Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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

City of Fayetteville Arkansas
City Council Meeting Minutes
October 7, 2008

A meeting of the Fayetteville City Council was held on October 7, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Methamphetamine Awareness Month Proclamation: Mayor Coody read the proclamation.

Presentations, Reports and Discussion Items:

Off Street Parking Improvement District No. 1 Board Vacancy:
Approve the appointment of Rick Woods
(Appointed by the District and Approved by the City Council)

John Burrow briefly requested the council's approval of the reappointment of Rick Woods to the Off Street Parking Improvement District.

Alderman Ferrell moved to approve the appointment of Rick Woods to the Off Street Parking Improvement District No. 1 Board. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Fayetteville Town Center Annual Report: Sandra Bennett, Facilities Manager of Fayetteville Town Center

Sandra Bennett, presented the annual report for the Fayetteville Town Center. She gave a description of the current operating budget along with various programs that are currently offered through the Fayetteville Town Center.

Mayor Coody thanked them for the great job that they do at the Town Center.

Consent:

Approval of the September 16, 2008 City Council meeting minutes.

Approved

Bid # 08-58 Golden Circle Ford: A resolution awarding Bid # 08-58 and approving the purchase of one (1) sign body truck with crane from Golden Circle Ford in the amount of $72,660.00 for use by the Transportation/Traffic Division, such approval being contingent upon the sign body meeting the required specifications.

Resolution 180-08 as Recorded in the office of the City Clerk

AOT Public Safety Corporation: A resolution approving a contract with AOT Public Safety Corporation, pursuant to RFP # 08-03, to provide false alarm reduction administrative services to the City of Fayetteville.

Resolution 181-08 as Recorded in the office of the City Clerk

McClelland Consulting Engineers Inc. Task Order # 15: A resolution approving Task Order # 15 with McClelland Consulting Engineers, Inc. in the amount of $177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field; authorizing the Airport Staff to apply for and accept a grant from the FAA with a matching grant from the Arkansas Department of Aeronautics; and approving a budget adjustment.

Resolution 182-08 as Recorded in the office of the City Clerk

Hazard Mitigation Plan: A resolution adopting the Hazard Mitigation Plan for Washington County.

Resolution 183-08 as Recorded in the office of the City Clerk

Code Compliance Contract Services: A resolution approving a budget adjustment in the amount of $6,000.00 to transfer funds from fund balance to Code Compliance Contract Services Account for code violation abatement.

Resolution 184-08 as Recorded in the office of the City Clerk

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

<u>Unfinished Business:</u>

Hiring Freeze: Hiring Freeze Appeals:

<u>One Full-time Dispatcher – Police Department:</u> Approved

Captain William Brown gave a brief description of the vacancy.

Alderman Lucas: How many do you have on at one time?

Captain William Brown: It depends on the day and the shift but usually there are three or four. They are covering Police, Fire, and citywide after hours, there is a supervisor on each shift and there are three trainers. It takes about six months from the time one is hired until they are released on their own.

Alderman Jordan moved to approve one full-time Police Dispatcher position. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Resolution 185-08 as Recorded in the office of the City Clerk

<u>One Full-time Animal Services Officer – Animal Services:</u> Approved

Jill Hatfield, Animal Services Director gave a brief description of the vacancy.

Alderman Lucas: This is a full time Animal Services Officer, they do education in the community and outreach programs. Is there a possibility that the County might establish their own and maybe take some of the communities with them that you have been servicing? I wonder if this might be a good time to re-adjust the hours and maybe even cut back on education.

Jill Hatfield: Our education is done by several other people in the organization. The County was talking about building a shelter, I'm not sure that can happen within a year. I don't know that they have any other options at this time.

Alderman Thiel: This is basically a dog catcher right?

Jill Hatfield: That is correct.

Alderman Thiel: I think we need all that you have. How many do you have?

Jill Hatfield: I have four currently.

Alderman Thiel: I think that is a real public safety issue and I don't think we need to eliminate any of those.

Jill Hatfield: The officers rotate emergency on call duties so they are on call seven days a week and then they rotate out and they also perform euthanasia duties. The more people that can rotate into that position is very helpful.

Alderman Ferrell confirmed the position under consideration.

Alderman Thiel moved to approve one full-time Animal Services Officer. Alderman Gray seconded the motion. Upon roll call the motion passed 6-1. Alderman Lucas voting no. Alderman Rhoads was absent during the vote.

Resolution 186-08 as Recorded in the office of the City Clerk

One Part-time Caregiver – Animal Services: Approved

Jill Hatfield gave a brief description of the vacancy.

Alderman Thiel: You said $9.83 and it says $9.53. I just wanted to verify that.

Alderman Thiel moved to approve one part-time Animal Services Caregiver. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Resolution 186-08 as Recorded in the office of the City Clerk

One Full-time Recreation Superintendent – Parks and Recreation: Approved

Byron Humphry, Parks Maintenance Superintendent gave a brief description of the vacancy.

Alderman Thiel moved to approve one full-time Recreation Superintendent. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Resolution 187-08 as Recorded in the office of the City Clerk

Epperly Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly. ***This resolution was tabled at the September 2, 2008 City Council meeting to the October 7, 2008 City Council meeting.***

David Jurgens, Water/Wastewater Director gave a brief description of the item. He stated this is now in the attorney's hands. The recommendation is for this to go forward and be approved. We are actually issuing a notice to proceed on this contract next week. However that doesn't mean that the negotiations will stop. We have to get this filed so that we can execute the construction.

Alderman Cook moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 188-08 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. ***This resolution was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.***

Jeremy Pate gave a brief description of the item. He asked the council to amend the resolution to reflect the one that was passed out at Agenda Session and that is also located in the Final Agenda packet. It removes all the references to the culvert and is applicable with the bridge across College Branch Creek. He listed the five conditions of approval.

Alderman Thiel moved to amend the resolution. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel: I am anxious to meet the new Tree Administrator. Everything I have read about him so far it sounds like he is really going to be on the ball about these mitigated trees being required to live and being maintained properly so they will live. He approves of this. What kind of canopy does he feel like is in there?

Jeremy Pate: Actually all along the creek bank there are quite a few invasive species that have arisen in the area. There is also a needed species and that is what he is really hoping to replace. The bridge will actually span the flood plain so there is not going to be any disturbance within that area but because of the width in the footings that will be needed for the bridge there will be some impact to some of the trees there most of which are small. As I mentioned 2,100 square feet and 10 mitigation trees are our calculations for that.

Alderman Thiel: Another concern of the neighbors is, when you go in and move trees, the construction company does a lot of damage.

Jeremy Pate: What we stated is prior to construction they will go out and inspect the tree protection fencing so those areas outside of the area of construction would have fencing installed before the construction began. Greg and our Engineering Division have to sign off on those permits before that can occur.

Mayor Coody: This resolution for mitigated trees will be taking care of the past from 2005. Is that right?

Jeremy Pate: 2005 was the first subdivisions that were able to utilize this option. It's a three year period 2008 is the first year we have began inspecting any of these sights. These are some of the very first sights that have ever been inspected for mitigation plantings. It is something new for Greg but it would have been new for any Urban Forester in this portion of the ordinance.

Mayor Coody: I just want folks to know that we haven't been ignoring this all along this is just the first one to come through the process.

Alderman Ferrell: That is nothing that another Urban Forester would have had the chance to look at either since it is mature now.

Mayor Coody: That is exactly right.

Alderman Gray moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 189-08 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. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.***

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the Planning Commission voted 6-1 to deny this request on July 14, 2008. The commission agreed with staff's findings in the planned zoning district, that the project does not comply with the main goals and policies of the City Plan 2025. One of the primary concerns of this particular project is that it is located within an area that does not contain any type of services. I met with Mr. Sloan who is the developer's representative and there are changes that are being proposed that will help some of the neighbors. If this item is approved it does not need to be approved tonight because the booklets you have in front of you does not reflect what Mr. Sloan is proposing currently. It doesn't change our recommendation from what I have seen but it is certainly something you should consider as this project goes forward. I want to make sure you all are looking at the same plans before you consider approving the development.

Alderman Thiel: How close is this to the Rausch Coleman project? Their density is fairly dense isn't it?

Jeremy Pate: Their density is right around four units per acre but the lot sizes vary. I would say it's actually about two miles south of this project closer to Sixth Street.

Alderman Thiel: I was just trying to find a way to appreciate how this could provide affordable housing. There is no way that we can make them commit to that. Rausch Coleman really made a commitment in their project to do so.

Jeremy Pate: Nothing in the PZD ordinance allows staff to say you have to provide housing at this level. Affordability and attainability have different definitions. The Rausch Coleman project had a specific target in mind and I am sure Mr. Sloan has a specific target in mind. This is a six to ten year project and property values will change over time to reflect the construction market. That is something that would be difficult even if we had it in the books to try to regulate.

Alderman Ferrell: I understand we are trying to add different ways to approach different problems but at the end of the day to have affordable and or attainable houses you are going to have to be able to load the price of the real estate in with the home. You are going to have to have more domiciles on less property to be able to have that. That is the only way that we are going to be able to build this it seems like to me.

Alderman Thiel: How far from the City's core is this?

Jeremy Pate: I don't know the answer off the top of my head. I think we looked at the closest commercial services which would be a grocery store and that is about 3 ½ miles away.

Alderman Lucas: There is a commercial development at Double Springs and Wedington which is trying to develop. There is a shopping area and restaurant.

Alderman Thiel: I would like to get a gage of how far it is because I appreciate the Planning staff's concerns about this kind of density away from the jobs and the core of the City. That goes against our 2025 Plan.

Alderman Lucas: I can also see Stonebridge the farthest development out there and also northwest and northeast are homes without businesses.

Jeremy Pate: I think the challenge with that is that was developed before we had City Plan 2025 in place. The Council adopted a radically different philosophy on development, density, infill, and sprawl when they adopted that. The commitment to that from staff is to make recommendations that may have not been made three years ago when we were under a different land use policy.

Mayor Coody: Back in the Southpass discussion isn't there the map of the radius from the square to different developments around there?

Jeremy Pate: There is actually, there is a pretty good graphic our GIS Department came up with.

Mayor Coody: You might have that in your packet on another item that would fulfill that same request.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading

<u>Public Hearing:</u>

Fayetteville Farmington Land Swap Public Hearing: The Farmington City Council passed Ordinance 2008-15 on September 8, 2008, detaching approximately 8.035 acres from Fayetteville and annexing the property into Farmington.

Karen Minkel, Director of Long Range Planning gave a brief description of the item.

Mayor Coody opened the Public Hearing

There was no public comment.

Mayor Coody closed the Public Hearing

City Attorney Kit Williams: At the next meeting we will introduce the ordinance but we have to wait until that meeting.

New Business:

Fayetteville Municipal Property Owners' Improvement District No. 32 – Park West Commercial Development Infrastructure Project: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 32 – Park West Commercial Development Infrastructure Project.

City Attorney Kit Williams read the ordinance.

Bob Costrell, resident of 3683 W. Howard Nickell Road spoke on past proposals for the project that was made by the Street Committee. He stated it was voted unanimously by the Street Committee to reroute the northwest loop south of Howard Nickell Road and that was the superior route for reasons of safety and other reasons as well.

Ron Petrie, City Engineer: I anticipate the discussion that we had at the Street Committee will be forwarded to the City Council on the first meeting in November. That is probably the one you want to be present for.

Alderman Jordan: We passed that and then it just went off the radar screen and we haven't heard anything about that since then.

Jim McCord, representing the petitioner stated as a matter of explanation this is just an establishment of an improvement district which would only provide a financing alternative for the infrastructure of the project that is finally approved by the Planning Commission and the City Council. This has nothing to do with how the project will be laid out.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: I appreciate you all coming tonight and bringing this before us again because I was at that meeting and I do recall that. That is not part of what is before us tonight but thank you for coming and bringing that to our attention.

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5180 as Recorded in the office of the City Clerk

Illinois River Watershed Partnership: An ordinance waiving the requirements of §34.23, (purchases and contracts not in excess of $20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership (IRWP) in the amount of $10,000.00 for watershed education and planning services.

City Attorney Kit Williams read the ordinance.

Susan Thomas, Public Information and Policy Advisor thanked the Council for their support and stated we hit the media market for both our watersheds so all the citizens get the benefits of the services that we are providing there. She went on to thank them for their leadership on matters of sustainability and placing issues of water and watershed education on the top of their priority list.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5181 as Recorded in the office of the City Clerk

Amend Chapter 71, Traffic Rules: An ordinance to enact Article XI Operation of Vehicles and use of city trails in Chapter 71 Traffic Rules of the Fayetteville City Code.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I have been talking with Matt about this and we are about to open Scull Creek Trail. Matt can tell you about the traffic that we have been getting and we felt that we needed some basic rules for the road and that is why we presented this.

Matt Mihalevich, Trails Coordinator gave a brief description of the ordinance. He stated I looked at other cities and the rules seem to be in line with what they have in other cities. Having this in place before the Grand Opening would be great.

Alderman Lucas: Will these rules be posted on a sign on the trail? Where will the money come from?

Matt Mihalevich: Yes, we would post the rules and kiosk with maps and we are looking at doing that at trail head locations.

Alderman Lucas: Would that come out of Parks Development?

Matt Mihalevich: There is some budgeted toward the kiosk from last year. We have been waiting until we finish Scull Creek. I think it is Parks Development.

Alderman Ferrell: Since I was assured that we would not need any special patrol I can support this.

Alderman Allen: I was wondering how you intend to enforce this.

Matt Mihalevich: We just talked a little to the Police but at least having the rules laid out at the trail head locations. People would know the rules and we are hoping for some self policing. If it gets to be a problem we may have to step up enforcement on it.

Alderman Allen: Can you see some exceptions on times when it might be appropriate to have a scooter?

Matt Mihalevich: None of the other cities allow it. Scooters can be on the roads. He went on to give examples of different cities he had checked into.

City Attorney Kit Williams: Motor scooters are way to fast for the trails. They are licensed and authorized for streets. Various reasons mitigate them not being on the trails.

Alderman Allen: It is just optimism for technology in the future. We can always change it.

Matt Mihalevich: We looked at using some of the electric powered with speeds that are low enough to coexist with people who are running or walking with strollers. It is a speed issue.

Alderman Thiel: I certainly support this and I think if we had more bike lanes in our streets a lot of people who use bikes for transportation would probably prefer that. I like an inaudible warning and there will be a certain amount of policing done by people walking that do not want to be run over.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: I support this but our priorities are to have our police and emergency services on the roads where we have high speed vehicles and not on the trails.

Mayor Coody invited everyone to the Grand Opening.

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

Ordinance 5182 as Recorded in the office of the City Clerk

Amend Chapter 157, ADM 08-3021 (UDC Chapter 157 Notification): An ordinance amending the Unified Development Code by repealing and replacing Chapter 157: Notification, to consolidate and clarify required notification for items being considered at certain public meetings.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He explained the current process that is used for public notification. We hope this will help the development community because it will establish different types of notification depending on what kind of meeting they are going to. The biggest change in this ordinance is that we are recommending that applicants post their own notification signs. We feel placing the responsibility on the applicant will be better because they will know that they will not be able to be heard if their sign is missing. We hope that will save staff time and money. Jeremy explained other changes made in the ordnance. He stated I would like to request an amendment to change all the 14 days to 15 days to be consistent with state law in Exhibit A.

Alderman Allen moved to amend Exhibit A changing 14 days to 15 days to be consistent with state law. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Rhoads: Is that pretty much the basic changes that you have described?

Jeremy Pate: It is. We really didn't change anything other than the time frame. We reorganized the way the ordinance is written. The substantive change was consolidating the different time frames down to just two.

Alderman Rhoads: I just get a little nervous when I think about changing notice. Notice is the lynch pens of American Government. When I talk to people who are disgruntled in the City a lot of times it is because they didn't get notice. I am cautious about what we are doing here. I presume our City Attorney has been involved in this process and gives it his blessing as well.

City Attorney Kit Williams: Yes, this is a consolidation and I looked at it and saw the statute that says 15 days. I think it makes more sense to have two different periods to look at. It has always been the intent of Fayetteville to give more notice than what is required by state law. I agree with the changes that have been recommended by Jeremy.

Aubrey Shepherd, a citizen stated it would be nice if we had a requirement that signs be placed at every construction entrance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5183 as Recorded in the office of the City Clerk

Amend Chapter 158, Bonds and Guarantees: An ordinance amending Chapter 158: Bonds and Guarantees, of the Unified Development Code, to accept a guarantee to satisfy the maintenance requirements for public improvements.

City Attorney Kit Williams read the ordinance.

Ron Petrie: What this amendment will allow is to accept a letter of credit and cash in addition to our maintenance bond for all or our completed improvements.

Alderman Lucas: Ron is this in addition to our maintenance bond or is it instead?

Ron Petrie: It is in addition to so they would have the option of the three.

Alderman Lucas: So they can do any of the three?

Ron Petrie: That is typically what we allow for other guarantees within the City.

Alderman Lucas: We don't always have to have a bond?

Ron Petrie: That is just an option; there are a lot of guarantees up front. Before we sign the building permit they have to give us a guarantee. These same three options are allowed for all those situations but just not for the maintenance side currently.

Alderman Thiel asked for clarification on the three options again.

Ron Petrie: They are all guarantees so we have cash. A letter of credit is an instrument the bank holds. We prefer those two as opposed to a bond.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5184 as Recorded in the office of the City Clerk

Amend Chapter 178, ADM 08-3054 (Sidewalk Café and Vendor Ordinance): An ordinance amending the Unified Development Code by repealing Chapter 178: Sidewalk Cafes and replacing it with Chapter 178: Outdoor Vendors.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated this will keep the sidewalk café portion in tact and add two sections. We were able to establish guidelines and standards that we feel are appropriate and will protect the City and public interest in public right of ways. He went over each section of the chapter. He stated we would establish an application and checklist and as long as they meet the checklist and are in an approved location we would be able to permit them.

Alderman Rhoads: Jeremy did you say they would have a particular location in which they would set up and they could not move around?

Jeremy Pate: That is correct.

Alderman Allen: Did you say there had only been one person who applied at this point?

Jeremy Pate: No one has applied because we have not had an application to be able to permit it. We have had three people within the last year talk to us about the potential. We have a lot of people who get permits on private property, some of which want to locate on the sidewalk, but when we tell them you can't be on public property they find a private property to locate on.

Alderman Ferrell: I consider this an enabling ordinance but I think it helps us create some entrepreneurs.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5185 as Recorded in the office of the City Clerk

Smith Two Way Radio Appeal: An appeal of the conditions of approval for the conditional use for Smith Communications/Township CUP 08-3050.

Jeremy Pate gave a brief description of the appeal. He stated staff and the Planning Commission found in agreement that it is appropriate and needed to construct an additional tower on the property to accommodate T-Mobile and also future carriers. When we discussed the water tank site with our Water/Wastewater Director it was found out that we are actually trying to move away from installing those antennas on the water tank sites because they are actually contributing to degradation of the tanks. The tanks were never designed to carry the weight of these antennas. It has actually been determined that it would be beneficial to remove the two antennas that are on the site. A new tower at this site is certainly needed. The Planning Commission voted in favor of the new tower at the maximum height. The specific conditions the applicant is appealing is the type of tower that would be installed. There are 21 conditions of approval and I don't think the applicant is contesting all of those. They are appealing the decision for that type of tower. They would rather install the more standard monopole with the external antenna.

Alderman Ferrell: Is this an industry wide move or is this something that we are just seeing here?

City Attorney Kit Williams: We still have the policy of having them co-located at the site but not on the water tower itself. The code section that was passed by the City Council is still operable about saying we want them located at the sites but just not on the water towers anymore.

Alderman Ferrell: We are going to need more towers. If they can do with one tower with the external antenna than they can do with one or two more down the road, ultimately that is not a bad deal for us. I would be interested to know what the revenue impact is.

Jeremy Pate: Kit usually negotiates the contracts for the revenue on the side of the lease arrangement that we have with most of the carriers. That is something that Mr. Williams may be able to discuss a little farther. We are trying to find a balance between the availability and usefulness of a cellular telephone and the effect or impact visually that it has on the community. We feel the tower that Verizon recently installed is highly superior in terms of visual impact to any tower we have seen with exception to the ones that don't require a tower.

Alderman Ferrell: I can appreciate everything you said except when I drive over that hill everyday. We tried to co-locate those things in a particular area and personally I would rather see more there than springing up in other places.

Alderman Rhoads: Is it in one of these pictures?

Jeremy Pate: Yes.

Mayor Coody: It's the straight pole with no antenna on the outside.

Jeremy Pate: That is correct, so it is the far pole tower at the V.A. Hospital that actually already has the antenna on it. So instead of adding it to the outside the antenna is mounted to the inside.

Alderman Thiel: The question is would the applicant rather put up the monopole.

Jeremy Pate: That is my understanding of why he asked three Aldermen to appeal.

Dave Reynolds with Smith Communications: I believe we can put up this flagpole the way they want us to but by putting up this flagpole it decreases the amount of equipment that can be housed there per carrier. It's not the equipment that was designed to cover that geographic area that is depicted in the maps and propagation studies. This will reduce the coverage area that is capable from this tower even using the top two sections to 70%. We can do it but at 70% using two levels. If you are not covering the area eventually you will have more towers in the area to cover that space. Do you want fewer towers or more towers around town? We have always been asked to go to City land; we have found a perfect opportunity to use a site that has a water tank, an existing monopole with three carriers on it, then to build another one that will immediately house T-Mobile. In a short period they will want to move the Alltel and Cricket facilities off their water tank because they are damaging them today. That will give them a space to do this at 100% so they don't lose anything by moving from the water tank to here. It makes it better for them and easier to convince them to do it.

He went on to speak on the economic affect this would have. He stated if you want us to build a flagpole that is not a problem but you have a water tank with an existing three carrier monopole and then ours. What visual pollution would the third one cost at that location?

Alderman Cook: I remember an application for a site off of Leverette and the discussion then was we would rather see smaller towers and more of them because it was less visual pollution. I think the flag poles are much less intrusive. I would rather have two of the flag poles rather than one of the loaded up monopoles. I want to hear a little bit more about the water towers.

David Jurgens, Water/Wastewater Director briefly explained the problems that are caused by mounting antennas on water tanks.

Alderman Cook: So from a staff perspective has the policy changed then, you don't want to co-locate on water towers?

David Jurgens: It has always been the utility's perspective that we would rather not have antennas on water towers.

City Attorney Kit Williams: We are not going to allow any more antennas to go on water towers. As the leases run out, if we can't get them off before that, those antennas will come off and we will not renew any new leases.

Alderman Thiel: I would rather see more. I prefer the flag pole tower. I appreciate Dave's concern about less revenue and more cost associated with these but actually in the long run if you build more of them it would be pushed as far as revenue.

Alderman Ferrell: I would rather see two towers at an existing spot. The flag pole is not as noticeable but where you already have the one by the water tanks on Township with the external antennas I would rather see two there than trying to add a third one. I would rather have the revenue for the City.

Alderman Thiel moved to deny the appeal. Alderman Cook seconded the motion. Upon roll call the motion passed 7-1. Alderman Ferrell voting no.

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief history of the project. He stated the Planning Commission approved the PZD and annexation in September of 2008 with a 7-1 vote. He stated I would like for them to present the project to you and you can ask them questions about the master plan itself such as why is the park located where it is, etc. Then the Council can begin to understand the conceptual details of the project.

Rob Robinson with Urban Design Associates gave the background on how this project has evolved over time. He spoke on their methods and gave a presentation on the layout of the new district. He stated at the end of the day it is places we all want to live, work and raise our families that are a part of this sense of urbanism in Fayetteville. He briefly explained a series of pattern books that would be given out and stated that a new chapter would be distributed with each phase. This way when it is built it is what you expected from the master plan and the drawings. Thinking about this as an assembly is important for any neighborhood to get predictable results.

Mayor Coody: One thing I want to make clear to everyone is you see where we have all the playing fields, the City has always considered that the Regional Park. The landfill which is the greenspace area in your publication is also listed as Regional Park but we have never really considered that a real part of the Regional Park. I don't want people to think that landfill area was originally a part of the Regional Park.

Alderman Jordan: Is the landfill higher than the park? Is the park more in the low land?

Rob Robinson explained on the map where the park sits.

Mayor Coody: The answer is yes.

Rob Robinson pointed out that there is a diversity of park space. He continued by giving their ideas for the residential units. He stated they range any where from a 500 square foot unit all the way to a 4,000 square foot unit and they are mixed within neighborhoods. He stated always the best urban neighborhoods have a great mix of housing that can accommodate a broad range of people from empty nesters to young folks who are starting their careers and live in Fayetteville.

Patrice Hanulak, Landscape Architect with LaQuatra Bonci Associates gave a presentation on the layout of the park. She also described the proposed activity areas and explained how the runoff would be managed. Patrice showed the Council several similar projects from other cities. A brief description of the parking areas for the proposed project was discussed.

Rob Robinson: Gave the Council a tour around the different proposed neighborhoods in the proposed project.

Alderman Ferrell: I see some great conceptual images. How close is your expectation of what will actually come about as opposed to what the conceptual images are.

Rob Robinson: About 85% over a 20 year span. We know the frameworks work, the streets, and storm water. What changes over time, and you can not predict this, is the market.

A discussion followed on the parking at the proposed park and how a project can change.

Sharon Davidson, a citizen: Voiced her concerns about building another town so we can get a park. She stated not everyone wants a regional park. She expressed her concern about the cost. She voiced her concern about the previous land site that is on the property and that it is in Greenland's school district. She asked the Council to look at the topography. She stated she is concerned about this annexation and the proposed project.

Marian Kunetka stated the citizens of Fayetteville are going to have to pay for the infrastructure. She voiced her concern about the long term financial obligation the City will have concerning this project. She stated there has not been an adequate detailed economic study of the proposal. She would also like to see a study of the environmental impact of the existing land, streams, and creeks. She stated she did not think the City could afford this project.

John Bernard, Professor of Landscape Architect at the U of A: One way or another this property will be developed over time. At least this development is trying to do it in a no piece mill fashion. The cost of infrastructure will be there if it is well designed or poorly designed. I think this is a step in the right direction to try to coordinate something in a meaningful way. A project like this shows some vision for the future and is trying to deal with the issues of landfill. Projects like this are being done throughout the United States.

Sami Sutton: I don't think we should annex this land. I understand it is going to end up happening and this is a really good design but what if there is another one where we can keep more of the trees. Can the City afford this?

Rob Sharp: I have a commercial relationship with the developers so I will try to talk about the merits of the plan only. I think this plan is fairly consistent with the 2025 Plan. I think this type of development was what we were asking for when we developed the 2025 Plan. This is the type of neighborhood that mixes incomes and difference housing and shopping choices all within a short walk. I think it will make a vibrant and interesting place to live. We are going to have development in the I-540 corridor. I believe if we have piece mill development along this property it is not going to add up to anything we are going to be proud of. If this project is not supported I think we are going to see something that is far worse. I like seeing this project at this level. I do not think the success of this project depends on who builds it or develops it. If we get good bones in place, over time it can become a successful project.

Rick Alexander: This project is and always has been a City project. It was a City project before I became involved in it. The location and size of the project was determined by the City not the developers. Over 50% of this master plan development is a regional park and green space. There has been a concerted effort in developing the master plan to develop this in a benign way with respect to the existing landscape, tree canopy, urban fabric, and park. This is a six year project to this point. It has been the subject of dozens of public meetings. I attended most of them and I heard no significant opposition at any of the. Most of the developed land is in the Fayetteville School District. The less dense parts of this development are in the Greenland School District. That has nothing to do with whether the City annexes the property or not. We tried to design this with the idea that most of the increase in value from the development would go to the Fayetteville School District. We spent significant time, effort and money hiring the best we could find to develop the master plan. It was also developed with the full assistance of the City of Fayetteville. This process has been very expensive and fully funded by the developers up to this point. This is a 25 year plan. It will depend on future City Councils to determine if they want to make the development fit what has been planned. This is not urban sprawl. The project has good connectivity.

Bob Shoulders, Fayetteville Athletic Club: I was a member of the Parks Board when the locations were being considered. The bottom line when we were considering a regional park was listening to the consituients in the City of Fayetteville. We looked at several sites. We tried to determine how a perfect world would look like and how we could develop a community around a park and develop a park that has green space that would provide us with an opportunity for active and passive programming and fit every bill that we have been hearing from the citizens of Fayetteville. We need a community park. We realized that we could not do it without a public private partnership. It immediately became a planning process. We do not need a lot of houses right now but 25 years from now we probably will need more homes in Fayetteville and places to develop. These guys are investing in the community and they have spent a lot of money on Fayetteville. I hope you will annex that property.

Marian Kunetka: My point is that we should look at our priorities. Are we going to be able to give raises to the fire and police or are we going to build streets, etc. in this project development.

Mayor Coody: Any time we mention Fire and Police we need to mention all the non-uniformed personnel as well because they are important to the City as well, not just fire and police.

Aubrey Shepherd: These are lovely plans but we are talking about habitat and farm land. Some of this could be sold off in the future. The hardest thing we have to enforce right now is that the developers that are working on current projects stay within the rules. The plans are to do it right and it has to be enforced. As climate changes a lot of these things get more difficult. We need to save every existing tree, shrub, and prairie flowering plant.

Mark Kinion, citizen: This is a great plan. I am looking at the immediate impact. My concern is the immediate cost and the immediate impact on the economy. The economy we are facing now seems to kind of tough. If this is going to be developed, do we sacrifice the redevelopment and the revitalization of the Walker Park area? I want to be assured in some way that we continue this revitalization and density and infill in the downtown area.

Mayor Coody: Very good point. It will be up to the City Council to stick to the Downtown Master Plan, Walker Park Plan, and Fayette Junction.

Mark Kinion: If we extend infrastructure and our obligation to other parts of town does that encourage people to leave these areas. I am worried about the obligation that comes with the annexation and the economy right now. I just do not know if now is the time to annex.

This ordinance was left on the First Reading

R-PZD 08-2898 Southpass Development: An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

This ordinance was left on the First Reading

ADM 08-3117 (Southpass MSP Amendments): A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps.

Alderman Jordan moved to table the resolution to the October 21, 2008 City Council meeting. Alderman Ferrell seconded the motion.

Southpass Development Infrastructure Cost Share: A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park.

Alderman Jordan moved to table the resolution to the October 21, 2008 City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Fayetteville Government Channel Policy: A resolution adopting the recommendations of the Telecommunications Board and approving changes to the City of Fayetteville Government Channel Policy.

Shelly Bell, Chair of the Telecommunications Board: We have put forth a recommendation on the Fayetteville Government Channel Policy. You each have a copy. The summary of those recommendations are that we reduce the Government Channel produced issue forums to moderated ballot issues. We based this on Mr. Williams recommendations regarding the government becoming another public access television channel based on having someone within the government making subjective decisions about content. We as a board voted to remove that type of authority from the cable administration and limit the issue forums to moderated ballot and candidate forums which are very black and white. The recommendation also includes a committee that is basely an organizational committee to help with the oversight of those moderated ballot forums so it is not entirely on the cable administration to organize those. The last piece of the recommendation is to reinforce that as a telecommunications board we are not recommending or trying to impose restrictions on the way meetings are conducted. The government channel can still show up and tape a meeting that is truly a government meeting.

Shelly gave examples of the recommendation.

City Attorney Kit Williams: I would like to thank Shelly and the Telecom Board for their hard work on this. I did a few typo corrections on what you presented. I wondered if those where satisfactory with you and if that would meet what you are recommending to the City Council.

Shelly Bell: From my perspective, I did not see anything in your recommendations that changed the intent. It has not been reviewed by the Telecom Board as a whole and I am not sure it would need to be.

Alderman Thiel: I think your recommendations are good with the exception of the committee. That kind of concerns me because we do not have candidates or elections but every couple of years.

Shelly Bell: I agree that would be a challenge. I think the committee would need to be separate from the Telecom Board not a subcommittee of an existing board. The idea behind an ongoing committee is that the same people do it over and over and there is an understanding from an organizational standpoint what it is they are to do.

A discussion followed on the formation of a committee to over see forums.

Alderman Ferrell: I know you guys put in a lot of work in this and I really appreciate it. Do you feel like after this is over we are getting closer to having the fire put out?

Shelly Bell: I think we are getting closer. My personal hope is that putting the issue forums to rest will bring us to a place to where we can bring closure to the government channel policy and once that policy is in place the procedures could be updated to reflect the policy. My hope is that we can see closure to this. Part of that is up to the subcommittee.

Alderman Ferrell moved to amend the resolution to the amended version supplied by the City Attorney and adding the language "to be overseen by the Telecom Board or its designees to Section II C 4. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

Alderman Allen asked for a definition of a moderated ballot forum.

Shelly Bell: That would basically be issues that go before the Fayetteville voters.

A discussion followed on how the committee made the final decision regarding the policy.

Shelly Bell: I made a proposal based on information I had received and it was voted on and passed 4-2. Kit Williams made the observation that what we where doing was injecting a government opinion on content and he made the recommendation that we not do that. The problem arouse with the legal opinion that the way we were conducting these with regard to content put us in a position where in a court of law we would be potentially giving up our government channel and having two public access channels instead. There were a lot of issues and questions around issue forums as far as procedure. Given the legal opinion that Kit brought to light I think simplification is a good thing. I do not want to discount the content, I do not want to make it sound like we did it just to get rid of the trouble because that is no the case. The driving factor was the legal opinion. We have spent extensive hours talking about issue forums in general. I think we have a board with experiences that could be very valuable to this Council and we spend 90% of our time squabbling over policy and procedure that is circular and is probably never going to please everybody.

Alderman Allen: The legal advice was paramount in your decision making. I don't think we have a clear definition of what goes on the government channel. What is government?

Shelly Bell: I think this policy as it stands now and that is before you defines that to be government meetings and informational programs about City services.

A discussion followed on programs on the government channel.

Alderman Thiel: I have appreciated listening to you. I think you are very sharp and I am glad you are on the Telecom Board. I am not in favor of just having gavel to gavel meetings on the government channel. I think it is important that we have the informational meetings. This is one of the best educational tools that they have. I think it is really critical that divisions get the opportunity to utilize the government channel regarding educational information.

Shelly Bell: I agree with you regarding informational items.

Adella Gray: I appreciate you bringing some focus to this. I would like to see more gavel to gavel. I appreciate you and what you have done to bring this policy forward. I think if we concentrated more on informational and gavel to gavel and less on the forums we would be better off. I think forums are important but they only happen every couple of years. I am sorry you have had to spend so much time on that particular issue.

Shelly Bell: In the policy there is a priority of the programming.

Alderman Lucas: I appreciate what you all have done. Thank you very much. I see two different channels and I want them kept separate. I want a government channel and a community access channel. I think the people of the City expect to see two different ones.

Alderman Ferrell: There is a perception that there is a bully pulpit advantage. If the Mayor wasn't the Mayor in six months then that next person is going to have the bully pulpit. The bully pulpit is going to be the bully pulpit while that person is there. Thank you for your service.

Mayor Coody: Shelly, thank you very much for your work.

Susan Thomas: If there are programs that people feel fall outside of the policy we have a compliant procedure. There is an avenue for appeal if someone has a significant problem with some of the programs that are being played. We are trying to push for as close to 24/7 programming as we can. There are some practical considerations you have to take into account when you are putting the schedule together. There are some practical sides to this that are as far from political and as far from grandstanding as they possibly could be. It is simply fitting a program into a slot. I give Rick a lot of credit for doing what he has.

Alderman Lucas: Meetings are important.

Susan Thomas: A lot of the meetings are on Granicus, the City's on line meeting service.

Alderman Allen: I believe the forums belong on the government channel. I appreciate your work too Shelly.

Susan Thomas explained the forum process.

Alderman Jordan: I agree with Alderman Allen. I like the forums and the freedom of the forums. I appreciate the work that Shelly has done but I feel the policy is a little too restrictive for my taste so I will not be supporting it.

Alderman Ferrell moved to approve the resolution. Alderman Rhoads seconded the motion. Upon roll call the resolution passed 6-2. Alderman Jordan and Allen voting no.

Resolution 190-08 as Recorded in the office of the City Clerk

<u>**Agenda Additions**</u>:

<u>**Reconsideration of the Appointment of Marvin Hilton to the Telecommunications Board**</u>

Alderman Thiel: I would like to make a motion to reconsider the appointment of Marvin Hilton to the Telecom Board. I have known Marvin for many years. I respect him in many ways and do not dislike him. This was not something that was easy for me to bring forward. I did this at the request of some on my constituents, one of which is chair of the CAT board. Largely this issue involves the public access channel and some the problems they have had with Marvin in his capacity as cable administrator. I think we all had issues the first time Marvin's name came up for this position because he had been terminated from the City. That is kind of a precarious situation to appoint someone very quickly after that time to the Telecom Board.

Colleen Pancake, President of Community Access Television Board of Directors stated I think Marvin Hilton is biased against Community Access Television. Ms. Pancake explained the reason she thought Mr. Hilton is biased. There are people that are afraid of Marvin because he is intimating. She feels threatened by him. She stated our growth depends on where we spend our energy and if we constantly battle someone in a position that is biased against us we are not going to make much growth as an organization. Access television has been in Fayetteville 28 years. It is a good thing, it helps the community.

Mayor Coody: Thanks Colleen. Thanks for your contribution to the CAT channel.

Aubrey Shepherd: Maybe he is the same man that has been described but I have not seen evidence of it. He has worked very hard supporting the Telecom Boards activities since he was let go. I think you should review it at another time and gather more facts.

Alderman Ferrell: You said you had not observed any of the conduct that was alleged earlier. How long have you been acquainted with Mr. Hilton as far as observing him?

Aubrey Shepherd: I can't say how long I have known him. I do not know him as well as folks that worked in the office with him.

Shelly Bell: A lot of these allegation it is the first time I have heard them as well. I have not validated them. I have not observed anything like this in the year that I have worked with him. My interaction has been in meetings with that being said they are deeply concerning allegations. I personally and I am sure most of the people around me prefer to feel at least safe as we volunteer our time. That is not to say that the allegations are true or that he should not be considered but I think at a bear minimum the allegations have to be considered and possibly verified before he is appointed. That is my opinion. I found it confusing that a couple of months after he was removed from the Cable Administration office that he was appointed in an advisory role that directly impacts that very role he played before.

Marvin Hilton stated I am amazed to hear such descriptions as I have heard tonight. He described some of the events that took place during his employment at the City.

Alderman Ferrell: As a member of the Telecom Board how often are you required to be at the Peg Center building.

Marvin Hilton: I think there are a number of Telecom Board members that have never been there or seldom. I guess I am saddened by the question. I have been over there several times since I was dismissed. I have never been accused of being a dangerous person in my life.

Alderman Ferrell: As a Telecom Board member does that necessitate you visiting that building?

Marvin Hilton: I guess I could avoid the building. I question why I would be required to do that.

Alderman Ferrell: My question is being a Telecom Board member does that necessitate you visiting that building?

Marvin Hilton: No. I don't think so.

Alderman Rhoads: With the allegations and some of the bad feelings that appear to be floating around, why do you want to stay on the board?

Marvin Hilton: The main reason is every since I graduated form college I have been a big fan of transparency and authenticity and I have seen some of that disappear. He discussed some of the problems he sees in the Government Channel Policy. He also talked about some programs that have not aired on the Government Channel.

Sky Blalock: A lot of people are saying it does not make sense to put someone you have taken out of a position to put in a position to oversee. I would like for you to look at the past history. There have been a lot of issues with the oversight of the cable administrator and that is why your staff had to step in and ask you to reconsider. We have lost so many members on these boards. I respect Marvin Hilton. His philosophy on access is amazing. Sometimes he goes about it the wrong way and he ends up hurting a lot of people. I think he belongs in the committee process because we have had some really good out come with the democratic process.

Alderman Allen: I have found this item and the one prior to it rather unseemly and haven't liked part of the conversation including my own. Can you tell me why this was not addressed prior to our vote?

Sky Blalock: It happened so quickly. He had already been rejected for the position months ago. It is not about a personality it is about whether people can work, live, and feel safe in this community. I think you need to reconsider your appointment.

Alderman Cook: To say that anyone was blindsided by this is an unfair statement. Mr. Hilton applied and we left that position open. I tell people at these meetings the openings. It is advertised in the newspaper and is a public record. No one applied for that position except for Mr. Hilton. We had a long conversation with Mr. Hilton and felt comfortable putting him on the board. If Mr. Hilton acts up and we feel he needs to be taken off the board we can do that.

Alderman Gray: The meeting was announced and is always public.

Alderman Ferrell: I find it very weird that there is talk of imminent danger and fear of having Mr. Hilton in the building and then to turn around and have the Director of CAT say we will welcome him being any thing put having a leadership position.

Alderman Thiel: I brought this motion to reconsider forward because of calls and letters I received. The allegations Marvin brought up were not an issue to me. The issue to me is that we have difficulty getting Telecom Board members. Marvin takes an enormous amount of time talking about CAT. There are a lot of important issues the Telecom Board could be looking at but they get bogged down with this. It does not matter who is managing CAT, this goes way back. I don't understand Marvin's insistence on making CAT the only thing he focuses on. What concerns me is the amount of time that is going to be spent and the possibility of getting future members. I pled to Marvin that there are a lot of important issues on the Telecom Board and if you stay in this position I hope that you start focusing on other things.

Alderman Rhoads: I am not going to vote to reconsider because I do not think it is the proper way to handle this. To me the proper forum is if we do not like his conduct there is a way to remove someone. I think that is probably what we should do if indeed the situation merits that. I do not know if it merits it or not. I think when you remove someone I think you should probably have an executive session and you don't necessarily say a bunch of things in public. I am not super comfortable about this. I am hopeful that this will not pass. I am also hopeful that Marvin senses that where there is a little smoke there maybe some fire and that he may be rubbing some people wrong. I don't know which side is right or wrong. Hopefully Marvin will spend some time in the next few meetings with his receiver turned way up and his transmitter turned way down. Maybe some of the folks that are on the board and also involved in this will also to try to walk about halfway and think about Marvin's side as well and see if this thing can work out.

Alderman Lucas: It concerned me the first time that Marvin applied. The thing that bothered me is he had just been let go by the City and then we were looking to appoint him to a committee that advised the City. It did not seem right to me. The decision was made by the Nominating Committee. I still don't see why Marvin would want to be on the Telecom Board. I have reservations about the fact that he was let go by the City and now he is on an advisory committee. I think we should go ahead and see how things go. I hope Marvin will know that we are concerned about this. I think he is extremely smart about telecom. The Telecom Board or any board has to have good rapport. They don't have to agree on everything but they have to have good rapport.

Alderman Jordan: I agree with Alderman Cook. We did not appoint Marvin the first time. No one applied to the Nominating Committee and there were no complaints about Marvin so we appointed him. I do not have any reason to believe that he will not do his duty on that board but it goes back to the chair of the committee. The chair of the committee runs that meeting. If Marvin does not work out I will be the first one to vote to take him off that board.

Alderman Thiel moved to reconsider the appointment of Marvin Hilton to the Telecommunications Board. Alderman Rhoads seconded the motion. Upon roll call the motion failed 1-7. Alderman Thiel voting yes.

Susan Thomas: Shelly as chair has done a very good job of trying to steer the committee in a direction that the Telcom Board should be going. I have very high hopes for her serving as chair and getting the board focused off the issues that have occupied thousands of hours and thousands of pages of paper and getting that board focused on the things that I think you as a Council expect from that board. I feel very good about her leadership on that committee.

Reconsideration of the Millage Ordinance

Alderman Cook: I would like to move to reconsider the discussion on the millage. I do not want to make a decision or debate it tonight. I want that as a tool as we move forward in the budget discussions.

Mayor Coody: Doesn't it have to be in by the end of October?

Sondra Smith, City Clerk: It is due by November 1.

A discussion followed regarding the due date of the millage to the County and the motion to reconsider.

Aubrey Shepherd: I agree we should.

Alderman Cook moved to reconsider the Millage ordinance that was passed on September 16, 2008. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-1. Alderman Gray voting no.

Alderman Cook moved to table the resolution to the October 21, 2008 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

Other Business

Alderman Allen: Ms. Romine who has a lawsuit against the City has asked me to ask Mr. Williams whether the City has determined whether or not they will accept her offer.

City Attorney Kit Williams: Attorneys are bound to follow the rules of professional responsibility and there are certain rules that talk about prohibiting statements of facts that might affect a trial that is about to occur. I have to be careful how I answer this. Settlement negotiations are inherently privileged not to be revealed. I am real reluctant to reveal anything except the fact that some demand was made by Ms. Romine's attorneys in an amount several times higher than I felt was reasonable or something that I felt I could recommend to you. Because I felt like this was far greater than you could accept then I could not agree to it and therefore I do not feel it is proper to make it public. There was an offer that was fairly high that was made.

Adjournment: 11:55 PM

Dan Coody

Dan Coody, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer