

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
December 2, 2008**

A meeting of the Fayetteville City Council was held on December 2, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

PRESENT: Alderman Gray, Thiel, 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:

Mayor Coody welcomed the Spring International students who attended the meeting and asked them to stand and be recognized.

Presentations, Reports and Discussion Items:

Agenda Additions:

Mayor Coody asked what needed to be done for the vacant slots on the NWA Regional Airport Board.

Alderman Cook: Do we need to do that at this meeting?

City Clerk Sondra Smith: You do not have to. That will give the Nominating Committee time to meet but it is the Mayor's responsibility to appoint those two members.

Mayor Coody: Do you want to take that to the Nominating Committee then?

Alderman Cook: Yes.

Consent:

Approval of the November 6, 2008 City Council meeting minutes.

Approved

Bid # 08-67 Roberts-McNutt, Inc: A resolution awarding Bid # 08-67 and approving a contract with Roberts-McNutt, Inc. in the amount of \$38,827.00 to replace the roof of the ICH Building; and approving a project contingency in the amount of \$3,882.00.

Resolution 217-08 as Recorded in the office of the City Clerk

Bid # 08-68 Diamond International: A resolution awarding Bid # 08-68 and approving the purchase of one (1) dump truck from Diamond International in the amount of \$107,147.00 for use by the Transportation Division.

Resolution 218-08 as Recorded in the office of the City Clerk

Bid # 08-69 Stamm Manufacturing: A resolution awarding Bid # 08-69 and approving the purchase of one (1) aerial platform truck from Stamm Manufacturing in the amount of \$97,336.00 for use by the Transportation/Traffic Division.

Resolution 219-08 as Recorded in the office of the City Clerk

Bid # 08-70 Williams Tractor, Inc: A resolution awarding Bid # 08-70 and approving the purchase of one (1) front-load diesel tractor from Williams Tractor, Inc. in the amount of \$68,894.00 for use at the Noland Wastewater Treatment Plant; and approving a budget adjustment in the amount of \$25,426.00.

Resolution 220-08 as Recorded in the office of the City Clerk

AT&T: A resolution approving the purchase of fifty (50) Pinpoint X GPS Integrated modems and antennae from AT&T through the State of Arkansas purchasing contract in the amount of \$50,420.00; and approving a budget adjustment.

Resolution 221-08 as Recorded in the office of the City Clerk

2008 Bulletproof Vest Partnership Grant: A resolution accepting the 2008 Bulletproof Vest Partnership Grant in the amount of \$16,033.56; and approving a budget adjustment recognizing the grant revenue.

Resolution 222-08 as Recorded in the office of the City Clerk

Target Grant: A resolution authorizing the Fayetteville Police Department to accept a grant from Target in the amount of \$250.00 for the purchase of Community Oriented Policing supplies; and approving a budget adjustment to recognize the grant revenue.

Resolution 223-08 as Recorded in the office of the City Clerk

Edward Byrne Memorial Discretionary Grant: A resolution approving a budget adjustment for the Fayetteville Police Department to accept and recognize reimbursement revenues from a portion of the Edward Byrne Memorial Discretionary Grant in the projected amount of \$52,000.00 for the department's participation in the Northwest Arkansas Sex Offender and Violent Crimes Task Force.

Resolution 224-08 as Recorded in the office of the City Clerk

U.S. Department of Justice Community Oriented Policing: A resolution authorizing the Fayetteville Police Department to accept a Technology Program Grant from the U.S. Department of Justice Community Oriented Policing services in the amount of \$444,268.00; and approving a budget adjustment to recognize the grant revenue.

Resolution 225-08 as Recorded in the office of the City Clerk

Act 833 Revenues: A resolution approving a 2008 Budget adjustment for the Fayetteville Fire Department in the amount of \$42,288.00 to recognize Act 833 revenues for the purchase of protective gear.

Resolution 226-08 as Recorded in the office of the City Clerk

McClelland Consulting Engineers, Inc. Task Order # 15: A resolution approving a notice to proceed on 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.

Resolution 227-08 as Recorded in the office of the City Clerk

Old Square, Inc: A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of \$7,800.00 to lease approximately 3,500 square feet for document storage.

Resolution 228-08 as Recorded in the office of the City Clerk

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

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals:

One Building Maintenance Worker II – Building Services – Approved

One Police Officer – Police Department – Approved

Full Time Animal Services Caregivers – Animal Services – Approved

Full Time Animal Services Caregivers – Animal Services – Approved

Financial Analyst – Budget and Research – Approved

Alderman Ferrell asked who the Financial Analyst was.

Paul Becker, Finance Director gave an explanation of the position.

Alderman Gray moved to approve the Hiring Freeze Appeals. **Alderman Thiel** seconded the motion. Upon roll call the motion passed unanimously.

Resolution 229-08 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. *This ordinance failed at the November 6, 2008 City Council meeting. This ordinance was reconsidered at the November 18, 2008 City Council meeting. This ordinance was left on the third reading at the November 18, 2008 City Council meeting and then tabled to the December 2, 2008 City Council meeting.*

Jeremy Pate gave a brief description of the item. He stated the conditions of approval reflect the new proposal without the multi-family.

Alderman Thiel: Are all the drainage improvements that the developer was going to do still in place?

Jeremy Pate: We did add that condition verbatim from the previous time that we reviewed this.

Alderman Thiel: So the only thing that has changed is the area that was the storage units and then was multi-family is now single family which is equal to the single family that is in the rest of the project?

Jeremy Pate: That's correct.

Alderman Thiel: I have tried to make sure that the neighborhood was notified because this was a motion to reconsider. I am waiting to see if someone is here to speak to it.

Alderman Gray: I have had several emails of people supporting this project.

Jay Smith, resident of 1372 St. Andrews Circle spoke against the project. He stated I am opposed to the project based on the commercial aspect of it. He voiced his concerns about the traffic and stated that going to just residential homes does not address what we are doing to that particular area.

Mark Mahaffey, resident of 22 South Stonebridge spoke in favor of the project. He stated they have worked hard to do everything according to the Planning Department and it will be a good asset for the City.

Alderman Thiel: Since I have not heard from the main spokesperson for the neighborhood I am assuming that the project is acceptable now because their concern was the storage units and then the multi family. The majority of people were not opposed to the commercial aspect. There are a lot of traffic problems in that vicinity but I don't think this will add to it as much as the multi family would have. The developer is required to make improvements to Huntsville Road when the State allows those improvements to be made.

Dave Jorgensen, representing the developer stated the developer did pay for an independent traffic study that was made and the conclusion was that although traffic signal warrants are not projected to be met at the intersection of Highway 16 and River Meadows nor at Highway 16 and Roberts Road; traffic operations at these intersections should be monitored to assess if traffic signal controls become warranted in the future. As we progress through this process it may turn out that we can have enough traffic in that area to justify a signal and the developer is willing to help pay for it. In addition we are improving that intersection at River Meadows to have a right and left lane to go on Highway 16. He went on to speak on the current traffic problems.

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

Ordinance 5197 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. This ordinance was left on the Second Reading at the October 7, 2008 City Council meeting. This ordinance was left on the Second Reading and then tabled to the December 2, 2008 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the developer made some minor changes to the plats that would increase the size of the lots to the west and decrease some of the lots in that area and also increasing the number of lots in some of the other planning areas. There are 177 dwelling units being proposed. He stated staff found that this area was not suitable at this time given the density proposed and the surrounding rural environment. One concern is that any project that is solely geared toward attainable housing in one location isolated from other types of housing tends to get a little lost because we are isolating one socioeconomic area and saying this is where attainable housing should be located. Staff and some of the Planning Commissioners noted that concern as well. We had several other traffic and infrastructure concerns within this area. The applicant spoke with the Street Committee about doing a cost share to help improve Dot Tipton Road and many of those conditions are listed in the conditions of approval should the Council approve it. He stated at this time the Council is being asked to make a policy decision on whether this is the development pattern and whether this upzoning in this area is appropriate.

Alderman Thiel: So to make it perfectly clear Planning Staff still does not support this project.

Jeremy Pate: That is correct.

Mark Mahaffey spoke in favor of the project. He stated the economic conditions are what dictates affordable housing and where it is placed. I think we need this and you all should approve it.

Holly Lend, an Executive Broker for a realty company spoke in favor of the project because of the lack of housing we have in this price range. She stated I am in support of the project.

Ted Youmans, a citizen stated his concern was that the houses on the western edge of it were not big enough. They have increased them to 2,000 square feet. I am now satisfied with how they worked with us. I would like to state that my objections to this subdivision are now removed. He also voiced his concerns with the current 2020 Plan.

Dave Jorgensen, the developer stated this is not a mixed use development and it does not have businesses. We believe the infrastructure is in place. He gave details of the current infrastructure. He also expressed his opinions on urban sprawl and does not feel this is urban sprawl. He passed out the 2025 Plan. He pointed out that this development is encircled by residential neighborhoods and we are abiding by the fact that this should be strictly residential. He passed out another drawing and stated look at all the subdivisions just north of this project. At the time we got these subdivisions approved this was not urban sprawl. We feel that this is infill and this is Southwest Fayetteville. He went on to point out the different subdivisions on the drawing along with the school near the area. He continued pointing out various commercial locations near the project. He stated the point is it is not one of the places where you would want

to ride your bike to everything but in our opinion we do not feel like this is urban sprawl. He went on to discuss their plans for the project.

Mayor Coody: A minute ago we were hearing Holly say that these homes were going to be in the \$135,000-\$150,000 range. Was that before the increase in square footage?

Charlie Sloan, the owner of the project stated our goal is to have houses starting at about 950 square feet. We would like to do the first 104 lots not exceeding 1,250 square feet in that area then make the transition from a 1,300 to a 1,500 in the second phase. Then in the third phase have some 1,700 square feet and then to the 2,000 square feet minimum. He went on to give the history of the project. He also spoke on the drainage issues and stated we will take care of those problems. He gave the distance figures to various locations from the project. He passed out a map that shows the subdivisions around the project and the drainage problems in that area. He also explained the research that has been conducted by them on building smaller homes.

Sherry Shearles with Wells Fargo stated I have been working with Charlie to bring affordable/attainable housing to the Fayetteville area. We have a need and demand for that price point. A lot of them are first time home buyers. She spoke on the incentives for first time home buyers. There is still good financing available for them with low interest rates so again I just support those efforts.

Ted Youmans: They have done a wonderful job with phasing, the pricing, and sizing of the house as they move to the east.

Alderman Thiel: Jeremy, this is a conceptual plan right?

Jeremy Pate: That is correct.

Alderman Thiel: So do we have in writing that there will be certain sizes of houses?

Jeremy Pate: In your PZD booklets that is not something that we require. They have indicated in general what sizes those houses would be.

Alderman Thiel: Is this a guarantee of sorts though in a conceptual PZD?

Jeremy Pate: Not necessarily because it is not something that our zoning regulations control. It is not in our conditions of approval or anything of that nature.

Alderman Thiel: In reference to the 2025 Plan that shows that as residential neighborhood, how does the density in this project compare? Is it within the residential neighborhood area recommendations and also how does this compare with the adjacent subdivisions that we have approved out there?

Jeremy Pate: We don't recommend any certain densities in our City Plan 2025. Most of the Silverthorne and Legacy Point subdivisions are zoned RSF-4 but are more developed out to 2-3 units per acre. Planning Commission asked the same question and at least 6 commissioners

agreed with me when they voted in the fact that a lot of the subdivisions that we see that are developed now may not have been recommended or approved if we were under the City 2025 Plan that we see today. The challenge is you are comparing to something that may not have been approved under today's regulations.

Alderman Jordan: How far is Legacy Point from Amberwood?

Jeremy Pate: About 150 Feet.

Alderman Jordan: I saw that the Police was in opposition to this. Is there anyone here to respond to that?

Police Chief Greg Tabor: Our opposition on it was strictly the portion south of Highway 16. Now that Highway 16 is five lanes we would have less concern with that. It was mainly the unpaved portion of Dot Tipton Rd. that we had the issue with.

Alderman Jordan read the memo that was sent from the Police Department.

Police Chief Greg Tabor: How many houses would increase our load, there is definitely that line somewhere. We felt like for numerous reasons that it would or could at build out.

Alderman Jordan: So you feel like it went over the line.

Police Chief Greg Tabor: Absolutely. You have got several new subdivisions in that area and at some point one of those puts you over the line and it will create more of a work load for you.

Alderman Lucas: In a development like Southpass that was not the case. I was wondering the difference there. Do you suppose it is just the road then?

Police Chief Greg Tabor: On Southpass there has been conversation about some type of public safety facility there and obviously it is closer to the center of town and the road is better accessed.

Alderman Lucas: I spoke with one lady and Dot Tipton Road was the one thing that they were concerned about and they are looking forward to it being paved. Would that be done in the first phase?

Charlie Sloan: Yes, we want it paved. The bank said give us the date that you are going to do the work and we will cut the check.

Alderman Lucas: Do we need that in a bill of assurance?

Charlie Sloan: We can give you that in a bill of assurance. We are ready to go to work on it. We just have to be sure that everyone gives up their part to get that little bit of an easement. We are willing to do that immediately.

Alderman Jordan: Charlie can you tell me how far Silverthorne is?

Charlie Sloan: It is probably two blocks up from the corner of our property.

Dave Jorgensen: It borders the south end of the corner.

Charlie Sloan: I'm sorry I am thinking about the entry.

Alderman Jordan: On the attainable housing, what is the price range again?

Charlie Sloan: Somewhere around \$110,000 to \$135,000. We could hit that mark right now because we are selling some houses up north that are a little bit bigger and we are selling them for \$133,000. He went on to speak on attainable housing.

Alderman Jordan: If that road was paved with the cost share would that alleviate your concerns over the accessibility to roadways.

Jeremy Pate: That would help and that is why we made those recommendations keeping in mind that this is fully to the cost of the developer. The Street Committee has brought some recommendations for a cost share.

Alderman Jordan: If that road was built out that would alleviate your concerns?

Jeremy Pate: That would help with the access but I still think the location of it is a concern.

Alderman Ferrell: We have asked for affordable and attainable housing and the developer has tried to modify and come back to us with something that will plug in. With the idea of Dot Tipton Road being paved that certainly ought to help a little bit with some of the concerns that law enforcement had. I will fully support it.

Alderman Lucas: I support this too mainly because of the affordable housing. I really think we need some homes that people can afford. The one thing I liked about this is they are going to have the same things expensive homes have only on a smaller plot of land. They are not going to look that much different. We also have to think about the businesses at Double Springs and Wedington that are trying to develop as a commercial area. They have to have houses around them in order to support them. I have talked to some of the neighbors and the dust on Dot Tipton Road is horrible so this will help in alleviating that. She went on to speak on the school districts in this area. She stated I think this would be good and I will support it.

Alderman Allen: I am certainly an advocate of affordable housing but I have a lot of concerns about it being bunched together. It sounds to me that this is a good idea but their time has not yet come.

Alderman Thiel: At some point we have to look at the 2025 Plan. That and the concerns that the police have regarding accessibility bothers me. She pointed out that the existing subdivisions should create a lot of business for the commercial developments once they are completely built

out. She stated due to the concerns of the Planning Staff and the Police Department I don't think I can support this.

Jeremy Pate: There was some discussion about a bill of assurance. It is probably more appropriate as a condition of approval if you want to add or amend the conditions of approval before you vote on the improvements of Dot Tipton Road being constructed at Phase I.

Alderman Lucas moved to amend the ordinance to add a condition of approval that Dot Tipton Road be constructed in Phase I. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 3-5. Alderman Ferrell, Lucas, and Jordan voting yes. Alderman Cook, Allen, Rhoads, Gray and Thiel voting no.

This Ordinance Failed.

Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl): An ordinance amending the Unified Development Code by repealing and replacing Chapter 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein. *This ordinance was left on the First Reading at the November 18, 2008 City Council meeting.*

Alderman Jordan 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.

Jeremy Pate gave a description of the item and stated there have been three revisions made to the exhibit. He passed out a list of amendments to the Council.

Alderman Thiel: I had Jeremy make these changes based on calls I had from people and their concerns. This is probably the least restrictive but I also think it will make the adjacent home owners accepting of it. There are concerns about the chickens. Jill Hatfield is here and I would like her to speak to that concern about the safety of the chickens. That is addressed in the animal ordinance which already exists.

Jill Hatfield, Animal Services Superintendent: She read section 92.02 from the City Code and stated when we define animal in this chapter it is any living creature domestic or wild. So I think we have our basis covered.

Alderman Thiel: I would like to make these amendments in Exhibit "A".

Alderman Thiel moved to amend Exhibit "A" according to Amendment No. 2 passed out by Jeremy Pate. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Mayor Coody: One question I have is regarding the letter I placed in your boxes from the State asking people to just register if they have hens so if there is an outbreak of bird flu there can be a record.

Alderman Thiel: I have spoken to several people about that and I do not favor adding that. Administrating that would be costly and it would become a permitting process. I don't think we are going to have enough chickens to justify that.

Mayor Coody: Another point might be if somebody wanted to have hens it would be on the honor system and they could just register their hens with the City so that there can be some kind of record and the State can figure out where the birds are quickly. We are not just dealing with animal health but a human health issue as well. If we can have a handle on where the birds are in town it might be helpful in the long run.

Alderman Thiel: I don't know how you can make that voluntary.

Mayor Coody: Someone could get hens without telling anybody, this is just an honor system. Kit, how would you do this?

City Attorney Kit Williams: Unless you have some sort of a permitting process it would certainly be just voluntary and not everyone would come in and report their hens. I don't know how you would do it and make it voluntary.

Mayor Coody: We could require someone to come in and let us know but if they didn't then there is not much we can do about that.

City Attorney Kit Williams: Like many of our ordinances if the hens caused a problem we would hear about it from the neighbors. You could have quiet hens and they could still become sick and we still wouldn't know about them.

Alderman Thiel: I talked to Jill and administrating that is going to be an issue. I didn't want this to create another cost to the City.

Joe Alexander, a citizen referenced section C.8 and D of the proposed ordinance. He stated the zoning regulations now allow Unit 6 Agriculture in I-1 areas and these zoning regulations also allow Unit 6 Agriculture and Unit 7 Animal Husbandry which includes farms with livestock and in I-2 General Industrial Districts. This ordinance as you have written it would prohibit chickens in I-1 and I-2 districts where they are currently allowed. I would ask that you add to Section D of the ordinance I-1 and I-2 so that if you pass the ordinance it will not require anyone to get rid of their chickens.

Jesse Roseban, a citizen read a section of the proposed ordinance and stated I would argue that barnyard animals are currently allowed in residential areas as long as they are not used for commercial purposes. I would like to see that portion removed from the ordinance. Currently I cannot find anything that says I can't have a chicken as long as I am not using it for slaughter or to sell. If I had a pet that would be permissible.

Alderman Thiel: The reason that we are even addressing this issue is because Jeremy has ruled that chickens are not pets.

Jeremy Pate: That is correct. That decision and interpretation of the code was made by the previous Zoning and Development Administrator several times. We have simply been consistent in that interpretation of typical barnyard and agricultural animals. We have issued violation notices for many types of animals and that has never been taken to court and overturned so that is the interpretation that stands currently. That is why we are here is because of that interpretation. I certainly would agree with the I-1 and I-2 zones and Section D could be added neither shall it apply to fowl kept in areas of the city which are zoned R-A Residential Agricultural or other zones where Use Unit 6 Agricultural and Use Unit 7 Animal Husbandry are permitted by right. That would take care of any future zoning districts that we may have that allow that.

Alderman Thiel moved to amend Section "D" of the ordinance to state or other zones where Use Unit 6 and Use Unit 7 are permitted by right. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Rhoads: Is it our understanding that these chickens are to be used if someone wants to have chickens in the yard as pets, also for the eggs and to eat? Is that right?

Alderman Thiel: They just can't slaughter outside.

City Attorney Kit Williams: There are no limitations.

Alderman Rhoads: So how does the ability to slaughter the hen whether it's inside the house or wherever jive with the care of animals that we just heard about?

Jill Hatfield: When we look at this ordinance the hens are really laying hens and that is the purpose of most backyard flocks for the eggs. When we get to the discussion concerning slaughter we really have not addressed it. The concerns that I have heard are they prefer that it is not slaughtered at the residence.

Alderman Thiel: I think there is a difference between humane treatment of an animal. This is an agricultural animal and it has been identified as such. I think the concern from the Humane Society is that the animals are treated humanely and they are not abused and that is addressed in the animal ordinance.

City Attorney Kit Williams: Would you prefer that we have a provision within the animal ordinances that would allow the humane slaughter of barnyard animals?

Alderman Rhoads: I don't advocate either way I just think there are going to be people that are going to want to slaughter their chickens and eat them and other people who think it is the worst thing you can do. This legislation might be confusing. Someone may say you shouldn't let them slaughter their chickens and then others may say here are the minutes of the two City Council meetings when this was discussed and clearly understood by everybody that slaughtering was going to be allowed.

Alderman Thiel: I don't see anything in here that says slaughtering is allowed. It doesn't necessarily recommend it.

Alderman Ferrell: Do you have any ideas Kit for language that would preclude someone from coming and talking about allowing slaughter?

City Attorney Kit Williams: We can do whatever the mood of the City Council is.

Alderman Rhoads: Half of us are saying we never intended slaughter and part of us are talking about allowing people to save some money and grow their own food.

Mayor Coody: We are left with the dilemma of whether or not to codify the slaughter of chickens or not to.

City Attorney Kit Williams: That wouldn't be part of this ordinance. It should be part of the Animal Ordinance in Chapter 92 which right now does prohibit the killing of animals.

Alderman Thiel: It has nothing to do with this ordinance though. The humane treatment of animals is dealt within the animal ordinance and this ordinance clearly states that chickens are an agricultural animal. I don't think we are being contrary. We are saying treat the animals humanely, provide them with water and shelter.

City Attorney Kit Williams: It certainly does not authorize slaughtering now if it was not in the past in residential zones, only in other zones and this is not effective in the other zones.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5198 as Recorded in the office of the City Clerk

Proposed 2009 Annual Budget & Work Program: A resolution adopting the 2009 Annual Budget and Work Program as amended and approved. *This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.*

Paul Becker gave a description of the 2009 budget. The total 2009 Budget is \$119.4 million which represents a 2% increase over last year's budget. I proposed some amendments to the budget before you at last night's budget meeting. One would create a new position for a Recreation Coordinator within the Parks budget. We would reduce one position from the Cable Administration budget which would be an Office Coordinator position and transfer the associated budget. That would be within the General Fund so the General Fund total would stay the same. The other proposed amendment is to eliminate the State bridge cost sharing program from the Sales Tax Capital Fund and transfer that money into the in-house paving program which would keep it at the level comparable to last year at about 11 miles of roads.

Mayor Coody: Nancy thanks for bringing the position at the Yvonne Richardson Center forward. Thanks Ron for discovering, that after the State let us know that we did not need to have the money there, that we could transfer that money back to the road paving program. I think that is very important and it is a good way to get the budget where we want it to be so thanks for that.

Alderman Cook moved to approve the proposed budget amendments proposed by Paul Becker. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Alderman Jordan: Paul you were talking last night about some extra money that may be available when all the expenses come in and revenues come in. When would you know that figure?

Paul Becker: We would know that on the first quarter of next year approximately in April. We would see what the total expenditures were and then finalize the total revenues for the General Fund at that point in time. We need to make all the expenditures and that usually will take us between three and four months after the close of the year before we would make all the budgetary expenditures against the budget.

Alderman Jordan: My question would be if there is extra money left in there depending on how much it is, can we have discussions on cost of living raises for the workers in March and April and make amendments to the budget accordingly?

Paul Becker: We would need the legislative authority from the Council but yes we could come forward and discuss any surplus which may be there and how you would like to dispose of it in form of cost of living or bonus.

Alderman Jordan: Or a stimulus check or whatever we wanted to use it for if the Council intended to do that. We can look at cost of living raises at that point in time.

Paul Becker: Yes sir we would come forward and ask the Council for permission to amend the budget. It can be brought up.

Alderman Ferrell: Paul will the service award be a factor considered if we do consider a COLA in 2009?

Paul Becker: Normally we don't budget that in the budget. We go to the end of the year and see if there are available funds remaining in the salary budgets to do the service awards. That is normally not factored in. We wait until the end of the year and see if there is remaining money sufficient in the salary budget and at that point determine if we make the award.

Alderman Jordan: Would you just give me a ballpark on if you gave a 2% COLA to all the workers what would that cost?

Paul Becker: As far as just the General Fund it is about \$540,000. Throughout the City it would equate to roughly \$800,000 because we would be talking about all the funds.

Alderman Cook: We certainly had some disagreements but I thought this budget session went pretty well. I am certainly ready to pass the budget tonight.

Alderman Allen: I just wanted to say thanks to the Council for the Yvonne Richardson Center employee.

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

Resolution 230-08 as Recorded in the office of the City Clerk

Southpass Development Company, LLC: A resolution to approve approximately \$744,880.00 as a 50/50 cost share with Southpass Development Company, LLC for the sewer installation costs for the Regional Park and Southpass PZD. ***This resolution was tabled at the November 18, 2008 City Council meeting to the December 2, 2008 City Council meeting.***

Ron Petrie gave a brief description of the resolution. He stated we anticipate that we will be paying for this cost share with sewer impact fees and if we have full build out on the Southpass Development we would collect \$1.3 million for the water impact fee and \$2.5 million in the sewer impact fee.

Alderman Cook: Ron that is at the current impact fee rates?

Ron Petrie: Yes.

Alderman Lucas: What is the \$744,000 for? Is that to extend it to the property or is it throughout the entire development?

Ron Petrie: It's to the property. It is not right at the property line because there is a lift station and a low point that is several hundred feet within the property. It just gets it to the property to the existing sewer line. Everyone will still have to run their own sewer lines once we get beyond

the lift station to get to the parking and the development. It was included in the estimates when you got the overall park costs.

Alderman Lucas: This \$744,000 just gets it to the lift station you are talking about.

Ron Petrie: Yes

Alderman Ferrell: The estimates are in 2008 dollars. As everyone knows the amounts can change drastically given a little time. He expressed his concerns with the current economy. He stated right now we are talking about half of \$1.49 million. Is it possible that the amount could change by the time it goes to bid?

Ron Petrie: It will change once we get bids. This is an estimate only.

Alderman Ferrell: Do you think it could significantly change?

Ron Petrie: There is potential. It did on EL-3 but it was for the lower not the higher.

Alderman Ferrell: If it does change and something is passed here tonight would it be one half of whatever that cost is?

Ron Petrie: Yes sir that is what we will bring back to the Council, one half of whatever that bid costs.

Alderman Ferrell: When we get to that cost will that amount of money be put into escrow by the developer to pay for that?

Ron Petrie: It is typically not done that way. It would have to be something that we would add to the cost share.

Mayor Coody: What is the typical way we would do it?

Ron Petrie: Because it is a cost share the work is being done by the developer. We are just paying a portion of it but we pay after the work is done.

Alderman Ferrell: So you just bill by invoice?

Ron Petrie: Yes.

Alderman Jordan: In other words if they don't do their part then we don't pay them anything.

Alderman Cook moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 4-4. Alderman Cook, Rhoads, Gray, and Thiel voting yes. Alderman Allen, Ferrell, Lucas, and Jordan voting no. Mayor Coody voted yes to break the tie.

Resolution 231-08 as Recorded in the office of the City Clerk

New Business:

Park West, LLC Cost Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.

City Attorney Kit Williams read the ordinance.

Ron Petrie gave a brief description of the item. This has been discussed over four different Street Committee meetings during the summer. We evaluated several options on how to pay for this relocation and we have determined there are insufficient funds from both the developer and the City to do the whole route. So if we want to pursue this we are recommending at this point we build half of it and the rest of it will be done at a later stage.

Ron stated the east west road is not a part of this discussion or agreement. That is something that needs to be done as a separate item if we want to revise that Master Street Plan for that particular road.

City Attorney Kit Williams pointed out the changes that were agreed on with Mr. Hoskins for Park West which made the contract stronger. He stated we have a signed contract.

Ron Petrie: I believe Steve Rust has something to add.

Steve Rust, Fayetteville Economic Development Council stated this area has a lot of potential for development. He read a letter from a hotel chain interested in locating near this property. The letter briefly stated historically when this goes into a location such as Park West several other businesses soon locate nearby. He read in the letter about the current road conditions and it stated that until we have assurance that the new highway will be constructed we will not consider this location. He spoke on the revenues that this project would bring in. I offer this for your consideration and I would highly recommend that you favorably consider the proposal that is in front of you tonight.

Alderman Lucas: This hotel that you talk about, do they know the road is not going all the way through?

Steve Rust: They specifically said if it goes up to the civic lawn in the middle that would suffice. They are not worried about traffic from the other direction as long as it came off Van Asche from the Interstate. They are happy with that.

Alderman Lucas: It really couldn't come from Van Asche, they would have to come off of Highway 112 and then go back.

Steve Rust: Yes it would have to do a circular route. All the traffic is going to be coming the other direction anyway and that would give a very direct access. They are comfortable with that.

Alderman Allen: What did you say the date was on the letter?

Steve Rust: September 3rd.

Aubrey Shepherd, a citizen stated if there is a road built across that strip of wetland prairie it should be on stilts. Sure this is a convenient road but there is already a road across there and once you get past there you have to be careful and go slow anyway. I could not recommend any of this and certainly not half way. Those are things to think about that we do not hear in the economic reports.

Susan Slaughter, resident of 3606 Howard Nickell Road stated we are in favor of the relocation of Hwy. 112. We feel like the relocation would help improve the safety in our area. We hope you will support the unanimous decision of the Street Committee and consider that relocation.

Alderman Jordan: Mayor, you might remind everyone that the northwest section of this thing is not part of the discussion tonight and that is probably going to go back to the Street Committee to be looked at.

William Kembro, a property owner on Van Asche stated I was curious as to how the initial cost estimates were prepared and who prepared those cost estimates for the \$4.3 million on what looked like to be one third of the total project to be able to bring Highway 112 across the current proposal. If you extend those costs on out you are looking at a total project cost that exceeds \$12 million. Who is going to pick up the \$8.6 million to extend that road on out as it is presented in the packet. He went on to speak on certain goals the city has set forth and he stated this proposal does not achieve those goals. He continued to express his concerns with the proposal.

Alderman Thiel: I am on the Street Committee but Lioneld could respond as the Chair to some of those questions about where this goes to. We had a lot of discussion on that and how it would better serve the neighborhood that spoke earlier. It does go somewhere eventually. At this point it stops but possibly Lioneld would want to give an overview of the Street Committee's opinion of this project and the reason we recommended the realignment.

Alderman Allen: We have gotten a lot of additional information put before us tonight and I think that maybe this should go back before the Street Committee because we know some stuff now that we did not know then.

Alderman Jordan gave an overview of the previous Street Committee Meeting and asked what happens to Highway 112 running from south to north?

Ron Petrie: That is the plan for now that we will not do any improvements. It would be part of Park West Development's responsibility to leave it as a two way road but put a curb and gutter on their side of the street.

Alderman Jordan: That was originally \$3.8 million?

Ron Petrie: \$3.5 million.

Alderman Jordan: That one running from the south to the north would complete the road correct? And then what we are talking about doing is our part would be \$2.1 million now but we would not complete the entire road running on the diagonal correct?

Ron Petrie: Yes sir.

Alderman Jordan: But for \$3.5 million we could do all of Highway 112 and Garland?

Ron Petrie: It is up to Van Asche and Howard Nickell Road.

Alderman Jordan: That is the question that now we have to look at and I just want to throw that out there. We did ask questions about going through the wetlands and they said it was okay.

Alderman Thiel: I think the project has already been approved as far as him mitigating through the wetlands. It does sound like it needs to go back before the Street Committee.

Alderman Cook: What does this do to our Master Street Plan? This will totally change that from what we currently have. Typically we go through the Master Street Plan changes and then once those are done we move forward to some sort of cost share. At what point does the Master Street Plan discussion come in at?

Ron Petrie: It would be appropriate that they come together. What we have to consider is if it is not built I don't know that you really want to make the changes to the Master Street Plan. If we talk about the road going east and west, that is something that should be discussed as a Master Street Plan specifically and we can do all that together.

Alderman Allen: I would like to move that this be tabled until we have had a chance to take it back to the Street Committee.

Alderman Lucas: You just made the statement that if it is not built. So we are voting on something that may not be built?

Ron Petrie: That is correct; it is a cost share agreement. So if the developer does not move forward with the project we will not pay anything.

Alderman Lucas: So this is for a street for a hotel and we don't know if it is going all the way to Highway 112. It says here if this corridor property is approved for development with this street configuration so it doesn't necessarily mean it will be this street configuration? It might be something else if the developer wants to do that?

Ron Petrie: Why that specific phrase is in there is because we do have approved developments on the property so if we said approved developments it means it would be now. Those approved developments have to be modified with this street configuration.

Alderman Lucas: We don't know if they will come or not and we are putting a lot of money into a piece of a road.

Ron Petrie: That is a good question. The way I see it is we did the same thing when CMN came along and we saw the need to move traffic in there. Whether this development occurs or not we need to move traffic into these areas.

Alderman Lucas: Those streets went from one side to another street, not just out in the middle of a field.

Alderman Ferrell: When you look at staff's recommendations, one of the biggest things they talk about is the elimination of two 90 degree turns and safety is always paramount in consideration of building roads. Part of this also was to avoid that neighborhood so that was a second bonus but if we need to take that back and look at it then we will.

City Attorney Kit Williams: You don't really need to table it you can just leave it on the first reading and send it back to the Street Committee.

Alderman Gray: What is it that we are wanting them to say to us when they come back? What decisions are they going to need to make?

Mayor Coody: I guess take all the new information and come back with a recommendation on the final package.

Alderman Jordan: I think we have to decide whether we want to spend \$2.1 million to take it part of the way or look at the \$3.5 million to take it all the way to Highway 112.

Alderman Gray: Didn't the Street Committee have that information earlier?

Alderman Jordan: We didn't have the final figures.

Mayor Coody: Was the estimate close to the final number?

Alderman Jordan: I was thinking it was \$4.8 million.

Alderman Thiel: It was but then it was to go all the way through.

Alderman Jordan: Now we are just going part of the way through so there is a big difference there.

Alderman Cook: I would request that they look at the Master Street Plan and any amendments.

Alderman Lucas: And the development that has already been approved on this property and how it all fits together.

This ordinance was left on the First Reading

RZN 08-3131 (Nall): An ordinance rezoning that property described in rezoning petition RZN 08-3131, for approximately 0.66 acres, located at 1211 West James Street, southwest of Garland and Mount Comfort from RMF-24, Residential Multi-Family, 24 units per acre, to R-O, Residential Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommended approval and the Planning Commission voted unanimously in support as well.

Alderman Cook: So basically we are just zoning it for what it is being used for anyway?

Jeremy Pate: It has been utilized for commercial office and it would allow for redevelopment or reuse of that property as well. It could be a new development at some point in the future but the intent is to use it like it has always been used.

Alderman Cook: What is allowed by right in R-O?

Jeremy Pate: Use Unit 12 and 25. It also allows for duplexes. Use Units 12 and 25 are studios and offices and it allows for eating establishments by conditional use request and it also allows for Use Unit 15 as a conditional use request. It is primarily suited toward office development and not necessarily retail or commercial development.

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.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5199 as Recorded in the office of the City Clerk

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C-PZD 08-3121 (Core Pet Wellness): An ordinance establishing a Commercial Planned Zoning District Titled C-PZD 08-3121 (Core Pet Wellness) located at 2406 North Old Wire Road, containing approximately 0.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated with conditions of approval and the proposal. The Planning Commission voted 7-0 in favor of this request and staff is also recommending approval.

Alderman Ferrell: I asked Alderman Rhoads and we have not heard a single thing.

Alderman Ferrell 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 Cook: That spot just from traffic flow is a busy intersection. Does it tie into Old Wire?

Jeremy Pate: It does, it is likely that both driveways would have to be improved somewhat. With the initial phase with the house remaining where it is we really don't anticipate any more than an existing single family house would have which is about 10 trips per day. We did recommend that the driveway would be relocated further back from the intersection in the second phase which would allow for that separation to occur. Because they are not building a parking lot for a lot of vehicles there is not going to be a lot of drop off and pick up just based on the size of the structure. We were comfortable with that.

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 5200 as Recorded in the office of the City Clerk

VAC 08-3136 (CMN Business Park II): An ordinance approving VAC 08-3136 submitted by McClelland Consulting Engineers for property located at CMN Business Park II, Lots 8 and 14, northeast corner of Steele Boulevard and Van Asche Drive to vacate a portion of a utility easement, a total of 0.61 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated Planning Commission recommended approval 7-0 and Planning and Engineering Staff also recommend it.

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

City Attorney Kit Williams read the ordinance.

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 5201 as Recorded in the office of the City Clerk

VAC 08-3130 (Sisemore): An ordinance approving VAC 08-3130 submitted by Donna Stewart for property located at 1326 South China Berry Lane to vacate a portion of a utility easement on the subject property, a total of 81.6 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated we send out notification to all utility companies and they have to consent in writing before we bring this to you. Those consents have been submitted and Planning Commission and staff recommended approval of this ordinance.

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 Thiel: I realize this happened back in 2000 and things have changed. I hope that is the case because I don't remember our cut off date but we try to encourage the Building Safety Department to find a way in which these things would not happen because it is unfair to people that do comply with the laws. This is just a fairness issue. At some point we do not want to see this again.

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 5202 as Recorded in the office of the City Clerk

I-PZD 08-3062 (Westside Storage): An ordinance establishing an Industrial Planned Zoning District Titled I-PZD 08-3062 Westside Storage, located at 1192 North Ruppel Road, containing approximately 0.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated Planning Commission voted unanimously in favor of this proposal and staff also recommended it with conditions that are listed in your staff report.

Steve Clark with Clark Consulting representing the owner of the project stated we would request that this be left on the first reading and allow us to go back and work with staff and get some issues resolved.

This ordinance was left on the First Reading.

Villas at Stonebridge Appeal: An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief history of the item. He stated this is an appeal of a decision by the Planning Commission to deny this. The vote was 3-4 and staff recommended denial of the Planned Zoning District request. It is for zoning land use and partial development so that means a portion of this specific site would be approved for development should this PZD be approved. He described the development and listed the reasons why staff did not recommend approval. He stated I included conditions of approval should the Council choose to approve this. He listed some of the conditions of approval. He stated I was asked today and the response time for this site is five minutes for emergency response and there were stated concerns from the Police Department about traffic danger and congestion on Huntsville Road.

Alderman Thiel: If the developers want to make their presentation tonight that is fine but I would like to see all the surrounding properties that have been approved and how much they are built out. I definitely think we should have a site tour.

Mayor Coody: Is that a motion to leave it on the first reading then?

Alderman Thiel: It is but they are here and they have the option of giving their presentation but I think it would be better if they waited.

John Nock, the developer: In light of your suggestion I think that no presentation is required. He gave the vision of the project. I would encourage you to consider this project in its entirety. We want to be a positive impact to the City. He stated I think from a global scale it fits what Fayetteville is after.

Alderman Ferrell: Isn't this a unique idea to offer many walks of life people the ability to locate near a golf course. Jeremy when we talk about that we have to go four miles to the grocery store, do you expect that the more people that locate there, for there to be some commercial? How long do you think it will be before it will come closer?

Jeremy Pate: We had a zoning request over a year ago for a potential Harps at the corner of Stonebridge and Huntsville. There have been two other commercial developments approved so there is certainly interest in providing goods and services to this area. It is not too far in the distant horizon but it would sure help if those things were here now for a project this dense.

Alderman Ferrell: It just seems logical that they will come as this starts populating.

Alderman Allen confirmed the emergency response times that were previously discussed with Jeremy Pate.

Alderman Thiel: I would like to take a site tour and I would hope that you would have that information for us so that whenever we are driving out there we can look at these areas and get an idea of what is being built out and how it looks.

City Attorney Kit Williams: I agree with Jeremy and I think we should remove Condition of Approval # 4. That is not authorized by our ordinances and that should just be removed.

Alderman Thiel moved to remove Condition of Approval # 4. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was left on the First Reading.

Chapter 162 Use Units: An ordinance to amend Chapter 162 Use Units of the Unified Development Code §162.01 (O) *Unit 15 Neighborhood Shopping Goods* by adding Recreational Vehicle Sales.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: Staff is in favor of this. It will allow us to have a business here that might otherwise possibly locate in Bentonville. I think this is a good modification.

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

City Attorney Kit Williams read the ordinance.

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.

Alderman Allen: Could you define the recreational vehicles?

Jeremy Pate: What we have listed is the smaller recreational vehicles, not R.V.'s that you would think of. This is more scooters, motorcycles, personal water craft, neighborhood electric vehicles and things like that.

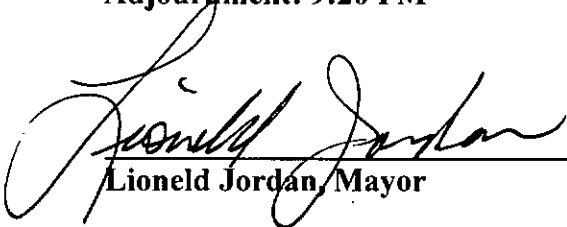
Alderman Allen: I think we need to work on not having cars for sale everywhere along College Avenue.

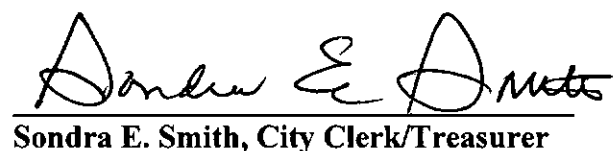
Jeremy Pate: That was the exact concern that we had and so these are all indoors. They can't have any displayed outside.

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

Ordinance 5203 as Recorded in the office of the City Clerk

Adjournment: 9:20 PM



Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer