

Aldermen

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
July 01, 2008**

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

ABSENT: Alderman Gray

Alderman Rhoads arrived at 6:05 PM.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Coody recognized the Spring International students. He welcomed them and asked them to stand and be recognized. He stated we appreciate you being here and we hope you enjoy America.

Presentations, Reports and Discussion Items:

1. Van Scoyoc Presentation: Kevin Kelly

Kevin Kelly with Van Scoyoc a lobbying firm gave a presentation on acquiring Federal Funds. He also discussed the things that they have done for the City of Fayetteville in Washington.

Alderman Ferrell: Do you know if there are other cities in Arkansas that employ advocates in Washington to help them with their money?

Kevin Kelly: There are cities that so do. I could check and get a number back to you.

Alderman Ferrell: That would be interesting if you could do that.

Mayor Coody described a story that he read in the Business Journal.

Alderman Cook: We always get comments from citizens when we authorize money to keep you guys on board. Over a 30 day timeline what exactly does your agency do?

Kevin Kelly: At the beginning of the year you have to get your course materials together and that is what we do here. You have six or seven initiatives organized by the agencies of jurisdiction. What we will do is work with the department heads here. We will formulate the entire agenda accordingly. Then from there we will package those things together, get them edited and bring the Mayor up to speed. We will spend a whole day walking the halls of Congress trying to educate them. After that process happens we end up going through an iterative process where there are a whole series of forms.

Mr. Kelly gave an in depth description of what the Agency does.

Alderman Rhoads: How long have we employed Van Scoyoc?

Mayor Coody: 2005 I think is when we hired them.

Alderman Rhoads: We have debated getting a grant writer. Listening to your report and keeping track of what you have been doing over the last few years I really think that the return investment on the dollars that we spend with his firm is solid and will continue to get better.

Alderman Rhoads explained the benefits of using Van Scoyoc.

Mayor Coody gave examples of past experiences with Van Scoyoc. He stated staff appreciates his help and I think you have done a good job for us.

Kevin Kelly described other instances where their company has been a benefit to other states.

Mayor Coody: Thank you for coming this evening. We look forward to many happy returns when it comes earmark time.

2. Regional Ambulance Authority Executive Board Appointment Discussion

Mayor Coody: I understand that at the last Agenda Session the question came up about the appointments of the members of the board.

Alderman Cook: I remember when we voted on the resolution there was still a question at the end of that debate on how we were going to appoint those members. The resolution mentions that those are appointed by City Council. I would suggest a Nominating Committee meeting and ask for any possible appointees from other Council members. We can then bring a recommendation back to the City Council.

Mayor Coody: Every committee has a different process to nominate people. I wish there was one uniform method to do this. John Gibson asked me when I was going to make the appointments I asked Tony if he would stay on. I asked if he knew anybody that he would recommend and he was said Rick Johnson, who is a State employee, and is on the Ambulance Committee now. He said he did a good job from his perspective, so I just named him. If you guys take it to the Nominating Committee that is something that I don't have to worry about and I am glad for you to do it.

Alderman Cook: I'll get with Sondra and the members of the committee and we will work on a meeting time. I understand the County needs these appointments made quickly. We will try to schedule a meeting pretty quickly.

A discussion followed on the application process.

Alderman Cook: I don't think it needs to go through the application process because it is not really that kind of a process. We take names and debate on who we want to put on there. We will come up with a recommendation and at Council level we will debate it.

Mayor Coody: I hope you pick Tony because he has been very good.

Alderman Cook: I wouldn't argue with that.

Agenda Additions:

Consent:

Approval of the June 3, 2008 and June 17, 2008 City Council meeting minutes.

Approved

Bid 08-45 Benchmark Construction of NWA, Inc: A resolution to approve a bid and award a contract in the amount of \$79,900.00 to Benchmark Construction of NWA, Inc. to construct a concrete pad for Solid Waste with a contingency of \$7,290.00.

Resolution 132-08 as Recorded in the office of the City Clerk.

Bid 08-49 Deerskin Manufacturing, Inc: A resolution to award Bid 08-49 to Deerskin Manufacturing, Inc. to purchase a chassis mounted animal control body in the amount of \$19,770.00 plus tax of \$1,828.73 for a total of \$21,598.73.

Resolution 133-08 as Recorded in the office of the City Clerk.

Police Department Policy Amendment: A resolution to approve an amendment to Fayetteville Police Department Policy 1.2.3.

Resolution 134-08 as Recorded in the office of the City Clerk.

Frisco Trail Art Sculpture Donation: A resolution to accept a donated metal art sculpture to be placed upon the Frisco Trail in honor of the Hoover Family.

Resolution 135-08 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Amendment # 2: A resolution to approve Amendment # 2 to an agreement with McClelland Consulting Engineers, Inc. for engineering services for an additional year.

Resolution 136-08 as Recorded in the office of the City Clerk.

Arkansas Historic Preservation Program Grant: A resolution to approve a budget adjustment and a contract with the Arkansas Historic Preservation Program to receive a Certified Local Government Grant in the amount of \$7,500 to provide travel and training funds for the Historic District Commission and Staff.

Resolution 137-08 as Recorded in the office of the City Clerk.

Arkansas Natural Resources Commission Grant: A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

This resolution was removed from the Consent Agenda for discussion.

Alderman Jordan moved to approve the Consent Agenda as read with Item #8 Arkansas Natural Resources Commission Grant removed for discuss. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Alderman Allen: I just wondered what the Police Department Policy amendment was.

City Attorney Kit Williams: It's in your agenda. I can read the resolution if you would like me to.

Mayor Coody: Yes, would you please.

Alderman Allen: I just thought the folks might want to know what that was.

City Attorney Kit Williams read the resolution.

Alderman Allen: A very important amendment to be added.

City Attorney Kit Williams: It amends the current policy but we already had a policy in place to do this. There has been a change in State Law and we needed to change the policy to be in conformance with the State Law.

Mayor Coody: We just changed the language but the intent was the same.

The following resolution was removed from the Consent Agenda for discussion.

Arkansas Natural Resources Commission Grant: A resolution authorizing the Engineering Division to apply for a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

Mayor Coody: Would you like me to go ahead and read it?

City Attorney Kit Williams: I thought you would just read the new one that just says we are not only going to apply for the grant but we are going to accept the grant.

Mayor Coody read the amended resolution.

City Attorney Kit Williams: And approve a budget adjustment recognizing the grant revenue. We need a motion to amend the current one that is before you to this particular resolution.

Alderman Jordan moved to amend the resolution to state apply and accept. **Alderman Thiel** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent.

Alderman Jordan moved to approve the resolution. **Alderman Thiel** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Gray** was absent.

Resolution 138-08 as Recorded in the office of the City Clerk.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: None

Boardwalk Property Owners Association: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting. This ordinance was left on the Second Reading at the August 23, 2007 City Council meeting. This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting and Tabled to the October 2, 2007 City Council meeting. This ordinance was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading.*

City Attorney Kit Williams: The City Council approved by resolution that all things that would be indefinitely tabled would be deemed denied on December 31st of each year except for a few resolutions and this was one of them. It was tabled until this meeting so it's now off the table. I think **Alderman Thiel** had some comments.

Alderman Thiel: I think Ron did too.

Ron Petrie, City Engineer: I have been in contact with the POA President and they respectfully request that we table it for two months. They are looking at the construction cost numbers. Those numbers are old and they would not apply. They are also looking at their level of commitment to the project as well. They thought two months would be a sufficient time to address those two issues.

Alderman Thiel moved to table the ordinance for two months. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

This ordinance was left on the Second Reading and Tabled to the September 2, 2008 City Council meeting.

Northwest Arkansas Regional Mobility Authority: An ordinance providing for Fayetteville's participation in the Northwest Arkansas Regional Mobility Authority and approving an agreement with participating members of the Northwest Arkansas Regional Mobility Authority. *This ordinance was left on the Second Reading at the June 17, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: We have some folks here to see us tonight, Scott Van Laningham and Mike Malone. Does the Council have any questions on the Regional Mobility Authority discussion?

Lionel Jordan: That was shown at the Ward 4 Meeting last night and it was a great presentation with a lot of great feedback. I really appreciate you all coming and doing that.

Scott Van Laningham: We appreciate the opportunity. If these projects are going to come to fruition we are going to have to have educational sessions just like that with folks all over these two counties to present the program and the process. We also thought it was a good discussion.

Alderman Cook: People were asking about the taxation, where you have projects that cross multiple counties in this case. How is that going to work if one county supported it and another county didn't support it as far as how the funding for the project would work?

Mike Malone, with the Northwest Arkansas Council: Under the Arkansas Constitution sales tax funds raised in one particular county have to be spent in that county. So even though this would be a two county regional mobility authority if sales taxes are a part of funding any of these projects those funds would remain within the county in which they were generated. It really is going to depend on the projects. It's going to be the RMA Board that decides which projects get worked on.

Scott Van Laningham: The only thing I would add to that is it's important to remember that the Regional Mobility Board is going to be made up of either the mayor's of cities of the First Class or their designees who serve at the pleasure of those mayor's.

Alderman Cook: Imminent domain always comes up and how that is going to be handled. Basically the project, to move forward, is going to get support through all the voters. It's a political process so people will know as they move forward where imminent domain could take place. To follow up on that is at that point we will know what routes we will be at that point so imminent domain won't be something illusive out there.

Scott Van Laningham: Yes. Two things to stress, the Regional Mobility Authority will be a public entity subject to the freedom of information. From my experience with the Airport I can tell you that, our instructions from the Airport Authority Board, were that imminent domain was always the last resort and never the first resort.

Mayor Coody: We all know that the cost of building highways is sky rocketing due to the cost of cement, etc. We are collecting less money to build much more expensive roads, which is the wrong way to try to get something done. From the RMA's Board position, this new world that we are facing right now where the days of one person, one car, and driving as far as you want are coming to an end. Will the RMA take a look at mass transit, even though we don't have the population densities yet, with this new thing going on in society, are we going to look at doing different things than just roads?

Scott Van Laningham: It's hard to speak for a board that has not yet been created. I will tell you that mass transit has to be a part of the package that is looked at. It has to be evaluated. There are a lot of smaller steps that we could be looking at right now.

Mike Malone: In addition to the park and ride and other examples that Scott gave, HOV lanes are something that the RMA Board would be able to consider as it looks at transportation projects.

Alderman Ferrell: How soon do you think the first meeting will be?

Mike Malone: All 13 First Class Cities in two counties are eligible to join. We want to make sure that all of the cities have had a chance to meet and consider it before scheduling a board meeting. We think all the cities will have had a council meeting and have taken this up by the end of July. In August, I would think if it works with the schedule of the board members.

Scott Van Laningham: We really think that first meeting is going to need to be an educational session bringing them up to speed on these projects and where they are at.

Alderman Cook: Once a board is formed are they self sufficient at that point?

Scott Van Laningham: Regional Planning has been involved and they have offered support and office space. That would be a perfect place to house the Regional Mobility Authority. What the council has offered is Mike Malone as staff support for that process so there won't be an expenditure or a request for an expenditure to pick up the cost.

Alderman Cook: You had a chart that outlined some of the ideas that are potentially on the table. I assume that Regional Planning is in lock step with that?

Scott Van Laningham: Yes. It's also important to remember the statute requires that any RMA project has to be consistent with the long range plan. Regional Planning has to be a part of this.

Alderman Jordan: Last night we discussed a lot of the same questions you are asking. It was very good last night.

Alderman Allen: Thank you for your time last night.

Alderman Lucas: I want to thank Scott Van Laningham and Jeff Hawkins for coming to the Ward 4 meeting. It was great and there was a lot of information. One thing people need to understand is that by virtue, the Washington County Quorum Court voting in as part of the Authority, that the citizens of Fayetteville are in and whether we vote up or down tonight they will be part of this. Whatever the Board of Directors decides the citizens of Fayetteville will be affected by it as a result of the vote of the Quorum Court. What we are voting on tonight is just a representative on the board which I think is very important. I think it is also important that the citizens of Fayetteville get as educated as possible about this.

Alderman Thiel: I think it is important for the public to understand that it is important that the City of Fayetteville is a part of this. It's critical that we have the input. We need to have our voice representing our citizens on this authority. I certainly support that we move forward with this.

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

Ordinance 5150 as Recorded in the office of the City Clerk
New Business:

VAC 08-2916 (Hill Place): An ordinance approving VAC 08-2916 submitted by Appian Centre for Design for property located at the southwest corner of 6th Street and Hill Avenue intersection, to vacate various utility easements and rights-of-way, within the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item. He also listed the conditions of approval. He stated staff and Planning Commission recommended approval of this ordinance.

Alderman Lucas: It says the corner of Sixth Street and Hill Avenue intersection. I didn't think that was part of the project.

Jeremy Pate: There is actually one lot that is not part of it at the very corner of the intersection and it surrounds both sides of that lot.

Alderman Thiel 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 Gray** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel 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 Gray** 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 Gray** was absent.

Ordinance 5151 as Recorded in the office of the City Clerk

RZN 08-2971 (Walker Park Neighborhood): An ordinance rezoning that property described in rezoning petition RZN 08-2971, for approximately 304.3 acres, bounded by Archibald Yell Boulevard, Huntsville Road, Morningside Drive, 15th Street and South School Avenue from RMF-24, Residential Multi-family, 24 units per acre, C-2, Thoroughfare Commercial, and P-1, Institutional to NC, Neighborhood Conservation, DG, Downtown General, RMF-18, Residential Multi-family, 18 units per acre, and MSC, Main Street Center.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Long Range Planning gave a brief description of the ordinance. I passed out a modified Exhibit A. That was at **Alderman Thiel's** request and deals with property on South School. It is a parcel where there is split zoning currently with commercial in the front and industrial in the back. The current use conforms with that zoning. The compromise is to maintain that split zoning but make it Downtown General at the front part of the parcel, which would make the current use conforming, and also be in line with what we are envisioning in this master plan.

Alderman Thiel: I intend on making that an amendment because that would satisfy the people I have heard from on that side. I am really concerned about that commercial corridor because there are well established businesses there. The amendment, regarding waiving the fee for a conditional use application, I think that would satisfy the property owners on the other side regarding them being nonconforming. Six months is what we kind of thought was a fair amount of time for them to get the applications in and the fees waived on that process?

Kit Williams: Six months would be fine with me.

Alderman Thiel: If for some reason someone doesn't get one in under the wire we could come back and ask.

Kit Williams: I would suggest we do that by separate ordinance that we could consider at the next meeting rather than trying to amend this one and put a conditional use in there as part of the UDC.

Alderman Thiel: We can make this adjustment because that is part of it.

City Attorney Kit Williams: Yes, the adjustment of the map, certainly. I was just thinking that the UDC doesn't need a six month moratorium on fees for a conditional use to be a part of it. That is a permanent document like this will be. I will draft that up and try to get it on the agenda for the 15th.

Alderman Thiel: I would appreciate that if you would go ahead and do that. As far as the other recommendation, I am not willing to follow through on that one. I heard from someone that lives on Wood and I would like to go ahead and make that part of my amendment to the map. To include that in Downtown General. That is what she wanted right?

Karen Minkel: That is correct.

Alderman Thiel: I am a little confused about Tony Wappell's concerns. Do you understand that?

Karen Minkel pointed out on the map the area of discussion.

Originally we had proposed neighborhood conservation for that particular block. The owner of those properties, Steve Winkler, came to a Planning Commission meeting and wanted them to remain either multi-family or be zoned Downtown General. The rationale in changing it to the Downtown General, is that particular block, would certainly benefit from revitalization. He would agree with that and that was intent as some point in the future. The zoning districts around it are compatible with Downtown General. It is one of those instances where Neighborhood Conservation would also be compatible. I think that is the issue that has been brought forward that Mr. Wappell has concerns about. He owns property to the west on South Street.

Alderman Ferrell: Brenda, when you said you weren't going to go forward with the other recommendation were you talking about Commissioner Trumbo's concern about allowing a multi use as a conditional use in the neighborhood conservation?

Alderman Thiel: Yeah. I have asked Kit to draft up something about the waiving the fee on conditional use. I have a commercial property owner that will accept this if that is done.

Alderman Ferrell: For nonconforming?

Alderman Thiel: No, a conditional use. In other words they will be nonconforming. I have not been asked to do what Mr. Trumbo wants.

City Attorney Kit Williams: I think both of those are really separate issues from this whole general plan. The individual parcels that Alderman Thiel was talking about changing the map that should be done tonight.

Alderman Ferrell: Is there a downside to allowing the conditional use? They have to come before the Planning Commission to receive a conditional use.

City Attorney Kit Williams: Yes. Someone might prefer not to have to do anything. The compromise that the Planning Commission and Alderman Thiel suggested, that they would waive the permit fees to do that conditional use request for a six month period.

Alderman Ferrell: Karen I would like to visit with you on this multi family.

Alderman Thiel moved to amend the ordinance to the Modified Exhibit A and to leave 636 S Wood as Downtown General. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Tony Wappell, resident of 11 East South Street voiced his concerns about the ordinance. He stated it is very narrow and making that denser is going to cause more problems, until the street is widened to conform to allow for more dense housing. I am all for revitalization but I think right now that making it denser is not a good idea.

Alderman Thiel: It was your understanding that that was going to remain Neighborhood Conservation?

Tony Wappell: Yes. I looked online and the June 9th map still had it as neighborhood conservation. Then I got the postcard that said that is was Downtown General.

Alderman Thiel: So that got changed as Karen said. I am reluctant to do anything about that tonight. Between now and the next meeting maybe we can hear from more people.

Aubrey Shepherd, a citizen stated so many people did not attend those charettes. He stated we need to meet with the people who live there now to find out more about it in many cases. What we allow up stream can affect those folks down there. He expressed his concerns with the ordinance and the lack of people that attended the meetings.

Alderman Lucas: What was South Street originally?

Karen Minkel: It was originally Neighborhood Conservation. The property owner who owns all four parcels came to the June 9th Planning Commission meeting and requested that it be changed to Downtown General. His comments are in your minutes.

Randy Nicks, a resident of South College Street spoke in favor of the overall plan. There are going to be individual issues. It is good to be a part of a community that has allowed those of us that are interested to come to meetings, to speak, and have our input. I am glad steps are being taken to insure the integrity that is there. Affordable housing is very difficult to find. If we can continue to bring stability and integrity to neighborhoods that have this kind of potential for affordable housing for working people it will continue to increase the overall integrity of our community. We are glad these ideas have come this far and we look forward to hear what the next steps will be.

Alderman Thiel: I attended most of the meetings and I thought they were well attended. You don't get everyone that lives there or owns property there to participate. I am excited and want this to move forward because currently a large part of this property is zoned far too dense and it is on a watershed. I am supportive of it. I think we should leave it at this reading and possibly straighten out that issue. At the next meeting we can add the conditional use fee waiver ordinance.

Mayor Coody complimented the staff on their hard work. He stated we won't see the results of this for 30 years. Good cities make great neighborhoods and great neighborhoods make great cities so this is going to be something that over time we will be a better town.

This ordinance was left on the First Reading.

Arkansas Department of Aeronautics Grant: A resolution authorizing the Fayetteville Executive Airport staff to apply for a grant in the amount of \$68,235.00 from the Arkansas Department of Aeronautics to fund an Airfield Security Project.

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

Paul Becker, Finance and Internal Services Director: There is no available fund balance but there is cash on hand, if we subtract the liability that is owed to ourselves, which will be paid back over time. Under normal circumstances I would not recommend anything of this nature or an increase in the budget if there was not an available fund balance.

Mayor Coody: The airport has \$600,000 in the bank and they owe us \$700,000, but that debt is being repaid to us by leasing hangars out there. If you look at the debt and the assets that do not have any money but if you look at the fact that the hangars are paying back the debt then you can look at it like there is some working cash out there.

Alderman Jordan: In other words you are bringing in revenue to cover whatever the debt would be.

Mayor Coody: Correct.

Paul Becker: On a traditional analysis this normally wouldn't be something to consider. I felt that something that was important to transmit to the Council.

Alderman Ferrell: How do you see the trajectory of the funding at the airport?

Paul Becker: My analysis at this point would be that right now they are holding their own on an operating basis year to year. There is a concern of long term, about the replacement of fixed assets, because we are not covering historical thoughts. We are not covering depreciation. There is going to be a concern long term about the replacement of assets over time. So far that has been addressed through federal grants. You can't always count on that. The long term viability of the airport is something that should be a concern to everybody.

Alderman Ferrell: Is that something that you could make some recommendations on? That's our Airport and we want to keep it but we have to also ensure the fiscal integrity of it

Paul Becker: I would recommend that the airport really be looked at and you consider what you want the airport to be in long term. Can it be scaled down, what is the availability of federal grants, and how we are going to fund those long term liabilities.

Mayor Coody: Right now all the airports are struggling because of the price of jet fuel. Ray and everybody are doing everything they can. We have to count on forces outside of Fayetteville to help us keep it going.

Alderman Ferrell: Is there any linkage between the possibilities of some of the property down there for development, perhaps that happening and some revenue flowing to the airport?

Paul Becker: Sure, that is a possibility.

James Nicholson, Financial Coordinator for the Airport: Before we can commit any airport funds to this project the grant has to be approved by the state. Second of all we need to put out a request for proposals on this project. When the contractor provides us with the project in its full scale that will come before you as well and at that time if you feel like this project is not valuable then you can stop it then

City Attorney Kit Williams: I was very concerned when we lost the commercial business at the airport. That was our nest egg. At first I thought we should hold onto that as long as we can and not spend money but I think Ray had a better idea when he got on board and started developing the Airport and building a lot more hangars. I think we are the rare exception of general aviation airports where the City of Fayetteville has not had to subsize that airport in many years. That is not the norm nationwide, so there might come a time, where some City Council is going to decide, whether they want to maintain the economic benefits of that airport by investing in it.

James Nicholson: Because of all the redevelopment that we have done at the airport since the airlines left ten years ago, this year for the first time in ten years, our revenue over expense for the first half of the year in the operational part of the budget is in the black. That is something to be proud of.

Mayor Coody complimented them on the good job they have done. I have not seen anyone bring in grant money like Ray can. We appreciate that very much.

James Nicholson: I would not say we are self sufficient yet but we have worked very hard to aim in that direction. I think we have been fairly successful at it.

Alderman Thiel also complimented Ray Boudreaux on the good job he has done at the Airport.

Mayor Coody also gave credit to the Airport Board for their efforts.

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

Resolution 139-08 as Recorded in the office of the City Clerk.

Ruskin Heights - Amend Ordinance No. 4994: An ordinance to amend Ordinance No. 4994, Condition of Approval No. 1 of Ruskin Heights R-PZD 06-2299 regarding street improvements.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the amended ordinance.

The applicants went through with construction plans and submitted the traffic analysis to the Highway Department. In May there was a letter received from the AHTD which stated they would not permit the improvements that were not in front of the project, which includes the curb and gutter and the widening of Highway 45. Staff is recommending money in lieu of those improvements that are not adjacent to this project site but what we consider off site improvements. The Greenview Drive improvements would still remain as they were recommended. The commitment to the traffic signal would remain. What would change is an assessment for the improvements west and east of the project.

Jeremy went over the assessments and conditions of approval.

Alderman Thiel: My understanding was that the turn lanes would still have to be built onto Greenview?

Jeremy Pate: The Highway Department at this point in time is not permitting any of those other improvements.

Alderman Thiel: They are just not allowing that to happen?

Jeremy Pate: They utilize a system of warrants. We discussed this before at Council meetings.

Alderman Thiel: I understand that but that is one thing they are saying they can't do right now.

Jeremy Pate: That is correct.

Alderman Thiel: I was under the impression that the turn lane was going to be added but the three lane was not.

Jeremy Pate: They studied several intersections along this area with a traffic study and presented those findings. None of those met the warrants for turn lanes at this time for the Highway Department and their policies to actually be able to approve those improvements.

Alderman Thiel: It's not warranted so that means they legally cannot do it?

Jeremy Pate: That is correct. The Highway Department has to permit any improvements to their road. This is their highway.

He went on to give an explanation of the improvements.

Alderman Thiel: Who assessed the value of what we are accepting.

Jeremy Pate: A detailed cost estimate was submitted to our City Engineering office and as normal we require them to look over those assessments. They typically look at the most recent completed construction cost and assess those accordingly.

Alderman Thiel: Is there another letter that follows up about the section I was talking about?

Jeremy Pate: This would be referring to both of those sections, anything outside the scope of the improvements directly adjacent to this property.

Alderman Thiel: It is not forbidding that they go ahead and make a turn lane there; it is just forbidding the curb and gutter.

Jeremy Pate: The traffic study on page 15 included five different intersections that they studied to determine if a turn lane would be warranted. The traffic study evaluated those turning movements and utilizing Highway Department criteria to determine if they would meet those warrants for a turn lane. It would not meet those warrants in any of those five intersections.

Alderman Thiel: Greenview is supposed to be improved before they started utilizing it for construction and they are utilizing it now. Is that not how it was stated in the PZD?

Jeremy Pate: Greenview Drive was to be improved once the actual street was constructed out and that phase was constructed.

Alderman Thiel: What phase?

Jeremy Pate: I believe it is phase 5 or phase 6.

Alderman Thiel: The very last phase?

Jeremy Pate: Yes.

Alderman Thiel: So Greenview wasn't supposed to be redone until then?

Jeremy Pate: That is correct. When residents of Ruskin Heights actually begin utilizing that street the improvements will have to be completed.

Joann Kvamme, a resident of Greenview Drive: I was disappointed that none of the neighbors knew about any of the changes. I feel Ruskin Heights is back peddling on some of the concessions that were given to the neighbors. Obviously they can't do things the Highway Department doesn't allow.

She voiced several concerns about the project.

Mayor Coody: Jeremy would you address Joann's concerns on Greenview?

Jeremy Pate: The conditions she referenced are exactly what she states, at the time of connection with Greenview Drive, those improvements would occur to Greenview Drive. I have been assured by the engineers that it can occur within the existing right of way for that assurance.

Joann Kvamme: How larger is the right of way on Greenview?

Ron Petrie, City Engineer: My understanding is there is enough right of way to do the street widening and a sidewalk. You will have to reduce your green space.

Mayor Coody: Between the sidewalk and the curb?

Ron Petrie: Yes sir. But the sidewalk and the street widening will fit. This developer does not have the capability of requiring right of way. That is the issue, when we put an item on the developer that more than likely he will be unable to achieve.

Joann Kvamme: My question is, if we start having money given to the City in lieu of doing things that we have been promised, where does the money come from to do our project.

Mayor Coody: The money is held in an account specific to that job and it won't be spent on anything except that job. We wouldn't spend it on something else. It is earmarked specifically for that purpose.

Joann Kvamme: That helps. I am still concerned about changing the wording that it has to be in the right of way. At least half of the area that is affected would mean that Ruskin would have to move onto their own property for a few extra feet.

Alderman Thiel: Actually if you look at the map there is a big chunk that is not theirs.

City Attorney Kit Williams: Anything that is their property, we are going to require them to dedicate sufficient right of way. They won't be able to use less of their property. This is only when it is abutting someone else's property that the City doesn't already have enough right of way for the full normal street, so the green space might have to be reduced as the City Engineer said.

Joann Kvamme: I just worry because the street is very narrow and I can't imagine how it's going to work.

Mayor Coody: Ron, do you have any input on that median on Greenview?

Ron Petrie: That was an item that was decided by the Council to be a right in and right out at Greenview to prevent people from going south on Greenview from the subdivision. It is a very narrow dimension, but large enough to prevent a car from making that movement.

Joann Kvamme: They have used that as a road all this time and it is really unfair to the people that live on Greenview. We were also surprised at the scope of work. I would thank you for keeping on top of this.

Don Conner, a citizen spoke against the ordinance.

We fought against this project on the density and traffic considerations. Community by Design assured us and the Council that they had all the permits in place, everything except for the traffic signal warrant. We were also assured that we would be notified of any major changes in this PZD. Brenda worked long and hard to get the concessions that we got on this PZD and we really don't want to see any of them go away.

Cynthia Parker, resident of 1680 East Shadow Ridge stated I am against the amendment to the ordinance also. She said she would like to see the improvements to Greenview completed. She also voiced her concern with the traffic.

Mayor Coody: The sidewalk is going to be going from Greenview over to the eastern side of their property is that right?

Jeremy Pate: There are two properties that do not have sidewalks in front of them. That would all occur prior to the final plat of this phase. The sidewalks adjacent to the property will be constructed when the buildings are constructed, which is pretty typical. The challenge on the western portion between this site and Greenview is the right of way and the drainage ditch. We have recommended money in lieu of improvements there so that when this project does develop or a future project that develops there that can be put on top of the storm drain once that is constructed. We are not recommending that the short section between Greenview and this property at this time. We are just recommending an assessment in lieu of that.

Caroline Cameron, a resident of Viewpoint: The first thing Ruskin Heights did was connect to Greenview. So, if they are suppose to make those improvements, when they connect to Greenview then I feel they need to go ahead and do that. I would like to see the improvements to Highway 45 but if the State says you can't do it, I guess your hands are tied.

Mayor Coody: We would live to see those improvements on Highway 45.

Pamela Conner, resident of 1686 Shadowridge: It has truly been a nightmare living there. This project is ruining our homes. Now to think that the things we did get, and were suppose to happen, are not going to happen, is a major slap in the face. I would urge you to make them do what they said they would do or come to some other compromise. We can't continue building houses here without a way for people to access back and forth.

Mayor Coody: If the big issue is Greenview, what can we have them do to complete their obligations?

Jeremy Pate: The improvements to Greenview Drive were tied to when the traffic from the development was generating onto Greenview Drive. They are utilizing Greenview Drive and an entrance to Mission as a construction entrance.

Alderman Thiel: They were not going to use Greenview, I remember that. They were going to build their own drive.

Jeremy Pate: I don't recall a discussion about where the construction entrance was going to be.

Alderman Thiel: Well three of us do. We need to fix that before I can approve this.

City Attorney Kit Williams: We need to put things like that in the conditions of approval. It is not a condition of approval for them to do that. We have in other cases restricted construction traffic. I don't remember this being a condition of approval so it is not something that we can enforce.

Alderman Thiel: It will factor into how I vote on this.

Mayor Coody: Do we have any alternatives Kit that we can think of where we might be able to accomplish the goal that has been stated with this?

Kit Williams: I am stumped right now.

Alderman Thiel: I would like to leave this on this reading. There have been so many complaints and concerns about this project and how it is being done. I understand the Highway Department not allowing them to widen it but I would like to think about this a little bit before I support this.

Mayor Coody: On these warrants for putting in the turn lanes, is there a chance that I could appeal to Joe Shipman to change his mind on this. We all know those turn lanes are needed on Mission Boulevard.

Ron Petrie: I really have no idea. They are generally a black and white organization. It meets it and you get the approval to do it. It would be very hard to convince them.

Mayor Coody: Would you happen to know what the number that they need to meet is versus what is actually out there right now?

Ron Petrie: No, I would have to do a study to get that exact information. The level of service is what we have now. It is saying the same level of service before and after.

Mayor Coody: So it is like Lowe's where they said we couldn't put up the traffic signal until Lowe's was built. After that it generated enough traffic.

Joann Kvamme: It did say that one of the conditions was the improvements. It said the improvements on Greenview had to be made before that was a road and it has been a road. That is a real issue.

Alderman Thiel: It's a construction entrance and so it's not really a road.

Joann Kvamme: It's a road.

Mayor Coody: Ron, we might visit with them about what they can do to resolve this issue because obviously it is a concern.

Alderman Thiel: I hope we can get something worked out before the next meeting.

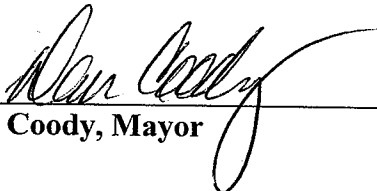
Mayor Coody: Ron is going to be talking with them and we will see if we can't bring them to the table.

Alderman Thiel: At least to Greenview. I know we can't change Mission.

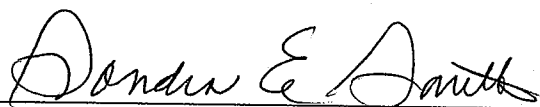
Mayor Coody: I want to talk to the Highway Department. I think it is important that at least we try it.

This ordinance was left on the First Reading.

Meeting adjourned at 8:20 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

