MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
MARCH 7, 2000

A meeting of the Fayetteville City Council was held on March 7, 2000 at 6:30 p.m in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present: Mayor Hanna, Aldermen Reynolds, Austin, Davis, Trumbo, Daniel, Santos, Young and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Audience and Press.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Approval of the February 15, 2000 City Council minutes.

MANHOLE REHABILITATION
A resolution approving a construction contract with Kim Construction, Inc. for sanitary sewer manhole rehabilitation, Illinois Basin 6-9 and 16, and White River Mini System 9A, in the amount of $937,705, and approval of a 5% contingency of $46,885.

RESOLUTION 24-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AIRPORT CIP IMPROVEMENTS
A resolution approving a contract with McClelland Consulting Engineers, Inc. for engineering services for the Capital Improvement Program projects at the Airport for the term of one year extendable by contract amendment not to exceed three years.

RESOLUTION 25-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AIRPORT CAPITAL IMPROVEMENT
A resolution approving Task Order #1 to the contract with McClelland Consulting Engineers, Inc. for engineering services for the CIP Projects at the Airport. The amount of the Task Order #1 is not-to-exceed $71,283.00 and will cover the scope of the design and oversight of the construction of the access drive on the east side of the airport.

RESOLUTION 26-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARK'S BUDGET ADJUSTMENT
A resolution approving a budget adjustment in the amount of $106,121 to realign the Park's Division expenditures.

RESOLUTION 27-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INTERFACE COMPUTER CENTER
A resolution certifying local government endorsement of IF World dba Interface Computer Center to participate in the Advantage Arkansas Program.

RESOLUTION ~~28~~ 29-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFF-STREET PARKING DISTRICT
A resolution appointing Lamar Anderson to the Off-Street Parking District Number 1.

RESOLUTION ~~29~~ 30-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS

QUESTEC CORPORATION
An ordinance awarding a contract to QuesTec Corporation for preparation of a business plan, waiving competitive bidding, and appropriating up to $200,00 for preparation of a business plan.

Mr. Rose read the ordinance for the third and final time.

Mr. Rose reminded the council there were a number of changes to the contract and they would need to amend the ordinance at some point.

Ms. Little stated they were asking for $200,000 for QuesTec Corporation for them to do a feasibility study and business plan for a sports arena in Fayetteville. She presented a revised contract and explained the changes. She noted the schedule of deliverables and milestones and explained what the city would be getting at each date. It was not possible for them to put together a draft lease agreement for the land, however, they were able to assemble a preamble which would set the tone for the lease.

Alderman Davis asked if they did not proceed with the project would they only be out $150,000.

Mr. Joe GREAVES stated with this type of an arrangement they were getting more than the feasibility study they were also getting a business plan. He believed the two had to go hand in hand. He noted they could buy a feasibility study for less money, but they would not be getting a business plan. In response to questions, he stated they had discussed several locations at the airport.

Alderman Trumbo stated he was concerned about paying the $200,000 for the feasibility study/

business plan. He felt the equity in the utilities, parking and land was a large contribution. He questioned why they did not consider the feasibility study and part of the cost of doing business and recoup the money when the bonds were issued, like the city would. He thought it was odd for a project of this size not to go forward for the $200,000. He thought the city would be willing to help with water or other utilities. He questioned why the city needed to contribute money..

Mr. Joe Greaves replied there was equity in the land and infrastructure, however, the money addressed the fact the city was willing to commit to making the deal happen. He felt it would add to the commitment to the project. It was a good faith gesture..

Alderman Trumbo thought the community wanted the project to go forward, but he had concerns that it was QuesTec's first time to do this type of study. He questioned why QuesTec was not willing to up front the cost of the feasibility study to start building their reputation in the field.

Mr. Joe Greaves replied they had spent a lot of money marketing this project. They had a product which was unique. No other projects existed which they could compare it too. They had made a large investment.

Mr. Joe Butler, an area resident, stated he wanted to see Razorback Hockey at the college.

Ms. McKinney, a resident, expressed concern about the location of the arena. She stated she would like to see the area at another location. The public wanted an arena, but did not care where it was located. She wanted to have the airport's money spent on marketing the airport.

Mr. Shasho, Airport Business owner, stated he did not want to see the council miss an opportunity.

Mr. Pat Ross, Flight Instructor, expressed concern about the investment of airport funds in the project. He had an investment in his business and he did not have anyone subsidize him.

Mr. Rick McKinney, resident, expressed concern about using airport funds and suggested using the money for marketing. He also expressed concern about the location of the arena at the airport.
There were 11 acres still to be developed at the airport which he thought should be used for aviation. There were approximately 50 acres on the east side which could also be developed.

Alderman Daniel asked Mr. Frederick, Airport Manager, how difficult it was to attract airport related businesses to their airport.

Mr. Frederick replied by were competing with 100 airports in Arkansas alone. It was difficult.

They had a good airport.

Alderman Daniel stated she was for hockey. She thought Drake Field was a good location, but there was a lot of concern about using airport money. She had spoken with a city which had constructed an ice rink and it had been very successful. It had been a municipal effort. She noted there were a lot of northerners moving into the area. She expressed concern about losing the money.

Alderman Russell stated he understood why they were asking for the money. If the city had not committed financially, then we had all the bargain power, but if we had committed some money then they each come to the table evenly to negotiate for the lease agreement.

Alderman Trumbo stated it was the investor which needed to be convinced to invest.

Alderman Russell replied if the city did not contribute to the study, then the city would have nothing to lose during the negotiations. He questioned this amount of money.

Alderman Trumbo added when they did a bond issue then all the soft cost would be refunded. he thought the developer and the investors should bear the risk of losing money and not the city.

Alderman Davis asked if QuesTec was willing to come down on the price, because they would be recouping the money if it was a go.

Alderman Austin asked if they needed to show good faith to the investor or the company doing the study.

Alderman Trumbo stated he did not believe the investor cared who paid for the feasibility study as long as they had one to look at.

Alderman Reynolds asked if they could use money out of the General Fund.

Mr. Rose replied it has always been the city's contention that the General Fund money could be used for any proper general municipal purpose. The principal had been upheld in the Town Center lawsuit.

Alderman Santos stated if the city really thought it was a good idea, then the city needed to invest in an independent feasibility study.

Mayor Hanna stated if they were to do a city arena, the city would be responsible for the bond payments and it would be a city facility. It was a possibility.

Alderman Austin stated he did not want to raise Fayetteville taxes. He thought it should be a private venture.

Alderman Davis presented attendance of other arenas in the area.

Alderman Young moved to amend the motion to reflect the changes made in March 7, 2000 agreement, exhibit A-1. Alderman Austin seconded the motion. Upon roll call the motion carried unanimously.

Mayor Hanna explained the changes to the contract.

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

PUBLIC FACILITY BOARD
An ordinance to expand the role of the Public Facilities Board to include recreational facilities and multi-family housing as provided by State Law.

Mr. Rose read the ordinance for the third and final time.

Mayor Hanna stated he thought it was important for the city to make the change in the case the city decided to build an arena.

Alderman Young stated there needed to be a definition for Low or Moderate income.

Alderman Young moved to amend the ordinance to place a ";" after facility and add "qualified residential units for persons of low to moderate income as defined Sect. 142D of the Internal Revenue Code". Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

There was no public comment.

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

ORDINANCE 4227 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

WATER/SEWER EASEMENT
An ordinance vacating a 50 ft. wide water easement, filed in Washington County in 1973 (Book 856 at page 720). Sewer line is not located within easement area and new easements have been

acquired for the proper location of the lines.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

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

Mr. Rose read the ordinance for the third and final time.

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

ORDINANCE 4228 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

6TH STREET IMPROVEMENT

An ordinance authorizing the City Attorney to seek court ordered possession of land, permanent drainage easement area and temporary construction easement area from part of Lot 5 and 6 Block 10, Ferguson's Addition, being a part of property owned by Estate of Lonnie and Hazel Shook for the extension of 6th Street and Hwy 71B Intersection.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

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

Mr. Rose read the ordinance for the third and final time.

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

ORDINANCE 4229 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SENIOR COMMUNITY CENTER
Presentation and discussion on the construction of the Senior Center.

Ms. Martha Albright, Council On Aging, stated the project had begun in 1993. She described the process they had used in determining what was needed and the best way to achieve those goals. From the beginning it has been a joint project between the Council on Aging and the City of Fayetteville. She noted population trends in the nation and in Washington County.

Mr. Darrell Rantis, Architect, explained the goals of the project and a brief history of the site. He presented a model of the project and described the design layout and features of the facility. He presented a list of deductions made to the original design to lower the cost of the building. He compared the cost of the building to other local civic buildings in the area. They basically kept up with the inflation rate. He believed any more cuts could get into the quality of the project. He projected the gross area was 1900 square feet. He estimated $107 per square foot without site improvement; $120 per square foot with site improvements.

Alderman Trumbo stated they had to justify increasing taxes. They needed to be getting the most for the money.

Mr. Rantis stated they were ready to go now.

Alderman Trumbo asked if they considered using donations from other companies in the form of materials or labor.

Mr. Rantis stated they had discussed it, but there were some legalities because they had to follow bidding procedures.

Ms. Martha Albright stated the project had on hand or committed: $500,000 HMR, $350,000 Community Block Grant, Area Connection $252,500, fund raisers $38,540, Wal Mart stock 7, 500. They needed another million dollars. She asked the council to write on ordinance to levy a two mill tax for one year to support the construction of the building.

In response to questions, Mr. Rose explained under the Statutes the city passed a real and personal property to be levied by the city for that year to be collected the next year. They could pass it earlier, however it would not be active until that fall. He reminded them that the Police and Fire Pension Fund also had a millage. He suggested they add it to the ordinance. He noted there was a lawsuit on the rollback procedures. He was not sure how much they were going to be required to rollback, so he was unsure of the amount to put in for the Police and Fire. The money would not be collected until 2001. If they used City money to construct anything they would have to use city bidding procedures. When there was a mixture of funds, State, City and Private, who ever was higher on the food chain, their procedures would apply. They could not give money to a non-profit organization. The city would have to contract with them in order to give them money. There would have to be a contract with them in which they agreed to provide certain services for the city. If they built on City property, they would end up owning the building in the end. Another way to do it, was to have the city build the project, then they would lease to the agency. Under the law, in order to bid the project they had to follow public bidding procedure. They would have to appropriate an amount for the award for the contract. The amount appropriated had to currently available.

Mayor Hanna thought that if they passed the ordinance for the millage, he thought the city might be able to advance the money to construct the facility.

The item will be considered at the next meeting.

CHILDREN'S HOUSE/ SAGE HOUSE
Removed from agenda.

BOTANICAL GARDEN
An ordinance approving an agreement for professional services with Portoco Group for the feasibility study of the Botanical Garden Society of the Ozarks, Inc. as part of the matching grant program award from the Arkansas Department of Parks and Tourism. The contract amount is $21,895.40. A bid waiver is requested. Approval of a budget adjustment recognizing the grant funding and the city match is also requested.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

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

Mr. Rose read the ordinance for the third and final time.

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

ORDINANCE 4230 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 99-34
An ordinance approving rezoning request RZ 99-34 submitted by Daniel Broyles on behalf of

Robert Norman, Kyle Pendergraft, and Rick Barnes for property located at 1633 E. Zion Road. the property is zoned A-1, Agricultural and contains approximately .76 acres. The request is to rezone the property to R-2, Medium Density Residential.

Mr. Rose read the ordinance for the first time.

Mr. Jamie Jones, resident, stated he had lived there for 34 years. He stated he had not been able to attend the Planning Commission meetings because of a funeral which was out of town. He had notified the Planning Department by letter and phone call stating he was opposed to the rezoning because it violated the character of the neighborhood in favor of the commercial business. The people in the neighborhood had be reassured by previous councils that they would try and preserve the residential character of the neighborhood. He asked the council to consider the neighbors and deny the request.

Mr. Conklin stated he had received a call from Ms. Betty Childers. She was also opposed to the R-2 rezoning and requested R-1 zoning.

Alderman Austin asked Mr. Jones what he thought of R-1 zoning.

Mr. Jones replied he would not be opposed to R-1 zoning because the applicant could still get a conditional use.

Mr. Dan Broyles, applicant representative, explained the applicant planned to operate a professional office with three employees. Their plan was to operate a food brokerage, marketing poultry. They had no intent of altering the structure. The parking was adequate. They would not be receiving products or shipping products from there. They were wanting a conditional use permit. They would not change the structure in any way. No one would be using the property at night. There would not be any additional traffic. This property had been up for sale for a long time. The sale of the property was contingent upon the rezoning. There was a trend for offices to come this direction from the Mall. He noted the neighboring property was also zoned R-2.

In response to questions from Aldermen, Mr. Conklin stated the applicant did not need R-2. They needed a Residential zoning to put a neighborhood commercial use in a residential district.

Alderman Austin asked the applicant if they would consider R-1 zoning.

Mr. Broyles replied when they originally applied for the R-O zoning, they wanted the opportunity by right to operate the business. When they learned of the opposition to the R-O zoning they went with the staff's recommendation of R-2.

Mr. Conklin explained an ordinance had been passed in 1995 which allowed limited neighborhood uses within residential neighborhoods if they were compatible with the residential neighborhood. It must have a residential appearance and not impact the neighborhood. They had approved several of these before in Fayetteville. The reason the staff had recommended R-2 was because the adjoining property and the surrounding property was zoning R-2. The recommended zoning was consistent and compatible with the surrounding property. The applicant could still apply for a conditional use in R-1.

In response to questions, Mr. Conklin stated the staff would not recommend R-O, but they did recommend R-2 because it was consistent with the neighborhood. The City had passed an ordinance which allowed a conditional use for limited commercial use of residential style structures. When they applied for the permit, they were able to place conditions on the property to help limit the impact on the neighborhood. The idea was to promote mix use.

Alderman Russell questioned why the neighbors would support R-1.

Mr. Jones replied with R-2 zoning they could increase the density. He was concerned with the future use of the property.

In response to questions, Mr. Broyles stated they would like to have a small sign. They wanted to be good neighbors. They planned no alteration to the exterior of the property. They could not alter without approval from the Planning Commission.

Alderman Santos moved to modify the ordinance to R-1 zoning. Alderman Austin seconded the motion. Upon roll call the motion carried by a vote of 7-1-0, Reynolds voting nay.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Austin seconded the motion. Upon roll call the motion carried by a vote of 7-1-0, Reynolds voting nay.

Mr. Rose read the ordinance for the second time.

Alderman Reynolds stated he did not agree with the proposed sign.

Mr. Conklin stated the Planning Commission could restrict the use of the sign.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Trumbo seconded the motion. Upon roll call the motion carried by a vote of 7-1-0, Reynolds voting nay.

Mr. Rose read the ordinance for the third and final time.

Mayor Hanna called for the vote. Upon roll call the ordinance passed by a vote of 7-1-0, Reynolds voting nay.

ORDINANCE 4231 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 00-2
An ordinance approving rezoning request RZ 00-2 submitted by Bill Keating of Keating Enterprises Inc. for property located at Lots 1 and 2 Sunbridge East. The property is zoned R-O, Residential Office and contains approximately 2.89 acres. The request is to rezone to C-1, Neighborhood Commercial.

Mr. Rose read the ordinance for the first time.

Alderman Davis thought the rezoning would be good for the neighborhood.

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

Mr. Rose read the ordinance for the second time.

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

Mr. Rose read the ordinances for the third and final time.

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

ORDINANCE 4232 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZA 00-1
An ordinance approving annexation request RZA 00-1 submitted by Engineering Design Associates on behalf of Arkansas Oaks for property located east of North Bridge Drive and south of Mount Comfort Road. The property is in the planning growth area and contains approximately 15 acres. The request is to annex subject property into the City of Fayetteville.

Mr. Rose read the ordinance for the first time.

Mr. Conklin stated he had not heard of any opposition to the rezoning.

Mayor Hanna added this was the property adjacent to the property they annexed at the last meeting.

Alderman Young asked the applicant if they realized due to the sewer capacity, the city could not guarantee sewer service.

Alderman Daniel stated she was concerned about additional traffic in the area.

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

Mr. Rose read the ordinance for the second time.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZ 00-3
An ordinance approving rezoning request RZ 00-3 submitted by Engineering Design Associates on behalf of Arkansas Oaks for property located east of New Bridge Drive and south of Mount Comfort Road. The request is to rezone to R-1, Low Density Residential.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZ 00-8
An ordinance approving rezoning request RZ 00-8 submitted by R. Read Hudson on behalf of Tyson Foods for property located at 2647 S. School Ave. the property is zoned I-1, Heavy Commercial/ Light Industrial and contains approximately 53.38 acres. The request is to rezone to I-2, General Industrial.

Mr. Rose read the ordinance for the first time.

Alderman Davis stated the company had been doing the same business since they purchased the property in 1983. They currently employ 800 plus people. They were good corporate neighbors.

Alderman Trumbo added it fit into our 2020 Plan.

Alderman Russell questioned the use of the property before Tyson bought the property.

Mayor Hanna stated Shakespear had owned the property and it was heavy manufacturing. Alderman Russell questioned why they were allowed to go in to begin with.

Mayor Hanna stated he thought the zoning ordinances had changed throughout the years by adding use units.

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

Mr. Rose read the ordinance for the second time.

Mr. Gary Tacket stated he owned ten acres next to this property. He thought getting in compliance was the right thing to do, but thought the damage had already occurred. He expressed concern about the noise and the smell. It was a problem for his property.

Mayor Hanna stated they were trying to tighten down on things like this. They were trying to do things properly.

Mr. Tacket stated he did not live on the property. He had not been complaining because he thought it was in compliance, had he known he would have been complaining.

Mr. Rick McKinney, an area resident, expressed concern about odor and toxic chemicals being used at the plant. He questioned Tyson about starting construction with the building permit.

Alderman Daniel asked if they could store the ammonia at a different location.

Mr. Archie Schaffer, Tyson Foods, stated it could not be separated. It was stored and regulated by other government departments. They were in full compliance with EPA regulations. In response to questions, he stated they stored a couple of truck loads of ammonia. He explained when there was an ammonia leak it would pop a value to prevent a larger leak. Typically it was on the roof of the building.

Mr. Rose stated Tyson had used this facility for sixteen years in a manner consistent with I-2 and done it with the full knowledge of the city. It has been used as I-2 for the past sixteen years.

Alderman Santos moved to suspend the rules and move to the third reading. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third time.

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

ORDINANCE 4233 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 00-9
An ordinance approving rezoning request RZ 00-9 as submitted by Charles Venable on behalf of the City of Fayetteville for property located at the southwest corner of Razorback Road and Cato Springs Road. The property is zoned R-2, Medium Density residential and contains approximately 19.47 acres. The request is to rezone to I-1, Heavy Commercial/ Light Industrial.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Davis seconded the motion. upon roll call the motion carried unanimously.

Mr. Rose read the ordinance for the third and final time.

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

ORDINANCE 4234 AS RECORDED IN THE OFFICE OF THE CITY CLERK.