A MEETING OF THE FAYETTEVILLE CITY COUNCIL

A meeting o the Fayetteville City Council was held on Tuesday, June 2, 1998, at 6:30 p.m. in the Council Room of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

PRESENT: Mayor Fred Hanna, Aldermen Heather Daniel, Cyrus Young, Randy Zurcher, Trent Trumbo, Donna Pettus, Len Schaper, Stephen Miller, and Kit Williams, City Attorney Jerry Rose; City Clerk/Treasurer Heather Woodruff; staff; press; and audience.

Mayor Hanna called the meeting to order with eight aldermen present.

NOMINATING COMMITTEE REPORT

Alderman Daniel moved to reappoint Bill Mandrell and Reed Greenwood to the Walton Art Center Foundation Board and Marion Orton to the Board of Adjustments and Sign Appeals.

Alderman Young seconded the motion. Upon roll call, the resolution carried by a 8-0-0 vote.

CONSENT AGENDA

MINUTES: Approval of the minutes from the meeting of May 19, 1998.

BID 97-64: Award of Bid 97-64 to Mobile Concepts by Scotty for a children's fire safety house in the amount of $25,174.00 and approval of a budget adjustment in the amount of $12,587.00.

RESOLUTION 65-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

ABOVE GROUND FUEL FARM: A resolution approving Amendment #1 to the contract with McCelland Engineering in the amount of $2,000.00 for additional engineering services in the design of the Airport's new above-ground fuel farm.

RESOLUTION 66-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

BID 98-40: A resolution awarding Bid 98-40 to Barton Freightline Inc. In the amount of $91,621.00 for the purchase of a H. D. Cab and Chassis with mounted bulk waste crane and dump body for utilization in the City's solid waste bulk pick-up program.

RESOLUTION 67-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

BID 98-37: A resolution awarding Bid 98-37 to DYCHEM International, Inc. for the purchase of an automated drive-thru equipment wash and supplies.

RESOLUTION 68-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

BID 98-42: A resolution awarding Bid 98-42 to Williams Ford Tractor and Equipment in the amount of $82,818.00 for tractors, mowers, and various haying equipment to be utilized for hay management operation at the sludge site and parks mowing operations.

RESOLUTION 69-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

WEDINGTON IMPROVEMENT DISTRICT: A resolution appointing two new members to the Wedington Drive Sewer Improvement District board.

RESOLUTION 70-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

Alderman Daniels moved the approve the consent agenda. Alderman Zurcher seconded the motion. Upon roll call, the motion carried on a vote of 8 to 0.

OLD BUSINESS

VA 98-4.00/ VACATION/ FENNEL

Mayor Hanna introduced an ordinance vacating approximately 12' X 72.5' of an existing alley at 310 West Dickson Street. The request was submitted by Hiegel-Miller Architects on behalf of Joe Fennel.

City Attorney Jerry Rose read the ordinance for the second time.

In response to questions from Alderman Williams, Mr. Rose stated the ordinance would vacate the alley, but an easement would be reserved for utilities and drainage. The ordinance was recordable and would be recorded. He did not believe the letter from the property owner to the adjacent property owner's regarding access could be considered a valid easement. It was not recordable. He added the Council would be opening the alley back up if they required an access easement.

Alderman Williams moved to suspend the rules and go the third and finial reading. Alderman Zurcher seconded the motion. Upon roll call, the motion carried by a vote of 8 to 0.

City Attorney Rose read the ordinance for the third time.

Alderman Young requested that the minutes reflect Mr. Roses comments that if the adjoining property owners had a problem with access they were to contact Mr. Fennel and not the City.

Mayor Hanna called for the vote, which passed on a vote of 8 to 0.

ORDINANCE 4098 AS RECORDED IN THE CITY CLERK'S OFFICE.

June 2, 1998

AMENDING RULES OF ORDER

Mayor Hanna introduced a resolution amending the rules of order of procedure to require the support of two aldermen in order to place a discretionary item of new business on the City Council agenda.

Alderman Williams explained the amendment would only affect those items which recieved an objection to being placed on the agenda. He added the amendment was very similar to Roberts Rules of Order which required a motion and a second before there is discussion. He felt most itmes woudl receive a second. If an item coud not receive a second, then the council shoudl not take up the public's time.

Alderman Daniel stated if the item would die at the council meeting if it did not receive a second.

Alderman William confirmed that it would, however, if the item were placed on the agenda, then people would come to the meeting exspecting to discuss it. This would save the public's time and effort in coming to the meetings.

In response to comments from Alderman Schaper, Alderman Williams explained his orginial the number of alderman had changed from three to two to be consistant with Roberts Rules of Order..

City Attorney Rose read the resolution.

Alderman Zurcher stated he could not see the need for the resolution believeing their current procedure was adequate.

Alderman Williams replied the amendment was more for the public's benefit than for the council's. Currently, an alderman could present anythingand have it on the agenda. This resolution would prevent them from not recieving a second and dieing at the council meeting.

Alderman Zurcher stated if the people wanted to come and speak on a subject, then the aldermen should want to listen to them.

Alderman Williams reiterated, if an item had no support from the aldermen, then it did not need to be placed on the agenda. He felt at least two out of the eight members of the city council should want to hear a subject before it was placed on the agenda.

Major Hanna explained the council did not vote or make any motions at the agenda session. The current procedure allowed an aldermn to place any item on the agenda. This resolutin would require at least two aldermen to support the item being placed on the agenda.

Alderman Schaper stated because of Freemdom of Information Act, the aldermen were not allowed to discuss any item before agenda session. They would not have the opportunity to review the request, because no private conversations could occur among the alderman.

Alderman Young stated the public had been allowed to bring up new issuses at the end of meeting in the past. This no longer occured. He felt the amendment would make it harder for the public to place itmes on the agenda.

Alderman Williams explained only in the instance that an alderman objected to a item being placed on the agenda, would a second vote be required. He added if the item failed to receive a second, it could be presented at the next agenda session. He felt having two aldermen agree to place a item on the agenda was a very low standard.

Alderman Trumbo felt the amendment would be a good house keeping measure.

Alderman Daniel stated she would not be supporting it.

Alderman Pettus stated the aldermen were often hit cold with an item and were not sure weather or not to support an item. She would not support the item.

Mayor Hanna called for the vote. Upon roll call the motion failed by a vote of 2 to 6, with Aldermen Pettus, Miller, Schaper, Daniel, Zurcher, and Young voting nay.

NEW BUSINESS

BATES PARK PLAYGROUND

Mayor Hanna introduced a resolution awarding $49,856.32 to Diversified Recreation for the Bates Park playground project. The total estimated cost of the project is $56,857. The Parks and Recreation Advisory Board will contribute $29,000 from their Green Space fees. The remaining balance will be paid by the Fayetteville Public Schools and Bates Elementary School. He introduced Ms. Fay Jones, Assistant Principal of Bates Elementary.

Ms. Fay Jones told the story of the Playground in story format.

Alderman Miller moved to approve the resolution. Alderman Williams seconded the motion. Upon roll call the motion carried by a vote of 8 to 0.

RESOLUTION 71-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

RZ 98-10.00

Mayor Hanna introduced an ordinance approving a rezoning request submitted by Demaree Media for property located at 1780 Holly Street. The property is zoned R-1, Low Density Residential. The request is for R-O, Residential Office. The property contains approximately 2.34 acres.

City Attorney read the ordinance for the first time.

Alderman Trumbo asked if the applicant had offered a Bill of Assurance stating no additional square footage would be added to the building.

Mr. Craig Hull, representative for Demaree Media, stated the Planning Commission had approved the rezoning with the offered Bill of Assurance. He explained the property had developed as a radio station before the neighborhood had developed. He felt the property would be difficult to market with its current R-1 zoning.

Alderman Schaper stated the radio station had always been treated as a conditional use. He felt an R-O zoning would allow very different use of the property. He noted the Bill of Assurance only covered the existing structure. He questioned the other possible uses for the remaining land and he asked if lot splits were possible.

Ms. Alett Little, Planning Director, stated any lot splits or future developments would have to go before th Planning Commission. She added the applicant had agreed not expand the existing building during the Planning Commission Meeting.

Alderman Schaper expressed concern about futher developemtn of the site, which was not covered in the Bill of Assurance.

In response to concerns voiced by Alderman Williams, Mr. Hull stated the intent of the Bll Assurance the exiting building woudl not be expanded and the site owuld stay the same.

Alderman Pettus asked why the staff had recommended denial of the rezoning request.

Ms. Little explained the bylaws of the Planning Commission required the staff to make findings. The staff had not been able to make the required finding inorder to recommend approval.

Alderman Young stated when a conditional use ceased to be used as the use then it reverted back to its original use. The owners had used and expanded the property with the full knowledge, that it was a conditional use and it would eventually revert back to residential.

Mr. Hull stated his research had reveal that the property had been a radio station since the early 60's and had been transferred to the Demaree family in 1966. The city had allowed the owner of the radio station to expand the building twice. He felt the City had reassured the owners that they condoned the use by allowing the expansions.

Alderman Schaper believed the property owners knew taking a chance when they expanded. They could sale the property to anyone. If someone wanted to use the building for anything other than residential, they would have to come to the city for a conditional use. He felt there were uses allowed in an R-O zoning that would not be desirable near an R-1 zoning district.

Alderman Trumbo building needed to be kept a viable structure.

Alderman Pettus questioned the types of uses allowed in an R-O zoning district.

Ms. Little listed professional offices, veterinarian offices, artist studios, and sales of professional equipment which were related to those types of businesses. Most of the businesses allowed in R-O districts would not generate much traffic.

Alderman Williams stated the R-O zoning had been created to mix residential with businesses to act as a transition. Uses would be low impact. He did not believe the rezoning would have more of an impact on the neighbors than the existing radio station.

Mayor Hanna asked Ms. Little since the use of the property predated the zoning, if the radio station was a use by right or a conditional use.

Ms. Little explained the radio station was considered a conditional use, because the owners had expanded the existing building. A conditional use had been granted twice to allow the radio station to enlarge the building and continue operation.

Mr. Hull stated the rezoning was necessary to affectively market the property. The owners were willing to offer a Bill of Assurance to ensure the property woudl not be further developed.

Mr. Rose advised the State of Arkansas did not condone contract zoning. A Bill of Assurance could not be required as a condition for the rezoning. It had to be offered by the applicant and it could contain whatever the applicant wanted.

Mr. Joe Alexander, a Fayetteville resident, stated it should be the property owner's right to do what they wished with the property, unless the city could prove there was going to be significant damage.

Alderman Young expressed concern about setting a trend toward turning Conitional Uses in to a rezoning.

Alderman William felt decisions should be made on a case by case basis.

Mayor Hanna stated people had a right to submit a rezoning request every twelve months for any piece of property.

In response to concerns voiced by Alderman Young, Alderman Williams reasoned one of the advantages to having a conditional use was to find out of the use bothered the surrounding neighbors. There had been no complains about the radio station.

Alderman Zurcher explained they were not talking about the current business. They were discussing the property. There were problems with R-O zoning. The affect had not been mixed use. He had observed the buildings in R-O zones were empty at night, which encouraged loitering at night. He would like to eliminate R-O zoning.

Alderman Miller read from the Planning Commission minutes where the applicant had stated that no changes would be made to the property. He felt the statement included no lot splits, no extra buildings, or expansions.

Mr. Hull agreed with Alderman Miller's assumption and added, the owners had agreed to remove the towers and satellite dishes which would improve the looks of the property. He felt the bill of assurance offered was a good offer. He felt this was a unique situation, where the property had long history.

The item was left on the first reading.

PLANNING COMMISSION APPEAL

Mayor Hanna introduced an appeal submitted by Burke and Eldridge on behalf of Washington Regional Medical Services for a large scale development off Millsap Road and Wimberly Street. The request is to appeal the Planning Commission's decision to deny a waiver request from placing utilities underground and the construction of standard city street.

Alderman Schaper stated he would be abstaining, however, he would reserve the right to speak on any general discussion of underground utilities.

Mr. Kurt Jones, Crafton Tull and Associates, stated there were three conditions of approval required by the PlanningCommission which he wished to address. He asked the council to waive the requirement to place the existing over-head lines underground. The estimate for the relocation had been approximately $500,000 or $200 per liner foot. He added Swepco had not placed this size line underground before. He stated the city council was allowed under the current ordinance to grant waivers due to financal hardship.

In response to a question from Alderman Schaper,

Mr. Jones stated he did not know the size of line, however, it carried a 900 amp load.

Ms. Little stated it was a 12 Kilovolt line.

Mr. Jones explained Swepco did not have 900 amp equipment. Their equipment was sized for 600 amp or 1200 amp. He noted there was a large cost difference between the two sizes if required to go underground.

Mayor Hanna asked if the lines they were discussing were the lines around the perimeter of the property and if the lines were existing.

Mr. Jones reassured all new lines would be placed underground. The existing lines were along the perimeter of the property and did not serve this property exclusively. They were transmission lines which ran along the existing section lines of the property. The financial burden of $200 per liner foot was roughly equivalent to a new four-lane highway.

In response to questions from Alderman Schaper, Mr. Jones stated the overhead line to the west was not located on this property.

Ms. Little added the line to the west was a three-phase line which ran from the 12 kilovolt line. It was the feed to the North Hills Medical Park. All the lines in the Medical Park were fed from this line.

Alderman Trumbo liked the Underground Utilities ordinance, however, waiver would be required from time to time. He added the proposed development was greatly needed in Fayetteville.

Alderman Schaper stated the purpose of the ordinance was for visual impact. The alternative to placing the lines underground was to place them at the rear of the property. He flet that condition had been met.

In response to comments from Alderman Schaper, Ms. Little explained Tract C had already been assessed the cost of placing the line underground. She believed their cost would be approximately $21,000.

Ms. Little explained the property was located within the Overlay District and was not part of the Overhead Utility Ordinance.

Alderman Williams felt the estimate was very considerable for such a small benefit. He added he had problems mandating a procedure that had not been done in the State of Arkansas.

Mr. Jones stated it was not impossible to bury the line, but it had not done it before of the increased cost. He believed it was not financially feasible. He added there were also maintenance issues. Overhead lines could be repaired within a couple of hours. Underground lines could take couple of days to locate the problem and make the repairs.

Alderman Schaper noted there were fewer problems with buried lines.

Alderman Williams believed the applicant had made a good case on the basis of financial hardships. He added the use of the land needed to be taken into account. This was an extended long term care facility. The city needed to make the project feasible.

Alderman Schaper replied the project was located in a very attractive professional development. The standard needed to be maintained and even improved upon to make the property more attractive.

In response to questions from Mr. Schaper, Ms. Little stated the owners of Tracts A, B, and C had met on Monday. Tract A, Staffmark, had been assessed a cost for placing their lines underground. There estimate had been approximately $79,000. Tract C had also been assessed, their estimate had been $21,000 for the portion to the south and $70,000 for the line to the north. All three of the tracts were going to be developed at the same time. The owners had met with Swepco on Monday. She noted every time there was a turn in the line a switching mechanism was required, which was a large box which ranged from $20,000 to $40,000 per box. She believed if the number of turns could be reduced then the cost could be reduced. Mr. Burrack, Swepco, had stated he would be more comfortable serving the properties from two different directions, in the event service was disrupted in one direction.

Mr. Jones stated he had spoken with Mr. Burrack after the meeting. Mr. Burrack had indicated that there was not a more economically way to route the line. Mr. Burrack believed the cost might change 10 to 15% total.

Alderman Schaper stated he would like to know why it was so expensive to place the lines underground.

Mr. Jones stated Swepco was under no obligation to come to the meeting and supply the information.

Mayor Hanna noted the overhead lines were existing and that the developers had designed the tract so that the lines ran to the rear of the property. He felt city needed to take care of the citizens in two directions. They wanted Fayetteville to as nice as possible, but they did not want to make it impossible to develop. He believed the utility company had their reasons for placing the lines in their current locations. He felt the proposed assistant care facilities fit very well into the North Hills Medical Park.

Alderman Miller asked what would happen to money from the other developers in the area if this developer was not required to place utilities underground.

Ms. Little replied the City had not received the money. The number used to estimate the cost of placing the lines underground had been an assessment for the large scale developments. She added Tract A was owned by Staffmark. They were continuing with their development. Tract C was owned by a partnership called Smith-Brooks. They had not continued with their development. It had been her understanding the property had been transferred from Harvey Smith to Smith Brooks. If the property had changed ownership, then the new owners would have full knowledge of the cost of relocation.

Alderman Trumbo asked if Tract C had back out of their development because of the cost of relocation of lines.

Ms. Little thought the cost of the relocation was part of it, however, she believed there were other reasons.

Alderman Trumbo noted Tract A was being developed by a multi-million dollar corporation. Tract C was a non-profit organization.

Alderman Daniel stated she had checked on the organization. Technically it was considered non-profit, but it was a business. They were not like Habitat for Humanity. This was a big business. It was different from a couple or family with a small project.

Mr. Mike McGlen, Vice President of Clinical Services, stated this was a Fayetteville City Hospital project. His company had taken over the operation of the hospital. They were wanting to offer another alternative to citizens, assisted living.

In response to questions from Alderman Schaper, Mr. McGlen stated any more delays would put the project in jeopardy.

Mr. Rose advised that the ordinance required a vote by the majority to hear the appeal.

Alderman Trumbo moved to hear the appeal. Alderman Pettus seconded the motion. Upon Roll call the motion carried by a vote of 8-0-0.

In response to questions from the aldermen in reference to the requested street waiver, Mr. Jones stated the Planning Commission had required the developer to place money in a security bond for one half of a standard street for the length of the east property line to the connection of Plainview. The requirement was basically an off-site street assessment. He did not believe the street connection was necessary for the operation of this development. The street would not be constructed in conjunction with this development and would not service this development.

In response to questions from Aldermen, Ms. Little explained the Master Street Plan had a connection from Monte Painter Drive, diagonally through this site to Longview. To build in their chosen location, a Master Street Planned street was being relocated. The Planning Commission required as a condition of the Large Scale Development that the street that went through the center of the property be born by this facility. In addition that one-half of the cost of the connection between Longview and Plainview, near the new fire station would be located.

Mr. Jones stated they were also requesting a waiver from the requirement that they construct the street on-site to the west property line. He proposed constructing the street to the edge of this facility. The developer was willing to grant right-of-way for the remaining portion. He added the road would only dead end at the property line. The street addition would be acting as a drive into the facility and would be constructed to city standards. The street between Plainview and College was no where near being a collector street and would not adequately serve the project.

Alderman Schaper commented a developer was never required to put up for the entire cost the construction of a collector street. He questioned the extension to the east. He noted the benefit to having access from both directions, especially with the new fire station along Plainview.

Mr. Jones agreed the street would benefit the project, but his concern was the cost/benefit ratio. He did not believe it would benefit the facility as much as it would cost. He questioned the ordinance that allowed the Planning Commission to assess the off-site improvements.

In response to questions from Aldermen, Mr. Jones stated the estimated cost of the their half of the street would be $75,000.

Alderman Williams did not believe many people living at the assisted care facility would be driving. He thought it might be more appropriate to require the off-site improvement when the other part of the property developed with a higher traffic use. However, he did not have a problem requiring the street construction to the property line. The city required stub-outs in most developments. The adjacent property would need the stub out when it developed. He expressed concern with the off-site requirement.

In response to comments from Mr. Jones, Ms. Little stated the General Plan 2020 had a policy of connectivity. The Planning Commissionand felt a connection to Longview would be in the public's best interest.

Alderman Schaper did not believe the $62,000 requested for the street improvement was a lot of money in the grand scheme of things and the life of this facility. He suggested separating the appeal into two pieces and voting separately on each waiver.

Alderman Trumbo moved to approve the waiver request for the underground utilities. Alderman Pettus seconded the motion. Upon roll call, the motion carried by a vote of 4-3-1. Alderman Daniel, Zurcher, and Schaper voting nay. Alderman Young abstaining.

Mr. Jones stated they were in agreement with the location of the street. The issue was assessed the cost of the off-site improvements. He had not see the ordinance which supported the off-site assessment. The proposed facility was a low density development and would not generate much traffic and could be serviced by one access.

Alderman William stated it was a question of fairness. The city usually required developers to construct the streets on their property He did not understand the requirement to make this developer pay for another developer's share of the road. Especially if the development would not be generating a lot of traffic.

Alderman Miller stated he had to look at the property before making a decision.

Mayor Hanna stated the appeal for the street placed on the next agenda.

SEWER REHABILITATION
Mayor Hanna introduced a resolution awarding a contract to Jones Brother, Inc. for White River Minisystem 15 sewer rehabilitation in the amount of $645,080.85 with a $64,508 contingency for sewer lining.

Alderman Williams explained the request was for a large amount of money, however this was an ongoing project, that the city had been spending a lot of money on in the last couple of years to upgrade the city's sewers. He felt this needed to go forward.

Alderman Miller stated this was a good improvement. It was very important to the health of the citizens.

Alderman Schaper moved to approve the resolution. Alderman Young seconded the motion. Upon roll call, the motion carried by a vote of 7-0-0. Alderman Zurcher was absent for vote.

RESOLUTION 72-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

SEWER REHABILITATION
Mayor Hanna introduced a resolution awarding a contract to T.G. Excavation in the amount of $186,543.00 with an $18,654 contingency for White River Minisystem 15 sewer rehabilitation pipe bursting .

Alderman Miller moved to approve the resolution. Alderman Young seconded the motion.

Alderman Schaper noted the problems with pipe bursting in the past.

Mr. David Jurgens, Water and Sewer Superintendent, they did not allow the type of method that had fail in the past. This was being done under contract. The risk level was much higher for the contractor, than in the test. They would also be using methods which had been proven across the country.

Upon roll call, the motion carried by a 7-0-0 vote. Alderman Zurcher was absent for vote.

RESOLUTION 73-98 AS RECORDED IN THE CITY CLERK'S OFFICE

SEWER REHABILITATION
Mayor Hanna introduced a resolution approving a contract with Insituform Texark, Inc. in the amount of $228,937.50 with a $22,893 continency for White River Minisystem 15 sewer rehabilitation for pipe bursting.

Alderman Miller moved to approve the resolution. Alderman Trumbo seconded the motion. The motion carried by a vote of 7-0-0. Alderman Zurcher was absent for the vote.

RESOLUTION 74-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

CHAPTER 33 AMENDMENT
Mayor Hanna introduced an ordinance amending Chapter 33 of the Code of Fayetteville to provide for the Board of Adjustments, the Plat Review Committee, the Subdivision Committee, the Tree and Landscape Advisory Committee and the Board of Sign Appeals.

City Attorney, Jerry Rose, explained the ordinance would allow them to place the board and commissions into an area of code in which all of the departments and committees are located. The ordinance would wipe out the existing ordinances and reformat them into the UDO formate. The changes would make the ordinance more user friendly. It would also make the problems with the existing ordinance easier to see and to correct.

Mr. Rose stated three copies of the code would be located in the city clerk's office.

City Attorney Rose read the ordinance for the first time.

Mr. Rose reassured they were not creating any new ordinance. They were only moving them to another section.

The ordinance was left on the first reading.

DELETING TITLE 15
Mr. Rose read the ordinance for the first time. Stating three copies would be placed in the City Clerk's office for inspection.

Alderman Schaper explained the goal was to reformat the existing code. And not to make substantial changes.

Alderman Young added once the format was changed, then they could come through and make changes to individual ordinances.

The ordinance was left on the first reading.

SUTTON PARK
Mayor Hanna introduced a resolution authorizing the Mayor and the City Attorney to make an offer of purchase to the current owner of the proposed Sutton Street Park.

Alderman Young stated he had been asked by citizens to place the itme on the agenda. He expressed concern about some of the Parks Board's decisions. The people in the central part of the city had been paying taxes for parks and yet when the oppurtunity came for the City to purchase land for a park, they Parks Board could not find the money. The Board required the neighborhood to help raise the money to purchase the park.

Alderman Williams stated this would be a good location for a park. He noted the Parks Board had voted, 5-1, to try and purchase the land as a park. He could not remember another situation, where a neighborhood group had been asked to contribute funds to a park. He felt the people within the central part of the city had seen benefits. There had been improvements to Wilson Park and the Square Gardens. He added there would soon be a new park where the old water towers were. They had not denied any part of the town benefits. He agreed they had spent a lot of money on Gulley park and a sports complex off Salem. It was his understanding that it was the owner's wish for it to become a park. He though it would be a good addition, but the surrounding neighbors needed to be taken into consideration.

Alderman Daniel stated she was disappointed in the way things had turned out. She stated she was willing to listen to everyone.

Alderman Pettus stated it was her understanding that the property had been sold to another party, so the council was considering to make an offer to the new owner.

Mr. Rose read the resolution.

Alderman Miller stated he had campaigned for small neighborhood parks. He felt there was some confusion between athletic facilities and parks. He felt Wilson Park was an athletic facility. To him a park was a green area. He would support this park.

Alderman Trumbo stated Ms. January had made a business decision to sell the property to someone who had made a bonafide offer. He stated he would have a problem condemning the land for use as a park. He noted the Keating's lived across from the property and they would not let the property deteriorate.

Aaron Bleidt, Vice Chair of the Parks Board, stated the Parks Board had voted 5-1-0 to support the park. They had also voted to cost share.

Alderman Trumbo asked if this was the first time the Parks Board had required a neighborhood to cost share.

Mr. Bleidt did not call other instance.

Alderman Pettus asked why the Board had required the $25,000 from the citizens.

Mr. Bleidt stated the Parks Board had felt it needed to be a community endeavor. There was also only $50,000 allocated for land acquisition.

Alderman Schaper pointed out it was only 100% of the line item because the Parks Board had stated the amount was adequate. He had advocated for years to increase the amount for land acquisition and less on sports complexes. He added the council authorize the expenditure of funds. He found the cost sharing arrangement strange. He wished the Board had brought forward a recommendation to purchase the property with a budget adjustment.

In response to questions from Aldermen, Mr. Bleidt added the public meeting and the appraisal had taken a large amount of time. In addition the Parks Department underwent a lot of changes.

Mr. Kevin Crosson stated there had been considerable opposition to the park by the people living adjacent to the property.

Mr. Bliedt added there had been two public hearings because of the opposition.

Alderman Miller questioned why the Parks Board had only set aside $50,000 a year for new parks.

Mr. Crosson stated there were two competeing interests: buying extra park land mand maintaing the existing parks. The Parks Department had over 50 faciliites to maintain at a certain level. Currently, there was the HMR Tax and the greenspace allocation. They ha not had those allocations in the past. They were currently playing catch up. Acquisitionsl had to be made when they made sense.

Alderman Miller stated he had mowed the small park in his neighborhood three times this year.

Alderman Schaper stated much of the money generated by the HMR Tax was currently being used for the facilities such as the softball complex. He felt the allocations were unbalanced. It was clear that $50,000 was not adequate for land acquisition.

Mr. Bliedt stated the property had been purchased since the Parks Board's last meeting.

Alderman Trumbo asked the estimated cost to maintain the proposed park.

Ms. Edmundston estimated $1,300 per year.

A petition was presented to the council in support of the park.

Ms. Kathy Thompson, 507 North Walnut, stated she was co-chair of Citizens for Sutton Street Park. She had recommended to the Parks Board that the park be purchased. She felt this was a city wide issue. The city needed to preserve and save greenspace to improve the quality of life for present and future generations.

Dick Keating stated it was sad that this issue had such a divisive affect on their neighborhood. His intentions had always been clear. He did not see any of the reasons for making this area into a park. He added private ownership had proven to be a good guardian of this property in the past. He felt it could be so in the future. The lot looked like a park because of the private ownership that developed it. All the improvements had been constructed with private money. The mini parks were not cost effective. The city could not maintain them adequately. He believed the city's money could be more effectively spent on funding and protecting city wide parks like Walker, Wilson, and Gulley. He did not believe the neighbors had a right to the property. The group had lost sight of the meaning and the value of private property. This property was put up for sale, and offers were made. With full knowledge of both offers, the present owner opted for his offer. He intended to buy it for the good of the neighborhood and the desire to preserve its natural beauty. They would prove to be good stewards of the property.

In response to comments from Alderman Williams, Mr. Keating stated a group of them had purchased the property thru his accountant. They had made the offer in this manner to avoid competition and confrontation. There was nothing unethical about the offer. Ms. January was comfortable with the offer.

Alderman Young asked if they planned to build on the property.

Mr. Keating replied they would like to place a small single family house on the furthest part of the property toward Olive Street. He was thinking about moving there.

Alderman Schaper asked what would happen with the remaining part of the lot.

Mr. Keating expected the lot to be much like his.

Mr. Orland Maxfield urged the Council and citizens to acquire the property. The Sutton Street tract was located within the Washington Willow Historic District. The Historic District Commission had supported the acquisition of this land. He asked the council to acquire the property by whatever means neccessary. He noted none of the historic districts had a park. He stated this tract was the only tract that was not developed in the district.

Mr. Wyatt Wright, 346 N. Walnut, the back of his house was 20' from the proposed park. He stated the group of citizens for the park had offered to help raise the money for the park. He did not believe the property had been used as a park. The January's had restored the property over a number of years. They had intended to build themselves a house on the southeast corner of the property. They had discussed fencing the property because of the problem with public use. He had been authorized by the January's to ask people to leave and he had done so. He stated the property had never functioned as a public park in the 13 years he had lived in the area. The owners had always viewed it as a home site. The Parks Board chairman had stated that most park land was purchased at below market value, which was the reasoning behind requiring the group to help raise the money. He felt the park would serve only the interest of a small group of people.

Alderman Schaper stated small neighborhood parks did serve a function. They did not have the same function as Wilson or Gulley. They were to serve the neighborhood. Most of the traffic would be from pedestrians. He did not believe the area east of College was able to be served by Wilson Park.

Mr. Wright stated the difference between this property and other parks was that this was ring very tightly with homes.

Alderman Daniel noted the park would be very hidden because of its location. She did not believe many people out side the neighborhood would come to the park.

In response to comments from Aldermen, Mr. Wyatt asked if the City would be as good of a steward as Ms. January had been.

Ms. Kindle Curry stated she often went to Sutton Park during lunch to met her family. She felt the park would be greatly appreciated and felt precautions could be taken to prevent problems. She suggested several ways to preserve the quite nature of the park.

Mr. Bill Keating, 338 Washington Street, stated if so few people were going to be using the park, then spend everyone's money on it. He stated the current bridge, would have to torn down because it did not meet any of engineering standards. He and his brother had purchased six to seven abandoned houses and restored four of them, rather than demolished them. They had remodeled houses on Lafayette, Washington, Sutton and Hyland Street. They had given property to the City. They had also given a lot to Habitat for Humanity and the entrance to Gulley Park. They had down zoned property and constructed single-family homes in R-2 zoning. He had lived next door to Jim January for ten years. They had discussed developing the lots and they had drawn plans.The green space fees for first five months of 1998 were $17,000. In 1997 the fees were $45,000. The greenspace fees were not coming in. He felt there would be problems with the feasibility of maintaining parks.

Alderman Schaper asked Mr. Keating if he was part of the group which purchased the property.

It was his understanding the property had been on the market for some time. He questioned why they had not made an offer before.

Mr. Keating replied he had thought about it, but it had been to expensive. Once the price was affordable they made an offer. His brother was considering moving to lot.

Mr. Dick Keating stated they had looked at the property from the beginning, but they could not afford $79,000. They had always thought than it was worth $50,000. They had read in the paper it was available at $50,000.

In response to questions from Alderman Miller, Mr. Dick Keating stated ms. January's real estate agent had presented her with both offers, and she had accepted theirs.

Mr. Bill Keating stated when the Historic District was form, many of the people were opposed to the controls. Now they liked them.

Alderman Pettus asked if they would be interested in selling the land for a park.

Mr. Bill Keating replied he could not speak for his partners. He would like to develop the lot with a single family home.

Alderman Pettus stated the resolution before them was whether or not to make them an offer on the property.

Alderman Young expressed concern about the Keatings overbuilding the lot. He felt Mr. Keating only valued the lot if it had a house on it.

Mr. Bill Keating responded he found value in the property when their were children and private ownership, when they maintained it. The city had guidelines on how to develop properties. He would be laugh out of the building if he tried to over develop the property.

Rick Alexander, 231 E. Dickson, stated this was the only property within the Historic District that had not been developed. He stated there were 650 signatures supporting the park. He asked the city to use its power of eminent domain to condemn the land. He felt the community wanted and needed to have this park.

Evan Calhand, young resident, stated he often played in the park. He asked the council to make the land a park because many kids liked to play there.

Katie Reynolds, resident, felt there was a need for a park in the area to keep it a nice place to live. The city needed to preserve greenspace.

Alderman William stated the offer should be $51,000 exactly what they had offered to purchase the property for. He did not believe it would be fair to pay above market value for the land. He did not believe this offer would be accepted. He felt they would be faced with condemnation of the property to make the property a park.

Alderman Pettus asked if their would be a problem with offering more money for the land.

Mr. Rose stated they were obligated to offer what they believed to be fair market value.

Alderman Zurcher stated he would like to make an offer on the land. He would like to bump up the price in hopes they would not have to go the court. He felt the property had always been used as a park.

Alderman Trumbo stated they should make an offer to the Keating's, but as a banker he had never seen someone buy something for more than it appraised for.

Alderman Williams stated there was a need for both types of parks. But he was not willing to condemn the land yet. He felt they needed to make an offer on the land.

Alderman Pettus moved to purchase to the property for $52,000. Alderman Miller seconded the motion. Upon roll call, the motion carried by a vote of 8-0-0.

RESOLUTION 79-98 AS RECORDED IN THE CITY CLERK'S OFFICE.