

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
DECEMBER 17, 2002**

A meeting of the Fayetteville City Council was held on December 17, 2002 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present: Reynolds, Thiel, Young, Marr, Davis, Santos, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Heather Woodruff, Staff, Press, and Audience. Alderman Bechard was absent at time of roll call.

Government Finance Officers Association Award

Laura Favorite, Finance Director for the City of Springdale and First Vice President of The Arkansas Government Finance Officers Association, gave a presentation. She presented two awards. The first was the Certificate of Achievement for Excellence in Financial Reporting. The second award was The Distinguished Budget Presentation Award. Both awarded to the City of Fayetteville.

Mayor Coody thanked Ms. Favorite for the presentation. He also thanked the Budget staff.

CONSENT:

Approval of the Minutes: Approval of the November 19, 2002 meeting minutes.

BID 02-63: A resolution awarding Bid No. 02-63 to RJM Manufacturing in the not-to-exceed amount of \$150,000 for the purchase of up to 300 solid waste yard containers. The containers will vary in size from two to eight yards and will service multi-family dwellings and commercial businesses.

Resolution 194-02 As Recorded In The Office Of The City Clerk.

BID 02-70: A resolution awarding Bid 02-70 to Rehrig Pacific in the amount of \$13,666.09 for the purchase of 1,500 bins and 2,000 lids for the City's curbside recycling program.

Resolution 195-02 As Recorded In The Office Of The City Clerk.

WATER TANKS: A resolution awarding the construction contract to Eagle Sandblasting and Painting, Inc. for the repainting of the Rodgers Dr. & Goshen water

tanks in the amount of \$295,427.00, with a contingency of \$29,573.00 along with the approval of a budget adjustment.

Resolution 196-02 As Recorded In The Office Of The City Clerk.

SOUTHERN VIEW APT.: A resolution to accept the recommendation of the Fayetteville Parks and Recreation Advisory Board to accept money-in-lieu of land for Southern View Apartments.

Resolution 197-02 As Recorded In The Office Of The City Clerk.

REGIONAL AIRPORT: A resolution appointing Tommy Deweese and Don Nelms to the Regional Airport Authority's Board of Directors.

Resolution 198-02 As Recorded In The Office Of The City Clerk.

Alderman Davis moved to approve the consent as read. Alderman Reynolds seconded. The motion carried 7-0-1. Alderman Bechard was absent.

OLD BUSINESS

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. Ordinance was left on the first reading at the November 19, 2002 meeting and left on the second reading at the December 3, 2002 meeting.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Santos seconded. Upon Roll the motion carried 7-0-1. Alderman Bechard was absent at time of roll call.

Mr. Williams read the ordinance.

Mary Beth Hughes, a citizen, stated that the last time she spoke of this issue we had lots of discussion. She stated that she spoke to Denny Tuttle who is in charge of Expo Park where Big Splash is. She stated that Expo Park is where they have the County Fair, it is also Government property. That property where Big Splash is leased from the county, therefore it is not a tax space. It's public land and it is held in trust. That's not going to be the case here. In that lease they pay a hundred thousand dollars a year or 10% of the gate receipts that they receive from Big Splash. They have only gotten one year out of ten where they have received more than the minimum payment of a \$100,000.00. It has never reached expectations. We are talking about a much larger area than what we have here. There is no impact on us at all if we are just talking about local residents and Tulsa

has a lot of local residents and they've got a lot larger, easier, and more accessible to get to than it is to get off at Hwy 62 out here and come through the mountains. The gate receipts have never reached that 10% or higher than \$100,000.00/Private sales, and there is no taxes on that, have never met the projections that they were given for this. The park alone, because I couldn't get a hold of Ms. Murphy, they carry \$500,000.00 in accident insurance and that doesn't come cheap, they carry \$1,000,000.00 in liability and that doesn't come cheap, and I really don't think I need to remind anyone in Fayetteville what happens when somebody gets hurt whether it's their feelings or otherwise what happens when an out of town lawyer comes in and sues the socks off this city. We've been through it twice. It doesn't—and it sounds ridiculous, who would sue the City. We allowed it to be built, that's all they need. She gave an example of the lady who burned herself with McDonald's hot coffee and won. We talk about tightening our belt, and tightening our budget, what are we opening ourselves up to. We've got to think past the tip of our nose. We've got to project down the line.

John Knock, Financial Advisor for this project, said just moving on a couple issues that have been addressed tonight, let's keep in mind that this is a private company. We will not receive any municipal support. Nothing will be coming out of the City's coffers. This also is not what we anticipated to be the process where we would be doing the large scale development procedures. We anticipate a full and complete analysis of all the requirements that would fit into the City's requirements for large scale development. What we are looking for simply is the rezoning. Now let me say something about this project. This project has been designed and is patterned after successful family water parks. I'm not sure we want to be like any other town, but I know that this is an activity and a place where by families in Fayetteville and Northwest Arkansas will enjoy. I think that we can find a negative in everything, but I think this project will be good for the City of Fayetteville and as a citizen I've put my claim and my reputation on that. Are there any questions that I can answer about the park per say?

Bill Ramsey with the Chamber of Commerce said I wasn't prepared to say anything tonight, notice I didn't even wear my coat in here, but we have been working with Mr. Bhakha and the people on this project for about a year now and I think we're talking about a quality of life issue. Folks, we keep talking about what Fayetteville has is different from other communities in Northwest Arkansas and around the state is the quality of life that can't be found in other areas and I think that this is one of those things. They have already talked with the University of Arkansas with their aquatics people over there; this is going to provide jobs for our students. You talk about calls and the previous speaker mentioned that many of you have had calls, we've had a lot of calls at the Chamber too and I can tell you they've all been positive, they've all been excited and I think this is a great addition to Fayetteville, it's not going to be something shotty. It's going to be first class and it isn't going to be ninety days, we've got Christmas lighting going on out there, The Lights of the Ozarks, they plan to be part of that, they plan to do some activities out there more than just ninety days, so it's not a ninety day thing, it is a great addition and would be a great addition and as Mr. knock pointed out we're really

not here to debate whether we should do this or not, we're just talking about rezoning. This will have to go through all the process, the large scale development, and there will be time for those comments at that time but I would urge you, don't shut the door on this, go ahead and do the rezoning so we can move forward. Thank you.

Mayor Coody asked if the Council had any comments.

Alderman Reynolds stated that he would like to hear from the Alderman in Ward 4.

Alderman Santos stated that he felt he could speak for Alderman Jordan that we have no complaints.

Alderman Jordan stated that he has not had any. He stated that he might have had two people that have concerns about it but usually when something like that is going in then I'll hear a lot of telephone calls, but I haven't on the negative side, there hasn't been any petitions circulated. I'm always usually concerned about what goes on in there because I live down there. My questions have been answered somewhat that I've asked. I asked how the water would be treated and they said that it would be treated there. I was concerned somewhat about the traffic congestion and I think that just to ballpark the figures Tim said approximately 3,000 was traveling through that area and it could hold up to 8,000 I believe, I was concerned about how much revenue it would bring. Mr. Knocks said 3.5 million its first year was projected. So I don't have any problems with the rezoning as far as it is so far.

Alderman Reynolds asked Alderman Jordan if he had any answers about the noise ordinance, what kind of noise they're going to produce.

Alderman Jordan stated that he had not gotten any.

Kit Williams, City Attorney, stated that a rezoning decision is a very safe decision to make, as you know, the City even if it was making a more dangerous decision is protected by sovereign immunity that has been granted us by the Legislature so we wouldn't be in the same position as some of the horror stories or whatever that you've heard about. Also you have a rezoning before you right now and as you remember, I did a little memo to you this summer about what you're supposed to consider in the rezoning and the compatibility of that zoning area for that particular area the 20/20 plan objectives and several other things, but not necessarily what's going to go in there, that's really probably going beyond what we do now. Now we recently passed a planned zoning district ordinance and when those start coming through then you get to look at the entire project as well as the zoning change but right now this is being presented only as a zoning change and so you should confine yourselves primarily to those zoning considerations that I listed in that particular memo to you rather than this whole big project even though we have heard parts about it.

Alderman Santos stated that this is definitely an area that should be zoned commercial, it's on the interstate and it's a commercial area that needs help and throwing a couple million dollars at it sounds like a good idea so I'm willing to pass the ordinance.

Alderman Thiel added that since we just down zoned an area on the other side of Sixth Street from this area to Multi-Family which was commercial; we lost that large section of commercial so this is in a way taking the place of that.

Alderman Bechard added that the discussions primarily have been on the success of this business which I think everybody has kind of duly noted that a large scale development item and I think there are avenues out there to address that. There's performance bonds to take care of places should businesses not work out. I'm very familiar with acquaintances in business that actually are required to do that to remove a business if it is unsuccessful. So, I think we have options available to us when we get to the large scale zoning, and I think this land should be commercial and I will support it.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0-1. Alderman Bechard was absent at time of roll call.

Ordinance 4446 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. Ordinance was left on the second reading at the November 25, 2002 and left on the third reading at the December 3, 2002 meeting and tabled until the December 17, 2002 meeting.

Mayor Coody stated that Alderman Bechard wanted us to hold off on this particular item until he got here and he should be here in the next fifteen to twenty minutes.

Mr. Williams stated that they probably should have a motion to move this to the end of Old Business or something.

Alderman Davis moved that they move this item to the end of Old Business. Alderman Santos seconded. Upon roll call the motion carried 7-0-1. Alderman Bechard was absent at time of roll call.

RZN 02-18.00, 19.00, 20.00, 29.00, 30.00, 31.00 and 32.00: Ordinances approving rezoning requests as submitted by the City of Fayetteville Planning Division on behalf of the Mill District Neighborhood Association. This ordinance was left on the second reading at the December 3, 2002 meeting.

Alderman Santos moved to suspend the rules and go to the third and final reading. Upon roll call the motion carried 7-0-1. Alderman Bechard was absent at time of roll call.

Mr. Williams read the ordinance.

Mayor Coody asked Mr. Conklin if he needed to make a presentation.

Mr. Conklin stated that this is part of the ongoing effort to look at areas that are zoned inappropriately and this area had a lot of industrial zoning and we're rezoning it to residential type zoning districts.

Alderman Young stated that he had received no complaints. Has the Planning office received any complaints about this?

Mr. Conklin stated that they have not received any complaints.

Alderman Thiel stated that this is our Ward and I've not heard anything and I know a lot of the people that were involved in this, I've had conversations with about other issues and this has not been mentioned, so I believe that everyone seems to be satisfied with it.

Mayor Coody stated that he thought this has been driven by the neighborhood itself wasn't it?

Mr. Conklin stated that they started this the beginning of last year and met with the neighborhood association and worked with them through many meetings to come up with a recommendation on different areas within this Mill District neighborhood. We worked very closely with the neighborhood and also sent out letters to notify all the property owners and the people living in the neighborhood and I'm pleased this evening that I think we are going to be able to change some of the zoning that's been there since 1970 that's industrial.

Alderman Reynolds stated that they have actually wanted this changed for the last six years. I was still on the Planning Commission, we started talking about this and we finally got it done.

Mr. Conklin stated that this is one of the reasons why the Planning Division chose this neighborhood because the neighbors did come out very strong when we did have a rezoning and talked about reserving their residential character of their neighborhood and this is the first attempt that the City actually has made since the early 1970's to do comprehensive type zoning of neighborhoods.

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

Ordinance 4448 As Recorded In The Office Of The City Clerk.

FRANCHISE FEE: An ordinance setting the franchise fee of four and one-quarter percent (4¼%) on the gross revenues of the City Solid Waste, Water and Sewer Funds and repealing Ordinance No. 3804. The ordinance was left on the first reading at the December 3, 2002 meeting.

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

Mr. Williams read the ordinance.

Alderman Santos moved to suspend the rules and go to the third and final reading. Alderman Davis seconded.

Mr. Williams stated that to his understanding the staff was now recommending that we were not going to raise the solid waste franchise fee at this point and time. Is that right Steve?

Mr. Davis said that is correct.

Mr. Williams went on to say that we shouldn't go on to the third and final reading unless we want to amend that out of there unless you all want to do that, but I think the staff recommendation at this point is not to raise the solid waste franchise fee at this point in time and it is not my decision, I just heard that so you might want to hear some explanations.

Alderman Reynolds asked how that was going to affect the money.

Alderman Thiel said yeah that's the question I mean the budgets that we keep getting are revised budgets. Are they based on that?

Mr. Davis stated that the revised budget that you have that shows \$1,857,000 use of reserves does not account for any increased franchise fees from the Solid Waste Fund. It is based solely on increased franchise fees from the Water and Sewer Funds.

Alderman Santos asked why are we changing here?

Mr. Davis stated that when you look at Solid Waste Fund it's already at an operating income deficit so to add additional cost to it to transfer from Solid Waste Fund to General Fund is just compounding a problem that we already have in the Solid Waste Fund so we want an opportunity to further analyze what the costs are in the cost drivers or in the Solid Waste Fund before we add expenses there.

Alderman Santos asked Mr. Davis to explain to the people who weren't at the Agenda Session last week that may not understand that this is not going to cause an increase to anybody's bill this is just a shift of money that goes into the enterprise funds for water and waste water that will now go into the General Fund. So it's not any kind of a tax increase or any kind of a fee increase that anybody's going to get on their bills, it's just a shifting of funds between different accounts in the City.

Alderman Young confirmed that this would not be affecting any other utilities.

Mr. Davis stated that no other utilities will be impacted.

Alderman Davis moved that we delete the wording (of 4.25%) for Solid Waste. (Alderman Jordan seconded the motion).

Mr. Williams read the ordinance both in the title and in section three to show what the amendment would sound like with the new title. (Water and Sewer Fund would be 4.25% and Solid Waste would remain at 3%).

Alderman Marr asked if the rates were on all customers not just residential, but any customer.

Mr. Davis stated that since it doesn't apply directly to any customer, it's an increase in the operating cost to the water fund and the sewer fund. I try to draw the distinction between the gas, telephone, cable, and electric invoices that customers receive. Franchise fees are listed as a separate line item. That's not the case in the water and sewer bill.

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

The motion to go to the third and final reading carried unanimously.

Mr. Williams read the ordinance.

Alderman Jordan asked Mr. Davis to tell the public how much money this will bring in for revenue.

Mr. Davis stated that this change is expected to generate \$180,900 for General Fund for 2003.

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

Ordinance 4449 As Recorded In The Office Of The City Clerk.

2003 BUDGET: A resolution adopting the proposed 2003 Annual Budget and Work Program. The resolution was tabled at the December 3, 2003 meeting.

Mr. Williams passed out a slightly amended resolution that has a new Section 2 that would also adopt a new 2002 Hay Plan, recommendations for the Police and Fire pay ranges. It will make the ranges effective with the beginning of the first pay period in 2003 or January 6, 2003. This was requested by the Budget Director of Administrative Services.

Alderman Davis motioned to amend the resolution. Alderman Jordan seconded. Upon roll call the amendment passed unanimously.

Resolution 199-02 As Recorded In The Office Of The City Clerk

A citizen said you are addressing the resolution to pass the amendment in the 2003 Budget for the City of Fayetteville. I would like to see some other things taken into consideration.

Mayor Coody asked Mr. Davis if he wanted to address us on this.

Mr. Davis said as we start with the Budget 2003 the Mayor's original proposed that budget contained \$732,000 in new franchise fees. The first request that I heard from City Council was remove all new franchise fees. We did that. That became, actually it shouldn't be called City Council Goal it should be called City Council Direction for the Franchise Fee Removal, that's the next column over. The expenses stayed the same. The use of reserves under the Mayor's original proposed budget was \$1,715,162. The new after the City removed the new franchise fee revenue the use of reserves climbs to \$2,447,162. At our Budget meeting City Council instructed staff to come back and reduce the General Fund Budget and we heard numbers any where from 2 to 3 1/2 % of total expenses. I think there was even one number that was 5% of General Fund expenses. We came back in the Mayor's revised proposed budget includes adding franchise fees for Water and Sewer Fund only, which is an increase of \$180,000, we identified \$428,000 worth of expenses that could be removed from the expense side without harming service delivery, and we added \$20,000 for DDEP for the first 6 months of 2003 for a net reduction of \$408,000. The reductions, \$238,000, came from personnel services, \$31,875 came from removing the funding for a half time Special Projects Director. Then there were some small benefit changes that went along with that \$31,875 half time salary. We reduced workers comp premium insurance by \$50,000 and we increased personnel services contra, that's the amount of General Fund Labor that is directly tied to Capital Projects, we increased that \$150,000, that's \$75,000 for the Engineering Division for the Surveyor's and the Draftsmen and the Engineers on the Capital Projects and its \$75,000 for the Building Services Division. We have Capital Projects in the 2003 Budget to renovate the ground floor of this building and the first floor and the City is going to pay a contractor or someone to do those renovations. The

Building Services Division is staffed to do that work and their maintenance work as well so that's where that money is allocated to. Additionally public notification was reduced \$20,000; this is going to require some sort of mix or blend of public notification contracts between the two newspapers or selecting the low bidder for all public notification. Uniforms and personal equipment budget was reduced by \$10,000 and utilities were reduced by \$30,000. In addition when the Mayor's original proposed budget was put together, we were operating under the old ordinance for a replacement fund that required a \$16,800 transfer from General Fund to the Replacement Fund under the Replacement and Disaster Recovery Fund, no such transfer is required from General Fund, so that \$16,800 was taken. We also reduced \$6,000 in Minor Equipment that was for a printer for Parks and several telephone instrument replacements, we reduced \$5,000 in Publications and Dues, \$45,000 in round numbers from Travel and Training, \$20,000 in Contract Services, \$15,000 in Hydrant charges, \$4,000 in Promotional Activities, \$12,000 in Buildings and Grounds Maintenance, that \$12,000 was actually transferred to the Sales Tax Capital Improvement Fund because it's more related to major maintenance issues that our existing Fire Stations have, and we added \$20,000 for the transfer to Downtown Dickson Enhancement Project and we reduced Fixed Assets by \$7,000 which is a scoreboard for the Parks Department that was also transferred to a Capital Funding source. The sum total of all of those cuts is \$408,633.

Alderman Young said that's how much you reduced the proposed budget \$408,000. That's what you are proposing.

Alderman Santos said this includes full funding for CAT for the full year and half funding for DDEP.

Mr. Davis said it includes \$20,000 for DDEP and \$69,000 for a public access provider to be determined.

Alderman Thiel said you don't have a breakdown for Travel and Training and I'm not sure who that affects and who it doesn't and how important that is because we talked about the fact that some of those really depend on that Travel and Training to keep their Certification up. One of the things that I mentioned whenever I mentioned Travel and Training, I mentioned Fleet and you have a copy in here that they are budgeted \$9300. According to this big Budget that we got initially they were \$18,000 and some odd. I am kind of confused about that.

Mr. Davis said the \$9300 is for Educational Reimbursement for one employee in the Fleet Division. It's part of the City's on-going management program that we have where high quality employees are identified and if they need additional training, the City's has a program since 1990 to provide that training. In exchange the employee agrees to stay at least twelve months after they receive the training.

Alderman Thiel said that she didn't understand why you're showing one figure there and a different figure here.

Mr. Davis said they had one amount of money that was for the Educational Reimbursement and the remaining moneys were for the routine mechanic trainings that have to occur.

On the sheet where you see the \$9,300 right above it is the account that has a detail that has \$8,900 worth of expenses. Those two numbers are combined to make the \$18,200.

Alderman Thiel stated that she was still concerned and wanted to make sure that no one in the General Fund such as the Parks has reduced their Travel & Training to a point that they are not going to be able to receive their accreditation.

Mr. Davis said I don't believe that occurred with anybody.

Alderman Bechard said that if you remember the sheet that Mr. Davis put in our box that projects out 2003, 2004, and 2005 and the document we're currently looking at if you look at the Mayor's Revised Proposed, they are the exact same numbers as the second column over called Budgeted 2003 Mayor Proposed. If I can direct you there for a second, here's why I asked him to put this together, what Steven told us is that by the year 2005, there is a minimum required fund balance that we have to have available so as we think about the decisions we make tonight we have got to understand how that impacts what we're projecting after 2005. I personally wouldn't want to pass a budget tonight where we don't find ourselves in the right position in 2005. As I look through based on the assumptions that Steven got based on the meeting we had last Tuesday, you can see the projected assumptions. I don't want to get those confused with Kevin's, these are more the generic assumptions, one being DDEP is budgeted in 2003 for \$20,000 but not budgeted moving forward. This one has DDEP in there for \$20,000 and is projected as a going rate of 4% annually, is that correct?

Mr. Davis said that is correct.

Alderman Bechard said here is my thought as I'm looking through the budget; good news is that it looks like we're really close to hitting our minimum required fund balance. Note that that has to be \$3.8 million dollars and I'm looking in the far right column Projected 2005 and based on the projections Steven called out on the first page of this document it shows us that \$3.816 million so we're real close. Here's the concern I have though, correct me if I'm wrong, this does not assume any new employees for the year 2005 is this correct?

Mr. Davis said with the exception of the Firefighters for Station 7.

Alderman Berchard said many of us on this Council expressed a concern that we continue to grow as a City yet we haven't added people for two years, now we're saying we're not going to add people for another three years and that really concerns me not to make the assumption to continue to provide the services we provide in the City of Fayetteville, we are going to have to have some more people over time. We can't think that we're going to grow what 4 to 5% and not grow accordingly in people. So one thing I'd like to see us accomplish in this budget is exceed the ending fund balance projected by 2005 versus what we have to have. I'd like to see \$400,000 above and beyond the goal, the redline if you will, that Steven gave us last Tuesday. With that then it gives future Councils to say hey we need to add more people and the good news is there's finally some money that we've got to go do that without going under the red line. What I don't want to happen two years from now is to say I can't believe the Council in 2002 passed a budget that doesn't continue to allow us to add people. So what I'd like to get into is some ideas in route how we can continue to cut the budget and I know Kevin has some and I'm going to throw out an amendment that I'd like to propose. That is around Public Access Television and I want to be very clear on how I scope this discussion. This has nothing to do with programming, First Amendment rights, whether you like the program or not, quite frankly I am a fan of Public Access Television, if they came to me to look for funding, I'd probably give them some of my own funding. The question that's at hand tonight is, scope of the decision is, should the tax payers pay for Public Access Television. Particularly we're in a budget that as of right now in 2005 we're still \$50,000 short and we can't hire any more people. I'll give you a great example, I happen to be a big fan of First Knight, I think that's a wonderful program, but I think it's interesting that next year First Knight is going to fund themselves and they're not going to come to the City for funding. The question I think they can tell you they went through as well is they went in front of a vote to the people of Fayetteville and they said, here is the deal, we want you to pay for our First Knight but we are going to tax you to do that, yes or no, do you support that or not? My bet is as a City, we probably wouldn't support that, so they went off and looked for their own funding and have been able to do that. I'd tell you it would probably be worse from a Public Access Television standpoint based on the priorities we have and the data we have, it was at the bottom and by far like 30% from a ratings standpoint so what I would like to see happen and in a minute I'd like to throw out there is that we fund Public Access Television through June 30, 2003 so that they have some time to go get the contract, they can go, have some time to put together a plan and I would strongly suggest we look at doing things in a broader scope than in Fayetteville. We look at doing a Northwest Arkansas Public Access Television, a State of Arkansas, a Public Access Television linked with the University of Arkansas. I don't know what that looks like, but I do think that in the financial situation we're in today and look to be in for the next three years, it's in our best interest to look at things like this with the very bottom of the priority list so that as we look at priorities, that we get out of funding things in those situations. **So the Amendment that I'd like to make is that we fund \$28,750 which would fund them through June 30th and then based on that they can come back to City Council, although I highly recommend they look for ways to be self sustaining.**

Alderman Reynolds seconded.

Alderman Thiel said that in the past the City of Fayetteville funds other recreational activities such as a big chunk of money to build our tennis courts, we spend a good sum of money on our swimming pool each year, we are going to spend a good chunk of money to spend on a skate park, these are all things that serve some of the citizens of Fayetteville, they don't serve all of them. I think tonight that you're going to hear from a large group of the people that really do appreciate and enjoy Public Access Television. I know that their budget is over \$100,000 but it's a struggle to make what they do come up with. They do have fundraising efforts, they do charge fees for certain things but, it's kind of like our swimming pool, it doesn't pay for itself. We just cannot charge the public enough for that. I am not going to debate that at this point. I think there will be some discussion about revenue that we haven't even tapped into yet that we've discussed, license fees and looking at our fee structure which could throw this balance into what you're saying it should be at the end of 2005. I would not be at all in support of eliminating the funding for Public Access Television.

Alderman Thiel moved to allow the folks in Bentonville to discuss impact fees. Alderman Santos Seconded. Upon roll call the motion carried unanimously.

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. Ordinance was left on the second reading at the November 25, 2002 and left on the third reading at the December 3, 2002 meeting and tabled until the December 17, 2002 meeting.

The City of Bentonville Mayor said that the City of Bentonville studied this issue for about two years before we finally passed Water Capacity Fees, Wastewater, and an Impact Fee for Fire. We did not consider anything for Street, the Library; Police and Parks were voted down. We are pleased with the revenues that it's bringing in at this time. It will certainly not pay for everything, but it does go a long way in paying for new infrastructure and we do feel like its new growth fair share of their cost. It has not slowed down building in our city.

Alderman Austin with the City of Bentonville said there is a bill before the State Legislature and all the State Legislators were in Little Rock and they were lined up just like you and by the numbers they said we don't have money and I asked them if they didn't have a way to replace what we had the political courage in Bentonville to do and it took Political Courage to do. We passed this in January with an effective date in July and we did that so we wouldn't ambush, or surprise and that gave everybody a chance to get their ducks in a row. It did create a large volume of Building Permits in June. Everybody came and got what they could ahead of time and we knew that was coming.

July was slow, August was a little slow, but then September, October, November, we got lots on our table. What's on our table is a lot of new construction which is a demand for more services. The City of Bentonville is faced with a new Wastewater Treatment Plant. We don't have the market cornered on that; we're faced with going all the way back to Beaver to get a new water line. It's going to take mega bucks. The bottom line of Impact Fees and the bottom line of everything that's on your table is who pays. All political issues wind up at the dollar and who pays. Madam Mayor mentioned that this is not a solve all and it will not but it's a stamp in the right direction and this makes the people who are creating the need for a sewer line, creating the need for a new Fire Station, and creating the need for a new water line to pay that. If we didn't grow another inch, if we didn't have any new construction, the City of Bentonville is in excellent shape for water, sewer, and for fire. I came down here to support you. I encourage you to have the political courage to do this. If we don't fund a lot of our problems at our local level, we're not going to get it at the state level.

Mayor Coody said we have been threatened with law suits. Have you all been sued by anybody yet.

Alderman Austin said they have not yet.

Mayor Coody said you haven't seen any kind of in average it didn't slow down at all.

Alderman Davis asked when do you implement or when do you gather your fee for the impact?

Alderman Austin said we collect the Fire Fee when they get the building permit and we collect our fee from Water and Sewer when it's time to transfer the property.

Alderman Davis said so those building permits that were purchased in June then the owner will have to purchase the Water and Sewer portion of it at a later date.

Alderman Austin said we won't be able to collect Impact Fees for everything that we put in June.

Troy Galloway, City of Bentonville Planner, said we collect the Fire Impact Fee when the building permit is issued, in rational as soon as there is a structure on that particular lot we as a city have a responsibility to protect it from fire and other hazards. We collect the Water and Capacity Fees at such time just prior to this a Certificate of Occupancy, that's essentially the same time that a permanent connection is made to those utilities to provide service to that dwelling or that commercial structure.

Alderman Davis said but you all are waiving those for anything that began prior to July 1st.

Mr. Galloway said anything that was initiated; anything that obtained a permit prior to July 1st is exempt from the fee structure. Anything that was issued a permit after July 1st is subject to those fees.

Mayor Coody asked if they based it on water meter taps, water meter size.

Mr. Galloway said yes, that is correct. We had a sliding scale in terms of a typical 5/8 meter services a standard residential dwelling so we had a fee for that and it should go up in size to 1/2 inch or 3/4 inch full inch meter. The fees were increased as a result of that.

Alderman Davis asked if they did that on residential and commercial.

Mr. Galloway said that was correct.

Alderman Marr said on the permits that you issued, did you exempt any areas, boundaries of your city?

Mr. Galloway said yes sir we did. We had a fairly significant portion of the downtown that extends from downtown Bentonville southward to Hwy 102, it's about 5 or 6 blocks wide and probably extends 15 to 20 city blocks in length to the south that we exempted all together from any of the Impact or Capacity Fees so we called that a Downtown Redevelopment District. It is an area of the City that is substantially blighted and in need of redevelopment. We viewed this as an opportunity to encourage some reinvestment in that area to give the builders and developers a break in that regard. It is also an area of where essentially all the services have already been provided. We have adequate water and wastewater facilities in place to handle the redevelopment of that area as that has already been taken into account at the Wastewater Plant in the water transmission lines. It's also very close to the main fire station down town so we felt like the decision we made there was very well founded in what's going on in the City and we would certainly like to see that area redeveloped.

Alderman Marr asked if they had any exemption for affordable housing.

Mr. Galloway said they do not have a specific exemption; they have a waiver request process whereby somebody that intends to build an affordable housing can petition the City Council. We were advised that any time that the waiver was granted that the City actually needed to pay those various funds, so in a sense that somebody petitioned the City for an affordable type housing project they would go in front of the City Council if it was approved, the City would then out of their own moneys pay those various utility funds, those fees that would have been associated with that project.

Alderman Marr asked how did you actually set the qualifications for what is considered affordable housing.

Mr. Galloway said that essentially what we have done if it is something that qualifies for Federal or State aid where by those funds are directed specifically at affordable housing whether be low to moderate income or elderly affordable housing, then that's something that would qualify and typically that type of project would be associated with a significant amount of Federal or State Aid.

Alderman Marr asked the Mayor and Alderman of Bentonville while during the process of considering it, how were they legally advised about Fire Impact Fees.

Alderman Austin said that the Lichner & Associates brought the issue to us, we asked them to study it, we paid them to do it and their final proposal was one that has been tested in court. We decided to go with one that has already been tested and won.

Alderman Marr asked if this was in Arkansas.

Alderman Austin said that they were pretty much the first in Arkansas. It is new here and it is taking a sales jump but I think it's done well.

Alderman Marr asked if they roughly knew how many dollars since they implemented it has it raised for the City.

Mr. Galloway said that just to give you an idea with regard to the Fire Fee to date, The City of Bentonville has collected \$205,000 for the Fire Fee and we have collected nearly \$25,000 in Wastewater Fees and about \$22,000 for the Water Fee, but again that is going to be reflective of very few actual certificates of occupancy that have been issued on the permits that would've required impact fee payments.

Alderman Thiel asked if Bentonville receive CDBG funding.

Mr. Galloway said they do not receive Community Development Block Grant Funds.

Alderman Thiel asked if they have a designated redevelopment area.

Mr. Galloway said it was designated as such about five years ago when we amended our land use plan and at that time that redevelopment district was identified as an area that was blighted and potentially could benefit from some incentive such as this.

Alderman Thiel said that the City of Fayetteville does not have a designated area other than our CDGB target area.

Mayor Coody said that the Arkansas Municipal League, I know there is some State Legislation, Senator Bisby's Legislation to basically regulate impact fees in the state of Arkansas. The Municipal League unanimously supported or opposed this particular Legislation because they thought there were too many poison pills buried in it. The

second Resolution was the Municipal League will support Legislation that clarifies and codifies Impact Fees that will be more supportive of the municipalities perspective and make it to where we can have things like Streets and Fire Impact Fees and do it in such a way that cities won't be encouraged to not do it as the present legislation probably do. Is that roughly right.

Alderman Marr said being a sister city, if you were going to give a piece of advice to a city who is considering Impact Fees either things would you change having implemented it or things that you might look at differently, what would those be.

The City of Bentonville Mayor said we feel good about it and if you need to call us for anything, we'll be happy to visit with you about anything.

Alderman Marr asked if they could give them the general area of where Impact Fees are not being implemented; the geographic area because you said you already had utilities and such there.

Mr. Galloway said it is an area that involves the central core of the city and it includes the downtown square area and a couple of blocks preferal to that and it extends in a linear shape probably 5 or 6 blocks wide running south all the way to Highway 102 and that's probably anywhere from 15 to 20 City blocks in length.

Alderman Marr said so you are charging Wal-Mart Head Quarters Impact Fees.

Mr. Galloway said that if they were to add on to their Corporate Head Quarters it would fall out of that area and they would indeed have to pay the fees.

Alderman Santos said that if they wanted to build in that area that is what you're trying to achieve is a redevelopment of an invited area.

Mr. Galloway said that prior to July 1st the City issued nearly 400 Single Family Building Permits, 270 of those were issued in the month of June and that was in direct response to the July 1st deadline. Since July 1st we've issued nearly 200 Single Family Building Permits and the vast majority of those are subject to all of the Impact and Capacity Fees so I don't think the interest in building in Bentonville has eroded as a result of the Council taking this action. I don't know that that effect would be the same in Fayetteville, but I know one thing for certain that Fayetteville, Rogers, Springdale, and Bentonville all are in the sixth fastest growing metropolitan statistical area in the nation. There are jobs here, there are good schools, there is good quality of life and those things draw people more than Impact Fees are going to run them away.

Mayor Coody said I know that Conway is looking at them too right now. They would be the third city in consideration. Do you know where they are in the works?

Mr. Galloway said he actually had the discussions in front of their Planning Commission and City Council last spring sometime. There were some questions in regard to the study that had been conducted at that time and they placed it on a table and I don't know that they have entertained it since that time. They do continue to discuss it, at least informally.

Mayor Coody thanked them for coming.

Mayor Coody said we are going to go back to the budget meetings right now and before us we have an amendment to the budget and a second to cut the funding for public television by roughly 50%.

Alderman Bechard said he wanted to comment on something Alderman Thiel said. If I remember she said that we do things like the skate park and such that not everyone wants to do, I'm just going to read real quickly the paragraph out of the 2001 Fayetteville Citizens Survey. What it says is Citizens were given a list of traditional city services and outside service agencies and were asked to rank them in priority order. The respondents were asked to rank the highest priority for #1 and the lowest priority with #14. The overall weight of the average ranking of all the services as listed below. Public Access Cable, Community Access Television, was a 10.88 now that was #12 out of #14 in priority, #13 are going away, First Night of Fayetteville, they are going to go fund themselves. So let me be clear on what I just said, it's not that First Night is going to go away, the tax payers funding First Night in 2003 is going away. They saw what the citizens of Fayetteville had said. Arkansas Air Museum is #14 and that is not within the General Fund, so the last item left in the General Fund is Public Access Television and for perspective to Alderman Thiel's point leisure and recreational services, parks, trees and landscaping government access was a 6.73. Again, Public Access Television was a 10.88. Parks and Recreational additional personnel to enhance the facilities was 6.37 and this a 10.88. That's why I bring it up, I agree. A couple of things I found interesting, Fayetteville Boys and Girls Club, a lot of people are not going to use Fayetteville Boys and Girls Club yet it ranked a 5.95, twice as good as Public Access Television. Also the Community Adult Center, 7.77, Public Access 10.88. It's all about priorities, what the citizens want to pay for and the fact that adding Franchise Fees, ultimately what we're saying is that the citizens of Fayetteville would rather raise their cost, Franchise Fees, and taxes to pay for Public Access Television. I think what we're hearing from the citizens is that's not what they're interested in doing and that's why I bring this amendment.

Alderman Thiel said she did not mention the Franchise Fees, she mentioned Business Fees and our General Construction Fees, I may have said Franchise Fees, that would be another thing but there are some things we are considering that would not be a direct effect on citizens.

Alderman Young said what your proposal is for Public Access Television that's the \$69,000 line item is that correct.

Alderman Bechard said that is correct.

Alderman Young said if my memory serves me correct, I think we are running a deficit of \$2.8 million. When you are talking about setting priorities, that's exactly what this council needs to do and this \$69,000 item doesn't cut that \$2.8 million very much. This Council has got to get serious about cutting the budget, otherwise forget it. Now on those Franchise Fees I would oppose to them when they were going to be applied to all kind of other utilities. I voted for those Franchise Fees because they only applied to Water and Sewer and they were a transfer of money and they did not increase taxes to the rate payers. When I said that I was not in favor of raising rates to anybody as long as the Council is not willing to cut the budget, but right now I have not seen any proposal to cut the budget. The Mayor has proposed \$400,000 reduction. That doesn't come very close to my proposal of \$1.2 million.

Gary Lowery, a citizen, said one thing you have to look at when implementing your Budget is we haven't really hired a lot of people in the last couple of years. We've lost a lot of people to retirement, people leaving the City of Fayetteville, but we still have these positions there that need to be filled and we have grown. So now we aren't providing the citizens with the quality of service that Fayetteville is capable of doing.

Alderman Bechard said that the reason he is looking to cut cost is so we can fund other things. It's not about cutting cost just to cut cost. He said that he is trying to find ways to cut cost here and there and find more money so future City Council's can hire those people that we need as we continue to grow.

Mr. Lowery said we all have had to cut at home so I think it's time the City needs to look at cutting itself at home.

Kathryn Shearles, involved with Public Access since 1982, the general manager of Fayetteville Open Channel, and also helped form Access for Fayetteville, stated that if Public Access is cut, that's the end of Public Access. Another reason she feels that you would not want to do that is the Government Channel would be under a lot of pressure if there was no Public Access Channel. She stated that she liked the separate channels. The Government can control what goes on Government Access, where as nobody really can legally control what goes on Public Access.

Mayor Coody clarified that the Government Channel is not on open for discussion, and there is no talk about cutting that.

Susan Cromwell, Chair of the City's Telecommunications Board, said it was premature to cut the Budget tonight when in fact you haven't heard from your City Boards recommendation on how to handle this particular issue. The Telecommunications Board would make certain that a contract that would make the Public Access Television

provider who is chosen accountable, the performance criteria and standards are all built into this new process that we defined. I think that it will result in a good Public Access Television provider and I hope that you will fund the Budget.

Melissa Johnson, a citizen, said she supports Public Access Television and is against cutting their funds.

George Weiss, President of CAT Board, said that on the 2001 Citizen Survey on page 5 under Over All Service, under Public TV, 84% of the Public suggested that at least it was fair to excellent. Only 16% said it was poor. That means for every person that say's it's poor, there are 5 people who say its okay. This is a service that the City has provided for 22 years and you are now talking about cutting it after 6 months time. I urge you to reconsider that and fund it for the full year.

Michael Stillwell, Multi Grain Media, said that they are a non profit organization that helps other non profits get their word out and help them find money. Public Access is one of the places that they can put their stuff on the air. Public Access is very important for the community. When it comes election time, you guys use it. It's very important and we need to keep it alive. We have to find a way to fund this.

Mr. Roberts, President of an independent producers group, Shannon Cain, involved with Community Access for five years, Jane Tree, President of the Fayetteville Lions Club, Kendra Fury, a citizen, Mosha Newmark, a CAT Board Member, Ann Bynum, a citizen, Jim Goodlander, involved with Public Access since 1990, Lou Weiss, a resident, Renaldo Hemphill, a member of the Board of Directors for Community Access Television, Jim Beamis, a citizen, and Betty Lou Landcaster, a citizen, were all against the amendment to stop funding for Public Access Television.

Mayor Coody said that he knew there would be some misinterpretation about my particular comments at the Agenda Session the other day. What I basically said then and I reiterate now is that you will not find a stronger supporter of Public Access Television and the Freedom of Speech and the freedom to express unpopular opinion than I. One of my dearest friends in the world the other day, he and I had a visit, he had said through the years Public Access Television has survived through all these trials and tribulations. My response was; yes, but it has just survived. I want to see it flourish. I would like to see us spend not only \$69,000, I'd like to see us double the amount of funding that we give this kind of Public Television stuff. The thing about it is we can't do that with the level of public support that it's generating right now. What I would like to challenge Public Access Television supporters and advocates to do is take this 10.88 and move it up to 4.00, raise the bar, bring in quality production, quality programming, do the very best job you can do. Don't settle for what you're doing now, challenge yourself to do a better job than you ever thought you could do and make it easier for us to say that this is a great asset to the community, we all need to be able to say that. That's my challenge to you. Let's make this thing really good.

Brenda Thiel said she would like to make a suggestion because you have pointed out some things some valid things. Mr. Bechard said he really wasn't referring to the content of Public Access but you are referring to that. I would make two suggestions and recommend that we keep the funding at the level it is now, but that either the Council or the Committee assigned by this Council through a review of any Public Access Service Providers performance at the end of each year. In the past it's been every five years. We are just now doing that after a five year period and I think that if we reviewed whatever Public Access Provider we contract with more frequently then I think we could maybe keep up on problems. The second thing I would like to suggest is that if we do pursue the contract with which ever Public Service Provider, the Selection Committee will make a recommendation Thursday night to the Telecommunications Board and then they will come back to that recommendation for the service provider to this Council. I would like to see that contract have a required percentage such as 2% of the providers' contract or their budget to be used for Community Outreach which I think this would encourage more citizens to become interested in using Public Access Television. I think that there needs to be a funding mechanism requiring whoever the provider is to do this outreach. I think that that in turn would help the public have better programming, and in that process they would find out more from the public what they want to see because I understand they have periods of time where they've scrolled the calendar, so I know there's time for more programming to be on there. I think there's ways that we can make this better and if we can look at the contract of provision and the contract requiring that, I would like to look at that and I guess I'll talk to the Telecommunications Board about that. I really would hate to see us eliminate the funding level we have right now which they've asked for more funding in the past this year because there was a turmoil about the provider. I think we ought to keep it at the level it is. I think it provides a very important service.

Alderman Bechard said that it's not about the programming; it came up over and over. It is all about priorities. Even if we increased the rating by 20% it would still be the second lowest. He also said we have to set priorities and we have fundamental issues with our current Budget and how we're going to get there by 2005.

Alderman Marr said that at the Budget Meeting he requested a copy of the contract just like we got on DDEP, and said what's it supposed to provide and I got from Marvin today the Quarterly Report of the last Quarter so I could take a look at the things and compare them to the points in the contract. The reason to do that is because I actually use this channel through my election and everybody that ran against me and with me knows that we all did so I certainly see value in it and in terms of programming I answer to that comment when someone asks me is it's no different than having the right to burn a flag in our country. It's something that while I might not like it, I'm going to fight to make sure it happens, and that we have the right to do that. I'm not against not funding it but I'm against funding it indefinitely without there being a thorough review. It's like having a 22 year business that you've never sat back and looked at it to see whether or not it should be organized any differently. There are four items in this contract; scheduling and

teaching a video production, scheduling of programs on the Public Access, cable casting of programs, promoting the use of the Public Access Channel, then it goes on. Our cost is not \$69,000 for any of us sitting up here looking at it. We provide a building. It says in it that we will be responsible for the payment of utilities, routine building and grounds maintenance, and maintenance to the structure. Our costs are more than \$69,000, not only on this program, but on anything else we provide facility space on. He went on to say that there are multiple ways that it can be structured. For me we need to put together a Task Force just like we did for the Business and Technology Park that is made up of the producers group, people who run the station, average citizens, people from the City staff, and two Aldermen, that studies this and says how should it be structured and when we keep this how it's going to continue to be successful, funding sources that we can look at. My problem with this is not programming, it is not purely a Budget number, it's that it's broke and it might be fixed this quarter, but the concern I have with it is it's not stable, and it doesn't stay fixed. It seems that we have issues after issues that I would like to see corrected and whether that's structure related or lack of respect of how we treat our ordinance directed, to me those are the things we should look at the most and the only reason I would support reduced funding is to put a timeline on us evaluating that because if we fund it, we never force ourselves to go back and look at it and that's why I would support something less, not to get rid of it but to say let's organize this area for long term stability and success and that might look completely different than how it is today.

Alderman Thiel said that one reason why she was advocating a more frequent review. The Telecom Board is supposed to be what you just said, and we're really confusing a lot here because we're talking about the provider or the lack of abilities over the last year possibly. We're talking about two different things here, we're talking about Public Access or the ability of having it and I understand what your saying, maybe it doesn't need to be funded at that level, that's certainly something to think about and I think there definitely needs to be a review process more frequently than we've done, I think that's been a real mistake, and I still think the idea of possibly percentage being required that they actually use their Budget. They do generate other income and I think there will be more discussion at the Telecommunication Board and more reasons why there will be more changes. I being on that Selection Committee and looking at this very closely for the last two months feel like that we really need to continue this, but keep a much closer eye on what non profit is doing, how they're doing it, and whether or not we need to look at another one, not that we need to remove the funding for Public Access, and that's really the discussion right now.

Alderman Bechard said I completely agree with your comments. I do think the Telecom Board is the place that a lot of this discussion should happen, but for some reason it's not effective, it's not working that way, whether that's us circumventing it, the participants circumventing it, but somehow it doesn't work. It's not that I'm advocating that it not be funded, the reason I think it's relevant to this discussion is to say we're going to do \$69,000 when who knows maybe under a completely different format, different items, we may want that number to be higher as the Mayor talked about, or if we have another way

to do it that we think is more effective or efficient, it might be something different than that. We need a committee to go back and look at this and say, we know we have it, we committed to having a PEG Center and we can't just do away with it, but we do need to have the most effective PEG Center for long term sustaining liability that we can. Are we organized to do that and do our ordinances reinforce that.

Alderman Reynolds said he would like to see everyone get on the same page at the Public Access Television Center and if we fund you through June I hope and pray that you will do that and in June we can look at it and you guys will have it straightened up and we can go forward and that's where I am on this issue.

Alderman Young said the reason that what Don Marr was talking about the problem with the Telecommunications Board in my opinion is because the Council and Administration has ignored the Telecommunications Board. They have asked to be a participant in various different things and they have been ignored, that's the fundamental problem.

Alderman Jordan said I've heard all the problems with Public Access Television and I don't agree with all the programs that have been put on that station, but you know what, that's sort of the price of freedom isn't it. You may not agree with everything that's put on there, but everybody has the freedom to express that. I've spent most of my life fighting for the freedoms of people in the workplace and everywhere else and I think that when we can tolerate one another even though we come from different backgrounds and have different opinions, that's when you can sing that song the land of the free and the home of the brave. I think that \$69,000 is a small price to pay for freedom. I know that maybe the programs need to be looked into to but you know what, that's when the city needs to get with the Telecom Board and form a real partnership and straighten things out.

Mayor Coody asked if Alderman ? and Alderman Marr would be willing to be on the committee.

They both said they would be happy to.

Upon roll call the amendment failed 4-3-0. Alderman Thiel, Alderman Young, Alderman Santos, and Alderman Jordan voted no.

Mayor Coody asked Mr. Davis where we left off on the Budget 2003 discussion.

Mr. Davis said that he was answering questions.

Alderman Santos recommended cutting CAT and DDEP and most importantly I recommended cutting in half the Travel and Training, Publications and Dues, and Office Supplies. I want to endorse the Mayors proposal which is a more careful cut of those things among other things. I know that we're very wasteful with the office supplies. I

would really like to see the City move to a more paperless operation, I'd like to see those computers that everyone has, be used. The most important thing that they do is to be used for communication. We really need to look towards doing more of the cutting down on office supplies, just everybody thinking more frugally about office supplies. As far as the Travel and Training and Publications and Dues, we might want to think about a change in the corporate culture here. I work for the state and we don't get this stuff paid for us. We have to keep up our own professional certifications. My proposal, which I'm abandoning now but I still want the future Council to think seriously about this is do we want to change that culture where we pay for everything for keeping everybody educated and up to date with all of their dues or do we at least have the higher level of employees pay their own, that's why I only proposed cutting it in half so there would still be plenty there for the lower level of employees to go to the conferences they need to go to and pass the tests they need for their various certifications. Once they've done that they should be at a higher pay level and they should be able to pay their own dues like I do and every State Employee does. The future Council needs to think seriously about whether you want to continue to pay for this extra benefit that the State doesn't think it needs to pay and can the City afford to if the State can.

Alderman Thiel said that she does want to address something that Mr. Lowery brought up that is a concern of hers. Some of our enterprise funds, our Street Fund for example, we get frustrated because we get a lot of complaints. Let me remind the public that really what we're looking at right now what we can deal with is the General Fund which has nothing to do with that, in other words if we save money here it would not go into the Street Fund, that's an enterprise fund.

Alderman Bechard asked if we could allocate money for instance if we had \$200,000 left over in the General Fund could we allocate that to the Street Fund.

Mr. Davis said yes.

Alderman Thiel said we are not dealing with that in this Budget. This Budget is dealing with the Divisions that the General Fund funds by ordinance.

Mr. Davis said the City of Fayetteville has never transferred General Fund moneys to the Street Fund in the past 11 years. I don't believe they did in the preceding four to five years, from 1985 forward. It is possible for General Fund to transfer moneys to Street Fund it's just that Fayetteville has never done that.

Alderman Thiel said that she is not real sure why we don't have more discussion on some of our Enterprise Funds. Is there a reason we can't? We always seem to concentrate on the General Fund.

Mr. Davis said that the primary reason why the folks talk about the General Fund is that your Water and Sewer Fund, Solid Waste Fund, Airport Fund, Shop fund, and Street

Fund, they are all dedicated revenue streams for that single purpose and that is the only purpose for that fund. You can talk about any and all of these funds.

Alderman Thiel said because if we have a concern with how that particular Enterprise Fund is operating, I have issues with several of the funds that I feel like they are spending, here we are cutting our advertising down to zero almost and I know that we have to legally advertise and I know there are other funds that are very carefree about how they spend their advertising funds. I just wonder when we will ever get to a point maybe these are things that we will hopefully discuss when we're in depth at our retreat. That's going to be more of a planning, hopefully we can have an earlier planning discussion this year and it just didn't happen because of the sales tax issue and various issues that we were dealing with. I think we do need to have early discussions before it gets to this stress level to where we don't have time to really look at these things.

Mayor Coody said I think we are looking at doing exactly that starting in March I think we're going to start with the retreat and start talking about these things and I just looked at the schedule and you've scheduled throughout next year starting very early on Budget talks. Is that correct?

Mr. Davis said we are talking about the 2004 Budgets on, but part of the Budget calendar for next year is in proposal state. I haven't had the opportunity to discuss it with the Mayor. We have the Strategic and Leadership Retreat scheduled for March 14, 2003 out of that retreat until April 15, 2003. Staff would begin to develop a 2004 Budget and have it to City Council by mid July or early August on that it would give about four months of discussion and you would have more opportunity to go into the specific other funds and delve into what they do, how they do it, and why they do it and also have sufficient time to go through General Fund. General Fund is the most complicated fund. Everything that does not have a specific item or funding source that we do in the City is funded in General Fund. That's why it's so complicated and that's why City Council has historically spent 85 to 90% of it's time on General Fund. The only time that City Council historically for Fayetteville has spent a great deal of time on the other funds is when the Solid Waste Fund needs a rate increase or the Water and Sewer Fund needs a bond issue or a rate increase. Those are when the City Council usually focuses in on those utility funds because they are more self sustaining and they need less care and maintenance if you will.

Alderman Davis said he doesn't see any of the boil points on each proposal to go back and look at increasing fees to participate in some of the Park programs and we talked about that the other day and you mentioned that that was something we were going to look at in 2004.

Mr. Davis said yes that User Fee Study will be developed and it can be developed in house or it can be contracted out and we need to do a cost analysis to see which is the

most cost beneficial to the City. That would be coming to you we expect sometime in July or August time frame.

Alderman Davis said that's what we need to look at because too many of these programs right now have a pretty good size deficit and we need to look at other alternatives and see what can be done. Is there anything we need to look at?

Alderman Thiel said we need to look at the funding of Boys and Girls Club. We're spending an awful lot of money and that's something we need to look at. Is that a service we want to fund at that level?

Alderman Bechard said he can't support the Budget that's in front of us right now. One thing that I said last Tuesday night is that I was hoping to find a Budget that would be brought forward that expenses would be about 6.5% over Revenues. We'd be passing a Budget tonight and we'd be spending 9% more than what we are and what that does and if you guys look at the projections, it says that in 2004 which I will not be a part of so I'd be forwarding to the next Council a Budget telling them you got to keep your expenses exactly more than \$80,000 of what your expenses were for this year. So don't mind the fact that the City of Fayetteville is still a growing City, you've got to hold your expenses \$80,000 verses what its saying. Oh by the way you can't hire anybody for the year 2005 except for staff in the new Fire Station and only that way will you get to the red line number for 2005, so I can't in good conscience sit here tonight and support a Budget where we're over spending by 9% and putting the future Councils in a very difficult financial position.

Mayor Coody said in order to meet the rule of thumb for Governments you don't want to have too much money. If you're collecting too much tax money you're not spending it and that's a problem. So we want to spin down to the rule of thumb that we need which is going to be \$3.8 million or something around that.

Mr. Davis said that in 2005 the target number is \$3,000,877.

Mayor Coody said I've looked around at different cities, we've all looked at the numbers as far as what taxes we collect, what fees we charge, what all the income we have, compared to the number of services we offer and the quality of services we offer and the level of customer satisfaction we have. When people compare Fayetteville services to anybody else in this part of the world, we're at the top of the heat. If you compare the amount of income that we draw to pay for that, we're at the bottom of the heat. So I think we've been doing phenomenally well with the amount of money we have producing a very good product, so if we're going to balance this budget to where we're either going to have to increase something or decrease services and since most of our money goes to personnel that mean decreasing personnel and I don't see how on earth we can decrease personnel or decrease services as we continue to grow at 4% per year every year,

especially when you look at the last three years. The City Government here has grown what percentage would you say Steve?

Mr. Davis said that from 1992 through 2002 General Government functions and the internal functions for General Fund grew 17%.

Mayor Coody said and the City grew 40%.

Mr. Davis said 40% because inflation took care of the other cost increase.

Mayor Coody said and so from the year 2001 and 2002 for these two years, how much has the Government grown?

Mr. Davis said I think we've reduced staff.

Mayor Coody said we've reduced but yet what has the population of Fayetteville done?

Mr. Davis said it's gone up about 3 to 3 1/2 % per year, based on Building Permits.

Mayor Coody said it doesn't take a Rocket Scientist to see that we can't say cut our spending and raise expectations in our community because that is not going to work. We've got to find a way to bite the bullet one of these days and either cut services or personnel, which none of us want to do and the citizens don't want us to do, or show the courage Bentonville showed and find ways to try and make that difference up. If we're one of the lowest collection cities around here and still providing such good service, imagine what we could do with a little bit more money with the service we would continue to provide. If we're going to be going into taking care of all the City Solid Waste and Commercial, we can't do it with the existing staff and Budget that we have right now and that will pay for itself as we get into the business. That's why Enterprise Funds pretty much are self sustaining in taking care of themselves because they bring in the money that they operate by. General Fund is a different ball of wax. The General Fund is funded by primarily sales tax and the bulk of that goes for personnel cost, Fire and Police parts are a majority of the General Fund. We can't continue to cut 5%, or 3% of our Budget and give the raises to the Police and Fire of \$986,000, go to LOPFI too for Fire and Police, go into expanded services over here and make up individual salaries that need to be made up, something has got to give because we can't do both. We need to get our Fire, Police, and all of our employees up to where we need to be. We're going to have to look at a way to where we might have to come up to what may be our next lowest neighbor, is just to match the next lowest city would make a big difference for this community.

Alderman Reynolds said I've been waiting for an overtime report, did you get your report that you asked for at the Agenda Session.

Mayor Coody said he did not.

Alderman Reynolds said that I'd hope in January that we get into our different departments and we're going to rework some different departments I hope January or February we all get our heads together and we breakdown Streets and Water and Sewer and we start saving some money and we find good ways to spend our money in those departments. The other thing Brenda is Business License Fees. I think you're going to be surprised at the money that we're going to produce from that because it's going to make a lot of people honest on sales tax. You're going to be surprised at the money we're losing on sales tax just through theft of different businesses in this city that's hidden in the backs and fronts of all the houses. They don't give it to us but we don't have the right tools to do anything about it so we need to change some ordinances, we need to rework things in January and February and we need to get strict, we need to get our dollar so we can pay our employees and our people and build Fire Stations.

Mayor Coody said as a matter of fact the Legislature right now in this session is looking at some new laws that would free up the information sharing from the State Finance Department to the cities to where we can do a better job of policing the folks in our town. That would be a tool that we just don't have right now. When I look at a restaurant that has people pouring in and out all day everyday and they don't even show up on the HMR tax, that's a problem and that's not right, we need to fix that.

Mr. Davis said Alderman Reynolds; your overtime report is in the process of being developed now. It's going to be a multi year report that breaks the overtime usage by month over the last three years. The person that's doing that data collection is Kevin Springer who has also been tied up in getting the Budget numbers together.

Alderman Young said that the issue comes down to, the City Council is going to have the City live within the revenues coming in, and that's the bottom line. Then when you start looking at the pieces of paper and you rationalize about the year 2005, on paper you can make it look good you know if you don't hire any people, that looks good, but that's not going to happen. My problem is whether or not you're going to get realistic with the Budget. The main thing I would like to correct is something that was stated in at least one of the newspapers repeated it talked about how Councils at fault needs to get into the Budget process earlier, they're wrong. The Council is not the problem. Don Marr has been asking for a lot of this information shortly after he got onto the Council and we started wanting these numbers early on, I told him then you're dreaming, you're not going to get this until the last Agenda Session in November and that's exactly when we got this stuff. It's incumbent upon the Administration to get this stuff to the Council early on.

Mayor Coody said it's not like we're saying no we're going to hold off and give it to them at the last minute.

Alderman Young said the information is not provided to the Council until the Final Agenda Session in November. It's been that way for the eight years that I've been here and I predict that it will continue to be that way.

Alderman Thiel said she thinks that there should have some early policy discussions and direction. We can study the Budget we have before us now and say these are some things that we have concerns about and we will have more time to talk about it.

Mayor Coody asked Mr. Davis what would be a realistic yet early time to where Council could start getting this information and start combing through it.

Mr. Davis said August. If everything falls into place just right, you know that we get the policy decisions made by Council by April 15th then staff has adequate time to prepare their work papers so that they can think about what they are going to do for the next year in 2004. Staff preparing a Budget so that City Council can look at it in August means that by the time they actually go to spend the money, their numbers are at least four months old, and in some cases even six months old. Some of those projections might be off.

Mayor Coody thanked Mr. Davis and the Budget Division for their hard work.

Alderman Marr said that he did not want the Budget so early that we lose predictability. One of the things about business is when you start the process so early, by the time you get to January to start the year, you may already be off Budget. I think the point is that we know they're going to be the same; there are things that we can look at. I understand that being a really long process to look at the Budget when you do zero based Budget, but we don't do that, at least not how I define zero based Budgeting. I think that's something again that we should look at, going through department and putting them on a three year rotation because some businesses do it yearly in every department so if we can get them on a cycle of three years I think that will be a good thing. I originally came into this process and said well our range was 1.8 to 2.4 in my mind without Franchise Fees so I was looking at a Budget that came in that range without Franchise Fees being done and I think that this last round of cuts of \$408,000 without there being an increase to the end user, I think we're there. We are building in assumptions. You know we have a Hay Plan Adjustment of \$750,000 and \$180,000 that is a good guestimate based on history of what we anticipated it to be, but it's not a fact. We have a Fire Station that is in here at \$600,000. Lord I hope we finally get one under the Mayor. That's an assumption we know today, but there may be a lot of things that we don't know yet. I do think we have a good Budget.

Alderman Santos said that he was glad to see that we're within \$1,000,008. I'm kind of in the goal where we talked about there is no job loss which is great. One thing that we do need to change that we did three or four years ago and that was where Steve if you recall you met with each Alderman ahead of time and you kind of went through the

Budget and answered questions and concerns at that point in time which in reality you may have saved us loss of hours since we all just got together and began to brainstorm, whereas have we met separately and discussed those items with you it may have cut down the overall group participation which is good, but you could have answered some things in just a few minutes there. Things of that nature that we could have looked at like we have three or four years ago would probably help out. Then we have the large discussions and we're talking about the major concerns, it may help us be able to expedite and speed up that process.

Mayor Coody said we'll put that in the works for soon when we start doing the next Budget; early on we'll certainly do that.

Mr. Davis said what I'm hearing from City Council is that they want to get into more of the other funds in a more in depth manner, not just in November. Actually what we could start doing, if the City Council wants to, I could have those individual meetings early in the year and we could actually go through the 2003 Budget where Street Fund and all those other funds to address the concerns and questions.

Alderman Santos said but if we do that we'll probably need to have Greg in there when we talk about the Street Fund so we can tell him the questions we have with the concerns of the Department at this point in time and possibly what we feel like maybe there will be some changes to save dollars or to make the program better to where the citizens can see more work done.

Mr. Davis said I can also do a presentation at the Agenda Sessions from time to time for particular funds.

Mayor Coody said one more thing I want to bring up is the fact that what amazes me is that we have added LOPFI too and the pay raises for Fire and Police and other certain employees of the pay compression problem which adds up to 1 1/2 million rough in round numbers.

Mr. Davis said that including the pay compression it's about \$1.5 million in General Fund.

Mayor Coody said that you added that to our expenses ledger and we're still just about right on target with where we needed to be.

Mr. Davis said that some of that was paid for with the savings in our Group Benefit plan.

Mayor Coody said only \$280,000 some thousand. So really about \$1.25 million added into the expense side and we're still meeting the target that we set up before we had this expense so that's good work.

Alderman Santos said that's a good point. Each year we look at this Budget ahead of time and you never know what your Benefit Packages are going to be, your Work Comp could always increase and all the sudden blow out your Budget so I go back to what Don said, you got to go look at that zero budget and look at it every year and justify what the expenses are in each and every department.

Mayor Coody said I think that as a matter of fact we're starting with the Parks Department doing a zero based budgeting process.

Alderamn Jordan said I think this Council and the staff has done a wonderful job this year.

Alderman Reynolds said I just want to thank Steve and the Administration for going the extra mile.

Alderman Bechard said that he still struggles with the fact that our ultimate goal is that you can't go below the red line by 2005. I think if we educate the citizens of Fayetteville and what our tax base structure is versus those around us, ours is the lowest from what I understand. We've got that data and we've got the lowest taxes in the Northwest Arkansas area. Are there opportunities to look at that so that we can continue to fund our growth? That may be things we should do. I heard a lot of you talk about those opportunities, I still struggle that we didn't do that as a City Council, I think that was our responsibility and that we are leaving it to someone else to have to do that and I think that is a little unfortunate, but I'm glad that at least the folks are going to be here in the future talking about those opportunities.

Mayor Coody asked if the public had any comments on the Budget.

Alderman Santos moved that the resolution be passed. Alderman Jordan seconded. Upon roll call the resolution passed 6-2-0. Alderman Young and Alderman Bechard voted no.

Resolution 199-02 As Recorded In The Office Of The City Clerk.

Mayor Coody said now we will go back to our discussion on Impact Fees.

Mayor Coody said that one thing I forgot to mention on the Budget is that when the Governor was talking about a $\frac{5}{8}$ cent sales tax increase. What the Municipal League is going to propose in lobby for is not to have a $\frac{5}{8}$ cent sales tax increase which would just go to the State and hamstring the cities, basically to do away with some exemptions such as advertising like we've been talking about in other services to where we could leave the sales tax as it is, broaden the base of what sales tax has collected on and that way the City benefits from that as well.

Mayor Coody said we heard from Bentonville. Does anyone from the City Council have anything they would like to add to the conversation right now?

Alderman Thiel said I had proposed a couple of Amendments and I believe Kit has provided those changes. She asked Mr. Williams to explain what he has provided.

Mr. Williams said that what is actually before the Council right now is the one that you got in your packet that at the bottom it says as amended by the City Council on 11-25-02 and that is officially what is before you. The last meeting that we had I guess was the first meeting in December where we actually had an official meeting where we could talk about the Impact Fee Ordinance and there might have been some amendments then, but everything after that, I have made some suggested language following your comments and I have all of that put together in the most recent one that I handed out tonight. At the bottom of it says 12-16-02. If you'll notice on that one there is actually two page 4's. On the top of the first page 4 it says the original schedule 1990 Census Data and that shows the schedule as it originally read and has a sliding fee schedule. The other page 4 was a suggestion from Alderman Thiel using a single family average and the 2000 Census Data and if we use 2000 Census data, we cannot use a sliding scale for residential property if we use 2000 data because the study that our consultants made in order to come up with the different square foot values relied upon data gathered in 1990 and they don't have any current data for that out of 2000 so that they would not be able to use an updated figure if you wanted to use a sliding scale.

Mr. Conklin said that after the last working session where we looked at the amendments, I had a consultant look at the 2000 Census data with updating the schedule fees, since then I've been in contact with our consultant and questioned how the methodology worked with 1990 and 2000. From that, our consultant suggested that if the City Council keeps the sliding scale for Impact Fees for single family homes that we should use what was presented originally.

Alderman Thiel said she would really like to keep them together because the purpose of going away from the sliding scale eliminates what the original intent with the sliding scale was to provide some lower rates for affordable housing and if we go to the single rate for the residential then we need to incorporate the second part which is on page #5.

Alderman Thiel read page #5.

Alderman Thiel said there are two parts to my amendment.

Alderman Santos seconded.

Alderman Davis asked on the rate structure, you're wanting to go ahead and use the single family average and multi-family average and you're wanting to use the 2000 with the 1990 Census data.

Brenda Thiel said we just understood that we have to use the 2000 Census.

Tim Conklin said they updated the study with the 2000 data. In order to use the sliding scale, you have to use two different data sets, 1990 and 2000. I would recommend that we use the 2000 Census data since it's much more current than 1990 and it provides a better measure of persons per dwelling unit which is what we're trying to capture is the impact for water and waste water.

Alderman Davis said the only problem he had with that is when you look at the two studies you have one from the NWA Regional Planning Commission and you have one from Mr. Duncan and if I recall Mr. Duncan shows 50% apartments and 50% resident dwellings. The NWA Planning Commission has shown rates off the 2000 Census that showed that if 58% of the dwellings in Fayetteville were tenant occupied and 42% are owner occupied and what I had even had Paul Justice's name on it and he had done the research and given these figures out. I have a tendency to believe his figures rather than the ones that Duncan has provided. That is a concern because I'm not sure that this rate structure is going to be accurate or correct.

Mr. Conklin said we're looking at persons per unit based on dwelling type, not renter versus owner occupied. We have verified that it has the same data that Duncan's Associates is using.

Mr. Williams said there is a slightly increased danger legally in having a sliding scale rather than using the 2000 Census data.

Mayor Coody asked shall the amendment pass, upon roll call the motion carried unanimously.

Mayor Coody said we will now get back to the General Conversation of the Impact Fees.

Alderman Davis said that he would like to bring up a change on the refunds. The way the original one was written, basically its responsibility of the citizens to have to come forward and it was set up for ten years. I brought up last week to change this to a five year period and to make it to where the City had to notify that particular home owner whether those funds have been used or not.

Mayor Coody said one thing I would like to caution the Council on as far as the five year after the date number, that language is in the State Legislation and everyone at the Municipal League and this includes me feels like five years is over night when it comes to municipal planning. In order to do this, we would be refunding money more often than actually using it. I would think ten years would really give a chance to accumulate some money and apply it toward the plan.

Mr. Williams said both our Parks Plan which is an Impact Fee and our current ordinance where we collect money for a specific project has a five year limitation.

Mayor Coody said a park is easier to build than an expansion to a sewer system.

Alderman Santos said this first sentence says that if there is any money in the Impact Fee Fund that has not been spent or encumbered, that means that even though we haven't got that new Fire Station built, we're promising that the money is going to go toward that new Fire Station.

Mr. Williams said that if you have pledged that money to pay a debt, then I think that would not trigger an automatic refund, but as Alderman Davis said now the burden is on the City, we're not going to ask any property owners to ask for their money back, we will simply send it back to them with interest if we have not used it or encumbered it within that five years.

Alderman Bechard said that he also feels that five years is to short.

Mr. Davis said as the City brings contracts forward to do improvements that are expected to be partially funded with Impact Fees. When we bring the contract forward to City Council for approval, those moneys are encumbered at that moment. So if we bring the contract to you prior to the five year or the ten year run out of this time and the money stays with the project from the encumbered standpoint, we don't have a problem. We might be able to use our GIS system to tag a parcel number to an Impact Fee, but it is going to create some additional administrative work.

Mr. Williams said that for the record when you vote on this that you take a definition of encumbered as stated by our Administrative Services Director, so for the record, that's the definition of encumbered, so when you vote on that consider that the definition.

Alderman Thiel asked if the Administration Fees of collecting and sending this back, are these Administration Fees that pertain directly to the collection and is that going to be part of the Impact Fees or is this going to be the additional costs that we have to pay for through General Fund.

Mr. Davis said my understanding of the ordinance is that there is no Administration Fee built into the Impact Fee Ordinance right now so the answer to your question is that the increased cost that we're going to be called on to perform is going to be paid for from our General Revenue streams.

Alderman Santos said that when you look at your Administrative Fees that you may want to add that extra administrative cost into the price of the building permit if you raise the

price of the building permit to reflect the amount of staff hours that go into processing the building permit or a large scale development.

Bill Burkhart, past President of the Home Builders Association, State Director, and National Director, said particularly on this one amendment, there is nobody else but the City that will know when a refund is due to a person. There is no way a citizen who has paid an Impact Fee will know that they need to request for it because it hasn't been spent. The Budget that you just had in front of you is so detailed that it is hard to understand on your side, there is no way that a citizen paying an Impact Fee can go through your enterprise funds and know that his funds have been spent on something. I think to be fair to any citizen, you're the one that needs to notify the citizens and send the money with out question. In five or ten years it should be based on your Capital Improvement Plan. There is no way you can hold their money for ten years even though you don't have it marked for anything. Your five year plan is completely funded so you're going out and saying I'm going to hold your money for ten years until we come up with something that we can buy and that's not a benefit for a fee, so I would limit it to a five year fee.

Jeff Erf, a citizen, said we do have a Sewage Treatment Plant on the west side of town that we're building and other improvements of pipes and that sort of thing. We know now how much of that can be paid for by Impact Fees.

Mr. Conklin said the whole Impact Fee Ordinance is based on paying for \$42,500,000 for a treatment plant that will produce ten million gallons capacity per day. For the water it's looking at a buy in approach of what it's going to cost for transmission and storage. We know that the Capital Improvements because the improvements were identified to develop the fee and so the fees will go to pay for those Capital Improvements.

Greg Boettcher, Public Works Director, said those funds can be used to help retire the debt because it would go towards the Capital Improvements Project and also on the water side, those funds are earmarked for capacity improving transmission lines, not for replacing deteriorated lines. I think the key thing to the Impact Fees are that the money has to be earmarked for things that add capacity. I recall that it can be applied towards the Waste Water Plant as well.

Mr. Erf said that the point is it sounds like there are lots of Capital Improvements to be made and millions of dollars worth so it seems unlikely to me that you're going to be giving any of this money in the near future. There is a lot of talk about giving the money back, but it seems that it's going to be a while before that might be a problem.

Mayor Coody said this Impact Fee was reduced with the consideration of the sales tax that a person would pay so basically the Impact Fee rate gave back to the home owner for the amount of sales tax they would pay.

Alderman Marr said I would like the amendment to be two separate amendments.

Mayor Coody said so we're going to vote on 10 reducing it down to five year amendment first.

Alderman Marr said yes and the second being changing it upon application to the City to refund by the City. That's how I'm reading the two differences.

Alderman Marr said I would like to move to amend the amendment to make it ten instead of five. Alderman Thiel seconded.

Mayor Coody said shall the motion pass, upon roll call the amendment passed 5-4-0. Mayor Coody voted for the amendment. Alderman Reynolds, Alderman Thiel, Alderman Bechard, and Alderman Davis voted no.

Mr. Williams said you now have the other part of this proposed amendment by Alderman Davis that has now been amended to ten years.

Alderman Davis motioned to pass the amendment, Alderman Bechard seconded.

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

Mr. Williams said that I was asked to check and see that there could be know slipping through the cracks that we would put time of collection to include the issuance of the Building Permit as well as connection to either of the waste water or the water system, whichever one comes first. I prepared that language. Before that the issuance of the Building Permit only triggered it if there was no connection to either one of the other systems and that presented a potential loop hole that someone might be able to sneak through so I drafted this up.

Gary Lowery, a citizen, asked if the City was going to charge a Tap Fee and an Impact Fee for the sewer services.

Mr. Williams said an Impact Fee would not be charged and an Impact Fee would always be charged.

Mr. Lowery asked why an Impact Fee would not be charged because now they are impacting the sewer system and causing expansion on it because they're using it.

Alderman Santos said that the rational with an existing home that's on septic is that they have already made the investment. The investment in the infrastructure comes partially from the Impact Fee charged to the new residents because they don't have a history of paying the taxes. The people in this existing home have a history of paying the taxes and have already made that investment that the new resident hasn't made.

Alderman Young said the people from Bentonville talked about the Impact Fee being paid just before the Certificate of Occupancy so what we would be doing is having these developers pay the Impact Fee while they're under construction.

Mayor Coody asked how do we safeguard from somebody getting temporary water and then not coming back to get a certificate of occupancy.

Mr. Davis said that after a period of time if they have a construction meter and we go by and see that they are occupied, we give them notice and if they do not come by and get a Certificate of Occupancy we have a procedure to go out and pull their water meter.

Brenda Thiel said the Certificate of Occupancy is always paid by the developer or the buyer. The buyer would not have to pay a Certificate of Occupancy as a rule.

Mr. Conklin said on non residential it could be the person leasing space inside the building in the Occupancy Permit.

Alderman Thiel said one thing that troubles me about Impact Fees at the level they are charged is because if a buyer goes out to borrow the money to buy this house, if the impact fee has been put up here at the top where basically it's being passed down to him by the seller or developer, then he can bill that into his loan. What I really am concerned about is us getting down to a level where the person that buys that house who has depleted everything he has for a down payment and go out to get financing for that home and then he walks in and finds out he's going to have to come up with a thousand or so dollars which he does not have at that point and I would always rather see Impact Fees be at a level where they are passed down to that buyer so that can be built into his loan. That's why I want to make sure that if we go with this Certificate of Occupancy that the developer is always going to be responsible for that and you're telling us that's not necessarily true.

Mr. Conklin said he could not guarantee that, the earlier you can collect them the better chance you have of that cost being part of the home sale.

Mr. Williams said I think administratively it would be much easier for Tim and the people who have to keep track of this if you have it earlier in the system like we do with Park Fees which is our other Impact Fee. It is much more difficult to pull a water meter for people who are living in a house than to require the Impact Fee to be paid up front by the developer who is going to work it into the cost of the house.

Alderman Davis said could we change this to be when you have temporary water hook up or permanent. In most residential housing you're going to have temporary water at the job site some point into construction for brick work and concrete work so it is going to happen before the home is sold in most cases.

Alderman Bechard said I can get a building permit; I can't even put in piers or concrete foundation without a permit first, so if we make it based on a permit, we're charging them a fee, we're asking these builders to put more money up front before they're ever impacting anything. They may get a permit and not start for three months so we're not charging them for six-nine months before they even really make an impact. If we're going to be fair we've got to balance between what's easy for the City and what's fair to the people. I think fair is when you truly have an impact, that's when you pay the Impact Fees. Is it legal to get a Certificate of Occupancy, not have that and have someone move into a home? Is that legal to do that?

Mr. Conklin said the original ordinance talked about at the time of connection, so Certificate of Occupancy you can be connected to the system and not occupy the house and still be connected to the system and using water.

Alderman Santos moved to adopt this amendment. Alderman Thiel seconded.

A citizen spoke opposed to the Impact Fees.

A discussion followed.

Mayor Coody asked Mr. Conklin if we had a time limit on temporary meters.

Mr. Davis said if we don't have a Certificate of Occupancy, we go around and periodically and check construction meters to see if the building is occupied. I don't know if we have a time limit on temporary meters at this time.

Mr. Lowery asked if under new subdivision if there's a tap already there and all the new homes in that subdivision, no one has to pay a tap fee at the present time.

Mayor Coody said that is correct.

Alderman Bechard said that he wanted to support Alderman Marr's point and I know that this is harder, but I think it truly is the fair way. If we're all about being fair, truly making people pay for their impact for their waste and water, that impact begins when you go down to the City and you sign up for water and sewer, that's when it begins. I truly believe that's the fairest way.

A discussion followed.

Mayor Coody said shall the amendment pass. Upon roll call the amendment passed 5-3-0. Alderman Marr, Alderman Bechard, and Alderman Davis voted no.

Mr. Williams said that if you'll look at C-2 immediately below C-1, I developed this language because of what our City Planner mentioned to me. This is a specific provision grandfathering in those projects that already have a Building Permit issued with revise so that they would have to have their project completed within six months of the effective date of this ordinance so that someone could not continue the Building Permit and not be doing anything. So basically what this would say is that anybody that has their building project with the building permit issued prior to the time of our effective date of this ordinance which is about six months from now would be exempt, would not have to pay the Impact Fees, they would be grandfathered in under the old system, but they would have to finish their projects within six months to keep this exemption.

Alderman Santos motioned to adopt the amendment. Alderman Jordan seconded.

Mayor Coody said shall the amendment pass. Upon roll call the amendment passed unanimously.

Mayor Coody said now we are to the entire Impact Fee Ordinance in its entirety.

Mr. Williams said does anyone have any problems with changing the definition of new development.

Alderman Santos moved to change the definition of new development as shown in exhibit A. Alderman Jordan seconded.

Mayor Coody said shall the amendment pass. Upon roll call the motion passed unanimously.

Mayor Coody said now we are talking about the totality. Now we're talking about the Impact Fee.

Alderman Reynolds said I would like for it to read "Water, Wastewater, and Fire Service" like Bentonville has theirs.

Alderman Bechard said since all the discussion and calling all the other cities, I don't have an issue with impact fees as a potential revenue stream. I think that Impact Fees have done fairly and I think there is liability with impact fees so as I think about it in my own mind I put that into another tool that we have as a city to go create tax, to get revenue. We can increase sales tax, mileages, Franchise Fees, and now Impact Fees. The issue at hand to me it's not about Impact Fees for a moment, it's about creating another revenue stream in a world where we only have so many revenue streams that we can create. I really struggle with the fact that we did not challenge the legal side of this like I know it has been done in other places to charge University of Arkansas Impact Fees. The last thing I'll say is this is just another revenue stream, just another tax, and if we think

it's such a great idea why don't we let the people vote on it and if they say great, great, it's their call.

Alderman Marr said I don't look at it as a new tax. The reality of it is that I believe we have to have a funding mechanism to help us keep pace and build infrastructure in our city.

A discussion followed.

Mayor Coody said the thing that I fall back on is that when we were going through this pitch to get the public to vote on $\frac{3}{4}\%$ sales tax, the thing that I consistently heard was why am I having to be charged to pay for new development. We'll support this but you guys need to pass an Impact Fee. I basically said if you guys will vote for this and support it then at least I'll support it.

Alderman Marr said I think we need to be careful about just making an assumption that all of that growth is going to go to those areas, obviously we're only the second location looking at this currently, Rogers doesn't have it and I don't see people flocking from Bentonville to Rogers. In fact they talked about the fact that their development is back up and that their levels are actually as high as they were in June. I think we have to be careful in speculating on what's going to happen.

Mr. Lowery suggested that we add a couple cents per gallon sales tax on gasoline to add to the City's ability.

Alderman Thiel said that what she was trying to say is that other cities are using our water and our sewer system and we are not going to be able to charge them, yet we are charging citizens of Fayetteville.

Mr. Erf said that those people that live in the outlining towns, they do shop in Fayetteville and they will be paying the sales tax and that will help pay for the improvements made to the treatment system. I encourage you to support the ordinance before you.

A citizen spoke against Impact Fees.

Alderman Jordan said I am concerned that we have not put it on Police, Fire and roads because that's what I hear all the time. I don't feel that its right that the Impact Fees are being charged inside the City Limits of Fayetteville and it's not being passed onto the outlining cities. The thing that I haven't got around is what I hear from most of the people that I talk to is that everything keeps going up and they feel like the City keeps growing and saying we're subsidizing the new growth that's coming into the City. Though this Impact Fee is not a perfect document, I'm going to support it and I'll fight those other battles later.

Mayor Coody said shall the ordinance pass. Upon roll call the ordinance passed 5-3-0. Alderman Reynolds, Alderman Bechard, and Alderman Davis voted no.

Ordinance 4447 As Recorded In The Office Of The City Clerk.

NEW BUSINESS:

WATER TANK SITE: A resolution approving the sale of 2.0 acres of the City's Gully Rd. Water Tank site (12.0 ac) as requested by Ozark Electric Cooperative for the appraised price of \$70,000.00 including access to and from Gulley Road, plus payment for specific City costs associated with the preparation of said property to be sold.

Mayor Coody asked someone from Ozarks Electric to briefly explain this item.

Troy Scarbrough, Vice President of Engineering at Ozarks Electric, said the substation site that we're interested in is at Gulley Rd. We have two adjacent substations to the north and south that are reaching limits of their capacity and we basically, based on our Engineering Design have determined that we need to add a station in this area because all the load growth at Highway 45.

Mayor Coody said so basically you have abandoned the idea of the underground feeder going in.

Mr. Scarbrough said they have abandoned the idea of the underground transmission feeder because it adds about \$100,000 plus to the cost and we feel like with the one single area on entry into the station we can minimize the esthetic effects.

Mitchell Johnson, President CEO of Ozarks Electric, said actually the esthetics of doing the transmission feeders underground would actually be worsened. The reason is that basically you would have to add five additional poles in the existing easement and with this proposal here you would actually only have to move a pole without adding a pole in the existing easement. It would not be a very good situation to do.

Mayor Coody said so it will still be a fifty foot wide easement.

Mr. Johnson said they would go with a thirty foot easement.

Mr. Scarbrough gave a picture presentation.

Alderman Bechard said can we go back to the slides, you said at 300' that there's 10DB. Do you have actual data from another plant where you're 500' away in actual date of what the DB's are at that level.

Robert Erickson with Ozarks Electric said that I just took some readings that were provided by the manufacturer for the transformer and I calculated the reading that should be at the distances and I also took a gage and went out and basically checked it from range of 64DB down to about 50 which was the limit of my gage. I compared the two curves and they pretty much lay straight out so I think it's very accurate representation. It also does not take into consideration any of the attenuation from the vegetation from around there. I think it would be a little bit less. If you get 500' away from the gate, you can't hear them. If you're at the gate of the station, you can hear the hum and that's basically where I got my readings.

Alderman Marr said you listed two substations in our material, have you actually done readings at those locations at these distances to see what the readings are.

Mr. Erickson said I have not taken the gage out there.

Alderman Marr so this is purely based off the manufactures specs.

Mr. Erickson said yes and I compared it to our Farmington Substation because that was an easy one for me to go to. It is another substation similar set up and I was using my gages out there because I thought there would be less traffic because the traffic would override my readings that we get about 70DB with just the car driving by.

Alderman Bechard asked if there was a chance that you could get those readings for us and the two current stations 500' away at various radiuses.

Mr. Erickson said I can bring you any readings that you would like on that. I can go out, take the gage, and put it out there. We'll have to chart the curve out because it will only go down to fifty decibels but it's a pretty standard equation, you can calculate how much the sound will dissipate over distance.

Alderman Marr said and fifty is an average office according to your material.

Mr. Erickson said yes.

Alderman Thiel asked Chief Hoyt if our sound meters were better than that.

Chief Hoyt said they could do that. You do run into ambient noise issues when you get out trying to take any type of noise reading. Just the wind blowing across the microphone causes you problems. I don't know what method they used when they measured or when they did their extrapolation to get down to what they're saying the level is, but I will tell you my studies on noise has told me that every time you increase the distance by double from where you're measuring, then your decibels drop 100% but as far as a meter goes, they only drop by three.

Chief Hoyt said so the question here is do we have meters and can we assist in something like that. We could go out and take a meter reading.

Alderman Thiel said we could do that I think it would be a very unbiased measurement. I'd feel very confident that we were using the best equipment around and I would also recommend that this be done, so if there is some way that we could get someone out there to test this maybe in the middle of the night.

Mayor Coody said these stations exist nearby here in town don't they. This is not an unusual unique situation.

Mr. Erickson said no sir.

Mayor Coody said is there another situation in close driving range that we would hear this if we stood there and listened to it.

Mr. Erickson said any one that you would drive by I would think.

Mayor Coody said then why don't we take a board tour and just listen to it and drive off.

Alderman Thiel said well that's okay, but if it's in the middle of the afternoon unless we go to one that has absolutely no traffic around it. I think if I were these people I would be concerned about this at 10:30 PM. I would be concerned about the sound at night.

Mayor Coody asked Rick if he would come back and bring this information.

Alderman Marr said I think that we should have a council tour.

Alderman Davis said it is my understanding that you are going to dig into the hills somewhere, is that correct.

Mr. Erickson said yes sir.

Alderman Davis said and that's going to cut off some of the height of the equipment so it won't be seen over the tree line is that correct.

Mr. Erickson said yes sir except for the lightning protection.

Alderman Davis asked if they were going to eventually have anything else sticking up above the tree line. As far as wiring you're telling us at this point in time you're going to have one trunk coming in that's above ground. How long do you see it before you'll have to have a second trunk or a third trunk or will that ever be a situation that we would have?

Mr. Scarbrough said basically the transmission line is the only thing that's designed for overhead and we will size that transmission line accordingly so that any future growth will not necessitate the edition of any transmission upgrades, so basically never.

Alderman Bechard said you talked about renderings that the overhead was better aesthetically than the under ground scenario and that you had pictures to show us of what we could anticipate it to look like. Do you have both scenarios or do you just have the overhead scenario.

Mr. Scarbrough said basically the renderings I have show more of the impact of the substation sight. I don't have any renderings that show the transmission line. If you'll bear with me I'll show those real quick and then we can back up and I can try to give you an idea of what the impact of the underground would've been like.

Mr. Scarbrough explained the items in the pictures.

Alderman Reynolds said so are we going to ask Rick to go out and check the Johnson Substation and the Harpfield Substation and when we go on tour we're going to look at those two.

Mayor Coody said now the problem Rick is going to have is that when he backs up 500' he'll be recording noises that likely aren't the Substation, but he'll be recording other ambient noises like wind or traffic. His readings are going to be tough to really decide what this thing really sounds like at 500' if at all.

Mr. Scarbrough said I don't think that will be a very accurate measure no matter what we do.

Alderman Reynolds said so they could meet us and take us out there on tour.

Mr. Scarbrough said yes.

Mr. Scarbrough said I went out and did an informal survey myself at our Fayetteville West Substation and I took a pace at a time and recorded the sound of the Substation. This is certainly no scientific, but when I got to the edge of the fence, you could barely hear the hum of the transformer at all, but keep in mind there's a lot of background noises on Highway 16. Would you like to hear that?

Mayor Coody said sure.

Mr. Scarbrough played the tape.

Alderman Young said I would like to ask you, you all mentioned that the second sight you were looking at on Highway 45 and you mentioned that you stopped. Could you elaborate a little what the problem was on that?

Mr. Scarbrough said we approached an individual about a purchase of their property, but basically after about four months of negotiations they terminated negotiations all together. Basically the only other option that we had at that point was to basically condemn or do condemnation proceedings with that property and Ozarks Electric is definitely not in the practice of doing that.

Mayor Coody said I know the question came about the East Side Sewer Plant. I know you took some pictures and did some looks out there, but I think you mentioned to me about the flood plain and all that had to hold back flood waters.

Mr. Scarbrough said basically the number one reason that we did not choose that sight is basically it's outside the growth area that we are considering for this Substation sight. You saw the 5,000' radius that we actually showed you graphically and basically it was outside of that. We thought there was some access issues as well and plus the flood plain issues as well. It's not a good idea to have any kind of water next to a Substation.

Ernie Jacks, citizen, said the property under discussion for this Substation is contiguous to the thirteen acres that I've owned for Forty Five Years. You have a letter which was sent to all the Council members and I'd like to say the details are our concerns, but the issue really that we feel strongly about is that this is a small area and we feel like we're being inundated with major utility installations. First we had the high voltage transmission lines, then you 750,000 gallon water tank, and now we're proposing a mega watt electric substation and we understand from some people here in the City that you have plans for two or three more area water tanks and one ground storage tank out there.

Mr. Boettcher said I wasn't here when the City started the project but we have the one tank, there is piping for a second elevated tank, and I think the sight layout anticipated that at some future unknown date in the City's life. As far as the ground storage, that would be a possible option to add ground storage at the sight, but those are the only structures that I'm aware of.

Mayor Coody said and there is no time frame as to when these will be built.

Mr. Boettcher said they are not currently in any plan that I'm aware of.

Mr. Jackson said I might note that although the City has planning jurisdiction in that area, that water tank is by no means conformed to your own zoning ordinance set back requirements. Which means that when the City exist as a non conforming use which doesn't sound like very good planning to me. We realize that the sale of this sight for the Substation is convenient to the Ozarks Electric people and it's an opportunity for the City

to dispose of some surplus land and acquire some much needed cash, but the concentration of all these major utilities is really devastating to our property values out there. Land is expensive down there in that area. There are already a lot of large houses and others planned. I was disappointed that Ozarks Electric didn't want to talk about underground service. We realize there is nothing to restrain the City from doing whatever it wants out in the growth area.

Mayor Coody said when Ozarks came to talk to me about this I asked them to do the offset to where you couldn't see the Substation from the easement. We talked about narrowing the easement, we talked about the underground, we talked about everything that we could even talking with a gentleman to actually buy another acre to actually move the sight 100' farther away from everybody. We really have worked hard to really try and do the right thing for the neighbors out there to get to this point. What was originally supposed, I don't think anyone would have supported, but I think we've made so many modifications to the original plan. If the Substation is only 20' high and if it's cut into the ground and the trees are 30' tall out there, it will pretty much be hard to see it even in the winter time, so we're really trying to do everything we can to minimize the impact to where if this does pass and it does get built out there that it won't be nearly the impact that it would've been six weeks ago.

A discussion followed.

Dr. Gerald Ginger, resident near the proposed sight, spoke against the resolution.

Mayor Coody asked Mr. Mitchell to mark out where 500' would be so they could go to it and see what it sounds like when they go on the tour. If we can get right next to the Substation and then figure out where 500' is and we can go there and kind of estimate what it would be like, if you can do that for us I would appreciate it. What we might want to do is table this until the first meeting in January that way it would be the first item in Old Business and that will have given us a chance to actually go and see what's going on out there instead of going through this and then coming back and talking about it because I know this isn't going to be approved tonight.

A citizen said you have some maps now that show the water tower sight and the City sewer sight, on some of those there is a red line, that's a pretty close estimate of where the power line cuts through the city property one of the main issues when we originally met with the Ozark Electric about not locating at the sewer plant is because it was at the flood plain and as you can see there is a large slice of the City property that's on a hillside and it looks like to me that would be an excellent spot for an electric substation. That is not visible, it's down in a valley and the people here are concerned about their property values, I'm far enough away that I'm not concerned about my property value, I'm here because I think a lot of the citizens in this town who want to see our scenic

vistas preserved and we are really going down hill on that slope. I hope there is an alternative here.

June Eckinsire said she would also like the Council to take note of the condition of the homes around the tank sights and the condition of the homes in this area. I visited the Substation in Johnson and it is surrounded by single story homes. Our area is a very nice neighborhood so I would like you to notice the surrounding area of the Substations.

Rebecca Ginger, lives next door to the sight, spoke against the resolution.

Alderman Davis motioned to table this to the next meeting on January 7, 2003. Alderman Lucas seconded. Upon Roll call the motion passed unanimously.

ADM 02-37.00: A resolution approving amendments to the Bill of Assurance submitted with Ordinance No. 4410, passed and approved by the City Council on August 20, 2002.

Jim Crouch, a representative of Mathias Properties, said it was before you back in August when you rezone this 21 acres to a rezoning classification called RMH6. When that was rezoned the developer with the suggestion of the Planning office gave you a Bill of Assurance and the Bill of Assurance in essence said there will be 126 units on this subdivision. At that time they were in the preliminary stages of development and they hadn't done the Technical Plat Review they had before the Planning Commission for that. When they finally went back to Planning Commission, they decided some things were going to have to change.

Mr. Crouch gave a PowerPoint presentation.

Mr. Crouch said we went to the Planning Commission and presented the preliminary plat, it was approved subject to your approving a change in the Bill of Assurance. Really the only change in the Bill of Assurance would be to change or remain 126 Units but the configuration of it has changed a bit. There was no opposition in fact there was some surrounding neighbors that were there to support it so I think the Bill of Assurance that has been amended has been approved by the City of Fayetteville, City Attorney staff and I will be glad to answer any questions.

Alderman Santos read a letter from Richard Mainor.

Alderman Santos moved to pass the resolution. Alderman Jordan seconded. Upon roll call the resolution passed unanimously.

Resolution 200-02 As Recorded In The Office Of The City Clerk.

RZN 02-39.00: An ordinance approving RZN 02-39.00 as submitted by Tim DeNoble on behalf of John Eldridge, III for property located at 210 N. East Ave. The property is

zoned R-O, Residential Office and contains approximately 0.70 acres. The request is to rezone to C-3, Central Commercial.

Mr. Williams read the ordinance.

Alderman Davis said Mr. Eldridge called me this afternoon and he told me that what they're going to do at this particular location is put eight condominiums in and that will be similar to Campbell Belt, which the Campbell Belt Building is now completely occupied, they have sold those units up there and there appears to be a demand for condominiums downtown and that's what he plans on doing with this.

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

Mr. Williams read the ordinance.

Mr. Williams said I should note that the Planning Commission passed this 9-0.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan 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 4450 As Recorded In The Office Of The City Clerk.

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.

Mr. Williams read the ordinance.

Alderman Davis moved to leave this on the first reading. Alderman Jordan seconded.

VA 02-15.00: An ordinance approving VA 02-15.00 as submitted by Ross Mallioux for property located at 2309 Golden Oaks Dr. The property is zoned R-1, Low Density Residential and contains approximately 0.30 acres. The request is to vacate part of the utility easement (75.7 sq. ft.)

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan 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 4451 As Recorded In The Office Of The City Clerk.

COUNCIL ON AGING: An ordinance approving an agreement with the Council on Aging to provide public recreation for the citizens of Fayetteville and to waive competitive bidding for the payment to the Council on Aging in 2003 for the provision of public recreation.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Marr said a question I've got is have we actually looked at these agreements and made sure that there were no contractual changes that we wanted made on specific performance measurements because it constantly comes up with groups that we out source services to and that's how I look at this. My only question is, should there be more specific parameters or is everyone comfortable with these generalities.

Mr. Williams said prior to last year, we had no such contracts, we just paid money. We now have contracts, but I will welcome any input that the staff wants to include on performance measures that you would like to see in any of these contracts.

Connie Edmonston, Parks and Recreation Superintendent, said \$31,000 is what we provide for these people and that is to help with the recreational for our Senior Citizens and if they did not do that, of course we would have to pick it up. I don't know if we want them to detail exactly what activities that this \$31,000 provides for. We do tell them that 75% of it must be promotional or developmental because this comes from our Park Development, our HMR Fund. They do have quarterly reports that they send us and we get the quarterly newsletter that tells us all the people that are attending and the events that are going on and I think for \$31,000 they do a magnificent job for us.

Alderman Thiel said isn't there something that the Parks Board also kind of looks at, I'm still getting mailings from them that resulted from being on the Parks Board I think.

Mr. Williams said I would suggest that you pass this tonight, but then if you want to get into more detail, we start examining that next year. We have had a thirty year relationship with them and I think we've been very well satisfied over the years.

Ms. Edmonston said I might say that next year when they do get the Senior Citizen Center completed that we might possibly need to relook at this at that point in time.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1-0.

Ordinance 4452 As Recorded In The Office Of The City Clerk.

BOYS & GIRLS CLUB: An ordinance approving an agreement with the Fayetteville Boys and Girls Club to provide public recreation for the citizens of Fayetteville and to waive competitive bidding for the payment to the Fayetteville Boys and Girls Club in 2003 for the provision of public recreation.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Thiel said I would like to say something about this contract because it's still referred to as the Fayetteville Youth Center Inc.

Mr. Williams said they really have both names. They do business under the Fayetteville Boys and Girls Club Inc., but they're also the Fayetteville Youth Center Inc.

Alderman Young asked what this applies to.

Mr. Williams explained what it applied to.

Ms. Edmonston said this is the same as the last one. The 75% must be promotional and developmental; we have more or less on this one outlined which activities we are responsible for. They have a Parks and Recreation actually provides the outdoor recreation whereas the Boys and Girls Club do the indoor recreation events except for their football program, but I do believe with the new Boys and Girls Club opening up next year that possibly we really need to go through this agreement again and get a little bit more precise at that point.

Alderman Thiel said besides this funding here what other funding do we provide the Boys and Girls Club.

Ms. Edmonston said at this point and time, because of the bus service, they're not providing anymore bus services and that's all going to be weeded out later on.

Mr. Williams said we have provided building help in building the road and things like that.

Alderman Thiel said I guess my question is about the bus service and I think we need to understand a little better because there was so much promotion about the Boys and Girls Club being located that far out of town, but that there would be transportation and that's not being provided now.

Eric Schultz, Boys and Girls Club representative said my understanding is there are no transportation funds in this and in the past the City has provided transportation. Our board and Hugh Earnest are having discussion regarding transportation for the future. I've had discussions with Ozark Regional Transit, Razorback Transit, and Fayetteville School Systems to see what opportunities there are for us in the future because that is a big issue for us when we move out to the west side of town. My understanding also is that the City will help, and will provide some transportation.

Alderman Reynolds said it is my understanding that we were going to turn our buses over to the Boys and Girls Club, have we not done that.

Mr. Schultz said my understanding is that's still under discussion.

Mayor Coody said obviously we all have some questions on this so let's leave this contract on this reading and get this hammered out.

Mr. Schultz said one thing I would like you all to consider is this contract and the negotiations that you're dealing with tonight deal with our operations. It doesn't necessarily deal with our transportation so in my opinion you could approve this since

transportation could be a discussion that kicks on for a couple months because it involves a lot of different flares. I don't know where transportation is at I know it's still in the works and I hate for our funding to be held up based on transportation.

Ms. Edmonston said actually it says it is understood the City's annual purchases service will be negotiated on a yearly base if or see shall provide liability insurance for buses and vans provided by the City of Fayetteville, so if we're not providing them at that time they don't have to have the insurance. If we do hold up this agreement tonight then the Youth Center doesn't get their first payment in January and I don't know what that would do to their operations, but I would hate to hinder the services that they are providing for our City.

Mayor Coody said I bet when Hugh gets back to work we'll be able to have a meeting and get straightened out on this because I'm sure he has been in the middle of it.

Mr. Williams said before we pass it, I think we need to formalize the understanding to Alderman Reynolds that paragraph eight where it says that Fayetteville Youth Center shall provide liability insurance for buses and vans provided by the City of Fayetteville does not place any duty on the City of Fayetteville under this contract providing the buses and vans, that has to come by a separate contract and this does not with the understating before they vote on it, this does not obligate the City to provide any sort of transportation services by buses or vans to the Youth Center.

Mr. Schultz said my only question is we are currently using City transportation right now. I would like to continue using that until the transportation issue is handled.

Mr. Williams said I am not saying that you can not do that, I'm just saying that I want you to understand from the comments of the Alderman that this contract for next year does not require the City to provide buses or vans for your use.

Alderman Young said does this apply to the new Boys and Girls Club out there or just to the existing one.

Mr. Williams said we are making an agreement with this corporation and whatever that corporation has to be operating out of.

Alderman Davis moved to suspend the rules and got to the third and final reading. Alderman Thiel seconded. Upon roll call the ordinance passed 7-1-0. Alderman Marr voted no.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1-0. Alderman Marr voted no.

Ordinance 4453 As Recorded In The Office Of The City Clerk.

FIRST NIGHT: Discussion of a resolution to approve funding for First Night 2002.

Alderman Jordan motioned to approve the resolution. Alderman Bechard seconded.

Alderman Thiel asked where the money was coming from.

Mr. Davis said we had some money budgeted in the miscellaneous programming contract services that were not used for 2002.

Upon roll call the resolution passed.

Resolution 201-02 As Recorded In The Office Of The City Clerk.

TOWNSHIP BUILDERS #4 CHANGE ORDER: Dickson Street.

Brenda Thiel moved to suspend the rules and allow this to be placed on the Agenda. Alderman Marr seconded. Upon roll call the motion passed 6-2-0. Alderman Young and Alderman Jordan voted no.

Mr. Boettcher said very quickly I just want to update the Council I received a fax late yesterday and an update today from Township Builders. The Council approved change order #4 for the brick repairing the stone culvert or filling the stone culvert and drainage at Arkansas. You approved the dollar amount that was negotiated but refused at contract time. Township Builders has refused to accept the direction to perform additional work without additional time. When I communicated with them the Council's wishes I asked that they make a counter proposal or at least deny acceptance of change order #4 in writing. What they have counter proposed is basically to install stamped concrete in the intersections instead of the brick. The brick selection that was reformed is now concrete color so stamped concrete would provide the same appearance going to stamped concrete would save us \$45,000 and would reduce the completion time by, they wanted 60 days for that, they reduced they're request to 25 days, but the key issues and the reason I brought it up before the Council is I have received a response from them. The work down by the Brew Pub that was part of Change Order #4 cannot be performed until we get this authorized and so they are somewhat held up there and that's why I believe that work has not been performed. Where we're at is there is a cost saving option before us to go to stamped concrete which would be reinforced, I think would be a little more durable than the brick. We would offer the same colors and it would save us some money. If the Council wants to think about this, we can put it on hold until January and that work won't proceed, but I felt that since I received it you needed to be aware of it.

Alderman Young said I think we need to put it on hold.

Alderman Thiel said we talked about the stamped concrete whenever this was discussed and there were all kind of objections to it. It wasn't as durable, it wasn't as attractive, I'll look at the tape to see all the response to it but, has DDEP approved this.

Mr. Boettcher said Bootsie Ackerman was at a progress meeting when this was discussed as an option, obviously they prefer to see the original appearance, but they understand the budget constraints that we're laboring under. I did contact Atkins Benham, asked them the same thing because of the esthetic issues on the project and they had basically the same response. Back dating when I first became involved in this project or before we released it for bids and knew we were going to have a tight budget, I asked Atkins Benham to evaluate stamped concrete as a substitute and they came back that there wouldn't be appreciable cost savings. What they are indicating is that they were assuming it would be tinted concrete and now that it could be regular concrete the cost savings is there. One thing that the Council could consider would be to approve back filling the stone arch culvert which was one item of the Change Order and to approve the drainage culverts at Arkansas Avenue which was another element which would allow them to continue work where they're at and we can debate this issue further. They can't proceed with the work until we have a valid Change Order and they asked for 21 days for the Arkansas drainage culverts and drop inlets and 21 days for back filling the stone arch.

Mayor Coody said this is basically work that we have asked them to do that is above and beyond the Contract.

Mr. Boettcher said these are increases to the contract scope for which additional time has been requested and some additional time is going to be necessary.

Mayor Coody asked what would the Council think about approving those two items so they can go ahead and keep working instead of stopping for another three weeks.

Alderman Young said this filling at the brew Pub, what do you mean by filling, just filling in with the base or something.

Mr. Boettcher said what I understand, this was one of the elements of the Change Order #4 that came to the Council before and that stone arch was planned, Atkins Benham I believe, designed that to stay in place and build a new sidewalk over the top of it when they started installing the storm sewer. It began caving in and they realized it was not in very good shape so now what this involves is taking and breaking that down, installing a storm sewer through it, I think an 18 or 24" culvert and back filling it so we can build the sidewalk on top of that section.

Alderman Young said so you're not filling it in you're putting in some storm drainage.

Mr. Boettcher said yes a small storm drain to carry the water that still comes through there so that was a cost of \$22,382.50 that required 21 days of contract time.

Alderman Young said 21 days to do what.

Mr. Boettcher said essentially they will go in, remove the indicate that they are going to have to do some hand removal there because it's close to the buildings, they need to take it down carefully, they can't just demolish it for risk of damaging some of those older buildings that are there, install that and compact the gravel fill and bring it back up and then put the sidewalk on top of it.

Alderman Young said it don't take 21 days to install a storm drain.

Alderman Reynolds said Cyrus; you don't understand the problem they've got down there. The only thing that's holding that sidewalk up is a 2x4.

Alderman Young said I understand it fully and I understand also how long it takes to put in storm drainage especially when it's already excavated.

Alderman Jordan asked how big is the storm drain.

Alderman Reynolds said 6X6.

Mayor Coody said I guess we could wait three weeks and determine three weeks from now if we're going to give them three weeks extra time or not.

Mr. Boettcher said I apologize for bringing it forth, but I received it, it was a denial of what I was told to communicate to them and I felt like the Council needed to know that we had a response and we can certainly wait.

Alderman Jordan said how thick is the walls.

Mr. Boettcher said it's just a hand laid stone arch is what I understand that's down through there. It's one of the old style culverts that was laid up by hand and it's rock and now that we've exposed it, it's caving in because it's old and in poor condition so they will have to carefully remove it, install a culvert in the bottom where the hole is, then compact gravel back up and then put the new sidewalk there which is kind of in front of the Brew Pub and that area going east on Dickson before it goes underneath the buildings.

Alderman Reynolds said the sidewalk is just hanging in mid air in front of where that Barber Shop used to be and it's hooked to the front of that building, but there's nothing underneath that but the boxed culvert.

Mr. Williams said I think that one of the things that Greg is concerned about is that if we don't approve that part at this point in time that the contractor might say that he was not able to continue working in this whole area here until we make up our mind on what to do with that and allow certain number of days and they might use that against us at the end of the contract when we try to say you haven't finished on time.

Alderman Young said he has lots of other areas he can be working in.

Alderman Reynolds said well he's pretty well done in the 300 Block, he's up at Colliers so this is the last part of the 400 Block for him to complete that to go back up across the tracks and start on the north side across from George's.

Alderman Bechard said I realize I just made a mistake by voting to suspend the rules and put this on the Agenda. What resigned with me is I don't want to delay the project by three weeks but then what we're agreeing to is delaying the project by two months if we agree to this?

Mayor Coody asked how we were delaying it two months.

Alderman Bechard said because they want a 67 day time increase and it complicates it even more to think about changing materials, that's a big deal.

Mayor Coody said we can put that subject off all together and just concentrate on the extra work we've asked them to do which is tearing out and replacing the storm drain and not worrying about that stamped concrete until a later date. We can just do the two pieces, there are three pieces all together. We can take off the stamped concrete, go ahead and approve those other two parts that we've asked them to do above and beyond the call of duty, we've said we want you to do the work and here's the money but you just don't have the time to do it. Now we're going to go back and give them some time to do it because they're stopped dead in the water until we give them some time to do it is what it amounts to.

Alderman Bechard said can I make an amendment to remove the brick section.

Mr. Williams said the total amount that you would be authorizing then would be \$38,257.50 and 42 days.

Alderman Bechard said I would like to make that amendment.

Alderman Marr seconded.

Alderman Young said this is on the time because we've already passed the money.

Mr. Williams said no because this is going to be a smaller amount.

Alderman Young said we've already passed the change orders correct.

Mr. Boettcher said yes we passed the Change Order with no contract time extension.

Alderman Young said so this is only extending the time.

Mayor Coody said yes.

Mr. Boettcher said just Items A and B would be Arkansas Avenue drainage addition and the aqueduct backfill edition.

Alderman Thiel said those are the same price.

Mr. Boettcher said yes the same price that we originally received from them.

Alderman Bechard moved to approve the resolution as amended with Section C deleted. Alderman Marr seconded. Upon roll call the amendment passed 5-3-1. Alderman Young, Alderman Santos, and Alderman Jordan voted no; Alderman Reynolds abstained, and Mayor Coody voted to pass the amendment.

Mayor Coody said okay, now for the resolution, and if we say no to this we're going to revisit this in three weeks and we're going to be right where they are tonight and it's going to slow them down through Christmas and everything else.

Alderman Young said what's the resolution?

Mayor Coody said the amendment just struck C from the resolution and now we're going to pass the resolution.

Alderman Bechard said I would like to question the extension I mean if you are abstaining from the vote, but you're participating in the discussion and participating in the vote to suspend the rules to put this item on the Agenda.

Alderman Reynolds said I have some property down in there and I decided I don't need to vote on this part of it.

Mr. Williams said for the record assuming, I don't think he had to abstain on the vote to suspend the rules, but assuming that he had abstained on the vote to suspend the rules would you vote to in fact suspend the rules Mayor.

Mayor Coody said yes.

Mr. Williams said we still have to vote on the resolution.

Upon roll call the resolution passed 5-3-1. Alderman Marr, Alderman Santos, and Alderman Jordan voted no; Alderman Reynolds abstained and Mayor Coody voted to pass the resolution.

Resolution 202-02 As Recorded In The Office Of The City Clerk.

Meeting Adjourned at 2:00 AM.