MINUTES OF A MEETING OF THE CITY COUNCIL MAY 21, 2002

A meeting of the Fayetteville City Council will be held on May 21, 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.

APPOINTMENT OF DON MARR TO COUNCIL

Judge Rudy Moore swore in Don Marr as alderman of Ward 2, Position 2.

Mayor Coody presented Thad Hanna and Larry Perkins a plaque for completing ten years of service on the Board of Adjustments and Sign Appeals.

NOMINATING COMMITTEE REPORT

CIVIL SERVICE COMMISSION
Steven A. Coppinger - One six-year term ending 03/31/08

ENVIRONMENTAL CONCERNS COMMITTEE
Bruce Manchon - Re-appointed/One three-year Environmental Law term ending 06/30/05
Roxana S. Willis - Re-appointed/One three-year Citizen-at-Large term ending 06/30/05

TELECOMMUNICATIONS BOARD
Craig A. Brown - One two-year term ending 06/30/04

TREE AND LANDSCAPE ADVISORY COMMITTEE
Terry Delany - One unexpired Land Development term ending 12/31/03

WALTON ARTS CENTER COUNCIL, INC.
Marla K. Hunt - Re-appointed/One three-year term ending 06/30/05

WALTON ARTS CENTER FOUNDATION, INC.
Brian Cole - One three-year term ending 06

Alderman Santos moved to appoint the nominees. Alderman Young seconded. Upon roll call the motion carried unanimously.

CONSENT

APPROVAL OF THE MINUTES

CAMERON ASHLEY BUILDING PRODUCTS: A resolution approving an agreement with Cameron Ashley Building products in an amount not to exceed $65,000 for the purchase of vinyl windows and vinyl siding for housing rehabilitation projects.

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

RESOLUTION 80-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD BUSINESS

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. The ordinance was left on the first reading at the May 7, 2002 meeting.

Mayor Coody stated they have collected this one-percent sales tax for the last nine years. They have been able to improve intersection and streets. They have tried to keep up with the growth in Fayetteville, but once they built the improvements they had to maintain them. As they continued to do infrastructure improvements, their operating costs continue to climb. They had a need to continue this one penny. They needed to reauthorize this for another ten years. The public needed to vote in favor of this because if they did not, then they would be in the position of having lay off important personnel and to cut back on important jobs. They have focused on becoming as efficient as they could.

Alderman Davis stated he had quiet a few constituents since the last meeting. He had asked Steve to give them a break down of the one-cent sales tax went to, which was roughly twelve million dollars.

Mr. Davis, Budget Manager, stated he had put together some information, but not in the format Alderman Davis had requested. Of the twelve million dollars, three million was transferred to General Fund for operation costs. Nine million is segregated for capital improvements. As the move forward, they had developed the 2002-2006 Capital Improvement Program under the assumption that 50% of the City Sales Tax for the time period July 2003 through 2006 that 50% of the city's sales tax would be applied toward Capital Improvements; and the other 50% would be applied to General Funds operations.

Alderman Davis asked where the 25% in the General Fund was going. People wanted to see police and fire and brick and mortar out of the sales tax.

Mr. Davis stated the 25% of the city sales tax has been essentially those elements. It has been used for public safety and brick and mortar. Before they had the city's sales tax authorized in 1993, they had a city's sales tax that was tied completely to a 33 million dollar bond issue that had been approved in 1990. that original penny sales tax was overturned by the court because of allocating a portion of the money to school buildings.

The city also have 3.8 mils of property tax that was primarily the funding mechanism for increase police and fire staffing. In 1991 the city began a program to add three firefighters and three police officers a year and it was to be paid with property tax millage. When the city lost the penny sales tax and the bond issue as a result of a citizen lawsuit, Mayor Hanna and the city council agreed to give up the 3.8 mils in exchange for 25% of the city's sales tax. He had prepared eight charts illustrating the capital which had been invested and the increase in maintenance and general fund operating costs that tracked the investment that the citizens made in the infrastructure with the maintenance cost. A portion of the city's capital plan is to fund an item as referred too as deferred maintenance.

Alderman Davis stated at the last meeting the Mayor did not know the percentages, but Alderman Santos had suggested the 50/50.

Mayor Coody replied they could make the 50/50 work until 2006 or 2007.

Mr. Davis stated the current projects are that if very thing stayed as planned, it should hold them until 2006 or 2007.

Mayor Coody stated they could make the 50/50 work, but he also thought they needed to be able to reevaluate that. He was concerned about locking it in for ten years.

Alderman Davis stated he had not decided if 50/50 was what they needed. He did not want to micro manage the city. He was wanted to hear a recommendation for the mayor and administration.

Mayor Coody stated he thought the 50/50 would work for a while. They needed to flexible enough that if they built something from the capital dollars that they could afford to maintain it. He did not know what good it would do them to build a fire station, but not have the money to put the men in there to operate it. The two funds needed to mesh, if they got out of balance then they were not using their money as efficiently as they could. He thought 50/50 with the flexibility to be able to go back and review them would work.

Alderman Young stated a lot of people would like to see a pie chart of today and pie chart if the sales tax was passed with the 50/50 split.

Alderman Reynolds stated a lot of employees had been upset with their pay raises. Were they going to work on all of their departments and not just the fire and police departments.

Mr. Davis stated what they were focusing on was the one-percent sales tax. The one cent sales tax was either doing capital improvements or it was going to general funds to cover operations. When they talk about operation costs in general fund, they were primarily talking about public safety funding. Because of the chain of events that occurred back in

1991, with the 3.8 mil property tax. The pay plan adjustment did address all city employees. The ones that saw the immediate impact were those employees that were below the new pay range, so they saw an increase to minimum of the new pay range. The civil service employees all saw a move to a new pay range. They were below the minimum. The non-civil employees were merit based. They did not see their raise until they get their evaluation. Their anniversary dates were spread out throughout the year. It was not an immediate raise.

Alderman Reynolds stated that when some stayed with them for thirty years, he wanted to see them get paid for thirty years. Some employees had been here seven years and were making the same as someone who had been here thirty years. He thought something was wrong with their system.

Alderman Santos moved to suspend the rules and go to the second reading. Alderman Jordan seconded. Upon roll call the motion failed by a vote of 4-3, Davis, Reynolds, Young voting nay.

Mr. Williams read the ordinance.

Alderman Thiel stated the 50/50 split would give them the ability to give employees more money. She supported the 50/50. They have had a lot of growth.

Alderman Jordan stated he believed all the employees within the city should have a decent living wage. He thought they should have good health care. They needed to take this money and use it for better training and education for the employees. He would support the 50/50 split, but he wanted it ear marked for employees straight across the board. They had discussed this in the Street Committee. They would train some one and then lose them to someone else.

Alderman Santos stated he would support a 50/50 split with a review at the end of their projections. When they talked about operations they were talking about the funding of all employees and not just the fire and police. The fire and police departments were the two largest departments.

In response to questions, Mr. Davis stated the 50/50 split will add three million dollars to the general fund. 2002 budget was running at a three million dollar deficit. They should be able to stop using their reserves. They had to rearrange their expenses or increase their revenue stream to stabilize their general fund reserves. Once their reserves were gone, then they had no safety net for operation costs.

Alderman Thiel stated this council adopted a budget with an increase in wages. They were going to go deeper into debt, if they did not go with this 50/50. Even based on the 50/50, they would be going into a deficit in 2007. This council set right here and support an increase in wage and health benefits for the employees knowing that they would have to increase the operation funding to maintain that level that they were approving. They had been looking at the 50/50 split when they approved the operating budget.

Alderman Young questioned what would happen when they used up the extra money in the general fund. He asked if eventually the entire one-percent sale tax was going to be used for general fund? Then there would not be any brick and mortar projects.

Mr. Geary Lowery, an area resident, stated he was for the tax and the reallocation. He was also in favor of doing way with the Arkansas State law which does not allow the city to collect sales tax on gasoline, because that money could be used for bricks and mortar and maintenance around the city. In response from comments made at the last meeting, he asked if they had plenty of money in CIP fund, why did they not have sewer lines to all of the citizen in the city of Fayetteville. If they had plenty of money, why did they not have water lines to all of their citizens of Fayetteville. Why were they not getting the serve they needed from their fire and police departments?

ORDINANCE WAS LEFT ON THE SECOND 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. The ordinance was left on the first reading at the May 7, 2002 meeting.

Alderman Santos 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.

Mayor Coody stated they were wanting to up this on the ballot at this time so that they would know what the public wanted them to do before they go into the budget process. The budgeting process starts in the fall. They could not wait until the November elections to find out what they will be budgeting a couple of weeks later.

Mr. Lowery stated the date was good. A lot of people were sick and tire of special elections. He suggested that they let the people decided where they put the money.

Mr. Williams stated it would make it more complicated and legally suspect if they attempted to do that.

ORDINANCE WAS LEFT ON THE SECOND READING.

RESOLUTION OF INTENT FOR SALES TAX: A resolution to identify the City's intent to use tax collections if the current 1% city sales tax is extended for a second ten year term by the voters.

Mr. Williams read the resolution.

Alderman Young stated he was thinking at after three years it should be reevaluated each year there after.

Mr. Williams stated this tax did not start into affect until 2003. They would look at this in 2007 and evaluating it. If they were to chose Option A they could only alter that to 60/40. they could not make it any more than that. The next year they could do 70/30, but never below that figure. The other option, that he did not read, did not have those other conditions in it. It just stated that after 2007 the city council makes the decision; and that was it.

Alderman Santos stated Option B stated they shall reexamine the revenue needs of the city in reference to both capital improvements and operating expenses and needs for budget year 2007 and there after and may adjust the division of the sales tax collection between capital improvements and operating expenses as needed. He thought that freed up the future city councils more.

Mr. Williams stated there were always needs for Capital improvements: police cars, fire engines, weapons for police officers. At least at thirty percent, they could guarantee citizens that there would be several million dollars in the budget for capital improvement projects every year.

Alderman Young stated if they were not going to list operations in section 4, then they did not need to list anything.

Alderman Davis moved to delete section 4. Alderman Santos seconded. Upon roll call the motion carried unanimously.

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

RESOLUTION WAS TABLED UNTIL THE NEXT MEETING.

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. The ordinance was left on the second reading at the May 7, 2002 meeting.

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.

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

ORDINANCE 4392 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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. The ordinance was left on the second reading at the May 7, 2002 meeting.

Alderman Davis 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.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4393 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

RZN 02-10.00: An ordinance approving rezoning request RZN 02-10.00 as submitted by Richard Grubbs on behalf of Mid-America Management Company for property located in the 100 Block of Appleby Road, west of Northwest Nursing Center. The property is zoned A-1, Agricultural and contains approximately 0.14 acres. The request is to rezone to R-O, Residential Office.

Mr. Williams read the ordinance for the first times.

Alderman Davis stated he had received no calls on this and would like to see all three readings done tonight.

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 for the second time.

Alderman Davis 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.

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

ORDINANCE 4394 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-11.00: An ordinance approving rezoning RZN 02-11.00 as submitted by the City of Fayetteville for property located on S. School at Drake Field. The property is zoned C-2, Thoroughfare Commercial and contains approximately 3 acres. The request is to rezone to I-1, Heavy Commercial/Light Industrial.

Mr. Williams read the ordinance for the first time.

Alderman Thiel 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 for the second time.

Alderman Santos moved to suspend the rules and move to the third and final time. Alderman Reynolds 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 4395 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TROLLEY: A resolution authorizing the city staff to develop a working agreement with Ozark Regional Transit to operate the Trolley System and for other purposes.

Mr. Williams stated the only thing this resolution did was to sanction Mr. Earnest to begin negotiations and to bring something back to the council for their review.

Alderman Davis stated he had received a letter from Edith Hawkins. He asked Mr. Earnest to give them a response to her concerns.

Mr. Earnest stated he was recommending a reallocation of money that has been sitting in a Community Development Block Grant fund since 1998. They had received some concern from the HUD regulators that they were not moving money rapidly enough through the system. They have received a formal audit letter from HUD they commended them on how they have handle the fund with the exception that they have not been aggressive enough in moving money through the Project of Victims of Family Violence that has some $540,000 and the $104,000 that was allocated for improvements to the Yvonne Richardson Center. This council would be receptive to the money coming out of next years allocation for some use in the expansion of the Richardson Center. The issue of what they were going to do with that center was an important issue. They were all in agreement that they needed to decide what the next steps were for improvements at that center. What they had was a gym and one class room. They needed to address concerns in that area of town. They needed a building with larger facilities. The reason this discussion was coming up at this time was because they had an excellent opportunity for them to participate with the University and Ozark Regional Transit. The $100,000 can and will be targeted into their community development block grant target area for access to work program that will allow them to match money with the State. They were in affect purchasing services with this money.

Alderman Davis asked if Mr. Earnest knew the fair market value of the vehicles and how far into the future would it take them. He was also concerned about the routes and the amount of people that actually rode the trolley. There were 103 people a day that ride the trolley, which was not that many. They had to continue to give people a way around town, but was this the best route for them to go?

Mr. Earnest stated that there were plenty of problems in this approach. It was not the long term solution. He thought it was a better approach for allocation of scare resources. They were discussing routes as far as the mall and the new WRMC. It was the beginning of a public transit system. It was only their first step in coordinating these two separate entities.

Alderman Santos stated a lot of people were worried about the $100,000 being taken away from the Yvonne Richardson Center. And how was it going to get back to the center?

Mr. Earnest stated the opportunity for putting the money back into the center existed in their next year allocation of community development block grant funds. They would be making a recommendation in the council on the future use of the center.

Ms. Hawkins, an area resident and Yvonne Richard Center Board member, stated the money could have been used if they had had the opportunity. She knew it was not enough to add to the center. There was no air conditioning in the building. The money could be use for the existing facility and to take it away with no guarantee that they would get it back; why could they not have it.

Alderman Thiel asked what the fund had to be used for. Could the money be used for air conditioning?

Mr. Earnest stated he honesty did not know, but it was his understanding that the intent was to use for additional capital improvements. He would suspect that they could use it for other improvements. They were not ready to spend that money, and they had the opportunity to double the money. They were meeting a need in that area. There were improvements that needed to be made to the center, but they did not need to be made piece mill.

Alderman Marr asked if there had been a list of the things that the center needed.

Ms. Hawkins stated they have discussed several things. The board was having trouble communicating with the city.

Mr. Earnest stated if they did not move this money and the money from Project of Victim of Family Violence that they would be penalized next year in their allocation.

Alderman Santos stated he did not believe they should be taking the money from the center. He thought they should spend the money on the center liked they had planned.

Ms. Hawkins stated they did not know that they had the funds.

In response to question, Mr. Earnest stated it would take to the end of the summer to have air conditioning put in.

Reverend Hawkins stated he pastured over 90% of the people in the area; and no one had expressed the need for the transportation center. They had been trying to raise the level of their children so that they would be marketable. They were trying to make a difference in their community. They had gotten computers for the center, but they could not use them because they did not have air conditioning. The city had not been working with them to improve the center.

Mayor Coody asked them to come up with a list of needs and to send it to his office.

Mr. Pumphrey, Ozark Regional Transit, stated there was a program called Job Access Welfare to Work, it was a program funded to get people to work and job training. The program was a dollar per dollar match. The State was committed to $250,000 per year for regional transit. He was also looking for other sponsors in the region to help in getting people to jobs.

Mr. Earnest stated the trolley service was only funded until June 30, 2002.

Alderman Jordan stated something had been promised to the center and now it was being taken away from them. He would not support taking the funds from the center.

Alderman Young asked if they could take the money from Project of Victim of Family Violence. They did not have to figure out the distribution of funds tonight. He asked if they should just authorize the negotiations of the contract and not the funding.

Mr. Smith, Razorback Transit, stated they were working with Ozark Transit and the city to modify their route. Between the two services they should be able to improve and add services.

Mr. Harold Jones stated he ran the current trolley. They had a five year contract. He asked if there was something wrong with the services they were providing. He added as a citizen he did not like what they were proposing.

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

RESOLUTION 81-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ASPHALT PAVING MACHINE: A resolution to purchase an asphalt paving machine, trading the existing unit in on a demonstration unit that shall carry a new machine warranty. Proposed demonstration unit has 150 hours, is Pro-Pav model meeting specifications. Competitive bids received on April 29, 2002, immediate delivery. Net purchase cost of $187,225.00.

Mr. Williams noted there was also a budget adjustment in the amount of $16,700.

Alderman Davis stated this had been before the Street Committee. The committee had been concerned about the equipment being properly operated. In the past they had trained individuals, once they were trained they were often hired by someone else. They had approved this with the understanding that when people were trained that they wanted to pay them according to what others in the community were being paid so that they could keep their crew.

Mr. Boettcher stated they were bringing in people to train their employees on their equipment. The machine will be brought in regularly for maintenance. They were looking at their pay scale. They were also looking at cross training. Their were making an effort to improve their training program.

Alderman Jordan moved to approve the resolution. Alderman Reynolds seconded.

Mr. Lowery, an area resident, stated employees had been taken away by other companies. They needed to pay and train their employees. He expressed concern about getting another street sweeper.

Upon roll call the motion carried unanimously.

RESOLUTION 82-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LIBRARY: A resolution approving a contract in the amount of $17,633,562 with Crossland Construction Company Inc. for the construction of the new Fayetteville Public Library at 401 W. Mountain; approval of a project contingency in the amount of $700,000; and approval of a budget adjustment to fund the off-site improvements contained within this contract.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded.

Ms. Schaper, Library, stated they had started this over four years ago. They were delighted to present this contract to them for their approval. They were grateful for their support.

Upon roll call the motion carried unanimously.

RESOLUTION 83-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PONY RIDES: An ordinance revision of the non-motorized transport services section to include pony rides.

Mr. Williams read the ordinance for the first time.

Mr. Dumas stated the ponies did not have any regulations on their now at all. This required some regulations. It would require a permit for ponies.

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

Mr. Williams read the ordinance for the second time.

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. Upon roll call the ordinance passed unanimously.

ORDINANCE 4396 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOLID WASTE CART PROGRAM: A resolution authorizing the purchase of carts from Toter, Inc. for the automated residential waste collection program. Final cost will be determined by the individual customer choices.

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

THE RESOLUTION WAS TABLED UNTIL THE NEXT MEETING.

ARKANSAS POWER STEERING & HYDRAULICS: A resolution awarding Bid 02-24, Item 1 to Arkansas Power Steering and Hydraulics for the purchase of 7, 2003 Mack LE613 with mounted Labrie Automated Solid Waste Bodies for a total purchase price of $1,375,416.

Alderman Jordan moved to table the item. Alderman Santos seconded. Upon roll call the motion carried unanimously.

RESOLUTION WAS TABLED UNTIL THE NEXT MEETING.

Meeting adjourned at 10:00 p.m.