MINUTES OF A MEETING
OF THE
CITY COUNCIL
APRIL 16, 2002

A meeting of the Fayetteville City Council was held on April 16, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen, Reynolds, Thiel, Young, Davis, Santos, and Jordan, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

Mayor Coody stated the Arkansas Chapter of the American Planning Association presented the Comprehensive Plan Development Award to the Fayetteville Tree Preservation and Protection Ordinance Committee.

NOMINATING COMMITTEE REPORT
Alderman Santos moved to appoint:

PUBLIC LIBRARY BOARD OF TRUSTEES
Anne de Noble - One five-year Full term ending 03/31/07
PLANNING COMMISSION
Donald A. Marr, Jr. - One three-year Full term ending 03/31/05
Bob Estes - One three-year Full term ending 03/31/05

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

Mr. Loren Shackelford, Planning Commissioners, stated he was a life long resident. He felt he had a unique perspective that has benefited the commission. He was proud of the growth that his home town has had during his lifetime. He looked forward to vibrant growth in the future. It had been brought to his attention that he would not be nominated for a second term as Planning Commissioner. His attendance had been one of the factors in that decision. He felt that there had been some misinformation. He had pulled the attendance records. During his three-year term, he had attended fifty-five of the possible sixty-seven meeting that were held. Comparing his attendance to Don Marr and Bob Estes, during that same time period, Marr attended fifty-five of the sixty-seven meeting. Commissioner Estes attended only two more, at fifty-seven of the sixty-seven. Given his job and family requirements he was proud of his attendance. They never lacked a quorum. He did not feel that his attendance should be an issue for removal from the Planning Commission. He understood that the Council could appoint whoever they wanted, but he asked that the facts be set straight on his attendance.

Alderman Thiel stated she liked to reappoint people to committees. She also liked to listen to recommendations made by commissions and boards. In this case, she had been called by Mr. Estes and been informed that his attendance record was not that good. She had taken his word. She felt she had been in error in making the decision that she did. She would always support someone who had been on a committee and done well.

Alderman Santos stated he felt this was something that should be done in executive session. He had heard complaints that he was not prepared for the meetings and was always late.

Mr. Shackelford stated the meetings that he had been tardy he had never missed a vote. The tardiness were usually only five minutes due to the fact that he worked at the corner of Hwy 265 and Hwy 45. it was very difficult to rap of a business day and get there by the start of the meeting. Agenda Sessions were not mandatory. He had work responsibilities on Thursdays that make Agenda Sessions very difficult for them. He did take time out of his schedule to review the items and property. He did not believe he had done the position a disservice by handling things in this nature.

Alderman Young stated he did not base his vote on his attendance. He based his vote on his observation of him on the Planning Commission. He had observed numerous time that he had voted in hand. He had already made his mind up before he got there. He did not believe he listened to the neighbors and that he was impartial.

Mr. Shackelford stated the people did deserve someone who was impartial. He did not feel that he came into meetings with his mind made up. He listened to the facts, staff and the public comment. He then makes the decision he felt was right to make.

Mr. Don Marr, Planning Commissioner, stated he sat next to Loren at the Planning Commission meetings. He felt Mr. Shackelford came prepared. He thought all of their attendance was good. He thought if they were going to have professionals and people who had to work for a living that they were going to have meetings that are missed. They currently had a good balance on the Planning Commission even when they disagreed on things. He did not look at the chairs roll as evaluating other commissioner's performance. It was the council's job. The chair's job was to run their meeting. He thought it would be good in the future to have guidelines for attendance. He also agreed with Alderman Young. The council had to make decisions on whether the commissions that they appointed reflected the views of those that got elected.

Mr. Williams stated in instances where there is more than one nominee for a position either by the Nominating Committee or by other nominations, each council member shall vote by naming his or her choice by nomination. It was not a motion. Each council member shall vote by naming the person they want to serve on the Planning Commission.

Upon roll call: Reynolds-Shackelford, Thiel-Shackelford, Young-Wilson, Davis-Shackelford, Santos-Wilson, Jordan-Wilson, Mayor Coody-Shackelford.

Mr. Shackelford was appointed to the Planning Commission.

CONSENT

APPROVAL OF THE MINUTES

TCA CABLE BUILDING: A resolution awarding a bid for renovation to the TCA Building to Neil Hefner Construction in the amount of $195,464 and approval of a project contingency in the amount of $15,000.

RESOLUTION 59-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

GARLAND AVE.: A resolution authorizing the sale of City owned real estate and a construction easement along Garland Avenue to the Arkansas State Highway and Transportation Department for a contractual amount of $3,400.

RESOLUTION 60-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BULLETPROOF VESTS: A resolution approving a grant application with the Department of Justice Bulletproof Vests Partnership Program. This is a four year grant and can be utilized at any time during the four years.

RESOLUTION 61-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LEGACY POINTE: A resolution waiving Ordinance 3793 to accept land and money in lieu as the park land requirement for the Legacy Pointe Development.

RESOLUTION 62-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ELLIS DEVELOPMENT: A resolution waving Ordinance 3793 to accept land and money in lieu of the park land requirement for the Ellis Development.

RESOLUTION 63-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CALL CENTER POSITION: A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

REMOVED FROM THE CONSENT AGENDA.

ORGANIZATIONAL PLANNER: A resolution approving an aggressive litter control program with education, cleanup, and enforcement options, and to assist in the market development analysis and the development of operational plans for commercial glass recycling.

RESOLUTION 64-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Young asked to remove the Call Center Position from the Consent Agenda.

Alderman Santos moved to approve the Consent Agenda with the removal of the Call Center Position. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

CALL CENTER POSITION: A resolution to approve the filling of the non-emergency call center position to take full advantage of the new software recently purchased and to provide support for the Business Office.

Alderman Young stated they have spent a lot of money on this equipment and, now they were wanting to hire another person. He wanted someone to explain if they were going to have people answering the phone or machines. If they were going to have people answering the phone, why were they buying the fancy equipment.

Mayor Coody stated this would be a multifaceted position. They would be at the front door to assist people. They would be able to direct people through the maze of city hall. Twice a year the city hired temporary help when the student came into town. This person would take care of that. A lot of the cost of this position was already being paid by hiring temporary help. They would also be working with Hansen and Teleworks.

Mr. Ted Webber, Administrative Services Director, gave a brief explanation of the new systems and how they were to interact with each other.

In response to questions, Mr. Steve Davis stated the cost for this position was going to be approximately $20,000 per year, including benefits. The cost of the part-time person they hired from July through Labor Day has run around $5,000. By hiring this full-time person they would not have to hire this part-time person during their peak period. May though August, the average increase in work orders processed by the Business Office increased 50%. This year was going to be more critical, approximately 25% of the staff was going to be on extended medical leave.

Alderman Davis asked what kind of turn over they anticipated by only paying $20,000 a year and what kind of professionalism did they expect to attract.

Mr. Davis stated that salary range was a little more than what they currently paid their customer service reps in the Business Office. He felt they had a great deal of professionalism at that rate.

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

RESOLUTION 65-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD BUSINESS

RZN 02-6.00: An ordinance approving rezoning request RZN 02-6.00 as submitted by Terry Carpenter of US Infrastructure, Inc. for property located at 415 Longview Street. The property is zoned A-1, Agricultural and contains approximately 38.6 acres. The request is to rezone to R-O, Residential Office.

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

Mr. Williams read the ordinance for the second time.

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

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

Alderman Davis stated this was in his ward. This fit with the existing developments. He had not received any complaints or calls regarding this issue. The Planning Commission passed it 8-0. He recommended that the council pass the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed.

ORDINANCE 4385 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

THUNDER VALLEY: An ordinance allowing a special thirty-year anniversary two-day racing event at Thunder Valley Raceway with closing times of 11:30 p.m.

Mr. Williams read the ordinance.

Alderman Thiel stated this thirty year event was important. She has had some calls. She asked if they had finished their makeup races.

Mr. Baker stated he had finished four races from March 30.

Alderman Thiel stated she was concerned about some of the actions of the drivers and fans after the races. There had been a lot of honking and noise when they were leaving.

Mr. Baker stated he did not have any control.

Alderman Thiel stated she hoped the fans appreciated them passing this ordinance and any future requests. She asked if they were using a quieter series muffler.

Mr. Baker stated all the cars had mufflers this year.

Alderman Young asked if they were going to run this July race if it was rain or shine?

Mr. Baker stated they would have to cancel if it rained. He would have to run a regular Saturday night race. If it rained it would be over.

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

Mr. Williams read the ordinance for the second time.

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

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

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4386 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SIDEWALK CONSTRUCTION: An ordinance repealing Section 171.12 of the UDO, Property Owner to Construct Sidewalk or Contribute Cost of Sidewalk, and adopting a replacement Section 171.12 of the UDO.

Mr. Williams read the ordinance for the first time.

Alderman Davis stated his concern on A.3.c., if they could allow for an individual to supply the city a surety bond. Ensuring the city that the sidewalk would be put in sometime in the future, but it would not have to be something that they had to do at this point in time. He would hate to lose a good company because they were having to put in $100,000 sidewalk.

Mr. Tim Conklin stated sidewalks were one of the items that could be guaranteed. They could guarantee them through cash in escrow, a letter of credit, or a surety bond. Typically they see cash or a letter of credit being issued. The planning staff maintained them in their office. It was a provision in the UDO. It was typically done on new subdivisions. Typically, they did not want to build sidewalks up front with all the home construction. The developer was allowed to guarantee those improvements. In regards to a large scale development, the sidewalk was required. They did need to go ahead and build those sidewalks. One of their challenges was to make sure that their letters of credit did not expire. It did make the city responsible to make sure that they keep track of those and that they were able to get the developers to renew those.

Mr. Williams asked if there was not provision for a letter of credit or a bond was that the UDO would cove this.

Mr. Conklin stated on a large scale development they could guarantee the improvements. They required guarantee of the improvements before they would issue permits.

Alderman Young stated they were assuming that the sidewalk was going to be built. In here they had a waiver provision. One of the things to consider was the existence of a sidewalk network in the area.

Mr. Conklin stated this ordinance did not go along with their subdivision regulations and their large scale development regulations, which required sidewalks.

Mr. Williams stated this ordinance was mainly for infill developments. This did not happen very often.

Alderman Young asked when a developer came up with a large scale development and did not want to build the sidewalks and he went to this ordinance.

Mr. Williams stated it would not be relevant. This was in a different part of the UDO. This only required sidewalks to be built in certain circumstances when they were not required elsewhere. He did not believe this would be a problem.

Alderman Davis asked if the staff told the developers if they had the option of getting a letter of credit or a bond.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion carried by a vote of 6-1, Young voting nay and Mayor Coody voting yea.

Mr. Williams read the ordinance for the second time.

Alderman Young stated Section 3.c., they only got per square foot. He was wanting to see single-family and duplexes reviewed. He suggested changing "within five years" to "at least every five years".

Mr. Williams stated the amendment would read, "the amount per square foot in the amounts for a single-family home and duplex shall be reviewed by the city council at least every five years".

Alderman Young moved to pass the amendment. Alderman Santos seconded. Upon roll call the motion carried unanimously.

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

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

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4387 AS RECORDED IN THE CITY CLERKS OFFICE.

RZN 02-7.00: An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential.

Mr. Williams read the ordinance for the first time.

Mr. Jim Lindsey, applicant, stated his son Lindy was the buyer for this property. They had met the neighborhood and had a good meeting. This property did join Corner Stone Properties. They would like for this to go through all three reading and not to have anything waived.

Mr. Richard Maynard, an area resident, stated he was speaking on behalf of the Asbell Neighborhood Association. They had been asked about what should go in their neighborhood. Mr. Lindsey has stated at the meeting that if the neighborhood did not like this development, then it would end here. Something was going to go in there, if it had to be apartments, they would rather it be Lindsey development because they hung onto their property and maintained them. Everyone had said it was okay to do this development, but they needed to do it right-drainage. They asked the city to take care of their infrastructure problems.

Mr. Tim Conklin stated a bill of assurance had been offered by the applicant. The density would be limited to nine, twelve unit apartments. It has other information with regard to landscaping, fencing and screening within the bill of assurance.

Mr. Maynard stated if for some reason they decided not to do this development, that this bill of assurance is a contract between this neighborhood and this developer. If this proposal did not work, they would as that the property go back to R-1.

ORDIANANCE WAS LEFT ON THE FIRST READING.

VA 02-1.00: An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9,10 and 11.

REMOVED FROM THE AGENDA.

PARKING REGULATIONS: An ordinance amending Chapter 72: Parking Regulations, Code of Fayetteville, to authorize the impoundment of vehicles illegally stored in public parking decks and lots, changing parking enforcement hours to 7:00 a.m. to 6:00 p.m. and increasing the penalty for parking violations from $2.00 to $5.00.

Mr. Williams read the ordinance for the first time.

Mayor Coody stated the people who were wanting to do business on the square were not able to find parking. There were under utilized parking lots all around the square.

Ms. Sharon Crosson stated they would like for the ordinance to begin July 1, 2002. They needed time to order forms and to give people notice that the fines would be going up.

Alderman Davis asked if Lot 13 was going to be free.

Ms. Crosson stated they were not looking to penalize the people who were parking down town, they were wanting to encourage them to park in the proper areas, which was the long term meters or the free parking that is on the outer realm of the downtown square area. One of the things that had been requested in their public meetings was that they provide more free parking. A lot of employees could not afford thirty dollars per month for their parking programs. Lot 13, they will remove thirty-six meters and make it free parking all day long. Depending on the usage of that lot, then they might expand that.

Mr. Williams proposed an amendment, "this ordinance shall not be affective until July 1, 2002.

Alderman Davis asked how they arrived at the forty-eight hours before towing.

Ms. Crosson stated it had been discussed at the four public meetings that they had. It was what some of the other cities in the area were doing. It was also what the Town Center had put in their policies.

Mr. Williams stated the only thing that was changed in that section was the "parking lot". The forty-eight hours was already there for the streets.

Alderman Santos moved to amend the ordinance to become affective on July 1, 2002. Alderman Young seconded. Upon roll call the motion carried unanimously.

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

Mr. Williams read the ordinance.

Alderman Davis stated he was concerned about forty-eight hour limit.

Ms. Crosson stated they have left notices on cars after forty-eight hours. That gave them an additional twenty-four hours notice. They really get more than the forty-eight hours. They did not want to put the notice on their vehicle before forty-eight hours. There really was not much of a problem on the square, but the gated lots were more of a problem.

Alderman Davis moved to amend the ordinance to seventy-two hours. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Alderman Davis moved to go to the third and final reading. Alderman Santos seconded. Upon call the motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDIANCE 4388 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BURNS AND MCDONNELL: A resolution approving an agreement with Burns and McDonnell to perform program management services in connection with the Wastewater System Improvement Project.

ITEM WAS REMOVED FROM THE AGENDA.

Meeting adjourned at 8:30 p.m.