MINUTES OF A MEETING
OF THE
FAYETTEVILLE CITY COUNCIL
NOVEMBER 21, 2000

A meeting of the Fayetteville City Council was be held on November 21, 2000 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas

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

CONSENT AGENDA

APPROVAL OF THE MINUTES: Approval of the minutes from the October 24, 2000 Special City Council meeting and the November 7, 2000 City Council Meeting.

PROPERTY TRANSFER: A resolution approving a transfer of property located at 19 E. Fourth from the City of Fayetteville to South Fayetteville Community Development Corp.

RESOLUTION 157-00 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

RZ 00-22: An ordinance approving rezoning request RZ 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. This ordinance was left on the second reading at the November 7, 2000 meeting.

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

Mr. Keys stated it was their desire to down zone this property from a commercial to a residential use. They have had one party seriously interested in the structure on the property. The party was interested in moving the structure off the property. They were going to study the possibility to see how feasible it was to remove the structure from the site. In response to Alderman Daniel, he stated they were not interested in holding off on their rezoning request. They had been holding off on their development plans until the zoning was determined. Do to the nature of financing and the cost incurred in maintaining the site in the undeveloped state, it was the owners desire to proceed as soon as possible with the development plans. It was not their intent to remove the house tomorrow. It was their desire to remove the structure and construct either a commercial or residential development. In response to questions from Alderman Daniels, Mr. Keys stated that the person interested in moving the house did have a site selected in Fayetteville. He did not believe anything would be done before the Christmas holidays. They were not willing to tie this up for three or four more months.

Alderman Austin stated this was a difficult decision to make. The fact that Mr. Masey was willing to work with the community and give them time to make offers, he was going to support them.

Alderman Russell stated it had been made clear to them that there was nothing to stop the property owner from removing the existing structure and putting in a commercial structure. He reminded the neighbors they were talking about the difference between six apartments, verses a commercial unit with four apartments adjacent to it. He asked the neighbors if those were the two choices which one would they chose.

Mr. Robinson expressed concern over the variance which would be allowed if this rezoning was approved. Mr. Masey had purchased a property which was zoned C-1. He could put residential with commercial use. But he could not build more than two units.

Ms. Sara Edwards, Development Coordinator, stated based on the density with the currently C-1 zoning the applicant would be allowed four residential units with a commercial unit. The ordinances only addressed the density and not the lot frontage.

Mr. Robinson expressed concern about the variance granted by the Board of Adjustment was a special privilege that the others along the street would not have.

Alderman Reynolds stated it was his understanding that the owner had the right to have four residential units with a commercial unit.

Ms. Edwards added that the applicant had received a variance from the Board of Adjustments, which was contingent upon the council approving the rezoning, to have an eighty foot frontage in a R-3 rather than the required ninety feet. The ninety feet of frontage was not required in the C-1 zoing district. There was a lower density in the C-1. There was a difference of about three residential units.

Alderman Daniel stated they were encouraging this type of development around town. She asked the for the number of parking spaces that this development would have, if they put in the six units.

Ms. Edwards replied they were required to have one per bedroom. It was her understanding that these would be one bedroom apartments.

Ms. Daniel stated she had a problem with that. So often there were several vehicles. She did not believe that would be adequate parking.

Mayor Hanna stated they were trying to do as much in-fill in the old part of downtown Fayetteville. He was not certain that R-3 was intended to build residential units on a 1.8 acre lot. His vision of R-3 was for larger apartment complexes with adequate parking. He tented to sympathize with the neighbors on this one. He felt it was too dense of a development for this lot.

Alderman Reynolds stated this area was both wards one and two. These people had lived in the area for years. He was going to support the neighbors. What they needed to do for the future was to look at the old part of Fayetteville and to get the zoing right. It had been done wrong a long time ago. It should have never been C-1 in this part of town. He was not going to support the rezoning.

Mr. Keys stated it was his understanding of the ordinance that the minimum lot width for R-3 did require a ninety foot frontage for more than two units. The Board of Adjustments had granted their appeal, contingent upon the approval of the rezoning. They did take all these issues into consideration. They had met all the other criteria. There were special conditions do to a lot split. C-1 zoning did not have a minium lot width for commercial. If they built a commercial unit, they could also construct up to four residential units. The eighty-foot frontage they could develop a commercial development with four apartments. If they were denied the rezoning, that was their intent. It would be a three story structure. Because it was a C-1 zone they had a zero side yard setback adjacent to the industrial zoned property to the south and the commercial zoned property to their north. It was their intent to position this structure to sit against the south property line adjacent to the I-1 property that currently had a rental structure. They would have a three story structure there with ten parking spaces wrapping around it. Total square footage would be 3,960 square feet. It was there belief that this was not the best solution for this lot or the neighborhood. They felt that six one-bedroom apartments with six parking spaces was a reasonable development for this lot. They were asking for a down zoning from C-1 to R-3. This house could never be occupied as a single-family resident, without the property being down zoned to R-2 or R-1. They did not feel that what they were asking for was out of line. He wanted to make it clear that if it was to remain C-1 they will develop it as C-1. It was there understanding that they could develop four units with attached commercial use. The impact to the neighborhood would be greater.

Alderman Santos stated this was consistent with the City's master plan. They wanted to increase density in the down town area. Either way they went with this rezoning they would achieve the same goal. Mr. Keys presentation for the R-3 would have less of an effect on the neighborhood. This was how they wanted to see the city develop. They were going to have greater densification.

Alderman Russell stated he agreed that either plan would be compatible with the city's plan.

Alderman Davis stated if they went with the R-3 they would have six parking spaces verses ten with the C-1 development. They would also have a two story rather than a three story and they would also have more landscaping.

Mayor Hanna called for the question. Upon roll call the ordinance failed by a vote of 4-5-0. Young, Russell, Reynolds, Daniel, and Hanna voting nay.

ITEM FAILED.

GARVER ENGINEERS: A resolution approving an engineering agreement with Garver Engineers for the design of a multi-level parking deck to be constructed on the existing parking lot behind the Campbell-Bell Building. This resolution was tabled at the November 7, 2000 meeting.

Alderman Daniel stated she thought this could be an improvement. She hoped that this deck would be attractive and not utilitarian looking.

Alderman Santos asked if they knew what the rental rate would be to repay the debt.

Mr. John Maguire, Administrative Services Director, stated there was an ordinance that required fifty dollars per space for parking decks. One of the things they would have to do, would be have a public meetings. He estimated the covered deck to be approximately fifty to sixty dollars per month. The ground floor would remain metered. The top floor would be approximately ten dollars less than the covered deck. The cost of the deck would determine the rental rate.

In response to questions, Mr. Venable stated there were several ways they could do the deck, but no basement was planned.

Mayor Hanna explained they needed the engineering agreement so they could find out how much it was going to cost and how many spaces they could have. They would have to pre-rent the spaces to cover the debt. They would have some type of agreements before they started construction.

In response to questions, Mr. Venable stated they could cancel the project if it was not feasible.

Alderman Russell asked if the project did not go forward, how was the general fund going to be reimbursed. Was there money in the Parking Fund to reimburse them.

Mr. Maguire stated by the time they made the decision the revenues from the Hilton Parking deck and the other parking income would off set the cost.

Alderman Russell stated then whether or not the project went forward or not he expected whatever money that was disbursed from the sales tax CIP to be reimbursed from the parking fund.

Mr. Maguire replied yes.

Alderman Santos stated he was worried about the appearance of the parking deck. He did not want them to have to put more money into the deck then what it could pay for itself. He did not want the space rental to get to high.

Mr.Venable stated they would have an architect as a sub-contractor. They would have to have some public input. He thought the architect would come up with some good ideas. They would also want to make a scale model of this so they could see how this would look with the rest of the down town area. He thought it could be a good looking structure, but the cost was something they would have to consider.

Alderman Trumbo stated the bond issuers and the credit rating agency would give them a minimum and maximum on the coverage that would tell them exactly the amount of outstanding debt that the cash flow would service.

Mr. Venable stated he could preserve a process similar to the library's.

Alderman Daniel stated they would want people to find it to be an appealing place. She did not think that they should put in that the city could not put in additional money.

Alderman Austin did not think that this council could bind the hands of the next council.

Ms. Brenda Thiel asked if the Parking Commission had been consulted and if so how much input had they had on the location of this facility.

Mr. Maguire stated the property owners were very much aware of the project. Off-Street Parking District owned the parking lot next to the E. J. Ball Building.

Ms. Thiel stated she thought they were rushing into something.

Mr. Venable stated they had met with the Off-Street Parking District. There was some question on the land. They did not own the other lots. The city owned this one. If the other lot was to become available it was possible to shift. They had discussed this with the engineer. They did not know if that would ever happen.

Mr. Maguire stated the last communication he had with Mr. Pettus they were willing to open the dialogue up. The best result would be to put all the parking property under one umbrella. That would require more give on their part than they were probably willing to do. It had not been worked out. If they were to do that they would without question have adequate revenue to support this deck and to start planning one in the Dickson Street area or the other pressure points. This was not being rushed by staff. They could lay it on the table.

Alderman Reynolds stated he had been on this committee. They had sent this out to seven firms. They had received five response back. They had spent five hour with each firm to get to this point.

Mr. Maguire stated if the discussions with Off-Street Parking did not go forward. Then we were putting ourselves in the position of having the option to move expeditiously. He did not believe it was in the city's best interest to transfer property to Off-Street Parking and let them control it. It had to ran by the city. Ultimately, he thought the city council needed to run the city parking lots.

Alderman Russell clarified that the city was not going to sign the contract or spend any of the money until the Off-Street Parking District had been consulted.

Mr. Maguire stated his advise would be to do nothing until the Off-Street Parking connection had been made or whatever.

Mr. Len Schaper, an area resident, stated this was an important issue because it was a major public structure going in half a block from the square. He was concerned about the public process they would follow to get to the design that people could live with. He was delighted with the Library's public process. He hoped that they would build into the contract the same kind of public input from the community. He was for the deck. He was concerned about how this was going to look and the impact on the street scape. Any good urban designer could tell them what happened at street level visually was very important. The last thing they wanted to see here was a grill through which they would see cars. Ideally, they would have commercial space on the ground floor. Those commercial spaces did not have to be very deep to be useful. They would provide the life of the street. It was very important for the downtown core. Mountain Street was going to be very important because it was going to be the corridor between the square and the new Library. It wanted to have life. It did not need to be a blank facade. He urged them to insist that the design have some kind of life at the street level other than the traditional parking structure. It could be something other than a parking structure.

Mr. Maguire stated they had a good deal of conversation with the engineer in view of exactly what he was saying. They felt that they should leave the space between the ground space and the next level to make that modification. They had talked about designing the sewer so that part of the engineering would be done. Those were the issues that would be very carefully sought out if this went forward. The connection with the library was very important. This was something they did not need to make a mistake on. If it will not cash flow, they may come back to the council. They saw this as the first connector moving away from downtown.

Mr. Venable stated there were a lot of problems with ventilation and height, but they have discussed this. They would have to get further into the development before more could be determined.

Mr. Schaper did not believe there were any restrictions on the city being a landlord for commercial development. He asked what was in the contract for public input.

Mr. Venable stated he did not recall off hand, but they could amend the contract to have more.

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

RESOLUTION 158-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.
NEW BUSINESS

TELECOMMUNICATION ORDINANCE: An ordinance approving a Telecommunications Ordinance.

Mr. Rose read the ordinance for the first time.

Mr. Rose introduced Mr. Brian Grogan, Moss and Barnett.

Mr. Gorgan stated when he last visited with them there had been some concerns that Southwestern Bell had made about some of the provisions in the document. They had reviewed some of their concerns. They had also spoken with legal council for Adelphia, which was a company that was trying to come into the city as a competitive local exchange carrier to provide competitive telecommunication services. He had worked with both of those firms to address their concerns. Both companies were satisfied that the document fulfilled their concerns. He thought it accomplished the city's goal that the same level of compensation that Southwestern Bell pays to the city for use of rights-of-way. All other providers that come into the city would have to provide the same level of compensation so that they had created a level playing field.

The second part of the equation was the cable service portion. Mr. Rose read the Telecommunication ordinance. Each of the providers on the Telecom side would get a one page agreement that would say they agreed to comply with the ordinance. The Cable side they entered into a separate agreement, or franchise. Presently they had one, Cox Communication. Their franchise is up for renewal. They had been negotiating a new contract with them. They have accomplished ninety-five percent of the document. They had about ten outstanding issues. The biggest issue was the institutional network. That issue was a very costly one and the most challenging one in negotiation. The question was who was going to pay for this.

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

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

Mayor Hanna called for the question. Upon roll call the ordinance passed unanimously.

ORDINANCE 4278 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PLANNING COMMISSION APPEAL: An appeal of a Planning Commission decision as requested by Dennis Caudle for RZ 00-25 for property located at 1192 N. Rupple Road. The property is zoned R-O, Residential Office and contains approximately 1.5 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Rose read the ordinance for the first time.

Mr. Dennis Caudle stated the Planning Commission had voted against his request. Ten years ago there had been a five acre tract. The back three and half was rezoned so the storage building could be built. The front of the property was zoned R-O at the time. It had taken a long time to complete the large scale development. There was currently a need for a climate control facility. There were none in the City of Fayetteville. He was hoping to construct one more building that would be the climate controlled. He questioned if he could table the item and only ask for eighty to ninety feet, just enough to construct the building.

Alderman Davis asked Mr. Caudle if he had any room to the east to construct the facility.

Mr. Caudle stated their property stopped at the same location were the original large scale development stopped ten years ago. He stated he was asking them what he could do that would be acceptable to them. He could build a privacy fence if they wanted.

Alderman Reynolds stated Mr. Caudle had signed a Bill of Assurance with the Planning Commission that he would leave the front acreage as R-O so that they would have something different along the front of Wedington other than storage units.

Alderman Davis stated it was his understanding there was 254 feet . If he came eighty feet toward Wedington, he was still going to have another 174 feet of depth between the roadway and the fencing. He thought that would be adequate for an R-O complex.

In response to questions, Ms. Edwards stated the General Land Use Plan did not support the C-2 zoning at that location. It would be closer, but she did not feel that they could support it for that reason.

Alderman Davis stated it was hard to make storage units attractive, but by sitting it back 174 feet he saw a possibility. He would prefer Mr. Caudle to go back before the Planning Commission with this revision.

Mr. Caudle stated this was needed in Fayetteville. It would be no different than what was there.

Alderman Reynolds asked why the Highway Department had given him a curb cut. In the Bill of Assurance, he was suppose to have limited access to Wedington. He asked why that gate had been put up there.

Mr. Caudle stated the gate had been put up for public safe, for the fire department in the event of an emergency. It was an emergency gate. The gate was put up two months ago, when the road as put in. The State had told them to put the road in while the construction was going on. It was not an entry way. The traffic entered off Rupple. The bill of assurance had not been violated.

Ms. Edwards stated Mr. Caudle's request had been for the whole parcel and that was what the Planning Commission denied. If he wanted to get a certain part of that parcel rezoned then the Planning Commission needed to hear the request again. If they denied that request, then he could appeal that decision.

Mr. Caudle requested that they sent his amended request back to the Planning Commission.

Alderman Russell stated he was not committing to supporting or opposing any modified request.

Alderman Davis moved to send the amended request back to the Planning Commission. Alderman Reynolds seconded the motion. Upon roll call the motion carried unanimously.

THE ITEM WAS REFERRED BACK TO THE PLANNING COMMISSION.

RZ 00-24.00: An ordinance approving rezoning request RZ 00-24.00 as submitted by Jerry Martin for property located at 1209 Bailey Street. The property is zoned A-1, Agricultural and contains approximately 2.30 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Rose read the ordinance for the first time.

There was no public comment. Applicant was not present.

LEFT ON THE FIRST READING.

OZARK MOUNTAIN OUTFITTERS: A resolution approving a Certificate of Public Convenience for a horse carriage as requested by Ray Dobson.

Mr. Ray Dobson, Ozark Mountain Outfitters, they currently did more than buggy rides. They were doing train robberies etc. it all tied into the old west. What they would like to do with their horse drawn carriages was to work off Dickson Street. The north side of Walton Art Center. There was already a trolley stop there. They could proceed to the east on School Street, then they would be off Dickson Street. They would give rides behind the Walton Arts Center. They were planning on catering to the Art Center clientele. They had worked out a route. They were not planning on the Historical district until they had met with them. The Hilton would be able to page them if they had a client that wanted a ride. They wanted to operate during events. He knew there was another company in town. He thought their clients would be from the Walton Art Center and the Hilton. They would generate their own business. If his clients wanted to ride around the square he hoped that they could do that. He thought two companies would be better than one. He would be here when they were not.

Alderman Trumbo stated he would like to see a one year contract.

Alderman Reynolds stated they had an agreement with the other company through December.

Alderman Austin asked Mr. Dobson if he could live with them limiting him from the square during the Christmas months.

Mr. Dobson replied no. If they picked up someone on Dickson that wanted to go to the square. He would be picking up his own business. He would not have pick-up on the square. He would generate his own clientele from a different area.

Alderman Russell asked Mr. Dobson to describe his route.

Mr. Dobson stated it was his understanding he would not get his permit until he and Mr. Franklin worked out a route. Whatever route they used would be approved by the traffic superintendent.

They had removed the Historic District because of the neighborhood association. They would have loved to be in the Historic District.

Alderman Reynolds stated the present company had been with them for five years. He wondered if they would be willing to expand their business. He did not know how many people could live off this. He did not want to loose the one they had.

Ms. H. B. Hunsaker, owner of current carriage company, stated she was upset because Mr. Dobson stated that safety was not a problem. Safety was a major concern for her. They had three horse and three carriages that were together all the time. She was asking for him to stay off the square, until after the first of the year. She had no problem with him being down on Dickson. There was not a lot of room on the square.

Mr. Sam Harmond, S&H Carriage, stated he had purchased the company last year. He had bought the pervious owners horses and carriages. He had no problem with Ray being on Dickson, but he felt that picking up people at the Hilton was taking away from them. They bought this to make a living.

Alderman Davis stated he was not sure if they needed to have competition on the square at this point. He asked if he would be okay if Mr. Dobson was not allowed to pick up on the square or at the Hilton during the Christmas Season.

Mr. Harmond replied that would be okay.

Mr. Dobson stated the people he would be picking up from the Hilton would be the people he would generate from bus tours. These people would have his pager. They were people from bus tours. He was not going to go to the Hilton until he received a phone call. He was not going to pick up anyone on the square.

Ms. Hunsaker stated when they were around the square they did not have that much room. It was a safety concern.

Alderman Young moved to approve the Certificate with the total route with the route through the Historic District to be approved by the Historic District and approval of the Traffic Superintendent. Alderman Santos seconded the motion. Upon roll call the motion carried by a vote of 6-1-0. Reynolds voting nay and Daniel absent for vote.

RESOLUTION 159-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NWA REGIONAL PLANNING COMMISSION: A resolution approving an amendment to the agreement with Northwest Arkansas Regional Planning Commission

Alderman Trumbo moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

RESOLUTION 160-00 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

INFORMATIONAL ITEM:

Informational item to the City Council in accordance with administrative policy.

Meeting adjourned at 9:20 p.m.