

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 16, 2008**

A meeting of the Fayetteville City Council was held on September 16, 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, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhoads

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Nominating Committee Report: Alderman Cook gave the Nominating Committee Report. A copy of the report is attached.

Alderman Allen moved to approve the Nominating Committee Report. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Approved

Update on the Renaissance Tower Project: John Nock gave a presentation regarding the Renaissance Tower Project. He gave a history of the things that have been done so far. He also gave a project update on the current status of the project.

Mayor Coody: Do you have any kind of idea of when you might be able to get in there and have something come out of the ground?

John Nock: When all the remaining pieces of the financing are complete. It is as simple as that. We hope that it will be shortly.

Mayor Coody: Is there any plan to make that less of an eye sore?

John Nock: We have presented a plan to the Planning Commission to turn the lot into temporary parking.

Mayor Coody: We are in the middle of renovating College Avenue and we would like to get Rock and Maple Street done to make it a beautiful entrance to the downtown area.

John Nock: We understand the comments from the public and we treasure the downtown. One of the reasons we have not just went in and made it beautiful is because we are doing the project. In the mean time we will certainly strive to do that.

Alderman Thiel: As a follow up on the parking deck that was planned, personally I would love to see that go up rather than a temporary parking area. It seems we would have some revenue gained by having that built just for the commercial underneath.

John Nock: Your wish is also our wish, but it may be that we have to deal with a more practical stance in the mean time. The 65 to 100 spaces are still not enough to satisfy the needs that are down there. We know this can only be a temporary solution and the deck would be our first choice.

Alderman Allen: There is no getting around that fact that it is ugly now. I think the Council and citizens of Fayetteville would feel better if they had a more specific notion of what you are going to do and when you are going to do it. Could you share your letter of financial backing?

John Nock: That is the big storm we are dealing with in this current economic crisis. I'm not sure how I could share what we are still working on yet on some of those issues.

Alderman Allen: Maybe we could know what part of the building you are able to pay for now.

John Nock: I would have to consider the best way to do that since it's an overall project of \$45 million.

Alderman Allen: That is a concern that I hear. I thought if you could show us that would be helpful.

John Nock: We have had a full blown commitment from the bank to do the project.

Alderman Allen: What is your bank?

Richard Alexander: It is not possible to give you the names of our financial commitments.

Alderman Allen: I didn't ask you for names.

Richard Alexander: You asked for the name of the bank and we won't do that. We had a commitment from a bank and that bank is no longer in a position to do it for economic reasons

that are being shared by many banks. We are working with other banks but we are not going to share those names.

Alderman Allen: Okay, do you have financial backing now?

Richard Alexander: We have part of the financing in place and we have preliminary commitments for the rest of it but John was absolutely clear that we don't have the entire thing in place.

Alderman Allen: I didn't mean to be combative with you.

Richard Alexander: All you have to do is read the paper and understand where banks are. It is a very difficult environment. We still intend to go forward.

Alderman Allen: I understand that and I hope you are able to go forward.

Richard Alexander: We continue to spend millions of dollars per year in this town and there is no individual currently making that kind of commitment in this city today.

Alderman Allen: I am appreciative of that but we still have a problem, the big hole in the ground.

Richard Alexander: We do and the Council has granted us until 2010 to pull our permits. In the mean time we are negotiating our financing as we speak. If you want to judge this project against my record that is fine but please consider the whole record.

Mr. Alexander spoke on the temporary parking lot project.

John Nock: There is an element of discretion that has to be dealt with. In the mean time we ask for your patience to continue on.

Richard Alexander went on to speak on the revitalization projects they have done in the past.

Alderman Allen: I am aware of that but this is the thing that I hear the most about.

Richard Alexander: You can't apologize for stuff you can't control.

Alderman Allen: I hope we will be able to see something there because to this point we haven't seen anything beneficial and it is a partnership to the City.

Alderman Ferrell: I understand the fracture in the economy and I think we need to understand that there are not just problems here. Will or could the existing projects that you have, have an impact on the future of the Renaissance Tower?

Richard Alexander: To the extent that all of our other projects are financed no. If the economy tanks and we can't lease the buildings then who knows.

Alderman Ferrell: So it's the economy.

John Nock: The reality is the nature of an entrepreneur in businesses that you take calculated risks.

Richard Alexander: I can tell you that we are not contemplating additional projects simply because it is impossible to get financing.

Alderman Ferrell: I was more specifically referring to things that you have done that is in place.

Richard Alexander: That is going good.

John Nock spoke on the current economy. He said we ourselves have weathered many storms and we will weather this one as well.

Alderman Thiel: I appreciate your comments and the public does too. You have been very humble and admitted that this is beyond your control. With a certain amount of money you can make the site look more attractive before you get something done.

John Nock: We are considering doing that right now.

Alderman Thiel: This economy is in a terrible crunch and it needs to be pointed out that you have spent another \$300,000 in liquidated damages.

Richard Alexander: We paid that without complaint. He went on to speak on the expenses of the project thus far. He stated we appreciate the Council's support.

John Nock: If we do elect to beautify it on a temporary basis in no way is that a reading that we are not going to do the project. It will be a temporary basis and the project will still be done.

Richard Alexander reiterated what John previously said.

Alderman Lucas: The people want to see something. I'm glad to hear that Marriott is still in the game. If you had a time when you were going to start things then people could live for a little while with that hole in the ground but I understand that can't be. I am glad to hear that you are going to do something. I am also glad to hear that won't slow up the project when you get things in line.

Alderman Gray: Thank you for putting this together for us and for coming here.

Richard Alexander: I have many other partners, it's not just me.

Alderman Allen: Thank you for coming but I hope you will be willing to come another time. This is something that affects the whole city and everyone has concerns. We want it to happen but we want to know what is going on along the way too.

John Nock: We appreciate the opportunity. It gave us a chance to stop and look at where we have been and tell the public about what our commitment is on moving forward. He thanked the Council again for allowing them to come.

Mayor Coody: Everyone always focuses on the negative but your work really is good.

Ethel Goodstein, speaking on behalf of the American Institute of Architects spoke on awards that the Fulbright Library renovation is being considered for.

Mayor Coody: The investments that have been made in these buildings are first class. Whatever we can do to help expedite this let us know because we all have an interest in seeing this project completed.

Agenda Additions: None

Consent:

Approval of the September 2, 2008 City Council meeting minutes.

Bid # 08-56 Hugg and Hall Equipment: A resolution to award Bid # 08-56 to Hugg and Hall Equipment in the amount of \$48,300.00, plus tax of \$2,979.25 for a total amount of \$51,279.25 for a trailer mounted six-inch water pump.

Resolution 170-08 as Recorded in the office of the City Clerk

Bid # 08-62 Zachary & Associates, Inc: A resolution to award Bid # 08-62 and approve the contract with Zachary and Associates to build the Gulley Park and Finger Park Pavilions at a cost of \$76,337.29 with a contingency of \$11,450.59.

Resolution 171-08 as Recorded in the office of the City Clerk

David's Fire Equipment: A resolution to approve a quote from David's Fire Equipment for fire hose in the amount of \$11,646.05 (including tax) and a budget adjustment in the amount of \$11,700.00.

Resolution 172-08 as Recorded in the office of the City Clerk

2008-2009 Selective Traffic Enforcement Program (STEP) Grant: A resolution accepting the 2008-2009 Selective Traffic Enforcement Program (STEP) Grant in the amount of \$106,700.00 for the purpose of paying overtime to officers engaged in the enforcement of DWI/DUI and seatbelt laws and other purposes; and approving a budget adjustment recognizing the grant revenue.

Resolution 173-08 as Recorded in the office of the City Clerk

Fayetteville Animal Shelter: A resolution approving budget adjustments totaling \$23,110.00 from Animal Services miscellaneous donations to meet increased supply and operational costs at the Fayetteville Animal Shelter for the remainder of 2008.

Resolution 174-08 as Recorded in the office of the City Clerk

Carter & Burgess Inc. Amendment No. 2: A resolution approving contract Amendment No. 2 to the engineering contract with Carter & Burgess, Inc. in an amount not to exceed \$28,800.00 for additional engineering services associated with the Lake Wilson Spillway Rehabilitation Project; and approving a budget adjustment.

Resolution 175-08 as Recorded in the office of the City Clerk

FY 2008 HUD EDI – Special Project Grant Agreement: A resolution approving FY 2008 HUD EDI – Special Project Grant Agreement in the amount of \$656,600.00 to fund the Fayetteville Housing Partnership; approving a developers grant agreement with Rausch Coleman Homes, LLC; and approving a budget adjustment in the amount of \$656,600.00.

Resolution 176-08 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 7-0. Alderman Rhoads was absent.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals:

1. Replacement of YRCC Program Coordinator

Connie Edmonston, Parks and Recreation Director: We just found out last night that we have an opening with the Yvonne Richardson Center for a Program Coordinator.

Erma Rainey, Director of the Yvonne Richardson Center gave a brief description of the vacancy and some of the positive things that are taking place at the Center.

Mayor Coody thanked her for the great job she is doing at the Center.

Alderman Thiel: When Parks took that program over and hired you and made some changes it has really been more inclusive to the entire community. I am very supportive of keeping this position.

Alderman Allen: I too am very supportive. I would like to see us hire more than one. You are doing a wonderful job and filling in a gap that needs to be filled.

Alderman Thiel moved to approve the YRCC Program Coordinator. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Resolution 177-08 as Recorded in the office of the City Clerk

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. ***This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting.***

City Clerk Sondra Smith: They wanted it tabled for two meetings at the last meeting and I failed to tell you that so it needs to be tabled again.

Alderman Jordan moved to table the appeal to the October 7, 2008 City Council Meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

This item was tabled to the October 7, 2008 City Council Meeting.

New Business:

RZN 08-3065 (Hedge): An ordinance rezoning that property described in rezoning petition RZN 08-3065, for approximately 1.0 acre, located at 1201 East Huntsville Road from RSF-4, Residential Single-Family, 4 units per acre, to RMF-6, Residential Multi-Family, 6 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item. He stated the Planning Commission voted 8-0 for this rezoning request and staff recommended approval.

Alderman Thiel: I haven't heard anything negative from the neighborhood surrounding it.

Jeremy Pate: We did not get any public comment on this whatsoever.

Alderman Thiel: The neighbors were notified?

Jeremy Pate: We notify property owners only.

Alderman Thiel: That is pretty much all rental property?

Jeremy Pate: There are some owner occupied structures.

Alderman Thiel: Were they notified?

Jeremy Pate: It was all adjacent property owners and of course we put a sign out. Usually we get calls from people driving by but I don't believe we received any complaints.

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

Ordinance 5176 as Recorded in the office of the City Clerk

Amend Chapter 33, Departments, Boards, Commissions, and Authorities: An ordinance to amend the Code of Fayetteville by enacting §33.228 through §33.337 in Article X, Historic District Commission.

City Attorney Kit Williams read the ordinance.

Karen Minkel, Director of Long Range Planning gave a brief description of the item. She stated this ordinance is based from a model that was provided by the State Historic Preservation Program.

Ethel Goodstein spoke in favor of the ordinance. She stated this will ensure that we have a process in the City to see that our good works are facilitated.

Boyd Mayer with the Arkansas Historic Preservation Program stated our office has been working with the Planning Staff and the Historic District Commission and we commend your commitment to preservation to date. He explained the ordinance.

Alderman Ferrell: On the grant eligibility do you administer federal and state money through your office?

Boyd Mayer: That is right.

Leslie Belden, Chair of the Historic District Commission stated to me it's a quality of life issue but these days it is also an economic development issue because several certified local governments can ensure the property values will be retained as well as enabling property owners to receive tax credits back on their investments. It's good a thing all the way around.

Mayor Coody: We really appreciate all the people who have worked on this project. I think the point now is that we should recognize and keep those buildings that we still have because the fabric of this community is so important. If we lose that then we lose quite a bit of our texture.

Alderman Lucas: I want to thank Karen for working so hard and I think this is a great thing.

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

Ordinance 5177 as Recorded in the office of the City Clerk

2008 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2008 fixing the rate thereof at 1.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Dominic Swanfeld, Police Sergeant reviewed past occurrences regarding the of cost of living increases for the City. He stated there is not a request in the 2009 Budget for a cost of living increase. He spoke on adjustments that need to be made to the budget concerning raises.

Mayor Coody: We certainly appreciate all the employees and everyone does an incredible job for the citizens here. He went on to give examples of various departments accomplishments.

Dominic Swanfeld: The cost of services may need to be a little higher for the services that you are getting. I would ask the City Council if this is an option, to raise the Millage, let's talk about a plan some way. If not tough decisions have to be made.

Alderman Allen: What percentage of the Police Department employees actually live in Fayetteville?

Dominic Swanfeld: Maybe 40%, several of the officers live in rental places in town.

Police Chief Greg Tabor: I recall there being 37% but that has been sometime back so I don't know what the current number is.

Alderman Jordan: Would you get me a list of all the police officers that have not received raises in the last couple of years and what they need.

Mayor Coody: We had a meeting yesterday and talked about an option that I think the HR Department is working on right now to resolve that issue. That was set up by the MAG Plan and the City Council adopted the MAG plan. This was done by the City Committee and all the work that has been done over the years. This is not a big surprise.

Dominic Swanfeld: We have some minor tweaks with the pay plan. At the end of the day the officers got absolutely nothing.

Mayor Coody: My point was that after our meeting yesterday we were able to sit down and calculate how we can resolve that issue.

Dominic Swanfeld: We may be able to resolve that issue but it is a different issue than the COLA.

Mayor Coody: It is a very different issue but as far as being held I think we might have that one solved.

Alderman Thiel: Merit employees get their raises based on the job they perform. The uniformed employees automatically get a STEP raise. My question is did all the merit employees get a raise?

Dominic Swanfeld: Every merit employee who was not topped out got raises in 2008.

Alderman Thiel: Based on their evaluations.

Mayor Coody: That would be the HR Department. I don't know if everyone got a raise or not.

Dominic Swanfeld: I was told by Missy they did, except those that were topped out. Same with us, our officers that are topped out they would not get a STEP raise.

Mayor Coody: If a merit employee does not get a good evaluation they do not get a raise or if they are topped out.

Alderman Thiel: So not everyone got a raise.

Mayor Coody: If they are making the maximum in their range, to pay them above their range does not happen. Or if someone does a mediocre job we don't give raises for that either.

Alderman Thiel: The STEP raises are automatic.

Dominic Swanfeld: Would you not agree that is probably few and far between, if you are a mediocre employee you are probably not here very long.

Mayor Coody: That is exactly right.

Alderman Ferrell: I think that everybody on this Council wants not just Police and Fire, but all the employees to be able to get it. We want to treat everybody right. The fact is that not only City employees but employees all over this town are having a hard time right now. You mentioned Fayetteville might skirt sometime and hire an employee from somewhere else. If you ever have an inkling of anything like that going on you need to go as high as you can as fast as you can. I don't think that will ever happen. What brought that up?

Dominic Swanfeld: My reasoning for that is your higher qualified officer's look to go other places. Rogers had a test a few weeks ago and 70 people applied.

Alderman Ferrell: Do the Rogers police officers make more than Fayetteville police officers?

Dominic Swanfeld: In benefits packages I would say so, yes sir.

Alderman Ferrell: How about their pay?

Dominic Swanfeld: I would say they are real close.

Mayor Coody: Are they still on the same retirement program?

Dominic Swanfeld: I don't know what pension plan they are on sir.

Mayor Coody: I think they would be at the best in LOPFI II. That is what we are.

Dominic Swanfeld: Several years ago we took officers from Fort Smith.

Alderman Ferrell: It really surprises me and it bothers me to hear a uniformed officer say that he has some fear that we would go to hiring less than great police officers.

Dominic Swanfeld: In the future I could see that going on.

Alderman Ferrell: I can't but if you ever do then you need to blow the whistle as loud as you can because I don't think that will ever happen.

Mayor Coody stated looking at the pay ranges we are very competitive. He went on to give examples of the current pay scales for both uniformed and non uniformed employees. He stated we like good employees and we are willing to pay for them.

Dominic Swanfeld: No way am I debating that but at the end of the day we are behind the curve.

Mayor Coody: I believe that entirely, you are exactly right. I would like to have fixed that earlier but we didn't and now we are in this economic climate. We didn't raise it 9/10 of a mil last year and that compounds it this year. The economy is in the hopper this year, and it would be really tough to raise it, in the face of people who are having a hard time making it out in the community. If the economy was stronger we wouldn't be having this concern.

Alderman Cook: Just a quick reminder that the COLA was never on the table last year even if we raised the millage.

Mayor Coody: Another million a year would have made it easier to handle any kind of discrepancy like this. That 9/10 of a mil was about \$1 million and that would have made this easier to absorb.

Leanne Van Winkel Geasler, wife of a Fayetteville Police Officer stated I don't think the Council has a real understanding of some of the issues that a family in Fayetteville is trying to live with on these salaries. She stated there is no quality of life if we cannot feel secure and we are going to be looking at some ugly situations if we don't find ways to fund these officers. For us not to look at the budget process and find a way to fund this to a marketable salary range is one of the few things that makes me stop and think about what we are doing in Fayetteville.

Jeremy Ashley, representative of the Fayetteville Fire Association stated we support Dominic and what he said. If the City doesn't do some sort of an adjustment to our pay plans the civilian or general employees are behind already 8% and fire and police 7.64%, soon that is going to be 10%. He went on to list the services that Fayetteville provides to the citizens and he pointed out that the City employees are the ones that makes it work. He stated the firefighters association would like you to focus on looking for ways to fund the compensation plan when you are talking about the Millage.

Alderman Jordan: Jeremy do you have Firemen that have not had raises or COLA's in the last couple of years?

Jeremy Ashley: Mr. Jordan I did not bring that information tonight but I can get that to you.

Mayor Coody: I think there are far fewer firemen that have been held than Police.

Fire Chief Tony Johnson: I don't have that number but I think it would be to our advantage to go to HR to get the number and I can pass that on to them tomorrow and forward that information to you.

Jeremy Ashley: We would ask that you would consider a millage increase not just for fire and police but for everyone.

Mayor Coody: We wouldn't just single out one group for a COLA and not spread it out. If we did it for one we would do it for all.

Jeremy Ashley: We understand and we appreciate and support that.

Mayor Coody: We appreciate you very much and everyone in your department.

Bernard Sullivan, a citizen stated I would be glad to campaign to pass a millage for the City employees so that they can get their COLA. We as a city need to put our money where our mouth is. I would like to see the City take this into serious consideration.

Aubrey Shepherd, a citizen stated the money should come from the impact fees and the growth should pay for itself. It shouldn't come from low or locked in income families to cover the burden.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5178 as Recorded in the office of the City Clerk

Southpass Development Company, LLC: A resolution approving a 50/50 cost-share agreement with Southpass Development Company, LLC for the upgrade of the WSIP Project EL-3 to serve the Southpass Development and the proposed City of Fayetteville Community Park.

Ron Petrie, City Engineer gave a brief description of the item.

Alderman Thiel: Clarify what you just said if the Southpass project goes through. I thought this was part of the next item we were going to be approving.

Alderman Cook: It's not a vote for or against Southpass, it's if we pass Southpass we will cost share with them. The next item is to contract for the line work, the upgrade portion of that is minimal. We are still going to lay the pipes.

Alderman Thiel: In other words we are going to go ahead and lay the large pipe. The next contract is for the pipe which includes this increased size which is \$178,000 more. This is just a cost share if their project goes through.

Ron Petrie: Whether it moves forward or not if it's prudent then we go ahead and take that area into account and upgrade it.

Alderman Lucas: Ron, the upgrade was not in the plan previously.

Ron Petrie: That is right.

Alderman Lucas: So what made you increase the size? Was it the anticipation of Southpass?

Ron Petrie: Southpass is what brought it to our attention. We know that area will drain into our system in the future and we want to take that into account.

Alderman Lucas: It bothers me that it's not even in the city yet and we haven't even annexed it. Is this something we have to do right now?

Ron Petrie: I think it is all about Planning, if it is going to be in another city it is going to be in Greenland, which we serve them as well.

Alderman Lucas: But I would expect Greenland to help us pay for it.

Ron Petrie: That is a good point, but whoever develops there, those impact fees will more than pay for this cost upgrade.

Alderman Lucas: I am just uncomfortable with this. We are going to be deciding these other things in a couple of weeks so I am going to ask that it be tabled until we bring all the other stuff forward.

Alderman Lucas moved to table the resolution. Alderman Jordan seconded the motion.

City Attorney Kit Williams: I sent you a memo last week when I heard from the County Clerks office. They asked that we go forward and annex the Southpass property because we already annexed the Frank Sharp property. That was done on one order by the County Judge and they were not happy that we divided that into two different ordinances. That might resolve some of your concern about that.

Alderman Lucas: Is that going to come forward here before long?

City Attorney Kit Williams: If we take it off the table we could do it tonight. You tabled it indefinitely at the request of the developer. I talked to them after I heard from the County Judge

and County Clerk and they have withdrawn their objections to having the annexation go forward. So you could take that off the table and go forward with it tonight.

Alderman Thiel: If the vote is tied to the Frank Sharp property can we vote one in and not the other one? If we vote against Southpass does that negate the Frank Sharp property?

City Attorney Kit Williams: It possibly could negate that. I'm not sure, I've never seen that and we've never faced that issue before. We generally tracked what the County Judge has done and this is the first time that I am aware of that we actually separated that into two separate annexation decisions. We are treading on new ground if we don't go forward. It is up to you to decide because you are the ones that make that decision.

Alderman Cook: I'm not sure why this agreement is that big of a deal really. I think your issue, Shirley, may be the second item which is, do we upsize the line now, than it is this agreement with Southpass. If Southpass doesn't make it then this agreement is not binding.

Alderman Lucas: Then why is this being brought forward until we make a decision about Southpass.

Alderman Jordan: I think Shirley brings up a good point.

Alderman Cook: In our original agreement with this property was this comment part of that original discussion?

Alderman Jordan: It is according to the notes.

City Attorney Kit Williams read the signed agreement. This agreement that is being proposed right now is an agreement for them to pay us money so it's hard to see how this would be something that would be disadvantageous to Fayetteville. If their development wasn't approved then they would not have to pay us money.

Alderman Lucas: That's right and we would have the bigger pipe to land that is not annexed yet.

City Attorney Kit Williams: The bigger pipe is the next contract actually. This just approves their agreement to pay us money if their approval of the major development is finally approved. The next issue is whether or not you want to build a bigger pipe or not.

Alderman Jordan: It would be running it into unannexed land.

City Attorney Kit Williams: The pipe is all within the City limits but it would be serving that basin. I would certainly think that it would be appropriate if someone wanted to take off the table the ordinance annexing the 856 acres of Southpass. The developers don't want you to do that but they said they would agree.

Alderman Thiel: We are talking about a \$5 million project and we are talking about increasing the size at a cost of \$178,000.

Mayor Coody: We would pay half that.

Alderman Thiel: Alright regardless of whether we pay half that or not I am just saying that is a small price and I have to agree with staff's recommendation.

Ron Petrie: This can wait.

Mayor Coody: Okay so we can still address this, it doesn't slow anything down?

Ron Petrie: Right.

Alderman Lucas: So we would have to take both of them to decide.

Ron Petrie: We would prefer that you did not. We would prefer to move forward.

Alderman Lucas: What would it do to the contract if we did?

Ron Petrie: I would have to defer that to David Jurgens and he is not here tonight.

Alderman Cook: We would have to rebid that wouldn't we?

Ron Petrie: Typically on those bids there is a time on how long those bids are good. It is usually 60 days.

Alderman Lucas: Didn't you get two bids, one for the smaller pipe and one for the larger pipe?

Ron Petrie: That is right.

Lynn Hyke, Water and Sewer: I am filling in for David Jurgens. We looked at the line that they were going to lay and we ended up with \$163,230. With the previous agreements with Farmington we ended up doing 70/30 split for an upgrade in their system. We looked at if this system went on and if we did not do this right now what would it cost us. If they develop that area we will have to come back in because we don't have that line sized for ultimate capacity in that basin right there. We would have to put a 12 inch line in and it is going to cost us an estimated \$700,000. We are going to save Fayetteville in the long term money by doing it that way. That is the reason we want the larger capacity line.

Alderman Lucas withdrew her motion to table. Alderman Jordan withdrew his second to the motion.

Alderman Ferrell asked the City Attorney to clarify the annexation process. He asked is this a directive from the County on the move ahead for the annexation?

City Attorney Kit Williams stated the annexation procedure is that they must always get an order from the County Judge to annex property into the City. We try to cooperate with the County like they try to cooperate with us. He went on to clarify the annexation process.

Alderman Lucas: I have had a number of calls about this and people don't want this to be binding that we are going to approve Southpass. As long as this resolution doesn't say that I am going to go along with this then I will withdraw my table.

City Attorney Kit Williams clarified the resolution further.

Alderman Cook: The Southpass discussion is a whole other discussion. I agree with you Shirley on that.

Mayor Coody: In a nut shell we are talking about a 50/50 cost share of a line that will handle whatever the basin will develop out there in time.

Ron Petrie: This is about EL-3. We haven't addressed getting the sewer from EL-3 to the site. That is another discussion.

Leanne Van Winkel Geasler: My understanding was that in some levels we would be discussing Southpass this evening and whether that was the annexation or whatever. Seeing that the discussion has moved away from that and we are just on the resolution of cost sharing I would say why would we turn down money. Please pass this resolution that says we are going to cost share.

Barbara Moorman, a citizen questioned the contractual agreement regarding the 50 foot wide street right of way. I don't understand what that is for if the City is going to own the property why would they put an easement on there?

Ron Petrie: Unfortunately you don't have a concept drawing in front of you. It has been shown at all the Planning Commission meetings. It has been very clear that there is a road on the south side of that property that would connect and makes a big loop all around the whole property. It is important to the developers that they give us this property, but we want to make sure that it is acceptable and we continue showing that road on those ten acres.

Barbara Moorman: I'm asking because the road is there as far as I know and the city will own the property. I am concerned about the destination of that road whether it would in fact cross over the ridge and come at me. I think taking the money is going to cost you a whole lot more than you have told the public. You still don't have an economic study and this has been a domino effect from the beginning. It looks like just \$89,000 but I think it is going to be millions.

She went on to voice her concerns.

Mayor Coody: Ron do you have any input on what the water towers out there serve? They serve Fayetteville don't they?

Ron Petrie: They will serve the site as well. It serves Fayetteville and part of Farmington which is the large area of our service area that is on that side of town.

Mayor Coody: Right now we are leasing that ten acres from the owner and we don't own it.

Ron Petrie: That is right.

Alderman Ferrell: To address the last lady that spoke I have asked Planning to furnish before we get to any approval process on this a cost to the Council. A not to exceed amount of what the City would have to spend up front and on cost shares.

Alderman Thiel: The agreement you were referring to about the water tank and the drive is all upon approval of the Southpass PZD by the City Council. That is not what we are doing.

Alderman Gray: When we are looking at a project of this size and magnitude things have to happen in certain steps and this is one of those steps. It's incumbent on us to listen to our staff and our attorney to tell us what steps we have to take. I am going to listen to them.

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

Resolution 178-08 as Recorded in the office of the City Clerk

Bid # 08-61 SJ Louis Construction, Inc: A resolution to approve Bid # 08-61 in the amount of \$5,253,795.00 plus a contingency of \$420,000.00 with SJ Louis Construction, Inc. for construction of a large gravity sewer main from Happy Hollow Road to Razorback Road and a sewer main from Country Club Hill.

Lynn Hyke: If you have any questions I will try to answer them for you.

Mayor Coody: Just a brief overview for the folks at home this is just a part of the sewer system overhaul.

Lynn Hyke gave an overview of the project. He stated other contractors who bid on the job were astonished that the prices were \$500,000 lower than the second and third bidder so we are really happy knowing that we saved that much more money by doing that.

Mayor Coody: I saw it was below your estimate. That was good.

Alderman Cook: No one has fought pushing our sewer system outside City limits more than I have. I have learned that while we call ourselves a municipal system we are in reality a regional system. For me upsizing this line is just another step of what we have done in the past. With this project, that we are looking at here, we are really just paying for a larger diameter size of line. We are just paying the additional cost for the larger pipe. We can do it cheaper now and as the development comes online out there the impact fees are going to end up paying that money back to us in the long run.

Alderman Thiel: It's a small price to pay for the difference. We know it's going to serve Greenland and that area in the future.

Alderman Lucas: On page 3 of 46 it says we have not received the signed agreement from Southpass for this cost share. So we will wait until after we vote on this to upgrade and then we will ask for the signed agreement.

Ron Petrie: It is signed.

Alderman Lucas: So that has been taken care of?

Ron Petrie: Yes Ma'am.

Alderman Gray moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-1-0. Alderman Ferrell, Lucas, Gray, Thiel, Cook and Allen voting yes. Alderman Jordan voting no. Alderman Rhoads was absent.

Resolution 179-08 as Recorded in the office of the City Clerk

ADM 08-3093 (Hill Place Culvert Removal): A resolution to approve a request to modify and replant a portion of the tree preservation area associated with Hill Place PZD, in order to remove a culvert within College Branch Creek and to install a vehicular bridge, as described herein.

Jeremy Pate gave a brief description of the item. He stated staff has recommended six conditions of approval and we are recommending in favor.

Alderman Thiel: What caused me concern on this recommendation was that it might prevent a backup on Sixth Street. I have never known it to backup on Sixth Street. That is not the issue; the issue is the flooding south of Sixth Street. I need to see where this is at. I am having trouble understanding why this is being recommended. I want to see how easy it will be to do what they are talking about without damaging more trees. Unless we want to spend a lot of time discussing this tonight I would like to table this until the next meeting and schedule a board tour.

A discussion followed on when the next board tour was scheduled for.

Alderman Gray: I would like to ask staff what their thinking is regarding the flooding of Sixth Street.

Ron Petrie: I think that is one of the minor reasons. That is a plus because there is not a significant amount of flooding on Sixth Street. This will reduce it a matter of inches but it has very little affect on that street itself.

Alderman Thiel: I just want to see the sight and see what trees they are talking about.

Mayor Coody: You just want a better comfort level.

Alderman Thiel: Yes.

Alderman Thiel moved to table the resolution to the October 7, 2008 City Council Meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Vantage Center R-PZD Vacation (VAC 08-3099): An ordinance approving VAC 08-3099 submitted by Crafton, Tull, Sparks & Associates for property located in The Vantage Center (R-PZD 05-1543) to vacate a water easement, a total of 0.248 acres, in order to develop the Vantage Center R-PZD.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: I brought this forward. It was a time thing where permits are going to run out and they had to have the easement in place in order to get the permits.

Alderman Lucas 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 Rhoads was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

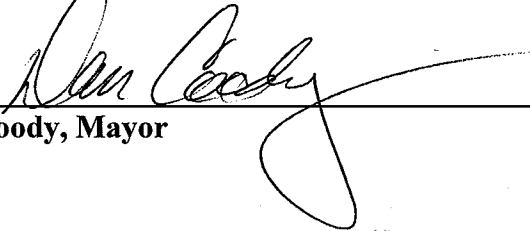
Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Rhoads was absent.

Ordinance 5179 as Recorded in the office of the City Clerk

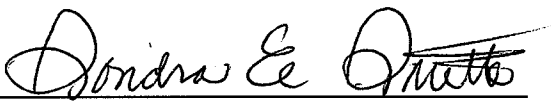
Announcements:

City Council Tour: None

Adjournment: 8:55 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Nominating Committee Report
Meeting: Monday, September 8, 2008
Room 111, City Hall 5:00 p.m.
Members Present – Kyle Cook and Adella Gray
Also Present – Bobby Ferrell

The following is being submitted to the entire City Council for consideration.

Civil Service Commission

The committee recommends the following candidates for appointment:

- *David Button* – One unexpired term ending 3/31/13
- *Jeff Hagers* – One unexpired term ending 3/31/11.

Environmental Concerns Committee

The Committee recommends the following candidate for appointment:

- *Susan Drouilhet* – One unexpired citizen-at-large term ending 6/30/09.

Northwest Arkansas Regional Airport Authority

The Committee recommends the following candidate for appointment:

- *Mike Johnson* – One unexpired term ending 12/31/08.

Parks and Recreation Advisory Board

The committee recommends the following candidates for appointment:

- *Darby Benson* – One unexpired term ending 12/31/09
- *Steve Meldrum* – One unexpired term ending 12/31/08.

Telecommunications Board

The Committee recommends the following candidate for appointment:

- *Marvin Hilton* – One unexpired term ending 6/30/10.

There were no applications for Construction Board of Adjustments and Appeals, and Tree and Landscape Advisory Committee.