MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
SEPTEMBER 19, 2000

A meeting of the Fayetteville City Council was held on September 19, 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 and Russell, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press and Audience.

NOMINATING COMMITTEE REPORT

Alderman Daniel moved to appoint Mike Hill to the Parks and Recreation Advisory Board. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

CONSENT AGENDA

APPROVAL OF THE MINUTES
Approval of the minutes from the August 15, 2000 City Council meeting.

BOND DEALER SERVICES
A resolution approving a contract with the Bank of America Securities for variable rate demand bond dealer services and authorize the Mayor and City Clerk to execute the contracts. Budget adjustment authorization is also requested to implement contracts.

RESOLUTION 127-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

EXECUTIVE SQUARE
A resolution approving an encroachment into city right-of-way for the purpose of constructing a balcony on the north wall of #1 West Mountain Street for Executive Square, Inc.

RESOLUTION 128-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS

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.

TED BELDEN PARKING LEASES
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.

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.

Mayor Hanna stated they could discuss these three items together, however, they would have to vote separately on them.

Mr. Rick Alexander, representing the Campbell-Bell Building, the Beldens, and the Moores. These were one-year leases for the residences which were being constructed in the Campbell-Bell Building. This was for a year lease above the market rate. This was a short term proposition. He understood that some of the aldermen had reservations because there was no parking policy in place. He supported the development of the parking policy. He suggested rather than to deny these individuals this concession that the council approve these leases. In the event that they were not in agreement with the parking policy or they did not conform to the parking policy, since they were only one year leases. The Council could revisit the leases. The council has approved similar leases in the past to NBC and to a couple of the other owners. He supported those leases. It was not too long ago that the Campbell-Building was an abandoned eye-soar on the square. They had spent between eight and nine million dollars renovating the structure. NBC was now occupying some of the structure and they had brought fifty-five new jobs to the square. He stated that he felt that if the developers had come to the city first and asked for the spaces in exchange to the develop the property, he thought they would have granted the request. This was a small concession. They were not asking for a concession on the rate, they were in fact offering more money than the market rate. He supported the development of a parking policy, however, he did not believe these leases should be held up pending the development of the policy. It could take months or years. In the event a policy is developed and theses leases did not conform to it, the city would be free to revisit those lease. This was the type of thing the city could do to encourage the mixed-use development of downtown properties, at no cost to the City, even at a profit. There was a lot of parking available, once the construction companies were finished with the Town Center and the Campbell Bell-Building, they would see about three to four hundred parking space become available. This was a good development because it was not just commercial or office. The Campbell Bell Building would house retail, office, television station, and four private residences. This would bring thousands of dollars in revenues and taxes and business to the downtown area.

Alderman Trumbo stated the City had just picked an architectural firm for a parking deck to be constructed on that lot.

Mr. Alexander stated the good news was that the square was not dead. This was the type of development that they wanted to see downtown. Prior to the development of the Campbell Bell Building there had been plenty of parking back there, because there was no reason to go there. It had been an abandoned twenty-four thousand square foot building with nothing in it. He hoped there was a parking problem downtown. It was a short term concession. The lease could be revisited in twelve months.

In response to questions and concerns from Alderman Daniel, Mr. Alexander stated there was enough parking for the downtown area. DEP had done a study several years ago. Within the same distance of the mall relative to its parking, we had the same number of parking spaces down town. The real issue was that during the day time the construction crews and the employees were taking prime parking spaces from the business. The city already leases parking spaces in that parking by hang tag. Which meant if they had a hang tag they could park there twenty-four hours a day. The only thing different was that a particular space was not reserved for them. With this lease, they would be paying twice the amount for the same space in order to have a particular space reserved for them. He added, the downtown area was more difficult to develop than in a strip mall. He believed the city needed to provide incentives for developers to build downtown. They were going to have to work with these people.

Alderman Daniel stated she was concerned about people not wanting to shop downtown because there were no handy parking spaces available.

Mr. Alexander stated some day when the square had more amenities, then people would not mind parking a block away.

Ms. Fran Alexander, an area resident, stated she agreed with Mr. Alexander. She was in full agreement that they should have some parking options. She questioned the lack of a policy. She asked if she could rent a parking space. She asked where the end to leasing the spaces would be if they did not have a parking policy. She stated there were a lot of details that needed to be worked out on public parking before it was given over to private rental. There were too many unknowns.

In response to questions, Mayor Hanna stated he did not know of anyone who had been towed from a downtown parking lot. Tickets had been given to people whose meters had expired. He stated the city will not monitor the leased spaces and they would not give tickets. What started this was the renovation of the Campbell-Bell Building and the need for spaces for those who were going to buy condos and the television station. He thought they would build a deck behind the building with their parking revenues. He thought these problems were going to be minor. He hoped they would get worse, because that would mean that things were better downtown. Downtown had been losing business and customers over the years. They have been able to turn that around the last ten to fifteen years. It was the kind of problem they should be glad to have.

Alderman Russell stated he supported the development, however, he had a few comments. They had received a policy from the City Administration on the parking, which indicated the leases would be limited to the first row of spaces behind the Campbell-Bell Building and that only people owning or renting property on the west side of the square would be eligible to lease the spaces. The idea for a comprehensive downtown parking policy had come from the city's Parking Manager. He did not think it was out of the ordinary for aldermen to ask staff members to research matters under their preview and to make policy suggestions for the council's consideration. The citizens who elected them had a right to know about their governments management practices. He stressed the need for a comprehensive policy. He would continue to vote against the parking leases until there was a comprehensive policy in place.

Mayor Hanna stated there had been a comprehensive plan done in 1993 and 1994 regarding the downtown parking spaces by the Downtown Parking Authority. It might be time to have staff to do another one. He had no problem asking the staff to do a study. They had lost ninety spaces behind the Executive Square Building, East Street was closed for the construction of the Town Center. He thought it would be more practical to do that kind of study after the construction was finished.

Alderman Young stated he did not see the point in spending a lot of money on a consultant. They had dealt with these issues before. They could study and analysis it but the bottom line was that the citizens and the merchants around the square was going to have the final say. If they did not support the policy, it was not going to work. He suggested some kind of policy for the public to discuss. They needed some kind of guide.

Mayor Hanna agreed they did not need to spend the money on a consultant. If they wanted a committee set up to study the issue they could.

Alderman Austin stated he did not believe individual aldermen needed to be going to staff members making request. There could be two different aldermen with two different request and could create discretion and lower moral within the staff. They should honor the structure. They should operate with the authority of the majority. They were not individual mayors.

Alderman Reynolds stated the developers had spent ten million dollars downtown. He did not believe the city should hurt their project over five parking spaces. They needed to approve these leases, then they needed to go to work and get the policy put into place as soon as possible. Right now, they should not hold up this ten million dollar project.

Alderman Daniel stated she supported the project, however, she was going to be consistent. She had voted against the other leases.

Alderman Trumbo moved to approve the Campbell-Bell Building lease. Alderman Davis seconded the motion. Upon roll call the motion carried by a vote of 5-3-0. Daniel, Young, and Russell voting nay.

RESOLUTION 129-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Trumbo moved to approve the Ted Belden Parking lease. Alderman Reynolds seconded the motion. Upon roll the motion carried by a vote of 5-3-0. Daniel, Young, and Russell voting nay.

RESOLUTION 130-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Trumbo moved to approve the Moore Parking lease. Alderman Austin seconded the motion. Upon roll call the motion carried by a vote of 5-3-0. Daniel, Young, and Russell voting nay.

RESOLUTION 131-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

VA 00-7.00

An ordinance approving vacation request VA 00-7.00 as submitted by John Phillips for property located at 25 East Rock Street. The property is zoned C-4, Downtown Commercial, and contains approximately 0.37 acres. The request is to vacate a portion of a ten foot wide alley located west of Lot 2. Block 42, Original Town Plat.

Mr. Rose read the ordinance.

In response to questions, Mayor Hanna stated there would never be a reason to open the street. The grade was very steep.

Alderman Young added this right-of-way went straight into a retaining wall.

In response to questions, Mr. Conklin stated the alley would be split between the two property owners.

Mr. Phillips, applicant, stated they needed some space near their building to replace a sewer line and sewer tap. The land in question has been considered part of their lawn for a long time. They would like the vacation, so they would not have to break up the parking lot and disturb the utilities.

Alderman Trumbo 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 Davis moved to suspend the rules and move to the third and final reading. Alderman Austin 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 passed unanimously.

ORDINANCE 4271 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 00-21.00
An ordinance approving rezoning request RZ 00-21.00 as submitted by Read Hudson on behalf of Tyson for property located at the southeast corner of Highway 16 and Happy Hollow road. The property is zoned C-2, Thoroughfare Commercial and C-1, Neighborhood Commercial and contains approximately 11.50 acres. The request is to rezone to I-2, General Industrial.

Mr. Rose read the ordinance.

Alderman Reynolds stated this was located in Ward 1. He had not received any phone calls.

Alderman Davis stated all they were doing was going from a non-conforming use to a conforming use. The plant had been in this location since 1983.

Mr. Reed Hudson, Tyson Food, explained it was not a plant expansion. They were going to lease out a part of their plant to a company that made breading. They were going to need a building permit to erect some silo for flour. No expansion or additional capacity other than some concrete pads on the west side of the building.

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

Mr. Rose read the ordinance.

Mr. Morty Newmark, an area businessman, asked if there would be more noise and how would the traffic be affected.

Mr. Hudson replied the business which would be using the facility was going to employee twelve to fifteen people. It was primarily a mixing operation. The increase in employee traffic should not increase materially at all. The only increase in traffic would be additional trucks. Other than that he did not believe there would be any material increase.

Mayor Hanna stated it had been his observation that the traffic going to and from that plant used Fifteenth Street.

Mr. Hudson stated he did not believe there would be any increase in the noise. The system they had that took the flour from the truck and into the silo was a quieter system than what they had several years ago.

Alderman Russell asked if the noise ordinance requirements were less stringent in Industrial zones.

Mr. Rose stated the difficulty is that the city has utilized this land as I-2 property since 1975. Any measurements that would be made out there would be made with that in mind.

Alderman Russell asked if there would be a change in the noise requirements for this property if they approved the rezoning. He noted order emitting business were allowed as conditional uses. He asked if this was later discovered to be an odor emitting business were they later allowed to ask them to come through the conditional use permit.

Mr. Conklin replied he would probably have to consult with the City Attorney.

Alderman Reynolds stated Hiland Dairy received a powdered product and it was operated by air. You will hear a small noise for approximately thirty minutes, then it was quiet. It was not a noise deal at all.

Mr. Dan Coody, an area resident, asked if they had any plans for the noise problems.

Mr. Hudson explained some of the improvements that they had made recently to improve the noise situation. He added that they wanted to be good neighbors.

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

ORDINANCE 4272 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CITY ADMINISTRATION ROOM POLICY
A resolution approving a new policy for reserving rooms in the City Administration Building.

Alderman Russell stated he planned to listen to comments, table the item, then come back in a couple of weeks with a different draft incorporating their ideas. His objective was to get the maximum use of the building. They currently had a policy, which was in affect. The problem he had with this policy was that other groups were allowed the use of the building with permission of the City Manager. There was nothing in the policy which gave any of them, the Mayor, City Council, or the City Staff any guidance on the use of the room. They needed to pass a policy with some sort of guidelines. The Supreme Court has said that it was a no no to give elected official unfettered discretion on the use of public facilities. There needed to be a clearer policy. He asked to hear their comments.

Alderman Santos stated a problem he noted in the proposal was the deposit. What decided if a deposit was required and a two week advanced reservation.

Alderman Young asked of the deposit could be a check that could be returned.

Alderman Austin asked who they would go to reserve a room.

Alderman Russell replied you would reserve a room through the City Clerk.

Alderman Davis stated this was a working environment. If they were to allow non-profits and birthday parties, how could they ensure that the staff would be able to continue with their daily activities.

Alderman Russell stated he had borrowed some from the libraries policy. He had listed in the policy that the number of people, cars and noise involved the planned use must not interfere with regular city usage of the building or the reasonable expectations of the surrounding area.

Alderman Davis asked who was to determine what that was. And the additional costs of that employees. He asked how they would recoup the costs if they had done some damage to the building. How were they going to set the deposit.

Mayor Hanna stated there were several things that they needed to consider in the revision. The rooms were mainly used for City business. They had not adhered to the policy entirely. They did have some problems. One was maintenance. They would have to have someone come in and clean the rooms. The other was utility use. Another concern was that they used a lot of rooms on the spur of the moment. This happened more often than they thought. He thought they might be trying to use city hall for purposes that it was never intended to be used for. Maybe they needed to tighten down the rules. He did not want to be the one to make the decision on who got to use the rooms. He could see them getting into a business that they had never been in before as a city. He thought they could be asking for problems that they could not anticipate. These things had a way of getting real complicated.

Alderman Russell asked if they were to limit the use to city business, how would they want that defined in the policy. It was going to have to be defined.

Mayor Hanna stated aldermen use to have Ward Meetings. He thought that was legitimate. Any committees or commission would be considered city business. They needed to be careful on what they allowed. They did not want to run into a problem with scheduling and clean up. Basically, the building was designed for use by the city during regular working hours. Most of their committees tried to meet and be done by six or seven. They did not have the staff. The staff had to schedule their cleaning routine to keep the building clean. If they had to plan it around a lot of meetings it would be difficult for them.

Alderman Davis stated they had problems scheduling the ad hoc committee on grading and drainage. There was always someone in a room or they had to share a room. It was difficult. They needed to be careful on who they allowed to use the rooms.

Alderman Young did not believe there would be a lot of problems with the mass number of meetings. In his opinion, if citizens had a problem then they had the right to come to city hall and speak to it. They should be there to hear those complaints.

Alderman Russell stated anyone who wanted to use a room could go through the aldermen for use of a room. They needed some guidance. He was leaning toward deleting part A and leaving part B. He had put in A because he was thinking about First Night. Mr. Rose had told him that it was not a problem because the city had a contract with them. It was no problem to consider them city business. His intent was to leave it open for groups like First Night.

Mr. Venable stated they did have a problem with security on the first floor because it was all open and they did have a lot of thing in there. They needed to think about that. There was no way to close those areas. They needed to think about security, especially for the night meetings.

Alderman Russell stated he would have a revision for the next meeting.

Ms. Paula Marinoni, an area resident, stated in her opinion that City Hall should be used for business only. She felt very strongly about discrimination. If they opened it up to some, then they had to open it to all. There was a shortage of spaces to meet in Fayetteville. They had improved that situation greatly. When groups are planning events, they planned them over a year ahead of time. Anyone who was planning for an organization planned them well in advance. They should have the rooms available for staff use. She asked them to be careful in their wording. If it was city business, should it be on channel three.

Mayor Hanna noted the Yvonne Richardson Center had not been used as much as it should be. It was available.

Alderman Reynolds stated that the building was called City Administration. He thought they should declare City Hall as a non-public forum and leave it for city business.

Greg Mitchell, an area resident, stated he would like to see the policy written in a way that would encourage citizen participation in government. There were things that citizens cared about and that they wanted to meet about. It was their city. It seemed to him an appropriate place for them to meet.

Alderman Russell stated they agreed that one of the aldermen should be able to call a meeting to talk about city issues. He questioned how they would word that in a policy. Were they running into trouble if they gave themselves the right to decide what kind of meetings they would reserve the meetings for and what they would not. They could restrict the purposes, but they could not restrict the groups.

Mr. Butch Green, an area resident, stated this was where the business of the city was conducted it was not necessarily supposed to be an open forum for the different individuals here. Getting people involved in their government and in their wards was an obligation to meet with those people and include them from those standpoints. They all paid taxes that supported this building and the jail, but you did not see people wanting to meet there when there was space available. It was the same type of thing. They paid for those facilities and they were public facilities, but they were there for a particular use. He thought it was the same thing for city hall.

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

CABLE BOARD DUTIES

An ordinance amending Section 33.210, Cable Board, Duties, Subsection (c) of the Code of Fayetteville to provide that all guidelines and regulations shall be subject to City Council approval.

Mr. Rose read the ordinance.

Mayor Hanna stated he had received a lot of phone calls and there would be a lot of comment. He wanted to point out that this did not have anything to do with funding for Public Access

Television. It was about policies and regulations and guidelines.

Alderman Trumbo stated he was sponsoring this ordinance. He thanked the Board for all the work that they had been doing.

Mr. Bob Emenager, CAT, stated he had a productive conversation with both Trumbo and Hanna. Alderman Trumbo stated he did not know that the City Council did not have final authority over the Telecommunications Board policy as it pertained to the Government Channel. It came to his attention with their new policy that there were some changes made from the old policy. He questioned those changes. In his opinion, the aldermen should be able to vote on their policy. The other thing that had caught his attention was the fact that they allocated $215,000 per year for the Government Channel and then $63,000 per year for the Community Access Television. Currently the city allocates the money to the Board which implemented the policies and the programing. The Cable Administrator made sure that the Boards policies were implemented. The CAT station was totally separate. The reason he wanted to implement this was to have city council, elected officials, vote on policies pertaining to the Government Channel. It was the tax payers money that funded the channel. He had problems with having non-partisan political debates and a few other items. He questioned if they should keep the Government Channel strictly official city government meetings and items of educational interest and to keep the politics out of the government channel. It was his personal belief that $215,000 should be accountable to an elected body for checks and balances. He added that they did receive $300,000 from Cox Communications for franchise fees. There were some people that thought that $300,000 automatically funds the CAT and the Government Channel, that was not exactly how the policy worked. The money from Cox went into the city's general fund, which could be allocated for those channels or for other part of the city government.

Alderman Austin asked if the ordinance intended for the Council to micro-manage channels three and eight.

Alderman Trumbo replied, no. It would continue being done like it is now. It would not cut any funding. They started the budgetary process in a month.

Alderman Austin asked if this would in any way limit the constitutional right of free speech.

Alderman Trumbo replied that if this passed then their new policy would come before the city council. The way it was set up their policy revision did not have to come before city council. In his opinion that was why it was not put on the agenda. There had been a misunderstanding. The city council did not vote on it.

Alderman Russell stated they had informational items on the agenda all the time.

Alderman Young disagreed with Trumbo, stating if this ordinance were to pass, the Telecommunications Board would have no authority. All they could do was make recommendations.

Alderman Trumbo stated it was his intension to have the same checks and balances that they did with some of the other boards, like the Planning Commission and the Parks Board.

Mr. Rose stated that routinely they did approve the rules and regulations of various departments, boards, and commissions. They did not have to, but they were welcome to.

Alderman Russell asked if this ordinance passed would it be retroactive or would it only apply to future action.

Mr. Rose stated it was the council's decision as to what they wanted to happen. He would envision that the old policy be in affect and that under the passage of this that he would recommend that the new rules come before them for discussion. They needed to decide what they wanted to do. They could decide what they wanted to do with that policy.

Alderman Russell asked if they did not approve the policy, which policy was in affect, if any.

Alderman Trumbo stated he wanted to keep the government channel none political and to keep it separate. He still felt that the board needed to have some oversight by the elected body. He was not trying to micro manage. The new policy would allow for non-patrician political debates. He liked the way the Government Channel was not political and was only educational.

Alderman Russell stated it was non-partisan. He did not see the problem with allowing all the candidates or all sides of an issue an equal opportunity to be heard as long as they get the same amount of time and as long it was non-partisan. The only way it would be one sided was if some of the candidates decided it was not worth showing up for.

Alderman Trumbo stated the other change to the policy allowed a single alderman the right to request a program on an issue of interest. He felt they were starting to duplicate CAT on the Government Channel.

Alderman Russell stated it only allowed that if it was a meeting concerning city business that met freedom of information criteria. If it was a public meeting about city business then it should be televised.

In response to questions, Alderman Russell stated the appeal procedure for the Cable Board decision did not appeal to their authority to make policy.

Mr. Rose confirmed that the appellant procedure did not apply to the policy.

Alderman Santos felt they probably should be.

Mayor Hanna thought a process of appeal would be better than this ordinance.

Alderman Trumbo moved to table the ordinance. Alderman Austin seconded the motion.

Mr. Bill Molher, an area resident, stated that this council had the authority to do what they were asking for. They had the authority because this council created the Telecommunications Board. This council delegated authority to the Board. One of the principle rules of management was that when the delegated authority, they could undelegated when they wanted. Another principle rule of management was that they had the right of review any time they wanted to. Right now they had after the fact review. The Board had the authority to issue a policy. They had the right to review it after the fact and to challenge it. They did not need additional authority to do that.

Mr. Rose stated he did not want people violating their own ordinances.

Alderman Russell stated they had delegated the authority by an ordinance and they needed another ordinance to take it way.

Mr. Molher stated he believed the council needed to have some say so. He did not believe before review was necessary. It was his understanding the Board had come to them wanting to discuss the policy to get feed back from the council.

Ms. Brenda Thiel, an area resident, read a letter from Aaron Blight expressing his concerns. She thought this was opening the door to censorship. She thought there would be a conflict of interest. She felt it should be left in the hands of the Cable Board. It was her understanding that funding for the PEG center came from the five percent franchise fees. She felt that they currently had the right to appeal.

Mr. Rose read the ordinance regarding appeals which stated the decisions made on guidelines and regulations were final and no appeal could be made. The way the ordinances read the city council had not say in the matter.

Alderman Trumbo stated a citizen could not appeal the decision or have any say with the policy. They could not go to an alderman.

Margo Clark, an area resident, stated it was her understanding from reading the paper that Mr. Trumbo did not like the change and his response was to take the autonomy of the board and place it under the authority of the council. It was also her understanding that he had spoke of eliminating funding for Channel eight.

Alderman Trumbo responded that some of the information in the article was not correct.

Ms. Clark stated she was an active involved citizen and she did not feel that she had a voice. The information from the board was presented to the council as a professional courtesy. In on short article they went from an informational item on the agenda to cutting funding. The aldermen and mayor were the ones that set the tone. She did not know where she was represented.

Alderman Austin stated Mr. Trumbo did not speak for him or any of the other aldermen.

Ms. Clark stated she had no reason to not believe the paper. She felt they had used their authority to change something they did not like, then they made threats to cut their funding. She felt this was heavy handed. She asked why they felt the Telecom Board be better served under the council.

Mr. Bob McKinney, an area resident, explained the history of the Public Access Station. The station was originally started and negotiated by private citizens. They had a very innovated station compared to others in the country. Public Access is different from educational television because the programs are not reviewed or censored. The programing is determined by community users. It differs from commercial television because they did not have commercials. It provided a diversity of view points. Individuals from the community could learn to use the equipment. It gave people the opportunity to learn how to use the equipment.

Mr. Bob Kittinger, an area resident, stated he was opposed to any attempt to pass an ordinance that infringed on the freedom of speech. They had to respect peoples rights. Channel eight was the ideal media for people their ideas or beliefs. He did not want to see channel eight restricted. There needed to be a venue for all citizens to have an opportunity to express themselves.

Mr. Kevin McDonald, Cable Board, stated under the old policy forums were allowed. But the interpretation was not clear without a lot of deliberation. They had tried to revise their policy so that there would not be any more controversy and that there would be some clear guidelines. They had considered removing government forum, but they decided to leave it but clarify it. The Board was very easy to work with, easy going and were open to feed back. He did not feel that it was necessary to pass an ordinance when it might be as easy as a clarification. In response to questions, he stated there had been a lot of interest expressed while they had been deliberating it. He felt they did deserve some air play.

Alderman Young thought a forum on the Government Channel had the opportunity to be the most even handed forum around. He thought the citizens had a right to observe that in the most neutral forum available and he thought that could occur on the Government Channel.

Mr. Dan Coody, an area resident, stated if they had the Council over the Cable Board it would only bring more politics into the process than what were there already. He thought that was a big mistake. As far as bringing the debates onto the Government Channel he thought it was very appropriate, because they needed more political dialogue rather than less. They needed to open it up so there would be more dialogue and free exchange of ideas and perspectives.

Ms. Lionel Jordans, an area resident, stated he was concerned about the freedom of speech. If they micro managed the Cable Board it would be a violation of the Freedom of Speech.

Ms. Paula Marinoni, an area resident, stated when they opened it up to other groups, they had to open it up to all other groups. When they were revising the policy, they had defined other groups as groups that received funding from the city or had a contract with the city. When they had a policy which was neutral on its face and application. She had seen an accelerated effort to manipulate freedom of speech. They over reacted to this information item. The problem was not having Channel three the forum for political debate. The question was how were they going to chose that one group that was going to do it. Another issue was if Channel three was going to be non-political she challenged that Mayor Hanna was using Channel three to advance this campaign. He can appear in shows he normally appears. The State of the City Address was being shown a minimum of two times a weeks. Prior years it had only been shown a few times.

Mayor Hanna stated he had not seen it once. He had not told anyone to run it. He had not abused channel three. Whatever was shown on it was decided by the same board they were discussing tonight.

Mr. Kinley Johnson, an area resident, stated he was one hundred percent behind our mayor and city council. He thought he had great representation. He did not think that they had dropped the managerial ball. They did the best that they could. There had been some good arguments, but the theory was good. He encouraged Mr. Trumbo to continue. The bottom line was with him and children and being on the Youth Center Council. His concern was the perception of their youth when they watch CAT or their Government Channel. Most of the time they had done a good job, but every now and then a program will slip through the cracks that the children would see. They needed to do something about those types of programs.

Mr. Bob Jordan, We've Had Enough, he did not know anything about any of the policies when they had a meeting. They had tried to make it an educational meeting. They had asked for comments.

Mr. Lyle Thompson, an area resident, stated they had a jewel with the public access television. He thought they should keep it and to help it improve. He hoped they would be proud of it.

Mr. Jim Bemis, Cable Board, stated this whole problem would have been prevented, if they had agreed to take their presentation at the agenda meeting last week. The only thing they had in mind was to bring their policy to them. They were going to bring it back to them a different way.

Alderman Austin stated he could not be guilty of refusing to bring it up if it had not been before him.

Mr. Bemis stated they had not been allowed to see it.

Mr. Maguire stated he received the policy. When he went through it he noted a number of changes. Mr. Rose had told him the policy did not need to go before the council. After that the policy laid on his desk.

Mr. Bemis stated it had been the boards request that the policy go to the council, but it did not reach the council. He added they had never been able to discuss what they were doing with council.

Ms. Melissa Johnson, an area resident, stated she did community health education programs for Washington Regional Medical Center. As part of that she tried to convey education working with CAT television. She wanted to make sure that they were continuing Channel Eight. They were wanting to improve the health of the region and the way they can do that was by educating the community. She asked them to support the CAT and look for ways to improve it.

Ms. Terry Eastin, an area resident, asked if they were happy with the cable board, then what was the problem.

Alderman Trumbo did not like adding more political content to the programing.

Ms. Eastin stated they need to have a meeting with the board and get both sides of issue.

Mr. Dwight Kinfield, an area resident, stated he had no problem with what he saw on channel three, but it if was his money, he would go some where else. There were some of them out there that believed differently and thought differently. The problem was that most of them spent seventy and eighty hours a week at their jobs. They did not have time to be political.

Alderman Austin stated everyone in the city had power of censorship on channel eight. They could turn that channel off. He did not like some of the program. Some of those programs were not popular, they were just there. He was not going to vote the censor the freedom of speech, but he would censor it at home by the knob on the television.

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

TELECOMMUNICATION SERVICES

An ordinance providing for the management and preservation of the city's rights-of-way and public places with respect to telecommunications services; providing for terms and conditions under which telecommunications providers and lessees may occupy the city's rights-of-way and public places; providing for compensation to the city on a competitively neutral and nondiscriminatory basis; creating offense and providing penalties.

Mr. Rose stated the ordinance was the rules by which telecommunications providers apply to the city for a franchise. It had nothing to do with what they had been discussing. He introduced Mr. Bryan Grogan, a partner with Moss and Barnett. He was an expert in the area of Cable communication and telecommunication law. He was hired to assist the city in the new cable franchise agreement with Cox Communication. He was to develop a telecommunications ordinance for the city. There had been some issues raise. Because of those letters and conversation there had been some changes in the ordinance. There have been some small changes that have been suggested. He suggested that they remove this from the agenda and revise the ordinance.

Alderman Trumbo asked Mr. Grogan how other municipality handle their telecommunication board in allocating funds to manage.

Mr. Bryan Grogan stated there was a verity of ways. It was up to the city how they set it up. Because of what they had discovered from Southwestern Bell and some of their concerns, he agreed the item should be tabled. They could bring them back a document where they would not have any dispute from any of the providers. It would be uniformly accepted by all. The main concern people had was how the city was going to charge fees for the use of right-of-way. They had a four percent fee applied to access line billing. They had been questioning where that fee had come from. Once Aldephia understood was consistent with what they were already doing with their existing provider it was acceptable to them. Application fees would be determined by the amount of time and fees required to process the applications. The city should not be required to pay for those fees. The city wanted them to pay for their own application procedure. They wanted an ordinance the provider could live with. They tried to put forth a set of regulations that would protect the city's interest, but did not handcuff the providers.

Alderman Young asked if there was a difference between a fee and a tax.

Mr. Grogan stated a fee would be compensation for a right that they had obtained. A tax was to pay a percentage unrelated to the item. The franchise fees were not considered a tax because they were considered a rental fee for the use of public rights-of-way.

Mr. Rose asked a telecommunications provider came to get a contract, who decided if they had complied with the ordinance.

Mr. Grogan replied there would be one base line set of rules that everyone had to comply with. The franchise itself will be a short document stating that they were willing to comply with the ordinance. It will come before the city council before it is executed. The city will authorize execution of the franchise.

Mr. Rose added every individual franchise will come before them for their approval and it will also go to the telecommunication board for their approval.

Mr. Grogan stated Cox Communication franchise will expire at the end of October. If they were not satisfied with the agreement by the deadline, they would recommend a short extension of the existing franchise until they could get an acceptable document. They were having some difficulties on the major financial issues. The institutional network being the chief among them. The explained the concept of the network. The cost of the system could be significant. They were trying to tell Cox what type of service they were going to be doing and what they would need. They were waiting for cost. They could not debate it until they knew what the costs were. It was a big issue. The five percent franchise fee was one thing they had discussed. They were also looking for additional funding from the provider.

Alderman Trumbo stated there were some citizens who did not have cable. Was there some why they could get Cox to run cable to everyone.

Mr. Grogan replied they had tried to make the criteria very aggressive. The industry standard was thirty to forty homes per cable mile. They were trying to reduce that in half. Which would get them to most dwellings. The main goal was to get a good system in hear as quickly as possible for the residents. In response to questions from Alderman Daniel, he stated the city could require certain types of programing. They could not chose the channel, but they could chose the types.

The meeting adjourned at 10:55 p.m.