

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – 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

**City of Fayetteville Arkansas
City Council Meeting Minutes
January 05, 2010**

A meeting of the Fayetteville City Council was held on January 05, 2010 at 6:00 p.m. 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:

Presentations, Reports and Discussion Items:

Report on the Firemen's and Policemen's Pension and Relief Fund – Mayor Lioneld Jordan.

Mayor Jordan presented the Firemen's Pension and Policemen's Pensions and Relief Fund to the Council. A copy of the report is attached.

Election of Vice Mayor:

Alderman Gray moved to elect Alderman Brenda Thiel as Vice Mayor. Upon roll call Alderman Gray, Thiel, Cook, Petty and Rhoads voted to elect Alderman Brenda Thiel.

Alderman Lewis moved to elect Alderman Shirley Lucas as Vice Mayor. Upon roll call Alderman Lewis, Ferrell and Lucas voted to elect Alderman Shirley Lucas.

Alderman Brenda Thiel was elected as Vice Mayor.

Housing Authority Board Appointment:

Alderman Cook moved to approve the appointment of Olivia Horn to the Housing Authority Board of Commissioners. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Mayor Jordan introduced the new Chief of the Fayetteville Fire Department David Dayringer. He also thanked Kyle Curry for an excellent job as Interim Chief.

Consent:

Approval of the December 15, 2009 City Council meeting minutes.

Approved.

Amend Police Department Policy: A resolution to approve an amendment to Fayetteville Police Department Policy No. 26.1.1. Disciplinary Matters and Procedures.

Resolution 01-10 as recorded in the office of the City Clerk.

Community Development Block Grant (CDBG): A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2010 when received in the estimated amount of \$649,000.00.

Resolution 02-10 as recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Amendment #1: A resolution approving Amendment #1 to Task Order #15 with McClelland Consulting Engineers, Inc. for additional right of way plans for the Runway 16 Safety Area Improvement Project in the amount of \$3,650.00.

Resolution 03-10 as recorded in the office of the City Clerk.

Arkansas Western Gas: A resolution approving an agreement with Arkansas Western Gas Company in the amount of \$83,000.00 for relocation of gas lines and appurtenances as part of the RSA Runway 16 Improvement Project at the Fayetteville Executive Airport, and approving a \$5,000.00 contingency.

Resolution 04-10 as recorded in the office of the City Clerk.

Watson Condemnation Settlement Proposal: A resolution approving a settlement agreement with Aaron H. Watson and Patricia Ann Watson concerning condemnation litigation filed as part of the Mount Comfort Road Widening Project in a total amount of \$52,000.00.

The Resolution was removed from the consent agenda.

RJR Enterprises, Inc.: A resolution awarding RFP #09-23 and approving a contract with RJR Enterprises, Inc. in the amount of \$73,000.00 to construct a playground at Doc Mashburn Park; and approving a project contingency in the amount of \$7,300.00.

Resolution 05-10 as recorded in the office of the City Clerk.

Arkansas Department of Parks and Tourism Grant: A resolution authorizing the Mayor to apply to the Arkansas Department of Parks and Tourism for a general improvement fund grant in the amount of \$160,000.00 for improvements to Bryce Davis Park.

Resolution 06-10 as recorded in the office of the City Clerk.

Arkansas Recreation Trails Grant: A resolution approving an agreement of understanding with the Arkansas Highway and Transportation Department for the acceptance of an Arkansas Recreational Trails Grant to utilize \$116,534.00 in federal-aid funds for the construction of Oak Ridge Trail; and approving a budget adjustment in the amount of \$145,668.00.

Resolution 07-10 as recorded in the office of the City Clerk.

A & P Commission: A resolution to approve an agreement with the Fayetteville Advertising and Promotion Commission to furnish collection and accounting services for the Hotel, Motel, and Restaurant taxes collected for the A & P Commission.

Resolution 08-10 as recorded in the office of the City Clerk.

Alderman Cook moved to remove Item # 6 Watson Condemnation Settlement Proposal from the Consent Agenda. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell moved to approve the Consent Agenda as read with Item # 6 Watson Condemnation Settlement Proposal removed from the Consent Agenda. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

Agenda Additions: None

Unfinished Business:

R-PZD 09-3439 (Oakbrooke Phase III): An ordinance establishing a residential planned zoning district titled R-PZD 09-3439, Oakbrooke Phase III, located within Oakbrooke Phase I and Oakbrooke Phase II; containing approximately 29 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 15, 2009 City Council meeting.*

Alderman Petty 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.

Jeremy Pate stated they meet with the applicant since the last City Council meeting and went over the conditions of approval with which they had concerns. We were able to resolve most of those with some minor changes to the conditions. Staff was able to change some of those and agree with the applicant. He went over the recommendations that were presented to the City Council.

Alderman Lucas: I asked the question last time of how many units increased. You stated 174 from 110. I counted and it increased 56 and 31 in area five which would make it 87 in my calculations.

Jeremy Pate: The original development had 109 dwelling units. There were 110 lots but one of those was the tree preservation lot.

Alderman Lucas: 110 lots. We are talking about two different things units and lots.

Jeremy Pate: That's correct. In this case there is only one lot difference. In most developments there is at least a lot for a detention pond.

Alderman Lucas: The lots may have two or three units on them.

Jeremy Pate: Not in this case. With this development there is a condition that ever lot has to have a maximum of one dwelling unit.

Alderman Lucas: On the maps that you gave us there is a difference. There is an increase.

Jeremy Pate: Yes, between the original development and this proposed development.

Alderman Lucas: I counted and it's 87. Mr. Hoskins said there would be 31 units on planning area five.

Jeremy Pate: Yes, within the mixed use area that's correct. Those would be apartment style, generally with apartments above a shop or an office.

Alderman Lucas: The numbers in the planning areas did not jive with me.

Jeremy Pate: I can double check that. The applicant stated 109 or 110 lots before and compared it to this PZD which has 174. However they neglected to mention the lots that are outside this PZD that were in the original 109.

Alderman Lucas: I wanted to make sure we had the right number.

Alderman Lewis: When you say attached and detached, if something is attached how does that relate to the units?

Jeremy Pate: They are either single family detached or two and three family attached.

Alderman Petty: There has been a lot of progress made with the agreement with the applicant. Is there anything left that's in disagreement?

Jeremy Pate: I will let the applicant speak to that. There is still a request to have some attached units in an additional planning area that is not reflected in our conditions.

Tracy Hoskins, applicant gave a slide presentation. In answer to your question about the added density we have a total of 174 units with the new plan. Thirty one of the units are flats above live work spaces in PA 5. So that is actually an increase of 143. It is an increase of 51 homes. Just because lots are designated to be able to have attached homes does not mean that they will have attached homes. All homes in Oakbrooke are sold on individual lots. They are single family residents. Every home is in planning areas one through four. Our average site coverage is between 24% and 33%.

Alderman Lewis: Is that percent per acre or lot.

Tracy Hoskins: Every single lot.

Alderman Ferrell: I like the live work idea. How do you forecast for how many of those you're going to build and attract people in?

Tracy Hoskins: In this market I don't know if I can answer that. This type of project is something that we have always had a passion about. A lot of it is trial and error.

Alderman Ferrell: You have a mix there for everybody.

Tracy Hoskins: The idea is to be able to offer a little bit to everybody.

Alderman Lewis: What is your average square footage for the proposed designs?

Tracy Hoskins: I don't know that we have ever calculated an average square footage but if I had to use one probably 1800 square feet maybe 1600 square feet.

Alderman Thiel: I like the idea of attached houses. In all the studies about affordable housing that is a number one way to create that. Is there that much savings in attaching them at the garage? Does that offer a benefit to the buyer at a reduced price?

Tracy Hoskins: In planning area two it's to create private outdoor space than cost savings. It creates private courts yards to the sides of houses. The homes in planning area four can literally be completely attached side by side. Just because they are attached doesn't mean they are necessarily going to be classified as affordable. There will be some homes that are attached that will be more affordable. We will have some detached that are more affordable. The intent is to get an intergraded mix of just about everything but stay in the same architectural era.

Alderman Lucas: Jeremy is it was true that in a PZD you go for the highest density and then you might build it for less.

Jeremy Pate: The good thing about a PZD is that the applicant is really showing you how many dwellings units they are proposing on the property. If you just have an RSF-4 it could go up to four units per acre but usually it doesn't because you have to have roads. With a PZD you're actually seeing the maximum number of dwelling units that will go on the property. Yes, that is the maximum. The developer could certainly combine lots.

Alderman Lucas: Is that the advantage of a PZD? You go for the maximum and say I might build less? It seems to me a PZD was supposed to be so that people knew what was going to be built. If we have an RMF-24 then there is nothing we can do if a person was to build it to RMF-24.

Jeremy Pate: Sure, right.

Alderman Lucas: With a PZD if you have the highest buildable space, highest density, then that can be built.

Jeremy Pate: That's correct. That is why in some areas of this project we have concerns with if Mr. Hoskins is the builder I think that he has the goal in mind. That is usually not the case. There may be fifty different builders on this site. The intent of the PZD was to allow neighbors and you as the Council to understand the intent of the development. It's very rare that changes dramatically and when it does it comes back to you. It's very rare that they develop fewer units than what they are proposing. I would err on the side of the maximum and that's why we present everything to the maximum.

Alderman Lucas: The City wants.

Jeremy Pate: That's correct. You should be comfortable with the maximum number of dwelling units. Ultimately that's what you are making a decision on allowing the applicant to develop that many units or square feet. If you are uncomfortable that's where compatibility comes into play whether that's a density that is compatible with the surrounding neighborhood. That's where we come into the design standards and building areas and we get into the details of the zoning district to make it more compatible.

Alderman Lewis: Where do the architectural design standards come from? How is it that we are allowed to do that?

Jeremy Pate: The PZD ordinance requires a developer to submit architectural design standards for each planning area. The detail varies by project. We have fewer with single family residential standards because we don't really have a lot of those identified within our unified development code. We have more with multi family because we have standards and the PZD ordinance states that you have to at least meet the minimum requirements. You can't go below that but you can establish higher standards. That's the intent of the PZD ordinance you're doing something creative you're establishing unique and higher standards.

Alderman Petty: What is the reasoning behind not allowing attached units in planning area two?

Jeremy Pate: We're looking at a situation where the graphic shows the unit with the front yard maintained by the property owner verses the POA and then attaching the rear of the unit which is something that really doesn't necessarily from the street look like it's attached, because it's just the garages and rear that are attached I think that is a concept that makes more sense. You go back to that maximum every one can be attached so you could have all the units attached within that development. This planning area is a cottage style development. We are looking at creating a cottage development ordinance within the City to allow for multi family zoning districts to do more small single family detached dwellings. Every standard we have seen nationwide the cottage styles are all detached. It's for owner occupied small lots so that the price of the unit goes down and there's a common area that everyone shares essentially as a front yard or back yard. When you attach it it doesn't seem to have that same identity. If you take out the cottage concept and replace this with town homes that is really more of what we are looking at if it's all attached. These are such small areas and the potential for the building area being as high as what the Planning Commission has approved the averages are wonderful to shoot for but we are looking at the maximum. Every one of those lots could be at the very maximum. Unless it's regulated through zoning district criteria then we have to assume that is going to be a maximum, regardless of what the intent is of this particular developer. The builder can build it at maximum and that is our biggest concern on that particular plan.

Alderman Petty: If you don't have a problem with the concept would you be able to work up alternative language that would still prevent 100% attachment and allow a concept that was presented.

Jeremy Pate: If that's the Council's direction. That's what we did with the rest of the development. We struggled with that, we had a long discussion about that, and came to some terms with a maximum of thirteen throughout the development understanding the intent from the developer. Attaching these simply adds to that percentage of the overall project that can be attached. To me that is getting away from what the intent of the project was originally.

Alderman Petty: It would need to be specific you're right. I don't think any of us want to see fully shared walls in planning area two. If you are okay with that concept as presented I would personally like to see if we can work something out that would allow that concept.

Alderman Lewis: On the western side of the Oakbrooke III there are houses that are in a former Oakbrooke zoning. Are those detached?

Jeremy Pate: Yes, there are 17 lots on the western side that are not included within this PZD. Eighty two is the difference over the entire property.

Alderman Lucas: Not this side but the west side.

Jeremy Pate: Including the west side. I included the entire boundary. Those 17 remain the same. Those are single family detached units that are subject to a bill of assurance that the applicant offered previously that they have to be a certain size.

Alderman Lewis: In planning area one are those detached?

Jeremy Pate: Planning area one is all single family detached.

Alderman Lewis: Thank you.

Paul Johnson, President of Bridgeport POA, discussed the minimum and maximum square feet of all the different phases in the Bridgeport Subdivision. The concerns are what is going in there. He voiced his concern about rental property in the project. He requested that the Council make lots one through ten be detached. That way we don't have to worry about the attached being right next to a totally different neighborhood, with a different building style, of totally different sizes. He asked that the Bill of Assurance be amended to include the lots that are not included in any planned zoning area, bring them up to 2000 square feet and make them close to what's there now. That way you will have a better flow from neighborhood to neighborhood.

Alderman Petty: Is it the Bridgeport POA's position that you don't want anyone living next to you in another neighborhood that can only afford a house for a lower price?

Paul Johnson: No sir.

Alderman Petty: That seems to be what you said whenever you said you wanted to use house size and house cost to control the kind of people that move in next to you.

Paul Johnson: What happens when a rental unit appears next to you is there is no investment of the person living there. People who are investing in the property will take care of it they will find a way to solve problems. They won't have the parties.

Alderman Petty: With all do respect by your own admission rich parents often buy houses for kids who also disrespect their neighborhoods. I don't really see how legislating lots or house size makes any difference with regards to party houses.

Alderman Lewis: The lots which are outside of the current Oakbrooke III zoning can that be addressed at this time?

City Attorney Kit Williams: I do not think they can. Those are the lots that were originally covered by the Bill of Assurance that was offered by Mr. Hoskins. A Bill of Assurance has to be offered by the developer it can not be asked for or amended by the City Council. We wouldn't be able to talk about house size at all if Mr. Hoskins had not in an earlier rezoning request offered that as a Bill of Assurance. Once he did then any change to that that he might want to make would be up to the City Council. They wouldn't have to accept any change they can hold him to what he has offered.

Paul Johnson: Does this negate that Bill of Assurance?

City Attorney Kit Williams: No, the Bill of Assurance will continue to cover the houses and the property for which it was offered. It can only be changed if in fact the City Council takes affirmative action to except an amended Bill of Assurance.

Jeremy Pate: The Bill of Assurance that was offered, regarding house size on Oakbrooke Phases I and II, covered this entire property. That was associated with that zoning and this is an entirely different zoning request so there is not a Bill of Assurance associated with this PZD zoning request.

City Attorney Kit Williams: If this rezoning is not accepted by the City Council the previous rezoning will remain intact including the Bill of Assurance that covered the previous rezoning.

Jeremy Pate: That is correct.

City Attorney Kit Williams: If this rezoning is accepted then everything within this rezoning will no longer be affected by the previous rezoning which is no longer in effect. The property that is outside this that immediately borders the neighborhood will not be affected one way or the other. Everything within this rezoning, if it is rezoned, will be rezoned without any offer of a Bill of Assurance that I've heard from the developer.

Paul Johnson: In effect those lots outside will not be attached. Lot I which was previously detached 1400 square feet minimum could be attached.

City Attorney Kit Williams: It would be controlled by this rezoning, the conditions of approval, and the statements of conditions that are accepted by the City Council.

Alderman Ferrell: Is the minimum square feet in Bridgeport deemed or mandated by a POA or covenant?

Paul Johnson: The minimum requirement was 1800 square foot by covenant. There are no covenants that have been submitted that we know of at this time. Mr. Hoskins stated there would be covenants but until enough houses are sold he would be in control of the POA. That means it could fluctuate as needed on his approval.

Alderman Lucas: One through ten in Planning Area III are the ones across the street from the ones next to your neighborhood.

Paul Johnson: Yes, ma'am.

Tom Fetner, a resident of Bridgeport Neighborhood: The developer mentioned lot coverage percentages but he was not sure what size house would go on what size lot so if you do not know that how can you determine what the coverage would be. There are items in what is being proposed that are experimental for Fayetteville. I think there are some good ideas here. You are putting an experiment beside a well established neighborhood. In the four years since we reached the current PZD that is in effect there have been four house built and not finished or sold. If this is approved and the development is started and the developer decides he is done will the PZD still be in effect? Will the letter of assurance still be in effect that we have for the lots that are not being effected by this PZD or will we be back here going through this again?

Mayor Jordan: I think it will be.

City Attorney Kit Williams: Yes, for all three of those. The Bill of Assurance will remain in effect for any lots that it's covering now that is not rezoned. If the rezoning is granted that rezoning runs with the land but if this PZD doesn't work than I would expect any new owner to come back to City Council with a new proposal.

Tom Fetner: If this is approved at what point in this process does this become written in stone to where you can't come back again and say I want to change this part of it? Is there any point in time when that happens?

Mayor Jordan: I don't think so.

City Attorney Kit Williams: No, with any zoning anywhere in the city limits the owner of the property can come back in and ask to have it rezoned. It doesn't mean the City Council is going to allow it but at any time an owner can petition.

Tom Fetner: Does that happen very often for RSF-4 to do a lot of changes?

Mayor Jordan: I have seen a few.

City Attorney, Kit Williams: They go through Planning first.

Jeremy Pate: Yes.

Tom Fetner: I am disappointed that we cannot have a new letter of assurance that would affect the houses that border Bridgeport in exchange to allow a density increase of about 60%. It would make us feel better if we could request that the houses that border Bridgeport be 2000 square feet to provide a buffer.

Jerry Musick: I am looking at becoming an owner in Bridgeport. I contemplated building a 3000 sq. ft. house on the west side but I am not going to with what's going across from it. The second concern is drainage.

Sondra Smith, a resident of Bridgeport: I would invite any alderman that has not been out there to go out and view the area. I live next door to college kids and 1500 square foot homes. It is not the size of the home that I am concerned about. My concern is the density of the project. We are surrounded by affordable housing. The houses in the project look nice. My concern is the completion of the project. There has been a huge apartment complex completed since this project came forward. You are flooding that neighborhood with high density.

Nicky Dou, a Real Estate Agent: It seems like the residents of Bridgeport's main concerns are these are going to be rental properties. I deal with a lot of investment properties and the price per square foot of this project is not going to incent my investors to go out and purchase the property. The quality of the homes is supreme. We are waiting for the homes in Oakbrooke to be perfect before we sell them.

Peter Futterknecht, a resident of Bridgeport expressed his concerns that there is no guarantee to what the development will finally become. It is a great concept the way it is now but it could change. That is where I find a problem with increasing the density. Density in itself does not concern me it is what is being offered within that high density.

Melissa Fetner, a resident of Bridgeport, stated her main concern with the development has been the loopy change that has taken place over the past four years. Every time we get something settled it changes. She voiced her concerns with the density and the traffic.

Pam Henson, a resident of Bridgeport, voiced her concern on the density of this project.

Chuck Lewis, POA resident and Covenant Officer, asked if the Council would represent the homeowners who live in Bridgeport and not just represent those families that are going to live in Oakbrooke. He also voiced his concern on the density in this project.

Chris Brown, City Engineer: The impervious area is 65%.

Alderman Lewis: How does that compare to other areas.

Chris Brown: That is based on one eighth acre lots. On larger lots the impervious area is 40%. It is a pretty high impervious area for this type of density. That is in the drainage report. The detention pond is designed to accommodate that impervious area.

Alderman Petty: In the 2025 goals to me there is only one that matters, the third one, "We'll make traditional town form the standard." I don't think a 2000 sq. ft. requirement is traditional town form. I don't think a neighborhood that has no commercial within walking distance is traditional town form. I think we need to stay true to that.

Alderman Ferrell: The easy thing to do would be to not accept any change. We paid good money for consultants to come in and tell us that density was a good idea. I understand your concerns but change is coming and this is a mixed idea that I like. I like the idea of having commercial upstairs. I understand why people are apprehensive it's not in my back yard.

Alderman Thiel: I like the changes that have been made. I like the commercial added and the concept of it being mixed. I don't know if your goal was to increase the density. From what I am hearing tonight and the traffic out there that concerns me. I can not support the increase in density. I can support the other changes in it, particularly adding the commercial. I like the other project and I like this one but from what I'm hearing from everyone and what I see in traffic out there, coupled with the fact that there has been only four houses built. That concerns me.

Tracy Hoskins: The reason for all these changes is to make it a sellable project, to make it a good project. Large houses on large lots are a thing of the past. They are not selling. Those four houses have not been under construction for two years. Every Oakbrook home is designed in our office by our staff architect. These are some of the highest quality houses built in Northwest Arkansas. The lots are too large and have to build too large of a house to get a return on it. Right now, we need to be building the smaller homes. Under the current size of lots the only way we can build houses in Oakbrook and sell them is to lower the quality because we have so much money in the land and infrastructure cost. The whole idea is for more density. The redesign of Oakbrook is the epitome of the City Plan 2025. It's what this city said they wanted. We are trying to offer something different and with that comes density. He states that with this new design there is a lot of open and green space that is incorporated.

Alderman Petty: Jeremy if we don't count planning area 5 what is the density in this project?

Jeremy Pate: 4.93 is what I'm hearing from the applicant.

Tracy Hoskins: If you take out planning area five the over all density is right at five units per acre.

Alderman Petty: What is the density of the Washington Willow Historic District?

Jeremy Pate: Most of it is around 7 to 8 units per acre.

Alderman Gray: I've been conflicted about this project. I have listened to the homeowners in the area and that's important to me, however, I think we have to realize what our developer has done and he's reported to us green ideas that he has incorporated, which I think is excellent. We need this kind of housing in Fayetteville. Who knows what the economy is going to do and what's going to be built on that property. We don't know what's going to happen that's just the way it is. I would much rather see Oakbrooke go in there than some of other things that could go in there. I'll be supporting this project.

Alderman Lucas: What we are looking at here is what the Planning Commission would be looking if we had sent it back to them. We're not looking at the whole concept. We're supposed to be looking at the different aspects of this since we didn't send it back to the Planning Commission for them to give us a recommendation. We need to look at the basics. I think that's what these neighbors are wanting and that's what I think we should be looking at since we didn't send it back to Planning Commission.

Alderman Lewis: The sign permits up to a 75 square feet monument sign and 150 square feet wall sign per business per wall would be attached to this zoning?

Jeremy Pate: That is correct. Jeremy gave a brief description on the sign ordinance and how it applies to this project.

Sarah Lewis: I am not clear on the language. Is number two RO language?

Jeremy Pate: Yes. It will allow two 16 square feet wall signs per business and one monument sign limited to 50 square feet.

Sarah Lewis: Is that a percentage of the building size or is it just dimensions.

Jeremy Pate: It is just dimensions.

Alderman Lucas moved to amend the condition of approval # 2 to the residential office zoning district signage. Alderman Cook seconded the motion.

Jeremy Pate: It would essentially go back to what staff had recommended at the Planning Commission, which is to follow a residential office type sign.

Alderman Lucas: This is a residential area. I think residential office is more appropriate for that area.

Upon roll call the motion passed unanimously

Alderman Lucas moved to accept staff recommendation for the minimum buildable area. Alderman Lewis seconded the motion.

Jeremy Pate: The Planning Commission recommended 65% for planning areas one and three and 70% for planning areas two and four. Staff recommends 60% buildable area in planning areas one through four.

A discussion followed on the motion.

Sarah Lewis: The buildable area is that just the foot print of the building or is that driveway.

Jeremy Pate: Just the buildings. It does not include driveways and parking areas.

Tracy Hoskins: Clarified the reason for the higher coverage area.

Alderman Petty: You are just taking from one area and drawing the line in a different spot.

Tracy Hoskins: Basically yes.

Alderman Lucas: If we set a maximum there is nothing we can do about it if they build it to that. That is something we must remember.

Peter Futterknecht, voiced his concern on the increase in buildable space and the guarantee of green space in the project.

Mayor Jordan agreed that there is no guarantee

Alderman Petty: There are guarantees. The lines are drawn on the map in a specific spot and they say where the common areas are and where the owner maintained areas. If we approve this, it's going to be set in stone unless it comes back before Council. It's pretty definitive.

Mayor Jordan agreed with Alderman Petty.

Upon roll call the motion passed 5-3, Alderman Gray, Thiel, Cook, Lewis, Lucas voting yes and Alderman Petty, Rhoads, and Ferrell voting no.

Alderman Lewis asked Jeremy if planning area number 3 and lots 1 through 10 are those proposed as a mixture of attached and detached right now.

Jeremy Pate: That is correct.

Alderman Lewis moved to propose lots 1 through 10 be detached single family in planning area three. Alderman Lucas seconded the motion.

Alderman Petty: There is no way I can support that. It sounds like an endorsement of sprawl. There is a huge multi-development on the other side of this. Doing attached houses is not the end of the world. It is an appropriate transition from detached single family to that intense multi family, which is the Links. That is the essence of appropriate transition. I just can't even understand the sense of that.

Alderman Lucas: What we are dealing with is compatibility to a neighborhood. In the 2025 Plan sessions the people did not want to destroy established neighborhoods. We want to allow different styles of buildings but we are looking at compatibility and even the booklet Mr. Hoskins presented talked about transitioning. This is merely asking that attached homes not be on this street that is next to a neighborhood that doesn't have attached homes. It's just a matter of compatibility to a neighborhood.

Alderman Lewis: One reason I think that is a good idea is compatibility but also in talking with the neighbors around that area there's a lot of workability. They are saying this is a good idea on these parts but we'd like these parts changed. I think we need to be open to these ideas and try to work with that. Also, it's right next to the proposed detention area, which I am really having huge concerns about, with the high density area. I like the idea of density. That type of density is going to cause real run-off issues. Detached home are going to have broken apart impervious surfaces, so they will have separated impervious surfaces and that is a positive thing around a

detention area. Attached homes are attached, they are a good idea but we need to figure out how to break up those areas. Those are my two reasons for proposing this.

Alderman Petty: Of those ten houses, only one is next to the Bridgeport Subdivision. I don't see a reason to legislate all ten, maybe the first one as a give me. It just seems like doing what the neighbors want because they ask for it with out being critical of the project or what has been asked for.

Alderman Lucas: I think Alderman Lewis made some very good points about the drainage and the fact this is an area that is flat. If there are a lot of drives and attached pieces of homes you're going to stop that drainage into the detention ponds. I think she made some very good points and I agree.

Jim Ramsey, Paradigm Development: The reason for attaching housing especially in those areas was as a tree control maneuver.

Alderman Lucas: Jeremy how many lots are in planning area three?

Jeremy Pate: Planning area three has a maximum of 76 units.

Alderman Lucas: Out of that there will be 13 with attached?

Jeremy Pate: Correct.

Alderman Lucas: There are plenty of areas to mix attached homes in planning area three if we do not have it in lots 1 through 10. There's plenty of area to put those 13.

James Davis, Bridgeport resident explained there are no trees on the north section. They are all in the creek there. All the trees are in the south part of it.

Tracy Hoskins: There are many trees in the area and the reason for attaching the homes is to maneuver them around the homes.

Upon roll call the motion passed 7-1. Alderman Petty voting no.

Alderman Ferrell: Jeremy how many conditions are there?

Jeremy Pate: We agree with all the conditions that are highlighted.

This ordinance was left on the Second Reading.

New Business:

Bid Waiver for Asphalt Materials: An ordinance waiving the requirements of formal competitive bidding during calendar year 2010 for the purchase of asphalt materials for use by the Transportation Division.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Services Director: We are still bidding the asphalt. This is something we put into effect last year in hopes of lowering the price on a quarterly base. That did take effect last year. We came out with greater savings doing it this way. All we are asking is that we do not have to come back on a quarterly basis because it will cause an interruption in receiving the asphalt.

City Attorney Kit Williams: It is so they won't have to come back and have another ordinance every quarter.

Alderman Thiel: This is good practice.

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

City Attorney Kit Williams read the ordinance.

Alderman 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.

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

Alderman Lewis stated that she hopes we can find ways to use less asphalt.

Ordinance 5301 as Recorded in the office of the City Clerk.

Watershed Conservation Resource Center: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Watershed Conservation Resource Center (WCRC) in the amount of \$248,000.00 for a stream restoration project for a section of the West Fork of the White River adjacent to the Fayetteville Executive Airport.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer: This is about a 3,000 foot of stream restoration near the airport. Watershed Conservation Resource Center would be our contractor to handle all the design and to

move forward on the construction. Total project cost is about \$575,000 and the City's portion is about \$248,000.00.

Mayor Jordan: Why did we not put it out for bid?

Chris Brown: This was a grant. The Watershed Conservation Resource Center is an interval part of that grant. They are actually receiving the grant. The City is the matching funds. We are the link to the grant through the Watershed Conservation Resource Center.

Alderman Lucas: You have the money?

Chris Brown: Yes. It is included in the budget. It is part of the Nutrient Reduction Plan and it is in our Storm Water Phase II budget.

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

City Attorney Kit Williams read the ordinance.

Sarah Lewis: The stream restoration in this place, which is up stream from our Noland Wastewater Treatment Plant, will lengthen the life of that.

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

Ordinance 5302 as Recorded in the office of the City Clerk.

Amend Chapters 151 & 172: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapters 151: Definitions and 172: Parking and Loading in order to establish further parking standards in districts utilized for single family homes.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Every year we receive multiple complaints about parking issues. In 2007 we attempted to address some of that with a parking ordinance amendment that required a maximum of four vehicles parked in the front yard area. Section 1 of this ordinance does not change the definition. We are simply moving it from Chapter 172. Section 2 changes the ordinance. What this proposal is to do is to further restrict how many vehicles can be parked on properties that contain single family homes. This would be applicable in single family districts and within other

zoning districts that contain single family homes. U of A events for 12 hours before and after the event are exempt.

Jeremy explained the ordinance.

Alderman Gray: Which is preferred on special events? Which is easier to enforce?

Jeremy Pate: Ten events a year is a quantifiable number. A lot of people simply will not know that. Most people when moving into town will not know to call the City every time they have a party at their house. There is certain difficulty with that. The infrequent parking causes me to make a judgment call. For me that is not that big of an issue. We could always revisit that if it becomes an issue. We can certainly enforce either one of these.

Alderman Cook: Code Enforcement will be tagged with enforcing this.

Jeremy Pate: That is correct.

Alderman Cook: What is Kit's opinion on the enforcement of this?

City Attorney Kit Williams: I would like to see a hybrid of these two. I know it makes record keeping easier, but I am concerned where it says "you must apply to the Planning Department no later than three days in advanced in writing." Maybe I could get your two together a little bit where we can have a fall back position to make it a little more clear when we get to the frequent parking.

A discussion followed on specific sections of the ordinance.

Alderman Thiel: I am in favor of letting Kit develop a hybrid of the two and leave this on this reading. I really don't like the idea of limiting something to ten events a year. I think the real issue is complaint driven. It's the people that call in. Ten events are not that much. Why not exclude all of the holidays? I have an issue with the amount of events. I really prefer the second one.

Jeremy Pate: We tried to stay away from holidays because not everyone recognizes the same.

Alderman Petty: I think the second option is simple and makes sense. I have a problem with any legislation that requires people to file a permit with the city to have people over. I think that's really stepping over a line.

Alderman Lewis: I like the second part of number five as well. I would like to see what Kit puts together. Is the language of garage versus carport in the ordinance?

Jeremy Pate: It is not. Right now we identified it as a garage only. It was our understanding that parts of the complaints were just sightliness. You see so many vehicles on a property and visually it looks like a parking lot. That is entirely a policy decision.

Don Marr, Chief of Staff: I would like to continue to remind the Council that the state published its sales tax reports for November sales which are down slightly over 6%. Every time you make a decision this year, in this environment, I want you to be aware of the work load that is placed on staff because we are doing no new services and no new staff. When we have complaint driven ordinances, they are responded to basically in the order in which they are received and in the severity in which they are done. I don't want to imply that we have a big force that goes out and is able to do this all over town even though we will have a better ordinance. I would like to thank both Council members for addressing this because it is something we need. It does scares me, the more of these things that we add that require additional code compliance, because we're not adding code compliance staff. There is added work when we add these regulations.

Alderman Lewis: Part of the intent of this is to facilitate some of that. I don't think the number of complaints is going to change. The same people are going to be having these problems and it will facilitate our code compliance to have a better mechanism for doing this.

Don Marr: I am hoping it will reduce staff time without having to take months and months of data collection to do it. We have been adding a few things over the last five or six months. I just want us to be careful as we look at adding these items. We will do our best to enforce what ever you want us to do.

Adella Gray: That is the reason I asked that question because I wanted Jeremy to tell us what was easier for him. I like the second part too, however it is subjective. I agree completely.

This ordinance was left on the First Reading.

Amend 2010 Adopted Budget: A resolution amending the 2010 city budget by re-appropriating up to \$76,037,660.00 in bonded or ongoing capital projects, outstanding obligations and grant-funded items previously appropriated in the 2009 city budget but not completed or delivered in 2009.

Paul Becker, Finance Director gave a brief description on this item.

Alderman Thiel: This is something we do every year.

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

Resolution 09-10 as recorded in the office of the City Clerk.

Parks HMR Tax Revenues Special Election: An ordinance to amend Ordinance No. 3900 to dedicate and authorize the use of the Parks HMR Tax Revenues for the development, construction and maintenance of city parks, and to refer such ordinance to the electors of Fayetteville at a Special Election to be held on March 9, 2010.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: The only thing I would encourage the Council to do is when you look at the special election cost it's about \$15,000 to \$17,000 if we do it on March 9th, and if we do it in May during the primary it's \$3,000 to \$5,000.

Alderman Gray: Or we can wait until November.

Mayor Jordan: The only thing I have an issue with November is we are going to be in budget discussions in about September or October and I'd like to have this in place. I know it doesn't cost anything in November but I'd rather spend the \$3,000 or so in May so we can discuss this item in the fall rather than wait until November.

Alderman Gray: Sounds good.

Alderman Lewis: This would go to a public vote and they would decide if they want to add maintenance as part of where this tax would go?

Mayor Jordan: That is what I understand. Is that correct Bobby?

Alderman Ferrell: Ordinance 3900, which was passed by the citizens of Fayetteville in a special election on November 14, 1995, approved 1% additional sales tax for parks. In section 2 B of the ordinance that the Council voted on to enable the election states "proceeds of the additional 1% tax shall be deposited into a special fund established by the City to be used for the development, construction, and maintenance of city parks. The funds shall be dispersed by the Mayor upon approval of the City Council" Clearly this demonstrates the intent of the Council. Some how on the ballot that word 'maintenance' was left out.

City Attorney Kit Williams: I agree. I was on the Council at that time and I was not aware that this was going to be restricted to only promotion and development. But unfortunately that's the way the ballot was worded and because of that, my legal analysis and research in this area showed the ballot language is what controls. So we can not spend it on maintenance. We haven't been able to the entire time we've had this tax because the ballot said its purposes are for development and promotion of parks, so that's all we've been able to spend it for. This would simply give you the right that in the statute. If the ballot had been worded that way originally then that's the way it would have been.

Alderman Petty moved to amend the ordinance to hold the election on May 18, 2010.
Alderman Ferrell seconded the motion. Upon roll call the resolution passed unanimously.

City Attorney Kit Williams: I would ask that this not be passed tonight. I would like to redraft this properly. I want to go slowly and have it drafted properly for the next meeting.

Valerie Bienddara: I agree with the ordinance. I feel it is entirely appropriate for Parks and Recreation to have the ability to use the money from HMR. My concern is that with the Parks being able to use this money for maintenance that at some point in time the City Council would

eliminate the parks maintenance budget in the general budget. I would like some restrictions that City Councils in the future will not start doing that to make up for a budget shortfall. That Parks and Recreation will still have all the maintenance money that it needs.

Alderman Ferrell: The budget process is open to the public. You said something that I can't agree with, you said "will be able to give Parks all the maintenance money that it needs". We probably won't be able to do that with any department. The public is always part of that process to be there and to have comment. I think that will always be part of this process.

Valerie Bienddara: Not everybody goes and visits the budget process and it can always be sneaked in. I just want to make sure that Parks and Recreation doesn't start losing the money it desperately needs.

Alderman Ferrell: The framers of this ordinance put it in there that maintenance money could be used and it was left off the ballot unfortunately.

Valerie Bienddara: I understand that it's real easy to say they have it in the HMR and not fund them in the general. It's real easy to do that. Thank you.

Alderman Lewis: This is divided up into construction, development, and maintenance and sometimes none of it would go to maintenance. Is it designated a percentage?

City Attorney Kit Williams: No. You can not really bind a future City Council you just have to count on democracy. That's what we have here.

Alderman Thiel: We are voting on something that's going to the public to be voted on. So they can decide that too.

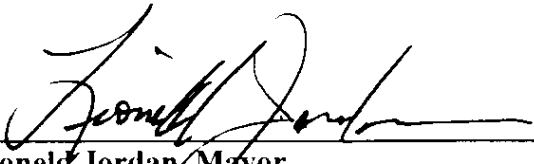
Alderman Petty: The greatest assurance you can have is that the public elects us and the public in Fayetteville cares very much about their parks.

Don Marr, Chief of Staff: It has always been talked about that any administration would want the maximum flexibility in terms of their planning. If you're in touch with the citizens then you make sure the rations on how you spend that money between development and maintenance are proper. Sometimes there is pressure put not to develop parks because you have to take of them in order for them to be maintained to the standard and quality that citizens have come to expect. This helps us ensure that we have revenue at times in low development. It just gives us multiple flexibility.

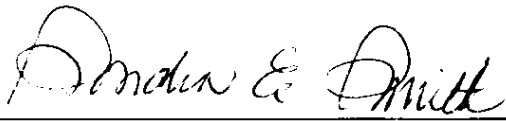
This ordinance was left on the First Reading.

City Council Tour: None

Meeting adjourned at 9:00 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer

LOCAL PENSION FUND REPORT 2009

In keeping with statutory requirements, I am presenting this report for 2009 on the local Police and Fire retirement funds for the City of Fayetteville. Both of these plans were closed, by law, in 1983 and there are no longer any active members remaining. There are currently 47 police and 60 fire retirees and beneficiaries in the system.

At December 2009 projected expenses from the fire pension fund were in approximately \$1.5 million as compared to fund revenues of \$786,000. Projected police pension fund expenses were approximately \$1.7million as compared to fund revenues in excess of \$1.1million. This is before adjusting investments to market value. However, on a cash flow basis, contributions are not close to covering expenses.

Actuarial evaluations are the responsibility of the State of Arkansas Fire and Police Review Board. The last evaluations completed were as of December 31, 2008. Based on these evaluations the unfunded pension obligations of police and fire were \$3.6 million and \$5.5 million respectively and have grown considerably from prior years. The unfunded actuarially accrued liabilities for these funds were approximately \$9.6 million for police and \$10 million for fire. In the annual reports issued by the Arkansas Pension Review Board neither the fire nor police pension fund were adjudged actuarially sound pursuant to established financial tests. Again, this actuarial valuation was performed before the current year (2009).

The appropriate local oversight pension boards have been notified of these facts and have been currently examining the situation and reviewing possible options. The primary option considered was that of reducing current benefits. However, the pension boards have been advised that there is no specific enabling legislation to reduce benefits and that legal issues might prevent that option. Although the City has no direct obligation to fund these pension plans; other than a .4 mill dedicated levy for each, plus state insurance turn back and certain dedicated fees, the status of these plans need to be carefully monitored.