Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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 21, 2008

A meeting of the Fayetteville City Council was held on October 21, 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, Assistant City Attorney David Whitaker, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Friends Of The Library Week Proclamation: Mayor Coody read the proclamation.

Presentations, Reports and Discussion Items:

Alderman Thiel presented the City Council with a 2009 Pet Calendar from the Humane Society of the Ozarks. The Humane Society of the Ozarks gave the City of Fayetteville $20,000 this year. Those funds came from the proceeds of these calendars. Alderman Thiel thanked the members of the Humane Society of the Ozarks for their help in the community.

Agenda Additions: None

Consent:

Approval of the October 7, 2008 City Council meeting minutes.

Approved

Bid # 08-16 Kinco Constructors, LLC Change Order # 6: A resolution approving Change Order # 6 to the contract with Kinco Constructors, LLC in the amount of $113,970.00 for the installation of the Wilson Park Trail Bridge under Bid # 08-16; and approving a 12% project contingency in the amount of $13,676.40.

Resolution 191-08 as Recorded in the office of the City Clerk

Bid # 08-51, Kinco Constructors: A resolution awarding Bid # 08-51 and approving a contract with Kinco Constructors in the amount of $3,372,500.00 for construction services for the new LEED Court & Prosecuting Attorney's Building; and approving a project contingency in the amount of $300,000.00.

Resolution 192-08 as Recorded in the office of the City Clerk

Enforcement of Underage Drinking Laws Mini-Grant: A resolution accepting and enforcing the Underage Drinking Laws Mini-Grant from the Arkansas Department of Finance & Administration in the amount of $6,350.00; and approving a budget adjustment recognizing the grant revenue.

Resolution 193-08 as Recorded in the office of the City Clerk

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to accept a State and Tribal Assistance Grant (STAG) in the amount of $286,000.00 from the U.S. Environmental Protection Agency for sanitary sewer system improvements; and approving a budget adjustment effective upon receipt of said grant.

Resolution 194-08 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 unanimously.

Alderman Ferrell: What is the estimated date of completion on the new courts building?

Lynn Hyke, Project Manager: We are looking at about a year. We anticipate that it should be done November, 2009.

Alderman Ferrell: How long do you expect on the demolition?

Lynn Hyke: We have to reuse the material so it could be 60 to 90 days.

<u>Unfinished Business:</u>

Hiring Freeze: Hiring Freeze Appeals: **None**

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. ***This ordinance was approved at the September 16, 2008 City Council meeting. A motion was made and passed to reconsider the ordinance at the October 7, 2008 City Council meeting. This ordinance was left on the Third Reading at the October 7, 2008 City Council meeting and tabled to the October 21, 2008 City Council meeting.***

Alderman Cook: I asked to reconsider this. I do not know if I am supportive or not at this point. Since we are going into the budget I thought we should have it on the table as an option. I stated last year that if we were in a bind this year I would be inclined to look at the Millage. I thought last year we cut the budget about as much as we could without reducing services where it would be noticed and laying off people. None of us really want to do that. My intent is to bring this forward as an option. I would like to have a special meeting after agenda session so we can have one budget discussion before we discuss this. I do not have a set amount in mind.

Paul Becker, Finance Director: The General Fund budget is projected to be $35.9 million, based on revenue projections that would leave a short fall of $535,400. Administration's recommendation is to shore that up by the use of reserves. We have to have the Millage to the County by November 1.

Alderman Rhoads: What is the total amount in reserves?

Paul Becker: About $7.9 million. We need $5.5 million by policy.

Alderman Thiel: That does not include the Wilson Springs proceeds.

Paul Becker: It does not.

Alderman Thiel: That is another $1.2 million.

Paul Becker: Between $1 million and $1.2 million.

Alderman Thiel: That does not include the $3 million that is in the equipment emergency fund.

Paul Becker: It does not include the Emergency Disaster and Equipment Fund which is in excess of $3 million.

Alderman Thiel: Those need to be considered.

Mayor Coody: If you add all those together does that mean we are between $12 million and $12.5 million in reserves.

Paul Becker: In that range.

Alderman Rhoads: Two of those reserves are earmarked so I don't want to get a false confidence.

Paul Becker: That's correct.

Alderman Allen: I would be supportive to having this as an option.

Alderman Ferrell: When you talk about earmarks, were they earmarked by the Council?

Paul Becker: Yes.

Alderman Ferrell: Then they can un-earmark them.

Paul Becker: Yes. I believe they could. We would have to research it.

Alderman Thiel: I hope we have discussion tonight instead of waiting until we vote on it. I think it would be a benefit to the public to know what we are looking at rather than wait until the last minute. I think we should wait until we have the budget discussion to vote on this. Right now there is no increase amount.

Paul Becker: If we address the $535,400 that would be half a mill. One mill brings in between $1.1 million and $1.2 million.

Alderman Allen: Would that be about $50 per household?

Paul Becker: It would be less than that, if we consider the average household to be $150,000 house it would be around $20.

Alderman Gray: The $535,400 that we are over does that include any increase in pay or COLA.

Mayor Coody: Most of that are raises.

Mayor Coody and Paul Becker explained what was covered in the $535,400.

Paul Becker: I am sorry on the Millage if the appraised value of the house is $150,000 it would be around $15 for a half mill. I am saying to cover the $535,400 would be about a half a mill.

Alderman Ferrell: If you look at the increases that the residents have in water and sewer and the economy, I think that needs to be factored in when you think about this.

Alderman Gray: I feel like in these economic bad times it is not a good time to think about raising taxes. I will not be supporting it.

Mayor Coody: I could not agree more. When we made a presentation to the Council on this we made it clear that we did not support raising taxes now. A year ago we were talking about nine tenths of a mill and we said if the economy tanked it would not be right to try to raise taxes on folks if the economy went down the tubes. I think going up on taxes now when I don't feel we need to would be an injustice.

Alderman Jordan: I am certainly glad we did not raise those taxes last year.

Alderman Lucas: I am too.

Mayor Coody: If we did we could have avoided all this and had COLAS and done a lot of different things.

Alderman Jordan: I think we can figure out COLAS from a cost savings.

Alderman Allen: The water and sewer increases for the average family next year will amount to how much?

Paul Becker: Are you talking about the impact fee?

Alderman Allen: Yes.

Paul Becker: The impact fee on a single family dwelling would go up $700. That will be coming forward. The Water and Sewer Committee looked at that and that is about one third of what the impact fee study said we could increase. Water and Sewer rates are increasing in January. There will be a 20% increase in the sewer rate and approximately a 6% increase in water rates in January.

Alderman Thiel: How much would a COLA cost based on the last report.

Paul Becker: The company suggested that if we included the COLA that we did not implement last year plus a COLA this year that would be 7.85%. The General Fund alone would have to generate $2.1 million for the COLA. If we want to equate that to Millage that would be roughly 1.8 mills for that alone.

Alderman Thiel: What if we just did this year's COLA?

Paul Becker: I would estimate it to be between 3% and 4%. If it is 4% we would have to generate about $1.1 million, which would be about 1 mill. This is just for the General Fund. The impact on the entire funds at 7.85% would be $3.1 million for everybody. $2.1 million would be for the General Fund and $3.1 million for everyone would be the total cost. The impact would be on all funds not just the General Fund. The General Fund would have to have Millage the other funds we would have to factor it into their budget.

Mayor Coody: If we took the COLA out of the enterprise funds what kind of an impact would that be on those funds? How would that change the work load or the work product?

Paul Becker: We would have to look at the funds and factor $1 million of expenses throughout those funds. That would be an expense that would have to be absorbed by those funds.

Alderman Thiel: A rate increase possibly?

Paul Becker: It would factor into rates at some point in time.

Alderman Gray asked Alderman Jordan to explain his comment that he was glad we did not pass a Millage last year.

Alderman Jordan: Because if they are strapped out now and we had passed that Millage last year they would really be strapped out this year. You have added another mill to them.

Mayor Coody: I disagree with that. I don't think we would have.

Alderman Jordan: Well, that is your opinion.

Mayor Coody: If we had another million coming in right now that would give us a lot of room to work with what we do not have right now. We could make some of these things work without having to add another $1.5 million to it.

Alderman Jordan: It is no different from last year and this year.

Alderman Gray: It seems to me our City employees would have gotten to benefit from that money through this entire year and they haven't.

Alderman Jordan: Well they will get it this year.

Mayor Coody: Are you sure they will? This discussion should have happened five weeks ago. Here we are at the last minute and now we do not know what is on the table. I find this to be very odd. This is not how cities should do their business when it comes to taxing authority, to taxing our citizens, and taking care of our employees. I don't think it should be so erratic and surprising. When it comes to raising taxes this needs to be fully vetted for quite a while.

Alderman Lucas: I couldn't agree with you more. We have not got the budget. Five weeks ago we had no idea what our budget looked like. I am inclined to wait and have our budget meeting. I don't like having it at the last minute like this and I don't like having a special meeting for the Millage. I have a struggle with raising taxes when we have $7.9 million reserves in our shop fund. That is one of those funds that we might look at. When we ask the people for more taxes and we have $7.9 million in a shop fund it doesn't seem right to me.

Paul Becker: Shirley you got that number from me, I would like to correct that number it should have been $5.7 million.

Mayor Coody: When did we hand out the budgets?

Paul Becker: A detail of the General Fund was placed in the boxes last Tuesday.

Mayor Coody: When do we generally do that every year?

Paul Becker: A full budget with all funds and all documents is handed out in November. This is about on time.

Alderman Ferrell: It is a qualified statement to say of that $535,400 the raises for the employees are in there and the bus route. If in fact the employees raises were as important as they are to some people they would have been loaded in before that was added on.

Mayor Coody: Paul, what is the difference between the 2008 budget and the 2009 budget?

Paul Becker: It is about $890,000 larger in expenses. We project revenues to be about $311,000 more. The major items involved in those are salary increases that were given last year, fuel, technology changes, and additional money to Ozark Regional Transit.

Mayor Coody: It is essentially the same budget except for those changes.

Alderman Jordan: Did last year's budget include a cost of living raise?

Paul Becker: No.

Alderman Jordan: If we would have raised the Millage would that have included cost of living raises?

Paul Becker: No.

Mayor Coody: But if we had we would have had $1 million more to work with, we could have made the same cuts that we made this year and had $1 million more to work with where we could have done a COLA without raising any taxes this year.

Paul Becker: Last year we had a shortfall of around $850,000. We made a one time transfer from the capital fund of $311,000 and we made almost $500,000 of cuts. We would not have had additional monies had we not made those cuts and we still would not have the COLA.

Mayor Coody: We could have made those cuts this year.

Paul Becker: I think we would have had the flexibility to make more cuts this year. I think the cuts we made last year has pared down the General Fund operations and I do not see us being able to make a large number of cuts this year. We had to ask for increases this year due to rising costs in many areas. I would not say that we would have one million more to work with.

Steve Frankenberger, a citizen: We were talking about a Millage last spring where we would have had a lot of time to talk about it and the public to make comments. The fact that I am the only one commenting on this is evidence that the people in the City do not know what is coming. I don't think I do either. I think we need to have this stretched out so the public can meet with their Aldermen to talk about this. The economy is not in good shape. There are a whole lot of us that are not going to get COLAS this year or make as much as we did last year. I am for everyone making a good wage and making as much money as we can afford. When times are good we need to take really good care of our people. When times are bad we need to be in the same boat together. I think it is going to be difficult to ask the people in this city to bear more taxes so that some can get a COLA when most of them are not.

Mayor Coody: We can't stretch this out much longer because we have a deadline to get this to the County. November 1 is the deadline to submit our Millage to the County or we lose the Millage we have in place which we can not do.

Steve Frankenberger: You mean if we don't pass a Millage in the next few days we will lose what Millage we have. It will be rescinded?

Mayor Coody: Yes. That is 1.3 mills for operations, 0.4 mill for police pension, 0.4 mill for fire pension, and 1.0 mill for the Library.

Steve Frankenberger: I have to say I am surprised. We are going to have to pass it with essentially no public discussion.

Alderman Cook moved to table the ordinance to a Special City Council meeting on October 28, 2008. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-2. Alderman Gray and Rhoads voting no.

This ordinance was left on the Third Reading and then Tabled to a Special City Council meeting on October 28, 2008.

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. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting.***

Mayor Coody: The petitioners have asked us to table this to December.

Alderman Jordan moved to table the ordinance to the December 2, 2008 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

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

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. ***This ordinance was left on the First Reading at the October 7, 2008 City Council meeting.***

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

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the annexation. He stated the Planning Commission voted 6-0 in favor of the annexation request.

Alderman Thiel: This is a conceptual plan. How closely do they have to adhere to this over the years?

Jeremy Pate: Any PZD establishes the zoning criteria, so they have established six planning areas. In order to construct something they have to follow that exact zoning criteria. This also establishes architectural design standards. All those components that tie into this plan can not be changed unless an amendment to the PZD is brought back before the Council and that is discussed in a public setting. Should this be approved any future development would have to follow the criteria.

Alderman Thiel: When you have phases is there a guarantee that they will not grade the entire project before they start the first phase?

Jeremy Pate: That was discussed at the Planning Commission. Anything on any piece of property will have to be reviewed and approved by the Planning Commission. A massive grading permit can not be issued for the site.

Alderman Thiel: They have to have a grading permit per phase?

Jeremy Pate: Yes and a large scale development approval per phase as well.

Alderman Thiel: Are there enough fields in this project for major tournaments?

Connie Edmonston, Parks and Recreation Director: I think with soccer there will be. For tournaments that we bring in we will have those four fields. We also have other fields within the City which we can also have the tournament at. It depends on how many teams. It is customary that when a city hosts a large tournament that you may play in surrounding cities.

A discussion followed on current property that we lease from the University for playing fields.

Mayor Coody: How long will it take before these will be functional if this passes?

Connie Edmonston: It depends on how fast you go and if you are going to sod them, seed them, or sprig them.

Mayor Coody: Are you talking about one year to build all the fields?

Connie Edmonston: Right now we have the money to build the soccer fields and pretty much the great lawn.

Alderman Thiel: Do you have the money to build the roads, the cost share?

Connie Edmonston: We have $2.8 million and then we will have $1 million from the developers so we will be very close to be able to complete Phase 1.

Alderman Thiel: Can amendments be made to the cost share?

Ron Petrie, City Engineer: Absolutely. We are providing you with our recommendation from our discussion with the developer.

Alderman Ferrell: When we annex property what does that obligate the City to for the newly annexed area.

Jeremy Pate: Typically we have to provide some level of service. I believe most of those levels of service are provided at this point in time except sewer is not to the property.

David Whitaker, Assistant City Attorney: Certain things like Fire and Police would be immediate. There is a reasonable amount of time and effort to begin providing the other services, the new infrastructure. It is my understanding this annexation is only applying to empty land that some day will have people there needing the services.

Alderman Ferrell: On a property annexation the immediate obligations would be what we have adjacent to it like Police and Fire?

David Whitaker: Once the annexation ordinance becomes effective it becomes our jurisdiction for those types of services.

Jeremy Pate: You established an annexation group that for every annexation that comes forward we have Fire, Police, Planning, and Engineering that submit comments. Part of the discussion for this project was the need for additional Fire and Police. Impact fees would pay for much of that expansion of services. However there have been accommodations made and a traffic study included for a fire station on this site as well as a police substation to serve residents of this area.

Jeremy explained where the fire station would be on the property and how much land is included in the park.

Alderman Lucas: Who pays for the widening under I-540?

Jeremy Pate: Right now it is recommended as a portion of the development. The only thing difference from that is what is in your cost share packet.

Alderman Lucas: Most of the single family lots will be provided parking, where will the others park?

Jeremy Pate: Some are more of a courtyard concept and they would park on parallel spaces.

A discussion followed on the clustered lots west of the water tank site and the effect of the project to the neighboring property owners.

A discussion followed on the mitigation of the ground water impact of the proposed park area.

A discussion followed on the post closure trust fund process.

Todd Jacobs, a representative of the project went over different areas of the park and what will be built during each phase. He stated the waterway will be built during the first phase.

A discussion followed on the proposed park building at the project, the location of the proposed dog park, and a proposed police substation on the site.

Barbara Moorman, a resident voiced her concern about the proposed annexation. She stated this is not already urban in character and most of it can not be developed to urban density if you want to be realistic. She voiced her concern with things being changed in the project in the future and about there not being City services and the annexation creating an island. She is also concerned about not being able to protect the environmentally sensitive areas in the project and the landfill that is on the project. She read some facts from the reports on the landfill. She stated DEQ has let this landfill sit for 32 years. All the while DEQ has known it was a hazard and that it was polluting. She said the City does not have an environmental protection staff or department of its own and under the present circumstances there is no responsible City oversight of what is happening or what will happen with the landfill. It is all being left to DEQ. She stated the City should address the landfill question right now and table all the rest unless or until the landfill is cleaned up and there is documentation that it is cleaned and safe for humans and wildlife and not polluting other soil or water.

Mayor Coody: If there is a problem out there then we need to address it. If the City of Fayetteville was the source of the material that went into the landfill, whether we own it or not, ultimately at the end of the day we are liable for it. It's better to plan on remediating any issues. One statement in the executive summary stated the most toxic part of the land out there was around the house that is still out there because of lead paint.

Connie Edmonston: That is what Terracon came up with. We have all known that taking in this landfill is a responsibility, but it is our cities responsibility. One thing Parks is responsible for is being a good environmental steward of our land. That is why we are working with ADEQ and they are coming up with a plan right now.

Alderman Thiel: I don't believe we have the extensive report in our packet. We just have the memorandum from ADEQ. I would like to have the entire report.

Don Conner: Until we have the information about the remediation of the landfill and cost on other city expenditures I think we should hold off until we know what is going on. There is no need on voting on this until you know what it is going to cost us in the future.

Aubrey Shepherd, a citizen expressed his concerns about fires that were taking place on the land. If this were annexed would we then prevent any change on the land? We should not be seeing changes like this to the land yet. How will we protect it if it is brought into the City?

Mayor Coody: I see that the owners are here. Do you all have any information regarding any land clearing going on?

Steve Aust: We have a building permit to renovate the old house. There was an old barn, which was a hazard, so we tore it down and hauled it off to the dump and burned old brush around the site to make it look better. We call in for a burn permit when we do it.

Mayor Coody: That part is within the city?

Steve Aust: Yes and we have been renovating the house.

Mayor Coody: Jeremy, one question that came up was finding excuses for different violations of our policies. Would you please address that please?

Jeremy Pate: If you go through annexation findings you will find what Ms. Moorman referred to, potential annexation areas. As an example #5 is we should annex areas where urban services are already provided and #6 is you should annex areas where urban services are needed. Those are in direct conflict, it is kind of saying we should annex everything because it needs to be provided or it is not there. What was identified in those two findings specifically is that there are certain services that are there that would support annexation of the property. In terms of environmental protection in areas it states "annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas". The challenge with areas outside our corporate city limits is that our rules and regulations do not apply. We feel this would offer those protections if the property is annexed and developed in the future.

Mayor Coody: How much of this property is inside the city right now verses out of the city and in the county?

Jeremy Pate: 855 acres of the 910 are outside the city currently. So 55 acres roughly are already in the city.

Mayor Coody: So 93% is out in the County then with County regulations.

Jeremy Pate: That's correct.

Rick Alexander: We are here because we have a contract with the City of Fayetteville. That contract required us to purchase this property and to hire master planners, and with the assistance of the City and the Parks Division develop a master plan for this community, this site. It also required us to donate 200 acres of land to the City which we are prepared to do. The City was the source of the landfill problem, if there is one, and I don't believe there is one. Hysteria is not a substitute for truth. This has been the subject of many ADEQ studies and many private environmental firm studies none of which where hired or paid for by the developers. If there is a problem with this landfill it belongs to the City. We have funded this project and preformed. It is now up to the City to do its part and to annex and rezone in accordance with the master plan that was developed with the full assistance of the City. This has been a six year process and the City has known about the landfill for the entire time, it knew we were not going to accept responsibility for it, we did not own it, or create it, and we did not want it. The City understood all of that on the front end and determined it was in the cities best interest to get a park for free. The City knew at the time they would be required to pay cost shares and infrastructure development to develop its park, which is part of the contract. So as the City considers this please remember this is and always has been a City project.

Keith Cooper, resident of Ozark Trail: I am not exactly comfortable with the assurances that we have regarding Kessler Mountain. Everything looks good but I am worried about getting it started and not being able to complete it. I am just wondering if this won't end up as apartment houses.

Mayor Coody: You might go by Engineering to discuss your concerns about the runoff and drainage issues and make sure the water is flowing the right way.

Keith Cooper: It's not now but when they start developing it is what I am concerned about.

Mayor Coody: It would be nice to know what the staff thinks.

Alderman Thiel: I think we need to discuss the cost share next time. We have gone over the development.

Mayor Coody: Do you want to leave it on the second reading then?

Alderman Cook: Yes.

This ordinance was left on the Second 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 at the October 7, 2008 City Council meeting.***

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.
Assistant City Attorney David Whitaker read the ordinance.

This ordinance was left on the Second 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. ***This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting.***

Jeremy Pate gave a brief description of the item. I would simply recommend that you table it so it tracks concurrent with all the others.

Alderman Thiel moved to table the resolution to the November 6, 2008 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the November 6, 2008 City Council meeting.

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. ***This resolution was tabled at the October 7, 2008 City Council meeting to the October 21, 2008 City Council meeting.***

Alderman Lucas: Shiloh is going to go through the business section of this development right?

Ron Petrie pointed out on the map where Shiloh would connect into the development.

A discussion followed on Shiloh.

Alderman Lucas: If we put it on the west side of the hill without going through the business district is there a cost difference for the city?

Ron Petrie: There is a drawing in your packet that shows the master street plan as proposed. You will see there is a difference in length and there is a larger length involved going through the development.

Alderman Jordan moved to table the resolution to the November 6, 2008 City Council meeting. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Cook was absent during the vote.

This resolution was tabled to the November 6, 2008 City Council meeting.

New Business:

Animal Cruelty Legislation Support: A resolution to express the Fayetteville City Council's support for Senator Sue Madison's proposed animal cruelty legislation.

Alderman Jordan: This is something that I brought forward. This is very important legislation for the State of Arkansas. This is something that needs to be addressed. I want to thank Senator Madison for bringing this forward.

Senator Sue Madison gave a description of animal cruelty legislation. This is preventive legislation and will help us control future violent acts. I want to stress how important it is to address these offenses the first time it happens. She gave examples of animal cruelty acts that she has heard about in the past. I want to express my gratitude to Fayetteville for being a leader in looking at this resolution and hopefully you will set the tone for that session and help us get the ball rolling on this.

Mayor Coody: Thanks for sponsoring this Sue we appreciate it.

Alderman Ferrell: Can you give me an idea of what authorities run into right now regarding horses?

Mayor Coody: Starvation would be one.

Senator Sue Madison: There have been abusive acts toward horses, their throats have been slit and they have been left to die. Locally someone decided to teach their horse a lesson and dragged it behind a truck and was not able to be charged with a felony. The legislation we are working on will make it very clear.

Eva Madison, a representative of the Humane Society of the Ozarks spoke in support of the resolution. She stated we need this law for Arkansas and for Fayetteville. She listed reasons why it's important for the City Council to address.

Alderman Thiel: I also want to commend Sue for her diligence on this. Senator Madison has worked on this several years.

Mayor Coody: A DWI does not rise to a felony level until you reach your fourth offense, which is something else that needs to be addressed. Will you talk to the Legislature about that Sue?

Alderman Jordan moved to approve the resolution. Alderman Allen seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 195-08 as Recorded in the office of the City Clerk

Airport Zoning Map: An ordinance adopting a new airport zoning map as part of Chapter 165: Airport Zoning, of the Unified Development Code, to reflect the results of the recently completed airport obstruction survey.

Assistant City Attorney David Whitaker read the ordinance.

James Nicholson, Financial Coordinator-Airport: The Airport Director requested that the Council proceed with the three readings and approve the ordinance.

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

Assistant City Attorney David Whitaker 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.

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5186 as Recorded in the office of the City Clerk

RZN 08-3084 (Candlelight Place): An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre.

Mayor Coody: The petitioner's would like us to table this until the next meeting.

Alderman Jordan moved to Table the ordinance to the November 6, 2008 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the First Reading and Tabled to the November 6, 2008 City Council meeting.

RZN 08-3085 (Washington County Farm Bureau): An ordinance rezoning that property described in rezoning petition RZN 08-3085, for approximately 1.55 acres, located at 1165 North Meadowlands Drive from R-O, Residential Office, to C-1, Neighborhood Commercial.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated Planning Commission voted 7-0 in favor of this proposal and staff is recommending approval as well.

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.

Assistant City Attorney David Whitaker 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.

Assistant City Attorney David Whitaker read the ordinance.

Alderman Thiel asked staff to clarify to the public why we are considering this.

Jeremy Pate: Ultimately the reason is the applicant would like to install a 75 square foot sign larger than what R-O allows.

Alderman Cook: I hope you come up with something different because if you rezone it C-1 it sets a precedent. I hate doing a rezoning just for the sign that is frustrating.

Jeremy Pate: I mentioned at Agenda Session that we would like to look at it and see if there is a possibility of changing or revisiting the sign ordinance in that regard. This is the second similar request that we have seen a rezoning change due to a sign issue both of which the Council seemed to be supportive of. In that regard we will try to follow the Council's lead and look at other changes so we don't have to bring the applicant through the entire rezoning process and a land use change just for something relatively minor.

Mayor Coody: How long will it be before that might come forward?

Jeremy Pate: I don't know. We have a few other things we are working on right now but it will be in the future.

Alderman Lucas: I like the monument sign better than the pole sign.

Jeremy Pate: That is probably the preferred route for most persons and new businesses.

Alderman Cook: Would that be a staff recommendation to have a C-1 zoning at this intersection? I know that is where we try to cluster it.

Jeremy Pate: It is. If there were no sign issue that is something we would look at specifically. That is an intersection that likely will be signalized at some point in the future. It is becoming quite a major intersection at this point in time.

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

Ordinance 5187 as Recorded in the office of the City Clerk

R-PZD 08-3071 (Bridgedale Plaza): An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3071 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He pointed out the four planning areas. Staff recommends in favor of this as did the Planning Commission with a vote of 5-2.

Alderman Thiel: I have not received any calls from the neighborhood. Have there been any calls to the staff?

Jeremy Pate: We had a few calls confirming that it was not the same project being resubmitted and we assured them that it was not. We had a few people come in and look at the plans. Three or four people spoke at the Planning Commission meeting, some of which were concerned about the traffic, density, and non single family uses. The outpouring of public opposition has not been there for this proposal like it was the last time. Hopefully this has been a lot better of a proposal.

Alderman Thiel: They are going to do the drainage remediation that they were going to do before?

Jeremy Pate: We inserted that with the Planning Commission's permission when we recommend it to you. It is now the last condition of approval.

Alderman Thiel: That should make a majority of the people out there happy. Most of the objection on the west side of the project was the storage units. We had a lot of support on the east side of project.

Alderman Allen: What were the objections of the two Planning Commissioner's that voted against the project?

Jeremy Pate: I don't remember that they offered any objections when they voted. It was Commissioners Anthes and Bryant that voted no. I don't recall that they even said anything about their objections. Commissioner Anthes asked some questions about the low impact development techniques and the drainage. We made sure we included that drainage condition in there when we made this recommendation to you.

Anthony Sumlin a resident of 3851 Riverbluff Cove: I agree with the 2025 Plan and I think a lot of the elements of this proposal meet that as far as mixed use. Is there is going to be anything in the development to shield the elevation of the apartments from the site from the surrounding neighborhood? I also would ask that if you decide to move forward with this project that there would be some conditions around current construction, around the single family as well as the apartment complexes. I am opposed to the apartment phase of the development. That could lead to increased traffic and it's not consistent with the surrounding neighborhood in that area.

Jeremy Pate: With regard to the building height we required, as a condition of part of the zoning, that the building height for multi family is no higher than what RSF-4 allows for single families so that is capped at 45 feet maximum. The conceptual drawings are in your packet and they show two or three story buildings for the multi-family. As far as buffers it is not the developer's intent to touch that tree line so that would remain as a buffer along that west property line.

Linda Patterson, a resident of 1106 St. Andrews Circle: I was opposed to the initial project and I remain opposed to this one as well. I am concerned about the density of the project and the increased traffic it will cause. There is strong opposition to having the density of this project in the area. Why does there have to be a commercial aspect to it when there are services within a mile to a three mile radius of this development.

Dave Jorgensen, representing the owner: These are two stories not three. Even though we don't have fencing that is going to go up to shield the multi-family portion from the rest of the property to the west and to the south, we are going to have a tree line around this to help provide a buffer for isolating single family from the multi-family. We have incorporated a park in the center portion of this project to help connect the neighborhoods together. Mr. Jorgensen described their plans for the project and addressed Alderman's Thiel's concerns about the drainage by directing her to various pages in the agenda packet.

Alderman Thiel: Probably the next time we review this it might be good if we had something enlarged that everyone can see. The multi-family is buried behind the single family.

Dave Jorgensen: It is.

Alderman Thiel: I don't want this to go through tonight. I want to make sure that people out there do know about it and can make their comments known.

Dave Jorgensen: On page 4 of the booklet it talks about the time frame for construction of the various components. Each planning area has to be brought before the City in the form of a preliminary plat or a large scale development. There will be plenty of chances for the Planning Commission and the City to do a total review of this.

Alderman Thiel: Another thing we discussed was that it was important that the residential be done first.

Michelle Bailey, a resident of 1274 St. Andrews Circle: Are there going to be certain phases that will be built out before the others. Our concern is that the apartments are going to be built and then the rest will be sitting there with no houses or commercial completed. What phase is what? I am more opposed to the density for that small of an area. I am more opposed to the apartment part than I am the housing and the commercial at the front.

Dave Jorgensen: We were planning on putting in the houses. I think that is still the plan but I can confirm that at the next meeting.

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

Assistant City Attorney David Whitaker read the ordinance.

This ordinance was left on the Second Reading

ANX 08-3036 Fayetteville Farmington Land Swap: An ordinance concurring with Farmington Ordinance No. 2008-15, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated this is the final step in this application process for the City of Fayetteville to annex a portion of what is now Farmington and for Farmington to annex a portion of what is now Fayetteville. We are recommending approval. **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.**

Assistant City Attorney David Whitaker 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.

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5188 as Recorded in the office of the City Clerk

Victory Commons Phase I Appeal: An appeal of certain conditions of approval of the Planning Commissions decision regarding Victory Commons Phase I.

Jeremy Pate gave a brief description of the appeal. He explained the discussion from the Planning Commission and also went over conditions of approval numbers 1, 4, 12, 13, 16, 18 and 22 which were the conditions the applicant was appealing. The listed conditions were concerning the 15 foot green space variance request, curb cut location, tree preservation and wetland determination.

Alderman Lucas: Clarify what the applicant wants. You have given two recommendations but what does the applicant want?

Jeremy Pate: Mr. Hoskins will speak to that particular issue. He wants the full access without removing the curb cut. I will let him speak and clarify that. We would recommend that Conditions of Approval # 12 and # 13 be substituted for those four conditions of approval. I think the wet land determination issue has been worked out. The Planning Commission voted 6-0 to approve the large scale development and found in favor of all of the staff's recommendations for these conditions of approval.

Tracy Hoskins, Paradigm Development: I think we have the tree issues worked out. For commercial properties one of the things that has to exist is convenient access, if not commercial properties do not survive, therefore we have appealed the condition of approval for the median access.

Alderman Thiel: What are you still appealing? It sounds like you have probably worked out the tree issue. You are going to do a wetland delineation or are you appealing that?

Tracy Hoskins: We are not appealing the wetland delineation because we found someone that can get it done for us.

Mr. Hoskins stated they are appealing the condition of approval for the access. He explained why they were appealing this condition of approval. He stated they have redesigned the median cut. The final proposal exceeded the expectations of the University of Arkansas. They have blessed this new design that has been submitted for their approval.
Alderman Lucas: Has the State approved the new design for the median cut?

Tracy Hoskins: It has not been submitted to the State. If the AHTD will bless Engineering's design we are okay with their design.

A discussion followed on the median cut.

Tracy Hoskins: What we are proposing is more in line with the recently passed access management ordinance than what we have here now.

A discussion continued on the median cut.

Alderman Cook moved to Table the appeal to the November 6, 2008 City Council meeting. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.

This appeal was Tabled to the November 6, 2008 City Council meeting.

Amend the Rules of Order and Procedure: A resolution to amend the Rules of Order and Procedure of the Fayetteville City Council concerning meetings that would occur on general election days.

Alderman Thiel: Kit suggested that we make this a continuous thing so that we do not have to address changing the General Elections. By approving this and changing the rules of order we would be changing City Council meetings that fall on a General Election date to the following Thursday. I think it is important that the public has an opportunity to come to the City Council meetings. I think a lot of people will be busy going to watch parties and watching the election on television.

Assistant City Attorney David Whitaker: By following this approach and adopting this as your Rules of Order and Procedure the practical effect is that the City Clerk each year, when she does the entire year's schedule, can just build this in and it will not become a surprise to anyone.

Alderman Allen: What holidays are we including?

Assistant City Attorney David Whitaker: There are going to be very few that would fall on a Tuesday.

Alderman Allen: I am going to do whatever you all want to do on this but when we talked about it before I was inclined to feel that City business proceeds as it is scheduled. How many other things would it impact?

Alderman Thiel: I think the main issue is the same as holidays. I think we try to make our meetings public and invite the public to attend them. Obviously if we hold them on holidays or a General Election night we are not going to have as much participation.

Alderman Lucas: I don't think it would really be a big issue to do it when it arrives. There are so few dates it is nothing to change it when it occurs.

Mayor Coody: Obviously it is. We have been discussing this for three weeks.
Alderman Gray: I agree with our attorney, I think it is better for our clerk to know when she puts out the schedule. We can mark our calendars and we do not have to take care of them one by one.

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

Resolution 196-08 as Recorded in the office of the City Clerk

Adjournment: 9:30 PM

Dan Coody

Dan Coody, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer