MINUTES OF A MEETING
OF THE
CITY COUNCIL
MAY 7, 2002

A meeting of the Fayetteville City Council will be held on May 7, 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 Young, Davis, Santos, Jordan, Reynolds, and Thiel, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

CONSENT

APPROVAL OF THE MINUTES

TRAILS GRANT: A resolution authorizing a recreational trails grant application and authorizing resources for a 20% share of project's cost.

RESOLUTION 67-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MOTOROLA: A resolution awarding a contract to Motorola in the amount of $130,378.99 to upgrade the radio system to allow digital and encryption capabilities to be added to the Police Department's radios and approve a $10,000 contingency to the project.

RESOLUTION 68-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MAXIMUM AVIATION SERVICES: A resolution approving License to Maximum Aviation Services for use of Fayetteville Municipal Airport ramp space to park temporarily out of service airliners.

RESOLUTION 69-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DON NELMS: A resolution approving Don Nelms ground lease agreement for the purpose of constructing an aircraft hangar.

RESOLUTION 70-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FLYING INVESTMENTS: A resolution approving Flying Investments ground lease agreement for the purpose of constructing an aircraft hangar.

RESOLUTION 71-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

JUVENILE BLOCK GRANT: A resolution accepting the 2002 Juvenile Accountability Incentive Block Grant Program. This grant is in the amount of $34,440.00 plus a ten percent match requirement of $3,827.00 for a total of $38,267.00. The proposed use of these grant funds is for software and equipment.

RESOLUTION 72-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE APPARATUS: A resolution approving the return of $15,100.00 to the Fire Departments Operations Budget from the sale of fire apparatus. The money will be used to replace personal protective equipment for Firefighters.

RESOLUTION 73-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRAFFIC STUDY: A resolution approving a transfer of Sanitary Sewer Rehab. Costs of $564,000 from CIP Sales Tax Fund to Water and Sewer Enterprise Fund, with $200,000 of the available CIP Sales Tax Funds to budget for a Master Traffic Study and $25,000 to be transferred to other Drainage Improvements.

RESOLUTION 74-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CDBG: A resolution to waive the building permit fee and other development fees for the Community Development.

RESOLUTION 75-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BLACK AND VEATCH: A resolution approving a contract amendment with Black and Veatch for water and sewer system operations and rate study services and approval of a budget adjustment.

RESOLUTION 76-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MCGOODWIN, WILLIAMS & YATES: A resolution approving Amendment No. 2 to the contract with McGoodwin, Williams and Yates and approval of a contract contingency in the amount of $25,000 relating to the Wastewater System Improvement Project.

RESOLUTION 77-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

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. The item was left on the first reading at the April 16, 2002 meeting.

Alderman Davis moved to table the item. Alderman Young seconded. Upon roll call the motion carried unanimously.

ORDINANCE WAS TABLED.

NEW BUSINESS

WASTEWATER SYSTEM IMPROVEMENTS: An ordinance authorizing the issuance and sale of up to $25 million of Sales and Use Tax Capital Improvement Bonds for the Wastewater System Improvement Project.

Mr. Williams read the ordinance for the first time.

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

Mr. Williams read the ordinance for the second time.

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

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

Alderman Davis asked if there were any changes coming the bond market in the near future.

Mr. Dennis Hunt, Stevens Inc., stated they Fed Fund rate had not been changed. Most analysis believe that it will be at least until August. They will have this transaction completed prior to that date if there were any changes in the Fed Fund rate. In response to questions, he stated they would do duel tracking. They will apply for a rating on this issue. They will analyze how the bonds could be marketed with that particular rating and analyze that against the cost of bond insurance premium. Whichever would be the most economically advantageous to the city that was what they would recommend to the city.

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

ORDINANCE 4309 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SALES AND USE TAX: An ordinance providing for the levy of a one percent sales and use tax and providing for an expiration date for such replacement Sales and Use Tax of June 30, 2013.

Mayor Coody stated the city was currently collecting this money. They started this in 1993 with a sunset in 2003. this one penny brought in between twelve and thirteen million dollars per year. This helped fund their fire and police. This would be an ongoing tax, that they collected currently. This was not a new tax. This tax would start at the sunset of the pervious one. There would not be any overlap.

Alderman Davis stated he had not seen the ordinance that had been passed in 1993. Did this read verbatim to what was done at that time or had changes had been made.

Mr. Williams stated he had reviewed the previous ordinances and then looked at the current law, which had not changed significantly. There had been some minor changes on how they defined a single transaction. This ordinance tracked very closely with their previous ordinance.

Mr. Williams read the ordinance for the first time.

Mr. Pete Reagan, President of the Fayetteville Firefighters Local Association, stated in 1999 the Insurance Services Office preformed a fire defense analysis of the Fayetteville Fire Department. They had been able to keep their ISO Rating of 4, but the report brought to light the realities we realized for the last fifteen years. That reality is that they have not grown with the rest of the city. They were not able to meet their goal of the four minute response times. Their resources have been stretched thin. In 1963 the city had four fire stations, twenty-nine years ago. In 1978 they added a fifth fire station, that was twenty-four years ago. Today they still served their city with five fire stations. He was not sure how many runs they made twenty-nine years ago, but they are anticipating 5,000 runs this year. The 1999 ISO Report gave them a rating of 1.82 out of a possible 4 points for fire station locations. This was less than fifty percent of the possible points. What they were saying was that they did not have enough firefighters, apparatus, or fire stations. The International Association of Firefighters preformed a graphic information study on their city this year. They have seen the draft and they were saying the same thing. They were short firefighters, fire apparatus and fire stations. National Fire Protection Code 1710 recommends a minimum staffing on an engine company with four persons and a minimum staffing of a latter company of four persons. Unless they existed a high target area or high raise complex, such as the University of Arkansas. They then recommended five to six personnel per company. They were currently staffed with three. They were in desperate need of at least three new fire stations with apparatus, forty-five firefighters and a fully equipped reserved apparatus both engines and trucks. Their new fire chief had the insight to build the Fayetteville Fire Department into the best fire department in the State of Arkansas. They could not build this department without money and it will take millions of dollars to accomplish this. He was representing all eighty-three members of the Fayetteville Fire Department to ask them to support the one-cent sales tax. Without it there would be fire station closings and firefighters will be laid off their jobs.

Chief Bosh stated the Fire Department was working diligently to ensure that they provide a comprehensive blank of public safety and fire service and rescue services. They were in the process of working on their strategic plan for their organization which will help them to address the needs of their community. They were in need of additional personnel and station resources.

Detective Tad Scott, President of the Fraternal Order of Police, stated he understood the dire situation that the city was going to be in without the restructuring of the sales tax. He wanted to express their support in favor of the restructuring as well as the election for the sales tax. It concerned him, not just as a police officer, but his fellow employees and citizens. It also affected their ability to maintain their quality of service.

Chief Rick Hoyt, stated in 1993 when this tax was first passed, they began the job of building up the police department and adding police officers. They were not in as bad of shape as the Fire Department because they had been able to take advantage of Federal Grants that they have not had. He has been involved with the budget process since 1986, this years budget was the roughest one that he has ever been involved in. They had come to the end of the money. They could not afford to let this tax go by without getting passed. The police department uses approximately twenty-eight percent of the General Fund. They were a big user. if they did not have the money from the sales tax next year to operate, it would mean jobs and public safety would suffer. He had taken a call last week from a man who wanted to know why it had taken the police twenty-five minutes to get to the day care center where there was a custody dispute going on. When he checked on the call, he found that it had not been twenty-five minutes; it had been fifty minutes. They only had seven officers on the street and every one of the officers was busy. They were all on high priority calls. They track what they called Code Zero. That meant, every time a citizen called and needed a police officer and they did not have any, because they were all busy. For a one-year period, they would have approximately one thousand Code Zeros. They tracked them by priority. Two or three hundred of those will be high priority calls. They did not add any personnel this year, but the citizens still needed the police. The needed this tax because they had to keep moving forward.

Alderman Davis stated currently the sales tax was distributed 25% general fund and 75% CIP. What was this administrations view on this?

Mayor Coody stated he knew they needed to restructure. What worked in 1993 does not work for 2002. They had plenty of money in Capitol and not enough money in operations. They could build a couple of fire stations, but they could not afford to staff them.

Mr. Steve Davis stated he had not updated the projections from the November briefing. In November they had produced a briefing for city council which indicated that they would use approximately 1.9 million dollars in reserves to fund 2002 operations. Our adopted budget uses 1.879 million. Based on where their spending totals were and based on where their revenue projects are for the 2002 budget, the essential elements for the briefing in November indicated that a minimum split of 50/50 would fund General Fund ongoing operation through 2006. In 2006 they would use approximately $400,000 of reserves to fund the ongoing operations.

Mayor Coody stated they did not have a formal position yet, but they had been discussing approving a 50/50 split with the option to review after five years to see if it was still a valid approach or not. In 1993, they did not project what the world would look like in 2003 and they did not allow any flexibility to be able to maintain a good relation ship between operations and the Capital expenditures. They would like to have some flexibility down the road.

Mr. Davis stated from 1990 through 2000, they had experienced a greater then twenty-five percent increase in population. With that kind of growth, it was hard to set hard and fast number early in the game. It was his recommendation that the council give themselves some flexibly, especially in the last five years of this tax.

Alderman Young asked how they would restructure this. All the ordinance called for was the reallocation of the tax.

Mr. Williams stated the resolution that was passed by the city council in 1993, those sorts of resolutions, were not enforceable from a constitutional point of view or legal point of view. It was a moral commitment by the city council. It was the guarantee that city council and mayor gave to the voters. He suggested another resolution similar to the one passed back then. It did not have firm legal affect, but he thought it will be enforced just like this one had been.

Alderman Young asked why the resolution had not been prepared for tonight.

Mr. Williams did not believe they should pass the ordinance tonight. He did not believe it was his place to start pulling out percentages or length of time. This was a council decision for them.

Alderman Davis stated a lot of people had approached him on this and they would like to know the split between the operational and capital. A lot of people looked at this as being brick and mortar. They needed to let the population and let them know what their split was going to be.

Alderman Young stated the proportion should be up to the mayor. It was his proposal.

Mayor Coody stated what he would propose would be a 50/50. They have not come up with a stance because they were wanting to take input from the council.

Alderman Young stated the public needed to know exactly what they were voting on.

Alderman Thiel stated they needed to draft a resolution with the percentage on there, then they could debate this and take public comment.

Mr. Williams asked if they supported a 50/50 split for the first five years of this tax, 2008 and/or if there is to be any modification. What did they want him to put into the resolution?

Alderman Thiel stated she agreed they should review it after five years.

ORDINANCE WAS LEFT ON THE FIRST READING.

SPECIAL ELECTION: An ordinance calling for a special election on the question of levying a one percent Sales and Use Tax within the City of Fayetteville, to replace the one percent Sales and Use Tax expiring on June 30, 2003 and providing for an expiration date for such tax of June 30, 2013.

Mr. Williams read the ordinance for the first time.

Alderman Thiel stated they needed to have the election in July in order to give them enough time to do their budget for next year.

ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 02-9.00: An ordinance approving rezoning RZN 02-9.00 as submitted by Julian and Jane Archer for property located at 2231 Markham Road. The property is zoned R-1, Low Density Residential and contains approximately 18.80 acres. The request is to rezone to A-1, Agricultural.

Mr. Conklin stated the Archers have offered a bill of assurance limiting the use of the property to the uses allowed in A-1 zoning district and limits certain uses within that district. Use Unit 8 will be limited to single-family homes, no manufactured homes. Use unit 7 was also limited , Use unit 6 was eliminated. Basically, the Archers would like to reestablish a barn on the property and bring in horse and other type of live stock for their own personal use.

Alderman Santos stated the Archers use to have a horse, but it died and they were wanting to get another horse and to build a barn for it. This would help preserve the mountain top.

Alderman Davis asked if this ran with the owner or the land.

Mr. Conklin stated it ran with the land.

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

Mr. Williams read the ordinance.

ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 02-12.00: An ordinance approving rezoning request RZN 02-12.00 as submitted by Julian and Jan Archer for property located at 2231 Markham Road. The property is zoned R-1, Low Density Residential and contains approximately 4.10 acres. The request is to rezone to A-1, Agricultural.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

ORDINANCE WAS LEFT ON THE SECOND READING.

VA 02-1.00: An ordinance submitted by Greg Brockman for property located north of 15th Street and west of Duncan Streets the request is to vacate a 30' side portion of an unimproved Price Avenue right-of-way.

Mr. Williams read the ordinance.

Alderman Thiel stated half of this right-of-way had been vacated.

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.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass.

ORDINANCE 4390 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PLANNING COMMISSION APPEAL: Appeal of a Planning Commission Decision regarding LSD 02-7.00 for property located at the southwest corner of Fletcher Avenue and Rodgers Drive.

Alderman Santos moved to table the item until the second meeting in June. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

APPEAL WAS TABLED UNTIL THE JUNE 18, 2002 MEETING.

WATER MAIN REPLACEMENT: A resolution to budget the 1.5 million of Water and Sewer Operating Funds reimbursed from Bond Proceeds, towards accelerated water main replacement activities, including approval of a budget adjustment and an addition to the fiscal year 2002 Capital Improvements Program.

Mr. Boetcher stated they had been using water system revenues to cash flow their wastewater improvement costs. Recently, they had obtained a reimbursement of those expenditures totally about 1.5 million dollars from the bonds that they had passed. In looking at their water system, they had approximately 525 miles of water main and about seventy-five thousand customers, carring thirteen million gallons per day. They were finding their loses were running a little high. They were losing about twenty percent of water on an annual basis of the water that they purchase. They should be down in the fifteen percent range. They were not keeping up with the maintenance of the system. They were not replacing the lines at the same rate that they were aging. Their current in-house program, they targeted 8,000 feet of water main to replace in 2002. at that rate it would be three hundred and forty years before they replaced it again. They felt it was important to reinvest this 1.5 million back into the system. They had about fifty water main projects that have been identified where they need replacements. They would be outsourcing the design to an engineer, but they would be defining what they wanted designed and minimize the administrative costs. Most of the money they were asking for here would go into actual construction to replace water lines.

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

RESOLUTION 78-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

Mayor Coody stated they did not have the staff to do this in-house. This has been through the selection process. They wanted to put everything regarding this project on the web. All the information will be on the web and accessible. They would be the central clearing house for this entire project. All communications will be electronic and public.

Mr. James Foil and Mr. Jerry Sondrager???

Mr. Foil stated gave an overview of their company and the scope of services that they provide.

Mr. Sondrager??? stated they provide professional liability insurances and other insurances. They understood the scope and the cost of this project as set out in the contract. There would not be a change in the scope or the cost without prior written approval of the City Council. The overall scope of this project was to provide coordination between all of the various consultants. There were four to five major consultants and major projects within this one. It will be their task to ensure the coordination among those and to make sure that they were all working toward a common goal. It was very important to note that what they were hiring them to do was to act as an extension of their owner's staff. The owner did not have the staff to coordinate or manage a project of this size. They will be identifying the status of existing contracts. There were a number of contracts in place. They will then develop a program schedule and budget for the overall program. They will develop a steering document with a phasing plan. They would be able to coordinate the four to five designs and indicate what needed to be done first, etc. They would also control the cost of the overall project.

Alderman Young asked if the city would get a copy of the Cad standards.

Mr. Sondrager replied yes.

Alderman Young asked if there would be another contract for construction or would they amend this contract for construction.

Mr. Sondrage stated it would be up to the city council. The way the contract was written at this point, it was a stand alone project. The contract was written for predesign services only. If the council wished, the design services would follow that, followed by the construction phases.

Mr. Boetcher stated they would develop standards so all the construction and design contracts will be the same. They were trying to get the project started off the a lot of uniformity and togetherness. It would allow the city to have one set of standard contract forms, plan layouts, sheet drawings. To put the whole thing together. They did not include any subsequent phases. For the councils information, there were subsequent services that they will have to negotiate with some firm, which included value engineering, construction phase services, and design phase services were not included. He had felt it was appropriate to negotiate this phase of the work to get them off to a good start. If they have a successful relationship, they can negotiate another contract or an amendment, what ever was fitting.

Alderman Davis moved to approve the resolution. Alderman Young seconded.

Mr. Erf stated he thought it was a good idea to hire them. He asked if they would provide a web site ready information from their presentations.

Mr. Foil stated the active project software that they used allowed them to a variety of levels of security. Parts of it could be opened to the public, some could be reserved by access to the engineering firms. They could put a lot of documents on the web site and have it available to the public in whatever format would be appropriate.

Upon roll call the motion carried unanimously.

RESOLUTION 79-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RAZE AND REMOVAL: A resolution approving a raze and removal of house at 1200 S. Roberts as per Ordinance 3948.

Mayor Coody stated this was a public hearing on the raze and removal.

Ms. Cora Langford, owner, stated she had lived there for thirty-four years. The house was run down, but she was in the process of selling it. The residence was not currently livable.

Alderman Reynolds asked if the buyers were going to tear the house down.

Ms. Langford stated it was her understanding that they were going to tear the house down.

Mr. Ernest stated the city had been contacted by loan officers with Arvest Bank; and Mr. and Mrs. Ray Alred. Their recommendation was that the council pass the resolution which required a raze and removal of the house. It was a house that needed to be removed for public health and safety. They have moved very slowly on this in order to make sure that they notified every one.

Alderman Young stated he would be in favor of tabling this until the second meeting in June to give them time to close on the house.

Alderman Reynolds stated even though she was selling this property, they would like to have a time limit for the house to be torn down in. He did not want the buyer to think he had time to fix this up. He wanted to make it clear to the buyer that he was buying a lot. This house needed to make sure the house was torn down.

Alderman Davis stated he did not want them to do this and give her a bill for something that was not included in the sale price. He did not want to take any money out of her pocket.

Alderman Young moved to table the item until June 18. Alderman Davis seconded. Upon roll call the motion carried unanimously.

RESOLUTION WAS TABLED UNTIL THE JUNE 18, 2002 MEETING.

RURAL FIRE CONTRACTS: An ordinance amending the Code of Fayetteville to establish annual fees for Rural Fire Contracts for a two year period from June 1, 2002 through May 31, 2004.

Mr. Williams read the ordinance.

Chief Bosh stated they had offer service by contract. They had an individual contact and an association contract. On an individual contract they were losing about $87.00, an association membership they were losing $300 per response. This ordinance and fee increase will simplify the process. One fee fits all. There would be no associations. This would help them recover some the costs that they did incure when they responded outside the city. This was a voluntary agreement. No one was forced to sign a contract with the city.

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

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance

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

ORDINANCE 4391 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MEETING ADJOURNED AT 8:45p.m.