

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
April 01, 2008**

A meeting of the Fayetteville City Council was held on April 1, 2008 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's Announcements, Proclamations and Recognitions:

Mayor Coody complimented City employees for the hard work that is being done on the square renovation.

Presentations, Reports and Discussion Items: None

Consent:

Approval of the March 18, 2008 City Council meeting minutes.

Approved

Bid # 08-25 Golden Circle Ford: A resolution to award Bid # 08-25 to Golden Circle Ford of Jackson, TN in the amount of \$26,593.00 to purchase a heavy-duty, 4X4 regular cab pickup truck for use by the Fire Department.

Resolution 74-08 as Recorded in the office of the City Clerk.

Bid # 08-37 Landers McLarty Ford: A resolution awarding Bid # 08-37 and approving the purchase of one (1) crew cab chassis with reading utility body from Landers McLarty Ford in the amount of \$42,493.73 for use by the Transportation Division.

Resolution 75-08 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 motion passed 7-0. Alderman Rhoads was absent during the vote.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals:

No Appeals

ADM 07-2712 Amend Chapters 151, 159, 161, 162, 163 and 164: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 159: Fees, Chapter 161: Zoning Regulations, Chapter 162: Use Units, Chapter 163: Use Conditions and Chapter 164: Supplementary District Regulations in order to make accessory dwelling units a permitted use in all residential zoning districts contingent upon Planning Division administrative approval. *This ordinance was left on the First Reading at the March 18, 2008 City Council meeting.*

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 Rhoads was absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody: I understand this is going to be forwarded to the Ordinance Review Committee is that right?

Alderman Thiel: Right, so we can just leave it on this reading.

This ordinance was left on the Second Reading.

Public Hearing:

Public Hearing for Monthly Sewer Rate Ordinance.

Mayor Coody opened the Public Hearing

There was no public comment.

Paul Becker, Finance and Internal Services Director: This moves the sewer rates to a cost of service methodology. It also provides for two different rate structures in the residential class. This is to meet the committee's objectives of affordability and conservation. These rates would go into effect January 1, 2009.

Mayor Coody closed the Public Hearing

New Business:

WG Land Company LTD: A resolution approving a Memorandum of Understanding concerning annexation and zoning of certain real property with WG Land Company LTD Partnership.

Gary Dumas, Director of Operations explained a memorandum of understanding from WG Land Company indicating their request for specific zoning when the property is ready for development. He said this is the appropriate use for that area in the future.

Mayor Coody asked Gary to clarify the story in the paper about the fire station.

Gary Dumas: The City of Johnson had some issues and one was fire protection west of I-540 and east of I-540. There is a possibility that the City could provide fire protection for those areas consistent with the plans to also expand fire service both to the northwest quadrant and east of I-540. There is a possibility that the station might be relocated in the area around Van Asche in the future. There is not a commitment to build a fire station for them and there would be cost sharing in the future should they choose to participate.

Mayor Coody: The fire station issue isn't related to the 100 acres in this memorandum of understanding.

Gary Dumas: Not at all.

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

Resolution 76-08 as Recorded in the office of the City Clerk.

RZN 07-2889 (Cooper): An ordinance amending ordinance number 5114 to correct the legal description for the 0.64 acre parcel rezoned by said ordinance located at the southwest corner of North College Avenue and East Cleburn Street.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item. He stated this is simply a correction to an ordinance in Exhibit "B" which is the legal description. The property is officially rezoned however this corrects the legal description and inserts an amended Exhibit "B".

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5121 as Recorded in the office of the City Clerk.

VAC 08-2930 (Wilmoth/Wellsley Place): An ordinance approving VAC 08-2930 submitted by Dave Jorgensen for property located at 1609 Wellsley Place to vacate a portion of the utility and drainage easements on the subject property, containing a total of 643 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommended approval and the Planning Commission voted unanimously in support of the vacation as well.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell 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 5122 as Recorded in the office of the City Clerk.

ADM 08-2941 (Hoskins Parkland Variance): Submitted by Tracy Hoskins, requesting a variance from the parkland dedication contribution formula, relative to the land trade between Hoskins and the City Council as referred to in Resolution No. 149-06.

Jeremy Pate: In 2006 the City Council and Mr. Hoskins entered into an agreement, a land trade. This particular request addresses the land bank which is a parkland dedication that is made in anticipation of future development within a parks quadrant. In this particular case Mr. Hoskins would like to do this for a project called Oakbrooke Subdivision. The request is to utilize the value of the land at \$40,000 per acre. What that would relate to is instead of 1.5 acres of land it would be 1.5 acres times \$40,000. The confusing part is Oakbrooke was approved in 2005 when land value for parkland was at a very different value which was \$23,000 per acre as opposed to now. If Oakbrooke were developing today the fees would be in excess of \$103,000 whereas right now his requirement is \$59,000 based on the old requirement. The request is to utilize the value of the bank land which is not allowed by our ordinance so Mr. Hoskins has to request a variance. He has been before the Parks and Recreation Advisory Board who did not support the request and also to the Planning Commission who voted 3-3 and then forwarded a recommendation for you to consider their comments. Their concerns are that a lot of this land trade was made without the Parks Board or Planning Commission being involved, it was heard by you as a Council. The issue at hand for staff is we feel the utilization of the value of parkland is not anticipated by our parkland dedication ordinance. Secondly as applied to this particular case it is not meeting our parkland dedication ordinances for Oakbrooke Subdivision. When you run the numbers the City actually gets less land and less money in the overall scheme of things.

Alderman Thiel: I am trying to understand why the City used the \$40,000 per acre on what they paid him.

Mayor Coody: It was based on the value that we put on parkland.

Alderman Thiel: If that is the case then it would make sense that he would assume that he was banking the same amount.

Mayor Coody: We negotiated back and forth.

Gary Dumas: This was several years ago and at that time the value of parkland was \$40,000 per acre. The issue tonight is that when Oakbrooke was approved it was \$23,000 per acre so if you are going to redo the calculation for Oakbrooke then you need to redo the calculation completely instead of mixing the two.

Alderman Thiel: Why is he just now banking this for Oakbrooke?

Gary Dumas: He can use the bank at any time he wants. He finished the first phase of Oakbrooke last month.

Alderman Thiel: In other words the first phase has been completed and at that point is when he uses his bank.

Alderman Allen: I am trying to understand who or how it was determined that it was \$23,000 then and \$40,000 now.

Gary Dumas: The Parks Board in early 2000 did a parkland evaluation to see what the land costs were. They redid that analysis in 2005 and 2006 and it was more than \$40,000. The City Council set the number at \$40,000.

Alderman Allen: That is regardless of where the land was or where the land is now?

Gary Dumas: Correct, that is an ordinance requirement that the Council established based on some information the Parks Board forwarded to you.

Alderman Allen: So all banked land in 2005 was \$23,000 an acre?

Mayor Coody: It wasn't just banked land it was any parkland dedication.

Jeremy Pate briefly explained the parkland dedication process and how it works.

Alderman Allen: Has this particular situation or a situation similar to this ever come up?

Jeremy Pate: Not that I am aware of. I have never seen the value of land requested.

City Attorney Kit Williams: However the bank part has come up many times and every time it has, it has been the banked amount of land not the banked value of land.

Alderman Cook: When the City valued the piece of land that it paid Mr. Hoskins for, that was an agreement between the City and Mr. Hoskins, it had nothing to do with the parkland dedication value of the land. It was an agreement between Mr. Hoskins and the City of Fayetteville. The banked piece of land, we always do that as the land itself, not the value of the land.

Alderman Ferrell: This was a transaction between the Fayetteville City Council and Mr. Hoskins. There is a chance that there was some confusion. This wasn't a normal transaction, this was a trade, and when you look at the amount of money that was paid based on \$40,000 per acre I can see where there would be some confusion. This Council can make the decision and I hope we make the right one and approve Mr. Hoskins appeal.

Alderman Lucas: I don't think the banking of parkland was even discussed when we were talking about buying this land.

Alderman Jordan agreed with Alderman Lucas.

Mayor Coody: Jeremy do you have the agreement?

Jeremy Pate: It is in your packet. He read the highlights of the agreement.

Mayor Coody: That resolution was approved by the City Council when?

Jeremy Pate: September 5, 2006.

Mayor Coody: So the banking was a part of the agreement.

Alderman Lucas: But it wasn't a part of the money that we paid.

Mayor Coody: There was money, a land trade, and banking of land. It was those three things that totaled the 7 plus acres.

Tracy Hoskins, the petitioner: It is very possible that the Council doesn't remember the mention of the banking of land within the trade agreement. I have all the recommendations and background information that went to the Council for them to make their decision as far as approving the resolution. I am not asking for any consideration on Oakbrooke's park fees whatsoever. In 2006 the Parks Board and the Council elected to raise the parks fees to a value of \$40,000 per acre. The reason this property is banked to begin with was to make the trade deal more palatable for the Council. I had every reason to believe that I was receiving \$40,000 per acre. It is in the recommendation background sections, not in the resolution itself. According to ordinance this trade should have been seen by the Parks Board and the Planning Commission and it was only seen by the City Council. When we made the trade I fulfilled my part of the trade, the City got 100 percent of what they bargained for. When I asked to use this banked property for the fees of Oakbrooke initially staff and the Parks Department approved it. When we scheduled the signatures for final plat we were told we could not do that. They said you can not use the value of property. This was news to me and it was not disclosed when I agreed to bank this property to lower the City's check writing back in 2006.

Alderman Thiel: The understanding was that he banked it for \$40,000. There is a value of property used when there is money in lieu. I don't like to go against staff's recommendation but I feel like there was a certain commitment on the Council's part. I will probably support this.

Mayor Coody: The only issue is the \$23,000 at one time and the \$40,000 at another time.

Alderman Thiel: I understand that but whenever he banked the land it was at \$40,000.

Mayor Coody: It was 1.5 acres not a value. We have always banked acres for acres. We banked 1.5 acres.

Alderman Thiel: You banked 1.5 acres but at that time the value of park land was \$40,000. He did not bank it when it was valued at \$23,000. The trade with the City dealt directly with the Council. I believe there was an understanding.

Alderman Rhoads: As I listen to Tracy unwind the story that is jiving with my recollection as well.

Alderman Lucas: When we bank land we don't look at the value of what that person paid for his land. It is just a formula that the Parks Department looks at. We have always done that as far as I know in the past.

Jeremy Pate: That is correct; banking of land has nothing to do with the actual value of the land under our current ordinances as they are written.

Alderman Thiel: Then again there is a value placed on that land when they take money in lieu of that land.

Jeremy Pate: Not for a bank though. The only time the value enters into the equation is a development that is paying parks fees.

Alderman Thiel: So in other words this 1.5 acres isn't even worth \$23,000.

Jeremy Pate: To us it has no value associated with it.

Alderman Thiel: So he is going to have to trade 1.5 acres for 1.5 acres. Is that the bottom line?

Jeremy Pate clarified the process.

Alderman Thiel: From what you just said it has to be land it can't be fees. If it can be fees then there has to be a value set on that. If it has got to be land it's got to be land.

Gary Dumas: This is a confusing issue. In 2005 the park fees were \$23,000 an acre, the park fee should be for 2.59 acres \$59,940. That is the park fee for the 2.59 acres.

Alderman Rhoads: Based on 2003 numbers.

Gary Dumas: Yes. Just because the park fees have gone up since 2005 that number does not change. That number stays the same based on the approval date. The 1.5 acres today is banked. That 1.5 acres has a value today based upon the park land fee of around \$60,000. The issue is the park land requirement in 2005 and today is 2.59 acres.

Alderman Thiel: Oh, it's not 1.5 acres.

Gary Dumas: No, there is 1.5 in the bank and 2.59 was required in 2005. You can change the rules any way you want to but the issue is that 1.09 acres. If you want to use the 1.5 acres as value for a development that was approved in 2005 you should use \$23,000.

Alderman Thiel: What if Tracy wanted to utilize the \$40,000 formula for 1.5 acres and then pay the parkland fee for the other additional acre?

Tracy Hoskins: The Parks Board did not elect to take land they elected to take fees not land. Every time the Council considers how much an acre of park land is they are considering value every single time. The only reason we are having this discussion is because Oakbrooke was approved at \$23,150 and that number was derived at a value of \$23,150 an acre at .024 acres per house time's 108 houses. Today it is calculated at \$40,000 per acre so there is where the difference is. If I was dedicating land I could see where I might have a difficult time even though in my opinion City Code 166.03 does not apply because we didn't bank anything in excess of anything as I stated earlier. This was a trade. We are talking about fees here and as far as I knew I had \$60,400 worth of credit sitting in the bank somewhere from that trade which would be more than enough to cover the \$59,940 that is owed.

He went on to reference other sections from the City Code Book.

City Attorney Kit Williams reminded the Council that the official actions of the City are your ordinances and resolutions. Staff gives you reports but when you take action it is by resolution or ordinance. The resolution in this particular case is your official agreement with Mr. Hoskins. Section 3 of that resolution is the one that talks about banking. He read that section of the resolution. I think it was understood when I wrote this resolution and I hope when you passed it that this would be the common City policy that we have had in the past. When I wrote this resolution I was assuming that it would be done like we have always done it before, it would be banking the acreage not the value of the acreage. I don't think Mr. Hoskins argument works with this particular resolution.

Mayor Coody: When we did this negotiated deal it was clear that you were going to be banking 1.5 acres for future development. That is exactly what is reflected in the resolution. If we go value to value that is going to change on an appraisal basis to where we will never have a hard number to use in the future.

Gary Dumas: When we went into the agreement there was an understanding on some of the staff's part that there was a limit on the number of dollars that the City would pay for the Scull Creek Trail. At some point in the discussions with Mr. Hoskins the idea of us coming up with a maximum number of about \$100,000 came up and then we came up with a way to provide him some compensation for the remainder. That was the banking. The bottom line is we tried to keep it under \$100,000 and perhaps it created complications that shouldn't have been created. I think there might be a way to do this without jeopardizing the entire park land dedication ordinance if you want to approve this.

Alderman Allen: I want to be fair to Mr. Hoskins. I wondered if it would be of any help to us to produce the minutes of that meeting and read what was said at that time. I have a huge concern about what kind of precedent this might cause.

Alderman Jordan: Alderman Cook you were involved in a lot of this negotiation.

Alderman Cook: Yes sir.

Alderman Jordan: What is your recollection of this, was it the value of the land?

Alderman Cook: It was not value of land. My personal opinion is that no way is that piece of property worth \$40,000 per acre because it is drainage easement and floodplain. I think Mr. Hoskins got a very fair deal out of that and I think what he is proposing is going against what we originally agreed on in my personal opinion.

Alderman Thiel: Staff negotiated this. The Council did not sit down and negotiate this.

Alderman Jordan: Alderman Cook was involved.

Alderman Thiel: You were at all the staff meetings?

Alderman Cook: No, Tracy and I met together on some of it.

Alderman Thiel: What we just heard from Mr. Dumas and from Mr. Hoskins indicates to me that there was an understanding. I agree the land is probably not worth \$40,000 but none the less that is what they understood. How much are we talking about if he had to pay \$23,000 for 2.5 acres?

Jeremy Pate: For the development he still has the option to pay the \$59,940. He can use the 1.5 acres for any other land bank or development he does tomorrow.

Mayor Coody: I think it is about \$25,000 difference.

Alderman Thiel: So it's not really costing the city anything much is it.

Jeremy Pate: The \$25,000 difference in parks fees.

Alderman Thiel: That would make \$25,000 more?

Jeremy Pate: Less.

Alderman Thiel: That is basing his land on being worth \$23,000. I am going to have to support him on this. I don't think it is setting a precedent because I think this is unique.

Alderman Ferrell: I don't think I have ever said that anything that staff said that was based on the normal process that their interpretation was wrong. This wasn't the normal process; this was a land swap between the Council and Mr. Hoskins. I don't think land swaps are bad if we can come to a clear understanding.

Alderman Cook: This really boiled down to the fact that we needed that piece of right of way for the trail and that is the only reason why we were interested in it. We paid a premium because

we needed that piece for a connection to the Mud Creek Trail. We gave him other considerations for that piece of land besides the cash so I think he got what he bargained for.

Alderman Rhoads: I think we backed into the numbers to make it work. So we have a \$40,000 value that we have backed into. In the totality of the deal it was worth \$40,000 and that is why I have to support this.

Alderman Lucas: I can't support this. It is area for area. We are not denying him his \$40,000 because it is subsequent development so he would get credit for 1.5 acres at the value now on any development that he has.

Alderman Allen: Regardless of what happens here I certainly hope we make certain of that in the future so this problem won't come up for anyone else.

Tracy Hoskins read Section 3 of the resolution. He stated my request actually falls right in line with this. It is a subsequent residential development obligation. We fall within those guidelines.

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

Amend Chapters 151, 152 and 166: An ordinance amending Title XV: Unified Development of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 152: Administration and Chapter 166: Development in order to prohibit or regulate decentralized sewer systems within the city limits.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning and Development Management Director stated this ordinance is being brought forward to address the issue of decentralized sewer systems within our City and those we annexed in the election in 2006.

Mayor Coody: If a home and an accessory dwelling unit are too far away from the sewer and they are on septic systems is that two or more homes?

City Attorney Kit Williams: I think they would have to have their own separate system.

David Jurgens: For the septic system the county actually has regulations for it. If they are tying onto the public sewer they have to have two separate connections. If the sewer system is not close by, it is State Health Department regulations administered by the County office of the Health Department that rules for the septic systems. I hadn't thought about that question when we were talking about this ordinance. I'm not sure if I know the answer to the question.

Alderman Thiel: Does this allow for variances for requests?

Tim Conklin: This ordinance prohibits decentralized sewer systems within the City of Fayetteville.

Alderman Thiel: I wonder if we need to look at this and provide some kind of variance that people could apply for if there was a situation.

Mayor Coody: Is there a way we could fine tune that because I would suspect that there will be situations like this.

A discussion followed on the current systems.

Alderman Thiel: I think there might be enough variables that we at least need to add some kind of a variance request.

David Jurgens: I don't think the Health Department will be approving septic systems unless they are all on one lot. Part of the intent of this is that we did not want sprawl and the sewer system was one of the mechanisms to insure that developments were within the city limits and connected to the sewer so that we would not have the long term problems of disconnecting decentralized systems and then hooking up to the public sewer system.

Mayor Coody: It's a very laudable goal it's just that this detail might net people that might not fit that category.

Alderman Ferrell: I would think we would want some language in there that would mention some kind of an appeal process. Otherwise we would not be able to consider it.

Alderman Thiel: That is all I am suggesting because I agree with you whole heartedly. Rather than us trying to do this tonight possibly the administration can go back and add an appeal clause to this.

David Jurgens: The Sewer Committee has some legal authority. Kit would it be possible that this could be something that is approved by request to the Sewer Committee as an appeal process?

City Attorney Kit Williams: If the ordinance says the Sewer Committee can grant a variance then they could. It needs to be in the ordinance if you want to have some sort of variance or appeal procedure. If you want something like that put in we should leave this on the first reading and let staff work on it.

Alderman Lucas: Do we want to give an out for someone who wants to put a sewer system in the City limits?

Mayor Coody: No, I don't think that is the intent.

Tim Conklin: We are spending a great deal of money to build a Wastewater Treatment Plant. The question that I had was as a city do we want to require people to tie onto our Wastewater

Treatment Plant System versus installing a decentralized sewer system. That is why we want to clarify in the ordinance that they are prohibited.

Mayor Coody: That is not the issue.

Alderman Thiel: The question is that whenever someone lives outside of 300 feet.

Mayor Coody: The question is "is a septic tank a decentralized sewer system."

David Jurgens: For an individual dwelling the answer is no.

Mayor Coody: Yes, until we talk about accessory dwelling units and then you are talking about two homes on one septic tank.

David Jurgens: That is where we get into two homes on one septic or multiple structures on one septic. If there is a development in the newly annexed area west of Double Springs Road would there be a mechanism by which they should be allowed to have a decentralized system provided they meet all the requirements in the code. If we make it a Water and Sewer Committee decision it is still appealed to policy level. I would suggest that we leave this on the first reading. We have a Water and Sewer Committee meeting next Tuesday and we can discuss this then.

Alderman Lucas: One of the things that we talked about in sprawl was that with this need of being on our sewer system it would help us control growth.

Mayor Coody: I don't think anybody wants step systems in town and I don't think that is the appeal process we are talking about.

Alderman Lucas: We were just talking about beyond Double Springs Road.

David Jurgens: That would be a policy decision that a Council Committee would have to make the ruling on.

Alderman Jordan: We have had many discussions where someone just outside the City limits wanted to put in a step system and we brought them in because we didn't want the step systems. I don't want to give them a way to put in step systems outside the City limits either.

Alderman Lucas: Or in the City limits.

Mayor Coody: I was just asking about the septic tanks.

Alderman Lucas: It needs to be clarified how they would be handled.

This ordinance was left on the First Reading.

Repealing and Replacing § 51.136: An ordinance repealing and replacing § 51.136, Monthly Water Rates, of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman 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 5123 as Recorded in the office of the City Clerk.

Repealing and Replacing § 51.137: An ordinance repealing and replacing § 51.137, Monthly Sewer Rates, of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This is what we had the public hearing on earlier.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I would ask that before we pass this that we leave it on the second reading. These rates don't go into effect until next year so there is no rush to pass this tonight. The sewer rates are a little different.

This ordinance was left on the Second Reading

Repealing and Replacing § 51.138: An ordinance repealing and replacing § 51.138, Definitions pertaining to Water and Sewer Rates, of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman 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 5124 as Recorded in the office of the City Clerk.

Repealing and Replacing § 51.139: An ordinance repealing and replacing § 51.139, Users Outside City Limits with a new § 51.139, Reviews of Water and Sewer Rates, Notification to User of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman 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 5125 as Recorded in the office of the City Clerk.

Repealing and Replacing § 51.144: An ordinance repealing and replacing § 51.144, Filling Water Tanks on Commercial Trucks; Rates, of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: This shows us what the proposed rates are going to be. What are the rates right now for the same thing?

David Jurgens: The rate right now is \$1.00 less per 1,000 gallons. It is \$3.00 per thousand gallons and \$4.00 for labor so each of those were increased by \$1.00. The last time these were changed was in 1994 or 1995.

Alderman Ferrell: On the others it says a 3% annual increase shall be used to offset inflation. If our Beaver Water District bill stays the same for three years, will these inflation charges still apply to everything?

David Jurgens: We are required to do a rate study so that gives us a default number but we are going to have to validate those numbers by rates and we have a resolution to do that every three years. The intent is not to stop doing rate studies but if the next one takes us 24 months then we have a mechanism to match inflation. There are mechanisms by which that doesn't have to occur but it would be the default point.

Alderman Ferrell: I thought part of our intent on the annual increase is so we wouldn't continue to have these exorbitant increases.

David Jurgens: It would match inflation. The intent is to do that so hopefully no Council will have to have the large increases like we are facing right now.

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 5126 as Recorded in the office of the City Clerk.

Amend §157.05 and §171.05: An ordinance to amend §157.05 Vacations of Streets, Alleys, Rights-of-Way and Easements and §171.05 Procedure for Closing Utility Easements and Street Rights-of-Way.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This ordinance request is by Alderman Ferrell.

Alderman Ferrell: Kit, this says following a vote of at least 2/3 of its membership and the Mayor. Is the Mayor included in that 2/3?

City Attorney Kit Williams: The Mayor is normally included as a member of the Council for purposes of voting if his vote is needed.

Alderman Ferrell: I had a citizen that had a locked in mortgage on a loan and they were under a time frame. She wasn't able to get this through the Planning process. With the strict restrictions on this it is not something that is built for abuse or that will be, it is certainly something that perhaps we can help a citizen. That is the intent of it.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Rhoads 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 5127 as Recorded in the office of the City Clerk.

Agenda Additions:

Mayor Coody: Laverne and her husband are here to talk about a particular issue that has not come before the City Council. It is a liquor store that has been approved by the Planning Commission on Highway 62. It is not on the agenda.

City Attorney Kit Williams: We need to suspend the rules and place it on the agenda for discussion.

Alderman Lucas moved to suspend the rules and add a discussion regarding a conditional use permit that was granted by the Planning Commission for a liquor store to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Laverne Cooper, a citizen: The Planning Commission passed a conditional use for a liquor store in our area. There is really no need for one out there because there are already three liquor stores within a mile of this. At the meeting where they voted unanimously to do this I spoke to them and told them this. It is going in at a family subdivision entrance. This is just not something that we need out there. There are several people against it and no one was notified that it was going in. There is also a church within less than 1/10 of a mile.

Mayor Coody: Tim, are you up to speed on this? We send out notices for conditional uses don't we?

Tim Conklin: I would have to review the file. We do not approve liquor stores that often.

Kit Williams: I think the conditional use notification is supposed to be sent to the adjoining property owners. They put up a sign too. We publish it in the newspaper also.

Mayor Coody: I know it went to the Planning Commission and once it is approved at the Planning Commission it doesn't come to the City Council.

Laverne Cooper: As I understand this, the permit was issued on east Highway 16 and then it was transferred to west Highway 62.

Alderman Thiel: So the one on East 16 is not going to go in there then? They cannot use the permit in two places.

Laverne Cooper: I don't know, maybe you all need to look into it.

Alderman Thiel: Are you requesting to appeal a conditional use?

City Attorney Kit Williams: It is too late. You have only 10 working days to appeal something from the Planning Commission. It has been longer than two weeks so at this point it is too late to appeal.

Mayor Coody: I wanted to give you a chance to get up and speak since you stayed here all night.

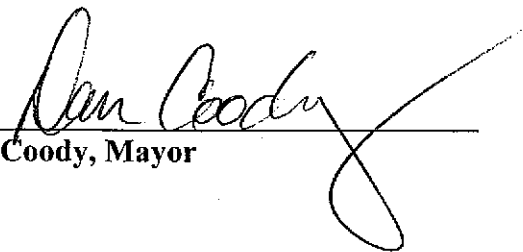
Laverne Cooper: We weren't here specifically for that.

Mayor Coody: I wasn't aware of that. I thought you were. I am sorry.

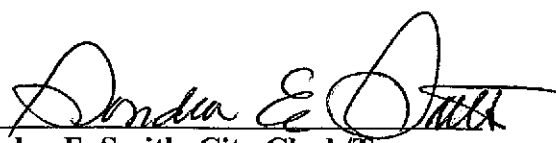
Laverne Cooper: We actually had some items that we wanted to listen to.

Alderman Jordan: If there is an Alderman that does not agree with the liquor store they can write a letter.

Meeting adjourned at 7:45 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer