MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
SEPTEMBER 5, 2000

A meeting of the Fayetteville City Council was held on September 5, 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, Davis, Trumbo, Daniel, Santos, Young, and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press, and Audience.

ABSENT: Alderman Austin.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Approval of the minutes from the August 1, 2000 meeting.

ERNEST LANCASTER DRIVE
A resolution approving a contract for the construction of the "Ernest Lancaster Drive Extension" with Harrison Davis Construction Company in the amount of $243,473.00 with a 15% project contingency of $36,520.00. Authorization for the Mayor to sign the FAA grant upon its arrival and after staff review is also requested.

RESOLUTION 120-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOLID WASTE BUDGET
A resolution approving a budget adjustment in the amount of $126,769 to adjust the personnel services category of the Solid Waste budget.

RESOLUTION 121-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ROLLBACK SETTLEMENT
A resolution approving a budget adjustment to appropriate funds for the rollback of ad valorem taxes lawsuit for the years 1994 through 1999 settlement approved at the City Council meeting on August 1, 2000.

RESOLUTION 122-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS

WINGS AIR, INC.
A resolution approving a lease agreement with Wings Air, Inc. for an above ground facility which they will locate south of the terminal building ramp. This will allow self-service fueling by the pilot using a credit card. Annual compensation will be $384.00 for the ground area with three three-year renewal options. Flowage fees will be remitted to the City as set forth in Section 91.16 of the Code of Fayetteville. The item was tabled at the last meeting.

Alderman Davis asked where the tank would be located on the airfield.

Mr. Schossow, Wings Air, presented an aerial photo and map illustrating the location of the proposed fuel tanks.

Alderman Daniel questioned the life of the tank.

Mr. Schossow replied he was not exactly sure, but elpined it was an above ground system in a containment area, which had a filtering system. He estimated its life at least twenty years or more. Adding they would be inspected regularly.

Alderman Daniel stated the phone calls she had received lead her to believe this was a good thing. She believed in competition.

Alderman Davis stated he like what he saw, but expressed concern about the location. He questioned if having the tank that close to the terminal would deter someone else from opening up an FBO in the terminal?

Mr. Rick McKinney, Airport Board, explained the current FBO was situated mid-field. There was a lot of space next to the terminal inside the fence. There was room for expansion of the self-service units. He did not see it as either a benefit or deterrent. Adding there was little happening at the terminal now.

Mayor Hanna stated he had received several calls from people who were afraid that if they approved this lease that it will cut down on the quality of service they were get from the full service FBO.

Mr. McKinney replied he had received a letter from the current FBO that they were reducing weekend services later this month. He thought this would have happened regardless. They were under tight budgets because of the loss of the airline services. He did not think this would cause the current FBO to feel like they needed to reduce their service, because there was only a small percentage of the general aviation market that would do self-serve fuel. The remainder of them would continue to use the other services provided by the FBO. He added Fayetteville Air Service had the opportunity to do this in 1997. The minutes of the Airport meeting stated that they had discussed it. There had been a survey sent in 1997 to the existing tenants and the response to that survey was that there was not enough support and interest to go to the expense of putting this type of self-service fueling system in. Fayetteville Air had opted not to address it. The Airport Board and the City were mandated by the FFA to make a decision on the lease. Adding, anytime an airport was Federally funded the FFA regulations applied. The regulations stated they could not deny service to someone who wants to come onto the field and provide a business or service to the airport community. If they did, then they stood to lose percentage of their federal funding. It was a Federal regulation. They could not compromise. The board had looked at that. They wanted to stay within the FFA Regulations. Adding, the Airport Board liked the free enterprise aspect and competition did breed some good deals for the consumers.

Alderman Russell asked Mr. McKinney if it was his opinion that they would be in violation of the federal regulations and risk losing their federal funding if they denied this request.

Mr. McKinney replied it would be a percentage of the federal funding. They would definitely lose a percentage of federal funding. They had to allow people to do business at the airport if they wanted to. The business had to follow the minimum standards, which set out the requirements that they had to comply with. The city's ordinances were very tough on the Airport.

Mr. Chuck Chadwick, Fayetteville Air, stated as best he could recall was that they had discussed this three years ago. The position that Fayetteville Air Service had taken was that if it was feasible and the City felt that it was feasible that they would go forward with it. The City had done their own study. It had come back that it was not feasible to do. He stated the city was treating them with two different standards. The location of this proposed tank was going to be all the way across the field from Mr. Schossow avionics shop. To his knowledge, the service aspect was not part of this proposal, he had not seen anything. He had not seen a commitment from Wings Aviation on what they were going to provide except for a self fueling station. That was where Fayetteville Air Services' argument was with this proposal. He questioned if they were going to be required to provide the same services that Fayetteville Air was required to provide.

Alderman Young suggested to Mr. Chadwick that if they were only using two tanks of their four tank that use the remaining two tanks for a self service situation.

Mr. Chadwick replied they had not considered before. Their tanks were owned by the City. They only leased them. When the studies had been done, the feasibility of a self-service tank was non-existent. He thought they were sitting a bad precedent by letting people take fuel sales off the field without providing the services that were normally associated with it.

In response to questions from Alderman Daniel, Mr. McKinney explained the services they were discussing were a loner car, a pilot briefing room with computer availability to weather and radar, restrooms, and mechanical. Those were the types of services and amenities Mr. Chadwick was talking about.

Alderman Daniel asked if Wings Air should be required to provide services like those

Mr. McKinney replied he did not believe someone would pull up to the self-service with the intent to look for other service. Mr. Schossow had told him that he was going to post a sign on the tanks showing what was available across the field. Mr. Schossow had assured him he kept a car there that he called his airport car. It was available for loan. Their building was a city owned with ADA restrooms. He had a computer with weather and radar information available. He also had an avionics shop and mechanical services. There were trade offs such as Fayetteville Air Service did not offer avionics but, Wings Air did. There were a few differences between the two business. These services were across the field from where his fueling station was going to be. From where he was as a tenant, Fayetteville Air Service was across the field. They were looking to service the resident tenants and those that come through. They were wanting them to return. He thought there was a difference of opinion between two business. They needed to provide things that were good for the airport and the community. And not what was best for one business or the other.

Mr. Donald Wilson, attorney for Wings Air, stated the main issue was the lease agreement. Wings Air had stated they would comply with the minimum standards. Everything could not be complied with until they got the service up and operating. They could not have employees, until they were ready. Those requirement would be there. It was part of the lease agreement as well. He read two paragraphs from the FFA assurances which stated they will not permit exclusive right of use of the airport by any person providing or intending to provide aeronautical services to the public. The providing of the services at an airport by a single fixed based operator shall not be construed by an exclusive right if both of the following apply. It would be unreasonable costly and burdensome for more than fixed based operator to provide such services and if allowing more than one fixed based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed based operator at such airport. He submitted to them that the current lease agreement in no way interfered with any present lease agreement. Both of those requirements have not been met. There was no exclusive right for one FBO to operate out there. He felt they met the requirements. His interpretation of the airport assurances were that they could lose FFA funding. There were web sites on the Internet which would give them the cheapest or best routes. The present FBO controlled three of the fueling facilities in the area, Northwest Air, Springdale Air, and Fayetteville Air. The fuel prices were kept at the same level. Where was the incentive for anyone to land in Fayetteville. They were not competing with the current FBO. Their intention were to compete with the people who wanted to go from Memphis to Denver, from Dallas to

Saint Louis. They believe more aircrafts would be drawn into Fayetteville. Wings Air was trying to build something of this airport and they were trying to further the facilities that would be available. Wings Air was not waiting for traffic from the Fayetteville hangars to come over and fill their planes. There were looking in a much broader scope. He thought that general aviation would show up here. Wings Air in conjunction with Air BP were putting in this equipment in at their expense under a one year lease agreement with three one-year options. Those options were in the same agreement with the present FBO. If they lost it, the fuel farm went back to Fayetteville. They had spend money in preparing the ground and utilities that someone would have to remove. He did not think comparing the two were fair, because Fayetteville Air was leasing their tanks from the city and they were putting in their own. Wings Air had to comply with the lease agreement. The lease had already been approved by the Airport Board.

Ms. Paula Marinoni, an area resident, stated she was concerned about what was happening to the airport. To her there was an appearance that the City did not know what to do with the Airport and that there was no plan for the Airport. Fayetteville Air had made an investment. They had overhead and fixed cost, regardless of how many people came through there. Since the airlines and a lot of the other business from there had left the FBO was probably not making very much money. This company had three other FBO in the area. The other two were probably carring this one. They were staying because they had customers that had been flying in there a long time. She though if they had chosen to stay there then the City needed to help them. The City did not need to rush into situations just because it was more business. More business did not mean good business. What were the long term affects of this decision? She asked them to set the standard higher rather than settle for anything and to go after business that would help promote the vitality of the Airport.

Alderman Trumbo asked Ms. Marinoni if she had called any of the Airport Board members to asked them why they had recommended to the City Council to approve this lease.

Ms. Marinoni replied to her they appeared to be grasping for straws and looking for anything to come in, whether it was in the long term best interest of the Airport or not. She was speaking from an objective outsider's opinion.

Alderman Davis stated they were in the process of recuiting business to come into the airport. Other pilots that he had spoken with had told him that it was not a problem for them and that they thought it would be good for the airport.

Ms. Marinoni stated the economic development of depressed neighborhoods should encourage the ones that were there. Because if they had someone who had invested in it, they were a stronger link than someone who did not have an investment.

Mr. Chadwick stated they had maintained their fuel prices at Fayetteville by subsiding from their other companies. They did not want Fayetteville to be at a disadvantage when it came to fuel pricing. He asked that the other company be required to provide the same services that they were required to.

Ms. Alett Little, Economic Development Coordinator, stated Economic Development did have a plan for the development of the Airport. One marketing plan had been approved by the City Council in 1995. They also had a marketing plan which had been generated by the Chamber of Commerce which had been presented in June of 1999. She had contacted Don Harris, Project Manager with FFA. He had sent them information stating that FFA compliance guidelines stated that if adequate space was available on the Airport and if the Airport owner is not providing the service the airport is obligated to negotiate on reasonable terms for the lease of space needed by those activities offering services to the public to the extent that there may be a public need for such services. A willingness of prospective tenants to lease the space and to invest in the facilities required by reasonable standards were construded as establishing the need of the public for the services proposed to be offered. In this case it was his understanding that neither the airport nor the existing FBO offered twenty-four hour credit card self-service fueling. She reminded them that they were there to approve a lease. They were not there to talk about how someone else was doing on the field. They were there to talk about serving the people who used Fayetteville Airport. It was not only the people in Fayetteville, but transit customers.

Mr. Schossow stated they had located their business in Fayetteville three years ago when the Fayetteville airport was starting their decline. He had believed in bring their business to Fayetteville because of the possibilities for expansion. They had established their avionic shop. They had grown. He did not want to harm the airport, if he did it would harm his business. He thought if they could give them the opportunity to bring fuel and fair competition the field that they would see the field grow from that. They wanted to put this in this location because it gave them the opportunity to move into the terminal next year. They wanted to bring full service as they moved along. They met all the requirements to operate a full FBO. As soon as the opportunity was there BP had assured them that they would put in a Jet A tank. They wanted to make this a first class FBO. They were starting out with meager beginnings, but they did met all the requirements and they did have all the facilities in place. They were not going to be disappointed.

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

RESOLUTION 123-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FEE WAIVER
An ordinance waiving Large Scale Development fees for Wings Air, Inc.

Alderman Santos stated that they had covered this at the last meeting and had determined that the fee was not appropriate for the amount of development review that this project required. He thought they should grant the waiver.

Mr. Rose read the ordinance.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Daniels 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 ordiance.

Mayor Hanna asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.
ORDINANCE 4267 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

BOOM LIFT BID WAIVER
An ordinance approving a bid waiver for the purchase of one used self propelled articulated boom lift. This will allow the Mayor to approve the purchase of the unit recommended by the Fleet Operations, Building Maintenance, Parks Division, and the Equipment Committee.

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

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

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

Mayor Hanna asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4268 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

113 S. WILLOW RAZE AND REMOVAL
An resolution approving the raze and removal of the house located at 113 S. Willow Ave. as per Ordinance 3948.

Alderman Reynolds explained this property was in very bad shape and the kids were playing in them. The property was loaded with trash and brush. They had been asked by the property owners to tear them down, because they could not afford to deal with them. The houses were currantly vacant. There had been numerous violations and the City had not been able to get anything done on them.

Mr. Mike McKinney, City Inspector, stated the buildings had been closed and secured. The property on North Willow had been more recently occupied by a appliance repairman, who finished the property off. At that time they had contacted the property owners. The owners had been unable to care of the property. The owners needed help. They could not do it themselves. He stated there were others within the city that needed the same kind of help.

Alderman Daniel asked if the City was charging the owners anything.

Mr. McKinney replied the process required that the citizens be billed for the work. The city had the option to file a lean on the property up to eighteen months at the county courthouse. The lean would stand on the property for a limited amount of time.

Mr. Rose read from the City's code book, "that a lean may be enforced anytime within eighteen months after work had been done by an action of the Chancery court." He had to ask for a lean enforcement. He could let the lean remain fallow. He could seek judical sell of the propery.

Alderman Young stated that as he recalled, the lean would sit with the property.

Mr. Rose stated the amount of the lean could be determined at a hearing before the City Council held after thirty days written notice by certified mail to the owners. The City Council could try and collect it by taxes. Both methods were brutal. He did not intend to do anything unless they instructed him to as far as lean collection on these properties.

Aldlerman Reynolds stated one of the property owners did not want to be involved if the council chose to go one of those two ways. He did not want to go that route.

Mayor Hanna stated he thought the property should be torn down. It was a public safety issue. After the houses were removed and the bill presented, the City would have to pay it, at that time they could make the decision to file a lean.

Alderman Russell stated he was all for cleaning up the property, but he was not for doing it for free. He did not believe the tax payers should have to pay for people who were not maintaining their property up to code. He thought it was necessary. He thought they should have a lean sit on the property when the property was sold, then the City would recoup their cost.

Mr. Rose stated they could get a judgement lean and then if the property was ever sold then the debt would be settled.

Mayor Hanna added they were increasing the value of the property by having the houses removed.

Mr. Rose stated it was his understanding that he needed to prefect the lean and file it and calendar it so it would not expire.

Mr. McKinney stated the properties were a danger to the community and they were bringing down the remainer of that neighborhood as they exist now. They were limited by a lot of legal restrictions on how they could deal with people and this was the only avenue to deal with them. His only avenue was to condemn the property.

Alderman Trumbo moved to approve the resolution as presented. Alderman Daniel seconded the motion.

Ms. Paula Marinoni, resident, stated she had come before the council over four years ago about another raze and removal. She lived in the middle of town where homes were falling down, because there was no reason to keep them up. To take someone's home and tear it down was a very drastic measure. Would it not be more proactive to encourage people to keep their property up over time and to enforce the City's ordinances. They should have been enforcing these ordinances all along. There were many properties that were in violation and we did not do anything about it. There was a big portion of the city that was falling down. She challenged that the main mechanism available was to do their job and enforce their ordinances. She was very angry because she cared about the old buildings.

Alderman Reynolds stated the people in the these neighborhoods did not have the money to fix up the property. They had been deteriorate over a period of twenty years.

Ms. Marinoni stated that was why they needed to keep them up over a period of time. It was very dangerous to the community. They had to take a more proactive stand on this. If it was done a little bit over time, it would not get to this point. She thought they should put a lean on the property.

Alderman Trumbo stated it was part of the motion to place a lean on the property.

Mr. Rose stated the staff tried extremely hard to work with people and to get things corrected. He did not want to infer that City staff was not enforcing their ordinance. He felt that they were.

Alderman Reynolds stated the inspectors had a tough job. Where would those people go if they were put out of thier houses. Some of the people in those areas were pioneers of this city. They were poor and did not have anything. The City worked with them every day. The City could not put them out of those houses because they would just go some other part of town and do the same thing.

Ms. Marinoni stated if it was done over time it did not get this bad. She suggested giving away free paint. It was not just these two property. It was every where.

Alderman Reynolds stated he would love nothing better than to have them all cleaned up.

In response to questions from Alderman Russell, Mr. Rose explained if they were talking about unsightly or unsanitary conditions, then they were limited by Arkansas Statute 14-54-901. Which set forth what municipalities may do in eliminating unsightly or unsanitary conditions on their property. The City's ordinance virtually tracked that statute. It was a raze and removal statute. It was not very efficient. In the past, they have had problems with judges and trying to get them to agree with them. Some judges felt that a man's home was his castle, no matter how bad that home looked. He thought that the City's staff would agree that there were problems out there, but they had to work with what they had. They had tried very hard. They were limited by statute on what they could do.

Upon roll call the motion passed unanimously.

RESOLUTION 124-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

11 N. WILLOW RAZE AND REMOVAL: An resolution approving the raze and removal of the house located at 11 N. Willow Ave. as per Ordinance 3948.

Alderman Trumbo moved to approve the resolution and to have a lean placed on the property. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 125-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VOLUME BASED GARBAGE: An ordinance amending Ordinance 4111, 50.2, (B)(1)(a) to allow for the distribution of 104 33-gallon bags to households in the year 2001 and future years and implementation of a bag exchange program.

Mr. Rose read the ordinance.

Alderman Daniel stated she agreed with part of the amendment. She though the larger and stronger bags would make things easier. She did not agree with the increase in the number of bags. This did not prevent people from using more bags, people could still by more bags. They had a local, national and world responsibility on recycling.

Mayor Hanna stated the whole process they were using was still on trial. This was not the final version. They had been experimenting with carts in areas in town. The thirty-gallon trash bags would not fit in most trash cans. That was the reason behind the increase size. The committee and the solid waste division had decided they should keep the 102 bags for the next year in order to collect more data.

Alderman Santos stated they were only eight months into this program. He was willing to go along with keeping the program where it was now because it was not a perfect program. It was not as fair as he would like it to be. It was not as fair to the smaller users. They needed to charge for every bag. The collection of the waste should be shared equally, but the disposal of the waste was something they could measure the volume of and they should charge by the volume. To tighten the program now while people were just getting use to it and accepting it was not the right thing to do. They could wait another year until they had more data.

Alderman Davis stated they were ahead of the Four-County Solid Waste District. The plan was to be in place by 2002. He thought they were doing a wonderful job. Forty percent of the people wanted to continue to have the 102 bags per year. They wanted to have the larger bags to fit over the can. The city was listening to what the people wanted. Eighty-five percent of the citizens were recycling. He thought they should take their recommendation.

Alderman Russell moved to amend the ordinance and to stay with the current ordinance and to have seventy-eight bags rather than the hundred and four bags. Alderman Daniel seconded the motion.

Alderman Young stated he was not concerned about the seventy-eight or the hundred and four bags. His major concern was that they had a policy in place prior to the next year requirements for budgeting. He wanted to change the ordinance to added "for the year 2001".

Ms. Cheryl Zotti, Solid Waste, stated the recycling program was voluntary. The participation rate in most of Fayetteville was in the ninety's. What they would like to do was to keep the program stable and give them time to do research. She thought there would be changes, but until they were permanent changes she thought it was best to allow them to have the stability. When they did come back to them it would be a change that would affect every household. They would like to bring them very specific data and it be a one time change.

Alderman Russell asked if an audit had been done to sample the trash if see if people were recycling.

Ms. Zotti stated people were more conscious and were doing more plastic and paper board and those types of items. Most people were doing newspaper and aluminum. What they have done a better job of was educating people on plastic and paper board. They were planning on doing a citywide audit which they will count the number of bags at a house hold. This was part of their data gathering.

Ms. Anne Littel, resident and Environmental Concerns Committee, stated she thought they should stick with the seventy-eight bags. It was not a change, it was keeping what they said they were going to do in the first place. It was not equable to the small users and it was not fair to those smaller users. The financial incentive would make people recycle if they were going to save money. She thought they should keep pushing to get better at recycling and less volume. The landfill was the only one they could site in the four county solid waste area. There was no place with our geology that we could place a new land fill. They had to face shipping the trash away when it filled up.

Alderman Davis stated they did not know yet if they were going to use carts or bags. That was one of things that the study was going to determine. The people could use their left over bags. The others who have used all their bags were going to have to by bags. There was a cost saving to those individuals who use less bags.

In response to questions from Alderman Reynolds, Ms. Zotti stated comparing the first six months of this year to last year, their waste stream had been reduced by sixteen percent. It was important to note that. Residential waste stream was about thirty percent of the total. It was decreasing each year. The vast majority of what was going to their landfill was commercial waste. That was where the changes were going to have to be made if the wanted to save their landfill. The residents were doing a fabulous job. Sixteen percent was a large number when they were talking about thirty percent of a waste stream.

Mr. Randy Zurcher, resident, stated he was on the Environmental Concerns committee when this ordinance was adopted. They were now talking about increasing the base volume and keeping the same number of bags. This was the opposite of what they were talking about before.

Ms. Brenda Thiel, resident, stated the issue was to reduce the waste flow. She thought the sixteen percent was a fair start considering the lack of education. The citizens could do a better job. She did not feel that they needed to increase the volume. It was ten percent increase. She thought they should at the very least reduce the number of bags by ten percent, the amount of volume that they would acquire with the increase in size.

Mr. Bob Jorden, resident, stated he thought it was a step in the wrong direction to keep the same number of bags and to increase the volume by ten percent. They needed to encourage more recycling and less throwing. The faster they got to the pay as you through system the better they would be.

Ms. Fran Alexander, Friends for Fayetteville, she read a statement from Friends for Fayetteville explaining the importance of recycling and consumers demands. They urged the council to stay with the decision of the Environmental Concerns Committee from last year. She added the larger bags would add six gallons of volume per week to each household or the equivent of ten more bags per year. This would keep the city from going forward in reducing waste. Her personal position was that the program was not stable. If they were adding six more gallons per week they were going to be reeducating people in the wrong direction. In thirty years of volunteer work she could tell them it took five to ten times longer to reeducate people than it did to get it right the first time. They were going the wrong way if they increased the volume. They were assuming the wrong thing about the citizens. They were spending over two months income from the recycling program to supply people with bags. Recycling and reduction was a trickle down. They had to go from consumer to industry. If the consumer refused to by a product because it was not recyclable, then the manufacturer would change their packaging or materials. Recycling was changing merchandising.

Alderman Santos asked Alderman Russell if he would like to change his amendment ninety-one bags, which was half way between the two.

Alderman Russell withdrew his amendment and moved to change the number of bags from one hundred and four to ninety bags and deleting the words "every twelve months" and replacing them with the words "in the year 2001". Alderman Daniel seconded the motion. Upon roll call the motion carried unanimously.

Alderman Santos moved to suspend the rules and go to the second reading. Alderman Trumbo second the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Alderman Daniel 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 asked shall the ordinance pass. Upon roll call the ordinance carried.

ORDINANCE 4269 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 00-59: A resolution awarding Bid 00-59 to the only qualified bidder, Phoenix Recycling, for the purchase of plastic garbage bags to be used in the 2001 volume based program in the amount of $306,421 and approval of a budget adjustment in the amount of $140,421.

Mr. Rose asked what they were going to do with the $306,421.

Ms. Zotti suggested they chose "an amount not to exceed". What they would do was take the numbers back and go with the ninety bags per household. The bid would be less.

Mr. Rose stated the resolution would now read " in an amount not to exceed".

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

ORDINANCE 126-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

McDONALDS: An ordinance approving a cost-share agreement and a bid waiver in the amount of $90,015.00 with McDonald's Corporation for the design and widening of approximately 400 feet of Joyce Boulevard and installation of approximately 520 feet of 48" storm pipe along the widened portion of Joyce Boulevard and across Mall Lane.

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

Mayor Hanna asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4270 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

GATHA STEIN REIMBURSEMENT: A resolution authorizing the City to reimburse Ms. Gatha Stein an amount totaling $12,350.81 for doctor and hospital costs due to injuries received when Ms. Stein stepped in a hole at Walker Park resulting in breaking both ankles.

In response to questions, Ms. Connie Edmonston, Parks and Recreation, stated she did not believe their was any negligence done on the part of the Parks Department. It was impossible to comb three thousand acres to make sure there were no holes. Sometimes holes come the naturally, moles, children dig holes. It was impossible. She thought that was way there was tort immunity. She did not know about this until July. When she found out about it, they went out filled the hole with sand. They did have sidewalks that lead to the parking lot. She did not want anyone to get hurt in a park, but it happens and it was a risk they took. She did not believe that the City should be responsible for paying this. She believed if they did it for Ms. Stein, then they would have a lot more.

Ms. Gatha Steins, stated she had been hurt in Walker Park on June 23, 2000. She had been to a tournament, there was not a sidewalk from field seven to the pavilion. She had step in a large hole, fracturing both ankles. She explained her injuries and the surgery which had been required. She itemized her medical expenses which she was requesting reimbursement. She did not believe the accident had been caused by her own carelessness. The hole she had step in was one of four. She thought they had been remaining holes from removal of landscaping. The hole had not been seen because of the thickness of the grass. It was her belief that her injuries were a result of the city's failure to maintain the park. She requested at the very least to be reimbursed her medical bills. Any business would be responsible for her injuries.

Alderman Daniel stated Ms. Stein was not involved in any risky behavior. She thought it was reasonable for a citizen to walk along an area and not fall.

Mr. Rose stated he had a great deal of sympathy for Ms. Steins, the legal part of this was straight forward. Every municipality in the State of Arkansas was given tort immunity. They were capable to pay the damages. They could settle claims. They had not done it in the past. They had paid on occasion peoples deductibles. By ordinance they had a provision for sewer back ups. They were not responsible for natural holes in their park land. If they had caused the hole to be dug, then he would recommend payment.

Ms. Edmonston stated there had never been any trees planted in that area.

Alderman Daniel moved to pass the resolution. Alderman Trumbo seconded the motion. Upon roll call the motion failed by a vote of 1-6-0. Reynolds, Davis, Trumbo, Santos,

Young and Russell voting nay.

RESOLUTION FAILED.

CAMPBELL-BELL BUILDING PARKING LEASE: A resolution approving a one-year lease agreement with Campbell-Bell Building LLC, for two parking spaces in the parking lot west of the Campbell Bell Building.

TABLED.

TED BELDEN PARKING LEASE: A resolution approving a one-year lease agreement with Ted Belden (Campbell-Bell Building) for one parking space in the parking lot west of the Campbell Bell Building.

TABLED.

GAIL AND JERRY MOORE PARKING LEASE: A resolution approving a one-year lease with Gail and Jerry Moore (Campbell Bell Building) for two parking spaces west of the Campbell Bell Building.

TABLED.

Mayor Hanna stated the parking leases had been removed from the agenda.

Alderman Trumbo moved to table the parking leases until the next meeting. Alderman Russell seconded the motion. Upon roll call the motion carried unanimously.

Meeting adjourned at 9:30 p.m.