

Aldermen

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



Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

**City of Fayetteville Arkansas
City Council Meeting Minutes
December 4, 2007**

A meeting of the Fayetteville City Council was held on December 4, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody and Alderman Ferrell

Pledge of Allegiance

Vice Mayor Jordan: Mayor Coody is at a sustainability conference in Paris, France and he will be there most of the month. We wish him well. He is taking that message not only through the state but throughout the world and we congratulate him on that and wish him all the best.

Mayor's Announcements, Proclamations and Recognitions:

Fayetteville Bulldog Day Resolution

Alderman Allen: It is with great pleasure and excitement that we do this. We are proud that you went where no other Bulldogs have ever gone and you won the State Championship and you did it in a victory over Springdale Harbor. The Fayetteville City Council congratulates you.

Agenda Additions:

Alderman Cook moved to suspend the rules and add the following resolution to the agenda. Alderman Allen seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Ferrell was absent.

Bulldog Championship Day: A resolution to congratulate the 2007 Fayetteville High School Football Team for their State Championship and to designate Friday, December 7, 2007 in Fayetteville as Bulldog Championship Day.

Vice Mayor Jordan read a statement from Mayor Coody.

Daryl Patton, Fayetteville Head Coach: I would like to thank each Alderman for inviting us to come here today to honor our Football team for the 7A State Championship. We are proud of the things that you all do for the City of Fayetteville and just giving back a State Championship from the football team to Fayetteville is our little gift to you. This is a great compliment to our kids. They never gave up, they fought through the adversity and the bumps in the road and they were able to stick together as a team and bring home that State Championship. Thank you for having us here and for honoring our coaches and players.

Dick Johnson, Fayetteville Athletic Director: I want to thank you for this recognition and I want to thank all these kids that are here because the whole town of Fayetteville was on display in Little Rock the whole weekend. We want to thank you for this recognition because it makes us want to go out and do it again.

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

Resolution 201 -07 as Recorded in the office of the City Clerk.

Consent:

Approval of the November 6, 2007 City Council meeting minutes.

Approved.

Bid # 07-68 Downing Sales and Service: A resolution awarding Bid # 07-68 to Downing Sales and Service for the purchase of one (1) front load refuse truck in the amount of \$220,045.00 for use by the Solid Waste Division.

Resolution 202-07 as Recorded in the office of the City Clerk.

Landers Ford of Benton: A resolution approving the purchase of seven (7) Ford Crown Victoria Police Interceptors from Landers Ford of Benton through the State Vehicle Purchase Contract in the amount of \$151,430.60.

Resolution 203-07 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order # 3: A resolution approving Task Order # 3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field; and approving a budget adjustment in the amount of \$183,700.00.

Resolution 204-07 as Recorded in the office of the City Clerk.

State Tax Back Incentive Program: A resolution certifying local government endorsement of business to participate in the tax back program (the Consolidated Incentive Act of 2003, Section 15-4-2706 (D)).

Resolution 205-07 as Recorded in the office of the City Clerk.

Rules of Order and Procedure: A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council to reschedule City Council meetings which fall on a holiday.

Resolution 206-07 as Recorded in the office of the City Clerk.

Carter & Burgess, Inc. Amendment No. 1: A resolution approving Contract Amendment No. 1 to the engineering contract with Carter & Burgess, Inc. in the amount of \$57,900.00 for additional engineering studies for the Lake Wilson Spillway Repair Project; and approving a budget adjustment to recognize the reimbursement from FEMA.

Resolution 207-07 as Recorded in the office of the City Clerk.

Zion Road Properties, LLC: A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements; and establishing Zion Road Properties, LLC's maximum assessment for off-site improvements.

Resolution 208-07 as Recorded in the office of the City Clerk.

Alderman Lucas moved to approve the Consent Agenda as read. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

Presentations, Reports and Discussion Items:

Walton Arts Center Report – Terri Trotter

Curt Rom, a city appointed representative to the Walton Arts Center stated I am here on behalf of the Board of the Walton Arts Center and the staff of the Walton Arts Center as well as the other city representatives.

Anita Scism, CEO and President of the Walton Arts Center spoke on the operations of the Arts Center in the last year.

Alderman Thiel: Anita, are we going to get hard copies of this presentation?

Anita Scism: We can provide it to you.

Alderman Thiel: I would like that, thank you.

Curt Rom spoke on the future directions of the Arts Center from the Boards perspective. He discussed the various programs for the Walton Arts Center that they would like to see in the future.

Alderman Thiel: Curt, I know there are a lot of concerns from the public about the Performing Arts Center eventually being built somewhere else because of the limitation in space. You did mention possibly building a new facility if that is the way the study indicates. Has the board looked at whether or not there is space there to expand?

Curt Rom: The size of the hallway that we think we need would be somewhere in the range of 2,500 to 3,000 seats. That is the kind of answers that we hope to achieve in our second phase of the feasibility study. They will be able to look at the physical surroundings, the location and how that would be situated. We really need another performance space to expand our service to the audience.

Alderman Thiel: So there is going to be a lot of discussion about that probably.

Curt Rom: We hope that there is a lot of discussion. I assume that you will have your opportunity for input and make sure that your voice is heard.

Alderman Thiel: I think we should and I think the public will do that.

Alderman Cook: You were talking about active accounts that you have currently. Over the years how has that number changed? Has that grown because I know you want to step it up over the next three years? Has that been growing for you?

Terri Trotter, Vice President for External Affairs: It has grown in different ways, from 2000 until 2006 we grew by about 100% and we basically doubled from a little over 6,000 accounts to a little over 12,000. We saw a really big jump in 2003. Now that the programming grant happened we really want to broaden the reach that we are getting.

Alderman Cook: That other number, the 147,500 people that attended events in 2007, is that people that walk through the door or people that buy tickets?

Terri Trotter: That is people that walk through the door at all events. While we are talking about numbers let me clarify one because I know there was one that came up that was confusing. We served 85 schools last year and that is the total schools that we served. The goal that we have is for 100% school participation is Washington and Benton County Public schools. The overall number of schools that we are serving is larger but we are really focusing on Washington and Benton County. That's why those numbers did not seem to necessarily make sense.

Alderman Cook: I love the Walton Arts Center. I am looking forward to the conversation going forward and what can be done to keep the Walton Arts Center happy where they are and hopefully provide the space they need. It is really a valuable asset for Fayetteville and that area of town.

Alderman Rhoads thanked Mr. Rom for being the liaison for the board on behalf of the City. He stated I think you are doing a great job representing the City and reporting back to us. He stated the advent of the Walton Arts Center in Fayetteville Arkansas was probably one of the greatest things to happen to this city in the last 50 years. I would like to know what the City of Fayetteville can do to help the Walton Arts Center maintain its leadership in delivering cultural arts to Northwest Arkansas and do it in the City of Fayetteville. I can't express how strong I feel about the Walton Arts Center, where it's located, and what it means to Northwest Arkansas and specifically Fayetteville.

Curt Rom: I will take that back to the board; I don't have an answer right now outside of the fact that citizens of Fayetteville support us every time they walk through the door and participate in that program. I will take that to the Board. It might be a while before I get the answer to that and it might come out of our feasibility study but I appreciate that input and that request.

Alderman Allen: I consider the Arts Center to be the anchor of our City and I see our City and staff doing everything that we know to try to ensure that it stays here. We want it to stay here and we will do whatever it takes.

Curt Rom: Speaking as a private citizen in response to that I am a citizen that loves the arts and my involvement in the Walton Arts Center is spawned from the exact same kind of emotion and thoughts that you have. I know what a dynamic change it has brought to our community. I feel like I can take your interest back to the board and I will express them to the board.

Alderman Allen: Thank you very much.

Alderman Lucas: Please do because the Walton Arts Center is just a jewel in Fayetteville and we need to maintain it and do whatever we need to keep it that way. You not only reach the young children but you reach the University students as well and it's wonderful so whatever we can do, let us know.

Anita Scism: The consultants that are working on the feasibility study with us have been in town several times and a letter was sent to the Chancellor and the Mayor asking who their representatives would be from the City and the University to speak with the consultants. The Mayor is the representative for the City and the consultants have spoken with him, but if any of you are interested in doing so please let me know.

Vice Mayor Jordan: I would just like to add that we grew our children up going to the Walton Arts Center. It was a great facility for our children and us and it is a great asset to the City. Whatever it takes we will make sure you stay.

Curt Rom: Thank you for your time and interest tonight and thank you for support as citizens and as leaders in our community.

Unfinished Business:

Proposed 2008 Annual Budget & Work Program: A resolution adopting the 2008 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 20, 2007 City Council meeting to the December 4, 2007 City Council meeting.*

Paul Becker, Finance and Internal Services Director: We have had several working sessions on the budget. The total budget is \$126.5 million. The General Fund budget of \$34.7 million is balanced after adjustments. This would take into consideration a change in the capital and operations split of the one penny sales tax that the City generates. There were some adjustments in the capital program to provide for that and some additional money's out of the Street Fund to keep the in house paving program in tact where it is now. Those are the general highlights. We have a work session scheduled for December 17th at 4:30 PM.

Alderman Allen: Right before coming to the meeting tonight I got a call from Dominic Swanfeld that made me cry because he is the current President of the Fraternal Order of Police. The Fraternal Order of Police has met and decided that they would like to give \$2,000 toward the outreach program for the Boys and Girls Club. I am so touched by the fact that they would do that and I wanted to announce that at the meeting tonight.

Alderman Thiel moved to table the resolution to the December 18, 2007 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

New Business:

Bid # 07-69 Downing Sales and Service: A resolution awarding Bid # 07-69 to Downing Sales and Service for the purchase of one (1) recycle truck in the amount of \$163,101.00 for use by the Solid Waste Division.

Vice Mayor Jordan: Alderman Ferrell was the one that pulled this from the Consent Agenda and he has asked us to table this until he can be here to discuss this issue.

Alderman Rhoads moved to table the resolution to the December 18, 2007 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

Operations Management International, Inc. Amendment No. 15: A resolution approving Contract Amendment No. 15, which extends for one year the contract with Operations Management International (OMI) in the amount of \$6,797,685.28 for the operation, maintenance

and management of Fayetteville wastewater treatment facilities for 2008; and approving a 5% contingency in the amount of \$340,000.00.

David Jurgens, Water/Wastewater Director: This is the annual contract for operating our wastewater treatment facilities. It includes the Noland Plant, the West Plant, our 45 lift stations and the hay farm on the Noland Facility. It will include starting in May the Wetlands Facilities at the West Plant and also the industrial pretreatment for all our industrial users and the MPDS permit process. We have broken down within the document on page 12 in comparison of last year with this year and on page 13 in the contract or in the amendment we broke it down into separate programs. We are actually modifying the budget this year so instead of just being one program it's split by a functional area. Highlights are extending the contract for one year where the contract runs through 2009 but there is no appropriation approved for 2009. This is simply a 2008 appropriation. Staff recommends that because with the new plant is coming on line there are going to be so many changes in the next 18 months that we would be much better served to have continuity in the people that are doing the operations of the business.

David described the amendment.

Alderman Cook: I asked to pull this off of Consent. My main thing was at the Water and Sewer Committee we talked about this several times about when OMI's contract is up that we go out for RFP for services to run our wastewater system. I think it's fair to the taxpayers that we at least investigate and make sure that we are satisfied and that we are providing the best service at the best price for the citizens of Fayetteville.

David Jurgens: We have to in 2009, we have no choice. The intent is first to do the evaluation, we did it last year where we looked at city staff operating the plant. We were a very small amount less expensive per thousand gallons treated than the Rogers plant. So we will do first the evaluation of what does running this by contract bring to the City as strengths and what does doing it as City staff bring to us as strengths. We will do that analysis first in early 2009 and then if the decision is to go out for contract we would then do the request for proposal process for the contractor.

Alderman Thiel: You said we were doing an analysis to see whether this should be done in house or contracted out. Is that going to require the cost of the study?

David Jurgens: I was anticipating doing that with city staff where we would be looking at the strengths and weaknesses of both methods of operation.

Alderman Thiel: And comparing other cities and that sort of thing.

David Jurgens: Yes Ma'am. I don't want to spend money on a study for that frankly.

Alderman Thiel: I agree with Kyle that OMI has done an awfully good job since they have been there.

David Jurgens went on to speak about the great job that OMI has done thus far.

Alderman Thiel: Whenever we do look for outside contracts I think the quality we have is huge and that is going to have to be something we consider. I know price certainly does start factor in.

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

Resolution 209-07 as Recorded in the office of the City Clerk.

RZN 07-2781 Dandy: An ordinance rezoning that property described in rezoning petition RZN 07-2781, for approximately 0.55 acres, located ¼ mile north of North Street on the east side of Leverett from I-1, Heavy Commercial/Light Industrial, to RMF-24, Residential Multi-Family, 24 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item.

Staff is recommending approval. We had no public comment and the Planning Commission recommended it unanimously.

Alderman Thiel: So what is the industrial area?

Jeremy Pate: Everything to the south of that property as you can see on the color maps.

Alderman Thiel: Is any of that being utilized as industrial?

Jeremy Pate: Part of it is the old Tune Concrete facility.

Jeremy Pate: It comes back along Scull Creek and back over to North Street. Most of the I-1 is the Tune Concrete facility. There is also the old car wash which is zoned I-1. There is a small SWEPCO facility where they store poles and transformers and other things like that.

Alderman Cook: I would like to go to the second reading and hold it there just to give comment for one round.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

RZN 07-2782 Sweetser: An ordinance rezoning that property described in rezoning petition RZN 07-2782, for approximately 0.95 acres, located at 2220 E. Huntsville from RSF-4, Residential Single Family, 4 units per acre, to R-O, Residential Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item.

Staff is recommending approval of the rezoning request. I believe the plan is to utilize the existing building and remodel that as an office facility. Although it would allow for some redevelopment on the site.

Alderman Thiel: I certainly support this. I have not had any negative calls and I don't think I would because this family has owned this property and property surrounding it for many years. I know the children are trying to utilize the property the best they can.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5085 as Recorded in the Office of the City Clerk.

VAC 07-2758 Bittle: An ordinance approving VAC 07-2758 submitted by Alan Reid for property located at 2455 East Gentle Oaks Lane to vacate portions of the utility easements on the subject property, a total of 148 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item.

The property owner has agreed to pay for the relocation of that line and dedication of new easements for that line. We have a signed agreement with our Water and Sewer Division. Staff is recommending approval as did the Planning Commission 9-0.

Alderman Rhoads: I have heard nothing to the contrary on this and I hope we move it along.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5086 as Recorded in the Office of the City Clerk.

VAC 07-2761 Roetzel: An ordinance approving VAC 07-2761 submitted by Mike and Julie Roetzel for property located at 1626 East Cypress, Lot 46 of Charleston Place Subdivision to vacate a portion of a utility easement on the subject property, a total of 0.09 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommends approval provided it is only the three feet as described and shown on Exhibit A and the Planning Commission also voted 8-0 to recommend 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 7-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5087 as Recorded in the Office of the City Clerk.

Amend Chapter 174 Signs: An ordinance to amend § 174.10 (H) Monument Signs to reduce the side setback requirement from 25 feet to 10 feet in non-residential districts.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Jeremy and I worked on this. We had a developer that came in and had a problem with a monument sign that they wanted to install. Because of the way the property lines lay the sign would have been down hill and not visible. Jeremy and I looked at this and tried to figure out what to do. Jeremy came up with the idea that I agreed with that in nonresidential areas we felt that you really didn't need to have such a far setback from the adjoining property line. We felt like in residential areas we still wanted to keep the 25' side setback. We felt like a monument sign which can be no higher than six feet and no bigger than 75 square feet that a 10' side setback from a property line would probably be alright and not be a hindrance on an adjoining property owner. So that is what we recommended.

Jeremy Pate: Notwithstanding this particular request, I think just in general citywide I believe that this is an appropriate action for the Council to consider. Our policy is to encourage monument signs and I believe the development community has really caught on to that because we offer incentives. I think this just does one more thing to offer an incentive for monument sign usage especially in commercial districts. We did feel it was important for those particular areas where as a commercial district is adjacent to a residential district to still offer the same protection that has always been offered with a 25' building setback. I think this is an important change. Jesse Fulcher who is my sign administrator and I have both signed on and agree with this change and we would recommend it to the Council.

Alderman Thiel: Right now it says it prohibits any monument signs on less than 50' frontage. How does this change that?

City Attorney Kit Williams: Because there wouldn't be 25' to the side setback on both sides. We have some lots that would prohibit any monument signs in our older areas of downtown.

Alderman Thiel: You don't think this is going to create a lot more monument signs than we really want downtown?

Jeremy Pate: I don't believe so. In most cases downtown you are going to be building it right up to the street anyway. In those cases where older structures are setback from the street it will allow the ability or a property owner to utilize that option as opposed to a pole sign and still be able to be visible from the right of way and the street.

Alderman Thiel: I know the sign ordinance is very near and dear to some of us. I really trust that the City Attorney wouldn't recommend anything and I know Jeremy wouldn't so I trust that this is a good thing. The Market Place Express would really like for us to expedite this motion.

Alderman Lucas: I want to thank the staff and Kit. These are things that improve our ordinances. I appreciate you finding these things and bringing them to us.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5088 as Recorded in the Office of the City Clerk.

ADM 07-2837: City Owned Park Lands: An ordinance to recognize City owned park lands located in Washington County as being included in the Fayetteville City Limits in accordance with Arkansas State Statue 14-40-204.

City Attorney Kit Williams read the ordinance.

Tim Conklin: Under state law we are recognizing that this land is annexed into the City of Fayetteville.

Alderman Thiel: I feel like that if the City owns the property it makes sense that it is within the City limits.

Alderman Cook: It seems odd to go against our Annexation Policy but it makes sense to do this.

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

City Attorney Kit Williams read the ordinance.

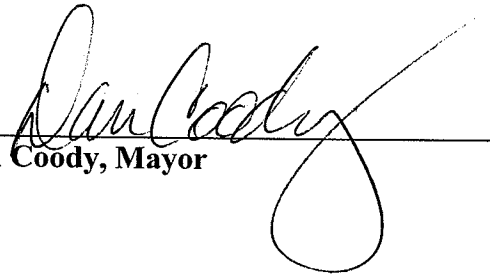
Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 5089 as Recorded in the Office of the City Clerk.

Adjournment: Meeting adjourned at 7:15 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

