

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
March 3, 2009**

A meeting of the Fayetteville City Council was held on March 3, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the February 17, 2009 City Council meeting minutes.

Approved

Bid # 09-19 Sweetser Construction: A resolution awarding Bid # 09-19 to Sweetser Construction and approving the purchase of curb and gutter construction services utilized by various divisions of the City of Fayetteville in the estimated amount of \$229,825.00.

Resolution 48-09 as Recorded in the office of the City Clerk.

Bid # 09-20 ABC Central Block, Inc.: A resolution awarding Bid # 09-20 to ABC Central Block, Inc. and approving the purchase of bricks utilized by various divisions of the City of Fayetteville in the estimated amount of \$20,075.00.

Resolution 49-09 as Recorded in the office of the City Clerk.

Arkansas Historic Rehabilitation Tax Credit: A resolution to support the establishment of an Arkansas Historic Rehabilitation Tax Credit.

Resolution 50-09 as Recorded in the office of the City Clerk.

Fayetteville District Court: A resolution approving a budget adjustment for the Fayetteville District Court in the amount of \$10,000.00 to recognize revenue from the Court Automation Fund for the purchase of laptops, printer and DVD player.

Resolution 51-09 as Recorded in the office of the City Clerk.

Fayetteville Executive Airport DBE Program Revision: A resolution to accept and approve the updated Fayetteville Executive Airport Disadvantaged Business Enterprise (DBE) Program revision and participation goal for FY2009; and authorizing the Mayor to sign the required objectives/policy statement.

Resolution 52-09 as Recorded in the office of the City Clerk.

Arkansas Department of Aeronautics Grant: A resolution authorizing the Fayetteville Executive Airport staff to apply for and accept an 80/20 grant in the estimated amount of \$87,790.00 from the Arkansas Department of Aeronautics to fund the Terminal Building HVAC Repair Project.

Resolution 53-09 as Recorded in the office of the City Clerk.

"Fayetteville Forward" Summit: A resolution to approve a budget adjustment of \$38,500.00 to fund an Economic Development "Fayetteville Forward" Summit and to approve a letter agreement with the University of Arkansas Sam M. Walton College of Business to facilitate the "Fayetteville Forward" Summit for \$17,500.00.

Resolution 54-09 as Recorded in the office of the City Clerk.

Alderman Cook moved to approve the consent agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Unfinished Business:

RZN 08-3084 (Candlelight Place): An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *(This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 4, 2008 City Council meeting.) This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning stated the applicant contacted us and he has recently had back surgery and would prefer that this item be tabled to the April 21st meeting.

Alderman Cook moved to table the ordinance to the April 21, 2009 City Council meeting. **Alderman Petty** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent during the vote.

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. This ordinance was Re-considered at the December 16, 2008 City Council meeting and then Tabled to the February 3, 2009 City Council meeting.) This ordinance was Tabled at the February 3, 2009 City Council meeting to the March 3, 2009 City Council meeting.*

Alderman Thiel: The applicant wants to table this I think. There was some discussion about this at the Agenda meeting that rather than just tabling it that it go through the Planning Commission process again.

Jeremy Pate: An Alderman brought that up at the meeting as a potential to send this back to the Planning Commission. If that occurred when they have the revisions we would review that and put it on the next available Planning Commission meeting. Once the Planning Commission makes a recommendation they could then forward that to the Council. You have several options

here. You can send it back to the Planning Commission, table it to the next meeting, or table it indefinitely. We discussed that it has been tabled eight or nine times and it probably should either move forward or be tabled indefinitely.

Alderman Lewis: We had a Ward 4 meeting and they presented their proposal to the Ward 4 residents and there were quite a few changes to the project. That is why we brought up the idea of sending it back to Planning.

Charlie Sloan, the developer gave a brief description of some of the changes that have been made to the project.

Alderman Cook: Are you opposed to going back through the Planning Commission?

Charlie Sloan: We are not opposed to anything. We would just like to get this project worked out.

Alderman Cook: Jeremy, so from staff do you feel like it has changed enough that it warrants going back to the Planning Commission?

Jeremy Pate: It is an entirely different project. I just want to make sure that you are comfortable with a new project on this property if you go forward for the next meeting.

Charlie Sloan: What meeting would we go to?

Jeremy Pate: I don't know off the top of my head. It could go two weeks from Monday.

Alderman Cook: It does look like a drastic change. I am personally more inclined to go back to Planning Commission and let it go through that process before it comes back to us.

Alderman Lewis: I would also agree that I am happy with the changes that I see but I feel like I need a recommendation from the Planning Commission because it is such a different project.

Alderman Ferrell: Jeremy, with the changes that the applicant has brought to us tonight how long do you think it would take before you could render an opinion on what you thought about the changes.

Jeremy Pate: For the project as a whole?

Alderman Ferrell: Yes.

Jeremy Pate: I think we have been supportive of the different design elements. We are approaching the threshold of the green spaces getting whittled away a little more with the lots and so we are trying to discuss that with the applicants right now. We are trying to find some middle ground there. In general though the way this project is going staff is certainly supportive of the philosophy of it.

Alderman Lucas: I didn't understand, 50% is what you expect?

Jeremy Pate: That is just a general rule of thumb looking at other projects that are considered conservation subdivisions. It is not something that we have on our books. We started out with that on this project for the applicant to shoot for. They are doing an admirable job with what they have now.

Alderman Lucas: I have never heard that before.

Alderman Thiel: Charlie, will this green space be maintained by the POA?

Charlie Sloan: The POA. One of the goals we talked about in the very beginning was to try to do single family homes that were not attached. You can get the 50% if you start squeezing this thing and going up. We are trying to stay single story and let the person have a yard. Behind the yard is a green space where they can go out to play.

Alderman Jordan: What is the price range on those Charlie?

Charlie Sloan: Probably starting at \$110,000 up to \$135,000 is what we are trying to shoot for. One thing we have to live with is the difference between the first and second plan is each lot had to absorb about \$2,500 with just hard cost in the land. I can cut infrastructure out but I can't get rid of the land that we purchased.

Alderman Cook: Jeremy, based on the discussion and arguments at Planning Commission do you feel like the direction Mr. Sloan is going will satisfy any of those arguments?

Jeremy Pate: I think so. I don't know that he will convince everyone but I believe it will address both staff concerns and some of Planning Commission's concerns that were discussed at the meeting.

Alderman Cook moved to send the ordinance to the Planning Commission. Alderman Lewis seconded the motion.

Alderman Ferrell: I would note that usually in the time I have been here, the Planning Commission accepts the recommendation of staff and the applicant has repeatedly come to terms with what is needed to be changed.

Alderman Lucas: I agree with Bobby. I like this new design and I know the applicant has worked with Jeremy and staff to try to meet what they recommend. Also the neighbors that fought this at first have expressed to me that they are very satisfied.

Alderman Lewis commented on the bio-swells and the stormwater efforts. She stated that is really exciting. The reason for sending it to Planning is those are new designs and they need review.

Alderman Gray: I don't see any need for it to go back to Planning. I like it and I appreciate the fact that our developer is willing to work with our staff. I would be in favor of letting them get on with this project.

Alderman Thiel: Jeremy you did say that the staff could have a recommendation by the Agenda meeting?

Jeremy Pate: I think it all depends on when we get materials to review.

Alderman Thiel: I would want to wait until we had your recommendation. This is still a conceptual PZD so the engineering part is not going to be done right now anyway.

Jeremy Pate: We don't review hard numbers; we review the concept of drainage.

Alderman Thiel: So you could make that same recommendation to this Council rather than going to the Planning Commission. I tend to agree with Adella.

Alderman Petty: I tend to agree that this might be a case where we should go ahead and not send this back to the Planning Commission. We have seen a lot of improvements that pretty much all of us like and there is a good case that we are going to get a recommendation from the staff. This might be a good chance for us to expedite this along.

Mayor Jordan: So at the Agenda Session what if Jeremy says he does not like the project? Are we just tabling it?

City Attorney Kit Williams: There are two options. One is to send it back to the Planning Commission and the other is to table it to the next meeting and then you determine at the next meeting what you are going to do.

A discussion followed.

Upon roll call the motion failed 2-6. Alderman Cook and Lewis voting yes. Alderman Thiel, Petty, Rhoads, Ferrell, Lucas, and Gray voting no.

A discussion followed on what date to table it to.

Alderman Ferrell moved to table the ordinance to the March 17, 2009 City Council meeting. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

New Business:

Residential Energy Efficiency Program Participating Home Sign: A resolution to approve a Residential Energy Efficiency Program Participating Home Sign pursuant to § 174.03 (F) of Chapter 174: Signs of the Unified Development Code.

Steve Cattaneo, Building Safety Director gave a brief description of the item. He showed the Council the actual label that is being placed inside the homes and went on to explain the reasons for the resolution.

Alderman Lewis: Can the City reuse the signs? Do you have to buy new signs all the time?

Steve Cattaneo: They are heavy duty signs.

Alderman Lewis: Is it required that they get returned?

Steve Cattaneo: It is not required that they be returned. We don't have a deposit on them. We are just asking them to return them to us.

Alderman Ferrell: If you had something to put that address on or emboss it instead of painting it you could get multiple uses out of it.

Steve Cattaneo: I did ask the sign shop and they have white tape that you can slip it over and it sticks like glue.

Alderman Lewis: Can we have a stipulation that if you give \$20 to get the sign and you get your \$20 back when you return it?

City Attorney Kit Williams: It probably makes a lot of sense to do that because we don't want these signs wandering off and showing up in the houses that are not participating in this program. So I think we should have some sort of deposit in return on this. That can be done administratively.

Steve Cattaneo: We can certainly do that if that is the Council's wishes. I appreciate your support.

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

Resolution 55-09 as Recorded in the office of the City Clerk.

2009 Washington County Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2009.

Jill Hatfield, Animal Services Director gave a brief description of the agreement and stated we have had this agreement for many years. She went on to report on what the Animal Shelter has done in the last year.

Alderman Petty: If spaying and neutering the animals saves us so much money in the end then why do we only offer the program to low income families?

Jill Hatfield: That is an issue of budgetary funding. Unfortunately vet supplies are one of those things that we need desperately. Our budget for that was \$12,000 for this year alone. It is a matter of money really. I wish we could offer it to everybody.

Alderman Petty: I have heard of mobile spay and neuter clinics in cities and in looking at some of those models the money that they invest comes back 3-1 in savings later. Has Fayetteville worked on or examined any of those programs?

Jill Hatfield: We have and again it goes back to the money issue.

Alderman Lucas: This is great. I think this agreement with the County is important. They are paying us for the animals that you took in last year?

Jill Hatfield: Yes.

Alderman Lucas: So the first of next year you will figure what they owe for this year?

Jill Hatfield: Right.

Alderman Lucas: And they are going to reduce the amount. How is that going to affect you?

Jill Hatfield: Their budget is now at \$75,000 so if they are not able to re-budget it is going to be a matter of do we foot the bill or does the County come up with the additional funds to shelter those strays and surrendered animals.

Alderman Lucas: So you will come back to us when their quota is out?

Jill Hatfield: The County is looking at an Animal Concerns Committee to talk about a lot of this. They are looking at licensing so that their animals wear tags and even if it's voluntary that is huge.

Alderman Lucas: That would help reduce the number of animals that you all have to take in?

Jill Hatfield: Absolutely.

Alderman Thiel spoke on the previous Animal Concerns Committee that the City once had. She stated this does take more money. If we want to look at spay and neutering as a priority I agree with you that it saves money eventually. I think if you check their veterinarian is very busy.

Jill Hatfield: He can do upwards between 15 and 20 per day.

Alderman Thiel: That is also the shelter animals that are going out in adoptions.

Alderman Lewis thanked Jill for speaking on those topics.

Alderman Ferrell: Were there any other communities that we have agreements with that you suspect that they will change?

Jill Hatfield: No I have not heard anything from them and their numbers are so much lower.

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

Resolution 56-09 as Recorded in the office of the City Clerk.

RZN 08-3189 (First Baptist Church): An ordinance rezoning that property described in rezoning petition RZN 08-3189, for approximately 4.08 acres, located at 20 Dickson Street from C-PZD 05-1704 First Baptist Church to MSC, Main Street Center.

City Attorney Kit Williams read the ordinance.

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

Alderman Cook: How does this affect the PZD that we passed years ago?

Jeremy Pate: The PZD would simply go away so the restrictions that were offered by the applicant at that point in time would no longer be valid. Most of our codes pretty much fall in line with what they were requesting at the time.

Alderman Cook: On other churches do we not zone those P-1?

Jeremy Pate: In other parts of the City yes but in the downtown no. We have kept those the downtown zoning districts. When we designed the zoning districts we allowed churches by right in most of those so they would not have to go with P-1.

Alderman Cook 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 Gray 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.

Alderman Petty: This is a great example of streamlining the application process and codifying what we want instead of relying on exemptions to let good projects get through. I hope we see some more of these.

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

Ordinance 5221 as Recorded in the office of the City Clerk

RZN 08-3190 (Lolley): An ordinance rezoning that property described in rezoning petition RZN 08-3190, for approximately 1.67 acres, located at 5, 8, 12, and 20 South Hill Avenue from RMF-40, Residential Multi-Family, 40 units per acre, to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff and the Planning Commission recommended in favor of this zoning request 8-0.

Alderman Cook: We are changing these zonings and some of the conditional uses in RMF-40 are going to be by right. Some of the conditional uses I am a little concerned about. From staff's perspective you don't have an issue with adding those in there?

Jeremy Pate: In looking at this site, the surrounding land uses directly behind it are primarily multi-family and some single family homes are being utilized for multi-family. There is a definite student population in this neighborhood and it is a pretty high density area sandwiched between the downtown neighborhoods and the University. I do not believe this intersection will ever support a high intensity use because of its location and site distances in this area. Those are all things we would have to take into consideration with a conditional use permit and we would also take into consideration public comment and review of surrounding land use. Any nonresidential use within this zoning district would be something we would have to look at very carefully because it would be an establishment of something different in the neighborhood but I think it would be welcome. Conditional Use Permits are certainly a public process that could have the potential for detrimental impact and that is why they are a conditional use and not use by right.

Alderman Cook: I think the new uses by right are appropriate in that area. I am just voicing my concern about some of the conditional uses.

Alderman Cook 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 Cook 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 Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5222 as Recorded in the office of the City Clerk

VAC 09-3197 (Butterfield Trail Village): An ordinance approving VAC 09-3197 submitted by McClelland Consulting Engineers for property located at 1923 Joyce Boulevard to vacate a portion of a utility easement, a total of 0.05 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff and all utility service providers have recommended approval as did the Planning Commission 7-0.

Alderman Lewis: For perpetuity this easement will no longer be available to the City?

Jeremy Pate: That is correct or any other utility service provider. When we look at a utility easement vacation we require the applicant to contact all utility companies that have rights to access that utility easement and as long as they do not object we typically will recommend approval unless we see a reason to continue that utility easement for future service.

Alderman Ferrell: I have not had any comments from anybody in the Ward.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5223 as Recorded in the office of the City Clerk

ADM 09-3198 Amend Chapter 161: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to Amend Chapter 161: Zoning Districts in order to amend and unify building setback and building height regulations in residential single-family, multi-family and residential-office zoning districts.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the chapter amendments. He stated Planning Commission voted 8-0 for recommendation of approval and staff recommends that you adopt this ordinance amendment.

Alderman Cook: I think it is a good suggestion from staff and I appreciate that staff has been busy working on our code and I think this is a good revision.

Alderman Ferrell: I like it too. I think it is fair, logical, and makes sense. It helps the process flow.

Alderman Lucas: I agree, I think it is great. Is the 10 feet from the center of the street?

Jeremy Pate: No ma'am that is actually measured from the right of way which is typically at the back of the sidewalk.

Alderman Lucas: From the right of way?

Jeremy Pate: It is not going to be right on the street, it is going to be at least 10 feet off the sidewalk in most cases.

Alderman Lewis: I would like to commend them as well. I do a lot of ordinance review in my job and this is a lot of what we are seeing in some of the really progressive cities around the country. Thank you for all your work.

Alderman Petty: I like that we are addressing things more systemically.

Alderman Thiel: I agree I like it too. Did the Residential Office get added to the title in the ordinance?

Jeremy Pate: It was added with the final agenda packet and the Mayor actually read that title so I believe we read the new ordinance into the records and it should be fine.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5224 as Recorded in the office of the City Clerk

ADM 09-3205 Amend Chapter 164: An ordinance amending the Unified Development Code by adding subsection 164.11 (B): Side Setbacks, to include bulk and area requirements for zero lot line and common wall development.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the chapter amendments.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5225 as Recorded in the office of the City Clerk

ADM 09-3206 Amend Chapter 162: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 162: Use Units in order to add a use unit description for accessory dwelling units.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the chapter amendments. He stated this is just adding a description of the use unit and that is the modification that staff is proposing.

Alderman Lewis: I want to commend the Planning Department on how they really worked with the Council of Neighborhoods on the Accessory Dwelling Units. We appreciated the input that was received in that.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5226 as Recorded in the office of the City Clerk

Amend Chapter 117: An ordinance to amend §117.47 Advertising of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: There is a taxi service that runs out of Rogers and Springdale and runs down to Fayetteville. They want to do business in Fayetteville and I would like for them to come up and tell us a little bit about their business. It is legal to have a sign on the back of the cab but right now if they come to Fayetteville they have signs on top and they cannot use them.

Ken Morton with Northwest Arkansas Taxi gave a brief description of his business and its current operations. He gave a description of the signs that are currently placed on the top of their cars. He listed the benefits to our City by allowing his taxi company to operate in Fayetteville and keep the signs on the top of the car.

Alderman Cook: We are all in favor of our sign ordinance because it makes Fayetteville distinctive. Kit, would you give us your opinion on whether you feel that this is an okay change.

City Attorney Kit Williams referenced his memo to the Council which stated his opinion. I understand the sign on top of the taxi cab would be in a V-shape is that correct?

Ken Morton explained what the sign would look like. He stated it is kind of like a "V."

City Attorney Kit Williams stated it would be visible to oncoming traffic as well as cross traffic where the current ordinance would only allow the sign to be visible to someone following the cab. It is probably in our traffic interest for a driver to not read signs coming in the opposite direction or sideways to them. Instead they should be paying attention to the road. The esthetics consideration that we have that supports our traffic or sign ordinance would also be detrimentally affected by that too. I am not going to say you can't do it but I am not in favor of more exemptions for the sign ordinance. It is stronger the fewer exemptions we allow.

Alderman Cook: May I ask the Ordinance Review Committee to outline what your discussion was on it.

Alderman Thiel: Basically we heard from the applicants here and at the next meeting we invited the City Attorney to discuss what was in his memo. I would like to ask Kit to explain the difference from a non premise sign and an on premise sign.

City Attorney Kit Williams explained the differences between off site signs and on premise signs. We are always concerned about off-site signs. That was one of the primary issues that we

were facing when this sign ordinance was originally passed. He referenced past court cases that have occurred relating to this issue.

Alderman Thiel: The committee members did not support this and that is the reason it did not come to you as a recommendation from the Committee.

Alderman Lewis: How much does the court cases cost?

City Attorney Kit Williams: That happened a long time ago. There was some considerable cost on the latest one where someone challenged our sign ordinance. Cost is somewhat a factor but at this point in time this is really just about the public policy issues and what you want to do. I am not going to tell the City Council that you cannot do this. I think it weakens the sign ordinance but I do not think you should worry about litigation costs.

Alderman Petty: I was reviewing the sign ordinance and it seems there is a general exemption for non commercial advertising or non profit advertising. I am just curious that if they were selling their ads to non profit agencies would they then be allowed to do that?

Jeremy Pate: No, the non profit exemption is not all encompassing so it does not mean you can have non profit signs anywhere. He went on to give the definition of an off site sign and stated it is an obvious inconsistency with our sign ordinance.

Alderman Petty: I don't support the amendment as currently worded but I may support an amendment that would allow a rear facing sign on the roof. We were approached with this at the Ordinance Review Committee that this was a necessary thing in order to make the economics of your business sustainable. It seems to me that if the rates are not allowing your business to be sustainable then I think if this does not pass you should approach us and some of the other tax authorities in order to raise your rates.

Alderman Ferrell: Mr. Morton what is your take on the Alderman's possible alternative suggestion about the signs facing backwards?

Ken Morton: That probably could be done. The only problem is one of the reasons the V-sign is more acceptable in cities is because it goes up to a "V" and it knocks off the wind. A straight sign does not anchor as well.

Alderman Ferrell: It's a safety hazard.

Ken Morton: It is certainly a safety hazard when it blows off.

Alderman Petty: The possibility that makes me consider that is the front part could say taxi and the rear and side portions could be used for advertising if that suggestion was taken.

Alderman Lewis: I support having taxi cabs in the city and I think we need them but I am very opposed to amending our sign ordinance any further. I don't think it hinders business I think it is something that attracts people here.

Alderman Ferrell: I disagree. Kit, do you think that if there was an attorney group that went around seeking municipalities to find problems with sign ordinances that if they wanted to file litigation in Fayetteville they could find something to sue us over right now?

Kit Williams: They could sue us but I think that our sign ordinance is pretty strong at this point in time and it would withstand a suit from one of these companies that like to go around and place billboards in cities.

Alderman Ferrell: My insinuation was that an attorney would probably go after a community that had pretty restrictive sign regulations wouldn't you think?

City Attorney Kit Williams: I think there are certain sign ordinances that get behind the times and do not have time requirements and some that have vague sign ordinances. Those are usually the ones that get in trouble.

Alderman Ferrell referenced a past court case. He stated my point is if someone wanted to sue us they are going to sue us. I think we are looking for a reason not to do this as opposed to looking for a reason to try to help this business come down here. He went on to speak on the inconsistencies of not allowing the taxi company to operate in Fayetteville.

Alderman Thiel: I don't think we are saying this company cannot come to Fayetteville. We have offered suggestions to place some kind of cloth over their signs or something like that. I hope that they will come here.

Alderman Ferrell: They indicated that if that were the case they would not come to Fayetteville.

Alderman Lewis: I would like to encourage business here. The thing I am hesitant on is this is a company that has their cars and their sign on it and then they came to Fayetteville. We had the sign ordinance before they had the signs on the tops of their cars. What if someone builds a billboard and they don't put a sign on it but then come to us and say I would like you to make an exception to your sign ordinance because I have this billboard.

Alderman Petty: I think this is a safety issue and maybe we should revisit this as a rear facing option later. That is the reason I will not support it.

Alderman Rhoads: Was your decision not to support it because it was safety or was it esthetics?

Alderman Thiel: There just was not support. We did not vote against it, we just did not vote to support it after we heard the comments from the City Attorney.

Alderman Petty: I was very undecided and as I thought more about it to me it is a safety issue.

Alderman Rhoads: I don't look at it as much of a safety issue having grown up in a big city. What I do take into consideration and the reason I would not support the change is I really like

the fact that Fayetteville is different with the sign ordinances and it's a distinction that we need to preserve.

Alderman Cook: Let's say we want to do bus stops in Fayetteville and they want to put advertising on these bus stops that is not currently allowed in this ordinance?

City Attorney Kit Williams: It is not. He went on to reference the Los Angeles case. He continued by saying I would be somewhat nervous to allow a tremendous amount of advertising on bus stops to pay for them.

Alderman Cook: The only reason I say that is because that is something I would support. We have bus stops throughout the city that are discernable but that would be another exemption to our sign ordinance, which is something I wouldn't bring forward, because I feel that strongly about our sign ordinance. It is not that I am looking for a reason not to support this, I am just afraid to do anything to this because it is such a big part of our community.

Alderman Lucas: I too am proud of our ordinance and I think it makes Fayetteville unique. The esthetics of this with a sign on top of the car, I just don't think that is good. I would like to make the amendment that Kit has suggested to remove van or motor vehicle from the ordinance if I could.

City Attorney Kit Williams: You may want that to go before the Ordinance Review Committee before you do that here.

Alderman Thiel: I think that would be a good idea because that is a big change.

City Attorney Kit Williams: You could amend the current ordinance request to that form and ask that to go to the Ordinance Review Committee.

Alderman Lucas moved to amend the ordinance to remove van and motor vehicles for hire. Alderman Thiel seconded the motion.

A discussion followed.

Alderman Lewis asked for clarification on what would be discussed at the Ordinance Review Committee meeting.

City Attorney Kit Williams: It would propose a more restrictive section that is a rewrite of the current section that would remove van and motor vehicle for hire and it would also restrict busses to ORT busses which is the prime reason we did that.

Alderman Thiel rescinded her second to the previous motion.

Alderman Lucas: So we are going to vote this up or down then.

City Attorney Kit Williams: You certainly can do that to the current one that is before you.

Alderman Lucas rescinded her previous motion to amend the ordinance.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Cook 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.

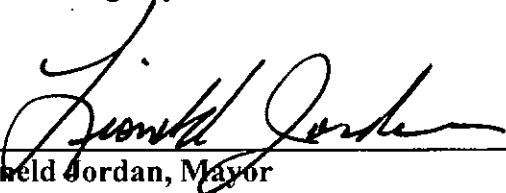
City Attorney Kit Williams read the ordinance.

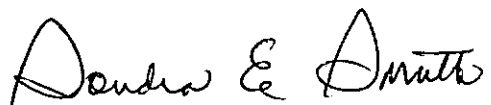
Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Ferrell voting yes. Alderman Thiel, Cook, Petty, Rhoads, Lucas, Lewis, and Gray voting no.

The ordinance failed.

Chief of Staff Don Marr gave a report on the status of the debris clean up.

The meeting adjourned at 7:55 PM


Lionel Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer