**Aldermen**

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

# City of Fayetteville Arkansas
# City Council Meeting Minutes
# December 16, 2008

A meeting of the Fayetteville City Council was held on December 16, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Mayor Coody called the meeting to order.**

**PRESENT: Alderman Gray, Thiel, Cook, Allen, 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 presented Alderman Lioneld Jordan and Alderman Nancy Allen with a plaque for their commitment and service to the citizens of the City of Fayetteville.

Alderman Allen thanked the people of Ward 2 for putting their confidence in her and letting her serve her beloved Fayetteville. She also thanked her family and friends.

## Presentations, Reports and Discussion Items:

**Alderman Cook** read the Nominating Committee Report. A copy of the report is attached.

**Alderman Jordan moved to approve the Nominating Committee Report. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

**Consent:**

Approval of the November 18, 2008 City Council meeting minutes.

**Approved**

**Wilson Estes Police Architects:** A resolution approving a change order to the contract with Wilson Estes Police Architects in the amount of $5,200.00 for re-design fees for value engineering changes to the District Court Building.

***Resolution 232-08 as Recorded in the office of the City Clerk.***

**Water and Sewer System Improvements:** A resolution of intent regarding the reimbursement of certain costs and expenses incurred in connection with the acquisition, construction and equipping of improvements to the water & sewer systems of the city.

***Resolution 233-08 as Recorded in the office of the City Clerk.***

**McClelland Consulting Engineers, Inc:** A resolution approving an engineering contract with McClelland Consulting Engineers, Inc. in the amount of $397,621.00 for design services for water and sewer relocations and concurrent construction of a 36" water transmission main associated with the widening of Highway 265 from Mission to Joyce Boulevard; approving a $20,000.00 contingency; and approving a budget adjustment in the amount for $400,000.00.

***Resolution 234-08 as Recorded in the office of the City Clerk.***

**INEOS Bio:** A resolution certifying local government endorsement of INEOS Bio, a division of INEOS USA LLC to participate in the tax back program (The Consolidated Incentive Act of 2003, A.C.A §15-4-2706(D)).

***Resolution 235-08 as Recorded in the office of the City Clerk.***

**Johnson Controls, Inc:** A resolution approving a performance contract with Johnson Controls, Inc. in the amount of $291,366.00 for energy efficiency retrofits and subsequent measurement and verification at various city-owned facilities; and approving a budget adjustment in the amount of $291,366.00.

***Resolution 236-08 as Recorded in the office of the City Clerk.***

**A & P Commission Reimbursement:** A resolution approving a budget adjustment in the amount of $10,397.91 and recognizing like revenue from the Fayetteville Advertising & Promotion Commission for reimbursement of costs associated with the renovations of the Square Gardens planting beds.

***Resolution 237-08 as Recorded in the office of the City Clerk.***

**Copper Creek Neighborhood Donation:** A resolution approving a budget adjustment recognizing $3,300.00 in donations from the Copper Creek Neighborhood for trees to be planted within David Lashley Park.

***Resolution 238-08 as Recorded in the office of the City Clerk.***

**St. Joseph Neighborhood Donation:** A resolution approving a budget adjustment recognizing $450.00 in donations from the St. Joseph Neighborhood for a park bench and other amenities at St. Joseph Park.

***Resolution 239-08 as Recorded in the office of the City Clerk.***

**Motorola, Inc:** A resolution approving renewal of a maintenance contract pursuant to the bid waiver authority granted by Ordinance No. 4300 with Motorola, Inc. in the amount of $137,025.72 for maintenance of the city's Motorola Smartnet II radio system.

***Resolution 240-08 as Recorded in the office of the City Clerk.***

**Cruse Uniforms and Equipment:** A resolution accepting the proposal from Cruse Uniforms and Equipment, Inc. in response to RFP 08-08 and approving a contract to act as the authorized quartermaster for the uniform and equipment needs of the officers of the Fayetteville Police Department.

***Resolution 241-08 as Recorded in the office of the City Clerk.***

**Fayetteville's Heritage:** A resolution to protect and celebrate Fayetteville's Heritage, use historic assets for economic development and community revitalization, and encourage people to experience and appreciate local historic resources through education and heritage tourism programs by seeking designation as a Preserve America Community.

***Resolution 242-08 as Recorded in the office of the City Clerk.***

**Fleet Operations Fuel:** A resolution approving a budget adjustment in the amount of $360,000.00 to the gasoline and diesel expense budgets in Fleet Operations by recognizing revenue from the fuel charges account.

***Resolution 243-08 as Recorded in the office of the City Clerk.***

**Baird, Kurtz & Dobson (BKD), LLP:** A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in the amount of $77,900.00 to conduct the 2008 audit.

***Resolution 244-08 as Recorded in the office of the City Clerk.***

**Hogeye Manufacturing Company, Inc:** A resolution authorizing the Mayor to execute a contract with Hogeye Manufacturing Company, Inc. to haul and dispose of solid waste in the city limits of Fayetteville.

*Resolution 245-08 as Recorded in the office of the City Clerk.*

**Area Agency on Aging:** A resolution approving a lease agreement with the Area Agency on Aging of Northwest Arkansas for the lease of the Walker Park Senior Adult Center located at 945 S. College Avenue.

*Resolution 246-08 as Recorded in the office of the City Clerk.*

**Amend State Legislature A.C.A §24-12-123:** A resolution to request the State Legislature to amend A.C.A §24-12-123 to require approval by the City Council and an authorizing vote of the citizens to allow a mayor to receive a pension.

*Resolution 247-08 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.**

## Agenda Additions:

**Election Budget Adjustment:** A resolution approving a budget adjustment in the amount of $16,206.00 from the Educational Reimbursement Account for a portion of the cost of the 2008 Mayoral Run-off Election.

**Alderman Rhoads moved to add the Election Budget Adjustment to the agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.**

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

*Resolution 248-08 as Recorded in the office of the City Clerk.*

## Unfinished Business:

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

**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. ***This ordinance was left on the First Reading at the December 2, 2008 City Council meeting.***

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Jordan moved to send this ordinance back to the Street Committee. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.**

**Alderman Rhoads:** Will the applicant be unduly prejudiced by that delay?

**Tracy Hoskins:** It is whatever the Council wants to do. It does not matter to us.

**This ordinance was left on the Second Reading.**

**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 Rupple Road, containing approximately 0.77 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 December 2, 2008 City Council meeting.***

**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.*

**Jeremy Pate,** Director of Current Planning gave a brief update of the project. He stated they would like the Council to consider an amendment to one of the conditions of approval.

**Alderman Lucas moved to amend the conditions of approval as recommended by the Planning staff. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.**

**Dennis Caudle,** owner: The widening of Rupple Road is why they are here. This was forced upon me by the widening of the road and the taking of the entire frontage from my side. This left me with practically no frontage at all. The City came out and looked at the effects of the proposal to my business. I have a lot on Wedington that is an alternative. This is a solution that will probably solve the problem. I am trying to continue by business as it has for the past 17 years. You have left me with no parking for my business. Regarding the access you have created a situation that can be dangerous to the public. One of the issues you have had with my business is the need for screening.

**Mayor Coody:** I am sorry we put you in this situation because of the need to widen the road.

**Alderman Ferrell:** The City approached you initially to do this?

**Dennis Caudle:** I received a letter with an offer for my frontage. I called the City and Ron came out and looked at the property. I am the only person on that side of the road that is affected.

**Alderman Ferrell:** When did you find out about the conditions that are intolerable?

**Dennis Caudle:** When Ron came out and stakes were put up showing where it was going to come to. We began looking at solutions. The dollar figure for the easement does not begin to cover what I will spend if I build the building that is being proposed. Potentially if I build this I can generate more revenue to help pay for it. Everyone agreed this was a good option. I am for the PZD. We did a PZD because it was a faster process.

**Mayor Coody:** The PZD is supported by you guys and if the PZD is approved by the City Council we are off to the races.

**Dennis Caudle:** That is correct.

**City Attorney Kit Williams:** I think they have a disagreement with the conditions of approval.

**Steve Clark**, representing the owner: There have been some conditions of approval that we are not comfortable with. We would like to see revisions to the conditions of approval. I believe at the Street Committee waived the Bill of Assurance for access off of Wedington.

**Ron Petrie, City Engineer:** The Street Committee and the City Council approved a settlement on this particular item. This is the last piece of the puzzle, getting the development approved. The development could not move forward because there was some Bill of Assurances that would not allow it. That was done away with and we approved the settlement on the money for the property.

**Steve Clark**: This is so critical because in order for him to build what needs to be built, which is another climate controlled storage, we had to process this through as a PZD because the zoning would not have been approved.

A discussion followed on the project and the conditions of approval.

**City Attorney Kit Williams:** This is kind of an unusual situation for a couple of different reasons. There is a 1990 Bill of Assurance where the owner assured that he would keep sixty percent of the number of trees there. I think he has made that requirement. That was before we had the tree preservation ordinance. Then they were looking at the number of trees rather than the tree canopy. I am a little concerned about that because of the history. It might be that the City Council could come to some other kind of agreement with the applicant about mitigating trees or something like that if these particular trees actually prevented the applicant from developing his property the way he needs it to develop. As was stated before he was not going to be able to build on this land at all primarily because they wanted it as a buffer from Wedington. The building that is being proposed would probably be the best screen and buffer for the mini storage that is behind it. I think it is possible that you could come to some sort of agreement with the applicant in this particular case. On bare land that is a different situation when you do not have these previous agreements between the City and the applicant.

**Jeremy Pate:** This is a unique situation but it still does not relieve the City the responsibility to enforce our tree preservation.

**Alderman Allen:** It seems to me like it should be up to the applicant to figure out the options instead of the Council. Rules are rules so maybe we are not ready to decide this.

**Steve Clark**: Our situation is a little bit unique in that the developer has not requested to come in and do this. The City has taken some right of way off of Rupple Road which is creating a problem with his entrance. We are going to have to move the entrance which requires that he move his office as well as the mangers apartment to that entrance. In order for him to amortize the cost he needs to have a certain square footage of rentable space. We are prepared to mitigate for the trees that will be taken out.

**Alderman Thiel:** What is the situation if we passed this PZD like it is stated with the conditions of approval?

**City Attorney Kit Williams:** It would be up to the applicant to decide what he wanted to do. It is tied to the right of way issues and if the applicant could establish that this would render his development uneconomical then he could at that point not agree to the amount of money that we have offered for the right of way accusation and could say that he has been damaged more than that because his business has been more reputedly harmed. There is some monetary risk for the City if we can not come to a final resolution with the applicant.

**Alderman Thiel:** I don't see why we need to table this because I don't think they are going to come back with a different resolution. This is what they want.

**Jeremy Pate** discussed the trees that would be removed with the applicant's proposal. He said staff would like to talk to the applicant about shifting the building around or reducing the size of the building.

A discussion followed on the building.

**Alderman Allen moved to table the ordinance to the January 6, 2009 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.**

**This ordinance was left on the Second Reading and then tabled to the January 6, 2009 City Council meeting.**

**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. ***This ordinance was left on the First Reading at the December 2, 2008 City Council meeting.***

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

**Alderman Thiel:** I would like to leave this on this reading until we can do a City Council Tour.

*City Attorney Kit Williams read the ordinance.*

**This ordinance was left on the Second Reading.**

## Public Hearing

**Mayor Coody opened the Public Hearing**

**Raze and Removal at 3250 Wyman Road:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Travis Getzendaner located at 3250 E. Wyman Road in the City of Fayetteville, Arkansas; and approving the use of funds from a previous budget adjustment.

**Yolanda Fields, Community Resources Director** gave a description of the raze and removal. She stated the owner has been notified.

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

***Resolution 249-08 as Recorded in the office of the City Clerk.***

**Mayor Coody closed the Public Hearing.**

## New Business:

**Operations Management International Amendment # 16:** A resolution approving Amendment Number 16 to the contract with Operations Management International (OMI) in the amount of $7,762,190.00 for the operation, maintenance and management of Fayetteville Wastewater Treatment facilities for 2009.

**Alderman Cook:** This is the last year of this contract. Next year it will go out for bid. Nothing against OMI, they have done a great job. We have to go out for bid every few years.

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

***Resolution 250-08 as Recorded in the office of the City Clerk.***

**RZN 08-3147 (Naples/Crossover):** An ordinance rezoning that property described in Rezoning Petition RZN 08-3147, for approximately 7.20 acres, located at 4081 and 4084 Crossover Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre and R-O, Residential Office.

***City Attorney Kit Williams read the ordinance.***

**Jeremy Pate:** Staff and Planning Commission have recommended unanimously that this site be rezoned. Jeremy gave a brief description of the rezoning.

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

***City Attorney Kit Williams read the ordinance.***

**Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Rhoads 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 5204 as Recorded in the office of the City Clerk.***

**VAC 08-2982 (Markham Hill Cottage Courts):** An ordinance approving VAC 08-2982 submitted by Northstar Engineering Consultants, Inc. for property located north of Maine Street, between Sang Avenue and Cross Avenue to vacate portions of two alleys, a total of 0.30 acres, in order to develop the Markham Hill Cottage Courts.

***City Attorney Kit Williams read the ordinance.***

**John Miller,** a citizen: I have two lots and a house by this alley. I would like the alley to remain like it is.

**Jeremy Pate:** We would like this to remain on this reading. There may be some alternatives to this vacation request. Any time we receive a formal objection to a vacation request staff typically does not recommend it. That would change our recommendation on this item.

**This ordinance was left on the First Reading.**

**VAC 08-3146 (Maynard/Willoughby):** An ordinance approving VAC 08-3146 submitted by Clay Grote HGM Consultants, Inc. for property located at 557 West Willoughby Road to vacate a portion of a right-of-way on the subject property, a total of 0.072 acres.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief description of the vacation. Planning Commission voted 7-0 in favor and staff is also recommending approval.

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Allen 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 5205 as Recorded in the office of the City Clerk.***

**ADM 08-3159 (CMN Lots 8 & 14 Tree Preservation Variance):** A resolution to grant a variance of Chapter 167 Tree Preservation and Protection, in accordance with §156.03 (C) (5) of the Unified Development Code to allow approval of a tree preservation plan prior to development review.

**Jeremy Pate** gave a brief description of the variance. The Planning Commission voted 7-0 to forward this variance request to the Council recommending approval and staff also agrees.

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

***Resolution 251-08 as Recorded in the office of the City Clerk.***

**Levi Property, LLC Appeal:** An appeal of the Planning Commissions decision for ADM 08-3152 Levi Storage Center.

**Jeremy Pate:** We have a situation where the previous owner of the property obtained a building permit for three new storage buildings on the property. Because of that addition to the development property it would require some landscaping along the street. They constructed the buildings and the property changed ownership. The new property owner was contacted by our Building Safety Division that these buildings did not have a certificate of occupancy. They were able to fix everything but the landscape issue. The applicant is requesting several variances. Staff recommended approval of the variances with conditions of approval.

Jeremy went over the conditions of approval. Staff is recommending approval of this appeal request with the five conditions of approval.

**Alderman Ferrell:** The applicant has agreed to all the conditions of the appeal?

**Jeremy Pate:** I believe that is the case.

A discussion followed on the fence that will be installed.

**Alderman Thiel:** When you look at the hardship this would create and what the owner is willing to do, I would rather see the plantings along Garland Street and in that vacant area. I support this.

**City Attorney Kit Williams:** You are in agreement with the five conditions of approval?

**Applicant:** Yes sir.

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

***Resolution 252-08 as Recorded in the office of the City Clerk.***

**Amend Chapter 159 Water and Wastewater Impact Fees:** An ordinance to amend §151.02 Definitions, §155.06 Appeals from Staff Interpretations, §159.02 Water and Wastewater Impact Fees, §159.03 and §159.04 of the Unified Development Code.

***City Attorney Kit Williams read the ordinance.***

**Ron Petrie** went over the revisions.

**Alderman Thiel:** Was there any consideration by the Water and Sewer Committee to reevaluate the single family and break that down by square footage or the amount of bedrooms?

**Ron Petrie:** We adjusted how we do our rates to take that into account.

**City Attorney Kit Williams:** When we hired the consultants we hired them to do it as single family, multi family, or commercial. Their study did not address different sizes of homes, appliances, or anything like that. We really don't have factual support if we want to try to go back and adjust that rate.

**David Jurgens:** The potential for error is huge. We thought it was incredibly difficult and riffed with error. The dwelling units that use less water have lower cost per month for the usage. We have the conservation water rates where the first 2,000 gallons has a much cheaper rate. That was the mechanism that was decided.

**Alderman Ferrell:** Has the need for infrastructure slowed down any?

**Ron Petrie:** To a small degree it probably has. It would be hard to quantify that.

**Alderman Ferrell:** It was my understanding that some of our large customers that we visited with before hand said that if we raised these rates they would probably invest and technically that would allow them to use less water and release less effluent. Has this happened?

**David Jurgens:** Not significantly. Actually that question pertains entirely to the rates that we passed six or eight months ago. It does not have anything to do with the impact fees.

**Paul Becker:** They were generally in the same range.

**Alderman Cook:** The number we came up with was taking the maximum fee and split it into three installments. In the future we will look at the next installment.

**City Attorney Kit Williams:** We need to add a section five with a date certain of when this will go into effect.

**Ron Petrie:** If you do that I would be clear that the fees would take effect in the future not the ordinance.

**City Attorney Kit Williams:** I don't know if we can do that. I would be hesitant to do that. The last time we did it all in one ordinance. I think we need a little longer than 31 days before this goes into effect.

**Alderman Thiel:** Can we reword this so we can pass part of this immediately?

**City Attorney Kit Williams:** We would have to split it into two ordinances.

A discussion followed on the effective date of the ordinance.

**Alderman Ferrell moved to amend the effective date of the ordinance to March 31, 2009. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.**

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

***City Attorney Kit Williams read the ordinance.***

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

***City Attorney Kit Williams read the ordinance.***

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

*Ordinance 5206 as Recorded in the office of the City Clerk.*

**Regional Urban Stormwater Education Program:** An ordinance waiving the requirements of formal competitive bidding and approving a memorandum of understanding with the MS4 Jurisdictions and the Northwest Arkansas Regional Planning Commission in the amount of $42,272.20 for the Regional Urban Stormwater Education Program to be provided by the University of Arkansas Cooperative Extension service to satisfy portions of the NPDES Phase II Stormwater permit requirements.

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

*Ordinance 5207 as Recorded in the office of the City Clerk.*

**Fayetteville Youth Center Inc:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of $211,750.00 to provide public recreation services for the youth and citizens of Fayetteville for 2009.

*City Attorney Kit Williams read the ordinance.*

**Connie Edmonston, Parks & Recreation Director:** The City has given them financial assistance since 1967. Every year we get together and set standards.

**Alderman Thiel 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 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** asked what advancements have been made in the outreach program during the last year or so.

**Eric Schuldt,** Chief Professional Officer for the Boys and Girls Club: The biggest advancement that we have made is moving our outreach staff off site.

**Alderman Allen:** Do you have plans to continue to enlarge your outreach program?

**Eric Schuldt:** One of the things we would like to do this year is to sit down with Connie and the Yvonne Richardson Center and make sure that we are not duplicating services and make sure we can reach as many kids as possible. We have a scholarship program and it has gone up.

**Alderman Allen:** I think this is a huge need.

**Mayor Coody:** Funding for this has been consistent over time.

**Eric Schuldt:** Last year we reduced our allocation from $250,000 to $211,750. We are seeing a reduction in our fee.

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

***Ordinance 5208 as Recorded in the office of the City Clerk.***

**Northwest Arkansas Economic Development District:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of $55,000.00 to provide public recreation services for the senior citizens of Fayetteville for 2009.

*City Attorney Kit Williams read the ordinance.*

**Connie Edmonston:** This is something we have done since 1972. It is a great relationship and a great partnership. They are at the same level that we had them at last year.

**Mayor Coody**: Thank you for doing such a good job. The use of the facility has skyrocketed.

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

***Ordinance 5209 as Recorded in the office of the City Clerk.***

**Smith Communications, LLC:** A resolution to approve a lease agreement with Smith Communications, LLC for a cell tower at the Township Water Tank Site.

**City Attorney Kit Williams:** I received an email requesting that this be tabled until the first meeting in January.

**Alderman Ferrell moved to table the resolution to the January 6, 2009 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.**

**This resolution was tabled to the January 6, 2009 City Council meeting.**

**Community Access Television, Inc:** A resolution approving a contract in the amount of $93,000.00 with Community Access Television, Inc. to operate the public access television channel throughout 2009.

**Aubrey Shepherd,** a representative of the Telecommunications Board read an email from Richard Drake. In his email he explained the changes to the contract.

**Sky Blalock,** Community Access Television explained their performance measures. She stated there is an annual report if the Council would like to read it.

**Alderman Ferrell:** The changes, the new numbers that you said were goals before for the programs and producers are these objectives in 2009 or are they just guides?

**Sky Blalock:** That is a good question. Since it has been brought to our attention and it is in the contract we are bound by those numbers.

**Alderman Lucas:** How much money did you raise this year?

**Sky Blalock:** We achieved the goal that we had. The goal was $3,000 per fund raiser. We are launching a new website and we have just won a grant that will allow us to web stream.

Sky explained all the ways CAT raises money. She stated about 32% of their budget is raised by CAT.

**Alderman Lucas:** I am in favor of the producers being reduced to 30. I am concerned about reducing the number of new programs. I think you should have something to achieve. It is not challenging.

**Sky Blalock:** There were two years that we did not make that number.

**Alderman Lucas:** You have done real well. That is why I do not see any reason to lower it.

**Alderman Thiel:** I don't think that is lowering their goal. I think their goal is to always do that but that is a requirement of their contract. If they do not fulfill their contract legally that could void their contract. I feel the standards were set fairly high for every year. I support both amendments that the Telecom Board recommended.

**City Attorney Kit Williams:** There are two amendments to the contract. One would be to reduce the number of producers to 30 and promote the use of the public access channel to the extent that 500 new locally produced programs are cable casted each year and the suggested amendment would be to 300.

**Sky Blalock:** There was one other change. In the past our contract said that we had to have 40 hours per week cable cast total which is 2,080 per year. If you look at our stats we are normally more than that. The Telecom Board is recommending 3,000 per year to try to make it more realistic. There are some things we can do to tighten up this contract and make those performance measures more realistic.

A discussion followed on the contract and the proposed amendments to the contract.

**Alderman Allen:** I think we are blessed in this community to have the Telecom Board and CAT. I hope that in years to come people will be taking a look at it and utilizing our freedom of speech possibilities to their best advantage and maybe rethink the round table discussions and all the options that we have.

**Alderman Thiel moved to amend the contract as proposed by the Telecommunications Board. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-1. Alderman Lucas voting no.**

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

***Resolution 253-08 as Recorded in the office of the City Clerk.***

**New Coal-Fired Power Plants:** A resolution against the construction of New Coal-Fired Power Plants.

**Mayor Coody:** Fayetteville has been leading the charge in the sustainability movement for a while and I thought this would be a good way for Fayetteville to make a local stand on one of the number one causes of carbon dioxide atmospheric pollutions that we have.

**Tommy Deweese**, AEP Swepco: Since 1978 the citizens of Fayetteville have received the benefits of a coal powered power plant located in Gentry, Arkansas. Since that time the citizens of Fayetteville have enjoyed electrical rates that are 30% below the national average. We are talking about hundreds of millions of dollars the citizens of Fayetteville have saved by the existence of Flint Creek. There is a lot being said out there in carbon capturing and global warming. The whole coal industry is under a lot of critic and a lot of examination. It is under going a lot of change. Since 1978 the clean coal technology that we have and are planning to implement in Southwest Arkansas is a lot more efficient in the capture of any pollutants that we release into the air. We have made several additions to our infrastructure in Northwest Arkansas. In the last five years we have spent over $93 million just in the construction of new transmission lines to allow the power to get in and out of the area. Since 1978 we have had a large amount of growth in the area. I would like for you to go and visit Flint Creek before you vote on this resolution. It is extremely important that you understand this issue and how we generate our power in this area.

**Mayor Coody:** One thing that I am concerned about is the fact that as we build new coal powered power plants we all recognize the problem we have with Co2 pollution. There is no such thing as clean coal technology. It is a great theory but we need to learn how to sequester Co2 and no one knows how far out the technology is. We are continuing to build new power generating sources without putting much energy or funding in reducing our need for more electricity. If we focused on energy efficiency and reducing waste we would not have to continue to build new plants. I am not saying we need to get away from coal, I am saying that we need to stop any new construction plants.

**Aubrey Shepherd:** The Council is not going to shut down the power plants and you are not going to keep them from building any new ones. It is an important symbolic move for our City to be on record as favoring the reduction of the use of coal and the reliance and development of newer forms of more efficient energy.

**Maggie Bailey:** I urge the City Council to pass a resolution to support placing a moratorium on new coal powered power plants. Coal is bad for our health. They affect our respiratory system. Climate change is also bad for our health. It is undisputed that the heat trapping properties of Co2 and green gases are altering the atmosphere. Most of the Co2 comes from burning fossil fuels. Coal, a fossil, is one of the largest sources of global warming in the US. About half of our electricity comes from burning coal. Arkansas is ready for a positive economic transition which can also lead to a betterment of public health and environment. We want energy efficiency, solar wind, and green jobs to build this infrastructure. We have the natural resources, innovative minds and many alternatives to coal powered power plants here in Arkansas. We ask our City Council and our legislator to be supportive of our actions. We can not afford to wait any longer to cut green house gas emissions. Fayetteville should be a shinning light of green encouragement to the rest of the municipalities in Arkansas, Oklahoma and the region by taking a bold step forward and saying no to new coal.

**Jim Bemis:** Mayor tonight I support you 1,000 percent. They got rid of the plants in Texas and pushed them over here.

**Mayor Coody:** One of the reasons the Mayors in Texas got together and killed some of the coal plants is because it would have pushed so many cities out of attainment for their clean air requirements. If you are out of attainment then economic development basically grinds to a halt. I don't think Fayetteville needs to be in the position of lessening our air quality.

**Joanna Pollock:** I came here because I knew that Fayetteville had the kind of values that I have. I believe in having a sustainable future for many generations to come. I support this resolution. Coal is the single largest source of global warming in the United States. The power plant life span is around 50 years. It does not seem rational to me that we would keep allowing the expansion of these plants. I think it is important that Fayetteville goes down on record as a city that wants to support a sustainable future.

She listed all the problems associated with coal powered plants.

**Matthew Petty:** I have been involved in this issue for more than a year. We do not have to abolish the use of fossil fuels to understand the negative impact they already have on our society. We need to consider the rate payers and protect the rate payers. I appreciate Tommy Deweese's reminder that it is because of coal power that Arkansas has enjoyed some of the cheapest electricity rates in the country. We need to count our blessings for that. We need to remember we are considering new coal plants not existing coal plants. A cap and trade system is imminent and that will put a price on fossil fuels, a tax on fossil fuels. Coal will be the most negatively affected.

We need cheap and reliable electricity. With new coal we can meet those needs with efficiency improvements. Our system wastes so much. The average building could be improved by 40%. This is pretty much a no brainier. The timing is perfect.

**Alderman Ferrell:** I understand that there are people that have a different view point than I do about this. I think ultimately we all want clean energy. I think we need to educate ourselves. I don't think this is the largest problem of our age. I respect the people that feel that way. I think it is a problem and something we need to move forward on. We have to remember that people have got to be able to afford energy during this transition period. I would suggest that we go tour the plant.

A discussion followed on touring the plant.

**Alderman Lucas:** Touring the plant would be fine with me because anything we learn is important. I will support this resolution. I think there is research that needs to be done. We need to let people know that we want clean air and that we want to improve our techniques and ways of doing things. I think it is important to let people know that we want to move in that direction of having clean air.

**Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-1. Alderman Ferrell voting no.**

***Resolution 254-08 as Recorded in the office of the City Clerk.***

**Alderman Allen moved to reconsider Amberwood Place. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.**

**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. This ordinance failed at the December 2, 2008 City Council meeting.***

**Alderman Allen moved to table the ordinance to the February 3, 2009 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

**This ordinance was Tabled to the February 3, 2009 City Council meeting.**

**Alderman Gray:** As you all know this is our Mayor's last night to be with us. He is completing eight years of wonderful work with the City of Fayetteville. I thoroughly appreciate what he has been as a Mayor. He is very forward looking and I think he has put us on the map. I want to say thank you.

**Mayor Coody:** This has been quite a ride and this provided a once in the life time opportunity. It has been an honor to serve the citizens of Fayetteville and I really have enjoyed the staff. This has been quite a learning experience. We have done a lot of good here in town. We could not have done it without the Council's support and the good staff's work.

**Alderman Gray:** Good leadership.

**Alderman Ferrell:** I think you have done some good in this City. I wish you well and I thank you for your service to this City and community.

**Nominating Committee Report**
**Meeting: Monday, December 8, 2008**
**Room 326, City Hall 5:00 p.m.**
**Members Present – Kyle Cook, Adella Gray, and Shirley Lucas**
**Also present – Bobby Ferrell**

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The Committee recommends the following candidates for appointment:

**Airport Board**

- ***David Hollman*** – One pilot term ending 12/31/13
- ***Janice Stanesic*** – One business term ending 12/31/13.

**Audit Committee**

- ***Judy Jacobs*** – One term ending 12/31/11.

**Environmental Concerns Committee**

- ***Amy Lamb*** – One community citizen at large term ending 12/31/11
- ***Cemantha Wolljung*** – One citizen at large term ending 6/30/10.

**Northwest Arkansas Regional Airport Authority**

- ***Mike Johnson*** – One term ending 12/31/14
- ***Tim McCarley*** – One term ending 12/31/14.

**Parks and Recreation Advisory Board**

- ***Valerie Biendara*** – One term ending 12/31/10
- ***Steve Hatfield*** – One term ending 12/31/11
- ***Craig Mauritson*** – One term ending 12/31/10
- ***Steve Meldrum*** – One term ending 12/31/10
- ***Jim Meinecke*** – One term ending 12/31/11.

**Telecommunications Board**

- ***Andrew Mayes*** – One unexpired term ending 6/30/11.

**Tree and Landscape Advisory Committee**

- ***Cynthia Cope*** – One horticulture term ending 12/31/10
- ***Paula Larson*** – One citizen at large term ending 12/31/10.

**City Attorney Kit Williams:** I think you have had many good visions for the City. The square, Dickson Street project, new library, and especially the trial system have been excellent moves. I want to thank you for that and for the opportunity to serve with you. I appreciate your service.

**Alderman Lucas:** Thank you for your service and we wish you the very best.

**Alderman Jordan:** I think you have done a wonderful job.

**Adjournment: 8:45 PM**

Lioneld Jordan

**Lioneld Jordan, Mayor**

Sondra E. Smith

**Sondra E. Smith, City Clerk/Treasurer**