MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council will be held on July 20, 1999 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; Press; Audience.

ITEMS	ACTION TAKEN	
Approval of the Minutes	Approved	
Bid 99-8 Wilson Park Tot Playground	Approved	Res. 95-99
Bid 99-9 Root School Playground	Approved	Res. 96-99
Airport Terminal Apron Rehabilitation	Approved	Res. 97-99
Airport Bid for Eight-bay T-Hangar	Approved	Res. 98-99
Town Center Report	No Action Taken	
RZ 98-22 1798 East Huntsville Road	Left on Second Reading	
Fire Department External Defibrillators	Passed	Ord. 4173
Cable Transfer	Passed	Ord. 4174
Internet Site Endorsement	Approved	Res. 99-99

MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 20, 1999

A meeting of the Fayetteville City Council was held on July 20, 1999 at 6:30 p.m in 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 minutes from the July 6, 1999 City Council meeting.

RFP 99-8
A resolution selecting TNT under RFP 99-8 for the Wilson Park Tot Playground in the amount of $46,179, plus a project contingency of $3,000 for a total of $49,179.

RESOLUTION 95-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RFP 99-9
A resolution selecting Midland Construction Company, Inc. under RFP 99-9 for the Root School Playground Project in the amount of $43,909.

RESOLUTION 96-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TERMINAL APRON REHABILITATION
A resolution awarding Bid #99-57 for the Terminal Apron Rehabilitation Project to Pavement Specialists, Inc. in the amount of $281,547.83 and a project contingency of $31,552.00; and $6,000 for materials testing. And approval of a budget adjustment to cover the project contingency and increased cost over the original project estimate.

RESOLUTION 97-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK

T-HANGAR BID
A resolution awarding Bid #99-66 approving a construction contract for an eight-bay T-hangar to be awarded to Gray Construction, Inc. for a bid amount of $264,364.50; a project contingency (10%) of $26,436.00; materials testing amount of $1,000; plus approval of a budget adjustment.

RESOLUTION 98-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS

TOWN CENTER REPORT
A discussion of suggested cost reduction items to reduce bid amount made by Nabholz Construction Co. for the building of the Fayetteville Town Center. Bids on this project are binding on the apparent low bidder for 90 days; therefore, August 4th is the last date to complete a contract with Nabholz. $792,541 in proposed cost reductions have been identified in the project to arrive at a current cost of $7,569,292 – leaving the bid $219,292 from the budget.

In response to questions from Alderman Young, Mr. Kevin Crosson, Administrative Services Director, explained they had prepared an outline of funding available with the staff suggestions for funding the additional cost for the Town Center. He explained the handout presented. Currently their estimated cash and investments available to spend on the Town Center was $7.629 million. The certified bid amount was $7.35 million, which had been the estimate. At this point, the projected additional investment earnings to the end of construction would be $7.629 million. They recommended that if they were going to spend additional funds that they spend approximately $386,600 from the Off-Street Parking fund, which was an appropriate use. The forty extra parking spaces and any additional expenses they recommended come out of the general fund balance.

Alderman Trumbo stated that it was his understanding that the Off-Street Parking Fund had been accumulated over time from the city's parking lots.

Mr. Crosson replied the fund had been set up from leased spaces and the off-street parking lots and meters around the square. The fund was set up to maintain parking lots and future acquisitions of lots. He thought it was an appropriate use of money. He added there was an unreserved fund balance of a little over $600,000.

Mr. Richard Alderman, Project Architect, explained the history of the project. The project had been bid on May 6, 1999. The overall bid was $8,786,650.00. At that time in the bid they took three deductive alternates as part of the bid process, which did not include the negotiated changes. Some of the items listed were: portable kitchen equipment, loading dock leveling equipment, and 40 parking spaces. The alternates reduced the bid amount to $8,361,833. Since that time they have been able to identify approximately $800,000 to $850,000 of cost reductions. He presented a summary sheet of recommended changes to the project.

Alderman Trumbo stated the bonds had been approved and sold to take advantage of the lower interest rates. He knew some people thought they were getting the cart before the horse by already issuing the bonds.

Mr. Alderman replied they had discussed the two different strategies to go forward with the project. They could have spent a lot of time on architect fees before the vote or do the best estimate that they could at the time, then bring it to a vote before they spent a half million dollars on architect fees. They had taken the initial drawings to develop the project from the original concept. Construction and inflation were more than they had thought they would be. All major construction projects had been higher than they should have been. He thought this was a normal part of the process.

Alderman Trumbo asked which items had increased so dramatically from the original estimates.

Mr. Alderman replied the original estimates had been between $6.9 million to $8.3 million. The city had chosen a budget based on the how much they wanted to put into the bonds of the $7.2 million. What had affected the construction industry in Northwest Arkansas was the fact that there was a large amount of projects and there was not enough laborers or subcontractors to fill the demand. He felt they had three very good bids for the project.

Alderman Daniel questioned what would happen to the bonds if the Council did not go along with the additional funding.

Mr. Crosson explained there was a redemption clause in their indenture that allowed to pay the bonds back plus interest to the day of the redemption call date. It would not be like a default. The cost to the city would be the accrued interest. He added the city was looking at another large project. He cautioned this kind of thing would be difficult to explain when they were trying to market $80 million in additional bonds, such as for the sewer treatment plant. It would not look good for the city.

In response to questions from aldermen, Mr. Crosson explained that, due to a recently passed state law, the city had to approve a contract which was no more than their certified amount that they put out for bid, which was $7.35 million. They had to negotiate with the low bidder down to the that amount, then award the contract, then they could add items back in by a change order.

Mr. Alderman explained the time constraints with the change orders. He explained they were considering removing two elevators, which could be installed later to save money. He explained the necessity of having two freight elevators. He explained the general changes they had worked on with the contractor to lower costs, such as work conditions, time constraints, landscaping, testing allowances, waterproofing, painting, window tinting, substituting materials, elevators, exterior items, canopies, changing precast to concrete block, an alternate brick, brick pavers, and painting of the parking deck. Interior items included: freezers for long term storage, electrical window shades, movable dividers, storage areas, service desks, fiberglass columns rather than precast, glazing on windows, mechanical items, thermostat control rather than computer control in heating and air, and removal of the heating system in the tower.

Mr. Richard Alexander, an area resident, stated that the Downtown Dickson Street Enhancement Project viewed the development on the Square as a major piece of the overall rehabilitation of the downtown area. They supported the town center. He felt it was very important for the council to go forward with the project. He expressed his support for the town center and his concern that the project might get derailed because of the budget. Since the vote on the project, business decisions had been made on the basis that the project had been approved and the city was making a commitment to the downtown area. The parking was being addressed. This had been viewed by many people to invest in the rehabilitation of the square and the downtown area. It was important from a business sense that the city not be perceived as waffling on this issue. It was a project which had been approved by the voters. In his opinion the overage was very small. He personally would like to see the city approve the project as proposed. He felt the parking was the most important thing of the project. He thought the expanded parking would attract business to the downtown area, which would increase the rehabilitation.

Mr. Jeff Erf, an area resident, questioned where the money would come from.

Alderman Trumbo explained they were proposing some money out of the Off-Street Parking Fund, then some out of the General Fund.

Mayor Hanna added the additional money would be to add additional parking and leave in the partitions and the two elevators.

Mr. Erf asked if they were going to keep the blinds.

Mr. Crosson explained there was additional money at the A&P level where they could consider some of the smaller items. What the city had presented to the council was the big ticket items. They were open for discussion on what items to fund and not to fund.

Mayor Hanna explained the city needed to award a contract for $7.3 million, then they could add additional items in later. They could add all the items back in if they wanted to, float a secondary bond issue based on the income the town center would produce, and pay it out over a period of time. He did not think they needed to do it, but it was a possibility.

Mr. Erf questioned where the money would be coming from for the additional items which would be added later.

Alderman Trumbo replied the money would come from the HMR Tax, additional funds from the

City, or the cash flow from the facility.

Mr. John Lewis of the Bank of Fayetteville encouraged the Council to proceed with the project. He thought it was important for the community. He thought the community would risk more by not preceding than by not trying to make up the difference. He thought there would be more private investments coming downtown. He thought it was an investment and a commitment to the city.

Mr. Jim Bemis, an area resident, stated he did not see a town center in the proposed project. He read a summary of concerns from a public input session and stated he did not see the request in the proposed building. He did not believe it would fulfill what was asked. He did not believe it was a town center for the community, but an exhibit hall to be run and managed by unelected officials for tourists.

In response to concerns voiced by aldermen, Mayor Hanna explained they could not use A&P funds to construct a building for individual organizations. Any organization could use the facility.

Mr. Alderman explained the law did not want the city to construct administrative spaces for non-profit people with the money. They could meet or use the building. It just could not be dedicated specifically for their use.

In response to concerns voiced by Mr. Bemis, Alderman Trumbo stated the facility would be managed by a board that would have city, Chamber of Commerce, A&P and public representation.

Mr. Kit Williams, former alderman, stated he had always supported the concept of the Town Center. He explained quality construction had been one of their primary concerns. They had cut back on some of the parking spaces and some of the other amenities. If the city built a town center it needed to be built to a high quality that would withstand the test of time with plenty of parking. He stated he would like to see a room added for non-profit organizations, but to do that they needed city money. He thought the city needed to commit two to three million dollars to the project to make the facility a landmark.

Ms. Fran Alexander, an area resident, did not believe the facility was a town center for the citizen.

In response to questions from aldermen, Mr. Rose stated he had requested an opinion from the attorney general on whether or not the city could put money in and if so how much. He had not received a reply yet, but in his opinion he thought they could use special funds for what they were intended for – parking. The general funds could be spent for any proper public purpose.

He thought the City could spend money on the facility.

No action was taken.

NEW BUSINESS

RZ 98-22
An ordinance approving rezoning request RZ 98-22 submitted by Richard Osborne on behalf of Littlefield Investment Company for property located at 1798 East Huntsville Road. The property is zoned C-1, Neighborhood Commercial, and contains approximately 0.788 acres. The request is to rezone the property to C-2, Thoroughfare Commercial for the purpose of installing a used car lot.

Mr. Rose read the ordinance.

Alderman Austin moved to suspend the rules and move to the second reading. Alderman Daniels seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Santos and Russell voting nay.

Mr. Rose read the ordinance of the second time.

The applicant was not present.

Alderman Daniel stated she was not in favor of the rezoning because there were a lot of used car lots in town. The rezoning request was not consistent with the city's 2020 land use plan, which had shown a C-1 designation.

Alderman Santos thought the rezoning was inconsistent with the land use plan and it was not recommended by the staff. He asked if it was legal to accept a bill of assurance for a rezoning.

Mr. Tim Conklin, City Planner, added there had been some discussion of a bill of assurance stating that if the property was not used as a car lot then it would revert back to the C-1 designation. He stated the property could not revert back. The most that could be offered would be to limit the use of the property to a used car lot.

Mr. Rose stated any changes would have to come back to Council for a vote.

Alderman Reynolds stated the property was in disrepair and was abandoned.

The item was left on the second reading.

EXTERNAL DEFIBRILLATORS
An ordinance approving a bid waiver and purchase of ten Lifepak 500 Automatic External Defibrillators from Med Tronic Physio-Control Corporation of Redmond, Washington.

Mr. Rose read the ordinance for the first time.

Alderman Davis 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.

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

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

Upon roll call the motion carried unanimously.

ORDINANCE 4173 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CABLE TRANSFER
A public hearing and consideration of an ordinance approving the application for Franchise Authority consent to assignment or transfer of control of Cable Television Franchise submitted by TCA Cable Television, Inc. and Cox Classic Cable, Inc.

Mr. Rose read the ordinance for the first time.

Mr. Rose stated the Cable Board had approved the transfer at their last meeting.

Mr. Dennis Yocum, TCA Cable, explained the mergers were not complete and he was not sure of their future plans. He did not know their future plans for upgrades.

Mr. Rose stated the city was in the process of negotiating the new cable franchise. As part of that franchise there would be upgrade provisions in it. If the contract was signed by TCA, Cox would still be held legally responsible for the standards of the new franchise. If Cox had taken over by then they would sign the contract.

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

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

Upon roll call the motion carried by a vote of 7-0-0, Reynolds voting nay.

ORDINANCE 4174 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INTERNET SITE

A resolution endorsing the creation of Fayetteville.com, an internet site by Interface Computer Center. Interface Computer is the first company to commit to locate in the Arkansas Research and Technology Park and the internet site is a private commercial venture which will link to the City's and Chamber of Commerce's internet sites.

Mr. Tate Wolf, Interface Computer Co. Project Manager, gave a presentation of their site along with their goals and objectives. Packets were provided to give overview of the site.

Alderman Austin expressed concern about liquor sponsors and questioned how often children would pull up a liquor ad.

Mr. Wolf replied one in ten will see a liquor ad. He explained they were an independent commercial operation. It would be a completely commercial site. He reassured the Council that they had nothing to do with pornography. They did not have a single pornography site on any of their servers.

Mr. Jeff Erf stated he would like the same information for his web site. He asked if they would also have to fill out FOI request forms.

Ms. Alett Little, Economic Development Coordinator, stated the site would provide a service to the citizens by offering the information. She noted the convenience of having a city map on the internet and having it immediately updated.

Mayor Hanna stated they needed to consider tonight whether or not to endorse the site and to allow the staff to work out the details of the data exchange.

Alderman Trumbo moved to approve the resolution. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 6-2-0, Austin and Reynolds voting nay.

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

Meeting adjourned at 9:30 p.m.