

**MINUTES OF A MEETING OF THE
FAYETTEVILLE CITY COUNCIL**

A regular meeting of the Fayetteville City Council was held at 6:30 p.m. on January 5, 1999, in Room 219 of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

ITEM CONSIDERED

ACTION TAKEN

Approval of Minutes	Approved	
Construction Materials	Approved	Res. 1-99
Bid 98-95	Approved	Res. 2-99
Sewer Capacity Report	No action	
RZ 98-20:00	Approved	Ord. 4131
Police Policies	Approved	Res. 3-99
Alcoholic Beverages	Approved	Ord. 4132
RZ 98-21:00	Approved	Ord. 4133
Rules of Order	Approved	Res. 4-99
Right-of-way Encroachment	Withdrawn	

OATHS OF OFFICE TAKEN BY:

ALDERMEN:

Robert Reynolds,
Ron Austin
Bob Davis
Trent Trumbo
Heather Daniel
Kevin Santos
Cyrus Young
Kyle Russell

CITY ATTORNEY

Jerry Rose

CITY CLERK

Heather Woodruff

PRESENT:

Mayor Hanna
Aldermen as listed above
LaGayle McCarty, Assistant City Attorney
* Heather Woodruff, City Clerk
Kevin Crosson, Admin. Director
Charles Venable, Public Works Director
Don Bunn, Assistant, Public Works Director
* Alett Little, Planning Director

ABSENT

Jerry Rose, City Attorney

MEETING ADJOURNED: 8:45 p.m.



A MEETING OF THE FAYETTEVILLE CITY COUNCIL**January 5, 1999**

A meeting of the Fayetteville City Council was held on January 5, 1999, at 6:30 p.m. in the City Administration Building, 113 W. Mountain Street, Room 219, Fayetteville, Arkansas.

PRESENT: Mayor Fred Hanna, Alderman Robert Reynolds, Alderman Ron Austin, Alderman Bob Davis, Alderman Trent Trumbo, Alderman Heather Daniels, Alderman Kevin Santos, Alderman Cyrus Young, Alderman Kyle Russell, City Attorneys Jerry Rose and LaGayle McCarty, City Clerk/Treasurer Heather Woodruff, Staff, Press, and Audience.

ABSENT:

OATHS OF OFFICE

Municipal Judge Rudy Moore swore in Aldermen, City Clerk, and City Attorney.

NOMINATING REPORT

Alderman Daniel moved to appoint Loren Shackelford to the Planning Commission, Clarence Fry to the Housing Authority, Shelby Osburn to the Juvenile Concerns Committee, and Stephen Alexander to the Parks and Recreation Advisory Board. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

CONSENT AGENDA

Mayor Hanna introduced the following items on the consent agenda

APPROVAL OF MINUTES: Approval of the minutes from the December 15, 1998 meeting.

CONSTRUCTION MATERIALS: A resolution approving bid awards for construction materials utilized in the Street Fund, In-House Pavement Improvements, In-House Sidewalk Improvements, and other divisions.

BID 98-95: A resolution awarding Bid 98-95 to Check Point Systems for the Library Book Detection System.

Alderman Trumbo moved to approve the consent agenda. Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously.

Resolution 1-99 as recorded in the City Clerk's Office.

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OLD BUSINESS

SEWER CAPACITY REPORT:

A report from staff and Murray Fleming on the City's current sewer capacity.

Mr. Charles Venable, Public Works Director, introduced Don Bunn, Assistant Public Works Director.

Mr. Bunn explained the existing sewer treatment plant went into service in 1986. The plant had been designed to remove phosphorus and nitrogen. The plant had been designed to flow 11.4 million gallons a day. He discussed the maximum limits the plant had been designed to service. He also explained the affects these would have on the streams and reservoirs.

Mr. Bunn explained the city discharged in two locations. One was located upstream from Beaver Lake on the White River. The other was located north of Highway 45 which was located on a tributary of Mud Creek which would discharge into the Illinois River which ran into Lake Tenkiller. He explained the rules and regulations the plant had to operate under.

He presented the plants past performance. He noted the plants average flow had not been under 10 million gallons per day. In 1993, the average day had increased to 12.3 million gallons per day. Since that time it had dropped and leveled out. The reason the plant had leveled out was due to the sewer rehabilitation program, in spite of the ground and sewer connections. The sewer rehabilitation had matched the additional flows the plant would have seen from the additional connections. They had reduced the infiltration by the same amount that they were adding new customers.

Alderman Trumbo questioned when that net affect would not be achieved anymore.

Mr. Bunn replied the staff believed they were reaching that point now. The additional sewer rehabilitation would not be as effective. They had completed the parts of the system which would give them the greatest return. He reiterated that they would not see as great of a benefit in the future. He continued the city had projected they would reach the 12.5 million gal per day plant capacity in 2003. This projection was based on the number of sewer connection the city had in the past five to six years. The estimate was also based on the increase of water purchase from the Beaver Creek plant over the past five to six years during the winter months.

The remaining capacity of the existing plant was approximately one million gallons per day. They had projected this would take the city to the year 2003. According to the projects there was

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approximately four years before the plant would be over capacity. He noted the permitted plant capacity was 12.4 million gallons. The plant had been designed to process 11.4 million gallons. He noted as they approached the plant capacity the cost of treating the sewage would go up, particularly with phosphorus, if they had to start removing it with chemicals. The plant had been designed to remove phosphorus with chemicals. Up to now they had only had to use chemicals on rare occasions.

Alderman Trumbo asked if there had been a city wide education program which could help reduce the use of phosphorus detergents.

Mr. Bunn stated they had discussed it in the past, however, there had never been a serious proposal.

Mr. Santos asked if there was technology to get more suspended solids out.

Mr. Bunn replied not other than what the city currently had.

Alderman Daniel asked if they could trace the source of most of the phosphorus.

Mr. Bunn stated there was not a single source. It was from all the households

Mr. Bunn noted as the plant approached capacity there would be an increased chance of violations. If there were a series of violations then the EPA would be forced to act.

Mr. Reynolds asked if the city had paid any fines for violation in 1998.

Mr. Bunn stated they had not. The plant had violations occur in only four separate months since 1990. One of the months had multiple violations which had been caused by a discharge of metals from a metal plating company. All of the violations had been in different years.

Alderman Daniel asked how the city had dealt with the metal plating plant.

Mayor Hanna replied they had been fined by the State and the City. They were not out of business.

Mr. Bunn continued they had made assumption in the estimates. They had placed into reserves half of the amount, 500,000 gallons for industry or safety factor. All calculations were based on 500,000 gal per day availability rather than one million gallons per day. He added they also based their estimates on the estimated number of sewer connections they expected to make and the associated flows from those connections. Looking at the number of permits issued, they were estimated single family and duplexes at 396 units per year. Multi-family 158 units per year.

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Commercial development was 538,000 square feet per year.

He continued they had taken into account all the available lots and the apartment units had been approved. They had taken these into account before they could add any more. They had calculated 1.32 years in capacity left, which was close to the their other method of calculation which had been 1.5 to 2 years.

They were estimating the very earliest the city could have a new plant constructed and in service was 2004, which was the very best scenario.

Alderman Reynolds questioned the size plant that Fayetteville would need to last them twenty years.

Mr. Bunn replied they had planned to the year 2020, which would require approximately 25 million gallons per day, which would be a total of both plants. The city had been very successful in the elimination of sewer overflows. They had been able to reduce flow to the plant to the same amount as they had added new connections over the years. The city had spent over 20 million dollars on sewer rehabilitation, and had allocated 2 million dollars a year to continue the program. However, he thought they would see less return over the next several years.

He discussed other permitting requirements. He added if the city's permit was not reissued then they would be out of compliance that day and the entire report would be moot.

The staff had three recommendations:

1. To continue with the approval of new subdivisions and large scale developments for a period of one year. During that time the number of building permits and new lots would be monitored. They would also monitor the surrounding communities which use Fayetteville's plant.
2. The staff would review the capacity status toward the end of the year to see if they would be able to extend their time estimate.
3. Prepare and submit a permit application based on the facility plan and the stream modeling results.

Alderman Russell asked if the report had been based on the assumption the city would be granted their 12.4 million gallons per day permit and that they would not be restricted to 11.4 million gallons.

Mr. Bunn replied it was his belief the permit would not be reduced, unless the city was not trying

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to move forward with a new plant.

In response to comments from Alderman Trumbo, Mayor Hanna thought an education program would be good. He noted the city had education programs for solid waste and recycling. He thought the Environmental Concerns Committee should discuss it and have a program made for the government channel.

Alderman Russell asked Mr. Fleming if it was his opinion that the city could continue with the approval of new subdivisions and large scale developments for a period of one year and not risk exceeding the permit limits.

Mr. Fleming replied they could, based on these assumptions.

The council and Mayor Hanna thanked the staff for the report and the recommendations.

RZ 98-20:00

Mayor Hanna introduced an ordinance approving a rezoning request submitted by Sharman Sturchio and Rick King for property located at 716 West Sycamore Street. The request is to rezone the property from I-1, Heavy Commercial, Light Industrial, to C-2, Thoroughfare Commercial. This request was denied by the Planning Commission and appealed to the City Council 12/1/98. The ordinance was left on the second reading at the December 15, 1998 meeting.

Alderman Daniel moved to suspend the rules and go to the third and final reading.

Alderman Young seconded the motion. Upon roll call the motion carried by a vote of 7-0-1, Reynolds abstaining.

Ms. McCarty read the ordinance.

In response to questions from Alderman Trumbo, Ms. Alett Little, City Planner, explained under I-1 the applicant was permitted to have a private club. A regular bar would require C-2 zoning. A C-2 zoning was also required for the applicant to apply for a conditional use for dancing on premises.

In response to questions from Alderman Daniel, Ms. Little explained if a conditional use was denied by the Planning Commission the applicant would have to appeal to the Circuit Court.

Alderman Daniel noted this was a down zoning request, which they did not see very often. She added this might help the area. She had received several letters opposing this, however, she did not have a problem with this request.

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Alderman Davis noted with C-2 zoning, people could be there until one or two in the morning.

Alderman Russell added some of the objections he had heard had been in requirements to the late hours of the club. He noted the rezoning would not affect the hours of operations of the club.

Alderman Daniel did not believe dancing or the rezoning would contribute to the noise.

Alderman Young asked if the applicant were to apply for a conditional use if the Planning Commission would have the ability to restrict hours.

Ms. Little replied the Planning Commission would have the ability to assign hours of operation, if they granted the conditional use. She added bars were required to close at 1:00 a.m. Private clubs were required to close at 2:00 a.m. I-1 zoning would allow the club to stay open longer than the C-2 zoning.

Alderman Daniel moved to approve the rezoning. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 6-1-1, Alderman Davis voting nay, Alderman Reynolds abstaining.

Ordinance 4131 as recorded in the City Clerk's Office.

NEW BUSINESS

POLICE POLICIES:

Mayor Hanna introduced a resolution approving the Fayetteville Police Department Policies, Procedures and Rules as required by Arkansas Code.

Mayor Hanna stated he had been asked by the Civil Service Commission to allow them time to look at the manual before the council voted on the resolution. He added there was only one section in the procedures that would affect the Civil Service Commission, which had to do with the condition of the officers. He asked if the delay would hurt the Police Department.

Mr. Tim Helder, Police Department, replied the Commission received copies of the manual three to four week ago. They department had requested their input before the council meeting, but they had not received any response from them.

Alderman Reynolds asked if the new physical policies would affect all the officers, including the Police Chief.

Mr. Helder replied the Physical Policies would affect the people required to wear a uniform. The rest of the staff work inside and are not required to meet the physical requirements.

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Alderman Reynolds questioned what would happen to the Policemen that did not currently meet the standard, would they be given time to comply.

Mr. Helder replied the officers would have one year to comply with the regulations. He noted the Police Department had four certified fitness trainers who would be working with people.

Alderman Trumbo asked if the Civil Service had a problem with the new policies if they could make changes.

Mr. Helder replied they could make a recommendation, then they could bring the request before the council again.

Alderman Trumbo moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Resolution 3-99 as recorded in the City Clerk's Office.

ALCOHOLIC BEVERAGES

Mayor Hanna introduced an ordinance amending Chapter 111: Alcoholic Beverages, Section 111.06, Prohibited Activities/ Warning Notice, of the Code of Fayetteville, to prohibit the sale of beer or light wine at retail full service grocery stores and convenience grocery stores.

Ms. McCarty read the ordinance for the first time.

Mayor Hanna explained this was mainly a housekeeping item. The city had been going by this ordinance even though it had not been spelled out in the previous changes they had made.

There was no public comment.

Alderman Trumbo moved to suspend the rules and go to the second reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Ms. McCarty read the ordinance.

Alderman Austin moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. The motion carried unanimously.

Ms. McCarty read the ordinance.

Alderman Trumbo noted this was a housekeeping item.

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Ms. Carty stated this change would make the code consistent with the previous ordinance.

Alderman Russell asked if the city had an ordinance prohibiting the sale of beer in stores.

Ms. Carty explained the city did not. They had rewritten the Alcoholic Control section this ordinance had been omitted accidentally. Wine was covered by the State Law, but beer was not. This ordinance had previously been in the code, however, it had been accidentally omitted in the revisions.

Alderman Russell stated he had been surprised when he found out it was not allowed. He noted the State Law required people handling the beer to be over twenty-one. He added if people wanted to sell beer they should be allowed to, if they could get the permit.

Alderman Daniel thought the ABC was antiquated. She added if someone was willing to challenge it she would not be opposed to it.

Mayor Hanna stated if they read the minutes from 1986 the intention of the City Board had been not to allow the sale of beer or wine in convenience stores or grocery stores. When the code had been rewritten it had been inadvertently left out. He felt the original intention was still in affect.

Alderman Trumbo stated he would prefer not to see alcohol in the grocery store.

Alderman Santos thought the restriction on not allowing the sale of beer was a restriction of free enterprise, but this was a housekeeping item. He noted Fayetteville was a college town. He stated he would be voting for the ordinance, but he thought he would support a change if someone brought it forward.

Alderman Russell stated if any one was interested in having the law changed he would support them.

Mayor Hanna stated the city had just supported First Nite which was a New Years celebration to encourage people not to drink. He did not believe voting to support the sale of beer in grocery stores was consistent with the what they had encouraged with First Nite. He added this was a college town which people entrusted their children to.

Alderman Young stated he would be voting for the ordinance because they had always done it that way. He added he personally would not like the city council to make the change. If there was going to be a change it should be a vote of the people. He added he felt this attitude toward alcohol encouraged binge drinking.

Alderman Reynolds stated if they were to allow the sale of beer in the stores to people under the

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age of twenty-one would have to be replaced, which would put a lot of people out of work.

Alderman Daniel questioned the ABC rules and questioned why a younger person could not stock beer.

Mayor Hanna noted all the other colleges in Arkansas with the exception of Little Rock which was in a wet county. All the other colleges in Arkansas were in dry counties.

Mayor Hanna called for the vote. Upon roll call the motion carried unanimously.

Ordinance 4132 as recorded in the City Clerk's Office.

RZ 98-21:00

Mayor Hanna introduced an ordinance approving a request for property located at 3061 Valerie Drive. The property is zoned A-1, Agricultural and contains approximately 2.83 acres. The request is to change the zoning to R-1, Low Density Residential.

Ms. McCarty read the ordinance for the first time.

Alderman Daniel stated she had not heard of any objections about this rezoning request. She noted the request had been approved by the Planning Commission.

There was no public comment.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously.

Ms. McCarty read the ordinance for the second time.

Alderman Daniel moved to suspend the rules and go to the third and final reading. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

Ms. McCarty read the ordinance for the third and final time.

Mayor Hanna called for the vote. Upon roll call the motion carried unanimously.

Ordinance 4133 as recorded in the City Clerk's Office.

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RULES OF ORDER

Mayor Hanna introduced a resolution amending the rules of order and procedure for the Fayetteville Mayor/City Council Section H., Citizens Committees, Subsection 1.d., Selections of Members. He explained Alderman Young had brought the resolution forward to clarify the length of time people could serve on committees.

Alderman Young explained this would define what a full term was relative to someone who was appointed to fill out a full term.

There was no public comment.

Alderman Young moved to approve the resolution. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

Resolution 4-99 as recorded in the City Clerk's Office.

RIGHT OF WAY ENCROACHMENT

Mayor Hanna stated the last item on the agenda had been removed from the agenda and would be heard at a future meeting.

The meeting was adjourned at 8:45 p.m.