MINUTES OF A MEETING OF THE CITY COUNCIL JULY 16, 2002

A meeting of the Fayetteville City Council was held on July 16, 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 Young, Marr, Bechard, Davis, Santos, Jordan, Thiel, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

ABSENT: Alderman Reynolds.

NOMINATING COMMITTEE REPORT

PLANNING COMMISSION

Alan M. Ostner
One unexpired term ending 03/31/05

Alderman Santos moved to approve the recommendation. Alderman Young seconded. The motion carried unanimously.

CONSENT

APPROVAL OF MINUTES

LIBRARY: A resolution approving amendments 11, 12, and 13 to the contract with Meyer, Scherer and Rockcastle LTD for items associated with the off-site improvements. Total cost is $22,680.

RESOLUTION 105-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

JOYCE & MUD CREEK TRAIL: A resolution approving Change Order No. 1 in the amount of $113,030 for waterline replacement to the construction contract with Jerry D. Sweetser for the projects entitled "Joyce Boulevard Trail and Eastern Mud Creek Trail Construction"; and approval of a 15% contingency in the amount of $16,955.

RESOLUTION 106-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LAW ENFORCEMENT BLOCK GRANT: A resolution approving the application for the 2002 Local Law Enforcement Block Grant in the amount of $32,217.00. This grant requires a 10% match of $3,580.00 for a total project of $35,797.00. This grant will be used to purchase video equipment to be placed in patrol cars.

RESOLUTION 107-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-28: A resolution awarding Bid 02-28 in the amount of $59,950.00 plus $3,154.00 tax from J.L. Shelton & Associates to provide power-assist, high density mobile shelving in the Property/Evidence Room at the Fayetteville Police Department and approval of a budget adjustment.

RESOLUTION 108-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-40: A resolution awarding Bid 02-40 to Temple, Inc. in the amount of $170,919 for LED Traffic Signal Lenses to replace all traffic lenses and 110 volt incandescent bulbs in Fayetteville.

RESOLUTION 109-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SALES TAX INFORMATION: A resolution expressing support for amending the State Sales Tax laws to allow for sharing of detailed information with City's Chief Financial Officer. The information shared would be exempt from FOIA.

RESOLUTION 110-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-25: A resolution awarding Bid 02-25 to Leeco, Inc.-Fire Equipment Sales for firefighter's protective equipment and approval of a budget adjustment.

RESOLUTION 111-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HUNT CLUB SUBDIVISION: A resolution authorizing the City Attorney to seek and injunction if necessary against the developer of the Hunt Club Subdivision to compel the installation of street lighting as required under Section 166.03 of the Unified Development Ordinance.

RESOLUTION 112-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WATER SERVICE AREA: A resolution to modify the existing exclusive water service area line between Fayetteville and Springdale to transfer approximately 340 acres in the City of Johnson into Springdale's service area.

REMOVED FROM THE CONSENT AGENDA.

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

OLD 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. The ordinance was left on the first reading at the July 2, 2002 meeting.

Mr. Williams read the ordinance.

Mr. Jorgensen stated they had met with some of the residents and he would be willing to meet with others.

Alderman Davis asked what the neighbors concerns were.

Mr. Jorgensen stated some of their concerns were safety and traffic at the intersection of Wedington and 46th street. They wanted a traffic light there. There would have to be traffic study conducted. He had heard that there were plans to install a light at Rupple Road and one at Double Springs Road. It was possible that there would be a trail along the north side of Persimmon Street which would lead to the new Boys and Girls Club.

Alderman Thiel asked if there had been a traffic study conducted.

Mr. Conklin stated the Traffic Division was conducting some traffic counts along Wedington and 46th Street. The data would be available prior to their next meeting. He thought the traffic study Mr. Jorgensen was referring to is looking at additional traffic signals, which was little different. If the property was rezoned R-1, keep in mind the Planning Commission and the staff could request that a traffic study be done to look at the impact and what improvements may be necessary to handle additional traffic created by this development. Typically, the more detailed studies were done during the plating stages. The Planning Commission can then make a recommendation on what will be required as conditions of approval for the preliminary plat.

Alderman Davis stated the school system stated they were talking about redistricting because there were not enough students on the west side. If they continued not to allow development on the west side, then they were causing the people who lived on the east side to go to the west side to take their children to school on the west side of town, increase the traffic in that area.

ORDINANCE WAS LEFT ON THE SECOND READING.

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. The ordinance was left on the first reading and sent to Ordinance Review Committee at the July 2, 2002 meeting.

Alderman Young moved to amend the ordinance to remove the requirement for the bonds and to change Section C and to add C-1 to the allowable uses. Alderman Santos seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance as amended pursuant to the Ordinance Review Committee's recommendation.

Ms. Paula Marinoni, an area resident, thanked the council for their work on the ordinance.

Alderman Davis questioned if they should look at putting an entertainment district in the C-3 zone, including Block Street to Arkansas Avenue and West LaFayette to Spring Street. They could label that area as the entertainment district for Fayetteville.

Alderman Marr stated he was open to the idea of an entertainment district. But, he saw this as two separate items. One being a front end discussion to talk about a process and the other being an establishment of an entertainment overlay. He asked if they established an entertainment overlay, then this ordinance would not apply to that particular overlay.

Alderman Davis stated that was correct because they still had the sound ordinance and the ABC. They know those have worked because there have not been any problems since 1998.

Alderman Bechard stated they had an ordinance in place right now. He was struggling with adding more process to get them to the outcome that already existed. Communication upfront was paramount, they needed to do a better job. he asked if they could create a conditional use which would allow them to have the upfront discussion, however, they did not allow them to not pass the conditional us. There would be a process where everyone could come together and the identified all the issues.

Mr. Conklin stated a conditional use went over and beyond what was in the ordinance. They had to be able to tell the applicant that they had to do that in order to operate. The other part is capability. If it was not compatible and the Planning Commission made that finding then they needed to be able to deny it. It would be difficult to administer.

Alderman Bechard stated it concerned him that the Planning Commission could require them to do certain things in order to get the conditional use. He did not know if they needed to add the process if there was already an ordinance in place. They were adding more process. If the issue was the sound ordinance, then they needed to focus there rather than on a conditional use.

Mr. Conklin stated sometimes what they were actually regulating was not the actual activity, but they were trying to make sure that situation that come up related to that can be handled. The planning office made a strong effort to make sure that applicants talked to neighborhood associations to help them understand the project. Once they involve the neighborhood, they want the ability to add conditions and to make changes. That was over and beyond the ordinance. Without a conditional use and that ability he was not sure how they were to get there.

Alderman Bechard stated they had not had any problems over the last five years. He did not know that the environment today suggested that they had a significant issue that they needed to add more process to handle it.

In response to questions, Chief Hoyt stated when he became aware of the business was because he received a standard letter from ABC. They then conducted a small investigation. The ones that they had talked to at that point were opposed to this business going in. his investigator also looked at the parking issue. He was concerned about inadequate parking. The current noise ordinance was complaint driven. It put the person making the complaint in the position where they had to put their name out there. the ordinance required that they had to a property owner or leasing a place. They had to be a resident and be affected by it. Because of the freedom of information act, means that anyone who wanted to know who complained could get the information. People were probably being bothered but they did not want to complain because they did not want to put their name out there. If they could have a conditional use process then they could take care of some of their concerns.

Alderman Marr stated it was not his intent to address the noise ordinance. He thought having a process to talk about things on the front end was the intention of this ordinance. He thought their noise ordinance worked. He thought the conditional use would be a good opportunity to reinforce that they must comply with it, just like they reinforce it with dance halls.

Alderman Davis stated he thought that they should look at an entertainment district.

ORDINANCE WAS LEFT ON THE THIRD READING.

RZN 02-7.00: An ordinance approving rezoning request RZN 02-7.00 as submitted by Lindsey and Associates on behalf of the Estate of Marie Frankie Hughes for property located west of Porter Road and north of Valley Drive. The property is zoned R-1, Low Density Residential and contains approximately 11.94 acres. The request is to rezone to RMF-12, Moderate Density Family Residential. The ordinance was tabled on the first reading at the May 7, 2002 meeting.

Alderman Jordan moved to remove the item from the table. Alderman Davis seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Maynard, an area resident, stated there had been a lot of upfront discussion regarding this issue. The association was not opposed to this development, with this developer. He did not see any reason to postpone this rezoning. He suggested that they approve it tonight.

Ms. Sharon Davison, an area resident, expressed concern about the sewer system being at capacity.

Mr. Boettcher stated their plant was rated at 12.6 million gallons per day. They were operating at 12.4. that was under certain conditions of flows and other factors that influenced the treatment process. They had some reserved capacity.

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 4406 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

SUPERIOR INDUSTRIES: A resolution approving the grant agreement with the Arkansas Department of Economic Development for a parking lot expansion by Superior Industries and a sidewalk installation by Danaher Tools, Inc. and approval of a budget adjustment.

Mr. Ray Bouedaux stated the purpose of the grants was to support the basic economic principle that created an environment that allowed businesses to grow and proper and to create new jobs for the citizens. Superior Industry will create 136 new jobs. The grant will help defer the cost of a new parking lot and warehouse building on their site. The new jobs created represented approximately 2.28 million in new pay roll. Danaher Tool also will be creating 43 new positions and new construction of a 15,000 square foot warehouse. The grant to Danaher was for $27,000 to help defer the cost of a new sidewalk. The total economic impact of the two grants represented approximately 11.2 million dollars in real economic impact.

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

RESOLUTION 113-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 93-50.00: An ordinance approving the nullifying and revoking rezoning Ordinance 3750 for property described in zoning petition RZ 93-50 for a parcel containing 0.97 acres located at 2220 E Huntsville Road from R-1, Low Density Residential District to I 2, General Industrial District.

Mr. Williams read the ordinance.

Mr. Conklin stated there was a bill of assurance on this property which stated the use of the property was limited to meat packing operations only. The bill of assurance stated that if the conditions were not met that the zoning of the parcel would revert to R-1. They could not change the zoning without an ordinance. This was one of those situations where the council had passed an ordinance in 1993 changing it to I-2 to allow Mhoon Beef to expand. It had been zoned R-1. It was an existing, legal, non-conforming use. The council at that time felt that would be appropriate to zone them to I-1 to allow them to expand Mhoon Beef. He felt it was necessary at this time to rezone it back to R-1 in order to follow the intent of the council at that time. If it was not going to be used for meat packing, then it should revert back to R-1. The physical structure was not a single family home. It was his guess that in the future there may be some type of conditional use or rezoning when they determine how the building will be used in the future. It was not a structure that someone was going to live in.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried 6-0-1, Davis abstaining.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Marr seconded. Upon roll call the motion carried 6-0-1, Davis abstaining.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 6-0-1, Davis abstaining.

ORDINANCE 4407 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-14.00: An ordinance approving the nullifying, revoking, and replacing ordinance 4403 for property described in zoning petition RZN 02-14 for a parcel containing 3.12 acres located at the northeast corner of Crossover and East Zion Road from A-1, Agricultural to R-O, Residential Office. The intent is to modify the legal description of the requested rezoning.

Mr. Williams read the ordinance.

The applicant stated when they had submitted their petition their building plans had not been finalized. When they had finalized their plans it became necessary to redefine the area for the crematory.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4408 AS RECODED ON THE OFFICE OF THE CITY CLERK.

PLANNING COMMISSION APPEAL: An appeal of a Planning Commission decision regarding Preliminary Plat for Brookstone Subdivision.

Mr. Tom Holmstead, , and Mr. Sam Davis, and Jack Morris

Mr. Holmstead stated they were appealing the portion of the Brookstone Preliminary plat that would require Washington Regional Medical Center to pay one half of the cost of extending a road across a third parties property. The extension would be from Longview to Plainview. Washington Regional has no ownership interest in the tracts that would be necessary in order to make the extension. The Planning Commission had requested that WRMC build the city collector street across the full length of the thirty-eight acre property and also pay one half of the cost of extending Longview over to Plainview. They wanted to subdivide the property to allow for more medical office. At this time the only planned development that they have was for a pathology office. It was their position that to require them to put up this money would be illegal.

Alderman Davis stated the Street Committee had looked at this and they had seen the need for the extension of Longview. It would give them two ways to get only 71B. they thought it would be beneficial for the city. At that meeting, they had voted unanimously that the city should take on that project.

Alderman Santos stated impact fees could prevent this kind of problem. They needed to charge developers for the impact their development created and not charge them for where their property lies in relation to the Master Street Plan. He thought they were being unfair here.

Alderman Santos moved to grant the appeal. Alderman Marr seconded.

Ms. Sharon Davison, an area resident, expressed concern about the need for the city to pass impact fees.

Upon roll call the motion carried unanimously.

RESOLUTION 114-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

GARLAND AVE.: A resolution approving a construction contract with ??? in the amount of $??? for Garland Ave. (Maple to North St.) water and sewer relocation project, approval of a 15% project contingency in the amount of $???; and approval of a budget adjustment. This project is necessitated due to the widening of Garland Ave. by the Arkansas Highway and Transportation Department.

Mr. Beochetter stated that the Highway Department had already awarded the road construction on Garland. They had an obligation to get their utilities moved. They had rushed this out for rebidding. They had obtained four bids. The low bid was Basic Construction in the amount of $716,995.00. This was approximately $82,000 below the bids they had received on the 25th. The road construction was getting ready to start. The time line on this contract was 120 days. They did not want to wait three more weeks before approving this. Staff was recommending awarding this to Basic Construction and their construction contingency.

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

RESOLUTION 115-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HANGAR REHAB: A resolution approving the construction contract with Marinoni Construction Co. in the amount of $241,416.00 for hangar rehabilitation.

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

RESOLUTION 116-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WATER SERVICE AREA: A resolution to modify the existing exclusive water service area line between Fayetteville and Springdale to transfer approximately 340 acres in the City of Johnson into Springdale's service area.

Alderman Young stated he was concerned about this because he could not see any real reason why they wanted to do this.

Mayor Coody stated the developers had came to them early on wanting them to provide services to them, since they were not adjacent to city limits they could not annex them. Since they could not provide sewer service for them, it would be difficult for them to provide water. Springdale wanted the service area and it was no real lose to them.

Mr. Boettcher stated from a water service point of view they did not want to be giving up service territory. The more customers that they had the better their cost of service. They spread their base over. In this case, preserving capacity for an area they could logically serve, seemed to be a factor. The developer had a schedule that was a factor. It was not contiguous with the city. Only a small portion of the property was in the planning area. They had facilities in the area. Springdale had facilities in the area to serve them. They had communicated with Springdale, they needed to rethink this territory that was created in 1960's and ask for a credit for what they were giving up.

Alderman Young stated they were loosing territory and customers that could spread out the fixed cost base of this operation.

Mr. Boettcher stated he had sent a letter to Renee Langston stated that they were willing work with Springdale since they were in a better position to serve this development, but asked that they carry forward some credit for territory for them in the future should they needed to adjust the boundary in an area at they could more logically serve.

Alderman Young stated he was not so sure that Springdale was in a better position to serve that area than they were. He did not see any kind of an agreement between Fayetteville and Springdale before him. They were willing to give away territory with no hope of getting an equal amount back. He had seen this come down the pike before. The biggest thing that he could remember was the mall. People had wanted to included in the Fayetteville School district, they had decided they did not want to take it, it was later developed into the mall, which Springdale receives the property tax for the mall. Now they were giving away more area. He thought they needed to think about it very seriously, especially if they did not have an agreement with Springdale.

Alderman Thiel stated she would like to see something in writing stating they would have an exchange of equal land.

Mr. Williams stated they could not provide sewer service to them because they were outside the city limits. Part of the subdivision was in Johnson and could not be annexed. The developers had then looked to Springdale to provide the services. Springdale could provide much better serve than they could.

Alderman Santos stated he did not see that it was of any service to the citizens to have this extended service boundary that leaped out passed the city of Johnson. It cost a lot more to provide the service the area further out.

Mr. Boettcher stated the preferred option for any water and sewer utility is that they provide both services because the sanitary sewer bill is computed off their water meter reading. They make one reading and they bill for both services.

Mr. John Flake, Clear Creek Development, stated he had worked in Fayetteville for the past twenty-five years. He had come to Fayetteville, but they were not able to service his needs. He then went to Springdale. Their project was at a very critical point right now. He requested that the council take action tonight.

In response to questions, Mr. Conklin stated the developers had come to the city first. They did meet with them. They had asked about the city extended sewer. He had given them his opinion with regard to annexation and whether or not the staff would be supportive of recommended. This would be extending a peninsula of land all the way to Willow Creek Hospital. The General 2020 plan talked about not creating peninsulas of city. It was not contiguous to the city. Only a small portion of this property was in their planning area. It was in another city's planning area. The Fire Department was concerned about their response time It would be very difficult for the Planning staff to recommend approval.

Alderman Santos moved to table the item. Alderman Jordan seconded. The motion carried unanimously.

The meeting adjourned at 9:15p.m.