# MINUTES OF A MEETING
# OF THE
# FAYETTEVILLE CITY COUNCIL
# AUGUST 1, 2000

A meeting of the Fayetteville City Council was held on August 1, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

**ABSENT:** Mayor Hanna

**CONSENT AGENDA**

**APPROVAL OF THE MINUTES:** Approval of the minutes from the July 5, 2000 meeting.

**STEPHENS INC.:** A resolution approving a letter agreement with Stephens Inc. for Stephens Inc. to provide financial advisory services on the wastewater treatment plant expansion project financing. The rate per hour is $225.00 and is restricted to certain identified individuals. The authorization requested is not to exceed $22,500 and will be paid from the project budget. Approval of a budget adjustment is also requested.

*RESOLUTION 104-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**WASTEWATER TREATMENT PLANT EXPANSION:** A resolution authorizing the Mayor or his representative to proceed in seeking proposals for variable rate demand bond obligations for use in providing interim financing for the wastewater treatment plant expansion.

*RESOLUTION 105-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**BID 00-52:** A resolution accepting the lowest qualified bidder for the purchase of two tractor backhoe loaders. Bid 00-52, Item #1. The vendor for this purchase will be E. A. Martin Machinery.

*RESOLUTION 106-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**BID 00-53:** A resolution accepting the lowest qualified bidder for the purchase of one tri-axle diesel powered dump truck. Bid 00-53, Items #3 and #4. The vendor for this purchase will be Sterling Trucks of Arkansas.

*RESOLUTION 107-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**BID 00-54:** A resolution awarding Bid 00-54 to Ameri-Kan, Inc. in the amount of $11,747 for the initial purchase of solid waste containers and approval of future purchases as needed for inventory at the attached per unit prices. These containers are sold/leased to commercial businesses for use in our commercial container and commercial recycling programs.

*RESOLUTION 108-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**BID 00-56:** A resolution accepting the qualified bidder for the purchase of one tractor, one mower conditioner, two tedders, and one rotary mower with the trade of fourteen various used items which were declared surplus or are being replaced by the items purchased. The vendor for this item will be Williams Tractor.

*RESOLUTION 109-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**BALL AND MOURTON:** A request to grant an easement over 25 feet of land near Razorback Road for the purposes of ingress and egress for a parking lot.

*RESOLUTION 110-00 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 00-19.00:** An ordinance approving rezoning request RZ 00-19.00, submitted by the Community Development Division on behalf of the City of Fayetteville for property located west of Deane Solomon Road, north of Moore Lane and south of West Salem Road. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 2.715 acres. The request is to rezone to R-2, Medium Density Residential. The ordinance was left on the first reading at the July 18, 2000 meeting.

*Mr. Rose read the ordinance.*

Alderman Daniel stated this group had been looking for a home for a long time. She thought this was a good location for the Sage House and Children's House.

There was no public comment.

**Alderman Austin moved to suspend the rules and go to the third and final reading. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.**

*Mr. Rose read the ordinance.*

**Vice Mayor Trumbo asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

*ORDINANCE 4262 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**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 1-½ acres that are on a septic system. The ordinance was left on the first reading at the July 18, 2000 meeting.

*Mr. Rose read the ordinance.*

Mr. Conklin, Planning Director, explained last May there had been a decision made to have all the cities within the County review all lot splits and subdivision before the County. In the past, the Washington County Planning Board and County Planner would review the subdivisions and lot splits first. The city would require the county's approval before we would process their lot split or subdivision. That process had changed. Now the City of Fayetteville would be receiving the request for lot splits and subdivisions first. In the past, Washington County would approve lot splits with less than one-half acres, subject to a permit being issued by the Department of Health for a septic system. The City had an ordinance that required the lots to be a minimum of one and a half acres in their planning area. In 1992, they had amended the ordinance for subdivisions and lot splits inside the city limits that were on septic systems, with a permit from the Arkansas Department of Health, less than an acre and a half. What he was trying to do was continue what the county had been approving. He felt uncomfortable with approving a lot less than an acre and a half. He wanted to make sure that they had the permit from the Health Department. This ordinance change would require a lot split or a subdivision which created a lot less than an acre and half was that they were going to have to go out and physically hire someone to do a perk test. The cost was three to four hundred dollars. They would have to have a permit from the State of Arkansas approving the septic system for that lot. He was asking for a permit up front. This matches what they currently required inside city limits for lots not on their sewer systems. It was going to cost land owners more money. In the past they did not require the actual permit from the State Department of Health. Now they were going to require it for anything less than an acre and a half. He had looked at what we required for lots inside city limits and continued it to the growth area. He did not want to create a more stringent standard for outside city limits. He was trying to make sure they did not create lots which could not have a septic system. Currently, inside city limits if they were not able to hook onto the sewer system the same standard would apply. They needed a permit from the Department of Health prior to the lot being created. In the past the approval had been contingent upon a permit from the State Department of Health. He was asking that before they submitted an application to the city for a

lot split or a subdivision, he wanted the permit in hand approving that it will work. He wanted to make sure that they did not create lots that they could not build on.

Alderman Young stated he wanted to make it clear that it was going to be the city's policy that they had to have the permit for a septic system, when they came to the city for approval from the Planning Commission.

Mr. Conklin replied that was correct for anything less than one acre and a half. It was going to cost land owners money if they chose to subdivide their land into lots less than an acre and a half. What he was trying to match what they currently did inside city limits. They needed to make sure the system would work on that land.

Alderman Daniel asked if there was any alternative if they were denied a permit.

Mr. Conklin replied if they were denied the permit, it typically meant they would have to have a larger lot size or another type of system to handle their sewage. They would have to have something that would work before they submitted it to the Planning Office.

**Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Austin seconded the motion.**

Mr. Rick Johnson, Arkansas State Health Department, stated the Health Department had regulated the septic systems since 1977. They did not have an acreage size requirement. They required that the site must be suitable and they must have room for an alternate system in order for them to issue the permit. The subdivision was a little different, if someone took three or more lots in any part for sale, they would look at each individual lot. They were now using a system called Soil Morphology. They would look at a pit, the profile of the soil on every lot in the subdivision then they would issue the approval of the subdivision based on the soil morphology. If they soil was not acceptable for a septic system then they would not approve it. All septic systems within Washington County must come before the Health Department for approval. There were no exemptions.

Alderman Trumbo asked if this raised development standards.

Mr. Johnson replied it had raised standards. He thought they had a good system in the State of Arkansas, probably one of the best in the nation.

Alderman Reynolds asked how far the lateral fields had to be from their neighbor.

Mr. Johnson replied the usual amount was ten feet. They had to keep any part of the system ten feet from property lines, ten feet from the building. They were also setbacks from wells that

they would have to adhere to. They tried to catch sites that were not suitable before development.

Ms. Colleen Gaston, 3270 Rom Orchard Road, stated she was concerned about the change in the ordinance. It may tend to encourage development in the growth area. Her concern was the water quality for both the White River and the Illinois River water shed. She was not sure that the Health Department would take into account the accumulative effect. If they were encouraging more dense development in the growth area and increasing the septic systems that there might be some negative accumulative effect. She asked them to think about it in terms of Urban Planning and if this was promoting sprawl. She asked for some discussion to whether it did promote that. She thought the exemption within the city limits to allow less than an acre and a half-made sense because there were very few area within the city limits that were not accessible by sewer system. It was her understanding that no sewer was available in the growth area and would not be for some time. When those areas were brought into the city, did they want the responsibility for the problems.

Alderman Daniel stated they were receiving more requests for lot splits.

Mr. Conklin stated he was relying on the Arkansas Department of Health insure that the systems were going to work. In order to serve these areas with a sewer system when they were annexed, they would need the density to extend sewers. He had looked at the density and he was relying on the State to make sure the systems were going to work on less than an acre and a half. This was something that has been occurring for many years. In the past he had to react to these lots. He was very uncomfortable granting any type of variance without the permit from the Department of Health. He was not going to recommend anymore lots less than an acre and a half without that proof, which was a change in how Washington County had been handling lot splits. He was trying to make sure that they were protecting their ground water by making sure the Health Department was permitting these.

Alderman Santos stated this was more of an anti-sprawl measure. Larger lots made them think of creating sprawl. Creating smaller lots were less tasking on the infrastructure. If there was no individual effect there would be no accumulative effect. They were better getting a scientific analysis on whether a system would work on a lot or assuming that it would work.

Ms. Gaston stated there were known problems with septic systems. There were no guarantee that once they were permitted that they would be maintained and ran properly. So when they increased the number of systems they had in an area there was a probability that some of them would not be maintained properly.

Alderman Santos stated he did not believe there would be an accumulative effect if there was no individual effect. This was a much better guarantee than the existing system.

Mr. Conklin explained he had met with Washington County staff and discussed planning procedures within the city, because it had impacted the cities. Before he would receive a paper from the county stating lots were created subject to septic system approval from the Department of Health. That made him uncomfortable. He did not want to make the standard more restrictive than what they required inside the city limits for septic system. The two standards would match. He wanted to make sure they did not end up with lots in the planning area which could not have a septic system. He had reacted to parcels that were three-quarter of an acre. A lot of the lot splits he had seen had an existing house in which the extra acreage was split off to sell. That was one reason why they required existing septic systems on the plat. Before he was having to react to a lot split request where he had no idea where the existing septic system was located or the alternate leach field was. He was trying to be pro-active and to make sure things would work in the future.

Alderman Daniel agreed with Ms. Gaston in the belief that it encouraged urban sprawl and it would also impact traffic and other aspects of our city.

Mr. Conklin replied urban sprawl could be better addressed with zoning. Density or amount of acreage was not dependant of the septic system. There was not a magic number. If they were worried about density in the county, it was more of a zoning issue. Under State law if the County wanted to regulate density, they could. The city did not have the authority to regulate density in the county. He was not recommended that they regulate density by the minimum size for a septic system.

Alderman Trumbo stated they had not been able to regulate density in subdivisions and development that were contiguous to the city limits. What they had done in the past was annex the land to up the standards of the development to their city ordinances which were more strict than the counties.

Mr. Conklin stated that was correct. He encouraged developers to annex into the city to hook onto their sewer.

Alderman Russell asked how often they did that, and compared to the number that did not annex into the city.

Mr. Conklin replied if the sewer was available, typically they would bring the subdivision into the city limits. They could have more lots. Their yield on the number of lots could be increased because they were not on a septic system.

Ms. Gaston stated she thought it was good to require the permit up front, but she did not think they were accurate in their ability to regulate growth in the in the growth area.

Alderman Trumbo stated he did not believe the city could regulate density in the county.

Alderman Santos stated the State planning could not allow them to do anything like zoning in the county. That was the topic of their American Planning Association conference this year. It was really a State Legislature issue and not a City Council issue.

**Vice Mayor Trumbo called for the vote. Upon roll call the motion carried unanimously.**

*Mr. Rose read the ordinance.*

**Vice Mayor Trumbo asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

*ORDINANCE 4263 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**PLANNING COMMISSION APPEAL:** An appeal of a Planning Commission decision which denied rezoning request RZ 00-20.00 for property located at 2116 E. Joyce Street. The request is to rezone the property from A-1 to R-O. The ordinance was left on the first reading at the July 18, 2000 meeting.

*Mr. Rose read the ordinance.*

Alderman Davis asked Dr. Israel if he had looked at Ms. Hesse's letter and if he had any problems with the letter she wrote to the council.

Dr. Israel stated he had just received the letter tonight. There were some things he would have trouble with. His plan was to use the tree canopy on the north side of the property to meet the city's ordinance on tree canopy. He did not believe they should be asked to provide more than twenty percent trees since the property was not covered by more than twenty percent trees now.

Alderman Russell asked Dr. Israel if it was his understanding that Ms. Hesse was requiring him to do more than twenty percent.

Dr. Israel thought the letter was a little ambiguous. It stated the trees on the northern boundaries shall be left untouched. He did not know if she was talking about the fifty feet, but on the western side there was probably two hundred feet deep in trees. He was not sure what the requirement was from her letter. He had met on the site with Ms. Hesse, Mr. Gabriel and an engineer from the Benham Group. They had come to the conclusion that they was the best site to leave the trees. The trees in front was not significant and that the best place to leave the trees would be in the back. Because they did not know what the requirement of grading and permitting would and the large scale development, he thought that would be the best place to

work out what trees would be left and not left. It was their plan to meet the city requirement with the trees at the back of the property.

Alderman Davis stated Ms. Hesse's recommended twenty percent tree preservation was required in the R-O zoning to be located on the northern boundary.

Dr. Israel added the letter also stated that the current boundary would not be disturbed, although the width of the tree preservation area was not discussed. A fifty-foot buffer currently exist. He would like to specify that the "tree preservation area was to be left undisturbed and utility and drainage easements be outside that area." He was not sure that was required by ordinance.

Alderman Russell asked if the northern fifty feet more than twenty percent of the property.

Dr. Israel replied no, but the tree canopy on the western half of the property was one hundred fifty feet deep. When the letter stated, "the current tree area would be left undisturbed." He was not sure he understood what she was talking about. It was their intension to leave the northern fifty foot's buffer. The other issue he was confused about was that the Army Corp. of Engineers had declared it a wet land. But it was not a declared wet land area. Either the owner was misinformed or he was misinformed. The Corp. of Engineers had stated that was not a wet land area. They had walked over it and reviewed it and had not classified it as a wet land area. They called it a USA Waterway. It meant the stream only was protected and not outside the stream. There was a need for them to leave the northwest corner in place. That was where most of the drainage went into the creek. They would want to leave that in place.

Alderman Santos stated from reading the letter it was his understanding that Ms. Hesse was asking him to leave the northern fifty feet as a buffer. Was that okay with him?

Dr. Israel state he wanted to leave it there, but he was not sure that she would speak for the Planning Commission.

Alderman Russell stated the Planning Commission had the power to recommend something different from what she recommended. The way that he took the letter was that she was letting them know up front what her recommendation to them was going to be.

Mr. Conklin stated that was how he read the letter. Typically when they received a site plan for large scale development, she would review it and make a recommendation. She had gone prior to the rezoning and made a recommendation of fifty feet. The Planning Commission, when everything else is considered, there may be something different that would come out. There was no guarantee until the Planning Commission voted to approve. What they saw before them was a recommendation from the Landscape Administration putting Dr. Israel on notice that she would be looking for a tree preservation area on the north boundary line of twenty percent.

Alderman Russell stated it was rare that when Ms. Hesse and the developer agreed on an area for tree preservation that the Planning Commission would want to do something different. They always could, but it was rare.

Alderman Trumbo stated he like the way this had developed. Ms. Hesse had expressed during the rezoning that this was what she was going to recommend at this particular point. Right now they were just considering the rezoning to R-O, then if there was a problem with the tree preservation plan between the developer and Ms. Hesse then it could return to this council.

Dr. Israel stated in their mind it was the best place to leave it. They wanted to preserve the back fifty feet, if that was what it was, if it met the city's requirement and did not contradict the grading and drainage systems.

Alderman Trumbo asked the reasoning behind the Planning Commission denying the rezoning.

Mr. Conklin explained the Planning Commission had adopted bylaws. In those bylaw they required finding to be made. One of those finds had to be if the zoning was needed or justified at this time. They looked at existing R-O areas and felt that there was adequate area. There had been some discussion on amending the applicant's request. Their concern had been in regards to drainage and where the water was going back toward the wetland. There were a couple of issues, but they did not have enough votes to carry it to the Council.

Alderman Reynolds stated he believed if the Planning Commission had the information that they had in hand the last two meetings they would not have denied this.

Alderman Santos stated Dr. Israel was still not willing to cede that fifty foot buffer.

Alderman Young stated the Planning Commission had not had the information on the drainage. The applicant had not been there. The only thing they could do was deny it. He thought they would have approved it, if they had the information.

Dr. Israel stated he was also developing a six-acre tract on the same street. He believed the area would be rapidly developing.

Mr. Greg Galbraith, Ozark Regional Land Trust, stated Dr. Hudson had part of the property declared a wet land. There was no question that any disturbance to the back side of the property would impact the drainage and their plans for the property. It was his understanding that Dr. Israel and Ms. Hesse were in agreement with protecting the tree a minimum of fifty feet along the entire north border of the property. That would satisfy them. Therefore they would support and recommend that the Council go ahead and approve the zoning.

**Alderman Daniel moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion unanimously.**

*Mr. Rose read the ordinance.*

**Vice Mayor Trumbo asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

*ORDINANCE 4264 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**NEW BUSINESS**

**AD 00-22:** A resolution amending the City's Master Street Plan by eliminating a collector street between Prairie Ave. and W. Sixth Street within the property at 404 W. Sixth Street, at the northeast corner of S. School Ave. and W. Sixth Street and reclassifying Prairie Street west of West Ave. and Government Ave. between Prairie Ave. and W. Sixth Street as collector streets.

Alderman Trumbo stated he thought they needed to work with these developer's to enhance an eye sore that they had on the south part of town. He thought they should help these investors.

Alderman Daniel agreed adding that it would help the area.

Alderman Reynolds stated they had done a great job. He would fully support it.

Alderman Austin noted there had been four neighbors that spoke for it at Planning Commission.

Alderman Trumbo stated it could only enhance the value of the surrounding property owners.

Alderman Davis thought it might help encourage other development in the area.

Alderman Santos stated they would be eliminating the street when they revised the Master Street Plan.

**Alderman Santos moved to approve the resolution. Alderman Reynolds seconded the motion.**

Alderman Davis stated normally they required the developer to put in a road.

Mr. Conklin stated the original agreement was to dedicate seventy feet of right-of-way and typically they could build half of the street along with a sidewalk.

Alderman Davis asked who would be responsible for building that portion of the multi-use trail through there.

Mr. Conklin stated they had agreed to dedicate the area and build the trail.

**Upon roll call the motion carried unanimously.**

*RESOLUTION 111-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**AD 00-23:** A resolution amending the City's Master Street Plan by accepting a lesser dedication of right-of-way along W. Sixth Street just west of S. School Ave. only where the footprint of an existing structure encroaches into the required Master Street Plan right-of-way.

There was no public comment.

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

*RESOLUTION 112-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**AD 00-26:** An ordinance adopting the Flood Hazard Study, Phase II, provided by the US Army Corps of Engineering for use in managing flood plains within the City of Fayetteville as supplement to the previously adopted Flood Damage Prevention Code (Chapter 153) of the UDO, adopted by Ordinance 4011, January 7, 1997.

*Mr. Rose read the ordinance.*

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

Alderman Davis explained flood rates for insurances were set up by the government, so all carriers would have the same rate.

**Alderman Russell moved to suspend the rules and move the third and final reading. Alderman Austin seconded the motion.**

In response to questions from Alderman Daniel, Mr. Conklin stated they were looking at the tributaries for Town Branch, Cato Springs Branch. He was receiving this data in pieces. They were focusing on different water sheds and basins. As they received it, they would send it to FEMA to incorporate into a flood insurance map. They were currently waiting on additional information. At this time he was wanting to adopt what the Corp. had put together and to use it

for flood plain management purposes. They had approximately sixty percent of the city in /digital format. They used this every day for building permits. It has been a great benefit to the city and their GIS system. Town Branch had been approved. The only map he had given them tonight was the tributaries they were adopting the new study for.

**Upon roll call the motion carried unanimously.**

**Vice Mayor Trumbo asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

*ORDINANCE 4265 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

**MULTI-USE TRAIL:** Discussion regarding the possible purchase of abandoned railroad property.

*ITEM WAS REMOVED FROM THE AGENDA.*

**PARKING LEASES:** A resolution granting the Mayor or his representative authority to lease parking spaces at the Fayetteville Municipal Parking Deck or on other City owned or operated parking facilities, including Airport hangar leases, under the terms as agreed between the parties and in conformity with applicable ordinances. The lease amount is not to exceed $20,000 total.

Alderman Trumbo stated Mr. Maguire had been working on leasing various spaces of various city owned parking lots. This was surrounding Campbell-Bell, Town and Country, and the Bank of Fayetteville for landowners who have invested their capital in downtown square. This resolution would allow for the leasing of individual parking space to landowners of the downtown square. They had invested a lot of their capital on the downtown square. He thought this was an excellent move.

Alderman Austin agreed adding it would not pack the city council's agenda with a lot of small items.

Alderman Trumbo stated they had parking space in the past leased for twenty-five dollars a month. The TV station was leasing the spaces for fifty dollars per month. They had done a good job in looking at all their parking facilities and making it equitable. They were paying a below market rate. Now they were paying a market rate. They were increasing revenue for the city and they were helping the landowners.

Alderman Russell asked what the difference was between the way things were done now and the way things would be done if this would pass.

Mr. Maguire stated the resolution had been prompted by a meeting he had with Mr. Davis in regards to Airport leases that they had to renew each year. Those in the past had been approved by the Airport Board. They felt those should be under the City Council. They were in the process of changing that procedure, which was over a hundred pieces of paper. Mr. Davis had suggested streamlining the process so all the small leases including the parking spaces, by getting a blanket authority from the council. Then they would send it through the city process to review the leases on a routine bases. They were trying to cut down on some paper work.

Alderman Russell stated he saw Airport hangar leases and parking space leases down town as two separate issues. He understood not wanting the airport leases come before the council, because they did not really affect the public. He preferred to look at leases for parking spaces downtown, because it affected the public. The lease with the television station had passed unanimously.

Alderman Trumbo stated he thought they could streamline the process by giving the Mayor the authority to negotiate the leases.

Mr. Maguire stated they had been approached by the landowners on the west side of the square. They had two leases on his desk that would come to them, depending on the motion here tonight. The Fulton's were concerned about the public spaces being occupied by other than the customers. They were trying to re-establish public parking which could be identified for their customers. There was also another lease for two spaces. There would be four for the Fulton's and two for this other lease. They had reclaimed one parking space by moving a utility box, so there would be a net change of five parking spaces. They also had a lease pending with Ms. Greenwood for twenty spaces in the parking deck.

Alderman Young questioned what was wrong with bringing them before the council.

Alderman Austin asked if there were any lease agreements that exceeded twenty thousand dollars now.

Mr. Maguire stated the biggest lease would be the Greenwood lease which would be approximately nine hundred a month.

Alderman Davis stated this would give the merchants the opportunity to prove quality and accessible parking to their clients.

Alderman Russell stated he had no problem giving breaks to people who locate down town. In some cases he had no problem with leasing the parking spaces. He had a little bit of a problem streamlining the process. He preferred to look at them on a case by case basis. When they were dealing with city property that affected the general public on a daily basis he would like a chance

to look at it and to have public comment on it.

Alderman Davis asked Alderman Russell if he wanted to limit the number of spaces the Mayor had the authority to lease downtown.

Alderman Russell stated his point was anytime they were dealing with public property which affected the general public on a day by day basis, especially with a lease like this.

Alderman Davis stated he had worked downtown until three years ago. And what happened was that too many of the people who worked in the businesses parked next to the stores. They would go out every two hours and plug the meters. This would take those spaces away and make those people go one or two rows further back and it would give the person going downtown to shop to use those rows.

Alderman Young stated that was not what this resolution did. Those people could come to the council and have that done. They could be in front of them now. It was saying they did not have to come before them. It was not whether or not they wanted to have customer parking. It was just how it occurred.

Mr. Maguire stated they had focused on the people who had property on the west side of the square. They were trying to protect their customer parking. Setting aside parking spaces for those spaces. If they had a parking meter or gate. They had sold or rented those spaces on a month to month basis. It was still taking away the public parking and giving it to individual. To him this designated it back to the customers' public parking and not just public parking, but customer public parking. To him that was more important to protect.

Alderman Santos stated they were dealing with administrative items which were the responsibility of the mayor and his staff, with the exception of the downtown parking wheree the mayor and his staff were making decisions which favored one particular merchant over another merchant. He wanted to keep enough public spaces open that all the merchants had a place for their customers to parking and not to allow all the spaces to monopolize by a few merchants. He thought those decisions should be made by the council and not by the administration because it was an issue that affected the general public and had an influence on the success or failure of individual business. It was too much power to concentrate in the administrative branch. He suggested rewriting the resolution to have the airport lease go to the mayor and to leave the downtown parking, or C-4 zoning districts, that the council would look at all leases.

Alderman Davis suggested limiting the number of spaces allowed per merchant and to give the mayor the opportunity to do that. There were people who were waiting to have spaces.

Alderman Austin stated he did not believe this was about preferential treatment. And if it

implied that it was he would be against it. He thought it was about streamlining government.

Alderman Santos stated he was not saying that there was preferential treatment here, but it opened the door for that possibility.

Alderman Trumbo stated this was an administrative item and it did streamline. As a business owner when they were looking at cash flow and profit margins, they were not going to pay for spaces until they had adequate sale and revenue that was make it an acceptable business expense.

Alderman Young stated it would be streamlining government, but they would be taking the public out of it. The public around the square might be another merchant that might have an interest in those parking spaces, but he did not know a negotiation for a lease was going on.

In response to questions, Mr. Rose stated there was a statute on the books that said that every time they leased property it had to be in writing and had to be approved by the majority vote of the city council. This resolution was to pre-approve those leases. Mr. Maguire had indicated that he would withdraw the proposed resolution and that they would bring individual leases before the council.

Ms. Apryl Okorofar, Parking Management Coordinator, stated parking on the square was very challenging on the square between the hours of 8:00a.m thru 5:00 p.m. on Monday thru Friday. She wanted to make sure that they were aware of the resolution in question what it was going to allow. If approved, the resolution will allow the leasing of public parking spaces on the square to anyone. The resolution did not specify which lots would be covered. It left it open to any public owned or operated parking lot. If they were going to lease these spaces. Currently their gated lots were not the most convenient spaces that a customer would want to use. The gated lots were to encourage to be used by people who worked on the square. The current resolution did not dictate where on the lot the spaces could be leased. At the moment they could lease any where on the lot. It could lead them to a situation of having several leased spaces mixed with metered spaces. Which could cause confusion to people who were not use to the way things were in the downtown area? The passing the resolution would not give the council the opportunity to review the leases. She asked them to not vote on the resolution until an ordinance could be brought forward to regulate the leasing of the public parking. Conformity would make it easier for the general public. They needed to able to recognize a leased space from another type of space. Currently they only had metered and timed parking and gated lot situation. When they opened up the leased market and not regulate the type of signage required. They were going to cause confusion. They needed to define who could lease the spaces. They needed to have written guidelines.

In response to questions from Alderman Trumbo, Ms. Okorofar stated her opinion had not been sought for the leasing of the thirteen spaces to the television station. She felt the location of the

spaces has hurt the general public. Those were where their short term parking had been to encourage turn over to bring the clientele up to the square. She would have recommended leasing the spaces to furtherest end of the lot. And she would have left the most convenient spaces to the customer. She recommended all leased spaces be located at the back of the lot. If they had to lease public spaces. She preferred that they did not have to lease public spaces. They were in a very restricted situation. Any development would restrict their situation even more. In the future they were looking at developing parking decks. The cost of developing the parking deck was the lost of a parking lot. Once they started leasing spaces located in their parking lot, it reduced the number even more. The options for the general public would become even less.

Alderman Daniel asked that when the Town Center was completed, would that parking deck help the parking situation.

Ms. Okorofar replied it would depend on how booked the facility was. If they were fully booked, it would not help the parking the situation and depending on how big the event was the square would fill the impact. They could not look at that facility as a solution to the parking problems.

Alderman Austin asked if she was speaking from her position as Parking Manager.

Ms. Okorofar replied this was something she probably should have been involved in. Her position was Parking Management Coordinator. She felt that she should have been involved in the decision making process.

**Alderman Santos moved to table the resolution. Alderman Daniel seconded the motion.**

Mr. Dan Coody, an area resident, asked if on the airport question. He asked if there had been a problem with the decisions made by the Airport Board.

Mr. Rose stated he had not recalled any problem with any airport hangar leases. They had not gone to the city council before. He was concerned about that because of the statute that required leases to go to the city council. He had rationalized those in the past because these were construction with the authority of the city council specifically for rental purposes. That was the purpose for which they were built. He would like to be on a little firmer ground. One way was by the resolution. The other way was to bring each airport hangar lease to the council for them to approve.

Alderman Russell asked if the ordinance creating the Airport Board turned the management of the airport to the Board.

Mr. Rose replied he would feel better if it were clearer.

**Upon roll call the motion to table carried unanimously.**

*THE RESOLUTION WAS TABLED.*

**ROLLBACK:** A resolution approving a settlement of litigation regarding the rollback of ad valorem taxes for the years 1994 through 1999.

Mr. Rose explained this lawsuits was about the interpretation of the Amendment No. 59 to the Arkansas Constitution. Amendment 59 was a long and complicated. The headline in it and the thing that everyone agreed upon was that there could not be any increase in over ten percent in the agreed assessment base over the previous year. Their defenses had been that they did not think that they had gone over ten percent. The second was that the Amendment 59 required a state wide appraisal and there had not been one. There was no completion of a county wide reappraisal. The court had split the case into a liability section and a damage section. They lost the liability section. The circuit court had already told them that they were in violation of Amendment 59. If they did not settle tonight, they would proceed on and they would in September, go back before the court to argue over how much if any their damages should be. The settlement stated they were going to agree to pay a total amount of the refund to the people who paid this ad velum millage tax. That was city property tax. They had one mill, half for police pension and half for the fire pension. They were going to limit their total liability in terms of refunds in the amount of $213,469.50. To all the class members who file a claim would be paid on a pro-rata basis less court approved attorney fees. The attorney fees, the plaintiffs, were asking for one-third of the $213,469.50 as their attorney fees. The city did not agree in the settlement to that, but agreed not to object to that. The refund process was going to follow the same process as the county's refund process, which required a form to be mailed to the people who have paid that tax, they would then return that form to the city. Once all the forms had been turned in, they would be paid out of what was left of the $213,469.50 on a pro-rata basis their pro-rata share. It was the first time the he could remember that the city had been a relatively minor player in a relatively large lawsuits. The millage would be rolled back from one mill to .8 mills. Two-tenth of a mill. It would be rolled back as a result of this settlement agreement. He noted there had been an addition of 4.5 which stipulated that the damages to the plaintiffs was going to be the time value of their money on any amounts which were due for payment. That was in there because the plaintiff would like for there to be a high bond, if anyone wished to appeal.

Alderman Daniel question how long the roll back of the millage would have to remain in place.

Mr. Rose replied he was not sure. Milage lasted for one year. They come to the council each year in October. His best guess was that anytime they met to pass their millage that they could change their millage. He thought this stipulation would bind the city for this year to reduce their millage to .8, but in a future year they could probably raise the millage. They would be raising

their millage because they had decided to have a Senior Center. The only other money they were going to have to pay would be some administrative cost of processing the refund. The settlement would take away the risk of the court determining the damages which could be more or less. Mr. Rose stated he thought it was prudent and wise to agree to this settlement.

Alderman Reynolds asked where this would leave the Police and Fire Pension.

Mr. Rose replied no decision had been made at this time as to where the money would be taken from. It might be taken from the account of the people who receive the money, which was the Fire and Police Fund. That was not a decision that had been made at this time. He state the decision would before them in the form of a budget adjustment.

**Alderman Austin moved to approve the settlement. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.**

*RESOLUTION 113-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.*

Meeting adjourned at 9:30 p.m.