MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
OCTOBER 17, 2000

A meeting of the Fayetteville City Council was held on October 17, 2000 at 6:30 p.m. in Room 219 of the City Administration Building.

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

CONSENT AGENDA

APPROVAL OF THE MINUTES: Approval of the minutes from the September 19 and October 3, 2000 City Council meetings.

BID 00-66: A resolution awarding Bid No. 00-66 to Ron Blackwell Ford in the amount of $68,908.00 for the purchase of one cab/chassis with mounted utility body and lift.

RESOLUTION 137-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 00-70: A resolution accepting a purchase offer and authorizing the sale of Unit No. 430, 1991 Mack RD 688S cab/chassis with mounted leach 2RII Sanitation Body to RDK Truck Sales and Services, Inc. in the amount of $24,776.01.

RESOLUTION 138-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SEWER MANHOLE REHABILITATION: A resolution approving a construction change order with Kim Construction, Inc. for Sanitary Sewer Manhole Rehabilitation, Illinois Basin 6-9 and 16, and White River Minisystem 9A, in the amount of $104,503 and maintain a contingency of $15,000.

RESOLUTION 139-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BLUE CROSS/BLUE SHIELD: A resolution renewing the BCBS Medical Contract for Policy Year January 1, 2001 through December 31, 2001.

RESOLUTION 140-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW WORLD SYSTEM: A resolution approving a three-year standard software maintenance contract with New World Systems, Inc. and authorizing the Mayor and City Clerk to sign contract.

RESOLUTION 141-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MUNICIPAL COURT SOFTWARE: A resolution approving a contract with New World Systems, Inc. for project management and installation of the Municipal Court system software, and authorizing the Mayor and City Clerk to sign agreement.

RESOLUTION 142-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 00-69: A resolution approving a budget adjustment and awarding Bid No. 00-69 to Total Data Services, Inc. for an IBM AS/400 model 720 and to Info Works, Inc. for an IBM AS/400 model 270.

RESOLUTION 143-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DEVELOPMENT IMPACT FEE STUDY: A resolution approving phase one of the contract with James Duncan and Associates, Inc. to perform a development impact fee study. Approve the Mayor and City Clerk to sign the agreement with James Duncan and Associates, Inc. Additionally, authorize $4,500 in other project costs for phase one.

RESOLUTION 144-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

EDUCATIONAL ACCESS CHANNEL: A resolution authorizing an agreement with the University of Arkansas, Fayetteville, to operate the Educational Access Channel until October 31, 2002.

RESOLUTION 145-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

WHITE RIVER BASEBALL COMPLEX: A resolution approving a budget adjustment in the amount of $50,900 for White River Baseball Complex.

RESOLUTION 146-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM: A resolution approving the revised Disadvantaged Business Enterprise (DBE) Program to be implemented for all DOT/FAA grant assisted contracts entered into by the City of Fayetteville. The revised program is required by new DOT rules and regulations published in the Federal Register, 49CFR Part 26. The new resolution will replace Resolution No. 81-88 approved on November 1, 1988.

RESOLUTION 147-00 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
No Old Business.

NEW BUSINESS

RZ 00-22: An ordinance approving rezoning request R. 00-22, submitted by James Key on behalf of James Mitchell Massey for property located at 28 S. University. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.18 acres. The request is to rezone to R-3, High Density Residential.

Mr. Rose read the ordinance for the first time.

Alderman Daniel stated they normally did not pass a rezoning at the first meeting, especially since there is some controversy on the rezoning.

Mr. James Key, applicant's representative, stated they had petitioned the City for a rezoning from C-1 to R-3. He presented a letter regarding the highest and best use concept for neighborhood analysis this property. The letter stated the principle of change as it applies to the evaluation of property is always at work on real property. Change is relentless. It could be rapid or slow, but in all cases this principle was driven by the economic and social forces at work in the market. Reasonable interpretation of probable directions are desirable. In determining the highest and best use or the most profitable use of property the use in which reasonable determination over a perceivable amount of time produce the owner the highest net return and will at the same time preserve the utility of the property. Property without utility have no value. In the growth factor of a neighborhood life cycle, principle of regression and progression are logical extensions of conformity and change. Regression suggest that the value of superior property suffers from by the introduction of a less valuable property as a neighbor. In contrast, progression holds that adjacent association with superior property enhance the value of a lessor property. In the case of the property located 28 South University a limited number of single family residences remain. Of the remaining single family residences, the majority is rental property or non-owner occupied. Directly across the street high-density apartment units dominate, as is the case to the east. To the south single-family and multi-family and high-density residential are predominate. The overall majority of the neighborhood is characterized by multi-family residential facilities. Most of the smaller unit apartment facility have been constructed over the last five-years. In his opinion, this neighborhood market reflects a reasonable determination that the typical investor would purchase the property with thoughts toward the current development trend which is multi-family residential use. Commercial facilities would also be feasible which would cater to the motoring public or foot traffic generated by the neighborhood makeup. However, considering the immediate surrounding influences of the property located at 28 South University, commercial property such as gas stations or eating establishments allowed by the current zoning with nonsimilar uses would tend to bring adjoining properties into a regression state. Conversely, development with similar type uses such as multi-family residential would tend to have a progressive affect or enhancement for the adjacent property. The letter is not intended to be an analysis of value, but of neighborhood trend. The letter was submitted by Mickey Bradley.

The owners of the property had asked him to assist with the development of the property. They had looked at the issue of this property being zoned C-1 and the residence being unoccupied and abandoned for a period of more than six-months. It has been almost two years since someone has occupied this home. Considering those factors, they could no longer be used as a single family residence with the current C-1 zoning. If it was an accessory to a commercial, use, it possibly could be used as a residence. Considering the location of the building on the site and the quality of the structure, they had determined that it was not practical to use it as an accessory to a commercial use. They looked to see if commercial uses were practical in the development of this site. C-1 allowed by right, office and studios, eating places, neighborhood shopping, gasoline service stations, drive-in restaurants, and professional offices. Considering the size of the lot and the condition of the neighborhood, they felt a high density residential development was their best potential for a development that would bend with the neighborhood and will work with the area. He presented a zoning map of the neighborhood. All the homes in the area were zoned I-1 as is the rail road right-of-way and the property to the west and north were R-3. They felt R-3 was in compliance and compatibility with the rest of the neighborhood. They had stated on the record in the past that the house, which was thought to be of historic character and quality, that it was available at no cost to be removed from the property. The owner has had several calls. The owner was willing to up that offer and include $2,000 to assist in move this home from the site if it was practical. He had also made the site available to anyone who would like to purchase the lot and the residence. There had been no offers, so he was intending to proceed with the development of this property. He has not chosen to demolish the house, even though it was considered a hazard. He had spoken with the Inspector and Fire Marshall whose basic opinions were that the City would be appreciative if the house was removed.

Alderman Trumbo stated he considered this a down zoning. He stated it would never be a single family residential home unless someone bought it. He thought the owner would be fixing up a piece of property and cleaning it up. He knew the neighbors would be concerned about added traffic, which would be a concern because it was a narrow street.

Mr. Keys stated some of these concerns came up during the Planning Commission meeting. They would be limited to approximate five to six units, because of the size of the lot. They were hoping for six one-bedroom apartments, which would require six parking spaces. Currently, as a C-1 zone there are no side yard setbacks or height limits. The property to the north was commercial. The property to the south was industrial. There were no height limits or side set backs. They were wanting to build a small residential structure unit that was compatible to the surrounding neighborhood. There were two multi-family units directly across the street. There was another one within two-tenths of a mile. There were several others to the east.

Alderman Davis asked how long has the owners offer to move the house or to purchase the property been out to the public.

Mr. Keys replied the offer had been covered by the television and press a little over two weeks ago. There was some concern about being able to move the house off the site without affecting the largest tree on the site. There was some logistics about moving the house. There would be some impact and affects from the move.

Alderman Reynolds asked when Mr. Massey had purchased the property and added the neighbors never knew that the property had been for sale.

Mr. Keys stated the property had been a trust and was not sure how or when he purchased the property. The property had been zoned Commercial for thirty years or more.

Alderman Reynolds stated a lot of the residential property in the older part of town was zoned crazy.

In response to questions from Alderman Daniel, Mr. Key stated he did not know how old the home was. He had gone through all the historical records. There was a house in approximately this location. It appeared to be about twice the size of this structure. He really did not know the age of the structure. The owner was not interested in saving this property. They had a contractor look at the property. The foundation was crumbling and the structure itself was in bad shape. He thought it would be more feasible to tear down the existing structure and build a new one.

Alderman Trumbo asked Mr. Keys if in his opinion would the proposed multi-family complex in any way inhibit the current values of the existing single-family residents along the street.

Mr. Keys stated he thought that it would actually improve. He thought that it would have a positive effect or a progression on the values of the neighboring properties. A commercial development would not have the same impact.

Alderman Austin stated he was interested in seeing more projects in the interior of the city to make better use of our infrastructure. This project would help avoid urban sprawl. But on the other hand, it was an old neighborhood. There was a need for affordable housing in Fayetteville. There was a question about its historical value. This was a difficult issue for him to decide on. He stated he would like to hear from the neighbors.

Alderman Santos stated this was the kind of development that they needed in the intercity. It was higher density within walking distance of downtown, the University, and it was on a transit line.

It was adjacent to an area that the city was going to construct a trail. It would increase neighboring property values. It was in character with the rest of the neighborhood. He was going to support the rezoning.

Mr. Keys stated it was close to the trail, but the rail line that was directly to the east of this property was not the subject of the Prairie Trail development. It was the main line for the Arkansas Missouri Railroad. It was going to remain so.

Alderman Reynolds stated one of the apartment complexes faced Center Street, the one to the west was on Putman Street. The only apartments on this street were at the far south end on the right-hand side on the hill. The rest of the street was seventeen residential houses. It was an older neighborhood with affordable housing.

Ms. Mary Ann Beasley, an area resident, stated all of the people on this street were against this development. They had everyone's signature opposing this development. They felt that if this were turned into an apartment complex, it would be the beginning of the end of the neighborhood that they loved. She stated she planned to live in her house for the rest of her life. They considered this development a threat to their livelihood. She questioned how anyone could tear down a house that was pre-civil war, even though they did not know the date. She had not heard about this until two weeks ago today. They did not know it was even for sale. There were apartments all around there that went unrented. They did not need more apartments in the area. They could not stand any more traffic on South University. They loved their neighborhood. Children were up and down the street all the time. The increase in traffic was going to present a greater threat. They had no sidewalks. She asked for more time. They would find an owner. This was their home.

Alderman Trumbo asked Ms. Beasley if they would rather have the house stay in its present condition.

Ms. Beesley stated they wanted to buy it and rebuild it. They wanted a family there. They wanted more time. This could be on the historical registry.

In response to questions, Mr. Conklin, Planning Director, stated they had placed the notification sign up as required. The adjoining property owners were notified. He could not guarantee that the US Mail got it to their house. They ran a display ad in the Sunday paper. They had also placed a legal ad in the paper prior to that.

Alderman Young stated the Planning Commissions vote could have been different if they had heard from the neighbors.

Mr. Cyrus Sutherland, retired Professor of Architecture, stated the house date is approximately

1850. It preceded the Headquarters House on Center Street which was 1853. The prime difference was that Headquarter House was Greek Revival Architecture. The Shoemaker House is a modest example of Greek Revival Architecture. It was an echo of the Ridge House which was 1836. There were two requirements that brings a house back to life, that was will and money. Its foundation needed to stabilized. Members of the joist system needed to be replaced. Many of the houses along University had been owner occupied for eighteen years. It was a residential neighborhood. There was the possibility of getting the Shoemaker House on the Historic Registry. This would take some time.

Ms. Maria Westley, 129 S. University, stated she had watched all the children grow up the neighborhood and she had watched all the people in the apartments come and go. She asked the council if they had lived in this neighborhood and had raised their children there, if they would want to see another apartment complex there. She would hate to see more traffic on the street. There were no sidewalks and everyone parked on the street.

Mr. Michael Lolly, 706 Tredwell, stated he had lived in the neighborhood for thirteen years. The neighborhood was going through a modest renaissance . He would like to see more development which would encourage more single family residents. There was a lot of property that was currently changing hands. It was going from absentee landlords, rental property, to owner occupied property. It was a modest renaissance. It was an interesting neighborhood. There were a lot of people his age that were moving into the neighborhood. It was diverse and colorful. They wanted to see development that encouraged less high density, less traffic. That was the only problem he had with the development. He did not think that it was what their neighborhood had in mind.

Alderman Santos stated one thing they could do to protect their neighborhood, that had single family homes in an Industrial zoned area, was to get together and come to the city and ask them to down zone the property to residential. He thought they could waive the fees. That would allow them to keep the neighborhood that they had. Everyone that was willing to downzone their property should get together and contact Tim Conklin in the Planning Office. They would see what they could do to protect it. He thought they should do this.

Mr. Conklin stated he had spoken with Joe Robson. He was going to provide a map of the area. He was encouraging the neighbors to look at their properties. He wanted the neighbors to come and see him and discuss what zoning was appropriate for the neighborhood. Keep in mind, that in 1970 this was zoned I-1, Heavy Commercial Light Industrial. The piece of property had been zoned C-1. The current zoning allowed four dwelling units as an accessory use, plus a commercial use. The current zoning would allow for apartment units, plus a commercial use. The City of Fayetteville did not issue a permit to demolish a single family home. That included Washington/Willow, Mt Nord and Historic District. If someone wanted to demolish the building they did not have to contact the city.

Mr. Lolly stated it would be great to get some kind of permit or notice in order to take out a structure.

Mr. Joe Robson, an area resident, questioned the variance that they had been granted for the development from the Board of Adjustments. He also questioned the notice for the meetings. He asked if the property was ever advertised for sale. There was never a sign in Ms. Shoemakers yard indicating that the property was for sale. He stated they had every signature of the other property owner opposing this development.

In response to questions from Alderman Trumbo, Mr. Conklin stated that under C-1 zoning there was no minimum lot width requirement. Under R-3 zoning the minimum lot width requirement was ninety feet for three or more units. They had applied for a variance in order to be able to build more than three or more units on an eighty-foot lot. They had the required lot area, but the width of the lot was not adequate. The variance was subject to approval of the property being rezoned to R-3. The Board of Adjustment had granted a variance to allow three or more units with a lot width of eighty-feet contingent on the rezoning.

Alderman Austin stated by right they could construct one business and four residences.

Mr. Conklin stated they had mixed-use developments. As an accessory use, they allowed residential uses. These residential uses were limited to the R-2 zoning district, which was twenty-four units per acre.

Alderman Austin stated if they denied the rezoning it would remain C-1, which allowed one business and four residential units.

Mr. Conklin stated that was correct. They would not need the variance, because there was no minium lot width.

Mr. Keys stated there were multi-family residential property on the street. There were a lot of them on University Street. This was a high-density residential area. It has been promoted by the 20/20 Plan as being a mixed used, with the intention of promoting higher density residential development to support the infrastructure and the increase the student housing needs.

Alderman Austin stated they needed to increase the density in the downtown area. However, there was an emerging pride in this neighborhood. In fairness they should be heard for the three readings. He thought the best thing to do was leave the item on the first reading and give the neighbors time to be heard.

Mayor Hanna explained they usually did not move a rezoning request through two or three reading, when their was public opposition to it. They would let it go to the second and third reading. He did not think that they would vote it up or down tonight. He thought they had been given a lot of information that they needed to read. Letters and pictures from property owners. He thought the council needed the time to look at all this information.

Ms. Marsha Robson, an area resident, stated she would like to express some of the adjacent property owners concerns. They were concerned about the traffic and if the lighting from the parking lot would disturb the neighbors. She was also concerned about the water run-off from the complex. She noted they did not have any sidewalks on the street.

Alderman Young stated his house was in the same situation as this neighborhood. He lived in a residential neighborhood. The entire area was zoned commercial. He stated the city needed to address these zoning problems. When the rezoning were passed, the city had different views and priorities. One of the things that was needed was residential. One of the keys to maintaining a viable downtown area was owner occupied single-family residences. He use to live in this neighborhood. Those houses were not use buildings, they were homes to families. They were concerned about keeping their neighborhood. Fayetteville needed affordable houses. Someone could buy the house and slowly do the preservation. He thought the commercial with accessory units would be more compatible than the apartment complexes.It was not good for the long term benefit of the central part of the city. If they kept tearing down the single house and putting up apartments.

In response to questions from Alderman Russell, Mr. Massey stated he had purchased the property with the intent of improving the neighborhood by developing a very tasteful development.

THE ITEM WAS LEFT ON THE FIRST READING.

The meeting adjourned and started the public hearing for Water and Sewer Bonds.

WATER AND SEWER BONDS: A public hearing on an ordinance providing for the issuance of $10,000,000 principal amount of Water and Sewer System Revenue Bonds, Series 2000: authorizing the execution and delivery of a trust indenture, an underwriting agreement, a remarketing agreement, a letter of credit and reimbursement agreement, and a tax compliance agreement in connection therewith; approving an official statement in connection with the offer and sale of the bonds; providing for certain other matters relating thereto; and declaring an emergency.

Mr. Hunt stated there had been some minor changes in the terminology. They did not have a Reimbursement agreement. They had a stand by bond purchase agreement. It accomplished the same thing.

Alderman Young questioned if they would have to do a separate vote on the emergency clause.

Mr. Rose replied they would need a separate vote. They would need to have a public hearing. They needed to make sure that it was a distinct part of the proceedings. They needed to have the public hearing, then they could read the ordinance and have the vote.

Mr. Jeff Erf, 2711 Woodcliff Road, he asked them to explain what the money would be used for and who would pay the interest.

Alderman Trumbo explained they were basically recouping the money they had already spent on the land, the architectural, and engineering. It was to recoup the money they had already spent so they were not earning any interest income for the city.

Mr. Erf asked if it was for the new sewage treatment improvements. Was it strictly sewer or was it water. The ordinance read water and sewer.

Alderman Trumbo stated that was the title of the bonds that it was under. The theory is to recoup what they had already spent out of the sewer reserves. Even if the bond issue for the new proposed plant did not get voted in. They were still taking steps to recoup that money. They would earn about two hundred and fifty basis points spreads on the difference. Which was two and a half percent. It would be generating additional interest income for the city based on the lower amount of interest on the bond amount. What they were doing was creative financing in order to create more revenue for the city.

Mr. Erf questioned if they were going into debt for ten million dollars to pay for land and engineering design studies for the proposed sewage treatment improvements?

Alderman Austin stated they had money that was invested. They were drawing more money on their investment then they would be paying on the interest for this bond issue. They were going to make money on the deal. They had spent money on improving the system.

Mayor Hanna stated this went back to the beginning of the project. They started spending money when they went outside their own sources.

Mr. Erf asked where the money would be coming from.

Mayor Hanna stated it would come from the receipts from the water and sewer bills. They had a built in excess there to build a reserve for emergencies and expansions.

Alderman Trumbo stated there would not be any increase in the base water rates.

Alderman Santos stated the way he understood it was that by selling these bonds they would get a lower interest rate than on what they could get on a return for the money. They would show a profit on it.

Alderman Trumbo explained what they were trying to do was recoup ten million dollars that they had already spent out of the sewer fund. They had spent hard dollars to get to where they were today. What they were trying to do is float the double tax free bonds through Stevens Inc. to recoup the money they had already spent, and make about two hundred fifty basis point spread. So the money would come back into the city's bank account. They would have the money back in and no ones's water bill would be increasing. They were going to amortizing the bonds and paying the bond owners that money by allowing the city to recoup their money. They were going to be making money by doing this transaction.

Alderman Davis stated our debt service was going to be less than the interest they were going to receive back.

Alderman Young asked if the money would be put back into the water and sewer fund.

Mr. Maguire stated the money would be going back into the fund. About six and a half million would go back immediately. About three and half million would be held in trust for future expenditure.

Mr. Erf asked where the exhibits were that were in the ordinance.

Mr. Dennis Hunt, Stevens Inc., stated those exhibits had been presented to the City Clerk tonight.

Mr. Erf stated there were financial advisors and lawyers and what was their cut on this. How much were we paying them?

Mayor Hanna stated they had let those services out on bid. The one that bid the best rate was contracted with.

There were no more public comments.

Mayor Hanna closed the public hearing.

Mr. Rose read the ordinance for the first time.

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

Mr. Rose read the ordinance for the second time.

Alderman Austin moved to suspend the rules and move to 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.

Mr. Rose stated they needed a separate vote on the emergency clause.

Alderman Santos moved to approve emergency clause. Alderman Trumbo seconded the motion. Upon roll call the motion carried unanimously.

ORDINANCE 4276 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Meeting adjourned at 9:00 p.m.