MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
DECEMBER 21, 1999

A meeting of the Fayetteville City Council was held on December 21, 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, Young, and Russell; City Attorney Jerry Rose; City Clerk Heather Woodruff; Staff; Press; Audience.

Absent: Kevin Santos

ITEM CONSIDERED	ACTION TAKEN	
Nominating Committee report	Approved	
Approval of the Minutes	Approved	
Park Land Waiver: Summit Development	Approved	Res. 162-99
Trolley Operations Contract	Approved	Res. 163-99
Pay Plan Adjustment	Approved	Res. 164-99
2000 Complete Count for U.S. Year 2000 Census	Approved	Res. 165-99
Highway 265 Sidewalks	Approved	Res. 166-99
VA 99-13	*Left on the second reading*	
RZ 99-32	Passed	Ord. 4205
2000 Annual Budget and Work Program	Approved	Res. 167-99
Wheeler Water Association: System Purchase	Approved	Res. 168-99
Policy and Procedures: New Investment Policy	Approved	Res. 169-99
Highway 265 Condemnation	Passed	Ord. 4206

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- **NOMINATING COMMITTEE REPORT:**

Alderman Daniel moved to appoint:

Airport Board	Charles Wallace
Cable Board	Kevin McDonald
Historic District	Jarrod Adkisson
Housing Authority	Dan Hudspeth
Parks and Recreation	Bill Ackerman and Judie Nickell
Public Library Board	Richard Alexander
Tree and Landscape	Bill Dollar, David Whitaker, Scott Starr, Michael Campbell, James Gibson, and Janet Coleman.

Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Approval of the minutes of the December 7, 1999 City Council meeting.

PARK LAND WAIVER
A resolution approving a waiver of Ordinance 3793 to accept money in lieu of the land dedication requirement. The developer for the proposed subdivision is Summit Development. The property is located south of Highway 16 West and west of Shiloh Drive.
RESOLUTION 162-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TROLLEY OPERATIONS
A resolution accepting a renewal agreement with Jones Transportation Services for Trolley Operations for the period of January 1, 2000 through December 31, 2000.
RESOLUTION 163-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PAY PLAN ADJUSTMENT
A resolution adopting a year 2000 pay plan for hourly, salaried, executive and civil service, fire and police personnel.
RESOLUTION 164-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2000 COMPLETE COUNT
A resolution approving an interlocal agreement between the County and incorporated cities within Washington County. The agreement authorizes the creation of a Washington County Complete Count Committee for the purpose of facilitating the Year 2000 Census.
RESOLUTION 165-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HIGHWAY 265 SIDEWALKS
A resolution authorizing the payment of $53,579.00 to the Arkansas Highway and Transportation Department for the City of Fayetteville's cost to install sidewalks along Highway 265, between Highway 16 East and Highway 45.
RESOLUTION 166-99 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

VA 99-13.00
An ordinance approving vacation request VA 99-13.00 submitted by Mike Roetzel on behalf of Buddy Peoples for property located at 28th Court. The request is to vacate the undeveloped street right-of-way located west of Club Oak Drive within Edge Hill Subdivision. This item was left on the first reading at the December 7, 1999 City Council meeting.

Mr. Rose read the ordinance for the second time.

Alderman Reynolds stated he had received three phone calls from neighbors who lived on Country Club Hill. They had asked for an extension so that they could do more research on the request. He suggested it be left on the second reading.

Mr. Rose stated he had received a phone call and visit on the same issue. The people who had spoken with him had advocated tabling the item rather than placing it on the second reading, because it might take longer than two weeks before the item could be revisited.

Alderman Reynolds moved to table the item. Alderman Austin seconded the motion.

Mr. Buddy Peoples stated they were requesting to vacate the street. His concern was that they were prepared to go ahead with the vacation. He wanted to get this over with. It was not his request to table the item.

Alderman Young stated he had looked at the request after the last meeting. In order to construct the street there would need to be a nine-foot fill. It would be very expensive and they would have to have an additional right-of-way for the road.

Aldermen Reynolds and Austin withdrew their motion.

Mr. Peoples stated he did not know what the opposition was. He said they had every person within the subdivision sign a petition to vacate the street, with the exception of one person. That one person had agreed to be neutral. The Planning Staff and Planning Commission both recommended approval of the vacation.

Ms. Sylvia, an area resident, stated she and two of her neighbors had gone through the neighborhood asking people for their input on the vacation of the right-of-way. She presented a petition with the signatures of ninty-five people who wished to have the right-of-way vacated. That represents seventy-one households. She stated that very few would not sign. There are two other entrances and exits to and from Mr. Scott's property they would like to see one house built on Club Oak Street to complete the street. They would like the neighborhood to remain quiet, rather than directing traffic from a subdivision through their neighborhood.

Alderman Russell stated he was not going to base his opinion on speculation and second-hand information. He said those with an opinion in this matter should write a letter or come before the City Council.

Alderman Daniel thought it was important not to rush these matters.

Ms. Linda Salmonson stated she had lived in the area for three and half years. She read a letter from one of the other residents encouraging the vacation of the street.

Alderman Trumbo stated the Planning Commission is a good group of people, but they should not approve everything that they did. There were many different ways to look at an item.

Mr. Frank Scott stated he was the affected property owner to the west of this subdivision. In

1969 this street had been platted as 28th Street. It had been changed to Court Street, and was shown on the City map as having been built. It is the only public street which adjoins his property. Peach Street serves only one third of his property. Ravenswood stops short of his property. He has to maintain the portion of the road to his property. He stated it is his understanding that you are entitled to a street to your property and access to your property, citing the Supreme Court of Arkansas in 1959, the Case of *Robert v Pace*. The court held that the entire closing of an alley was not valid because not all of the adjoining property owners had given their written consent as required by statute. Mr. Scott questioned what the correct slope of the property was.

Alderman Young stated his concern was the amount of fill they would have to add in order to meet the minimum grade to conform to the City's ordinances.

Mr. Scott stated he was not convinced that the slope is any steeper than that of 24th Street. He still felt that he needed access to the western part of his property, which is one half of his property. With the street closing, he was not sure he would ever have that access. It is the closest any street comes to the southwestern portion of his property.

Mr. Dave Jorgensen, Jorgensen and Associates, stated he had platted the subdivision. One of the reasons the street was not constructed was that it was too steep. According to the new ordinances, the maximum allowable grade is 10% with the provision for a 15% grade for a maximum distance of 300 feet in the case of hilly terrain. He had surveyed the elevations and they had come up with 19.4%. They had rounded it off to 20% in a previous report. The City staff had also measured from the existing street and down the hill. They had averaged 18.4%, which was relatively close to his figures. The figures would be closer if they used the same measurements and ran the same elevations. He thought they would be hard-pressed to build a road under the new requirements, unless they were able to get a waiver from the City Council.

Alderman Young added they could fill it in to meet the minimum percentage, but in order to do that they would need an additional right-of-way. He did not think it was practical to construct the road.

Mr. Venable stated he had looked at the street and the City had done a survey. Another requirement was that they had to have a minimum of 4% which would tie into the street for 100 feet. By cutting and filling they could get a 15% grade in, but it would extend further than the 300 feet and would go approximately 100 to 150 feet onto Mr. Scott's property. They could not get the street in within the 50 feet, without constructing retaining walls or having waivers.

THE ITEM WAS LEFT ON THE SECOND READING.

RZ 99-32.00
An ordinance approving rezoning request RZ 99-32.00 submitted by Stephan Thetford for property located at 3351 W. Wedington Drive. The property is zoned R-O, Residential Office and contains approximately 0.69 acres. The request is to rezone the property to C-1, Neighborhood Commercial. This item was left on the second reading at the December 7, 1999 City Council Meeting.

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

There was no public comment.

Upon roll call the ordinance passed unanimously.

ORDINANCE 4205 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2000 ANNUAL BUDGET AND WORK PROGRAM
A resolution adopting the 2000 City of Fayetteville Annual Budget and Work Program. This item was tabled at the December 7, 1999 meeting.

Alderman Davis asked if the City could have the Hay Plan, which surveyed employee salaries, conducted every year rather than every other year.

Mr. Don Bailey, Personnel Director, explained that they look at what the inflationary factors are. As long as they are in the low single digits, he thought biannual surveys were sufficient. If the inflationary factors reach double digits, then they would have to look at it annually. A survey would usually cost around $8,000 to $10,000.

Alderman Davis expressed concern about the airport's deficit carrying into the future. Luckily there were enough reserves to fund the deficit this year. They had spent a lot of money down there in the last few years. He stated it was a good airport and they were constructing new hangars to increase usage. He thought they needed to try to increase private aviation.

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

RESOLUTION 167-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

WHEELER WATER ASSOCIATION
A resolution approving a purchase agreement for the Wheeler Water System.

Mr. John Maguire, Administrative Services Director, stated the purchase contract would be approximately $140,000, and they would deduct from that the amount of cash in the bank at closing. They currently did not know the amount.

Alderman Daniel asked how this would benefit the City.

Mayor Hanna explained they were buying the water lines going to Wheeler from the City's existing system, which they owned now. The City could then allow hook-ups from other subdivisions. There had been one or two subdivisions which had hooked on to a portion of the system. This had caused a problem on the water rate structure. With this purchase they could develop in the area without having separate water rates, which had caused controversy in the past between the Wheeler Water Association and the City of Fayetteville. He gave Mr. Maguire and Mr. Rose credit for working out an agreement with the Wheeler Water District.

There was no public comment.

Alderman Reynolds moved to approve the resolution. Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 168-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INVESTMENT POLICY
A resolution approving a new investment policy to replace Policy Acct. 2 (effective July 2, 1996) in the City of Fayetteville Policy and Procedures Manual, as permitted by State of Arkansas Act 1341 of 1999.

Mayor Hanna explained this was an opportunity for the City to make a little more money on the reserve money they had invested. He stated this did not change how they could invest their money, it changed how they could negotiate their reserves with the bank that paid them interest on their money. It allowed the City to get another quarter of a percent interest.

Alderman Davis stated they were also limiting people that could participate. The policy required them to have an office within the City of Fayetteville. He thought local companies had enough expertise in this area to take care of any of the needs the City might have and there was no reason to go outside of Washington County to use taxpayer money.

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

RESOLUTION 169-99 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HIGHWAY 265 CONDEMNATION

An ordinance authorizing the City Attorney to seek possession of certain lands located along Highway 265 in the City of Fayetteville, Arkansas by the Power of Eminent Domain, in association with the required easements for the Highway 265 Water and Sewer Relocation.

Mr. Rose read the ordinance for the first time.

Mayor Hanna explained there was some doubt on the title of the property in question. This was the only way they could proceed with the project without holding it up.

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

There was no public comment.

Mr. Rose read the ordinance for the second time.

Alderman Daniel 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 4206 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ANNOUNCEMENTS

Y2K REPORT

Alderman Austin stated the committee had had their last meeting. He thanked Heather Woodruff and Kyle Russell and the other staff members who served on the committee. He encouraged the aldermen to keep the report handy until after the new year. People had been encouraged to call their aldermen if there was a problem. He stated the report should terminate the committee.

Mayor Hanna thanked Alderman Austin for all the work he had done on the committee.

TOWN CENTER HEARING

Mr. Rose reported on the hearing proceeding regarding the Town Center. They had gone before Judge Mary Ann Gunn on a request for summary judgement. He stated this was a very important decision for the City. They were on their sixth amended complaint. Summary judgements are hard to get. The City had to convince the judge that there was no issue of material fact left to be heard. The only thing the judge had to do was to apply the law to the undisputed facts and every inference that could be given those facts. The judge said that the City may use other money besides that from the bond issue to construct the Town Center. The judge had previously told the City they could use the A&P monies. Today the judge said that they may use parking fund money for the town center parking part of the project. She said that they may use general fund money had a general proposition. They may use City sales tax money for the town center and other City services including capital improvements. The City had not convinced her that there was not some additional facts to be developed. They were going to have to develop some more facts on the issue of the City's portion of the county sales tax and the City roll forward procedure as it applied to any problems they may have with constitutional prohibition of contracting for more money than their revenues produced in a year.

Meeting adjourned at 7:40 p.m.