

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
OCTOBER 15, 2002**

A meeting of the Fayetteville City Council was held on October 15, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

CONSENT

APPROVAL OF THE MINUTES

MOBLEY CONSTRUCTION: A resolution awarding a construction contract in the amount of \$148,180.00 to Mobley Contractors for the "City-wide Sidewalk Construction" project.

RESOLUTION 154-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET IMPROVEMENTS: A resolution approving a construction contract in the amount of \$1,090,270.00 with Township Builders for Cleveland Street Improvement Project (Hall to Leverett); a 10% project contingency in the amount of \$109,027.00; and the related budget adjustment.

RESOLUTION 155-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CLEVELAND STREET: A resolution approving Amendment #3 to the engineering contract with Crafton, Tull and Associates, Inc. for Cleveland Street Improvements Project (Hall to Leverett) in the amount of \$71,301.69.

RESOLUTION 156-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RIGHT-OF-WAY PURCHASE: A resolution approving a right-of-way purchase from the Arkansas and Missouri Rail Road Company for right-of-way on the west side of Gregg Avenue from Poplar Street to approximately Spruce Street and the approval of a budget adjustment.

RESOLUTION 157-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering contract amendment number two with Garver Engineers in the amount of \$13,698 to the existing engineering



services contract for design and construction management for the Old Missouri Road project.

RESOLUTION 158-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SKYLAR PLACE ADDITION: A resolution to accept money in lieu as park land requirement of the Skylar Place Addition.

RESOLUTION 159-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CORNERSTONE APARTMENTS: A resolution to accept money in lieu as the park land requirement of the Cornerstone Apartments Phase II.

RESOLUTION 160-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LOPFI BENEFITS: A resolution authorizing the transfer of the sworn officers of the Fayetteville Fire Department for LOPFI Benefit Plan #1 to LOPFI Benefit Plan #2, effective January 1, 2003.

RESOLUTION 161-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FBO HANGAR: A resolution approving a construction contract in the amount of \$634,000.00 with Crossland Construction, Inc. for construction of FBO Hangar; a 10 % contingency; acceptance of a grant from the Arkansas Aeronautics Commission in the amount of \$200,000.00 and approval of a budget adjustment.

RESOLUTION 162-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SOUTH HANGAR APRON: A resolution approving a construction contract in the amount \$ 616,207.70 with Tomlinson Asphalt, Inc. for construction of Aircraft Hangar Apron Complex; a 10% contingency and approval of a budget adjustment.

RESOLUTION 163-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Jordan moved to approve the consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

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. The ordinance was tabled on the first reading at the September 17, 2002 meeting. Left on table at the October 1, 2002 meeting.

Alderman Davis moved to take the item off the table. Alderman Reynolds seconded. The motion carried unanimously.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Young seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Kim Fugitt, Lindsey Management Company, stated the property was east of 540 and north of Old Farmington Road. They were asking for some of the property to be rezoned to Multi-family residential. The rest of the property they want to have remain as commercial. The property had been zoned prior to the service road being changed to a one lane road. This change has had a negative affect on the property becoming commercial. Common planning practices would have a transition zone from commercial areas to residential areas. In this area they had no transition or buffer between the C-1 and the R-1 zone. When this proposal was brought forward they had staff approval as well as an unanimous approval by the Planning Commission. They were wanting to leave six and a half acres commercial in the hopes that the apartments would lend itself to developing it over time. There are still a lot of opportunities for commercial development along Sixth Street.

Alderman Reynolds stated this property had been purchased by National Home Center. They had done a traffic study and could not warrant putting in a home center there with only one-way traffic. He thought that until they got more citizens out there to support more business they were going to have problems in that area. He thought that the area needed more pedestrians and traffic to support better commercial property.

Alderman Thiel stated they were starting to see a major overhaul at the old IGA shopping center and a new Hampton Inn. Development was starting west of the new Walmart. She felt the area was just now starting to become revitalized

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

In response to questions, Mr. Conklin stated the 2020 Plan had a policy on Commercial Nodes and did not encourage strip commercial type zoning or arterial corridors. They have created commercial nodes. They have created commercial nodes around the interchanges at I-540. He was surprised at how slow development has been with regard to development of this corridor and north at Wedington Drive. The hotels and restaurants were providing a regional type commercial use for people traveling in and out of Fayetteville. He was not sure that the commercial zoning in this area needed to be preserved. The commercial areas were already going other places in Fayetteville, based on the three existing shopping centers that were having a very difficult time surviving over the last five to eight years.

Alderman Marr stated at first he was not in support of this because he did not want to encourage growth and create a college on Hwy 62, but he did think that it was important

to have mixed use and to bring residential and commercial together to encourage further development. He thought the city needed to be very careful about rezoning very valuable commercial land in their city that could add to their tax base when they really only have three major exchanges off I-540.

Alderman Davis stated Hwy 62 and I-540 was a very large intersection and it was going to have more traffic. I see this area being rejuvenated. The life and blood of this city is sales tax revenue, it is not property tax. They should not look at this day, but they need to look out five, ten or fifteen years into the future. Other cities have one-way traffic next to expressways and it seems to work in those communities. They are looking at three hundred and twelve apartments at this location. Currently, this council has already approved approximately fifteen hundred apartment units this year. He is pro-business, but he is also looking out for what is best for the city. We have a new sewer going in on the west side of town. We could run into problems with the State of Oklahoma, they might not be able to go on line when they need to, which means that they could have problems with sewer hook ups in future. When people look for a city, to locate a business here they do not look at the number of rental units, they look at the number of R-1 residents, with an income base to determine if they want to come to Fayetteville. He did not want to use those sewer hook ups on apartments he would rather use them for residential development, R-1, single family. Those people would have good jobs and be here for years to come because they have an investment in the community. A tenant is only buying time.

Alderman Young asked Mr. Conklin when was it a good time to start diversifying and getting into mixed use.

Mr. Conklin stated this year they had seen a number of rezonings from Light Industrial/Heavy Commercial to residential. Based on that, there seemed to be a need for additional units. He has also been trying to regulate the number of people within single family homes within some neighborhoods and the pressure they faced as a city with the University trying to expand. His staff has been recommended the type of rezonings which would help provide housing close to the University. They did have an opportunity to provide more residential development on the east side of the bypass, he thought that when they had those opportunities and when they looked at the commercial that they had here, they had an opportunity to provide housing closer to the inner city and the university. He thought that this could be a good thing. He was aware of the issue in regard to the sales tax revenue. The City Council has played a big part in making sure that they had a regional commercial center to the north, CMN Business Park. This was a policy of their General Plan. They also had a policy to encourage regional commercial uses. He thought they could do both within Fayetteville. They were seeing a tremendous amount of pressure for residential and where to do appropriate infill development. He thought that this met their general goals and objectives and provides an opportunity to provide some housing on this side of the bypass.

Alderman Bechard stated, as a percentage of the residential area in the City of Fayetteville, we have a significantly high share of apartments in Fayetteville, almost

twice that of Bentonville and other areas. He is concerned about this. He did not think that wanted to base their foundation of their City in that type of balance. From a service point, from a police stand point, the type of residential that cost the most is apartments. They passed a rezoning along Persimmon a couple of weeks ago, and there are not any homes up yet. There will only be three to four homes nine months from now. The impact of that development to the city has not occurred yet. When they approve projects like a three hundred and twelve apartment complex, they would have three hundred sewer hook ups in nine months. The impact to their sewage system and the rest of their city would be a lot sooner, than if they had homes. They needed to look at the impact at least three years from now. The tax base is also a major concern. I-540 is a major artery. They should go out and find how to fill that space to improve their tax base. They may need to seek out the type of businesses that would improve their quality of life and improve their tax base.

Alderman Jordan stated he was concerned about the increased traffic in the area around the existing school. He thought that they had created these nodes for future tax base.

Alderman Santos stated he thought this was a good development. This was an example of the type of good mixed used developments that they need. The people who live there could walk or ride to school and to the University. When they set the commercial nodes, they did not know how big they needed to be. They just knew that this was a major intersection and that this was where commercial developments were going to be attracted by the road access. This area has been a failing commercial area for a long time. It was still failing and under used. If they were to put these units in they might be able to provide some customers for this area.

In response to questions, Mr. Beotcher stated they had a Capital Improvement Project planned which would align Sang and Hollywood. As soon as they completed the right-of-way acquisition they would be ready to bid the project.

Mr. Kim Fugitt stated every establishment they had mentioned was on Sixth Street or on a street that had two way streets. There had been absolutely no new development occurring north of Sixth Street, with the exception of one, but they were developing their own access off Sixth Street. He thought a commercial development would create as much of a traffic problem as a residential development.

Alderman Davis stated he could see this area being a designation type of development. They would love to have a stadium type theater here. He thought the city should go out and look for these types of people to fill this type of land. If they brought in the right type of business, he really thought it would work. Lindsey has apartments at every intersection. The Mayor had stated that he would like to see Fayetteville look like it does in Rogers where they could see a very attractive office complex or other things of that nature.

Ms. Marsha Beard, an area resident, stated she owned seventy-two units in town. To her all of Lindsey's units looked alike. The main comment that she would get from her

tenants was that her apartments did not all look the same. She was concerned about all of the sewer counts. If they were to use all of the hook ups on all of these big projects, what would happen to the people who wanted to build smaller units. She thought they needed to take that into account.

Alderman Santos moved to suspend the rule and go to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody stated he was concerned that after they have driven through cities with apartment after apartment on their major thoroughfare, it makes it look like the community is more of a bedroom community than it is a business community. That was one thing he was concerned about how they appeared to the outside world when people drive through. At the same time the other argument was that if their Planning Staff thought this was good planning and the Planning Commission approved this 8-0, that carried strong weight. He would be very disappointed if they were to see their opportunity on 540, which could be a wonderful commercial area, developed with more and more apartments on it, he thought they would be permanently missing the boat.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 5-4, Bechard, Davis, Jordan, and Thiel voting nay, Mayor Coody voting Yea.

ORDINANCE 4424 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TRAFFIC STUDY

A resolution awarding the engineering and planning services contract for the City of Fayetteville's traffic study to the firm of Bucher, Willis, and Ratliff Corporation in the not-to-exceed amount of \$198,408; approval of an engineering contract contingency in the amount of \$20,000 and approval of a budget adjustment. The resolution was tabled at the September 17, 2002 meeting.

Alderman Santos moved to take the item off the table. Alderman Marr seconded. The motion carried unanimously.

Alderman Davis stated he thought they would be looking at mass transit all along. He thought they may be paying for things that they had already included in the original scope.

Mr. Jim Beavers, City Engineer, stated Swinger had only responded to the scope negotiated with the staff. They had not added any additional items. They had only addressed items that they had specifically asked them to.

Alderman Santos moved to pass the resolution with \$222,388 with the \$20,000 contingency. Alderman Marr seconded.

Alderman Bechard stated that while they were doing this study they should look at how to get the money to do the things the study recommended that we do. He asked Mr. Swinger if this was something that they typically do.

Mr. Swinger stated when they put the original scope together it was in response to the Request for Proposal that came out of the City. They have a whole specialized team that deals with transportation issues.

Mr. Steve Davis stated the City had reauthorized three-quarters of a cent of sales tax for the waste water system improvements. They had one quarter of a cent of sales tax that could support a bond issue. If they wanted to go for a public vote they might consider using that quarter of a cent.

Alderman Davis stated on the last study they had everything with highways and city streets put together and they listed the projects from one to thirty five. What he would like to see them do was to list the highways separately from the city streets. That way they would know what they had the ability to do without having to go to the highway department and get their approval.

Alderman Jordan asked what they were going to do with the plan and how they were going to implement the plan. The plan will only be as good as the people that implement the plan. This was one of the first sets in long range strategic planning for this city. If they did not follow the plan there was no one to blame but themselves.

Alderman Marr stated the city will have to have a sound basis for choosing which project will provide the greatest return for the dollars expended. This would give them a method to do that. It would do it without ignoring parts of their city and the University and historic neighborhoods. He believed that they could be disciplined enough to follow this plan.

Mr. Basam Yada, an area resident, stated he thought the study was important. He recommended that they utilize as much existing information as possible.

Mr. Swinger stated they were going to use all of the available data that they could get their hands on rather than duplicate anything.

Upon roll call the motion passed 7-1, Reynolds voting nay.

RESOLUTION 164-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-27.00

An ordinance approving rezoning request RZN 02-27.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Lenwyn Edens for property located southeast of Wedington Drive and Brooke Lane. The property is zoned A-1, Agricultural and

contains approximately 6.10 acres. The request is to rezone to RMF-6, Low Density residential. The ordinance was left on the first reading at the October 1, 2002 meeting.

Alderman Thiel moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mr. Jorgensen stated the request was for the lowest rezoning request that they could make. The reason for the request was to bring it into compliance with it's present use. It is being used as duplexes right now. The owner has the potential to sell the property to Marsha Beard who has units on Betty Jo Drive. This would bring the property into compliance and the property would be cleaned up and the units would be remodeled.

Alderman Davis stated he thought they were making a big improvement here. The units out there need a lot of care.

Mr. Jorgensen stated they had met with the Planning department and thought they had some answers to the Council's questions. There was one unit that was partially burned out, the unit could not be rebuilt until the property was rezoned. Ms. Beard was wanting to rebuild the unit and clean up the existing units. The solid waste department had sent them a letter stating that there had not been any problems in the past with the surface of the road or the ability of their vehicles to collect trash. They did not feel that they would have any problems with the surface of the road.

Alderman Jordan stated he did not have a problem with the existing units, but he would have some problems if anything else went in. It took seven to ten minutes for a fire truck to get out there. He was concerned about the fire protection.

Chief Bosh stated they had talked with Ms. Beard about the placement of a hydrant in the area because they were concerned about water source. They do have response times out there.

In response to questions, Mr. Jorgensen stated there were twenty two units there now. They were looking at adding fourteen more units.

Mr. Conklin stated staff makes recommendations and they follow their ordinance on what it is required for development. They had met with the client and discussed those requirements. They had talked about a hard surface and the ability to turn around. They were comfortable with rebuilding the burned out duplex under the existing conditions. However, they will be subject to all standards and regulations when they develop additional units.

Alderman Bechard stated if they passed this tonight, this would allow them to renovate the burnt out one in the existing conditions.

In response to questions Mr. Conklin stated they would be going through the large scale development process when they build the addition units. At that time all the departments are going to review it, and they will apply their ordinances and look at what is required for apartment complexes. Staff would recommend that they meet the ordinances. There was a question on if she would have to build a city street through this development, she would not have to do that. They did not have minimum asphalt standards for parking lots and private developments. The developers design those with their engineers to make sure that they will work. This six acres is one parcel with the eleven units, they are looking at this as multi-family units. In a multi-family development they are not building standard city streets. They were building parking lots with access aisles.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2, Santos and Jordan voting nay.

ORDINANCE 4425 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 02-8.00

An ordinance approving VA 02-8.00 as submitted by Carole Jones of McClelland Engineers, Inc. on behalf of Ted Belden for property located 485 Vinson Avenue. The request is to vacate a portion of a utility easement.

Mr. Williams read the ordinance.

Ms. Carole Jones stated they had completed all of the water line connections and turned the water back on. The water line and the sewer line has already been abandoned. There are no utilities in the easement now. All of the neighbors are satisfied.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Reynolds seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4426 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-28.00

An ordinance approving rezoning request RZN 02-28.00 as submitted by Glenn Carter of Carter Consultants on behalf of Dewayne Provence for property located at 1509 Morningside Drive. The property is zoned R-2, Medium Density Residential and contains approximately 3.34 acres. The request is to rezone to I-1, Heavy Commercial/Light Industrial.

Mr. Williams read the ordinance.

Mr. Carter stated this would allow the owner to build an office building for his existing business.

Alderman Reynolds stated this business employed eighty people. He did a good job in keeping the property clean.

In response to questions, Mr. Conklin stated the office building would have to meet their commercial design standards. There will also be trucks on this site. Commercial design standards would also apply to the landscaping out front and would require that trees be planted and the parking lot landscaped.

Alderman Jordan moved to suspend the rules and move to the second reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4427 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

DEVELOPMENT PLANS AND PERMITS

An ordinance amending Title XV, UDO of the Code of Fayetteville, to provide a date certain for the expiration of approved development plans and permits.

Mr. Williams read the ordinance.

Mr. Conklin stated they were trying to establish some provisions for a time period when they had to begin a project after it was approved by the Planning Commission and what type of actions they had to take. They had some projects that went on for many years. They were proposing a three year time limit. The Planning Commission could grant an extension on the time limits when they were under construction, they could issue a two

year extension. Any conditional uses that had been abandoned for a year were discontinued. All the past approvals and premise will now expire. They were trying to address the plans for undeveloped land and large scale developments that were just sitting down in the Planning division files that had been approved by the Planning Commission years ago.

Alderman Reynolds moved to suspend the rules and move to the second reading. Alderman Marr seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE AS LEFT ON THE SECOND READING.

BID QUOTATIONS

An ordinance to amend Section 34.23 and Section 34.24 of the Code of Fayetteville to change the amount above which quotation bids are required.

Mr. Williams read the ordinance.

Mr. Williams stated this ordinance is a house keeping measure. He thought the City's code should reflect what the State Law required.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

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

ORDINANCE 4428 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

2002 MILLAGE

An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2002 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mils for the Fayetteville City Library; and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Mr. Steve Davis stated this was normally a routine levy that the city passed every year. This millage levy was different for two reasons. The first was that they had added the millage for the city library that replaced the county library. The other reason that this was different was that on the November ballot there was an item, Amendment 3, which would remove sales tax from food and drugs. This levy needed to be to the County on November 8. Staff was recommending postpone approval of this ordinance until after the election. If amendment 3 is approved, the 2003 impact to the city budget will be approximately between 1.3 and 1.7 million dollars. City Council can levy up to five mils. Each mil brings in approximately \$645,000. They would need 2.1 mils to replace the money lost if Amendment 3 passes. The second year would be a full five mils.

Alderman Marr stated they should look at passing this ordinance, if the Amendment passed, then they could have a special meeting and change the ordinance.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Bechard seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and move to the third and final reading. Alderman Davis seconded. The motion carried unanimously.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. The ordinance passed unanimously.

ORDINANCE 4429 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FIRE TRUCK BID WAIVER

Alderman Young moved to suspend the rules and add the item to the agenda. Alderman Marr seconded. The motion carried unanimously.

Chief Bosh stated the fire departments only ladder truck had broken down. The repair of the truck was estimated to be \$42,500. The equipment was appraised at \$72,000. They had sent out specs for a new truck which was being presented to them tonight.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded. The motion carried unanimously.

The meeting adjourned.