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 February 16, 1999, in Room 219 of the City Administration Building, 113 West Mountain, Fayetteville, Arkansas.

STATE OF THE CITY ADDRESS

ITEM CONSIDERED	ACTION TAKEN	
Approval of the Minutes	Approved	
Water and Sewer Refunding Bonds	Approved	Res. 22-99
Roll Forward List of 1998 Funds	Approved	Res. 23-99
Juvenile Accountability Incentive Block Grant	Approved	Res. 24-99
Arkansas Aviation Technologies Grant Agreement	Approved	Res. 25-99
Hangar Renovation	Approved	Res. 26-99
Naming "Raven Trail"	Approved	Res. 27-99
CIV 98-29	Approved	Res. 28-99
Widening Hwy 265	Approved	Res. 29-99
VA 98-11	Approved	Ord. 4141
Master Street Plan Amendments	Approved	Res. 30-99
Cable Franchise Fee	Failed	
Ultraviolet Disinfection System	Approved	Res. 31-99
CMN Business Park Appeal	Approved	Motion
Clear Creek Bridge Replacement	Approved	Res. 32-99

PRESENT
Mayor Fred Hanna
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
Staff, Press, Audience

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 February 16, 1999 in Room 219 of the City Administration Building, 113 West Mountain, Fayetteville, Arkansas.

CONSENT AGENDA

APPROVAL OF MINUTES
Approval of the minutes from the February 2, 1999 City Council meeting.

WATER AND SEWER REFUNDING BONDS
Mayor Hanna introduced a resolution approving a letter agreement with Kutak Rock to perform bond counsel services in connection with the proposed issuance of water and sewer refunding bonds. The cost is not to exceed $35,000, plus out-of-pocket expenses to be paid from bond proceeds. Additionally, to authorize the Budget Coordinator to execute any budget adjustment necessary to implement this refunding.

RESOLUTION 22-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROLL FORWARD LIST OF 1998 FUNDS
A resolution approving a budget adjustment which will allow for the rollforward of all projects or items in progress which were appropriated in the 1998 budget. The items which are approved will become part of the 1999 budget.

RESOLUTION 23-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT
A resolution to approve a grant application for Juvenile Accountability Incentive Block Grant and the attached budget adjustment. Also to add one officer and the required operational expenses to the 1999 Budget.

RESOLUTION 24-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.
A resolution accepting a pass-through grant from the Arkansas Department of Economic Development to the Northwest Arkansas Aviation Technologies Center for the purpose of establishing an Aviation Maintenance Technology Program at Drake Field; approval of an agreement with Northwest Arkansas Aviation Technologies Center, and approval of a budget adjustment recognizing the grant and the related expenditures.

RESOLUTION 25-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

HANGAR RENOVATION
A resolution authorizing the Mayor to execute contracts in excess of $20,000 for the work

associated in renovating the executive hangar leased by NWA Aviation Technologies Center in an amount not to exceed $205,000 for the complete project and approval of a budget adjustment establishing a project budget to perform the necessary tenant improvements.

RESOLUTION 26-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

NAMING "RAVEN TRAIL"
A resolution naming the proposed Keenan property trail, "Raven Trail."

RESOLUTION 27-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

CIV 98-29
A resolution approving a settlement offer for Mr. Walter Robinson for legal action taken to obtain certain lands along Gregg Avenue in Fayetteville, and Wilkerson Avenue in Johnson for the Mudd Creek Bridge Project.

RESOLUTION 28-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

WIDENING HWY 265
A resolution authorizing the Mayor and City Clerk to execute Warranty Deeds conveying City-owned property, part of the Fire Station No. 5, and part of the former Caudle property, both on Crossover expansion of Arkansas State Highway 265.

RESOLUTION 29-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

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

NEW BUSINESS
VA 98-11: VACATION
Mayor Hanna introduced an ordinance VA 98-11 vacation submitted by Dave Jorgensen of Jorgensen and Associates on behalf of J.B. Hayes for property located at the north end of Emerald Avenue. The property is zoned R-O, Residential Office. The request is to vacate a 100 square feet right-of-way at the north end of the property.

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

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

City Attorney Rose read the ordinance for the second time.

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

City Attorney Rose read the ordinance for the third and final time.

There was no public comment.

Mayor Hanna called for the vote. Upon roll call the ordinance passed unanimously.

ORDINANCE 4141 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MASTER STREET PLAN AMENDMENTS
Mayor Hanna introduced a resolution amending the Master Street Plan as recommended by the Planning Commission and the Street Committee.

Mr. Tim Conklin, Planner, presented the recommended changes to the Master Street Plan and explained the street classifications.

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

RESOLUTION 30-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CABLE FRANCHISE FEE
Mayor Hanna introduced a resolution to include the franchise fee as part of the gross revenues of the cable operator.

Alderman Daniel stated all cable subscribers would see an increase in their cable bill from .2 to .14 cents depending on their program package.

Mr. Marvin Hilton, Cable Administrator, explained this resolution would bring them into compliance with their franchise agreement and with recent court rulings. TCA Cable had agreed to comply with the change. His professional group, National Association of Telecommunication Officers and Advisors, had received a dozen replies from other cities who were planning to do the same thing. This change would put them in compliance with the franchise fee of five percent of their gross revenues. Before, the franchise fee was not included in the gross revenues. This would bring them into compliance where it was included in the gross revenues. The franchise percentage would not change. The Federal government had capped the percentage.

Alderman Trumbo stated it was his understanding the increase would net the city $18,000, which TCA could pass along to their customers.

Mr. Hilton replied that was correct. Each subscriber would be charged an additional 84 cents per year. The cable company was not required to pass along the increase. He noted the FCC had ordered TCA to refund $214,000 to subscribers.

Alderman Trumbo asked if our cable system would be getting internet capabilities in Fayetteville.

Mr. Hilton replied when they rebuilt the system, they would be offering high-speed modem connections to the internet.

Mayor Hanna asked Mr. Hilton if TCA was going to pass the increase along to their customers.

Mr. Hilton replied TCA had indicated they would be passing the cost along.

In response to questions from Alderman Trumbo, Mr. Crosson explained the additional funds would be added to the general fund. He explained the franchise fee were rent for the use of the city's rights-of-way.

Mr. Hilton stated this was becoming an important issue because more and more commerce was taking place over the internet. In response to questions from Alderman Santos, he stated the FCC was going to require television broadcasts be digital by 2006.

Robert Ralston, local business owner, asked if the city should consider charging TCA for past years.

Mr. Hilton stated the Cable Company did not recommend that the resolution be retroactive.

In response to questions from Alderman Trumbo, Mr. Kevin Crosson stated it was an optional decision. There was no requirement that they adopt it. The $18,000 was an immaterial amount of money.

Alderman Russell disagreed with the interpretation that it was a tax increase. It increased the amount TCA would be paying them and they were allowed to pass the increase along. He noted the amount TCA paid the city was calculated on the amount it took in one year. They had not been counting the five percent that they pay the city in their calculations. If the city passed this resolution, then TCA would pay the city using the amount they took in including the five percent they paid the city.

In response to questions from Alderman Daniel, Mr. Hilton stated the Cable Board thought this was important because this was rent for public-rights-of-way which were becoming more valuable because the amount of commerce on them.

Alderman Daniel moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the motion failed by a vote of 4-5-0. Aldermen Reynolds, Austin, Davis, Trumbo, and Mayor Hanna voting nay.

ULTRAVIOLET DISINFECTION SYSTEM
Mayor Hanna introduced a resolution awarding Bid 99-18 to the lowest bidder, Trojan Technologies, for the ultraviolet disinfection system for the Paul R. Noland waste water treatment facility.

Alderman Young stated the city currently was using chlorine to kill bacteria. He thought this would be more beneficial environmentally and economically. He asked what volume this would treat.

Mr. Venable replied it would treat 33 million gallons per day.

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

RESOLUTION 31-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CMN BUSINESS PARK APPEAL
Mayor Hanna introduced an appeal of one of the conditions of approval of the CMN Business Park II as approved by the Planning Commission on January 22, 1999

Ms. Mickey Harrington stated the development had been approved on January 22, 1999. They were appealing a condition to preserve Option B for the future flyover (see map). There had been two options on the flyover design. It had been the opinion of the city's staff, the developer's engineer, and their traffic consultant that Option A was the safest and the best option. She stated this would only affect lot 17.

Mr. Mel Milholland presented both options for the proposed flyover.

Ms. Harrington added there would be more flexibility with Option A for a tie-in with Mall Lane than Option B would allow.

Mr. Davis stated he was in favor of Option A because it would be easier and safer for people to get off on the right than it would be with the left. He questioned the request to have the land revert back to the property owner if the flyover was not constructed within ten years.

Ms. Harrington replied if the flyover was never constructed then the land would not be left open.

Mr. Davis expressed concern about the short amount of time.

Ms. Harrington stated it was a minor detail they were not wed to a certain time.

Alderman Young explained the city vacated rights-of-way all the time and suggested the property owner could request a vacation if the flyover was never constructed.

Alderman Daniel stated she was not in favor of either of the two plans. She thought this could be the beginning of a big octopus. She expressed concern about the city being taken over by the flyovers. She thought the flyover could damage the city in the long run. She thought there would be other options for traffic than in this development.

Alderman Trumbo stated he did not want to see the city take additional acreage for something that might not be constructed.

Alderman Daniel requested everyone to consider what this type of structure would do to a city.

In response to questions from Alderman Trumbo, Mr. Venable stated it would be a State Highway and would have to meet with the State's approval. He thought Option A would be the best route to use.

In response to questions from Alderman Young, Mr. Venable stated the State would determine the route of the flyover.

Alderman Santos asked if this was in the Regional 2020 Plan.

Mr. Venable replied it was in the regional plan.

Alderman Davis asked the percentage of ramp that went off to the right versus the left.

Mr. Venable replied there were very few ramps if any in Arkansas that went to the left. The right is the preferable exit if it is at all possible.

Alderman Daniel moved to approve neither plan A or plan B. The motion died for lack of a second.

Alderman Austin moved to approve the appeal and approve Option A. Alderman Reynolds seconded the motion.

Alderman Davis requested to amend the motion to exclude the number of years. There would be no time limit. Alderman Austin and Reynolds were in agreement with the

amendment.

Ms. Harrington stated her client would agree to the motion.

There was no public comment.

In response to questions from Alderman Trumbo, Ms. Little stated she had not taken a position. The staff always referred to the Master Street Plan as a flexible plan. While there were several options, no one had designed the flyover. She thought they might need something larger than Option A and if they were going to go with Option B, then they would need enough room for that.

Alderman Young asked if the State could be willing to offer an opinion on their preference.

Mr. Venable stated he could contact them, but he doubted if they had a preference. Both of the designs met the national standards. They normally preferred going to the right rather than the left.

Mayor Hanna stated the motion was to accept plan A with no time limit for reversion to the property owner. Upon roll call the motion carried by a vote of 5-3-0. Daniel, Young, and Russell voting nay.

CLEAR CREEK BRIDGE REPLACEMENT

Mayor Hanna introduced a resolution approving expenditure of funds to cover cost of construction of Clear Creek Bridge Replacement in Johnson.

Mr. Venable stated they had passed a resolution for an agreement with Johnson for the construction of this project. The design had been completed and they were ready to go to bid. The estimated cost was a million and a half dollars. The traffic counts for 1994 of 3,300 and 1997 3,600 since the connection the traffic had increased to over 7,000 cars. Last Thursday, there had been 6,800 cars. He felt the traffic had doubled. They had estimated 68% of the traffic was from Fayetteville, and suggested the city contribute 68% to the cost of the bridge. The city of Johnson had paid for the right-of-way and utility relocations. He felt it was a reasonable request to help with the cost of the bridge.

Mayor Long from Johnson presented a copy of their budget. He stated any help Fayetteville could give them would be appreciated. He requested the council to consider 67% to consider adding the $80,000 the city of Johnson had paid for the right-of-way, which would increase the total cost.

He presented a cost estimate for the bridge showing the money the city of Johnson had already spent.

Alderman Trumbo stated the cost which Johnson had already spent they should not reimburse to them. He noted 65% of the city's sales tax came from that area. He thought they needed to improve the infrastructure in that area even if it was not inside our city limits. He thought it was the good neighbor thing to do and would help the traffic problems.

Alderman Davis stated he was in favor of the 67% cost share.

Alderman Daniel questioned the additional cost Mayor Long was requesting.

Mr. Rose stated the request was for 67% and Johnson was paying 33% of an estimated cost of local share of $275,000. The agreement was based on this estimate. Additional funds would be appropriated if they wished. They were appropriating $187,000 and a contingency amount of $35,000. There would be some flexibility in the agreement.

Alderman Trumbo noted if Home Depot met their estimated revenues the city would be able to pay for the bridge in one year.

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

RESOLUTION 32-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Mayor Hanna stated Alderman Austin had agreed to form a committee to discuss the Y2K problem. Anybody interested needs to volunteer.

Meeting adjourned at 8:20 p.m.