

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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
August 19, 2008**

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

Presentations, Reports and Discussion Items:

Walton Arts Center's Yearly Report given by Terri Trotter, Interim President/CEO and City of Fayetteville Appointee Curt Rom

Curt Rom, Walton Arts Center Council member and Secretary, Treasurer gave the annual report on last years success and the upcoming season at the Walton Arts Center.

Terri Trotter, Interim President/CEO gave a report on the organizational five year goals of the Walton Arts Center. The goals were audience participation, maximizing the earned revenue potential, and to see that every child attends the arts center at least one time each year. She explained the highlights and accomplishments of the Walton Arts Center during the past year.

Curt Rom spoke on the additional upgrades that have been made to the facility as a result of operating reserves in the bank which were created by strong ticket sales last year.

Mayor Coody thanked them both for coming and giving a great presentation. He also congratulated them and thanked them for all the work they do for the Walton Arts Center.

Alderman Rhoads: The feasibility study came up with a number. Was that number based on it being built ten years from now?

Curt Rom: I believe that projection was to start construction within five years.

Terri Trotter: The actual number was based on the fourth quarter of 2009.

Quarterly Report of Financial Condition of the City – City Clerk/Treasurer

City Clerk/Treasurer Sondra Smith: According to State Law I have to present to you the Financial Report of the City in open session. A copy has been put in your boxes.

Alderman Cook gave a list of the current board and committee openings.

Agenda Additions: None

Consent:

Approval of the August 5, 2008 City Council meeting minutes.

Bid # 08-59 Thompson Culvert Company: A resolution awarding Bid # 08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail; and approving a project contingency in the amount of \$1,986.70.

Resolution 158-08 as Recorded in the office of the City Clerk

Southern Disposal, Inc: A resolution authorizing the Mayor to execute a contract with Southern Disposal, Inc. to haul and dispose of solid waste in the City limits of Fayetteville.

Resolution 159-08 as Recorded in the office of the City Clerk

Nelson Engineering: A resolution to approve a contract with Nelson Engineering in the amount of \$36,100.00 to provide engineering services for the West Fork Water Quality Monitoring Project.

Resolution 160-08 as Recorded in the office of the City Clerk

Don Taylor Representation: A resolution to authorize the continuation of the representation by Don Taylor of the defense of the Romine case.

Resolution 161-08 as Recorded in the office of the City Clerk

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: None

Amend Chapter 174 Signs: An ordinance to amend Unified Development Code Ch. 174.08, Prohibited Signs, to allow "A" frame sandwich/menu board signs under certain conditions. *This ordinance was left on the First Reading at the August 5, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the ordinance. He stated I submitted in your packets some final amendments that I would ask you to adopt Exhibit "A."

Alderman Thiel moved to amend the ordinance. Alderman Ferrell seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Thiel: I appreciate the changes that have been made that make it more restrictive because I have concerns about obstructing sidewalks. I think this can benefit a few businesses but I don't see that many businesses being able to utilize this.

City Attorney Kit Williams: In the downtown area, where the businesses are, the sidewalks are very wide. I think that they would be able to do it. That is where a lot of the pedestrian traffic is that they want to attract with these signs. Hopefully this will be of some help to those businesses. I agree with all the changes that Jeremy is suggesting and would like to thank him for changing Exhibit "A" accordingly.

Alderman Thiel: This will be a permitted sign. People can't just start putting up a sign of this size.

Jeremy Pate: That is correct just like any sign that is established on the wall or a free standing sign, it is a very simple drawing but they would simply show us where the sign would be located. That way we would know, we would have a permit and be able to show someone if they put the sign in the wrong place.

Alderman Thiel: I have had a call from at least one constituent that is concerned about adding more signs. Because of the restrictions that we have provided in the ordinance I think we are

going to be fairly limited in how many we are going to see. I will support it since we made the changes.

Alderman Allen: I hope this will be received in the spirit in which it was intended. I intend it to help businesses thrive that are not visible and I feel sure that it won't be abused.

Alderman Ferrell: Although it is restrictive it is certainly enabling in being responsive to the areas downtown and we can help them in their endeavors to stay in business.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5166 as Recorded in the office of the City Clerk

R-PZD 08-2980, Markham Hill Cottage Courts: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2980, Markham Hill Cottage Courts, located north of Maine Street, between Sang and Cross Avenue; containing approximately 2.54 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *This ordinance was left on the Second Reading at the August 5, 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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: We haven't received any calls.

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

Ordinance 5167 as Recorded in the office of the City Clerk

Amend § 161.23, Neighborhood Conservation: An ordinance to amend § 161.23 Neighborhood Conservation to add Use Unit 26, Multi-family dwellings as conditional use. *This ordinance was left on the Second Reading at the August 5, 2008 City Council meeting.*

Alderman Ferrell 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.

Rob Sharp: I think it's a major erosion of the Neighborhood Conservation zoning to allow multi-family zoning as a conditional use. We have a procedure where if someone feels that the land is improperly zoned they can get it rezoned or do a PZD. I think this is an inappropriate zoning.

Alderman Ferrell: I was just trying to provide an option. Since that time we had some legal correspondence on this.

City Attorney Kit Williams: We have been sued by the owner of land that we did not zone his property Downtown General, we zoned it Neighborhood Conservation, if that is what you mean by correspondence.

Alderman Ferrell: Yes, that is exactly what I mean.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 2-6. Alderman Allen and Ferrell voting yes. Alderman Cook, Rhoads, Lucas, Jordan, Gray and Thiel voting no.

This ordinance Failed.

Public Hearing:

Mayor Coody Opened the Public Hearing.

Raze and Removal at 402 E. Center Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00.

Yolanda Fields, Community Resources Director: We sent notice to the property owners on June 14th and they had until July 14th to bring this structure down. It has not happened so I am bringing forward to you a raze and removal and a budget adjustment.

City Attorney Kit Williams: I read your memo on this but if we are in fact going to raze and remove this structure we need to have some more facts that the City Council would be able to use. A lot of times your pictures are enough to show that a building is about to collapse and needs to be razed.

Yolanda Fields: We also have a determination from the Building Official. If we need an additional determination from another entity I would be happy to get that from someone else.

City Attorney Kit Williams: In reading our ordinance there are several things the City Council can determine, but they need some evidence as to why you or Building Safety thinks this is an

unsafe or dangerous structure. This is one the City may have to raze so I want a little bit more on record that the City Council has heard.

Yolanda Fields: Whatever you need me to get from Building Safety. They have done their structural inspection and they have determined that this particular structure needs to be brought down. Would you like something additional in writing?

City Attorney Kit Williams: It doesn't have to be in writing but it needs to be something that you can present to the City Council that talks about how the building is structurally unsound. Do you know about that or are you just relying on Building Safety?

Yolanda Fields: We have building officials that do the inspection and make the determination. They provide us a form where they sign off and say this structure needs to be removed. So if you all would like a written report from the building official I can request that on this one or on any in the future.

City Attorney Kit Williams: In the past we have always seen structures that are falling down and you can see that from the pictures. This one is hidden amongst the trees and it sure doesn't look like a very good house but when I look at our ordinances and I look at the State Law you all need to make factual findings.

Yolanda Fields: Let me pass these pictures around, this may help you see the problem

Yolanda passed around additional pictures.

Alderman Lucas: Is the foundation unsafe?

Yolanda Fields: The foundation is rotted, the roof is rotted and falling in. We have worked with the owners for at least four months. We need to see some repairs done to the facility because it is near Head Start and it is across from a church. We have high traffic in this area with families and children. We are looking at any possible injuries that could happen at this location.

City Attorney Kit Williams: So have our officials been inside the structure to see the floor and stuff?

Yolanda Fields: Of course.

City Attorney Kit Williams: Those are the kind of facts that the City Council needs to hear.

Yolanda Fields: The memo also states that a determination has been made by the building official.

City Attorney Kit Williams: But that is just the conclusions, you need to give the facts that you are giving right now.

Yolanda Fields: I will require a report from Building Safety that will give you the structural details that you are asking for in the future.

Mayor Coody asked if the Council wanted to table this for two weeks or are these pictures good enough for you.

Alderman Thiel: When I see the pictures of the roof though I don't know.

City Attorney Kit Williams: The reason I was a little concerned was because just looking at it from the street I couldn't see anything like that. That is why I asked those questions.

Yolanda Fields: I can provide a report from Building Safety and ask them to document their findings.

City Attorney Kit Williams: I would be more comfortable if we waited to get that because I think we might have to knock this building down. We haven't had any cooperation from the owners and if we knock it down we will need to go to court to try to get our lien paid. I want good clear evidence if I have to go to court.

Alderman Allen: Have the owners made any effort to improve the property?

Yolanda Fields: No.

Alderman Rhoads: Have the owners argued with the facts that your people are presenting that the roof is falling in and so forth? Have they protested?

Yolanda Fields: No, the only action that was taken was just a transfer of ownership.

Alderman Rhoads: Have they agreed that it's in disrepair?

Yolanda Fields: They have not argued it.

Alderman Thiel: Sometimes people actually take care of them when the City is going to go in and do it. Do you think that might happen in this case?

Yolanda Fields: I would hope that it would happen but they have not indicated that they are going to do that.

Alderman Gray moved to table the resolution to the September 2, 2008 City Council meeting. **Alderman Cook** seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the September 2, 2008 City Council meeting.

Mayor Coody Closed the Public Hearing.

New Business:

Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I think the Attorneys are here that proposed this too.

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 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 5168 as Recorded in the office of the City Clerk

Economic Development Strategic Plan: A resolution authorizing the Mayor to execute a letter of agreement with the University of Arkansas Technology Development Foundation (UATDF) to cost-share the preparation of an Economic Development Strategic Plan in an amount not to exceed \$75,000.00.

Phil Stafford: A selection committee comprised of members and representatives from the City of Fayetteville and the University have selected Eva Cline and Associates as the most qualified economic development consultant firm to work with us the City and the University to prepare and economic development strategic plan. The strategic plan will be prepared in two phases.

He went on to describe the phases of the strategic plan. He stated the matter before you tonight involves only Phase 1. The consultant team has defined a task outline that consists of collecting, organizing, and analyzing background statistical data including the strategic plans of other key stakeholder groups that relate to current and future economic development in Fayetteville. He stated the Phase 1 activities will take approximately three and one half months.

Alderman Ferrell: I noticed that it says the final version of Phase 1 is close to the ULI Model. What is that?

Phil Stafford: An Urban Land Institute.

Alderman Ferrell: The exposure I have had to Economic Development training looks at two facets of it; existing industry and attraction of new industry. We are going to approach that the same way aren't we? We have to keep what we have.

Phil Stafford: Absolutely, that is part of the statistical analysis to look at business trends in the community historically.

Alderman Allen: I don't understand why we need to spend \$75,000 to have someone come in to tell us about ourselves when we have the FEDC, Chamber of Commerce, and the A&P. That is just my continued concern.

Phil Stafford: I think we would gain from the objectivity and the experience of a consulting group, especially one of the background and experience of Eva Cline. She will be joined by other consulting groups that will bring considerable experience to this project. That objectivity will be important to the outcome.

Mayor Coody: One of the things I am concerned about is the FEDC has a very external view of the world and they try to look at the outside world trying to bring in businesses. The Chamber of Commerce has a very internal view of the world and they try to work with the businesses that are existing. Fayetteville has been doing a lot as far as trying to attract the appropriate businesses. I think this is one of the things that Fayetteville needs to do because this is not a strong economic time in the world. This is a step in the right direction for all of Fayetteville.

Alderman Jordan: I hoped that we could have done this without going to an outside consultant but since we do not seem to have that ability to do that I will probably support this. Although I hope in the future we will get the experience and gain the knowledge to where we don't have to hire outside consultants.

Mayor Coody: I think we all can agree with that.

Alderman Cook: I was the one that sat on the selection committee and I can say that Eva Cline was impressive and she is well qualified for this task. Some members are squeamish about supporting this but I believe that an outside view of where we are and what we have is what this boils down to. That sets a baseline of where we are at and that gives us an idea of how people outside the City view us. I believe there is a lot of value in going through this analysis.

Alderman Rhoads: I don't agree with Alderman Jordan's comments. I believe that periodically you have to have yourself examined by someone who is in the business of doing those types of surveys and reviews. Our job after all this takes place is to make sure that we listen and implement the good things that we get from it.

Alderman Cook: This is not a silver bullet. This is just looking back at ourselves. There will be many difficult decisions to make as we move forward because economic development decisions are never easy. This is just one step in the whole process.

Alderman Rhoads moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-1. Alderman Allen voting no.

Resolution 162-08 as Recorded in the office of the City Clerk

VAC 08-3042 (U of A Research Center): An ordinance approving VAC 08-3042 submitted by Allen Jay Young Development Consultants, Inc. for property located north of Research Center Boulevard and west of South School Avenue to vacate a portion of a water and sewer easement and a portion of a drainage easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff and the Planning Commission recommended approval with no objections.

Alderman Thiel: I am very pleased that they are adding onto the facility and I am very excited about it. It's a good project and I support whatever we can do to help it move along.

Alderman Thiel 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 Jordan 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 5169 as Recorded in the office of the City Clerk

ANX 08-3036 (Fayetteville Farmington Land Swap): An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Long Range Planning gave a brief description of the item. She stated Planning Commission voted 6-0 in favor of this annexation. If this annexation is approved by the City Council then the City of Farmington City Council is required to hold a public hearing on the detachment and annexation within 60 days of the effective date of this ordinance. The City

of Farmington is currently on the second reading of the detachment and annexation of their property and their third reading is scheduled for September 8th.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: We might want to leave this on the second reading so that we will be approving it near the same time that Farmington approves theirs.

This ordinance was left on the Second Reading

ANX 08-2899 (Frank Sharp): An ordinance annexing that property described in annexation petition ANX 08-2899 (CC2008-38), for property located 0.5 mile south of Highway 62 West and east of Holland Drive, containing approximately 53.53 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the Planning Commission voted unanimously in favor of this recommendation and staff recommends approval.

Alderman Lucas: Mr. Sherman came to a Ward 4 meeting and talked about it. Everyone was in favor of it and it was well received.

Keith Cooper, land owner west of Sharp's property spoke in favor of the annexation.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5170 as Recorded in the office of the City Clerk

Sharp Property Rezoning Appeal: An ordinance rezoning that property described in rezoning petition RZN 08-2900, for approximately 53.53 acres, located 0.5 mile south of Highway 62

West and east of Holland Drive from R-A, Residential Agricultural, to RSF-1, Residential Single-Family, 1 unit per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate stated this is an appeal because the five votes needed were not obtained. Three members were absent that night. Staff did recommended approval of the RSF-1 finding that it is compatible with adjacent properties at one unit per acre.

Todd Jacobs with Appian Center for Design representing Mr. Sharp stated RSF-1 is what he is entitled to in the County and we just felt like that was appropriate for zoning it into the City of Fayetteville.

Aubrey Shepherd, a citizen stated Mr. Sharp has preserved this property for decades but I think what he wants is to keep it what it is. It would be safer if it were zoned so that you could not build one on an acre but you could build one on two acres.

Alderman Jordan: Mr. Sharp would you tell us exactly what you do want? Do you want R-1 or what?

Frank Sharp, owner: That is essentially what I have now. I just prefer to have the whole piece of property in the City of Fayetteville and leave the zoning the way it is now.

Alderman Jordan: I just wanted to be sure that you were okay with an RSF-1 then.

Frank Sharp: Yes.

Mayor Coody: Frank the whole City owes you because of your contribution and all the things that you have done for this town. You have been a real icon for this town and Fayetteville wouldn't be the same if you had not lived here for all these years. I just want to say thanks.

Frank Sharp: Thank you. There have been a lot of people involved. I think it has really been great to work with the City on having them handle this 20 acres at the land trust.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5171 as Recorded in the office of the City Clerk

ANX 08-2897 (Southpass Development): An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated my recommendation instead of leaving this on readings is to go ahead and table it until the PZD comes forward. It is on the agenda for the Planning Commission next Monday night but I would recommend looking at all this package together the annexation and PZD so we understand all the ramifications and all the decisions can be made with that one package.

Marian Kunetka, a citizen stated I don't think that having a two hundred acre park is a reason to annex this property. My main concern is this is going to raise our taxes and I doubt if any low income housing will be included in that. She went on to express her concerns regarding the development.

Aubrey Shepherd: This might be a time when you say we will bring in a certain amount. Authorizing all this and committing to a 25 year project, this is far sighted and a narrow view that it won't be like the big hole or Aspen Ridge. I am not sure that the whole mass should be brought into the city much less a PZD approved in one blow.

Mayor Coody: Jeremy do you have a time certain on this?

Jeremy Pate: When the Planned Zoning District comes forward I can get with Sondra and put it on the agenda again.

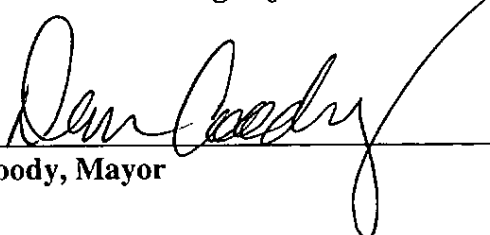
Mayor Coody: So we will table it until you bring it forward again.

City Attorney Kit Williams: I would suggest indefinitely then.

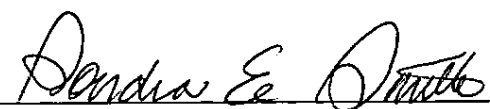
Alderman Thiel moved to table the ordinance indefinitely. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the First Reading and Tabled Indefinitely.

Adjournment: Meeting adjourned at 7:25 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer