MINUTES OF A MEETING OF THE CITY COUNCIL SEPTEMBER 3, 2002

A meeting of the Fayetteville City Council was held on September 3, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Santos, Jordan, Reynolds, Thiel, Young, Marr, Bechard, and Davis, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

BID 02-44: A resolution awarding Bid 02-44 to Missco Corporation for furniture for the TCA Building in the amount of $51,858.52 plus tax and a 5% contingency.

RESOLUTION 132-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

COMMUNITY DEVELOPMENT: A resolution approving a budget adjustment in the amount of $250,000.00 and a budget adjustment policy for the Community Development section.

RESOLUTION 133-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PCS PROPERTIES: A resolution approving an agreement with Southwest PCS Properties for the lease of tower space on the Sang water tank. The proposed lease amount is $1,500 per month with an initial term of five years.

RESOLTUION 134-02 RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-48: A resolution awarding Bid 02-48 and approving a contract with Arkansas Valley Irrigation and Landscaping in the amount of $55,000, plus a 10% project contingency of $5,500 for a total cost of $60,500.

RESOLUTION 135-02 RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-49: A resolution awarding Bid 02-49 and approval of a contract with Revelle Irrigation Systems in the amount of $22,700, plus a project contingency of $3,400 for a total cost of $26,100.

RESOLUTION 136-02 RECORDED IN THE OFFICE OF THE CITY CLERK.

HAY GROUP: A resolution amending the 2002 Budget authorizing the employment of the Hay Group for work associated with personnel issues and for other purposes.

RESOLUTION 137-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKATE PARK: A resolution approving an agreement with Tony Hawk Foundation. The Foundation will provide a $5,000 grant to the Fayetteville Skate Park upon receiving the signed agreement.

RESOLUTION 138-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HWY 180: A resolution affirming that the City of Fayetteville shall assume responsibility for the entire section of Highway 180 upon completion of the improvements from Township to Futrall.

RESOLUTION 139-02 RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to approve the consent agenda. Alderman Reynolds seconded. The motion carried unanimously.

OLD BUSINESS

RZN 02-15.00: An ordinance approving rezoning request RZN 02-15.00 as submitted by Dave Jorgensen on behalf of Larry Garriott for property located north of Persimmon Street and west of 46th Street. The property is zoned A-1, Agricultural and contains approximately 57.82 acres. The request is to rezone to R-1, Low Density Residential; and to accept the attached Bill of Assurance. The ordinance was tabled on the second reading at the August 20, 2002 meeting.

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

Mr. Williams read the ordinance.

Mr. Dave Jorgensen presented a revised bill of assurance as a result of the meetings that they had had. They had agreed to go to 83 foot wide lot minimums with a maximum of 158 building lots. The second compromise was the 80% brick. The third item was 1,850 square foot houses minimum.

Alderman Young asked if on the bill of assurance who the architectural committee would be.

Mr. Jorgensen stated it would be the owners of the project at first, until 50% of the ownership takes over similar to the POA at which time the committee would be the property owners association.

Ms. Sharon Davison, an area resident, expressed concern about the capacity of the sewer plant and the traffic.

Mr. Gary Adams, an area resident, stated two years ago the city council had said no to a subdivision in the same area because there was not enough infrastructure there to support it. He thought very few changes had been made since then. He expressed concern about the traffic and the schools in the area beginning at capacity. The sewage system was three to four years away.

Mr. Beshem zeta???? an area resident, stated he thought the revised bill of assurance took care of a lot of his concerns. One major concern that he did not believe the developer could not address, which was 46th Avenue. He expressed concern about the width of the street and the lack of sidewalks. He recommended that the city complete the improvements all the way to Hwy 16.

In response to questions, Mr. Beottcher, Public Works Director, stated that there were currently no plans to improve 46th Street, but there were plans to improve Broyles street from the new sewer plant to Farmington and to use that as the primary egress and ingress. He thought it might be wise to look at a through street.

Alderman Young stated the developers use to be required to sign a statement knowledge that they would not be guaranteed hook ups to the sewer, but Mayor Coody had done away with that requirement.

Alderman Thiel stated that had been something that this council had approved and she did not know why it had been done away with. It needed to stay in place.

Mr. Williams stated it had been a notice that they could not guarantee service. They did not really guarantee service anyway until they got a tap. This was to put people on notice before the election. Certainly, Alderman Young stated he had wanted that notice to continue, he was sure that was what they were doing now. It would not change until they passed a resolution. Their sewer plant was being designed and they were moving forward. If it was done by resolution, it would continue until they passed another resolution.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-2, Santos and Jordan voting nay.

ORDINANCE 4411 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFF STREET PARKING: An ordinance amending Section 172.01, Off-Street Parking Lot Design Requirement, of the UDO to provide a method for reducing off-street parking requirements for properties that share a common parking facility and to revise parking ratios for certain uses. Ordinance was left on the first reading at the August 20, 2002 meeting.

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

Mr. Williams read the ordinance.

Mr. Davis stated he would like to make a change the school still needed the one space per 3.2 students.

Mr. Conklin stated they had contacted the school district. For the high school their current ratio was 1 space per 3.2 students. He recommended that they amend the ordinance Attachment A.c.1. Page 20, to state one per employee, plus one per three students.

Alderman Thiel stated she felt with the new State law would reduce the amount of parking needed for students.

Mr. Davis moved to amend the ordinance to allow one space per employee and one per three students. Alderman Bechard seconded. The motion carried by a vote of 7-1, Thiel voting nay.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4412 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OUTDOOR LIGHTING: An ordinance that minimizes the impact of outdoor lighting on adjacent properties and improves nighttime visibility. Ordinance was left on the first reading at the August 20, 2002 meeting.

Alderman Davis moved to send the ordinance back to Ordinance Review Committee. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

RZN 02-21.00: An ordinance approving rezoning request RZN 02-21.00 as submitted by Dixie Development for property located at 10 Bishop Drive and 35 Appleby Road. The property is zoned A-1, Agricultural and contains approximately 17.39 acres. The request is to rezone to R-O Residential Office. The ordinance was left on the second reading at the August 20, 2002 meeting.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Santos seconded. Upon roll call the motion carried 7-1, Bechard abstaining.

Mr. Williams read the ordinance.

Ms. Pam Jones stated they would be willing to give the additional right of way if the city wanted to build a collector.

Mr. John Hansen, an area resident, stated they were concerned that they were wanting to cut Bishop into this addition. They thought that it would increase the traffic through the neighborhood.

Mr. Chip an area resident, stated he thought portions of the Master Street Plan were being ignored. An extension of Drake to Gregg would elevate some of the congestion.

Mr. Conklin stated the last time Drake Street had been expanded was when Lakeside Village Apartments came through. At the same time the park had been dedicated. Park parking lot was right-of-way. There was right of way all of the way to Gregg Street. It had been planned that away.

Mr. Boettcher stated the traffic plan would look at it. The design of Gregg will include consideration of the Drake intersection. They did not have any cost currently, but they were in the process of long range planning.

Alderman Thiel stated the Parks Board had taken into consideration the extension of Drake Street. It had not been abandoned.

Ms. Fran Quinton, an area resident, asked them to read the bill of assurance.

Alderman Marr asked if the office buildings would remain single story as long as there was not a majority change in the surrounding zoning. He asked if there was a way to make it clearer.

Mr. Williams stated he did not believe that was there intent. The bill of assurance talked about the adjoining neighborhoods. It was not talking about a piece of property. It was talking about the neighborhood themselves.

Alderman Marr stated he wanted to be clear that they meant the majority of the property.

Ms. Jones stated around the old Washington Regional they kept buying up property around. Who knows how things will develop in the future. It was the entire neighborhood, especially the property to the east. If the hospital bought it up, then they might want to look at how that related to their property. They were considering neighborhood rather than individual lots.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 7-1, Bechard abstaining.

ORDINANCE 4413 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-22.00: An ordinance approving RZN 02-22.00 as submitted by Tom Shackelford for property located at 2975 Old Farmington Road. The property is zoned A-1, Agricultural and contains approximately 1.32 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the August 20, 2002 meeting.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4414 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AUTOMATED CARTS: An ordinance establishing the rate structure and program parameters for an automated cart based on residential trash collection and disposal program. The ordinance was left on the first reading at the August 20, 2002 meeting.

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

Mr. Williams read the ordinance.

Alderman Thiel moved to amend b.2, to add, "and shall be removed within twelve hours thereafter." Under community clean ups, remove "registered association" and replace with "neighborhood association." Alderman Young seconded. Upon roll call the amendment passed unanimously.

Alderman Santos stated he liked the idea of the commercial side supporting the residential side. The same residents who pay the residential also help the commercial accounts pay their bills. It would be a very rude awaking for the citizens to put that cost on the residential side. If they had to take away the commercial subsidy, he would be in favor of doing it gradually.

Alderman Thiel stated they had just taken steps to expand their commercial side. They felt that they could increase revenue in the solid waste division. They agreed on several things: to keep rate lower for people who actively recycle and would use the smallest cart. To set the rate for the 64 and 96 gallon cart at the same level that they are now based on the cost of purchasing additional bags. They also wanted to look at increasing

these rates after it had been implemented. This was a major change in what they are currently doing. A couple of years ago they had plans to encourage people to recycle. One way to do that was to increase the rate. She suggested changing the bottom rate to $9.00, $18.00 for 96 gallon, and $13.50 for the 64 gallon.

Alderman Bechard stated they should be very careful on their role. As a government he thought they should say what it cost and charge them that. They have chosen to have a monopoly and by doing so he did not think it was right to arbitrary start making up prices. They had a rate that was a 58% discount verses cost. He did not understand that. He would like for them to get a lot closer to the break even point.

Alderman Jordan questioned the rates on the apartments. Was it fair for them to pay $17.74 when they were not given the option to recycle and did not use more than 20 gallons. Almost every one wanted excess bag pick up days.

Alderman Young stated they should tell the people that their charge was heavily subsided by the commercial sector. It was also being subsided by the 32 gallon carts. Those people did not need a once a week pick up. They were being charge once a week even though they were not using it.

Alderman Marr stated they were subsiding with profit from a profit orientated customer. If they kept that in mind they would be able to get the best rates for residential and keep a market rate for their commercial business that was competitive.

Alderman Santos stated if they took the cost off of the commercial and put it on the residents, that result on nothing but a windfall for their commercial customers, because they have already built that cost into their cost of doing business. It is already built into the prices that they were charging their customer, so where the same people who were their residential customers. Business were not going to lower their prices.

Alderman Thiel moved to change the proposed rates to $9.00 for the 32 gallon, $18.00 for the 96 gallon and $13.50 for the 64 gallon. That would decrease the subsidy. Alderman Marr seconded the motion. Upon roll call the motion carried by a vote of 6-2, Jordan and Reynolds voting nay.

Mr. Steve Frankenburger, an area resident, expressed concern about narrow driveways and not having a place to put carts.

Mr. Richard Maynard, an area resident, stated the price was not really the issue, but he did not like the idea of being charged extra when on the rare occasion that he would have more trash than usual.

Ms. Melissa Terry, an area resident, stated her neighborhood was concerned about what their bench marks of success was. They needed to education the public on source reduction and recycling and reusing things.

THE ORDINANCE WAS LEFT ON THE SECONDED READING AS AMENDED.

LOPFI 2: A resolution moving the City of Fayetteville Police LOPFI retirement benefits from Plan 1 to Plan 2 as of October 1, 2002. The resolution was tabled at the August 20, 2002 meeting.

Alderman Bechard stated they had talked about tabling the vote until October 15 to give them time to get the study back from the Hay Group. If they were not to have the study by October 8 agenda meeting, then they move forward with voting on this.

Alderman Thiel stated they should have this new plan in place when the Hay Group does their analysis. She was going to support this plan.

Alderman Davis stated the LOPFI 2 was only in two places. He believed they deserved to have the LOPFI 2 and a better than average salary, but since they were paying for this study, he thought they should leave things as they were until after the study was complete.

Mr. Ernest stated the Hay Group could meet the deadline of providing a preliminary draft of the benefit evaluation.

Alderman Marr stated to him the advantage to him would be that they could look at this from the strategic stand point. Not that it would change how they would vote on this, but it would change how they make financial decisions for the overall compensation programs for the city.

Alderman Santos stated if everyone was in favor of this way did they not go ahead and pass this?

Tad Scott, FOP, stated the FOP had met with every one. They did not want to take anything from anybody to receive this benefit. They would like to have this today, but they did not want it at the cost of jeopardizing the benefit survey for fire personnel and civilians.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded.

Ms. Shelly Tuberville stated she had been a general employee for fifteen years. She was married to a police officer on LOPFI. She outlined some of the differences between the benefit from the police and the general employees.

Upon roll call the motion carried by a vote of 6-1, Reynolds voting nay.

RESOLUTION 140-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

RZN 02-8.00: An ordinance approving rezoning request RZN 02-8.00 as submitted by Bob Hill of Nickle Hill Group on behalf of J.C. and Alma Nickell for property located at 867 N. College. The property is zoned R-O, Residential Office and contains approximately 0.29 acres. The request is to rezone to C-1, Neighborhood Commercial.

Mr. Williams read the ordinance.

Mr. Conklin stated the Board of Adjustment had upheld his interpretation that it did take C-2 zoning for automobile lube and tune type business. He thought any development on this lot would have to come back to city council because a lot of the parking was in city right-of-way. Typically they did not see most of the parking lot owned by the city.

Mr. Bob Hill, applicant representative, stated they were trying to get a zoning for a specific user, but they went just going for the rezoning for that. The building had been built and designed to be an auto repair place, but it has been determined that they could not do that. they would like to rezone the property to C-1 at least. They thought they would be able to market the property better with that zoning.

Mr. William Ready, an area resident, stated they had opposed the rezoning. he expressed concern about the traffic.

Mr. Steve Frankenburger, an area resident, stated nothing had changed since this property had been zoned R-O. It was inconsistent with the 2020 plan. They needed a buffer zone between College Avenue and the residences.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 02-23.00: An ordinance approving rezoning request RZN 02-23.00 as submitted by Jerry Kelson of Crafton Tull and Associates on behalf of Lindsey Management Co. for property located north of Old Farmington Road and east of Futrall. The property is zoned C-2, Thoroughfare Commercial and contains approximately 19.39 acres. The request is to rezone to RMF-18, Medium Density Multi-Family Residential.

Mr. Williams read the ordinance.

Mr. Jim Lindsey stated they were requesting that this be rezoned because it was on the NE corner of Futrall and Old Farmington Road. When the property was originally zoned commercial it was a two way street. It was difficult to do much with it because it was now one way. They still thought it would be consistent. 6.7 acres at the corner of Old Farmington would be left commercial the rest would be RMF-15

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 02-24.00: An ordinance approving rezoning request RZN 02-24.00 as submitted by Phil Hagen of Crafton Tull and Associates on behalf of Don Nelms for property located west of I-540 and east of Hwy 112. The property is zoned A-1, Agricultural and contains approximately 27.81 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance.

Mr. Conklin stated there are wet lands on this property. They did have intentions of putting a portion of property into a nature reserve.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 02-25.00: An ordinance approving rezoning request RZN 02-25.00 as submitted by Erin Rushing on behalf of Sage House, Inc. for property owned by the City of Fayetteville and located at 1033 Huntsville Road. The property is zoned R-1, Low Density Residential and contains approximately 4.22 acres. The request is to rezone to RMF-12, Moderate Density Residential.

Mr. Williams read the ordinance.

Alderman Thiel move to suspend the rules and move to the second reading. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

PUBLIC TRANSIT AUTHORITY: An ordinance authorizing the City of Fayetteville to become a part of a Public Transit Authority to be known as the Ozark Transit Authority and confirming an interlocal agreement to be signed by the Mayor.

Mr. Williams read the ordinance.

Alderman Reynolds asked if this would be a cheaper service for them to operate.

Mr. Ernest stated it would be. They would continue to pay dues for the larger regional system. There would be a far greater level of service than they had earlier. It was the beginning of moving toward a public transit system that they currently did not have.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

The meeting adjourned at 11:00 p.m.