

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
JANUARY 07, 2003**

A meeting of the Fayetteville City Council was held on January 07, 2003 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Davis, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience.

OATHS OF OFFICE

Alderman Reynolds, Alderman Cook, Alderman Rhoads, Alderman Lucas and City Attorney Kit Williams were sworn into office by Judge Rudy Moore.

NOMINATING COMMITTEE REPORT

Alderman Davis said the A & P Commission recommended that David McGeady be appointed to serve on the A & P Commission.

Alderman Davis moved to approve the nominating committee report. Alderman Marr seconded. Upon roll call the motion passed unanimously.

CONSENT

APPROVAL OF THE MINUTES: Special City Council meeting on November 25, 2002 and Special City Council meeting on November 26, 2002.

SALEM MEADOW: A resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept money-in-lieu of land for Salem Meadows Subdivision.

RESOLUTION 01-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BOARD OF HEALTH: A resolution to establish a City Board of Health and the Office of City Health Officer.

RESOLUTION 02-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MUNICIPAL JUDGE AND COURT CLERK RETIREMENT FUND: A resolution to create a Board of Trustees to administer the Fayetteville Municipal Judge and Municipal Court Clerk Retirement Fund.

RESOLUTION 03-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CEMS: A resolution approving a contract extension for ambulance services in the amount of \$150,000 between the City of Fayetteville and Central Emergency Medical Services to operate and maintain an emergency ambulance service to serve the residents of Fayetteville in 2003.

RESOLUTION 04-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the consent as read. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

OLD BUSINESS

RZN 02-40.00: An ordinance approving RZN 02-40.00 as submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of David Slone for property located behind 3195 N. College and east of Plainview Ave. The property is zoned A-1, Agricultural, C-2, Thoroughfare Commercial and R-1, Low Density Residential and contains approximately 8.84 acres. The request is to rezone to RMF-18, Medium Density, and Multi-Family Residential. The ordinance was left on the first reading at the December 17, 2002 meeting.

Tim Conklin, Planning Department said the applicant asked that this be postponed to the next City Council meeting.

Alderman Davis moved to table the resolution. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

NEW BUSINESS

MT. SEQUOYAH: A resolution to encourage the negotiation of a contract between the City of Fayetteville and the Methodist Western Assembly Association for the purchase of about seventy acres of forested hillside known as Sequoyah Forest.

Dr. Pete Heinzelmann spoke about Mt. Sequoyah Woods. He said there are two main things that he thinks are important in relation to Mount Sequoyah Woods, the first is what do we consider to be of value to our community, number one is the people and second is our natural heritage. The growth of Fayetteville is causing us to lose our natural heritage. Dr. Heinzelmann spoke about the rapid change in Fayetteville since the 1970's, he said buildings can be built but forests can not. Mt. Sequoyah Woods is hidden but is a great asset to this city. He showed slides of the tract of land, the surrounding area, and described the wildlife present in the forest.

Dr. Pete Heinzelmann introduced people involved in the Fayetteville Natural Heritage Association. This private organization was started to save places like Mt. Sequoyah Woods.

Kay Duval, a citizen, spoke about the Parks & Recreation 10-year master plan 2002, 67½ percent of the almost 1200 people surveyed said they would like the City set aside areas

strictly for land preservation void of any plans for development. This topped the list greater than any request for organized recreation areas. Mt. Sequoyah Woods fits this description perfectly.

Karen Crocker, a citizen talked about the permission granted to the Fayetteville Natural Heritage Association to study the site by the director of Mt. Sequoyah, we have had people from the State Forestry Commission and the Natural Heritage Commission on the site. There were over 50 varieties of shrubs, grasses, wildflowers, seven kinds of oaks, four kinds of hickories, and other types of trees. Reports will be coming from these agencies. The Archeological Survey will also be visiting the site. There are three major areas of the site: the upper slope, the middle area, and the lower slope. The lower area could be more like a park, it is accessible from many different roads and is handicapped accessible.

Walt Eilers, a citizen and a member of the Fayetteville Natural Heritage Association, is helping with the fundraising campaign. The organization is committed to raise \$300,000 over the next 2-3 years from residents, local organizations, businesses, and the faith community in Fayetteville. We will also be identifying conservation grants and submitting these grants for the balance of the \$650,000.

Morris Henry, a citizen, told of stories of patients of his who choose to live here in Fayetteville and commute over three hours to their jobs simply because they love to live here.

Gerald Bowman, a citizen that lives on Mt. Sequoyah, stressed the point that if the City of Fayetteville does not buy this land than someone else will. It will probably be bought by a developer.

Tim Caffrey, a citizen, talked about how Fayetteville is in the mountains. Fayetteville is different because it is a city in nature, in these 70 acres we have a natural zoological park, a natural botanical garden, and a chunk of the Ozarks. Public spaces are as essential to the vitality of the city as street and utility infrastructure. A city without public spaces is not a city at all.

Rob Leflar, political chair of the Ozark Headwaters Group of the Sierra Club, was there to speak on behalf of the Sierra Club. The Trees & Trails Task Force that was created two years ago has put green space protection much higher on the City's agenda than ever before. They have identified a number of areas that are important for protection. The Sierra Club supports the creation of a revenue stream to purchase green space. He read a resolution adopted by the Sierra Club.

Gary Lowery, a citizen, wants to see Mt. Sequoyah preserved but not at the expense of other projects of the City. He said the citizens of the City of Fayetteville originally purchased this property for the United Methodist Church Assembly and donated that land and other benefits to the Assembly for its purpose in use to bring in people for retreats as a revenue generator. He thinks some of the old deed restrictions need to be reviewed by the City. He suggested that instead of Mayor Coody negotiating with this property that our land agent and city attorney do the negotiations. He said that you can not say that there is not a financial interest

or financial gain by the Mayor. He asked the Mayor to reclude himself from this. He said the citizens of Fayetteville bought this property at \$115,000 now they want \$1.3 million for 70 acres and the original acres was 400.

Mayor Coody said he would be glad for the city attorney and land agent to negotiate this property. He said development takes up land values more than preservation.

Wade Colwell, the chair of the Fayetteville Parks & Recreation Advisory Board said the board met last night and a motion was made and passed in support of the acquisition of this land under the condition that this acquisition does not take away from existing programs that have been planned for the Parks budget at this point in time.

Bob Caulk, a citizen, said he and his wife support this resolution. They think it is very important to set aside the natural areas throughout the city for preservation for current and future residents to enjoy. They said it is very important that this be done as a public/private partnership.

Mayor Coody cuts off the people expressing their opinions and asks for a show of hands of who is opposed to the resolution being passed and who is in favor.

Mayor Coody asked Chief. Bosch about costs the Fire Department might incur this year.

Chief Bosch said Fire Station No. 7 is scheduled in this year's budget. He said the Mt. Sequoyah project won't impact the fire station project at all.

Mayor Coody asked Steve Davis about budgeting or taking any money out of any current or existing programs. What is the likelihood of that?

Steve Davis says that if the City is successful in selling some land than half of the purchase price would be covered by the sale of existing lands.

Mayor Coody said he signed an offer and acceptance from the University of Arkansas for Council approval for \$370,000.00 for some acreage that we bought last year. I think that if the Trees and Trails Task Force will dedicate that \$175,000.00 to this project then we are almost halfway there right now. We also have properties that we have collected that we can access and see what is marketable and I feel certain we can pick this up without any impact on our general fund or fire department budget. Mayor Coody asked that the city attorney and land agent negotiate with Mount Sequoyah.

Kit Williams, City Attorney said that really is not part of what the city attorney does. He has never negotiated for the City on anything like that, and Ed Connell our land agent has done that many times. I do not think that it would be proper for me to get involved in that. My brothers and I own about 40 acres of other woods on Mount Sequoyah, so I do not think it would be appropriate for me to negotiate. You have staff that has years of experience in doing this kind of negotiation.

Alderman Davis said he is a member of the Mount Sequoyah Board of Directors so he will abstain from discussion on this.

Alderman Marr said 99% of the calls he had received were in support of this. Those that weren't had issues about budget funding. I don't think it is in our best interest for us to pass this up permanently.

Alderman Thiel said she supports this. She supports acquiring greenway easements instead of buying property out right. Right now the City does not have a Land Trust to hold land. The Methodist Assembly will retain use of this land whereas if it is sold to an individual they will not have that use. I think there should be some value placed on that as far as a reduction in price. We are elected officials and we are here to represent the citizens of Fayetteville and to spend their money wisely. I hope we will do a better job of maintaining our green spaces. The Task Force was told that any parcel that we were interested in the city had a policy that it had to be appraised and the City could only give that appraised price. We are not following that policy; we are not having an appraisal done on this property. I don't know how we can use a policy historically for a long time and then abandon it. I am concerned about that.

Mr. Williams said his understanding is if this resolution is passed tonight an independent appraisal will be done.

Mayor Coody said they wanted to make sure the Council was on board before they did the appraisal otherwise they would be wasting their money. The danger in doing another appraisal from Mount Sequoyah's appraisal is if the appraisal comes in lower, then Mount Sequoyah could sell it to someone else. If it comes in higher then Mount Sequoyah could say they want the higher price for the property.

Alderman Jordan said he has received several calls in support and some against this resolution. People in my ward are concerned about fire protection. I support the preservation of green space. These decisions sometimes are hard. I have always been environmentally friendly but I have never put green space preservation above public safety. He spoke of a call he received from a citizen that said when someone's house catches on fire out here I would like for you to drive out and explain to their family how you preserve green space in Ward 1 while houses in Ward 4 burn. We as a city need to have long range strategic planning not only for fire stations but for green space preservation as well. We must come together and develop this.

Mayor Coody said it does not matter whether we buy this land or not the fire station is on track. If this resolution passes the contract will come back to the Council for final approval.

Alderman Marr moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the motion passed 7-0-1. Alderman Davis abstained.

RESOLUTION 05-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ELECTION OF VICE MAYOR

Mr. Williams explained the position of Vice Mayor.

Alderman Reynolds nominated Alderman Davis as Vice Mayor.

Upon roll call the nomination passed unanimously.

PARK IMPACT FEES: An ordinance accepting the Duncan Associates Impact Fee Study for Parks and for Ordinance 4199 to be amended as stipulated in the study.

Mr. Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Reynolds seconded. **Upon roll call the motion passed unanimously.**

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded. **Upon roll call the motion passed unanimously.**

Mr. Williams read the ordinance.

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

ORDINANCE 4454 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 02-41.00: An ordinance approving RZN 02-41.00 as submitted by Norman Malden for property located at 1504 W. Cato Springs Road. The property is zoned C-1, Neighborhood Commercial and contains approximately 0.33 acres. The request is to rezone to R-2, Medium Density Residential.

Mr. Williams read the ordinance.

Alderman Jordan said he would like to allow the citizens from that area to have time to make comments.

Alderman Davis said he would like the staff to explain why they oppose this.

Tim Conklin, Planning said the applicant looked at acquiring two lots that is located within the C-1 zoning on Cato Springs Road. We had concerns about just zoning the property from commercial to residential for two lots for one apartment complex with commercial on the east and west sides. We thought that leaving it at C-1 would be more appropriate at this location. We made a recommendation; the Planning Commission disagreed with the staff's recommendation and voted to recommend approval to rezone this piece to multi-family. Staff is not changing its recommendation.

Alderman Thiel said when we visited this site, I was under the impression it was a larger parcel.

Mr. Conklin said it is two lots.

Alderman Reynolds said is this the lot that has the burned out on it.

Mr. Conklin said it is the lot that has the condemned house.

Norman Malden, a citizen, said both lots together are 100x150 foot. There is not much commercial that you are going to put on that size on Cato Springs Road. He said he has spoke to the neighbors that surround the lots and they do not have a problem with the rezoning.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Davis seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

LAND PURCHASE: A resolution approving the acquisition of three parcels of property, totaling 21.35 acres, in the area of Razorback Road and Dowell Cemetery for conservation and preservation.

Tim Conklin talked to the Council about this resolution and about the property. The Trees and Trails Task Force recommends this purchase as part of the tree ordinance lawsuit settlement. He thanked the Task Force and the citizens for their time on this.

Mary Alice Serafini, a citizen, spoke of her approval in purchasing this property.

Katana Bell, a citizen, said her husband and her own three acres to the west of the property. She asked what this land is going to be used for; her concern is parking and traffic. They are concerned about the impact on the wildlife. If there are going to be trails then that would invite people basically into her back yard so is the City going to provide a privacy fence.

Connie Edmonston, Parks & Recreation, said to date there has been no discussion as to developing that piece. If we do have interest in developing it there would be public meetings and discussion.

Alderman Rhoads asked what does conservation and preservation mean.

Ms. Edmonston said to keep it in its natural state.

Alderman Rhoads asked does that mean it will never be turned into a park.

Ms. Edmonston said it is a greenway; it can be a type of a park.

Alderman Marr said on Council Tour one of the questions we asked was if it would be developed for future trail use. I thought we would look at this for future development on trails.

Mr. Conklin said there was more criteria than just trails and trees. It ranked high for its visibility.

Alderman Thiel said there are trails in there now. Somewhere down the line there probably will be trails. Alderman Thiel said, would you rather have R-2 Multifamily or a park that is going to be preserved.

Ms. Bell said she likes the idea that it is going to be preserved; our concerns are parking and the wildlife.

Terry Easton, a citizen, said her property also adjoins the property. She does not think this property is suitable to become a major park. She stands fully in favor at this point in time of this purchase.

Alderman Rhoads said that is what his question was if we say conservation and preservation does that mean leave it just as it is or does it mean eventually put upgraded walking paths, parking, etc.

Ms. Easton said from a professional standpoint conservation and preservation means if you purchase a piece of property, you leave it alone. There is a well that should be covered and closed off if the City purchases this site. The historic aspect of that home site needs to be preserved.

Alderman Reynolds said how do we put this in a safe if we purchase it so that it will not be sold in the future.

Mr. Williams said if this land is purchased using the settlement proceeds rather than city money, the settlement did stipulate that this money was to purchase land to be preserved, therefore selling this would be in violation of the settlement. Mr. Williams said conversation easements can protect land from future sales.

Gary Lowery, a citizen, said Alderman Thiel's suggestion that we place the land that we value into a preservation and conversation trust is good. I suggest you set one up.

Alderman Jordan said he thinks this is a prime area for the city to preserve.

Melissa Terry, a citizen, read the part of the lawsuit settlement that addressed the criteria for land purchase with the lawsuit money. She stresses her support for buying this piece of property.

Alderman Reynolds moved to approve the resolution. Alderman Thiel seconded. Upon roll call the motion passed unanimously.

RESOLUTION 06-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MEETING TIMES: A resolution amending the Rules of Order and Procedure for the Fayetteville Mayor/City Council Section A. City Council Meetings Subsection 1. Regular Meetings.

Alderman Marr said we need to take action to improve the effectiveness and timeliness of our meetings. One of his concerns is that a lot of citizens are not able to stay until all hours of the night just to hear discussion on an item. There are a lot of people that would not consider running for office because of the length of the meetings. He said that the agenda session needs to be used as a working session to ask questions on issues and become more effective. He thinks we need to keep our comments brief but he does not desire to use time limits on speakers. One concern on starting earlier is if people can get here because of their work schedules. He is trying to provide an environment where all citizens can participate but he does not feel the majority of average citizens can participate at midnight. He is proposed that the meeting time be pushed forward to 5:30 pm.

Alderman Davis said starting at 5:30 pm will limit the number of people that will be able to participate. We need to make better use of committees. A lot of people do not think this will slow down the time or make us get through earlier, they feel it will just extend the meetings an hour longer. I feel we need to keep people on the subject. We need to come to the Council meetings better prepared.

Alderman Thiel said she can not support changing the time to 5:30 pm because it would be difficult for the Staff and the Council to get here on time. We need to do something about the length of the meetings. The Chair needs to keep us on the subject.

Alderman Rhoads said he would support this. He said it might be easier if it was 6:00 pm.

Alderman Reynolds said some of the problem is the way the Council receives their mail. It seems we need to pick our mail up every day at the City to stay current.

Mayor Coody said we do have deadlines on the agenda's.

Alderman Jordan said he does not want to see time limits. He thinks that at the Agenda Session issues that are hot topics need to be moved to the front of the agenda.

There was a discussion as to if the City Council can be at the meetings on time if they are changed to 5:30 pm.

Alderman Davis said he cannot be at the meeting on time if it starts at 5:30 pm. He would have a hard time getting here before 6:30 pm.

Alderman Reynolds said the Staff by the time they get off would not have time to get dinner before the meeting.

Jeff Erf, a citizen, asked what the objective of resolution was, is it to shorten the meetings or have them finish earlier. City Council has a hard time keeping focused and keeping people on the topic.

Alderman Lucas said this would give people the perception that we are trying to do something about it.

Alderman Thiel said it is unfortunate that some people are allowed more time and then we are basically stopping discussion on others. Everyone should be given the same amount of time to speak.

Mayor Coody said the public is not the problem.

A citizen explained the system another city uses. They use a timer and give each speaker three minutes to speak, they fill out a card at the beginning of the meeting and state whether they are for or against the issue, then they have three minutes to speak on the topic.

Gary Lowery, a citizen said if you are going to have an order of procedure you need to stick to it no matter who is speaking.

Alderman Marr moved to amend the resolution to begin the meetings at 6:00 P.M. Alderman Reynolds seconded. Upon roll call the amendment to the resolution passed 7-1. Alderman Davis voting nay.

A resident said he does not think this is going to work. You don't need to limit the number of people that are going to speak, but the time they speak.

Alderman Davis said if the time is moved, there will be times that he will be late.

Alderman Rhoads said the Council needs to think about things they can change to make the meetings more effective.

Alderman Marr moved to approve the resolution. Alderman Rhoads seconded. Upon roll call the motion passed 5-3. Aldermen Thiel, Davis, and Jordan voting nay.

RESOLUTION 07-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ALPINE HOLDINGS: An ordinance waiving the requirements of formal competitive bidding and authorizing the city to lease 20,000 square feet of warehouse space from Alpine Holdings for \$4,000 per month to store solid waste residential carts until they can be distributed.

Mr. Williams read the ordinance.

Alderman Thiel asked how long are we going to have to store the carts.

Gary Dumas, Director of Operations said sometime toward the end of February depending on when the trucks arrive.

Alderman Marr asked if the truck provider can share in the cost because of their delay in not getting the trucks to us, was there a penalty in the contract for not meeting the contract terms. He asked that we check on a cost share on this additional expense

Mr. Boettcher, Water and Wastewater Director, said he did not think we can hold them accountable for the late delivery.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Thiel seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

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

Alderman Davis moved to pass the emergency clause to the ordinance. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

ORDINANCE 4455 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

The meeting adjourned at 9:05 pm.

Heather Woodruff City Clerk