

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
September 2, 2008**

A meeting of the Fayetteville City Council was held on September 2, 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, Allen, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Cook

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Karen Minkel announced the Fayette Junction Kick-off and gave the dates and times of the event.

Mayor Coody welcomed the Spring International Group to Fayetteville and asked them to stand and be recognized.

Presentations, Reports and Discussion Items:

Agenda Additions:

Consent:

Approval of the August 19, 2008 City Council meeting minutes.

Approved

Bid # 08-54 Hill Electric, Inc: A resolution awarding Bid # 08-54 and approving a contract with Hill Electric, Inc. in the amount of \$139,875.00 for the installation of street lighting along College Avenue from Rock Street to Maple Street; and approving a 10% project contingency in the amount of \$13,988.00.

Resolution 163-08 as Recorded in the office of the City Clerk

2008-2009 Justice Assistance Grant: A resolution accepting 2008-2009 Justice Assistance Grant (JAG) for federal and state funding in the amount of \$164,306.00 and \$32,818.00 respectively, for the primary funding source of the 4th Judicial District Drug Task Force; and approving a budget adjustment in the amount of \$46,560.00.

Resolution 164-08 as Recorded in the office of the City Clerk

State and Federal Forfeiture: A resolution approving a budget adjustment to recognize Federal Forfeiture Revenue in the amount of \$59,133.00, and State Forfeiture Revenue in the amount of \$21,237.00 for Police Department use only.

Resolution 165-08 as Recorded in the office of the City Clerk

Alderman Jordan moved to approve the Consent Agenda as read. **Alderman Allen** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** was absent during the vote. **Alderman Cook** was absent.

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 left on the Second Reading and was tabled indefinitely at the October 2, 2007 City Council meeting. This ordinance was left on the Second Reading and tabled to the September 2, 2008 City Council meeting at the July 1, 2008 City Council meeting.*

City Attorney Kit Williams: Mayor I think there was a request that this be tabled.

Mayor Coody: That's right.

Alderman Ferrell moved to table the ordinance indefinitely. Alderman Gray seconded the motion.

City Attorney Kit Williams: Was the motion to table indefinitely?

Alderman Gray: I believe so.

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

This ordinance was tabled indefinitely

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. *This resolution was tabled at the August 19, 2008 City Council meeting to the September 2, 2008 City Council meeting.*

City Attorney Kit Williams: We already had one public hearing but this is a continuation of the public hearing.

Yolanda Fields, Community Resources Director distributed pictures of the property and read the findings of the Building Official.

Aubrey Shepherd, a citizen asked if this could be removed without removing the trees on the lot. He also questioned if this should be done without being absolutely certain that the property owner can't sell it. I don't know the simple solution but I know this needs to be looked at very carefully.

Alderman Rhoads: Aubrey, have you taken all these comments to Code Enforcement?

Aubrey Shepherd: No, I just did it the other day and I have not had time to put the photos online. Code Enforcement is following their rules and regulations.

Alderman Rhoads: If you have issues with trees being destroyed and the way it's going to be taken down why not take it to Code Enforcement first and see if they can answer your questions before you come here.

Aubrey Shepherd: I have mentioned it in that context before with some of the folks that do that kind of thing. It comes down to the situation of whether a minor adjustment in the Code Enforcement rules might be needed to get one more step done or the individual members of the Council might want to look at it.

Alderman Thiel: I would like Yolanda to respond. This has been around for some time.

Yolanda Fields: We contacted the owner in April. So we have been communicating with them and advising them that they had the option of getting a permit to correct the issues. In June ownership was transferred within the family so we had to start the process anew. We have not received any communication that they're looking into restoring it. Upon approval of raze and removal we are still looking at 60 days out before we would do anything. We have not had any response from the owners.

Mayor Coody: If we spend \$4,900 tearing down the house there would be a lien put on the property to where if they ever sold it we would be reimbursed but there is no money out of pocket.

Yolanda Fields: What I have discovered in many situations the property becomes more valuable once the dilapidated structure is removed. We work with the property owners if they are wanting to do that.

Alderman Rhoads: I would rather have an occasional disappointed property owner than a child killed or injured because we have let a dilapidated building go on.

Alderman Rhoads: What is the majority of cases where a raze and removal order is issued that someone takes action before it's actually razed and removed?

Yolanda Fields: We have taken care of at least 70 and we have had three move forward. So owners have moved on their own to bring those locations down once they realize there is an issue with safety.

Alderman Allen: It is a place where kids gravitate to play making the neighborhood generally unsafe.

Yolanda Fields: The locations are vacant and have been for years.

Alderman Allen: I trust that you have taken every possible step to avoid coming to this place but once we are here I think it's our responsibility.

Yolanda Fields: We have worked with this location since April.

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

Resolution 166-08 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. ***This ordinance was left on the Second Reading at the August 19, 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 Cook** was absent.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Long Range Planning gave a brief description of the item and stated the City Council in Farmington will have their third and final reading on September 8th.

Alderman Thiel: Is it Rausch Coleman?

Karen Minkel: Yes.

Alderman Thiel: I think they are doing such a fantastic job out there and I am really pleased to have them in our city.

Alderman Allen: I agree.

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

Ordinance 5172 as Recorded in the office of the City Clerk

Public Hearing:

Mayor Coody opened the Public Hearing

Epperly Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly.

David Jurgens, Water and Wastewater Director gave a brief description of the condemnation. He stated that this and the condemnations to follow were all for WSIP Sewer Line EL-3 which runs from Razorback Road to Happy Hollow Road parallel and south to 15th Street. Of the 160 some odd easements that we have acquired for the WSIP, these are the last three that we have to bring forward. We need to process these to ensure that we don't delay a contract or incur more expenses due to difficulties in obtaining the easements.

Alderman Lucas: A temporary easement?

David Jurgens: Yes Ma'am, temporary easement parallel to the existing easements.

Alderman Thiel clarified what parcel David was referring to.

David Jurgens clarified which parcel it was and gave a description of where the easement would run. He also gave a description of the efforts they would use to create a smooth process.

Alderman Thiel: We are giving how much for that?

David Jurgens: What we offered was approximately \$1,000. He counter offered \$20,000 and that was more of a difference than I could justify. His counteroffer did include a clause for relocation of the trailers and I think that is fairly reasonable.

Alderman Thiel: You will move them and relocate them back?

David Jurgens: Yes or leave them on other empty trailer locations that are within that lot one or two slots away.

Alderman Thiel: How long is this going to be vacated?

David Jurgens: The construction through that area will not take very long because we are replacing the existing pipe so they would go through and we would require a contractor to lay the pipe and then clean the area very quickly. It would probably be less than a couple of weeks.

Alderman Thiel: Oh, so he wouldn't lose more than a months rent.

David Jurgens: He shouldn't even do that because the trailers will still be habitable on a different slot.

Alderman Thiel: You can't just move those trailers and all the utilities like that can you?

David Jurgens: They have utility hook ups at each location. So having enough notice it would be feasible to do that.

Alderman Thiel reconfirmed that they would be moving the trailers for them.

David Jurgens: We would be reimbursing him for the cost of moving.

Alderman Thiel: Is that clear in here that that would happen?

David Jurgens: It was included in the counteroffer and it was included in the discussion that we had.

Alderman Thiel: That is in addition to the \$1,000?

David Jurgens: Yes, Ma'am.

Alderman Allen reconfirmed where they would be moved to. She asked so no one would be left without a place to be.

David Jurgens: That is correct.

Alderman Jordan: I want to be sure that if we move a trailer that someone is not going to be without a house. We need to have them a place to stay if anything goes wrong don't you think?

David Jurgens: That was part of the discussion with Mr. Epperly.

Mayor Coody: We are always very fair.

Alderman Rhoads: We offered \$1,000 and he came back with \$20,600. Has there been a response to that besides this letter? Would it not make any sense to sweeten the pot?

David Jurgens: We did increase our offer and then we went and talked to him and he rescinded his offer entirely.

Alderman Rhoads: What was the first offer?

David Jurgens: \$1,000 plus. Then we counter offered with the second one where we raised our value some what. The original offer was based off the cost of the land alone. Then he sent back a counteroffer for certain expenses there were some of those and we told him that we want to be fair with him in the process.

Alderman Rhoads: I just don't see where we made a counter offer.

David Jurgens: That may have been in one of the verbal discussions because he asked us to come and show him exactly where the line would be.

Alderman Rhoads: How much was it?

David Jurgens: We went up to \$2,000 which is what his neighbor and we agreed to onsite. I wasn't the one actually doing the conversations with him so I don't remember the dollar amount that was discussed onsite.

Mayor Coody: So around between \$1,000 and \$2,000 plus expenses.

David Jurgens: It would have probably been around \$5,000 or \$6,000 range that would have been discussed.

Alderman Lucas: That including the cost of doing everything?

David Jurgens: Yes and the cost of moving the trailers are based off his numbers, not ours.

Alderman Thiel: The letter in here that is in our packet refers to the letter from Mr. Epperly to David. It refers to three mobile homes and they basically are basing this amount on moving those at \$3,500 each but the City is going to move them.

David Jurgens: We are going to pay him to move them.

Alderman Thiel: It sounds like what he is asking for in this total figure.

David Jurgens: Some of what he was wanting done we did not feel was necessary to obtaining the easement. He was wanting more things than what were needed in order to execute the work. His total listing of items are on page nine.

He went on to give a description of those items.

Alderman Lucas: So the trailers were put on the easement to begin with?

David Jurgens: Two of the trailers encroach on an easement by very small amounts but they do encroach in the area where the existing sewer line is. There are two other trailers that didn't even enter the discussion that are very much encroaching on an easement that we obtained in the 1950's. Those are a separate issue but all on the same trailer park property. Where the trailers encroach on the easement for the existing utility lines is a very minor encroachment.

Alderman Lucas: It's just that you needed more space for the deep line.

David Jurgens: In order to protect the trailers from the construction for the deeper line.

Alderman Ferrell: You are talking about paying for the relocation of all the utilities.

David Jurgens: Whatever expenses he would incur in order to move the trailers out of the way of where we are doing construction.

Alderman Ferrell: Was there an agreement established on the approximate cost of relocating the trailers?

David Jurgens: All that we had was his counteroffer to us which he then rescinded a couple of months ago.

Alderman Gray: So the \$20,000 included the \$3,500 to relocate is that correct?

Alderman Rhoads: I believe it includes \$9,500.

Alderman Gray: So what you are saying is some of the things he has listed here you don't think are appropriate so you would deduct that and pay the \$1,000 plus the expenses.

David Jurgens: Yes Ma'am.

Alderman Allen: Do we know why Mr. Epperly is not here this evening?

David Jurgens: No Ma'am. We did send a letter stating it would be coming forward to the City Council. I am still hoping that we can resolve this between us.

Mayor Coody: So if the Council decides not to go through with this it still gives you time to negotiate with him without having to go to court right?

David Jurgens: Either way with a contract being awarded in two weeks, by the time we get started with the actual construction it is probably going to be mid October. So we still have six to eight weeks before the contractor will be getting to this point before we will need to have this taken forward for any kind of action. We still have ample time to continue to negotiate.

Alderman Ferrell: David do you know why his #1 condition is we must be treated fairly and with respect. Have there been any problems in the past with this project?

David Jurgens: There is a lot of history on some of these southern lines. Some of the neighbors remember when the line was installed 40 years ago and have bad memories from that. We have done our best to try to overcome those

Mayor Coody: Did you say 40 years ago?

David Jurgens: On the line going to the plant of EL-1 and EL-2 some of those neighbors remember things very well from that. Also Mr. Epperly did not like the fact that we stated his trailers were on our easement. He stated they were approved by Planning as being on our easement and so he took offense to that.

Alderman Allen: I would feel better if we delayed this and made a bit more effort to see if we could make it a more comfortable situation with Mr. Epperly.

David Jurgens: We will continue to do that and I would request we go with two meetings and hopefully he will have another counteroffer prepared and he will send it to us. Then we can proceed from there.

Alderman Thiel: As long as the agreement is to reimburse expenses plus \$1,000, it doesn't really look like he has asked any more for the temporary easement. He is asking \$2,000 instead of \$1,000.

David Jurgens: There were just some things that I did not feel it was appropriate for me to approve.

Alderman Thiel: You don't see us tabling this as a real issue?

David Jurgens: If we table this to the first meeting in October I would be fine with that.

Alderman Lucas: Is it going to slow the process down though, that is what worries me.

David Jurgens: No ma'am. We would continue the negotiation until such point that we can't do it. We would then pass it to the City Attorney's office if he gets an attorney involved. We would try to do it ourselves if we can't. Postponing to the first meeting in October at that point

there is no way they could've started construction and they will start at the downstream end. Postponing one month would not cause a delay to the project.

City Attorney Kit Williams: It does take a little bit of time to prepare the complaint for condemnation to file it, serve the other side and then give them time to respond before you can get the order of possession you don't have to go all the way through trial. The last time you had a bunch of these kinds of condemnations for sewer lines I think there were seven of them that you all approved. We actually settled everyone but two without having to file suit and eventually we settled even those two before trial. So just because you would be approving condemnation actions doesn't mean that we would immediately jump through and say let's have a trial. You can't pass it on October 2nd and assume that we are going to be able to get possession of land by October 15th or October 20th. My office would need at least 30 days before we could assure you that we would have an order of possession that would allow our contractor to go onto the land.

Alderman Allen moved to table the resolution to the October 7, 2008 City Council meeting. Alderman Rhoads seconded the meeting. Upon roll call the motion passed 5-2. Alderman Lucas and Thiel voting no. Alderman Cook was absent.

This resolution was tabled to the October 7, 2008 City Council meeting.

Parker Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Herbert G. Parker, being an heir at law of Otis J. Parker, deceased.

David Jurgens: This is one where the owner that we would have been contacting is now deceased and we can't find anyone to contact relating to the easement. The Land Agents went through the courthouse and tried to get ownership of record and find out who to reach. We never received any responses back. It's a temporary construction easement where the existing line is located.

City Attorney Kit Williams: Let me say on this that if we have difficulty finding the owner we might have to have the court appoint an attorney to try to serve and find the owner and report back to the court whether or not they can find the owner. All that is going to take time as well as additional expenses. On this one if they are having trouble finding the owner I surely would ask that you not delay this one because it is going to be a much more difficult process to undertake.

Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Jordan was absent during the vote. Alderman Cook was absent.

Resolution 167-08 as Recorded in the office of the City Clerk

Littlefield Investment Company Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Littlefield Investment Company.

David Jurgens: This is a permanent easement. Mr. Littlefield has promised to send the easement and we have received nothing.

David went on to clarify the location of the easement for Alderman Thiel.

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

Resolution 168-08 as Recorded in the office of the City Clerk

Mayor Coody closed the Public Hearing

New Business:

Amend Chapter 33, Departments, Boards, Commissions and Authorities: An ordinance to amend the Code of Fayetteville to establish the procedures for the use of funds budgeted for the in-house street overlay projects.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: At the Agenda Session there was a problem brought up by staff and the City Council asked me to respond about the timing of this that it would be done in January as opposed to October. I did work on that and presented to you all on August 27th the revised Subsection 33.302 which took out the November date and said for the first meeting in January. If that is still your desire I think you all received that copy and it is up to you whether you want to amend what I just read or not.

Mayor Coody: At the Agenda Session we pretty much agreed to change the date to the first meeting in January.

Alderman Thiel confirmed what the amendment was.

City Attorney Kit Williams: Subsection C had to have some other changes. He went on to read Subsection C as now proposed.

Alderman Ferrell confirmed that only two sections were amended.

City Attorney Kit Williams: I did not change Subsection 4.

Alderman Ferrell moved to amend the ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Cook was absent.

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

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 7-0. Alderman Cook was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel clarified what the amended ordinance meant.

Alderman Ferrell also clarified the ordinance.

Terry Gulley, Transportation Manager: I don't see in general there being any additional problems for us because we have done this ever since I have been there in the last five years. The only issue I see is when we do a name street project and we may turn the corner and find we have created another issue that we need to take care of at that time. My only concern would be how much lee way we have there. Can it be specifically addressed so I know what my limitations are?

Mayor Coody: The understanding we had from the last meeting was that any ancillary work that would be done while you are onsite you can take care of that while you are onsite.

Alderman Ferrell: I am talking about a complete block or something. If you come onto something emergency there is no intent to tie the hands up of the Transportation crew. It excludes repair stuff that comes from other budgets.

Terry Gulley: In the past we listed only streets that were actually receiving an asphalt overlay.

He went on to list past repairs that have been conducted.

Mayor Coody: Have there been histories of adding things to the list without Street Committee approval?

Terry Gulley: No usually it's a history of we can't get everything done due to other issues. He gave an example of how asphalt prices are up between 50%-60% this year.

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

Ordinance 5173 as Recorded in the office of the City Clerk

Amend Chapter 174, Signs: An ordinance to amend section 174.03 (H) Non-Commercial Signs of the Unified Development Code to allow property owners to post a small political sign for each candidate up to sixty days before an election.

City Attorney Kit Williams read the ordinance.

Alderman Gray: I just feel that we should be allowed to have as many signs as we want to in our yards, especially in an election year like this year.

Alderman Lucas: I know there is a big push this year with it being General Election year. People want to support their issues but I am concerned with an unlimited number. This fall we have so many visitors and I hate for them to come and see a cluttered city. I wanted to make an amendment to three small signs and a big sign.

City Attorney Kit Williams read the ordinance including the emergency clause that was left out when he read the ordinance for the first time.

Alderman Ferrell: I am concerned about the cluttering but I feel the constitution trumps this and my ideas are more along the other way.

Alderman Thiel: The issue I have with this is it says post two additional political signs. Additional to what? Shouldn't that be the total, this is a new ordinance.

City Attorney Kit Williams: No because under the earlier subsection above that it talked about every citizen in zones that do not allow signs are allowed to have a non-commercial sign posted all the time. Because we cannot favor commercial speech over political speech people are allowed to put up a for sale sign.

Alderman Thiel: I just asked one question Kit.

City Attorney Kit Williams: We have in another subsection over large signs that at 60 days before the election each property owner is allowed to post one large election sign. That is two signs and this subsection would add two more.

Alderman Thiel: I understood that you were making a motion to have three total signs and that is not what this reads.

City Attorney Kit Williams: That is because one of the signs is already authorized all the time. She is recommending two additional signs to that meaning three small signs plus 60 days before the election you can have one large sign. So a total of four signs would be authorized by proposal by Alderman Lucas.

Alderman Allen: I wondered if Alderman Ferrell would share his thoughts when you refer to the constitutionality.

Alderman Ferrell: I understand what Shirley is talking about but I also think we should be able to at least have one sign for everybody running. I would offer an amendment that we make it 90 days; 30 days for small signs and 60 days before the election for the big sign.

Alderman Allen: I can't fathom that there would be very many people that would put 150 signs in their yard. It seems unlikely.

Alderman Lucas referred to a certain location that had several signs.

City Attorney Kit Williams clarified the ordinance and the difference between residential and commercial zonings.

A discussion followed.

Alderman Allen: I was wondering with how many political signs a business would be able to have with this ordinance that she is bringing forward.

City Attorney Kit Williams: It is all districts which means every district we have could have a small political sign for every candidate or issue that they are supporting and at least one big one. In commercial if you have more than 100 feet of frontage you are allowed more.

Alderman Lucas moved to amend the ordinance to allow three small and one large campaign sign. **Alderman Thiel** seconded the motion. Upon roll call the motion to amend failed 3-4. **Alderman Lucas, Jordan and Thiel** voting yes. **Alderman Allen, Rhoads, Ferrell, and Gray** voting no. **Alderman Cook** was absent.

This amendment failed.

Alderman Thiel moved to amend the ordinance to add an emergency clause to the ordinance. **Alderman Gray** seconded the motion.

Alderman Ferrell clarified the amendment.

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

Alderman Thiel moved to suspend the rules and go to the second reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Lucas** voting no. **Alderman Cook** was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Lucas** voting no. **Alderman Cook** was absent.

Alderman Jordan moved to approve an Emergency Clause. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Cook** was absent.

Ordinance 5174 as Recorded in the office of the City Clerk with Emergency Clause

Amberwood Place Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams: Jeremy Pate is not here and the reason he is not here is because he has been asked to table this from the Attorney representing them. They want it tabled until the next Council meeting.

Alderman Ferrell moved to table the ordinance to the September 16, 2008 City Council meeting. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 5-0. **Alderman Ferrell** and **Thiel** were absent during the vote. **Alderman Cook** was absent.

Center Street Drainage Contract: An ordinance to waive competitive bidding and to award a construction contract in the amount of \$43,315.00 plus a \$5,000.00 project contingency to Sweetser Construction, Inc. to replace the existing drainage structure under Center Street and completely repair the street and appurtenances.

City Attorney Kit Williams read the ordinance.

Ron Petrie, City Engineer: I appreciate you coming and touring the area. This is a bid waiver but we did solicit quotes and Sweetser Construction was the person that submitted the low quote.

He went on to list the other quote amounts. He stated the quote says we will have the road open in two weeks and I do not plan on issuing them a notice to proceed until we fully understand the rainfall that we are going to be getting in the next couple of days. It may be early next week before we can actually start that construction.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman Allen** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Ferrell** was absent during the vote. **Alderman Cook** 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 Cook** was absent.

Ordinance 5175 as Recorded in the office of the City Clerk

Per-Erik Persson Contract: A resolution approving a contract with Per-Erik Persson, an agent for the Swedish-American Business South Central, LLC, in an amount not to exceed \$13,125.00 to recruit Swedish companies to locate in the City of Fayetteville.

Ray Boudreaux, Aviation and Economic Development Director gave a brief description of the item. He stated the project is to recruit Swedish companies to town. We have already been successful and we have one good announcement and Steve has another one to announce tonight.

Steve Rust with the Fayetteville Economic Development Council gave a description of the current projects the Green Valley Network is currently working on. He went on to show a video on controlled delamination which is laying a bead of glue down over a small electrical current which allows the package to be delaminated and unglued.

Mayor Coody clarified the controlled delamination process.

Steve Rust went on to give statistics on how much this process saves.

Alderman Lucas: Is this the company that is coming here?

Steve Rust: I think it's too early to say. We think so because we have a lot of advantages and these advantages parallel why these other companies want to come here. We think it is looking very promising that they will have a presence here in the future.

Alderman Ferrell: Do they do the development and technology of it and then do they fit the retailers with this stuff or do they sell it to them.

Steve Rust: Initially the electric current and the battery operated things they need to do the delamination; their plan is to give that to the retailers at no cost. As they wear out they will give them to them at cost.

Alderman Thiel: Mayor I have no problem with this discussion about these companies but that is not what we are looking at right now.

Mayor Coody: Basically Per-Erik Persson contract is to bring a lot more companies like this and this is the detail in the big picture.

Ray Boudreaux: There are at least 10 or 12 companies that have expressed interest in investigating the possibility of locating in Fayetteville. The contract is with Per-Erik to be our coordinator to get that to happen.

Alderman Thiel: And he is the one that has got these to us so far?

Ray Boudreaux: Yes, ma'am and he has more. If this works out well we would hope to get a fair percentage of these companies locating in Fayetteville.

Alderman Thiel: So really all we are asking here is to continue funding this contract for the next three months.

Ray Boudreaux: Yes.

Mayor Coody: We tried the first three months as a trial and the Chamber of Commerce paid for it. His performance was good so that is why I feel comfortable recommending this.

Alderman Jordan: If the FEDC and the Chamber of Commerce paid for it the first time why are they not paying for it now?

Steve Rust: The Chamber of Commerce and the FEDC's budget is very tight and we are trying to share the wealth wherever we can is the main reason.

Alderman Jordan: Or the debt. I have some concerns that the FEDC and Chamber of Commerce split the cost before and now we are being asked to pick up the other half.

Ray Boudreaux: This is the second phase. The first phase was paid for by the Chamber and the FEDC. This is our chance to participate.

Alderman Lucas: Is the City expected to take up the next three months?

Mayor Coody: This is a \$13,125 contract for this segment. If he performs well and we love what he does then the University might pick up a part. We are out of the University's budget cycle. We just want to commit to the next three months. If he brings half those companies here and even one of them decides to set up shop it was well worth the investment.

Steve Rust: We have Per-Erik speaking their language and he has worked in the Inventors Association over there and is very well connected. He is our point man over there finding those companies that best fit us. This is probably the most targeted marketing effort that I have seen in Economic Development. The first three months have paid off well and we hope the next three months will. If they don't then we are out of there.

Alderman Lucas: According to the website he is a consultant for the Swedish American Chamber of Commerce so he is working for the Swedish Government too isn't he?

Steve Rust: No, he is associated with them but not paid by them. A strategic partner would be a better description of his association with them.

Alderman Ferrell: I am sure that one would think that if we have a relationship with them they have to know that if they do not produce by the end of a period of time people are not going to re-up. So the ball is in their court and they are very focused if you look at that list of the number of companies which is what we are target marketing for development here.

Mayor Coody: You are exactly right. They performed adequately enough to where we have seen the results of that. For the money that we would have invested I think it looks pretty good.

Alderman Rhoads: It's a different approach but I think it's forward thinking. You don't want to lose that but you have FEDC and the Chamber proving that it does work and I think it is a potent way to create what we all are looking to create here which is a bunch of high tech jobs.

Alderman Allen confirmed how it was paid for in the first three months. She asked can we have a better understanding as to why the Chamber won't pick up the second quarter.

Steve Rust: I don't think that it's necessarily that they won't but like everybody they are having budget crunches. From the beginning we thought there are a lot of players that benefit from this, the City Council being one of them and that we should share the debt because it's good for everybody.

Alderman Allen: It sounds really positive but the City too is suffering from the same problems.

Mayor Coody: Well this is long term thinking and if we want to be able to better fund programs we have to have more Economic Development. Everything we do and love in this town requires money and money is generated from business. I think it is fair for the City to be a partner here because the City is one of the beneficiaries.

Alderman Allen: It seems to me very logical because we have a lot to gain from these businesses coming to Fayetteville. I will support that.

Alderman Lucas: I think it is a great idea that we go out and look for economic engines that we can bring in. I don't know that it's the City's role. This is what the Chamber is for to promote businesses within the City. We started the FEDC to promote business in the City. Where does the Economic Development Matches Project Budget come from?

Ray Boudreaux: It's budgeted every year and I believe we budget about \$50,000 for economic development matches projects so that you have money in there to match projects and economic development every year.

Alderman Lucas: So that is in your area?

Ray Boudreaux: It's in the Economic Development Fund.

Alderman Lucas: What have we spent from that before?

Paul Becker, Finance and Internal Services Director: That line was in the CIP budget.

Ray Boudreaux: It's actually a project.

Mayor Coody clarified the project fund for Alderman Lucas.

Alderman Lucas: So you would consider something like that?

Ray Boudreaux: Yes Ma'am this is a very appropriate use for that money.

Steve Rust: It has been my experience with the cities have an economic development fund that they wisely use at the appropriate time. Economic Development is a legitimate activity of City Government, this would be one of them.

Alderman Thiel: Economic Development comes in a lot of forms that we sometimes don't think about. She went on to give examples. She stated I think since this has already proven that it has potential of bringing more businesses here I support it.

Alderman Lucas: I agree with Brenda that maybe this time since it is coming out of a fund balance that we have for Economic Development to match, but I don't see it going beyond the three months. I don't see me supporting this beyond the three months.

Alderman Allen: I agree with Alderman Lucas.

Mayor Coody: I would hope that we would give it a chance and if they happen to land two or three nice companies that would be worth \$13,000 to do it again.

Alderman Lucas: Then I think the Chamber might be excited enough to step up again.

Alderman Ferrell: One thing we have to remember in this is that the big chore that they will do is getting those people to Fayetteville and to look at Fayetteville. Then it is going to be up to all of us to say yes we want you. We are all going to be involved in this when they come to town.

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

Resolution 169-08 as Recorded in the office of the City Clerk

Alderman Jordan: I had one thing I need to add tonight.

Mayor Coody clarified how it needed to be added with City Attorney Kit Williams.

Alderman Jordan: I was contacted by one of my constituents Mr. Walt Eilers to reconsider Resolution 162-08. He wanted me to reconsider this so that he might speak to the City Council about concerns he has about the contract.

City Attorney Kit Williams: Prior to any vote we need to look at our Rules of Procedure. He read a section of the Rules of Order and Procedure. He stated this is a fully executed contract therefore it would be improper under our Rules of Procedure to reconsider that because you would be in breach of contract. He also read from Roberts Rules of Order and Procedure. He stated that in this particular case it would be improper to be held for reconsideration.

Alderman Jordan confirmed what City Attorney Kit Williams stated.

City Attorney Kit Williams: I think we cannot consider a motion to reconsider.

Mayor Coody: I still wouldn't mind hearing what the issues might be. Is there a way that we can add this to the agenda for a brief discussion or is it off limits all together?

City Attorney Kit Williams: Normally when you add something to the agenda there is actually some sort of resolution that you are adding to the agenda so there is something for the City Council to act upon. I am not aware of what that would be.

Alderman Allen: We have added items for discussion before.

City Attorney Kit Williams: If the City Council would agree unanimously to allow open discussion that is not what our Rules of Procedure do though. We have in the past ignored that and allowed someone to discuss something. Normally it has to be an issue for the Council to decide. I am not going to say that you as a unanimous group can't have open discussion if that is what you want to do.

Alderman Jordan: Can I bring it to an Agenda Session as a point of discussion?

City Attorney Kit Williams: Sure.

Alderman Thiel: What would the point of discussion be?

Alderman Jordan: He wants to be heard by the Council.

Mayor Coody described the ordinance Mr. Eilers was referring to.

City Attorney Kit Williams: You could by unanimous consent suspend the rules and allow an open discussion on that.

Alderman Jordan moved to add a discussion about Resolution 162-08 to the agenda. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Gray** voting no. **Alderman Cook** was absent.

City Attorney Kit Williams: Actually to suspend the rules I misspoke. I said unanimous vote but actually it takes six votes to suspend the rules.

Walt Eilers: At the last meeting I intended to come and speak and question the contract and I was unable to do that. When the motion was passed and the contract funded I simply did a search and found that the principal for the Economic Development Project also has a contractual relationship with the University and is a part of a four profit effort to build the new lab at the Tech Center. My understanding was a number of folks were eliminated because they were local consultants and they were considered to not be objective. The way I view this is if you are working for one client and doing similar projects that can be considered a conflict of interest. I am merely raising the question. Since we have a company with a financial interest in a major project in our city which is also doing the Economic Development for you all I raise the question of whether that was appropriate. Thank you Lioneld for raising the question.

Mayor Coody: We are at a bit of a disadvantage because Kyle was on the Selection Committee and he is not here tonight. We do have some other members of the Selection Committee that might be able to address these questions.

Phil Stafford: There were no local companies that submitted qualifications for this study they were all national firms.

Mayor Coody: Walt, I think you are confusing this with the people who did the Solid Waste Study but I didn't think there were any locals involved with this either.

Phil Stafford: The Selection Committee was made of representatives of the City and University and all the qualifications for all the national firms that submitted were considered in depth and through that process and even went to the interview process where we brought in three different national firms to interview and get very specific with their approach to the project. It was through that process that we all concluded that Ms. Kline was the most appropriate and best qualified consulting firm to do the work that we had solicited. Having an outside consultant is very important so that person can have an objective due towards the many disparate ideas that will emerge as we work with the public, City Council, School District, Chamber of Commerce, etc. Everyone is going to have a different idea about how that should be done. Having experts that come in and cause all those ideas to meld into one cohesive comprehensive plan is really what we are trying to achieve. It is a long range vision for the economic sustainability of Fayetteville. It has nothing to do with filling up a building at the ARTP. That building is an essential infrastructure that we need for the kinds of companies that Steve Rust has shown you here tonight. Without it we can't attract them here and we won't have the infrastructure that they require. I see the two totally independent and I just don't see how there is any conflict.

Gary Dumas, Director of Operations: It was disclosed early on in the process that the relationship that Eva had with the University was disclosed and we all knew it going in. I can say that when we chose the three firms to interview that Eva wasn't the first of those firms but when she came in and gave us her interview she is by far the most qualified to undertake the program that Phil just described.

Mayor Coody referred to a press release from the University of Arkansas. He stated so it was obviously meant to be a public document. We have been working on Economic Development for a long time. He went on to give examples of the City's efforts thus far.

Alderman Allen: I was never told that we had decided on this woman before. Did you say that we were told?

Phil Stafford: Yes, it was in the letter of agreement that was passed two weeks ago.

Alderman Allen: Right, but prior to then though. I thought that whoever came into do this is suppose to be someone that really had no preconceived notions about our community. That is what I am hearing as the concern but maybe I am incorrect.

Gary Dumas: We have an agreement with the University and that is who our agreement is with. The University has an agreement with Eva Kline. While she may have some relationship with the City I think that she is by far more qualified than any other firm that we reviewed in the process.

Alderman Thiel: Her company is not based out of Fayetteville. She is out of Great Falls, Virginia and Philadelphia, Pennsylvania.

Alderman Allen: I agree with Nancy that the idea of bringing in a consultant was to bring in someone that had a fresh idea that didn't know anything about Fayetteville and they were going to come in and find out about Fayetteville and tell us what we should be doing. That surprises me to find out that that is not the case.

Phil Stafford: I think it is the case. She has been here twice and she is experienced in working in College or University cities. So the strategic plans that she does are nearly always tied directly to leveraging intellectual assets of a major research university.

Alderman Lucas: We have established that the contract is the contract but I guess we are saying we would like to be completely informed next time.

Alderman Ferrell: Two things that stood out to me were when Phil said there was no conflict and Gary said the Selection Committee was privy to the fact that there was a relationship.

Mayor Coody: There was a Council member on the Selection Committee.

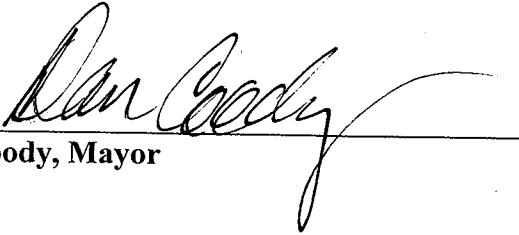
Alderman Ferrell: Yes and Kyle knew that and so let's move forward.

Alderman Lucas: It's a done deal.

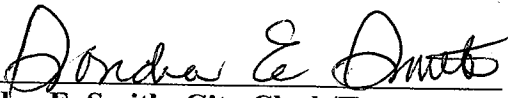
Mayor Coody: In that case let's move home.

Announcements:

Adjournment: Meeting adjourned at 8:05 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer