MINUTES OF A MEETING
OF THE
CITY COUNCIL
JULY 2, 2002

A meeting of the Fayetteville City Council was held on July 2, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

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

NOMINATING COMMITTEE REPORT

AUDIT COMMITTEE
Jackson White/One three-year Certified Public Accountant term ending 12/31/04

BOARD OF ADJUSTMENTS AND BOARD OF SIGN APPEALS
Sheree M. Alt/One five-year Public-at-Large term ending 03/31/07

CIVIL SERVICE COMMISSION
Stanley E. Adelman/One three-year term ending 03/31/05

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS
Jerry Bailey/One one-year Alternate term ending 03/31/03

ENVIRONMENTAL CONCERNS COMMITTEE
Jeremy Webb/One three-year Local Industry term ending 06/30/05
Marti Benedict/One three-year Science Discipline term ending 06/30/05
Steven R. Jackson/One three-year Citizen-at-Large term ending 06/30/05
Stacey Wingate/One three-year Citizen-at-Large term ending 06/30/05
Cheri Lynn Coley/One three-year Citizen-at-Large term ending 06/30/05
Linda Rupe/One three-year Citizen-at-Large term ending 06/30/05

TELECOMMUNICATIONS BOARD
Jon C. Lofton/One two-year term ending 06/30/04
Kenneth Myers/One two-year term ending 06/30/04
Gary Ault/One unexpired term ending 06/30/03

TREE AND LANDSCAPE ADVISORY COMMITTEE
John Clark Rupe/One unexpired University Representative term ending 12/31/03

WALTON ARTS CENTER COUNCIL, INC.
Linda A. Gaddy/One three-year term ending 06/30/05

YOUTH ADVOCACY COMMITTEE
Barbara A. Lofton/One two-year Teacher term ending 05/31/04

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

Alderman Santos stated they were in a four-four tie between Steve Frankenburger and Troy Wilson for Planning Commission. It was the consensus of the Council to interview applicants for the Planning Commission again.

CONSENT

APPROVAL OF THE MINUTES

GARVER ENGINEERS: A resolution awarding an engineering contract to Garver Engineers in the not-to-exceed amount of $275,000 to provide engineering services for the accelerated waterline replacement project.

RESOLUTION 101-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

USINFRASTRUCTURE: A resolution awarding the engineering contract to the firm of USInfrastructure for engineering studies and recommendations for (1) the upper Hamestring Creek Basin and (2) the Shenandoah Trailer Park area. The contract price is not-to-exceed $93,424; and approval of an engineering contract contingency in the amount of $10,000.

RESOLUTION 102-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AATC LEASE: A resolution approving a lease with Northwest Arkansas Aviation Technologies Center for an executive hangar located at 4248 South School.

RESOLUTION 103-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS

VA 02-1.00: An ordinance approving vacation request VA 02-1.00 as submitted by Ken and Kathie Marvin for property located in Rochier Heights Subdivision. The request is to vacate the alley between Lots 8, 9, 10 and 11 of Block 5. The ordinance was left on the 1st reading at the June 18, 2002 meeting.

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

ITEM WAS TABLED.

NEW BUSINESS

RZN 02-15.00: An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen of behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance.

Mr. Williams read the ordinance for the first time.

Alderman Jordan stated he had met with some of the people in that area. They were concerned about traffic congestion and drainage. This proposal had been turned down in 1998.

Alderman Young asked where the traffic congestion was that the residents were concerned about.

Alderman Jordan stated they were concerned about the traffic on 46th Street and Persimmon. They had stated they were already having trouble getting out onto Wedington as it was. They had suggested another access road coming out of this development going to Wedington.

Mr. Hugh Earnest, Urban Development Director, stated the Planning Department had prepared an aerial photo of the area and a list of all the developments in the area within the last two years. All the developments relate to a map that has been laid out over the past ten years. The staff was very close to bringing them a recommendation for a master traffic study/master street plan. What they would see in the study would be what the area would look like at build out. Wedington was classified as a principle arterial and can carry up to twenty thousand cars per day. Their current traffic count at Wedington and 46th was thirty-six thousand vehicles per day. The proposed development at build out would add a thousand trips per day on the Wedington corridor, still leaving some capacity. At some point the future the Wedington corridor will be at capacity. It was not at capacity right now.

Alderman Thiel asked where Persimmon went and what did it link them to?

Mr. Earnest stated Persimmon would tie to the Rupple Road extension that they were building to the Boys and Girls Club. 46th Street will be built as a collector to tie into Persimmon. Over time they would begin to see a grid of road that would service the area.

Alderman Young suggested that they educate them on the number traffic lights proposed or something that would break up the traffic so people could get onto the road.

Mr. Earnest stated they were going to be getting some counts so that they could justify the placement of the traffic signal. Somewhere on the corridor they were going to have to install some signals to break up the traffic flow.

Alderman Jordan stated they were going to have to build the infrastructure to accommodate their growth. They could not continue to develop without constructing the infrastructure.

Alderman Reynolds stated Wedington was a State Highway and was not a city street. By the time they get their school and the Boys and Girls Club they would convince the Highway Department that they needed a traffic signal.

Alderman Santos stated it would take more development and more congestion out there before the situation would get bad enough that the Highway Department would allow them to up in a stop light. This was sprawl and it was costing all the citizens of Fayetteville money. They needed impact fees to help cover the costs.

Ms. Sharon Davison, an area resident, expressed the need for the city to adopt impact fees to help cover the cost of the development.

Mr. Bassam stated he lived on 46th Street. He did not oppose the development. This development had been denied by the Planning Commission and the City Council in 1998. The traffic had increased by one thousands trips in the last three years. The proposed development will generate about twenty three hundred trips per day according to the report done by the Traffic Department. The State had no plans for any improvements to Hwy 16 for the next five to six years because there was no money.

Mr. Dave Jorgensen, Jorgensen and Associates, stated the developers were paying for everything in this project, the streets, curb and gutter, the water/sewer, drainage, and the privacy fence along Persimmon and 46th street. The widening along their side of the street along Persimmon and 46th Street. The infrastructure was coming. The sewage treatment plant was being designed at this time. Water lines would be extended. This was not in the middle of nowhere. There was a lot going on in this direction. He had met with several neighbors. He would be glad to met with anyone else. They had offered a bill of assurance to prove this was going to be a good development. A maximum of 158 homes. The project that had been brought forward before it had more lots. They were allowed four lots per acre, 232 lots. They were offering a minimum of 1800 square foot homes, eighty percent brick, sodded lawns. There would be one entrance on Persimmon and two on 46th Street.

Alderman Reynolds stated he had voted against this project when he was on the Planning Commission. He had done that because it was in the middle of nowhere. That was not the story now. He thought the project looked pretty good.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

VA 02-4.00: An ordinance approving vacation request VA 02-4.00 as submitted by Henry Renegar for property located at 925 Rockwood Trail. The request is to vacate a 10' wide utility easement.

Mr. Williams read the ordinance for the first time.

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

Mr. Williams read the ordinance for the second time.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman 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 motion carried unanimously.

ORDINANCE 4405 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RJN GROUP: A resolution approving an engineering contract with RJN Group for sanitary sewer rehabilitation design for Illinois River Basins 1-5, 18 and 19 and White River minisystem 27 (Industrial Park), in the amount of $548,653, and approval of a 5% contingency of $27,433.

Mr. Greg Beottcher, Public Works Director, stated this was part of their sewer system rehabilitation work that they had been continuing basin by basin through the city. It was approximately 3.6 million dollars in overall construction. They had an ongoing relationship with RJN, this was to correct the overflows and to deal with lines that could still be rehabilitated. This was a budgeted infrastructure rehabilitation program to correct the excess flow problems.

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

RESOLUTION 104-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OUTDOOR MUSIC ESTABLISHMENT: An ordinance adding a definition of "Outdoor Music Establishment" to Chapter 151 Definitions of the Unified Development Ordinance and adding Section 163.30 to the Unified Development Ordinance to make an Outdoor Music Establishment a Conditional Use in specified zoning districts.

Mr. Williams read the ordinance.

Alderman Reynolds stated he would be abstaining from the item.

Alderman Marr stated he had developed the ordinance in response to concerns from an area neighborhood association. They were concerned about a proposed outdoor music establishment and the fact that they had no avenue on the front end to have discussion about the things that would be discussed if it required a conditional use permit, such as the hours of operation, amplification, types of music, number of days of the week. He thought that was important because there was a very big difference between an acoustical guitar and a singer verses a Van Hanlen Band on a deck. Currently, there was nothing that regulated it either way. The On the Rock Restaurant was a single situation that highlighted why they needed this conditional use. His intent was to encourage front end dialogue so that both could be successful. The spirit of the ordinance was to allow them to coexist and not to prohibit. With a dance hall conditional use, most of the issues that they talked about we music, noise, litter, parking, and compatibility.

The proposed ordinance was to encourage discussion on the front end. They were encouraging a mutual respect of each other. He was going to recommend that they send this to Ordinance Review. There were a list of items from the Planning Staff that there needed to be discussion about.

Alderman Thiel stated there was nothing in the proposed ordinance that addressed temporary.

Alderman Marr stated some of those issues were on the list to discuss at Ordinance Review.

Alderman Young stated this would be a means to allow the neighbors to have some control when there were problems. Residents were crucial to the whole mix. Urban blight would kill Dickson Street faster than anything. They needed to set up a situation where everyone could co-exist. If this ordinance passed it would be a conditional use which would be appealable to the City Council.

Ms. Sharon Davison, an area resident, stated it was her opinion that it would kill the music scene.

Mr. Daniel Gold, an area resident, stated he lived just off Dickson Street. He was against the proposed ordinance and thought it would hurt the music scene on Dickson.

Mr. Stephen Pollard, Maple Street Apartments, stated the quality of life was impacted by these establishments. It was very hard to get prospective tenants to come when there is an increase in litter, noise from Dickson Street and illegal parking.

Mr. Richard Maynard, an area resident, stated he did not find anything wrong with the proposed ordinance. They did need to co-exist to keep the downtown area viable. He thought this was a good ordinance.

Mr. Jim Robertson, All About Town, stated he had been covering live music on Dickson for the past five years. He asked the Council not to discourage the music scene on Dickson Street.

Mr. George Weiss, an area resident, stated any ordinance that promoted upfront discussion was good.

Ms. Emily Greg Pritchard, an area resident, stated she was enthusiastic about this proposal. They have needed it for a long time. This was a solution so that things did not get out of hand.

Mr. Bob Jordan, an area resident, asked if the city police had any control over the University parties.

Chief Rick Hoyt, replied it was State owned property and they were exempt from the city's ordinances.

Mr. Wes Cooper, On the Rocks, stated the ordinance had been directed towards them. They agreed that a proactive approach would have been better, rather than discussion during his construction process. They were willing to go through a conditional use process.

Ms. Paula Marinoni, an area resident, stated her main concern was not Dickson Street. They had been lied to in the past. They wanted it in writing. It was not meant to keep anyone from opening up or to shut them down. Residents were very important. She had lived in Kansas City on their plaza for twenty years. They had a balance there. The complaint driven process did not work. All that it did was let the crowds know who to come and abuse.

Mr. Gear Gambell, musician, stated this additional restriction would be a determent to their ability to perform down on Dickson Street.

Mr. Cal Canfield stated they had been up front with the city sense the beginning with what they had planned to do. The roof top patios had been in their proposal since the very beginning in 1999. They were proud of what they were doing and wanted to be good neighbors.

Ms. Irene Pritchard, an area resident, stated there was a need for this conditional use permit. Residents needed an affective method of compromise. This would save a lot of conflict.

Mr. Jay Golden, an area resident, questioned the policy of the police in regards to the noise ordinance.

Chief Rick Hoyt stated that they were to take the reading at the boundary line of where the noise emanates. There also suppose to use the most restrictive.

SENT TO ORDINANCE REVIEW COMMITTEE ON THE FIRST READING.

Meeting adjourned at 9:40 p.m.