MINUTES OF THE MEETING
OF THE
FAYETTEVILLE CITY COUNCIL MEETING
JUNE 20, 2000

A meeting of the Fayetteville City Council was held on June 20, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Hanna, Aldermen Reynolds, Austin, Trumbo, Daniel, Santos, Young and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press and Audience.

ABSENT: Alderman Bob Davis.

EMPLOYEE OF THE MONTH

Kevin Springer, Budget and Research, was awarded the employee of the month. His cost saving idea had been to use the Internet and Satellite Training at the Continuing Education Center to save travel expenses.

Mayor Hanna presented Mr. Springer with a certificate and a check for his suggestion.

CONSENT AGENDA

MINUTES
Approval of the minutes from the June 1, 2000 City Council minutes.

TRACT #3X
A resolution authorizing the Mayor to sign a 30-foot easement across property designated as Tract #3X containing approximately 3,000 square feet for 16 inch high pressure gas lines for the Arkansas Western Gas Co.

RESOLUTION 81-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOFTBALL COMPLEX
A resolution approving a budget adjustment in the amount of $350,557.00 for Gary Hampton Softball Complex parking lot.

RESOLUTION 82-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARKS MASTER PLAN
A resolution approving a contract with Lose and Associates, Inc. in the amount of $100,000.00 for Parks Master Plan.

RESOLUTION 83-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRST NIGHT FUNDING
A resolution approving funding for First Night in the amount of $15,000.00.

RESOLUTION 84-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos asked for the minutes to be removed from the Consent Agenda since they had not had a chance to review them.

Alderman Austin moved to approve the Consent Agenda with the removal of the minutes. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZ 00-15.00
An ordinance approving rezoning request RZ 00-15.00 as submitted by Bill Helmer on behalf of Clifford and Mary Clevenger and Mary Silvis for property located at 831 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.97 acres. The request is to rezone to R-1, Low Density Residential. This ordinance was left on the first reading on the June 6, 2000 meeting.

Mr. Rose read the ordinance for the second time.

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

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

There was no public comment.

Mayor Hanna called for the vote. Upon roll call the ordinance passed unanimously.

ORDINANCE 4249 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARTIAL PERMIT
An ordinance repealing Section 156.04, Section 169.03 (B)(6), and Section 170.03(A) of the Code of Fayetteville, Unified Development Ordinance, and amending those sections to prohibit nonfinal, partial and/or phased grading and/or stormwater management, drainage and erosion control permits. The ordinance was left on the first reading at the June 6, 2000 meeting.

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

Mr. Rose read the ordinance for the second time.

Alderman Austin stated they had discussed this item at the Ordinance Review Committee. The committee's recommendation had been to form an Ad Hoc Committee to address the issue and to hold off on any final action until they had received a report from them.

Alderman Daniel stated she agreed. They should wait because this was a significant change. She was not ready to make a final decision.

Alderman Young stated he would like to leave the item on the agenda and possibly table it at the next meeting. He stated he had concerns that they had appointed people to the Ad Hoc Committee that did not live within the city.

Alderman Daniel stated she had inquired about that. Apparently, it was not mandatory that they live in the city. She had asked around city hall because there had been some confusion about that.

Alderman Young stated that was a general requirement for serving on committees and that had been told to some of the citizens.

Alderman Daniel stated she had spoken with both Charlie Venable and Heather Woodruff. They had stated they had not told anyone that, but there could have been other employees. There was also the possibility that the citizen had not specified they wanted to serve on the Ad Hoc Committee. Other city committees did require them to live in the city.

Alderman Austin stated there had been a number of people who served on his neighborhood committee last year that had not lived inside the city. They had taken every volunteer that wanted to serve and there had been a couple from outside the city.

Alderman Young stated he personally was not that concerned about it. The public could speak to it. He was more concerned about the memo that had been sent out that stated they were not going to take public comment until they had an ordinance put together. He thought they needed to take as much public comment as possible. He suggested Mr. Beavers, City Engineer, get with Mr. Rose to draft an ordinance combining both the grading and drainage ordinance.

Mr. Charles Venable, Public Works Director, stated that was what he thought the Ad Hoc Committee was going to do.

In response to questions, Mr. Rose stated the council had a rule regarding the city's formal committees that required volunteers to be citizens of the City of Fayetteville in order to belong to them. This was an Ad Hoc Committee. It was not an official committee. It could be composed of whomever they desired. If they wished to have a rule that the Ad Hoc Committee could only be comprised of people from Fayetteville then they could do that.

Alderman Trumbo stated he did not think they needed to do that. However, he did think that they needed public comment.

Alderman Young stated if they had public comment during the committee meetings it would cut down on the comments at Council. He thought they needed something to get started with.

Alderman Russell stated that when the ordinances were looked at individually they were easy to understand, but when they were put together, the process became confusing. He stated he would like to see a flow chart and/or a question and answer format which would go by the letter of the ordinances. It was not clear to him what people were to do at what time. It needed to be clear. He thought they needed to deal with the ordinances as a unit. A step by step process would be easier for the developers to follow and for the public to understand.

Alderman Austin stated the Ordinance Review Committee could take that advice and work it into their final recommendation for the City Council. The Tree Preservation Ordinance was under consideration and they would be receiving a report from them.

Alderman Russell stated currently the process was confusing. The closest thing they had to step-by-step process was the city's development manual, which was not the law. It was a supplement to the law. He had never seen it. Ms. Lorel Hoffman, Planning Commissioner, had pointed out that the manual was not in direct compliance with the law, but that was what the city was giving the developers. He suggested making the ordinance into a step-by-step process which would solve the discrepancy problem between the two documents.

Alderman Young suggested the first step for the Ad Hoc Committee was to decide if they needed a flow chart or exactly what they needed.

Mr. Venable agreed that was what the committee needed to be doing. He stated he would be trying to keep up with the committee. The intent of the first meeting was for the committee to get together and go through everything and decide what changes needed to be made, then when they decided the changes that needed to be made, develop a draft ordinance for public input.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

NEW BUSINESS

URBAN FORESTRY ASSESSMENT
A report presented by Natural Path Forestry Consultants, Inc.

Ms. Kim Hesse, Landscape Administrator, introduced Mark Duntemann with Natural Path Forestry Consultants, Inc. Mr. Duntemann had been contracted to assess the city's forestry program. The contract was funded jointly by the Urban and Community Forestry Assistance Grant and the CIP Forestry Program. What Natural Path had been asked to do in their assessment was to conduct a sample inventory of the trees within the public rights-of-way and public lands in order to determine their maintenance and planting needs, policies, ordinances, and tree protection. He had been observing their current practices. The results of the assessment should bring their program up to a higher level in the future by giving them a program to implement.

Mr. Duntemann stated they had been contracted by the City to conduct an assessment, with recommendations of the City's urban forestry program. Over the course of five months, the assessment had been carried out by interviewing staff, assessing the street tree population health, and reviewing the City's policies. This report was the culmination of that assessment.

The foundation of the assessment and recommendations were developed by using an Urban Forestry Sustainability Model developed by Dr. James Clark and Nelda Methaney. A sustainable system is one which survives or persists. In the context of urban forest, such a system would have continuity over time in a way that provides maximum benefits from functioning of that forest. Clark and Matheny developed a working model that defines nineteen specific cwriteria to evaluate sustainability. These nineteen cwriteria are separated into three types of resources: vegetation resource, management resource, and community resource. At the core of understanding the importance of sustainable urban forest is an attachment that the people have for the community. Their recommendations are tempered by what they feel is achievable by the City of Fayetteville within limited and potential resources.

VEGETATION RESOURCE

The improvement in the health of the individual trees and the collective urban forest is the general goal of any sustaining system. To that end the following four cwriteria were evaluated and recommendations for enhancing the overall vegetation resource were made. The four cwriteria that they looked at were canopy cover, age distribution of trees, species mix, and native vegetation. The bulk of the information came from a sample inventory that they did of all street trees. They used a model developed by Cornell University. They approximated that there were 42,000 street trees in Fayetteville. They also identified 4,600 planting sites and 73 different species. The overall condition of the street trees was good. The maintenance requirements on most of the trees are high. There was a lot of dead wood. They had noticed a lot of broken limbs. The appraised value of the trees was estimated to be more than seven and half million dollars. Within Arkansas the average street tree value per tree was approximately $1,800.

Alderman Young asked if the planting sites were in addition to the existing sites.

Mr. Duntemann replied they were additional planting sites that were vacant of trees. What they had looked at in identifying those had been the width of the tree lawn, the distance between the right-of-way and the sidewalk/ curb. Anything less than four feet was considered unplantable. They had also taken into consideration if there were overhead utility lines. It was still possible to plant under utility lines.

Communitv Framework
The second key element of a sustainable system is the interaction of all of the partners that play a role in maintaining or impacting urban vegetation. The following seven cwriteria were used: public agency cooperation involvement of large landholders, green industry cooperation, neighborhood action, citizen/government business interaction, general awareness of trees, and regional cooperation.

Resource Management
The most difficult element of maintaining a sustainable urban forest is having the resources and tools available to manage. The nine cwriteria listed are citywide management, citywide funding, city staffing, assessment tools, protection of existing trees, species and site selection, standards for tree care, citizen safety, and recycling. They had evaluated these eight cwriteria and the other eleven and had rated them on a scale from low to optimum. The rating given Fayetteville was between "poor" and "fair." The optimum for all nineteen cwriteria was difficult for cities to achieve. The model was use for a spring board to evaluate what was appropriate for the city to implement and the level they wished to achieve.

Natural Path's recommendations:

Vegetation Resource
The population of trees was low compared to the national average around the country. There were approximately a 50% stocking. The average was 80%. He thought there were more planting sites than trees. They recommended the city implement a practice planting of 250 trees per year in new developments and the central core. There were some issues with the core area. There was no incentive for planting trees in public rights-of-way. The second recommendation was to implement a five-year cycle pruning program. Currently, they were reacting to people asking that trees be pruned. The development of a cycle program could reduce the cost of individual tree pruning by half. The benefits of the program were that every tree would get worked on. It would reduce the number of service requests, and the trees would be regularly inspected and would receive care, the assessment of the woodland quality of the undeveloped areas of the city, the identification of areas for the future that have a high value to the town.

Community Framework
There were four recommendations: enhance inter-departmental cooperation, promote and improve pruning skills, promote educational opportunities for private sector contracts and

increase community education outreach, and foster regional cooperation.

Resource Management
He strongly encouraged completing an inventory of public trees. This information would be used for contracting and for removing problem trees and implementing a cycle program. The cost of implementation was approximately $10,000. He had encouraged the Landscape Advisory Committee to redevelop the preservation ordinance. He was available to provide input when needed. He added when an ordinance was new, they could expect to go through growing pains. He recommended increasing funding for arbor-cultural work. There was quite a bit of work which currently needed to be done. They would need to increase funding for future maintenance and purchase equipment for the crew to work more efficiently. He recommended an on-site chipper and a bucket truck with an extension arm that would reach sixty feet. Currently, the city was not capable of working on the larger trees and the work had to be contracted out. In order to implement an in-house pruning program, they would need to hire one field staff person. A five-year program was impossible with the current staff. The number one thing they could do to reduce risk was to implement a maintenance program.

Alderman Young asked him to elaborate on the risk reduction program.

Mr. Duntemann stated they had identified a few trees that were in public rights-of-way which had a high probability of failing. The inventory would identify the high risk trees. The city, with limited resources, could try and remove those trees out of the system and replace them with a new tree. He encouraged the city to review the plan and to take it under consideration.

In response to questions from Alderman Trumbo, Mr. Duntemann stated their final report would have the total cost of implementing the program. The largest ticket items were the annual maintenance program and contracted maintenance pruning work which would be approximately $25,000 per year. They did not believe that was available in the current budget for street tree activity.

Alderman Austin questioned what had accounted for the "poor" rating they had received.

Mr. Duntemann stated the maintenance program had been the most negative influence.

Alderman Austin asked if he had conducted an Urban Forestry Assessment in any city and given them a high rating.

Mr. Duntemann replied "good" had been the highest. The assessment was presented as goals. The highest quality town they had done had only rated "good."

In response to questions regarding litigation of failed trees, Mr. Rose stated Arkansas had municipal tort immunity. Because of that, they did not have the same legal liability as most other states.

In response to questions from Alderman Austin, Mr. Duntemann stated the "national average" in their report had came from the 140 cities they had inventoried, which were all different sizes.

Alderman Austin asked if the city would receive their software "Canopy" to merge with the city's GIS Program.

Mr. Duntemann replied it was not part of this project. A physical inventory of trees would run approximately $12,000 and the cost of the software ranges between $3,000-$6,000.

Alderman Daniel stated the city had implemented a parking lot tree ordinance which had impacted their city. In looking at some of the newly built parking lots, she had noticed a problem with maintenance. The trees were being damaged by weed eaters. She asked if he had any suggestions.

Mr. Duntemann suggested encouraging public education and identifying key issues. He believed in education outreach. He suggested luncheons where they would discuss one topic and informal meetings that were within the profession seemed to work well.

In response to questions and concerns about funding, Mr. Duntemann stated there were some State grants and some national funding sources for these types of programs. Their report would cover some of those items.

Alderman Russell stated he had read in the executive summary that they recommended that the current tree preservation ordinance be enhanced to remove any ambiguity and focus on preservation. He asked what kind of language other cities had used in their ordinances when they wanted to be serious about private development preserving a certain level of canopy.

Mr. Duntemann stated he covered it in his plan. His company did a lot of preservation work. A lot of that work was representing the developer. They had found that being able to go to the site and map the trees and come up a conceptual design evened the playing field. A lot of conflicts could be prevented during preliminary design. Some suggestions were included in the report.

Alderman Young stated Mr. Jurgens, Water and Sewer Superintendent, and Randy Allen, Street Superintendent, had concerns about planting trees in the rights-of-way. Their main concerns had been about roots growing into the pavement.

Mr. Duntemann stated most of the problems were in the older parts of town. The technology for underground utilities has grown by leaps and bounds. Urban Forestry has also advanced at the same level. They would not recommend some of the species that have been planted. Most of the problems had been with those problem species that they would not recommend planting. The problem with the street pavement could be addressed with the species selection.

Mayor Hanna stated Ms. Hesse would take the report to the Tree and Landscape committee and he hoped they would start priowritizing the things they could afford to do.

Ms. Hesse stated she was on the Urban Forestry Board for the State of Arkansas. Every year they had a conference. This year it would be hosted in Fayetteville. This was a good chance for the citizens to learn about urban forestry, developing land with trees, and design issues. The conference would be in July.

Ms. Fran Alexander, citizen, stated the Neighborwood Commemorative Tree Planting Project, which had planted more than 145 trees in the parks in Fayetteville, and have been growing out approximately 600 seedlings. They had these trees available to neighbors to plant for free. She would like citizens to get together and see about planting trees in their neighborhood or around their block. They had a variety of trees. She asked that they contact Kim Hesse if they wanted trees.

Mayor Hanna stated there was a Federal Program that was trying to purchase and preserve more park land and trees. He thought there was a possibility that they might qualify. He had also had an offer from a business man to furnish and plant a number of trees, if the city could find a location that they would be helpful.

NO ACTION REQUIRED.

BEKKA DEVELOPMENT

Consideration of a claim by Bekka Development for legal expenses and loss of parking space revenue in conjunction with the Town Center.

Ms. Diane Boyd, Secretary for Bekka Development, stated Bekka Development's position was that the lease for the land for the Town Plaza had been intended by all the parties involved that any expenses that they were out of would be covered under the lease. She noted there had been a change in the council since the lease had been signed so she explained that they had drawn up a lease which they had felt was reasonable for the property. Basically, they had agreed on the up-front amount of $120,000.00 plus one dollar per year. It was an evergreen lease. Bekka had given up the right to ever develop their property (they had planned to construct a building.) They had given up any connection to their two buildings other than what was written in the lease. They were not asking for something they should not have, but they felt they should be compensated for their loses. The lease had been signed in October of 1998. They did not know that there was going to be a law suite. It was their intention with the lease that the money they would be out during the construction of the Town Center that they would be reimbursed that for parking. They thought there had been a clear understanding with all the parties involved. It was their understanding that they would not be out of any money for parking. They needed to understand that prior to the construction of the Town Center that Bekka had a parking lot between their two buildings and that had it had been rented by their tenants for parking. It was not only full, but they had a waiting list for parking spaces. The city had arranged for parking during construction, but their tenants would not lease it. They had a few people that did. She stated she had tried everything she could to encourage them to lease it. She had made it clear that when they had access to the parking deck between their buildings that they would have first choice in having parking. They had also changed their parking fees from $35 per month to $25 per month in effort to maintain some of the people. Basically, everyone was going to give up their parking. Bekka was only asking for what was covered under the lease. Because of the construction they had a lot of vacancies and they were losing money from that. She reminded everyone that the city had sought them out. They had not been looking at leasing the property. They had tried to help the city. They wanted the plaza and the center. They felt it would help the city. They just wanted to be compensated for what they were out of relating to the lease of the parking lot. The estimate that they had was based upon what they had now. If they had tenants, then they would not bill anything they did not lose. Basically they had leased the parking spaces to compensate for the expense of providing the parking lot. It was not a situation where they were making money.

Alderman Reynolds asked when the Town Center was completed how many of the parking spaces were going back to Bekka.

Mayor Hanna replied they would have their own area under the plaza where their plaza once was when the Town Center is complete.

Alderman Reynolds asked if this was a one time problem.

Ms. Boyd stated they were asking to be compensated for the loss of revenue from the beginning of construction (August) until they received their parking back. She suggested billing quarterly from now on for what was lost.

Alderman Daniel noted at the $6,135.00-covered August 1999 to June 2000 and questioned if it would be prorated from now on.

Ms. Boyd stated they would keep an accounting of it and give a report to the city for the difference. The billing would continue until they got their parking back. The construction was due to be completed in February. They would not have to wait until the Town Center was open, just until their parking was released from Nabholz. She was sure they would not have any problem leasing the parking spaces.

Alderman Trumbo asked if she had tried sending their legal bill to George Williams.

Ms. Boyd stated Bekka had requested that the court have them pay for their legal fees. Judge Gunn had stated that the order was on her desk and was under consideration. There had not been a decision made yet. If they were compensated, then they would reimburse the city.

Mr. Rose stated he had written a memo with his legal opinion. He did not believe the lease required the city to reimburse them. He added, their attorney Mr. Butt had assisted the city in all that he did. He was very capable and had been a benefit to the city and was sure if the case was appealed would continue to be.

Alderman Daniel stated all the businesses on the square had been impacted by the construction. Most of the businesses realized they would benefit in the long run, but they were hurting now.

Mayor Hanna did not think those other business had lost their own parking spaces.

Alderman Daniel asked if in the city's other contracts if they had any liability in the Town Center. If they granted this to Bekka would others are coming forward.

Mr. Rose did not know of anyone was in the same situation as Bekka. He did not know of anyone in which the demand for lost parking revenue or attorney fees could be made.

Mr. Maguire, Administrative Service Director, stated Section 13 of the lease in the first sentence gave the city reason to honor Bekka's request. He understood Mr. Rose's position on this was different from his. It stated that the lessee, which was the city, shall bear all cost and expenses directly or indirectly associated with the lease premises, including and not limited too. This lease was more broad, than any triple lease that he had customarily dealt with.

Alderman Trumbo stated he thought the city should reimburse Bekka because they had been very accommodating since the beginning. It was the right thing to do. He had sat through a number of the hearings and Mr. Butt had been a good addition during the lawsuit.

Alderman Santos agreed that he had been good in the lawsuits, but he did not think the city should have to pay Bekka's attorney fees when they had won the lawsuits. He thought the people who sued Bekka should be held responsible for their fees.

Alderman Santos moved to deny the claim. The motion failed from lack of a second.

Alderman Austin stated they were not required to pay, but it was the right thing to do.

Alderman Santos stated they were opening up the flood gates for anyone who might complain that the city had displaced the parking for their business, not just the Town Center. He did not think it was a very wise thing to do.

Mayor Hanna stated the city had leased Bekka's operating parking lot and rendered it unuseable for either the city or them during the construction of the Town Center.

Alderman Santos stated he did not see anything which stated the city would pay for any lost income. It stated the city was going to pay for any improvement, maintenance, lighting and utilities, insurances, taxes, fees, assessment, cleaning, snow removal and trash removal.

Alderman Young stated he thought that was what Section 13 was addressing. But, it still went back to doing the right thing. He preferred to hear two motions. One on the legal fees and one on the parking fees.

Alderman Santos moved to deny the claim on the legal fees.

Alderman Daniel stated she had voted against the Town Center because it had gone two million dollars over budget and here they were going to out for another $14,000. She thought they had already sunk so much money into this thing. She did not think they had much of a choice.

Alderman Russell stated the lawsuits were not completely over yet. Bekka could accumulate more legal fees. The plaintiffs could be forced to pay the cost. He was not prepared to approve paying for their legal cost tonight, but he would like to reserve the right to do that in the future when this was all over, if the plaintiffs did not have to pay. He suggested tabling the request to pay legal cost and to go ahead with the parking cost.

Alderman Santos' motion failed for lack of a second.

Alderman Russell moved to table the issue of legal cost, pending a final determination on the lawsuits and the liability. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

Alderman Austin moved to approve the request for parking cost. Alderman Trumbo seconded the motion. Upon roll call the motion carried by a vote of 7-1-0, Santos voting nay.

Ms. Boyd asked about the future cost of parking from July forward, until they got their parking back.

Alderman Russell suggested that they wait until the end of construction, then come back to the council with an accounting of lost revenue. He would be open to hearing a request for further reimbursement at a later date.

Alderman Reynolds asked if they had a completion date for the Town Center.

Mayor Hanna stated it should be in April. Some parts might be ready before then.

Mr. Venable stated the contractor had the entire area now. Until he released it and everything was accepted, it was still his. Normally, you did not accept it until they accepted the building because of the liability.

Alderman Santos asked if part of the reason Bekka agreed to the lease was because they were taking their parking spaces which were worth about $3,000 each and were giving them back decked parking spaces which were worth about $15,000 each.

Ms. Boyd replied it was not. They had planned to build a commercial building with parking underneath. So they would have had what they were getting back.

Alderman Santos added that the taxpayers were building the decked spaces for Bekka.

Ms. Boyd replied the city was giving them back the spaces that they already had, which was an integral part of their buildings. They had to understand that their parking was a real factor in leasing their spaces.

Alderman Santos stated they were giving Bekka back deck parking spaces in exchange for surface spaces. They were worth about five times what their spaces were worth.

Ms. Boyd replied there were a lot of complications that had occurred with having the Town Center built between their two buildings. They were willing to cope with the problems they have had. They wanted it for the city. The Bradberry Family had done it because they had felt it would be good for the city and not because they felt it would enhance them economically.

Alderman Santos asked how many parking spaces they were talking about total.

Ms. Boyd stated they were talking about thirty-two spaces.

Alderman Santos stated that was a $384,000 net investment in their property by having the city deck their parking spaces for them.

RESOLUTION ~~86~~ 85-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROLLBACK

Approval of forms regarding the Rollback case Hicks, et al vs. City of Fayetteville, et at, CIV 97-500.

Mr. Rose stated the case they were talking about was commonly called the Rollback Case. It challenged the collection tax under Amendment No. 59, the amendment to the Arkansas Constitution which said they could not increase the tax rate more then 10% percent. He explained there were some triggering mechanisms within Amendment 59 requiring a countywide reappraisal. The judge had divided the case into two parts. The first part being liability and the second part damages. We have lost the first part of that as to liability. The judge had rejected their defenses. As a result of that court order, they were now going to have the second part of the trail which had to do with damages. How much, and when we must rollback, if at all. One of the things which had been filed has been a writ. of mandamus, by the plaintiffs. A writ of mandamus was a writ which said they did not have any discretion to do or not to do. They must fill out a form which is contained in the Arkansas Statue at 26-26-404. The writ of mandamus ordered them to complete the form and file it with the County Clerk. He was asking the council to approve the form. The first page stated the County Clerk shall report to the governing body the required data to fill out the forms. They were to take those figures that the county had given them and were putting them in the manner of the form. There was no discretion.

Alderman Young asked Mr. Davis if he had filled the forms out to the best of his ability, correctly.

Mr. Davis replied yes.

Alderman Santos moved to pass the resolution. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 86-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TOWN CENTER PROPOSED RATE SCHEDULE

A resolution approving the proposed rate schedule submitted by the A & P Commission for the Town Center.

Ms. Marilyn Johnson, A&P Commission, stated the lease agreement between the city and the A&P Commission required the city council to approve the nonprofit rates for the Town Center. She explained they had developed these rates believing they were fair and equable. They were compatible to other facilities that were doing the same things that they were doing.

Alderman Santos stated they looked like fair rates and they could adjust them if they needed to in the future.

Alderman Trumbo noted the rate for nonprofit organization was fourteen cents per square foot which was to cover electrical and overhead expenses.

Alderman Austin moved to approve the resolution. Alderman Santos seconded the motion.

Alderman Russell asked what the process would be to change the rates in the future.

Ms. Johnson replied the lease agreement stated the council would review the operations of the center every year.

Mayor Hanna thought the council could ask the A&P Commission to look at it if they thought there was a problem.

Upon roll call the motion carried by a vote of 6-0-0, Daniel was absent for the vote.

RESOLUTION 87-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 8:30 p.m.