MINUTES OF A MEETING
OF THE
CITY COUNCIL
JUNE 4, 2002

A meeting of the Fayetteville City Council was held on June 4, 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 Davis, Santos, Jordan, Reynolds, Thiel, Young and Marr, Interim City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

BRISTOL PARK: A resolution approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Bristol Park Large Scale Development.

RESOLUTION 84-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROBINSON AVIATION: A resolution approving a contract with the FAA and with Robinson Aviation for Fayetteville Municipal Airport tower services.

RESOLUTION 85-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

APAC: A resolution approving Change Order No. 2 to APAC-Arkansas Inc., McClinton Anchor Division.

RESOLUTION 86-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis requested an amendment to the minutes be made on page 8, on the motion, Davis both first and seconded the motion.

Ms. Woodruff stated she would check the roll tally and correct the error.

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

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 second reading at the May 21, 2002 meeting.

Mayor Coody stated in 1993 the City had approved the one-cent sales tax that they had been operating under for the last nine years. It was due to expire in 2003. This tax was used to fund a variety of city services. They have experienced a phenomenal amount of growth over the last nine years. They needed to continue to fund this one-cent sales tax. If they did not, there would be serious cut backs in fire and police personnel as well as other city services.

Mr. Steve Davis, Budget Manager, presented a series of graphs and charts. Service Cost Impact Change between the consumer price index increase of approximately 25% and a population growth of 31%. The city overall could have expected an impact to its budget in total of approximately 56%, just to account for CIP index and population service request. Our total city sales tax and property taxes have increased over the same time period of 154%. All other General Fund Revenues have increased approximately 31%. Their total revenue stream for General Fund is about 43% increase. Parks and Recreation costs have increased approximately 54%. This did not include any HMR Tax or Revenues for parks. Library Funding increased 156%. Public Safety increased a total 120%. The 2002 budget the next expenditures are $19,172,000 in General Fund. A little over half of their total expenditures in General Fund are for police and fire services. They had net revenues of $16,146,000. Their use of Reserves was at $3,000,000. The current sales tax was distributed 25% for operations and 75% for capital improvements. The operations 25% of the penny generates about three million dollars. The reserves that they were using almost equal 25% of their city sales tax. If they were to move to 50/50 on the city sales tax they were stopping their use of reserves. Comparing 1993 expenditures by major area to the 2002 amended budget net expenditures, police comprised 24% in 1993 and in 2002 they comprised 28%. Fire department in 1993 comprised 20% and 23% in 2002. All other departments in1993 was 44%. In 2002 it shank to 29%. Salary contingency was shown at 7%, at this point it has not be distributed. They had projected the growth and expenditures by department. This further illustrated that the city had been investing considerable sums of money into fire and police services and holding the line on all other departments. The police and fire staffing has increased since 1992 as well as all other departments. There is a direct correlation between the population growth and operation costs and capital expenditures. As they look at capital expenditures from 1993 to 2000 they see an upward trend which correlates to the upward trend that begins in 1997 and goes through 2003 and continues on into 2008. As they look at 2008 for the capital expenditures, they would still be spending between five and ten million dollars on an annual basis.

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 4397 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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 second reading at the May 21, 2002 meeting.

Alderman Thiel asked Mr. Williams if he was still firm in his stance about not adding "reauthorization" into the ordinance.

Mr. Williams stated he had looked at the statues and all of them relating to the tax talked about a levying ordinance. It was clear that "levy" was correct. When they were talking about a tax that would bring in nearly twelve million dollars per year, they needed to stick pretty close to the state statute. He thought that for the ballot title itself and ballot ordinance that they would be better to use levy. He did not believe it was misleading to the voters.

Mr. Jeff Erf, an area resident, asked since they were having a special election, if they would consider adding to the ballot a binding or nonbinding referendum concerning the impact fee question. It would give an indication of the citizens their feeling on the issue.

Mr. Williams stated there were several legal problems with that. Time-wise they needed to be able to pass this tonight and notify the Election Commission of the election. In order to refer a question to the voters they had to have the ordinance passed. They could not do an advisory vote. It would have to be an actual ordinance and it would have to be referred to the voters.

Mr. Erf stated the tax did not end for another year. He did not understand the hurry.

Mayor Coody stated they started their budgeting process soon and they needed to know if the public was going to approve this sales tax. They had to know early in the budget process.

Alderman Santos stated if the Council had not passed impact fee before the November election, he would like to see it on the ballot then.

Alderman Santos 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.

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

ORDINANCE 4398 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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.

Mayor Coody stated right now the money is divided 75% toward capital and 25% toward maintenance and operations. It has served them well except for the last couple of years. The economy has changed in such a way that that proportion did not work any more. They were having to dip into savings to make up the difference.

Alderman Davis stated he preferred Option A because it had a statement that it would not drop below 30% for the CIP. He thought that was very important for the public to be aware of. People were concerned that they were not going to have anything for the CIP. People wanted to see CIP improvements.

Alderman Marr stated at what point, if they went to the 50/50 split, at what year are they actually able to operate without going into the reserves for one dollar.

Mr. Davis stated if their spending is limited to the growth of their sales tax revenues, then 2004 they had chance of being able to fund their general fund budget without using reserves. They would not begin collecting the 50% of the tax until July 1, 2003. If they could stabilize their expenditure trends and match them up to the revenue trends, then they could manage to minimize the use of reserves. In response to question, he stated they had spent 3 million dollars from reserves this year.

Alderman Thiel stated this Council had approved a budget with increased wages based on the Hay Plan and all the their other costs, knowing that they were going into their reserves. She thought they were looking at the 50/50 split at that time.

Alderman Marr stated they should look at this prior to 2007, which was outlined under Section 3. He thought 2005 or 2006 would be more appropriate.

Alderman Davis stated he had no problem changing the date to 2005 or 2006, but they needed to have the ceiling of 30%. People needed to see that there would be CIP funds.

Alderman Marr moved to amend from 2007 to 2006. Alderman Davis seconded. Upon roll call the motion carried unanimously.
Alderman Santos moved to approve the resolution. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

RESOLUTION 87-02 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.

In response to questions, Mr. Dumas stated if people left their carts out more than one day, it would be a code violation. While it was a concern the community did use garbage cans three or four years ago and he did not think that there had been a problem then. If there was a problem then they would use the ordinances that they have to remedy the problem.

Alderman Davis stated he hoped there was a plan in place in the event that they had a problem.

In response to question, Mr. Dumas stated within the cart bid there is a provision for the cart manufacturer to deliver them to each address and to mark with non permanent marking material where the cart should be placed.

Alderman Marr stated the cost of the containers varied from $27 to $39. He thought that they should consider doing away with the deposit and the cost of the bin be amortized into the cost of the program so that in essence it works like a replacement fund.

Mr. Dumas stated a rate study had been done, in the analysis they were incorporated.

Alderman Marr stated the original plan was to focus on the reduction of trash and the increase of recycling. The highest cost of the 96 gallon bin and the second highest cost is the 20 gallon bin. Had there been any consideration to going to three sizes until they had demonstrated another movement in the reduction of trash. So they did not carry a fourth cart inventory and they were able to eliminate a higher value cart.

Alderman Jordan stated most of the concerns that he had heard was the excess of pink bags. He suggested having three or four holidays throughout the year where they could use those bags up.

Alderman Thiel suggested removing the 20 gallon and reducing the 32 gallon. The 20 gallon was not a smaller container, all it was was an insert. She thought it made since to reduce the inventory down to three sizes, but make the difference between the 32 and 64 line up more.

Mr. Dumas stated there would be a more detailed discussion of rates. They needed to have the rates set before they took the containers to the community. They had to pass an ordinance on the rate structure.

Alderman Reynolds expressed concern about not having a deposit and identifying individual carts.

Mr. Dumas stated there would be a serial number on each cart. The city would be picking it up when they discontinued service.

Mr. Wayne Busher, an area resident, expressed concern regarding the problems of switching from the bag program to the container program.

Mr. Dumas stated the fleet is scheduled for replacement, if they were going to make any changes they needed to do it now or wait another decade. There was currently a shortage in the personnel for the solid waste program.

Ms. Andrea Fournet, an area resident, asked what they were to about cleaning up rental properties and cleanups. She asked if they could use bags. And what were they going to do with their current containers.

Mr. Dumas stated they could use bags.

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

RESOLUTION 88-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

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

RESOLUTION 89-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

HOLLYBROOKE ESTATES: A resolution to approve the offer and acceptance contract with Hollybrooke Estates Phase III for Lots 6 and 7 in the amount of $36,000 plus closing costs.

REMOVED FROM THE AGENDA.

RIGHT OF WAY DEDICATION: An ordinance accepting the street right-of-way dedicated with Bridgeport Subdivision Phase VI, Copper Creek Subdivision, and Crystal Springs Subdivision, Phase II as approved by the City of Fayetteville Planning Commission.

Mr. Williams read the ordinance.

Alderman Davis 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.

Alderman Davis 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 4399 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-13.00: An ordinance approving rezoning request RZN 02-13.00 as submitted by Mel Milholland of Milholland Engineering on behalf of Marjorie Brooks, Nanchar, Inc., and Bristol Development Group, LLC for property known as Lot 1A of CMN Business Park II, Phase I. The property is zoned C-2, Thoroughfare Commercial, and contains approximately 32.62 acres. The request is to rezone to RMF-12, Moderate Density Multi-family residential.

Mr. Williams read the ordinance.

Mr. Milholland stated the Planning Commission had recommended approval. He respectfully requested the rezoning.

Mr. Earnest stated this was an excellent example of moving commercial property to multi-family and mixed us in an area of town that needed it. It was an excellent location for this type of development.

Mr. Milholland stated the rezoning would allow twelve units per acre which was equivalent to 391. The development showed 272. It was not maxed out. They were proposing gated entry and walking trails, pool, etc.

Alderman Davis moved to suspend the rules and move the second reading. Alderman Santos 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 and final reading. Alderman Davis 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 4400 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 02-3.00: An ordinance approving vacation request VA 02-3.00 as submitted by the Fayetteville School District for property located on Eagle Street west of Garland Ave. The request is to vacate a 50' wide portion of the unimproved Eagle Street right-of-way.

Mr. Williams read the ordinance.

Mr. Earnest stated this was part of the Leverett Elementary School large scale development. There was no public need for this right of way. The school district needed this in order the make their improvements.

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

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rule 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 4401 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SALEM ROAD: A resolution awarding Bid 02-33 and approval of contract with Mobley Contractors in the amount of $108,394.00 plus a project contingency of $10,000.00 for a total cost of $118,394.00, for large scale development requirements of Salem Road at the Gary Hampton Softball Complex, and approval of a budget adjustment.

Mr. Earnest stated this was to improve 675 feet of street to match existing street improvements. They would be doing a great deal of site improvements including drainage.

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

RESOLUTION 90-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CAT: A resolution to reinstate CAT funding for the remainder of 2002 at a rate of $34,500, and approval of a budget adjustment.

Mr. Earnest stated they had planned to pursue aggressively some alternative funding to continue CAT operations for the remainder of this year. It was their recommendation that the funding for CAT be continued for six months. Their contract expired the end of this year.

Alderman Young stated they would have to get a proposal before the end of the year.

Mr. Earnest stated they would be looking at other options and other proposals.

Alderman Davis stated he would like to see them have their own fundraisers and to reduce the amount of funding from the city.

Ms. Andrea Fournet, stated she was on the CAT Board now, they were making some changes and were going to try and improve their fund raising efforts.

Melonie Beetsol, an area resident, stated CAT also provided educational opportunities for young kids. She urged them to pass the funding the program.

Mr. David LaRue, requested putting conditions on the funding regarding CAT and how it was ran within its own organization.

Mayor Coody did not believe they could make a policy change within the time period.

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

RESOLUTION 91-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INFORMATIONAL

COX FRANCHISE: Discussion of Cox Cable Franchise.

Mr. Earnest stated he need direction on the extension of the franchise deadline for negotiations and the rate audit. They had contacted two CPAs, the consensus from both was that the companies if they went through the expense of a desk audit of Form 1235 the probability is that they would not achieve any significant savings.

Alderman Young stated he would like for them to get the information whether or not they proceed forward or not.

Mr. Jim Bemis, an area resident, made comments

Meeting adjourned at 9:45 p.m.