufficient reserves to cover our expenses for the rest of the year and I don't see a decline in activity or demand for services which is the biggest thing. The primary budgets run by our sales tax revenue stream our police and fire. I don't see a decline for demand in services. If we reach critical state it absolutely is my job to step forward and request that we do something and ask your support on it.

Alderman Cook: As much as I hate to spend the money because I know it is a quick fix but unfortunately we have reached the situation where we need a quick fix. As much as we rely on our computer systems now in this world I don't think we have any choice frankly at this point. I think it is a short term solution that I think in the future we will have a more permanent site.

City Attorney Kit Williams: I just received the signed lease and there are a few things that I am concerned about.

Mayor Coody: Can we pass this contingent on you getting all that ironed out to where you are happy with it.

City Attorney Kit Williams: I would recommend you pass the resolution. You can pass the resolution as it is written but this is not the final lease.

A discussion followed on the lease.

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

Resolution 136-07 as Recorded in the office of the City Clerk.

United Engines: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a 150kW generac back-up power generator from United Engines in the amount of \$31,489.00 plus applicable taxes and shipping for the Information Technology Division; and approving a budget adjustment in the amount of \$65,000.00.

City Attorney Kit Williams read the ordinance.

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

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 6-0. Alderman Thiel was absent during the vote. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5040 as Recorded in the Office of the City Clerk.

CUP 07-2560 Bohot Appeal: An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

This appeal was moved to before Unfinished Business.

Enact City Council Street Committee: An ordinance to enact Article 16 (City Council Street Committee) of Chapter 33 of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: This is something Alderman Ferrell and I brought forward to establish the Street Committee like the Water and Sewer Committee has been established in the city. It doesn't change a whole lot of things but I hope that when the state decides to change design plans that they get in contact with us, which will solidify that I hope somewhat. When designs are changed by the state the state needs to get in touch with the city and let us know exactly what is going on so we don't have the kind of confusion that we had on Wedington Road. This is the reason that we brought this forward.

Alderman Ferrell: I just wanted to see this codified like the Water and Sewer Committee and Kit did not see a down side to it.

Mayor Coody: It is essentially what you do already. The Wedington thing was a one time event from two to three years ago and nothing like that has cropped up since because of a lot of extenuating circumstances all converging at the same time.

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

City Attorney Kit Williams read the ordinance.

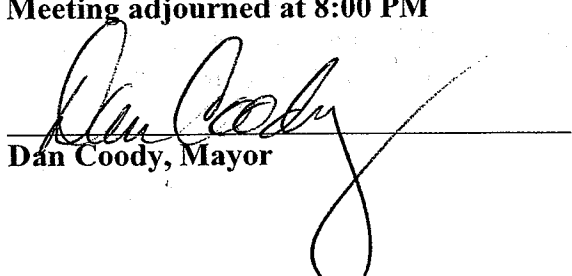
Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5041 as Recorded in the Office of the City Clerk.

Meeting adjourned at 8:00 PM


Dan Coody, Mayor


Sondra E. Smith, City Clerk/Treasurer