

000120

**MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
JULY 18, 2000**

A meeting of the Fayetteville City Council was held on July 18, 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, Davis, Trumbo, Daniel, Santos, Young, Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Audience, and Press.

NOMINATION COMMITTEE REPORT

Board of Adjustment-Joanne Olszewski and James Kunzelmann; Telecommunications Board-Kevin McDonald, Rowland McKinney, and Barbara Stripling. Construction Board of Appeals-Thomas Campbell and Stan Johnson. Juvenile Concerns-Marcella Mika; Walton Arts Center Council-James Stobaugh; Walton Arts Center Foundation-Katy Wade.

Alderman Daniel moved to appoint the following people. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

CONSENT AGENDA

APPROVAL OF THE MINUTES

Approval of the minutes from the June 20, 2000 City Council meeting.

BID 00-13.00

A resolution awarding Bid 00-13.00 to Crash Rescue Equipment Service for the sale of the Airport's 1985 Oshkosh Fire Crash-Rescue Vehicle, Unit #20 in the amount of \$38,500.00.

RESOLUTION 95-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ERNEST LANCASTER DRIVE

A resolution approving Amendment #1 to Task Order #1 (Extension of Ernest Lancaster Drive) to the basic agreement with McClelland Engineers, Inc. for engineering services in the amount of \$25,475.00.

RESOLUTION 96-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PUBLIC TRANSIT

A resolution authorizing the mayor and his representative to help create and participate in a steering committee to study the feasibility of a publicly owned transit system in Northwest Arkansas.

RESOLUTION 97-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOLID WASTE RATE STUDY

A resolution approving a contract with DMG-Maximus, Inc. in the amount of \$34,600.00 for consulting services for the development of a solid waste cost of service rate study.

RESOLUTION 98-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BUDGET ADJUSTMENT

A resolution approving a budget adjustment increasing the budget for fuel expense for various operating divisions, authorizing an additional position in Building Maintenance, increasing the Municipal Judge's salary and increasing overtime for the Police and Fire Departments.

RESOLUTION 99-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS**RZ 00-17.00**

An ordinance approving rezoning request RZ 00-17.00 submitted by Northstar Engineering on behalf of Emad Damen for property located at 2323 Deane Street. The property is zoned R-1, Low Density Residential and contains approximately 1.47 acres. The request is to rezone to R-2, Medium Density. The ordinance was left on the first reading at the July 5, 2000 meeting.

Mr. Rose read the ordinance for the second time.

Alderman Daniel moved to suspend the rules and move to the third and final reading. Aldermen Russell seconded the motion. Upon roll call the motion carried unanimously.

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

Alderman Daniel stated she had not received any complaints about this rezoning.

Alderman Davis stated he had received several calls that had been in favor of this because of the bill of assurance, which limited the number of units. Without the bill of assurance they would have been opposed to the rezoning.

Mayor Hanna called for the vote. Upon roll call the motion carried unanimously.

ORDINANCE 4258 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 98-8.00

An ordinance approving AD 98-8.00, Administrative Amendment to Chapter 172 "Parking and Loading" of the Unified Development Ordinance, Section 172.01 (D)(1) "Standards for the Number of Spaces by Use-Off Street Parking" to revise the required parking for eating places (restaurants). The ordinance was left on the first reading at the July 5, 2000 meeting.

Mr. Rose read the ordinance for the second time.

Alderman Austin moved to suspend the rules and move to the third and final reading.

Alderman Daniel seconded the motion. Upon roll call the motion carried by a vote of 7-1-0. Russell voting nay.

Alderman Santos stated he did not like the idea of raising the maximum. He stated he thought they should be lowering the maximum. He was not going to vote for this.

Mr. Tim Conklin, Planning Director, explained the city's current ordinance did not allow enough parking for restaurants. The Planning Commission had requested that the staff bring this forward, since they had to grant conditional uses for additional parking. The American Planning Association parking ratio minimums. What he had brought forward was a ratio that other cities have adopted as a minimum. He had brought this forward as a maximum. He was not trying to allow more parking than what they actually need. He was trying to raise the maximum to what many cities across the United States were using as a minimum. McDonalds on Mall Avenue was coming through the design process. Under our current ordinance they would be allowed to have thirty-nine parking spaces. Under the revised ordinances they would be allowed to have fifty-three. They were requesting to have sixty-three. In that situation, if the parking lot was full, you would have a situation where people could not park. They were trying to establish a maximum number of parking spaces. The ratio he had chosen was the ratio in the middle. From his experience looking at restaurants and the amount of parking they needed, they typically needed more parking over and beyond what the city's ordinance currently allowed.

In response to questions from Alderman Young, Mr. Conklin stated they were trying to allow the amount of the parking that restaurants needed in this community based on their experience. The amount they were trying to allow was not the most liberal amount that other communities required as their minimum.

Alderman Young stated he was concerned that the Planning Commission was going to continue giving variances.

Alderman Santos questioned if the granting of these variances discouraged the use of transit use, pedestrian traffic and destroyed greenspace. It was against about everything in the General Plan. The Planning Commission should not be granting those variances and the Council should not be changing the ordinance to encourage things they were trying to discourage.

Alderman Russell stated there were times when restaurants needed additional parking. He stated they should continue to have the Planning Commission look at this on a case by case basis. He thought in general that the Planning Commission should tighten up on the variances.

Alderman Trumbo stated he disagreed. The Planning Commission had taken a hard look at this. Increasing the maximum to him made sense. They would continue to grant the variances for increased parking. This was a medium, in between the most conservative and the most liberal. They were only meeting them half way. When a chain came into the area, they did their own demographics, studies and traffic counts. They were the ones that determined if it was a good growth area and that was where they wanted to invest their money. That was their decision to find the property. They could not control where they were going to locate. He thought it made a lot of common sense. He thought they should pass it.

Alderman Daniel stated with the change in the ordinance, businesses would be less likely to seek other solutions, like a shared parking lot.

Alderman Santos stated their typical style was to build the parking lot for the peak day of the year. They were going to have the biggest parking lot they could. What they were going to do was give a blanket allowance to double the size of every parking lot in Fayetteville. He did not think that was the right thing to do. There were other solutions. They had the authority to regulate development in town.

Alderman Russell stated by leaving the ordinance like it is they were encouraging people to locate downtown or near the center of town more than if they would be if they changed the ordinance. He thought that was fine for them to be encouraging them to develop in areas that were closer to the center of town to cut down on sprawl through their regular scheme. He knew it was within their authority.

Alderman Trumbo stated nine Planning Commissioners had recommended the increase.

Alderman Santos stated the Planning Commission should be encouraged to follow the policy adopted by the citizens and the City Council. They were working on another General Plan. He asked that the policy be more clear. He thought they would be seeing this ordinance again with lowering the maximum again soon.

Alderman Austin asked if they were to pass this, would all mom and pop operations have the

right to have the maximum amount of parking.

Mr. Conklin added when the parking lot expanded, so did their requirement for the landscaping and all the other ordinances.

Alderman Austin thought they were giving the false impression that they have super parking lots at all the restaurants. He did not see it happening. He would be supporting the ordinance.

Alderman Daniel stated it seemed to her that business would be less thoughtful on location. She thought that since they were getting so crowded that businesses should look at how they could improve parking without more square feet of asphalt and the only way to do that would be shared parking.

Alderman Santos thought they should encourage the location of businesses long existing parking lots and other transit lines rather than encouraging sprawl and double sized parking lots that were on the edge of town.

In response to questions, Mr. Conklin explained they could ask for additional parking. With McDonalds, which was going through the large scale development process now, they would be asking for more than what this ordinance would allow. They did have a play land and it had been their experience that peoples bring their kids to play land and then they stayed a while. They needed additional parking. They always do ask them to justify the need for additional parking. He thought what the Planning Commission was looking at was that since the ordinance had been passed, since they set the maximum on restaurants, they were asking for additional parking. The Planning Commission typically granted those requests. It has been shown and from experience that the parking was needed. He was not talking about the maximum number they need on the business day of the year. They were talking about the maximum in Fayetteville, Arkansas, based on the ratio he had looked at across the country that were the minimum in numerous communities. He added this was the only community he was aware of that has set a maximum in parking, most communities set a minimum.

Alderman Santos stated he did not like setting the standard on the number of chairs rather than the square footage. They could not change the area of the building, but they could haul in chairs and enlarge the number of seats.

Mr. Conklin stated he was bringing something forward to the Council that nine Planning Commissioners thought that they needed to consider. It was up to the City Council to determine what the ordinance should require for parking.

Mr. Bob Jordan, an area resident, stated there had been other progressive cities that were going

back and taking out parking to increase the green space and to reduce the heat buildup by reducing the amount of asphalt. He thought they needed to look at progressive cities around the country and to follow their lead. The idea of using pavers where they could grow grass, but yet they made a solid surface cars could park on.

Mr. Conklin stated it was allowed in the ordinance. They had someone use the grasscrete. If they parked on it, every day the grass would not grow. It was used primarily for overflow situations for once a week or once a month. It has been used in one application in Fayetteville, but they had to go back and put in mulch to park on.

Alderman Austin did not think this should be a divisive issue. He thought it was good to make their city available to people who wanted to go out and eat and not have to walk a long way to get there.

Alderman Davis agreed with them. It appeared to him that the Planning Commission was helping those people by granting the variances that were required for individual restaurants. He did not believe that this issue had to be divisive among the Council.

Mayor Hanna called for the vote. Upon roll call the ordinance failed by a vote of 1-7-0. Alderman Trumbo voting yes.

ORDINANCE FAILED.

SHILOH DRIVE

1) An ordinance approving a bid waiver with McClinton-Anchor, to allow the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to the new Shiloh Drive extension at the CMN property line, including the radius and intersection of Northwood Avenue; 2) Approval of a construction contract with McClinton-Anchor in the estimated amount of \$43,300.00 for the above described street reconstruction; 3) Approval of a 15% project contingency of \$46,495.00 for material/construction testing and variations in final quantities. The ordinance was left on the first reading at the July 5, 2000 meeting.

Mr. Rose read the ordinance.

In response to questions regarding the amount of money they had already spent in the area on off-site improvements, Mr. Venable stated CMN had contributed to Joyce Street was \$60,000.00. \$140,000.00 toward Gregg and the bridge. He explained this contractor was already at the site working for CMN.

Alderman Russell asked if it was true that the City would end up paying for this one way or the other, whether or not this was approved. He could not think of any grounds under the current

ordinances to have CMN pay for it. Under what circumstances would they be required to pay for it if any or would the city end up paying for it if they denied the request.

Mr. Venable replied the city would end up paying for this one way or another. It was an existing street which was in bad shape and did need to be redone. Sidewalks could be added, it would cost a little more money, but they could extend the sidewalk along the north side of Shiloh until they got to Northwood. The sidewalk extended along Northwood on the west side of the street to Sandpiper. They would extend the sidewalk to Sandpiper. He estimated \$4,000.00 would take care of the sidewalks. They might have enough in the project contingency to do that now. They could come back if they did not have enough.

Alderman Russell asked why if they were resurfacing would they need engineering. Was there anything in addition to the resurfacing?

Mr. Venable explained they have had some subgrade failures. It needed to be removed and redone. There was quite a bit more than resurfaces. The engineering with Milholland was for the engineering and the inspection while it was going on.

Alderman Davis stated this street had been put in during the mid 70's. It was below the standard that they accepted today. With the increase in traffic, they could do it now or wait a year or two. It was cheaper to do it now than later.

Alderman Young stated the street had been out a long time. The local traffic had not been tearing it up. It was breaking up, but not because of the local traffic. The development was causing it. If the development was causing the problem, it was their responsibility to fix it and to bare the cost.

Mr. Venable stated he did not think CMN was using the street to haul things in and out. He thought they were using their own system. They had that barricaded off.

Alderman Young stated he thought something was going in there because he had seen red dirt on the road and there was a new patch there, so something new was going in there. There had not been any problems there for years, now all of a sudden there were problems.

Mayor Hanna did not believe anyone was using the street other than the man living at the end of the street. There were concrete barriers at the end of the street. He did not see how they would move them to get in and out of there.

Alderman Young stated the major breakup was at the intersection where the local traffic was going in and out. If the breaking up was going to occur from the local traffic it would have done it long before now.

Mayor Hanna did not think there was any traffic from CMN going through there because of the barriers.

Alderman Daniel stated this was going to be an excellent connection. She was going to vote in favor of this.

Alderman Santos asked what the average daily traffic was for a local street.

Mr. Conklin replied it was approximately five hundred trips per day.

Alderman Santos stated the engineer for CMN thought the street would be handling ten thousand per day. It made it seem like they were building a street to serve CMN and that they should pay for it. However, if the street was broken up from local traffic now, they were surfacing and repaving streets all over town now.

Mr. Venable stated the ten thousand vehicles per day was also to include the traffic from the mall area which was already there. It was not necessarily all CMN traffic. He added that had it had been suggested that one of the ramps from the highway be moved. However, he did not think the Highway Department was going to approve it.

Alderman Russell stated this showed the need for an impact fee ordinance. He asked what the status was on that ordinance.

Alderman Young replied they were interviewing consultants on Thursday.

Alderman Reynolds stated that the neighborhood was approximately twenty-five years old. He thought it would be a mistake to not go ahead and do this with the equipment out there.

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

Mr. Rose read the ordinance.

Ms. Barbara Moorman, an area resident, questioned the ramp which they had mentioned. She had seen a letter from the highway department stating that the ramp was not needed, but she had also been told by the local street department that the ramp was going to go in and that it was going to be an exit ramp east of Gregg Street going into the shopping center.

Mr. Venable replied the proposed ramp that they had asked for would eliminate the off-bound ramp that was there now. Their proposal was to tie directly into Steele Boulevard where it comes

out on Shiloh. As far as he knew the Highway Department did not see any point in it being moved.

Nan Simmons, 404 N. Walnut, referred to the UDO large scale development section. She stated she felt that CMN needed to pay their portion of this cost for this improvement.

Mayor Hanna stated the lady had a point that was well taken. Those decisions were made at the Large Scale Development phase. Developers were required to do off-site improvements. This was not brought up at the time. They had used off-site development and rational nexus for twenty years in Fayetteville. If someone at that time had foreseen this, it would have been addressed. It had not been, now, and it was after the fact.

Alderman Russell asked Mr. Rose if the ordinances Ms. Simmons cited applied to the Large Scale Development process and gave the authority to levy the fees at that point, and not after.

Mr. Rose agreed.

Alderman Santos stated when they have an impact fee in place they would be better able to define what that rational nexus was and what the demand has created and what the cost of accommodating that demand is. For now it was too hard to him to see. This was such a small price for a local street which needed improvement. He could not see that they could blame this one on CMN when they had made other contributions, but the public had made a lot of contributions too. This was relatively small compared to some of the other contributions that the public had made.

Alderman Reynolds stated CMN had paid for the improvements at the Joyce Boulevard intersection and the lights at the top of the hill. If they had not spent their money the city would not be moving traffic out there now like they were.

Mayor Hanna called for the vote. Upon roll call the ordinance passed by a vote of 7-1-0. Young voting nay.

ORDINANCE 4259 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SHILOH DRIVE

A resolution approving a letter contract in the amount of \$5,000 with Milholland Company for engineering design, construction staking, construction management, and as-built drawings for the reconstruction of approximately 240 lf of Shiloh Drive from the existing AHTD right-of-way east to CMN property line and the intersection with Northwood Avenue. The resolution was tabled at the last meeting.

Alderman Trumbo moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the motion carried by a vote of 7-1-0. Young voting nay.

RESOLUTION 100-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

LS 00-17.00

A resolution accepting a lesser dedication of right-of-way than required by the Master Street Plan for the western extension of Howard Nickell Road, a principal arterial, as requested by George Faucette on behalf of Jo Ann Gladden for property located at Howard Nickell Road and Salem Road.

Mr. Rose read the resolution.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded the motion.

Alderman Santos stated he did not believe fifty feet would give them enough room for a street and a sidewalk for a principle arterial. He stated the City had the authority to ask for this land rather than to buy it later.

Alderman Daniel noted this was a highly-developed area. She was worried about moving traffic on up Salem.

Mr. George Faucette, applicant representative, stated there was no road there now. They were requesting a lot split. This was at the far northwest corner of Fayetteville Growth area. There was no more growth area. He stated this lot split would split seventy acres into three lots, an average of twenty-three acres per lot. The rational nexus would not dictate one hundred and fifty-foot of right-of-way taking. The fifty feet were satisfactory for any residential street in city or county. The owners were offering the fifty-foot dedication with a guarantee that no structure would be built in the balance of the requested dedication. If the city had to buy the land later, they would not have to by improvements on the property. It was valuable land and to divide it into three parcel it did not seem to be fair. There was a precedent on the east side of town where a ninety-foot arterial that they accepted only a deed restriction and required no dedication. This was a requirement for fifty feet of dedication with the other in a deed restriction.

In response to questions, Mr. Faucette explained the dedication ran from Salem Road to a dead end part. There was no road on the other side of the property. He added this was only for this lot split.

Mr. Conklin added the staff would request that the right-of-way be dedicated for a subdivision on either of the tracts. They would like to split the north forty tract into another two lots. The planning commission had made the recommendation for approval with the understanding when they brought in a lot split application that they would have to come before the commission again and that they would request the dedication. Anything beyond that with regard to development would be required the dedication. Our ordinance required them to look at the master street plan every time they had a development proposal. Their request is to split the seventy-acre tract into three lots and that they only be required to dedicate fifty feet of right-of-way and give a deed restriction for the remainder to get it up to 110 feet plus provide twenty-five foot setbacks from the principle arterial. When the lot developed again the staff would look at the master street plan again. If it adjoined the master street plan, then they would require the full dedication of right-of-way.

Alderman Russell clarified that if the area developed to the degree that they actually did need a major arterial street that the city will not have to buy the land, but require it to be dedicated.

Mr. Conklin stated that was correct, if the development came first. If they needed the street first and they were not going to develop, then they would have to buy the property.

Upon roll call the motion carried unanimously.

RESOLUTION 101-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE STATION

A resolution approving the sale of the Old Harold Street Fire Station to Howell Trumbo in the amount of \$115,850.00.

Alderman Trumbo stated he would be abstaining from the vote.

Alderman Austin moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call the motion carried by a vote of 7-0-1. Trumbo abstaining.

RESOLUTION 102-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARK LAND

An ordinance approving a waiver of Ordinance 3793 to accept money in lieu as the park land requirement of the Cornerstone Apartments Subdivision.

Ms. Brenda Theil, Parks and Recreation, state the board was recommending the waiver because the development will have some amenities like a swimming pool and basketball court. It was also located near Asbell School and Lewis Park Complex and Friendship Park. The Sidewalk

and Trial committee has developed a plan that would encompass some of this subdivision. They have a trail running along Hwy 540. It had not been adopted yet. Rather than ask for the land, the developer had agreed to indicate a fourteen-foot trail on the plat and a legal description for the future sidewalk and trail across their property.

Alderman Russell clarified they were getting all the money in-lieu plus an easement for sidewalk.

Alderman Austin asked how much park land they had that was not developed. And how much they had received in money in-lieu they had received.

Ms. Connie Edmonston, Parks and Recreation, stated over the last five years they had taken in more than one hundred and twenty to a hundred and thirty acres. They have increased their park land, about one-third of their park land was developed. The other was left in the natural state. Since the park land dedication fees have been increased, it has helped them. The money was growing.

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

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

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

ORDINANCE 4260 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 00-19.00: An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division of behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Land and south of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.71 acres. The request is to rezone to R-2, Medium Density Residential.

Mr. Rose read the ordinance for the first time.

Mayor Hanna stated he had received a letter from Perry Butcher who was a neighbor expressing his opposition to the rezoning.

Alderman Reynolds stated Wilson Kimbrough was against the rezoning also.

Alderman Daniel asked for the ordinance to be left on the first reading.

Alderman Santos noted the back up material was I-1, but the ordinance had read A-1.

Mayor Hanna stated Mr. Butch had objected to the rezoning believing it would increase traffic volumes

Alderman Reynolds stated they needed to let it be known that the city was leasing this to the Sage House for a minimum fee. This was for the Sage House and the Children House.

Mr. Venable stated the children's house did not need to be rezoned, but the Sage House had to be rezoned. The traffic would be very minimal. With the industrial park across the road there were streets that would be built there too.

Ms. Hope Bradbury, Sage House, stated she was unaware that there was opposition to the zoning change. This was a down zoning. The low traffic in the area was good for both the children's house and sage house.

Alderman Russell moved to amend the ordinance to read I-1 rather than A-1. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

AD 00-18.00

An ordinance for AD 00-18.00, administrative amendment to Chapter 166 "Development" of the Unified Development Ordinance, Section 166.04(A)(8) "Suburban Subdivision-Public Sanitary Sewer Not Accessible" to allow lots smaller than 1 1/2 acres that are on a septic system.

Mr. Rose read the ordinance for the first time.

Alderman Daniel requested that this ordinance be left on the first reading. She thought there might be some changes at the State level regarding septic tanks.

Mr. Conklin explained approximately two months ago Washington County and several towns had met and changed the way they processed subdivisions and lot splits. They now come to the city first. Typically the county was approving the lot splits and subdivisions first. Now he would be receiving those first. The city did have an ordinance that stated one and one half acres. In the past the county had been approving lots with less than one and one-half acres. In order to be consistent he brought his ordinance before the planning commission and the council. He would

like to see this to make sure that the alternate leach fields were not being jeopardized by future subdivisions.

Alderman Santos stated he was all for the Health department regulating the septic systems rather than them. If it was going to work and pass their regulations, why should they care or be involved.

Mr. Conklin stated there were areas in Arkansas where you could not get a septic system. He was requiring that they actually do the test and bring the actual permit to the planning office before they looked at it. He felt that it was the only way his staff could manage lot split and subdivisions less than an acre and half in the planning area.

Mr. Jeff Erf, an area resident, questioned what accessible meant. How was that determined?

Mayor Hanna replied there was not a city sewer within a reasonable distance.

Mr. Conklin explained by city ordinance they were not allowed to extend sewers beyond their city limits.

Mr. Erf stated that since they were going to be constructing a sewer treatment plant that they would want to encourage as many people to use it as possible. In help water quality. He did not want the city to discourage it in any way.

Alderman Reynolds added the city still had people within city limits that were on septic tanks. He was one of them.

Mr. Venable stated there were still several tanks that the sewer system did not serve all the areas. In some areas it was cost prohibitively to put them in. Their ordinances did not permit them to go outside the city limits.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZA 00-2.00

An ordinance approving annexation request RZA 00-2.00 submitted by Candy R. Burton of Phillips Law firm on behalf of St. Joseph's Catholic Church for property located on Starr Drive. The property is in the Planning Area and contains approximately 18.59 acres. The request is to annex the subject property into the City of Fayetteville.

Mr. Rose read the ordinance for the first time.

Alderman Austin asked if it bring street improvements to Starr Drive.

Mr. Venable replied it would bring part of them to pass. The part that would be annexed would be in a full city section. The part to the north and to south was still in the county. It was a weird way it was taken. Part of it was still in the county. The section to the north was to be improved as a part of this. There would be no curb and gutter it would be just to county standards.

Mr. Conklin stated they were looking to have the developer to improve Starr Road to the north up to Madison Avenue at least up to county standards. There would be some areas that would be above county standards. The church on Starr Road would be required to improve one half of the street. Staff was going to look at the possibility of a cost share agreement to get the entire section of Starr road improved. With regard to north of the church they had discussed county standards, twenty feet in width. There would be areas twenty feet in width. It was going to improve the condition of the street. They would need a conditional use for the actual church and school in the A-1 zoning districts. They did need to make sure the street was adequate to handle the additional traffic.

Alderman Daniel asked what the sewer situation was out there.

In response to questions regarding the cost of street improvement along Starr Drive, Mr. Venable stated if they were to do the entire street it would not run that much. Part of Cherokee had curb and gutter. He had thought the center line of the road was the city limits, it wasn't. They had tried to improve the street, but could not because it was county property. They had several meetings with the county. They did not have any money to do any improvements they thought they would try and work something out with them with an overlay without much widening. They would continue to work with the county.

Alderman Trumbo stated he thought this needed to be a priority, like the bridge in Johnson, outside the city limits. Even if they could not get any money from the county. It was a very busy school and we had a lot of citizen who attended the school.

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

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

Mr. Ben Israel, 1501 Starr Drive, stated there were places along Starr Drive where the pavement

was fourteen feet wide. The street was half owned by the city and half by the county. The trees were extended over into the streets. There was a dangerous intersection coming out of Huntington Subdivision. They wanted the school to be built out there. In the last four years they had approved and built more than 240,000 commercial leaseable space and a new school. If they were to exit Starr Drive at 7:30 in the morning, it may take you fifteen or twenty minutes to get to HWY 45/HWY 265. They had done nothing for the east west traffic. He encouraged them to annex the property and to let them construct the school. The problem was they could not exist out there with the kind of streets they had.

Mayor Hanna stated all these issues would have to be addressed at the rezoning and the large scale development. They would have the opportunity to look at what really can be done. So much of that road was in the county. He thought it would serve them well to go to the county to see if they could share.

Mr. Venable stated the county had been willing to furnish the material for the overlay, but that would not widen the street. The area around Huntington was all County.

Mayor Hanna called for the vote. Upon roll call the motion carried unanimously.

ORDINANCE 4261 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PLANNING COMMISSION APPEAL

An appeal of a Planning Commission decision which denied rezoning request RZ 00-2.00 for property located at 2416 E. Joyce Street. The request is to rezone from A-1 to R-O.

Mr. Rose explained what they had normally done in council past was to place this as if it were an ordinance and place it on the first reading and they would go through all three readings. The only way they could change a zoning was by an ordinance. If they agreed with the appellant then they would pass the ordinance and rezone the property. If they did not agree then they would deny the rezoning.

Mr. Rose read the ordinance.

Alderman Santos asked for this to be left on the first reading because it was moving so fast.

Alderman Daniel stated she had been following this for a long time. She thought what had happened was that there wasn't anyone at Planning Commissioners and there had been some confusion.

Alderman Young stated he had been at the Planning Commission the developer had not been there to answer some questions. The Planning Commissions had hoped to table the item. He

though the Planning Commission would have passed it if the owners had been there.

Mr. Conklin stated the applicant would like to have the entire property rezoned to R-O. He had mentioned to him the concerns of the commission.

Alderman Santos noted some of the concerns had been the drainage and the easement along side the conservation area.

Mr. Ben Israel stated he had not been able to be in town at the Planning Commission. His desire was to rezone the property to R-O, which was in line with the city's recommendation. The staff had recommended it to the planning commission.

Mr. Gary Carnahan, Benham Group, stated it was important to say that they were asking to rezone the property which has a lot of frontage along Joyce Street to be used as office. They felt that this was an appropriate use of the property. The discussion had gotten away from the appropriate use and got caught up in other matters. He brought a map to answer questions on which way the water ran. Once the property was zoned there was a lot of additional work, city meetings, and permits which needed to be obtained before any particular use of the property could be approved. They still had to go through large scale development plans with specific buildings and layouts, and parking lots. They wanted to start the process by rezoning the property for a particular use, then they could begin. They felt this land was appropriate for offices, then they could move forward with more detailed plans. They had been pushed ahead by other interest by asking which way the water ran. The five-acre track had an existing home with an existing nature area just north of this property. Below it was a flat valley, which was a wetland type area. The concern was that the development of this property would damage the other property. He wanted to point out that everything from the house on the property drains toward Joyce Street. From the house to west drained into the swell then carried to Joyce Street. It would be very easy for them keep runoff off the other property. They wanted to build an office park. The future tenants would want as much exposure to Joyce Street as possible. So they believed a lot of the trees in the rear would remain natural. They did not want to be locked into saying that now. He did not feel like it was in appropriate to ask them to zone it for offices at this time.

Alderman Young thought that if the Planning Commission had this information they would have passed it.

Mr. Israel stated they could wait a couple of weeks. They wanted to do what was right. He had reassured the owners of the wet lands that they would do everything possible to preserve everything they had and not endanger it at all. There were a lot of nice trees on the property and it was going to be difficult to determine which ones they could not keep. If they were to preserve every tree in the back then they would have to cut down more trees in the front, which were the

ones more visible to the public. There were some nice maple trees.

Dr. Lloyd Hudson, an area resident, stated there was a dedicated wet land and nature area which was being developed in conjunction with the Ozark Regional Land Trust. They were concerned about preserving the wet lands and the drainage involved. This was a small area. The corner of it drained into the wet lands. This was a very sensitive area. He did not object to rezoning, but thought they needed to resolve the drainage problem before too much planning was involved.

Alderman Austin asked what government agency managed the wet land.

Dr. Hudson stated when they set up the nature area, he gave the property to the nature area. The Army Corp. of Engineers had surveyed the property and made it a dedicated wet land. Then Ozark Regional Land Trust made a nature area out of their property. All of the land would be public in time. They were trying to preserve it. They had no objections to Dr. Israel, but there was some land that drained into this area. It needed to be settled before too much planning was involved.

Mr. Gary Galbraith, Ozark Regional Land Trust, stated they were a property owner. He presented a booklet explaining what they did. Their opposition to the rezoning at the planning commission had been because they were not aware of what the plans were for the property. It was his understanding that the purpose of rezoning was to create compatible uses within the city. Everything within the area needs to be taken into consideration. Prior to the application for rezoning they had started the Nature center. They did not see R-O as a threat, but they wanted it to be a compatible use. They felt it would be better to negotiate up front. They were wanting a win win situation. Their concern was contamination. A couple of concerns of theirs was the access to their property and the tree buffer it helped with run off and created a buffer visually. For them a compatible development would be to leave the trees to the rear of the property. He thought with minimal conservation of trees and natural area their desires would be protected.

Mr. Israel stated he would be willing to meet with them and asked if the city would also meet with them. He asked the city to help him. If they agreed not to change any trees along the hundred feet in the back and the Planning Commission wanted him to keep all the trees out front. All of a sudden he would have five acres of property that he could only build on one and half acres. He did not think it was fair for them to spend all that money without first getting an assurance that they had an R-O Zoning. They were talking about engineering fees, studies and delays. He was willing to offer his word that they would do every thing possible. They would not interfere with the wet land, but he could not say that he would give them a hundred feet off the back. He did not know if he could do that. How could anyone know that without proper engineering studies and surveys? He was more concerned with the trees along the front than he was about the ones along the back. He was willing to give on that. He thought it would be against the law to damage that wet land.

Alderman Trumbo suggested that he walk the property with Kim Hesse and Gary Galbraith.

Alderman Russell asked if he would be willing to preserve the trees along the back if he knew that would satisfy the tree preservation.

Mr. Israel stated he would be. He added he would like to preserve more trees along the front. He was more concerned about people coming into the center.

Mr. Randall Bailey, the property owner, stated they had rezoned all of the property east of him R-O or commercial. He was caught in the middle with his five acres.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

Meeting adjourned at 8:45 p.m.