

REGULAR MEETING  
BOARD OF MAYOR AND ALDERMEN  
MARCH 13, 2007

REFERENCE VIDEO DATED MARCH 13, 2007

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said board in the Municipal Building of said city at 5:00 p.m. on March 13, 2007. Mayor Gwen Shelton was present and presiding. The following named aldermen were present:

Richard Bolles  
Carolyn Denton  
Dorothy Small  
Harold Bradford  
Walter Sloan

Absent: Joe Askins

Also present was Kevin Helms, City Administrator, and Steve Broadway, City Attorney.

The prayer was led by Chad Hancox, Youth Director at First Baptist Church, and the Pledge of Allegiance was led by a group of second graders at Ralph Askins School.

Motion was made by Richard Bolles seconded by Harold Bradford to approve the minutes of the February meeting. Upon roll call, the following voted:

<u>AYE</u>	NAY
Richard Bolles	None
Carolyn Denton	
Dorothy Small	
Harold Bradford	
Walter Sloan	

Mayor Shelton declared the minutes approved.

Motion was made by Harold Bradford seconded by Carolyn Denton to approve the bills and additional bills for payment. Upon roll call, the following voted:

<u>AYE</u>	<u>NAY</u>
	None
Carolyn Denton	
Dorothy Small	
Harold Bradford	
Walter Sloan	

Richard Bolles

Mayor Shelton declared the bills and additional bills approved.

Tonya Steelman was introduced as the new Administrative Assistant.

The Employee of the Month Award was given to the Police Department Delta Shift, Dion Shockley, Patrick Murdock, Patrick Fitch, and Jon MacDonald for the recent marijuana bust. The Employee of the Month Award for last month went to the Fire Department for the Toys for Tots Program.

Paul Young with Putman and Hancock explained the audit for the year ending June 30, 2006. Motion was made by Walter Sloan seconded by Dorothy Small to accept this audit. Upon roll call, the following voted:

Aye

Dorothy Small  
Harold Bradford  
Walter Sloan  
Richard Bolles  
Carolyn Denton

Nay

None

Mayor Shelton declared the motion adopted.

The FPU report was given by Britt Dye and the industrial report was given by Nathan Ward.

The following proposed animal control ordinance 2007-1 was discussed:

**ORDINANCE: 2007-1**

**ORDINANCE REGULATING DANGEROUS DOGS**

**Section**

- 4-201 Authorization
- 4-202 Purpose and Intent
- 4-203 Definitions
- 4-204 Procedure for Declaring a Dog Dangerous
- 4-205 Notification of Dangerous Dog Declaration
- 4-206 Hearing on Dangerous Dog Declaration
- 4-207 Appeal from Dangerous Dog Declaration
- 4-208 Keeping of Dangerous Dogs
- 4-209 Permit and Tag Required for a Dangerous Dog
- 4-210 Pit Bull Dogs Presumed Dangerous
- 4-211 Notification of Intent to Impound
- 4-212 Immediate Impoundment
- 4-213 Impoundment Hearing
- 4-214 Destruction
- 4-215 Appeal from Order of Humane Destruction
- 4-216 Change of Ownership
- 4-217 Continuation of Dangerous Dog Declaration
- 4-218 Conflicting Ordinances
- 4-219 Severability

An ordinance providing for the classification, licensing and keeping of dangerous dogs within the corporate limits of the City of Fayetteville, authorizing the impounding and disposition of such dogs, and repealing all ordinances in conflict therewith.

**BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FAYETTEVILLE:**

**SECTION 4-201. Authorization.**

This Ordinance is enacted pursuant to the general police power, the authorities granted to cities and towns by the Tennessee State Constitution.

**SECTION 4-202. Purpose and Intent.**

The purposes of this Ordinance are to promote the public health, safety, and general welfare of the citizens of the City of Fayetteville. It is intended to be applicable to "dangerous" dogs, as defined herein, and to regulate dogs that are commonly referred to as "pit bulls," as defined herein, by ensuring responsible handling by their owners through registration, confinement, and liability insurance.

## SECTION 4-203. Definitions.

When used in this Ordinance, the following words" terms, and phrases, and their derivations shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) *Animal control officer* means any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provision of this Ordinance.
- (b) *At large* means that a dog is not under the direct control of the owner.
- (c) *Dangerous dog* means any dog that, because of its aggressive nature, training or characteristic behavior, presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term "dangerous dog" includes any dog that according to the records of either the City, Animal Shelter, the City Department of Animal Control, or any law enforcement agency:
  - (1) Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the street, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any of the above referenced authorities;
  - (2) Has more than once severely injured or killed a domestic animal while off the owner's property; or
  - (3) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting.
- (d) *Direct Control* means immediate, continuous physical control of a dog such as by means of a leash, cord, secure fence, or chain of such strength to refrain the dog and controlled by a person capable of restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or to government police dogs.
- (e) *Director* means the Animal Control Officer.

- (f) *Impoundment* means the taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this Ordinance.
- (g) *Muzzle* means a device constructed of strong soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.
- (h) *Pit bull dog* means and includes any of the following dogs:
- (1) The Staffordshire Bull Terrier breed of dogs.
  - (2) The American Staffordshire Terrier breed of dogs.
  - (3) The American Pit Bull Terrier breed of dogs.
  - (4) Dogs that have the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.
- (i) *Owner* means any person, partnership, corporation or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. The definition shall not apply to any veterinary clinic or boarding kennel.

Ⓞ Sanitary condition means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(k) *Under restraint* means that an animal is secured by leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

#### **SECTION 4-204. Procedure for Declaring a Dog Dangerous.**

- (a) An animal control officer or any adult person may request under oath that a dog be classified as dangerous as defined in Section 4-203(c) by submitting a sworn, written complaint on a form approved by the Animal Control Officer. Upon receipt of such complaint, the Director shall notify the owner of the dog that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.
- (b) At the conclusion of an investigation, the Director may:

- (1) Determine that the dog is not dangerous, and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or
- (2) Determine that the dog is dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth in Section 4-208, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for the impoundment. If all impoundment fees have not been paid within ten (10) business days after a final determination that a dog is dangerous, the Director may cause the dog to be humanely destroyed.

**SECTION 4-205. Notification of Dangerous Dog Declaration.**

- (a) Within five (5) business days after the declaring a dog dangerous, the Director shall notify the owner by certified mail of the dog's designation as a dangerous dog and any specific restrictions and conditions for keeping the dog, as set forth in Section 4-208 of this Ordinance. The Animal Control Officer also shall notify the City Administrator and the Police Chief of the designation of any dog as a dangerous dog and specify any particular requirements or conditions placed upon the dog owner.
- (b) The notice shall inform the dog owner that he may request, in writing, a hearing to contest the Director's finding and designation within five (5) business days after delivery of the dangerous dog declaration notice.
- (c) If the Director cannot with due diligence locate the owner of a dog that has been seized pursuant to this Ordinance, the Director shall cause the dog to be impounded for not less than five (5) business days. If after five (5) days, the owner fails to claim the dog, the Director may cause the dog to be humanely destroyed.

**SECTION 4-206. Hearing on Dangerous Dog Declaration.**

- (a) The City Administrator shall hold a hearing within fifteen (15) business days after receiving the dog owner's written request for such a hearing. The City Administrator shall provide notice of the date, time and location of the hearing to the dog owner by certified mail and to the complainant by regular mail
- (b) At a hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness. Criteria to be considered in a hearing required by this Section shall be included but not to be limited to the following:
  - (1) Provocation,
  - (2) Severity of attack or injury to a person or domestic animal,
  - (3) Previous aggressive history of the dog,

- (4) Observable behavior of the dog,
  - (5) Site and circumstances of the incident, and,
  - (6) Statements from interested parties.
- (b) A determination at a hearing that the dog is in fact a dangerous dog as defined in Section 4-203© shall subject the dog and its owner to the provisions of this Ordinance.
  - (c) Failure of the dog owner to request a hearing shall result in the dog being finally declared a dangerous dog and shall subject the dog and its owner to the provisions of this Ordinance.

**SECTION 4-207. Appeal from Dangerous Dog Declaration.**

If the City Administrator determines that a dog is dangerous at the conclusion of a hearing conducted under Section 4-206, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice that the dog has been finally declared dangerous. The appeal must be a trial de novo and shall be civil proceeding for the purpose of affirming or reversing the City Administrator's determination of dangerousness.

**SECTION 4-208. Keeping of Dangerous Dogs.**

The keeping of a dangerous dog as defined in Section 4-203© shall be subject to the following requirements:

- (a) *Leash.* No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen or other proper enclosure unless such dog is securely attached to a leash not more than four (4) feet in length. No such person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash.
- (b) *Muzzle.* It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.
- (c) *Confinement.* Except when leashed and muzzled as provided in this Section, a dangerous dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

- (1) The structure must have secure sides and a secure top, or all sides must be at least eight (8) feet high;
  - (2) The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than one (1) foot into the ground; and
  - (3) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.
- (d) *Indoor Confinement.* No dangerous dog shall be kept on a porch, patio or any part of a house structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.
  - (e) *Signs.* All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."
  - (f) *Liability Insurance, Surety Bond.* The owner of dangerous dog shall present to the Animal Control Officer proof that he/she has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000) covering any damages or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the City be notified immediately by the agent issuing the policy in the event that the insurance policy is cancelled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period. In the event that the owner proves to the satisfaction of the Animal Control Officer that insurance is not available, he may pay a non-refundable cash fee in the amount of one thousand dollars (\$1,000) to the City.
  - (g) *Animals Born of Registered Dogs.* All offspring born of dangerous dogs registered with the Animal Control Officer also must be registered with the Department within six (6) weeks of birth.
  - (h) *Notification of Escape.* The owner or keeper of a dangerous dog shall notify the Animal Control Officer immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

- (i) *Failure to Comply.* It shall be unlawful **and** a misdemeanor for any owner of a dangerous dog registered with the Animal Control Officer to fail to comply with the requirements and conditions set forth in this Section. Any dog found to be in violation of this Section shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in this Ordinance shall result in the revocation of the dog's license and the permit providing for the keeping of such animal.

**SECTION 4-209. Permit and Tag Required for a Dangerous Dog.**

- (a) The owner of a dangerous dog shall, within three (3) business days after the classification of the dog as a dangerous or upon acquisition of such a dog, obtain an annual permit from the Animal Control Officer to harbor the dog. The fee for such permit shall be one hundred dollars (\$100) per year.

This fee shall include the tag and inspection fee for inspection of the structure for confinement of the animal.

- (b) Proof of current rabies vaccination shall be presented in order to obtain the permit.
- (c) At the time the permit is issued, a red circular tag shall be issued to the owner of the dangerous dog. The tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.
- (d) The permit for maintaining a dangerous dog shall be presented to an animal control officer upon demand.

**SECTION 4-210. Pit Bull Presumed.**

There shall be irrefutable presumption that any dog registered with the Animal Control Officer as a pit bull is a dangerous dog and is therefore subject to the requirements of this Ordinance.

**SECTION 4-211. Notification of Intent to Impound.**

- (a) When the Animal Control Officer or his designee intends to impound a dog declared to be dangerous for violation of Section 4-208 he shall notify the owner or custodian of the dog, by certified mail, of the intended impoundment at least five (5) business days prior to the intended impoundment, except as provided in Section 4-212.
- (b) The notice of intent to impound shall inform the owner or custodian of the dog that he may request in writing, within five (5) business days prior to the intended impoundment, a hearing to contest the intended impoundment and finding of violation.

- (c) Upon request by the owner or custodian of the dog for a hearing pursuant to subsection (b), a hearing shall be held within ten (10) business days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog's owner or custodian requesting such hearing.
- (d) If the owner or custodian requests a hearing pursuant to subsection (b), no impoundment shall take place until conclusion of the hearing, except as authorized in Section 4-212.

**SECTION 4-212. Immediate Impoundment.**

- (a) A dog declared to be dangerous may be immediately impounded without a pre-impoundment hearing when the Animal Control Officer or his designee determines such immediate impoundment is necessary for the protection of public health or safety. Such immediate impoundment may be ordered for violation of Section 4-208 or when the dog bites a person or domestic animal.
- (b) The owner or custodian of the dog immediately impounded pursuant to subsection (a) shall be notified of the impoundment by certified mail within five (5) business days after the dog's impoundment
- (c) The notice of impoundment shall inform the owner or custodian of the dog that he may request, in writing, a hearing to contest the impoundment within five (5) business days after the mailing of the notice of impoundment.
- (d) Upon request by the owner or custodian of the dog for a hearing under subsection ©, a hearing shall be held within ten (10) business days after such request. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog owner requesting the hearing.

**SECTION 4-213 Impoundment Hearing.**

- (a) If after a hearing on impoundment, the Director or his designee finds no violation of Section 4-208, or that the dog has not bitten an individual, the dog shall be returned to its owner or custodian if already impounded, or shall not be impounded as intended.
- (b) Incident to the findings and conclusions made at the impoundment hearing, the Director or his designee may impose reasonable restrictions and conditions for the maintenance of the dog to ensure the health and safety of the public and the animal. Such conditions may include, but shall not be limited to:
  - (1) Posting of bond or other proof of ability to respond in damages;
  - (2) Specific requirements as to size, construction and design of a kennel in which to house the dog;
  - (3) Requirements as to type and method of restraint and/or muzzling of the dog;

- (4) Photo identification or permanent marking of the dog for purposes of identification; and
- (5) Payment of reasonable fees to recover the costs incurred by the Animal Control Officer in ensuring compliance with this Ordinance.

**SECTION 4-214. Destruction.**

- (a) The Animal Control Officer or his designee may order the destruction of a dog that it determines to be extremely dangerous to public health or safety, a dog that has made an extremely vicious attack upon an individual~ or a dog declared dangerous whose owner is unable or unwilling to adequately restrain it.
- (b) The Director or his designee shall give written notice by certified mail of his intention to destroy such dog to the owner or custodian of the dog, who may request in writing, within ten (10) business days after delivery of such notice, a hearing to contest the intended destruction
- (c) If no hearing is requested pursuant to subsection (b), the dog shall be destroyed pursuant to applicable provisions of law.
- (d) If a hearing is requested pursuant to subsection (b), such hearing shall be held within ten (10) business days after the request; and the dog shall not be destroyed prior to the conclusion of the hearing.
- (e) The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the City to humanely and safely keep the animal during any legal proceeding.

**SECTION 4-215. Appeal from Order of Humane Destruction.**

If the director or his designee orders a dangerous dog to be humanely destroyed pursuant to Section 4-214, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be available within ten (10) days after receiving notice of the destruction order. If an appeal is timely filed, the Director shall suspend the destruction order pending the final determination of the court. The appeal hearing must be a trial de novo and shall be a civil proceeding for the purpose of affirming or reversing the Director's destruction order.

**SECTION 4-216. Change of Ownership.**

- a) Any owner of a dangerous dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within ten (10) business days after such change of ownership or residence, provide

written notification to the Animal Control Officer of the name, address and telephone number of the new owner. It also shall be the responsibility of the person transferring ownership or custody of the dog to provide written notification of the dog's classification as dangerous to the person receiving the dog. The previous owner shall furnish a copy of such notification to the Animal Control Officer along with written acknowledgement by the new owner of his receipt of such notification. The Animal Control Officer or his designee shall notify the City Administrator and Police Chief of any changes of ownership, custody or residence of the dog within three (3) business days after receiving the required information from the previous dog owner.

- (b) Any person receiving a dog classified as dangerous must obtain the required permit, tag and enclosure prior to acquisition of the dog. The new owner shall comply fully with the provision of this Ordinance pertaining to obtaining liability insurance, payment of fees, and maintenance, control and ownership of a dangerous dog.

**SECTION 4-217. Continuation of Dangerous Dog Declaration.**

Any dog that has been declared dangerous by any agency or department of this City, another municipality, county, or state shall be subject to the provisions of this Ordinance for the remainder of its life. The person owning or having custody of any dog designated as a dangerous dog by any municipality, county, or state government shall notify the Animal Control Officer of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of Fayetteville. The restrictions and conditions of maintenance of any dog declared dangerous by this City, another municipality, county, or state shall remain in force while the dog remains in the City.

**SECTION 4-218. Conflicting Ordinances.**

All other ordinances of the City of Fayetteville that are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 4-219. Severability.**

The provisions of this Ordinance are declared to be severable. If any sections, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

This ordinance shall become effective ninety (90) days after publication, the public welfare requiring it.

Motion was made by Walter Sloan seconded by Richard Bolles to adopt ordinance 2007-1. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Harold Bradford	None
Walter Sloan	
Richard Bolles	
Carolyn Denton	
Dorothy Small	

Mayor Shelton declared Ordinance 2007-1 adopted.

Motion was made by Harold Bradford seconded by Dorothy Small not to accept responsibility for a water retention pond at Twin Oaks. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Walter Sloan	None
Richard Bolles	
Carolyn Denton	
Dorothy Small	
Harold Bradford	

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan seconded by Carolyn Denton to amend the Recreation budget to replace truck 234 and up to \$10,000 for upgrades to the baby pool. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Richard Bolles	None
Carolyn Denton	
Dorothy Small	
Harold Bradford	
Walter Sloan	

Mayor Shelton declared the motion adopted.

Motion was made by Harold Bradford seconded by Dorothy Small to accept the proposal from Bird and Kamback for the skate board park design. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Carolyn Denton	None
Dorothy Small	
Harold Bradford	
Walter Sloan	

Richard Bolles

Mayor Shelton declared the motion adopted.

The following two resolutions regarding cable franchise were considered

**RESOLUTION REGARDING  
SB1933 / HB1421 the "Competitive Cable and Video Services Act"**

**WHEREAS**, the U.S. Congress established procedures and standards in order to foster competition and encourage the growth and development of cable systems, assure that cable systems are responsive to the needs and interests of the local community, assure that cable companies provide and are encouraged to provide the widest possible diversity of services to all, and provide for the orderly renewal of cable television franchises; and

**WHEREAS**, the u.s. Congress, having determined that local governments are best suited to decide what is in the best interest of the citizens of their respective city, town or county, granted cable franchising authority to local governments; and

**WHEREAS**, municipalities across America have the legal right to enter into nonexclusive cable and video franchise agreements with cable and telephone companies; and

**WHEREAS**, municipalities welcome competition in the cable industry and stand ready to negotiate franchise agreements with cable and video operators in a timely fashion; and

**WHEREAS**, the "Competitive Cable and Video Service Act" is premised on the erroneous and unsubstantiated assertion that local governments and the local cable franchising process impedes competition among cable and video providers; and

**WHEREAS**, the existence of more than 600 cable franchise agreements that cable and telephone companies have entered into with local governments in Tennessee provides clear and convincing evidence that such assertions are baseless; and

**WHEREAS**, this legislation, under the guise of increased consumer access and choice, is simply an attempt by a corporate giant to bypass the local cable franchise process and unjustly gain advantages in its competitive fight with other cable and telephone companies that have duly and lawfully adhered to the congressionally authorized local cable and video franchising process and entered into more than 600 local cable franchise agreements with local governments in the state; and

**WHEREAS**, the local franchising process in Tennessee has benefited consumers and municipalities by ensuring that cable and video operators respond to local needs and interests; and

**WHEREAS**, these benefits include, but are not limited to, locally imposed and enforceable customer service standards; build out requirements that ensure cable operators serve the entire community; provision of public, educational and governmental ("PEG") access channels; complimentary cable and Internet service to public buildings and community facilities; municipal management of the public rights-of-way; and franchise fee revenues for use of the public rights-of-way; and

**WHEREAS**, the Tennessee General Assembly is considering legislation that would effectively eliminate the process by which local governments establish and enforce requirements that protect its citizens and ensure that all residents are assured access to cable or video service; prohibit the state and local governments from enacting any consumer quality and service protection standards; greatly minimize local governments' enforcement of customer service standards; significantly reduce PEG channel obligations, including local control and PEG

support; abolish the granting of complimentary services; and limit local authority over the public rights-of-way; and reduce franchise fees paid to local governments for use of the public rights-of-way; and

**WHEREAS**, such legislation would radically alter the regulatory framework for cable operators that has been in place for decades, allow cable and video providers to "cherry pick" the most profitable neighborhoods and customers, and impede local governments' ability to protect their citizens and provide for the needs and interests of their communities; and

**WHEREAS**, the affect of such legislation would undermine congressional intent regarding the provision of cable and video service; and

**WHEREAS**, the U.S. Congress considered and rejected similar legislation last year;

**NOW THEREFORE BE IT RESOLVED**, that the City of Fayetteville hereby opposes the "Competitive Cable and Video Services Act" currently being considered by the Tennessee State Legislature and the United States Congress; and

**BE IT FURTHER RESOLVED** that the City of Fayetteville will send this resolution to all the members of the 10S<sup>th</sup> Tennessee General Assembly, the Tennessee Congressional delegation, and the two U.S. Senators from Tennessee.

ATTEST

CITY OF FAYETTEVILLE

\_\_\_\_\_  
KEVIN L HELMS  
CITY CLERK

GWEN SHELTON  
MAYOR

03/14/07  
DATE

## Resolution

**A resolution requesting AT&T (formerly BellSouth) to enter into cable franchise negotiations in the City of Fayetteville.**

WHEREAS, AT&T (formerly BellSouth) submitted legislation for filing with the 104<sup>th</sup> Tennessee General Assembly on February 16, 2006, which was designated as Senate Bill 3210, and submitted substantially similar legislation in the 10th Tennessee General Assembly on February 14, 2007, which has been designated as Senate Bill 1933 and House Bill 1421; and

WHEREAS, this legislation would allow cable and telephone companies to bypass local governments and the local cable and video franchising process; and

WHEREAS, media reports have quoted AT&T officials as saying that the local franchise process is an impediment to competition; and

WHEREAS, the last application(s) for a cable franchise with this city took approximately eleven months from application to approval; and

WHEREAS, the current cable franchising system has served the City of Fayetteville well by ensuring the city can protect its citizens, preserve its authority and that cable companies cannot "cherry pick" their customers; and

WHEREAS, additional Public, Education, and Government access venues would be of great value to the City of Fayetteville; and

WHEREAS, based on Fayetteville's track record, AT&T could have already had their application for a franchise approved had they applied when they filed their legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FAYETTEVILLE:

1. That the City of Fayetteville hereby goes on record as requesting AT&T to enter into negotiations for a local cable franchise in the city of Fayetteville.
2. The city clerk is directed to send a copy of this Resolution to Mr. Marty Dickens, president of AT&T in Tennessee, and to each State Senate and House member representing the citizens of Fayetteville in the Tennessee General Assembly.
3. That this Resolution shall take effect from and after its adoption, the welfare of the City of Fayetteville requiring it.

ATTEST

CITY OF FAYETTEVILLE

KEVIN L  
HELMS CITY  
CLERK

GWEN SHELTON  
MAYOR

3-11-07  
DATE

Motion was made by Dorothy Small seconded by Walter Sloan to adopt these two resolutions. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Dorothy Small	None
Harold Bradford	
Walter Sloan	
Richard Bolles	
Carolyn Denton	

Mayor Shelton declared the resolutions adopted.

Motion was made by Carolyn Denton seconded by Dorothy Small to select Barge Waggoner Sumner and Cannon to perform the traffic study at a cost of \$18,600. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Harold Bradford	None
Walter Sloan	
Richard Bolles	
Carolyn Denton	
Dorothy Small	

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan to select Community Development Partners to perform the administrative services for the HOME Grant. This does not concur with the Finance Committee recommendation. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Walter Sloan	Dorothy Small
Richard Bolles	
Carolyn Denton	
Harold Bradford	

Mayor Shelton declared the motion adopted.

Erlene Patrick provided handouts and discussed the per capita funding for our library as compared to others in the State.

A resolution was presented to Lynn Wampler which had been adopted by the State Legislature in appreciation for his many years of service.

The Art League has requested to close 2 sides of the square the last weekend of April. Motion was made by Walter Sloan seconded by Harold Bradford to follow the Police and Fire Committee's recommendation to allow this request. Upon roll call, the following voted:

Aye

Richard Bolles  
Carolyn Denton  
Dorothy Small  
Harold Bradford  
Walter Sloan

Nay

None

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan seconded by Richard Bolles to approve the appointment of Jim Neale to the Industrial Board to replace Tom Bailey. Upon roll call, the following voted:

Aye

Carolyn Denton  
Dorothy Small  
Harold Bradford  
Walter Sloan  
Richard Bolles

Nay

Mayor Shelton declared the motion adopted.

Motion was made by Harold Bradford seconded by Walter Sloan to allow the inside lane of the west side of the square to be closed on April 7 for the NASCAR Team exhibit. Upon roll call, the following voted:

Aye

Dorothy Small  
Harold Bradford  
Walter Sloan  
Richard Bolles  
Carolyn Denton

Nay

Mayor Shelton declared the motion adopted.

Carolyn Denton reminded of Hamburger on the Hill Day on March 7. Mayor Shelton discussed Andrea's Walk which is scheduled for April 28 to benefit Jr.'s House.

After department reports were completed, motion was made, seconded, and unanimously adopted to adjourn.

Mayor

Clerk