

REGULAR MEETING
BOARD OF MAYOR AND ALDERMEN
AUGUST 12, 2008

REFERENCE VIDEO DATED AUGUST 12, 2008

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 August 12, 2008. Mayor Gwen Shelton was present and presiding. The following named aldermen were present:

Richard Bolles
Carolyn Denton
Dorothy Small
Joe Askins
Marty Pepper
Walter Sloan

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

The prayer was led by Joe Askins, and the Pledge of Allegiance was led by Britt Dye.

Motion was made by Marty Pepper seconded by Walter Sloan to approve the minutes of the July meeting. Upon roll call, the following voted:

<u>AYE</u>	<u>NAY</u>
Richard Bolles	None
Carolyn Denton	
Dorothy Small	
Joe Askins	
Marty Pepper	
Walter Sloan	

Mayor Shelton declared the minutes approved.

Motion was made by Joe Askins seconded by Dorothy Small to approve the bills and additional bills for payment. Upon roll call, the following voted:

<u>AYE</u>	<u>NAY</u>
Carolyn Denton	None
Dorothy Small	
Joe Askins	
Marty Pepper	
Walter Sloan	
Richard Bolles	

Mayor Shelton declared the bills and additional bills approved

Britt Dye gave the report on FPU activities, and Jerry Taylor gave an update on his work in the IT Department.

Steve Broadway stated the tax sale was cancelled but is now tentatively scheduled for September 24 and will include up through 2006 delinquent taxes.

Motion was made by Dorothy Small seconded by Walter Sloan to accept the Fire and Police Committee recommendation to allow the Art League to close W. Campbell Street beside their building as requested during the Host of Christmas Past. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Dorothy Small	None
Joe Askins	
Walter Sloan	
Richard Bolles	
Marty Pepper	
Carolyn Denton	

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan seconded by Marty Pepper to fund up to \$7,000 for the Retire Tennessee program. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Joe Askins	None
Marty Pepper	
Richard Bolles	
Walter Sloan	
Carolyn Denton	
Dorothy Small	

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan seconded by Joe Askins to concur with the Street Committee recommendation on the Wellsbrook drainage. This recommendation is the City proceed no further with the project and it be left as is. Home owner would not reimburse City but could hire someone to dress up what is existing at the intersection of Jeffery and Wellsbrook. Draft policy will be presented to the Board next month prohibiting the City from contracting out to do any additional drainage work for homeowners. City would also require homeowners to have an engineering study completed before hiring someone to change the drainage on the right-of-way adjacent to their property. Upon roll call, the following voted:

<u>Aye</u>	<u>Nay</u>
Marty Pepper	
Walter Sloan	None
Richard Bolles	
Carolyn Denton	
Dorothy Small	
Joe Askins	

Mayor Shelton declared the motion adopted.

Motion was made by Walter Sloan seconded by Dorothy Small to concur with the Finance Committee recommendation to share the funding of salary and benefits for an additional police officer with Fayetteville Housing Authority with each paying one-half of the cost. Efforts will be made to hire a certified officer, and this officer will work in the Housing Authority area. Upon roll call, the following voted:

Aye

Walter Sloan
Richard Bolles
Carolyn Denton
Dorothy Small
Joe Askins
Marty Pepper

Nay

None

Mayor Shelton declared the motion adopted.

The Board previously approved a loan for energy saving improvements to the Municipal Building in the amount of \$160,000. Cost estimates have shown that \$173,448 will be needed for these improvements. The improvements will generate savings of \$220,000 over the life span of the project. Motion was made by Walter Sloan seconded by Carolyn Denton to authorize entering into this loan agreement for \$173,448 at no interest over a 7 year period. Upon roll call, the following voted:

Aye

Richard Bolles
Carolyn Denton
Dorothy Small
Joe Askins
Marty Pepper
Walter Sloan

Nay

None

Mayor Shelton declared the motion adopted.

Ordinance 2008-13 was considered, which is as follows:

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF
FAYETTEVILLE, TENNESSEE
TO INCLUDE PROVISIONS FOR A GATED COMMUNITY**

WHEREAS, it has been determined that provisions are needed to regulate the construction of a “Gated Community” in order to protect the health, safety and welfare of the people of Fayetteville, Tennessee, and

WHEREAS, the Board of Mayor and Aldermen of Fayetteville, Tennessee has determined that an ordinance for a “Gated Community” shall benefit the health safety, and welfare of the citizens of Fayetteville, and

WHEREAS, the Fayetteville, Tennessee Municipal/Regional Planning Commission in its meeting on May 27, 2008 recommended the accompanying ordinance.

NOW, THEREFORE, BE IT ORDAINED:

SECTION 1

That the existing provisions of Chapter 3, Subsection 14-302, (Definitions) shall be modified by inclusion of the following terms and accompanying definitions.

PRIVATE STREET: A private vehicular access way shared by and serving six or more lots, which is not dedicated to the public and is not publicly maintained. The term “private street” shall be inclusive of alleys.

SECTION 2

That the following new language shall be added to the text of Chapter 5 (Supplementary Provisions Applying to Specific Districts) of the Zoning Ordinance as Section 14-517

The provisions set forth herein are intended to provide design criteria for a gated community, private subdivision, and private streets.

- A. The general provisions of the Subdivision Regulations and City Codes as they relate to development, streets, and utilities will apply to all such development. All plans concerning private streets or a gated community are subject to review and approval by the Police, Fire, City Engineer, Public Works Departments, Planning Commission, Utility Committee, and/or Board of Mayor and Alderman.
- B. The definition of a “subdivision” and “street”, as contained in the Zoning Ordinance and Subdivision Regulations will apply to all subdivisions or streets, whether public or private.

C. Design and Construction Standards – Private streets shall conform to the same standards regulating the design and construction as specified in the Subdivision Regulations of Fayetteville. These standards shall include, but are not limited to the following:

- (1) Design standards for paving, drainage, water and sanitary sewer and Standards Specifications for Public Works Construction;**
- (2) Street naming and addressing policy which shall conform to the E-911 emergency response;**
- (3) Any gate installation must conform to the following provisions:**
 - (a) All gate installations must be approved by the Police Department, Fire Department and Public Works prior to installation. The installation must be completed and tested prior to the City's acceptance of the subdivision.**
 - (b) Gate design may incorporate one or two gate sections to meet the required minimum gate width of twenty-four feet. If the entrance will incorporate a median, guard shack or similar structure that necessitates a divided gate arrangement, the gate widths may be reduced if approved by the Planning Commission and Public Works, but in no case shall any single gate or street pavement have a clear opening of less than twenty-eight (28) feet, and must meet the standards for the street design and width.**
 - (c) If a gate design incorporates any overhead obstruction, said obstruction must be a minimum of fourteen feet (14') above the finished road surface.**
- (4) Approach and departures areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. All entry gates must be setback a minimum of 100 ft from any adjacent public street right-of-way to allow for vehicle stacking out of the public travel lanes. Any exception must be approved by Public Works and the Planning Commission.**
- (5) Automatic gate installations must conform to the design and performance guidelines established by the Fire Chief, Police Chief, City Engineer, and Director of Public Works.**
- (6) All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a bi-annual basis as needed to insure proper gate operation. A proper power supply shall be maintained to all electrical and electronic components at all times. Inspections are at the expense of the Home Owner's Association. Back-up power in case of power loss. Manual over-ride or a manual open function is mandatory.**

- (7) Each security gate regulated under this section will be subject to a performance test as determined by either the Fire Chief or Police Chief or Public Works. Upon failure of a performance test, the security gate system shall be disabled and maintained in the open position until repaired, and shall not be placed back in service until tested and authorized by the Fire Chief or Police Chief or Public Works or City Engineer.
- (8) All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection and testing by the City and must be repaired immediately if found to be in condition of disrepair. The City shall have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the Developer, Homeowner's Association or their successors. Emergency repairs shall be assessed against the Developer, Homeowner's Association or their successors.
- (9) The person, entity, or corporation in control of the property is responsible for, and liable for any violations of this section. This includes, but is not limited to, the developer, property owner, the Homeowner's Association and its officers, if applicable, or other who may own or exercise control over the property.

D. Property Associations Required – Subdivisions developed with private street and alleys must have a mandatory property owners association which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets, parks and other Homeowner Association appurtenances. The association shall own and be responsible for the maintenance of streets and other improvements. The association documents shall be reviewed by the City Attorney and subject to approval by the City to insure that they conform to this and other applicable City ordinances and concerns. The documents shall be a file of record prior to the approval of the final plat. Lot deeds may not be dissolved without the prior written consent of the City. No portion of the association documents pertaining to the maintenance of the private streets and alleys and assessments therefore may be amended without the written consent of the City. The legal instruments establishing the property owners association shall require that each property owner in the subdivision acknowledge the potential for delays in emergency responses due to limited access to the subdivision. Such legal instruments shall further provide that the property owners association shall hold harmless such agencies against all costs, including defense costs, resulting from claims based on delays in emergency responses due solely to limited access to the subdivision and properties therein.

E. Private Street Lot – Private streets and alleys must be constructed within a separate lot owned by the property owners association. This lot must conform to the City's standards for private street and alley right-of-way. An easement covering the street lot shall be granted to the City providing unrestricted use of the property for utilities and storm drainage systems and the maintenance of same. This right shall extend to all utility providers including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental

service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access. Variation to streets and right-of-way widths must be approved by the City Planning Commission.

- F. **Construction and Maintenance Cost** – The City shall not pay for any portion of the cost of construction or maintaining a private street. The Homeowners Association shall maintain an escrow account.
- G. **City Utilities** – Water, sewer, and drainage facilities placed within the private street and alley lot shall be installed to City standards and dedicated to the City as part of the approval of the final plat. All City regulations relating to infrastructure, financing, and posting of required bonds and/or irrevocable letter of credit shall apply to developments with private streets. Street lights and signs shall be installed and maintained by the homeowners association subject to approval by the City.
- H. **Plans and Inspections** - Developments proposed with private streets must submit to the City the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to issuance of building permits shall apply. The City may periodically inspect private streets and require repairs necessary to insure emergency access.
- I. **Waiver of Services** - The subdivision final plat, property deeds and property owner's association documents shall note that certain City services shall not be provided on private streets. Among the services which will not be provided are: routine police patrols, street lighting, enforcement of traffic and parking ordinances. Depending on the characteristics of the proposed development other services may not be provided.
- J. **Petition to Convert to Public Streets** – The property association documents shall allow the association to request the City accept private streets and alleys and the associated property as public streets and right-of-way upon written notice to all association members and the favorable vote of 75% of the membership. However, in no event shall the City be obligated to accept said streets and alleys as public. The Association or the like shall make a request to the Planning Commission which shall give an opinion to the City before a final decision is made in regards to converting the streets. Should the City elect to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the street and alleys.

The City will be the sole judge of whether repairs are needed. The City may also require, at the association's expense, the removal of guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot. The association document shall provide for the City's right to such assessment. Those portions of the association documents pertaining to the subject matter contained in this paragraph shall not be amended without the written consent of the City.

K. Hold Harmless – On the subdivision final plat shall be language whereby the property owners association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility for damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity or public utility, for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and for damages and injury (including death) arising out of any use of the subdivision by the City, governmental entity or public entity. Further, such language shall provide that all the owners of all lots shall release the City, governmental entities and public utilities for such damages and injuries. The indemnifications contained in this paragraph 12 shall apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.

The Homeowners Association must acquire and maintain a general liability policy naming the City of Fayetteville as an additional insured and this additional insurance policy shall include the following subdivision of the City's taskforce, water dept, fire dept, police dept, and the like.

The Homeowners Association must require the individual homeowners to maintain a homeowner's insurance policy naming the City of Fayetteville as an additional insured and this additional insurance policy shall include the following subdivision of the City's taskforce, water dept, fire dept, police dept, and the like.

L. Sidewalks and Bikeways

- (1) **Sidewalks** – Sidewalks may be required and shall be constructed in accordance with the Subdivision Regulations for all lots adjoining dedicated streets, along major thoroughfares where lots do not adjoin the street or in other areas as required by Public Works. Sidewalks construction may be delayed until development of lots, but in locations not adjacent to lots and across bridges and culverts, the sidewalk shall be constructed with the other improvements to the subdivision or addition. Exceptions to this section must be approved by the Planning Commission and/or the Director of Public Works.
- (2). **Pedestrian Accesses** – The City may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed easements at least twenty (20) feet in width. Easements will be indicated on the plat.
- (3) **Bikeways** – Hike and bike sidewalks may be required, designed and located according to City standards shall be constructed along streets designated for hike and bike trails. Such sidewalks shall be built by the owner at the time of site development, or the owner may petition for the city to construct such facilities.

M. Drainage and Storm Sewers

- (1) **General Requirements** – All plats shall conform to the City’s Subdivision Regulations for drainage facilities.
- (2) **Design of Facilities** – Design of storm sewer systems shall be in accordance with City standards. Materials and construction shall conform to the Standard Specifications.

N. Postal Requirements: Cluster Box Units that are “Front Loading” must be located in front of the gated area or other area which is outside the gate that is approved by local postal officials. The Cluster Box Units must be United State Postal Service approved.

AND BE IT FURTHER ORDAINED, THAT THIS ORDINANCE SHALL BE IN FORCE AND EFFECT FROM AND AFTER ITS PASSAGE AND ADOPTION, THE PUBLIC WELFARE REQUIRING IT.

Passed and adopted by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee, on the 11th day of August, 2008.


Gwen Shelton, Mayor

8/12/08
Date

ATTESTED BY:


Kevin Helms, Administrator

913108
Date

Motion was made by Joe Askins seconded by Marty Pepper to adopt ordinance 2008-13. Upon roll call, the following voted:

Aye

Carolyn Denton

Dorothy Small

Joe Askins

Marty Pepper

Walter Sloan

Richard Bolles

Nay

None

Mayor Shelton declared the ordinance adopted.

Motion was made by Marty Pepper seconded by Walter Sloan to call a public hearing for the September meeting to consider changes on the portable stand requirements. Upon roll call, the following voted:

Aye

Dorothy Small

Joe Askins

Marty Pepper

Walter Sloan

Richard Bolles

Carolyn Denton

Nay

None

Mayor Shelton declared the motion adopted.

Marty Pepper requested the public to be aware of keeping the emergency lanes open on our streets.

After departments were given, motion was made, seconded, and unanimously adopted to adjourn.

MAYOR

CLERK