MINUTES OF A MEETING OF THE CITY COUNCIL NOVEMBER 19, 2002

A meeting of the Fayetteville City Council will be held on November 19, 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, Alderman Reynolds, Thiel, Young, Marr, Davis, Santos, Jordan, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press and Audience.

CONSENT

APPROVAL OF THE MINUTES

ELEVATOR: Resolution awarding Bid 02-66 in the amount of $26,246toThyssenKrupp Elevator for the repair of an elevator in the Fayetteville Police Building.

RESOLUTION 175-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OFFER AND ACCEPTANCE: A resolution approving the offer and acceptance contract for the acquisition of all property located at 2050 W. 6th Street for the relocation of the Sang Avenue intersection with 6th Street; and approval of a budget adjustment.

RESOLUTION 176-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CROSSLAND CONSTRUCTION: A resolution approving Change Order #5 to the contract with Crossland Construction Company, Inc. in the amount of $402,895.84 to purchase and install exterior cladding for the New Fayetteville Public Library.

RESOLUTION 177-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent agenda. Alderman Marr seconded. The motion carried unanimously.

OLD BUSINESS

MARTIN LUTHER KING, JR. STREET: A resolution to designate 6th Street as honorary Martin Luther King, Jr. Boulevard. The resolution was tabled at the November 5, 2002 meeting.

Alderman Thiel moved to amend the resolution making 6th Street Honorary Martin Luther King Jr. Boulevard. Alderman Reynolds seconded the motion. The motion carried unanimously.
Mr. Rhett Beard, an area resident, stated he supported the resolution and felt they needed to honor and to keep alive their generational stories for this generation and future ones.

Ms. Cindy Nance, an area resident, stated she supported the honorary designation of 6th Street as MLK Boulevard. Honorary designation did not have to go to Planning commission it could be given by a resolution. 6th Street ran past the only high school in town, the university, and a historically black neighborhood. Since this is an honorary designation none of the merchants will have to change their letterhead or incur that cost. Since this is a State highway they will pay for the signage.

Mr. Lonnie Williams, an area resident, stated he was in support of the change and asked them to support the resolution.

Mr. John L. Colbert, an area resident, thanked the council for considering the designation and allowing the public input. They were in favor of the resolution.

Ms. Hawkins, an area resident, stated Fayetteville had been the first city in the south to integrate and that she hoped they would continue to support them.

Ms. Ernestine Gibson, an area resident, stated she had been a member of the MLK committee for several years. She presented a petition in support of naming 6th street MLK Jr. Boulevard. This was a positive step and outreach in this area.

Ms. Lette Wright, an area resident, stated she supported the designation.

Mr. Steve Shephard, an area resident, stated 6th street was one of their primary routes to get to his house and he supported the change.

Mr. David Garcia, an area resident, stated he would not be proud of them if they passed it. They should change the street name and not make it just an honorary designation.

Alderman Reynolds stated he had a number of people wanting the committee to work on naming a street after Lewis Parry Bryant Jr.

Alderman Marr asked if they had considered a time frame for changing the street name. Had they considered anything other than honorary or definite.

Alderman Santos moved to pass the resolution. Alderman Jordan seconded. The motion carried unanimously.

RESOLUTION 178-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CRYSTAL SPRINGS: A resolution to amend Resolution 153-02 to exempt that portion of the 600' buffer strip north of Clabber Creek lying west of Deane Solomon Road The resolution was tabled at the November 5, 2002 meeting.

Mr. Mel Milholland stated there had been seven years of planning to extend Crystal Drive into Deane Solomon in the Phase Three of Crystal Springs. They had gone through Subdivision Committee and were ready to go onto Planning Commission when the resolution was passed regarding the six hundred foot buffer. He asked that he council treat this developer fairly. They had purchased land from the golf course and paid approximately $70,000 to move a green and a tee off in order to get closer to Deane Solomon. Their next step was to go through city property. They were asking the city to cost share the cost of the street extension. The city would own the property to there benefit in the future. It would give a through connection that had been planned for years between Deane Solomon and Salem.

Alderman Thiel stated the street had been required by the Planning Commission. She believed that there had been a commitment from the city to share the cost of the street.

In response to questions, Mr. Milholland stated there would be storm drains at Dean Solomon.

Alderman Young stated he thought the storm drain along the property line should be the developer's responsibility.

Alderman Davis stated he was concerned about people using the street as a through street and increasing the speed and the safety of the children.

Mr. Williams stated this resolution would only remove the requirement that they not disturb this property. They were not expected to accept the terms of the letters. This simply removed the exemption from the buffer zone. The council would have to approve any cost share agreement at a later date.

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

In response to questions, Mr. Collins stated the task force had been trying to come up with reasonable recommendations. They were meant to be guide post. They were meant for the council to deal with them and to make decisions. The eleven acre strip came to them late in the process. He did not realize that this piece of the property was something that they should be considering until late. It never received explicit discussion. They nature of the six hundred foot buffer was intended to protect the quality of Clabber Creek. They had never been told about the road. Had they been told, then they would have dealt with it. Their primary concern was contiguous ecosystem protection. These eleven acres was not part of the contiguous ecosystem that they had been considering.

Ms. Jennifer Price, Crystal Springs Homeowners Association, stated without the passage of this resolution the developer could not go forward with his plans. She presented a petition with sixty signatures from homeowners in their association that wanted the road to go through. They did not want it to be as straight as it is, but those were Planning Commission items. If there was only one entrance into the subdivision, then over four hundred and fifty cars would be driving by the school every day. This developer had been working to good faith to satisfy the city's requests.

Mr. Al Vic, an area resident, stated the city had agreed to protect this buffer zone.

Mr. Tim Conklin, stated that in 1995 the Planning Commission had approved Phase 2 of Crystal Springs development contingent upon them finding another access into the development. After that approval the developer had gone out and found a second access. It was not until August of this year that Phase Three had been submitted to the Planning Division. After the task force resolution had been adopted he discovered that there was a six hundred foot buffer that prevented Crystal Springs Drive going over to Dean Solomon Drive.

Mr. Jeff Erf, an area resident, asked when the city was going to begin the extensive study on the rest of the property.

Ms. Shay Laster, an area resident, stated Crystal Springs would be the only street running parallel with Mount Comfort and it would turn into a collector street at some point in time. She thought it was fine for the street to go through, but she wanted assurances that it would be winding and more difficult to get to Dean Solomon.

Mr. Conklin stated he did not expect to bring anything forward to the Planning Commission that did not have a cul-de-sac and a winding street.

Mr. Jim Bemis, an area resident, stated they were planning on annexing seventy acres north of Crystal Springs. It would give them opportunity for another connection. He asked that they consider other options. He did not believe that they had to make a decision tonight. His did not think that this was a wise decision.

Ms. Andrea Radwell, an area resident, stated he was concerned that it took so long for this street to be brought forward. She thought the cost share would end up being very costly because of the type of soils.

Mr. Garcia, an area resident, stated he felt they were trying to break their agreement. The level of trust is at an all time low.

Ms. Fran Alexander, an area resident, asked when the evaluation of the property was going to be done.

Alderman Reynolds stated there were two stub outs on Crystal Springs; hopefully there would be two more streets out of that subdivision. He thought that they had to have another way out of the subdivision for safety reasons.

Alderman Reynolds moved to approve the resolution. Alderman Davis seconded.

In response to questions, Mr. Williams read the resolution which amended Resolution 153-02 to exempt that portion of a six hundred foot buffer strip north of Clabber Creek lying west of Dean Solomon Road.

Alderman Young asked if they were only exempting the west side of Dean Solomon and not affecting any other part of the project.

Mayor Coody replied that was correct.

Mr. Williams stated that it only affected the six hundred foot buffer strip.

Alderman Thiel asked what "that portion" referred to.

Mr. Williams stated that it was the six hundred foot buffer lying west of Dean Solomon.

Alderman Santos stated they did not need to exempt the entire six hundred feet, they only needed to exempt the part needed for the road.

Alderman Thiel moved to amend the resolution to only exempt the area needed for right-of-way across the buffer zone and to remove the "housing" Alderman Reynolds seconded. The motion carried 7-1, Marr voting nay.

RESOLUTION 179-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PLANNED ZONING DISTRICT: An ordinance establishing zoning district that permit the combination of development and zoning review into a simultaneous process and to eliminate Section 166.06 Planned Unit Development. The ordinance was left on the 1st reading at the November 5, 2002 meeting.

Mr. Williams read the ordinance.

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

In response to questions, Mr. Conklin stated they would be approving the master development plan. The planning commission would be making a recommendation to the council on the zoning. They would be voting on an ordinance that would be specific to that piece of property on the zoning map it would show up as a planned zoning district. It would have its own rules and regulations. The other part of this ordinance allowed the flexibility in design. They want people to bring them innovative development that was high quality and this was used in other cities across the United States and mitigate the impact of the development,

Mr. Richard Maynard, an area resident, stated this would benefit the neighborhoods. This system would be more efficient.

Mr. Williams read the ordinance.

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

ORDINANCE 4434 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

REPLACEMENT FUND: An ordinance repealing Ordinance No. 1085 and establishing a replacement and disaster recovery fund. The ordinance was left on the 1st reading at the November 5, 2002 meetings.

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

Mr. Williams read the ordinance.

Alderman Davis moved to add Section 4 to read, "the purpose of this directive is to establish the policy and procedure for the purchase and replacement, insurance cost, license fee, repair and maintenance of the items that cost $10,000 or less currently on the motor pool schedule." Alderman Reynolds seconded. The motion carried unanimously.

Alderman Marr move 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 4435 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NEW BUSINESS

VA 02-12.00 and 02-13.00: An ordinance approving vacation request VA 02-12.00 and 02-13.00 as submitted by Greg House for property located at southwest corner of St. Charles Avenue and Watson Street. The request is to vacate a drainage easement.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Young stated the conditions of approval were not listed in the actual ordinance.

Mr. Conklin stated what they had intended on doing was holding the ordinance for approval by the Mayor and to bring it along with the large scale development. the engineer had been concerned to go forward without city council action, with the easements in place, they wanted some assurance that the easement could be vacated and the storm drainage could be relocated. The city attorney thought it would be more appropriate to put "subject to" in there.

Mr. Williams stated once the city council had voted to approve the city ordinance it was going to be affective. He did not want to advise to the mayor not to sign something the city council had approved. He suggested adding a section 3 making the approval subject to the conditions of approval. It would not become affective until the related storm sewer is installed and accepted by the city of Fayetteville.

Alderman Young moved to add section 3. Alderman Marr seconded. The motion carried 7-1, Reynolds voting nay.

Alderman Reynolds stated he was not sure about the drainage easement. He did not know where they would be going with the drainage.

Mr. Conklin stated what was being vacated was the easement directly behind Colliers drug store.

Ms. Mandy Bunch, Engineer, stated if it was physically possible to reroute the drainage around Watson Street right-of-way and back in. The new proposed development will have to detain, which was something that none of the up stream development had done. This line was a connivance. There was approximately eight acres that drains through this property now. As it exists now, it was through the back yards of three houses along Watson Street. This pipe will be to convey the water that is currently empting into the ditch. There was a box culvert in place under the parking lot that went into the stream then fed into the Dickson Street Enhancement project.

Alderman Reynolds stated there was a current problem with the drainage that went under Jose.

In response to questions, Mr. Sid Norbash, Engineering, state the drainage over at Jose's parking lot, one side of it was blocked. It does run from that parking lot and comes to west, made a ninety degree angle and empties in front of Ozark Brewery and into the rest of the system.

Alderman Reynolds asked what this project would hook onto at the end of the three properties.

Ms. Bunch stated there was an open ditch that ran back behind US Pizza and around and under Three Sisters.

LEFT ON THE SECOND READING AS AMENDED.

RZN 02-34.00: An ordinance approving rezoning request RZN 02-34.00 as submitted by Mel Milholland of Milholland Company on behalf of Roy and Stephanie Lovell for property located at 6310 W. Wedington Drive. The property is zoned A-1, Agricultural and contains approximately 2.8 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance.

Mr. Conklin stated the applicant was requesting the rezoning for a lot split so that they could add a house.

LEFT ON FIRST READING.

RZN 02-35.00: An ordinance approving rezoning request RZN 02-35.00 as submitted by Patsy Brewer of Habitat for Humanity for property located at 1075 and 1093 Jerry Street. The property is zoned R-1, Low Density Residential and contains approximately 0.35 acres. The request is to rezone the property to RS, Residential Small Lot.

Mr. Williams read the ordinance.

Ms. Patsy Brewer, Habitat for Humanity, stated they had had someone donate a house to them that they needed to move. This was a flat lot and they would like to move the house this calendar year.

Mr. Gary Lowery, an area resident, stated they should eliminate any permit fees for Habitat or any charge for infrastructure fees for lower income homes.

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

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go 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. Upon roll call the ordinance passed unanimously.

ORDINANCE 4436 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-37.00: An ordinance approving rezoning request RZN 02-37.00 as submitted by Milholland Company on behalf of Ozark Adventure for property located east of Futrall Drive, west of Baldwin Piano, and south of Hollywood Drive. The property is zoned R-O, Residential Office and contains approximately 17.70 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance.

In response to questions, Mr. Ray Brag, developer, stated they would do their best to save the existing trees. The park will aseptically look better if it is intermingled with the trees. They had a significantly large landscaping budget.

Mr. John Knock, Financial Advisor for the project, stated they wanted to make sure that the quality and the longevity was there. They were directly off the interstate. The frontage was great and the impact to the traffic was low. They will be adding traffic in the best way. People that come in for the water park will come in for an extended day and would be using hotels and restaurants. They had looked at other sites in northwest Arkansas. They felt this would complement what Fayetteville was about.

In response to questions, Mr. Conklin stated over eighty percent of the property was in the overlay district and the developer was aware of that. That had talked about the use of monument signs and the landscape buffer zone.

Alderman Thiel stated she had been on the Parks Board when they did their master plan study. A water park was advocated by a lot of people. She thought this would provide people with something that it would be years before the park system.

Alderman Marr asked how the park would be used outside its peak time of year and was there adequate investment to make sure that it was going to be a sustainable business. They did not want a dead water park in their city.

Mr. Knock stated property would be opened in 2004. They wanted it to be quality and longevity. From the financial side they were continuing to work on those aspects. This project will not happen unless the appropriate financing was there for it to be a long term project.

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In response to questions, Mr. Conklin stated Bestway would connect with Hollywood. A street would be required to be constructed for this development

Mr. Brag stated there would be two ways to enter and exit, from Hollywood and Futrall.

Alderman Young asked if they would be requesting any public funds for this project.

Mr. Knock stated they would like to be involved in a promotion with the city's parks and recreation. They will be getting some relief from the State under the tourism act that they have. They were prepared to move forward with private capital.

Ms. Mary Beth Hughs, an area resident, expressed concern about how superficial Fayetteville was becoming. The infrastructure was falling apart and a water park was not going to help the situation. She expressed concern about Fayetteville starting to look like Branson or Tulsa and what the water park will look like in the winter.

Mr. Charles Axle, an area resident, questioned if this project fell through what could end up on the property if it was rezoned.

Mr. Conklin stated C-2 zoning was typical zoning that they saw for retail development, restaurants, offices and those types of uses. Apartments were not allowed by right by themselves in C-2. They could be accessory uses.

Mr. Todd Jacobs, an area resident, stated he thought the water park was a good idea, but he was concerned that it was not the best use for this property. He suggested using the property for residential.

LEFT ON THE FIRST READING.

RZN 02-38.00: An ordinance approving RZN 02-38.00 as submitted by Alan Reid on behalf of Betty Ruble for property located at 625 N. 54th Avenue. The property is zoned A-1, Agricultural and contains approximately 2.12 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance.

Mr. Alan Reid stated the owner was wanting to split the lot. In the current A-1 zoning she was not allowed to do that because she did not have enough room. If they were to change the zoning, then she would be allowed to deed the other lot to her daughter who wanted to build a home. All of the infrastructure was in; he asked them to pass the ordinance tonight.

LEFT ON THE FIRST READING.

LED TRAFFIC SIGNAL BID WAIVER: An ordinance waiving the requirements of formal competitive bidding for the purchase of LED traffic signal lenses from Temple, Inc. and declaring an emergency.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Alderman Davis moved to approve the emergency clause. Alderman Santos seconded. The motion passed unanimously.

ORDINANCE 4437 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

LED TRAFFIC SIGNAL LENSES: A resolution approving the purchase of LED traffic signal lenses from Temple, Inc. in the amount of $58,003.87 and approving a budget adjustment in the amount of $58,004.00 for same.

Alderman Santos moved to approve the resolution. Alderman Jordan seconded. The motion carried unanimously.

RESOLUTION 180-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

IMPACT FEES: An ordinance enacting impact fees for all territory within the City's water and wastewater service areas including areas outside the corporate city limits and within the service areas located within Washington County and other incorporated cities.

Mr. Williams read the ordinance.

A special meeting was set up for the second reading of the ordinance and to allow extensive public comment.

LEFT ON THE FIRST READING.

OLD MISSOURI ROAD: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road improvements.

Mayor Coody stated he was in negotiations with the owner to see if he would work with the city.

Mr. Boettcher stated the only thing that was preventing the bidding of Old Missouri Road improvements was this easement.

Alderman Young moved to table the item until the next meeting. Alderman Jordan seconded. The motion carried 7-0-1, Marr abstained.

TABLED UNTIL THE NEXT MEETING.

YOUTH ADVOCACY COMMITTEE: An ordinance reorganizing the Youth Advocacy Board.

Mr. Williams read the ordinance.

Alderman Jordan stated the committee wanted to look at all kinds of projects. He thought it would have a positive affect on children. They could teach them about city government and they could work on parks and trails and clean ups.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4438 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TOWNSHIP BUILDERS: A resolution approving Change Order no. 4 to the construction contract with Township Builders for Dickson Street Enhancement Project, in the amount of $195,300, additional funds for the in-house construction management in the amount of $74,700; and the related budget adjustment in the amount of $270,000.

Mr. Gary Carnahan stated he was asking them to approve a change order. They had Made on their part. The largest item was in the brick paver quantity. They had calculated the pavers that were on the plans and in the job. They had set up two bid scheduled items. At that time they had thought that the crosswalk pavers would be bid at a different price then the intersection pavers. Later they decided that they were the same types of materials and were just a different color and patterns and should be bid as one item rather than two items. They deleted the first item and intended to move the quantities down in to the second item. Some way they never did that. They just deleted it out of the bid schedule. The pavers had been in the project all the time. If they had not deleted that bid item, they would have been bid and they would have been in the initial price.

Alderman Davis asked if this was something that would be covered by their errors and omissions insurance.

Mr. Carnahan stated he did not believe so because the additional cost was adding to the value of the project, and this would add to the value. Errors and omissions was more related to things that cause failure of the design and things that do not perform the way they were designed to.

Alderman Davis stated if they had seen the additional cost earlier, this council may have made a different decision whether to do the project for not.

In response to questions, Mr. Carnahan stated not subsurface investigation had been conducted was a statement in the bid document. When they designed the improvement, they did not go dig up and see how deep things were. They had known they would run into some things. As they uncovered them then they make adjustments during the construction to move along. This was not surprising to them or the staff. They had some pipelines that they should have known more closely where they were. They have gone out without charging the city, anytime that there was something that had to be changed that they should have anticipated better than what they did. They have worked with the contractor. They started in the worst possible section. They had done that on purpose. They had started at West Avenue and gone up to University Avenue. They had put in a new storm sewer pipe where there had never been a storm sewer pipe before. They had run into about five problems that they had not anticipated when they drew the plans. He thought that gave the project an early negative impression. They have a lot of good things ahead of them.

In response to questions, he stated that when they first looked at the surfaces during the design phase, they had considered stamped concrete in the intersections rather than the crosswalks. They had abandoned the idea because of the history of the fading of the coloring in the concrete and maintenance issues. The brick pavers were concrete for durability.

Alderman Young asked why they did not require the contractor to locate the lines prior to starting.

Mr. Carnahan stated after the first week they have been doing that. It took them a week to find out the contractor had not been doing that.

Alderman Young asked if there were any storm drains near the Methodist Church and did it cross to the south side.

Mr. Carnahan stated there were. There was a little bit on the south side, but most of it was in the north side. It crossed the street near Highland Boulevard. They were not expecting any problems in that are.

Alderman Young stated Alderman Reynolds building had been flooded. He asked why the contract was not hooking up the drain serve.

Mr. Norbash stated that had been one of the surprises. Most of the sanitary sewer went to the north, which was in the parking lot area. However, there were some floor drains that no one was aware of. Their water sewer division had televised this line prior to construction. They had inventoried all the sewer taps. This building had been dye tested and the sewer connections went to the north. No one was aware that the other tap had come to the main. They have several inactive taps as well. This was such an old section of town and there were several connections to the sewer.

Alderman Young expressed concern about not having enough drainage under the sidewalks. Some day those sidewalks was going to buckle.

Mr. Norbash stated they were going to have a lot of gravel and French drains in the planters.

Alderman Young asked when this project was bid, did the contractor have a set of plans that they were bidding from?

Mr. Carnahan replied yes, and the bricks and pavement had been shown.

Alderman Young stated that was the dilemma. It is the responsibility of the contractor to verify those numbers.

Mr. Boettcher stated he did not believe that they had any recourse against the contractor because his bid tab only showed 13,499 brick pavers.

Alderman Marr asked if the contractor did not have the responsibility to double check the figures.

Mr. Boettcher stated they had asked the contractors to check it. They had looked at the plans and put together their bid proposal. The contractor discovered the problem when he went to order the material.

Alderman Young stated the original intent was to have the contract start at a certain area and finish that entire area and then move to the next area. Why was that not being done. The reason was that they did not want to hold up the contractor. If the contractor was behind it was his own fault. One of the reasons was that he had not had a full crew down there. He was not interested in approving the time extension.

Ms. Bootsie Ackerman stated they had known that there would be a lot of unknowns in this project. Each time that this happens it causes delays. It was not a surprise to her that they were asking for more time. The new anticipated date of completion was August if they added the one hundred days.

Mr. Boettcher stated the additional days would be calendar days and weather did not count.

Mr. Norbash stated the contractor was asking for fifteen working days to lay approximately 100 feet storm sewer. He was asking for fifteen working days for the aqua ducts near the buildings. The remainder of the time was for laying the additional brick.

Alderman Young stated the contractor should have no grounds for back charging the city. He was aware that he was supposed to locate the lines before he proceeded and he did not do it.

Alderman Davis moved to approve the resolution without the additional days. Alderman Marr seconded.

Mr. Gary Lowery, an area resident, stated they wanted $11.22 per brick. If they went forward with this tonight, they would be breaking he law. He stated the benefiting property owners should be the ones paying for the improvements and not the citizens of Fayetteville. This city was in decline. They were not spending their money where they needed to. The infrastructure was falling apart.

Upon roll call the motion passed by a vote of 4-2-1, Santos, Jordan, voting nay and Reynolds abstaining

RESOLUTION 181-02 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CITY CLERK: An ordinance repealing and replacing Section 31.30 (E) of the Code of Fayetteville regarding the salary for the City Clerk.

Mr. Williams read the ordinance.

Mr. Williams stated our city clerk was being paid well below the responsibilities of her office. The rest of the ordinance would stay in affect. She was being paid at such a low level that her annual raise would not bring her up to the level of responsibilities that she has. She did the election work for the 125 million dollar bond issue, she signs the bonds. She is a member of the Fire and Police pension board which both handle over ten million dollars. She has very important requirements and responsibilities. He thought it would be appropriate to set a base level for the city clerk, just like they had done for the city attorney.

Alderman Marr stated they needed to be making their decision on a position description. This position warrants this pay; their Hay study had told them that. This was not about Heather; this was about the fairness of pay for this task and this job. He supported it.

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

Mr. Williams read the ordinance.

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

ORDINANCE 4439 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CITY ATTORNEY: An ordinance repealing and replacing Section 31.45 (G) (1) regarding the salary for the City Attorney.

Mr. Williams read the ordinance.

Mr. Williams stated if they did not pass the ordinance to change the current ordinance, it was possible that he would face a $10,000 reduction in salary at the beginning of next year. He hoped he would not face such a reduction, but could continue to be on the amount that the council had set when they appointed.

Alderman Thiel stated she recalled that when it came around time to approve this that they would.

Mr. Williams stated this would continue the status quo. The Hay plan suggested a higher rate, but he was content to have the standard raises. He thought it was appropriate to stay at the status quo.

Alderman Jordan stated he would fight for the other employees to give them what the Hay Plan had said they deserved.

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

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rule 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 ordinance carried unanimously.

ORDINANCE 4440 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ELECTION PROCEDURE: An ordinance repealing Section 32.01, Election Procedure, of the Code of Fayetteville and enacting a new Section 32.01 to provide for the election at large of all Position 1 Aldermen and the election by Closed Ward for all Position 2 Aldermen.

Mr. Williams read the ordinance.

Alderman Davis stated all of the aldermen were currently elected within their ward. He thought there needed to more citizen involvement for each election. He thought the citizen involvement had decreased within the last couple of years. He thought the citizens would be more active with this change. Most of his calls had been supportive of this idea. People think they should have more say so in city government besides just the two aldermen in their ward. They feel that need to have a bigger input in the city. Four at large aldermen would give them a say in five of the eight positions.

Mayor Coody stated he did not see how changing the way they did things would get people more involved.

Mr. Mark Kennon, an area resident, stated he thought they had a lot of activity in their neighborhood. It was the direct activity and access to their aldermen that he thought made their ward exceptional. He had sent out an e-mail and the response that he had received had been unanimous. People did not want to change the system. If they were to go city wide then it was going to increase the cost of the campaign and many people would feel only the people backed by special interest would be the people that could afford to run a city wide campaign. The regular person could go door to door in their ward and make a difference; this would not be possible with a city wide election.

Ms. Melonie Beatell, an area resident, stated she thought this was a bad idea. They depended on the alderman to communicate with each other. One of the things that they loved about Fayetteville was the diversity of the population. She would like to see more diversity on their council. It would cost a lot of money to run a citywide election. She did not see the system as being broken.

Mr. David Garcia, an area resident, stated he questioned the result. The result would be to disenfranchise a large segment of Fayetteville. Right now they had a level playing field. If they wanted to run for city council they still had to go out door to door that to him generated more citizen interest and involvement.

Mr. James, an area resident, stated he felt this was a bad ordinance. He hoped they would vote it down. He had talked to a lot of people and not one of them supported the idea.

Alderman Thiel stated she had only received calls opposing this.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 1-6, Davis voting yea.

ORDINANCE FAILED.

The meeting adjourned at 1:15 a.m.