

**MINUTES OF A MEETING
OF THE
CITY COUNCIL
FEBRUARY 4, 2003**

A meeting of the Fayetteville City Council was held on February 4, 2003 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Marr, Rhoads, Davis, Lucas, Jordan, Thiel, Cook, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Mayor Coody welcomed the new City Clerk, Sondra Smith.

Mayor Coody recognized Kay Swanner for her contribution to the United Way campaign. Kay received the "Outstanding In-House Worker" award from the united way. Kay thanked the employees for their contributions to the United Way.

The Mayor gave the State of the City Address.

OMI Presentation

Greg Boettcher, Water and Wastewater Director, said there was a correction to some of the earlier information. Their contract increase for the coming year represents a 1 percent increase in variable cost from last year and last year it was zero percent. They have done a good job in meeting effluent standards, we had no violations and they are doing a good job in controlling cost.

Billy Ammons from OMI gave a presentation on the wastewater plant. Mr. Ammons said they are concerned about what comes to the facility. They measure what comes to the facility in various ways, one way is by the flow. Flow over the last five years has varied not necessarily directly related to the population base that we are serving. That variation can be effected by rain fall we receive during a given year and the time the rain occurs. In 2001 we had the highest annual average flow that we have had at the plant of 12.5 MGD (million gallons per day) which is 99% of the theoretical plant capacity based on this parameter. Looking at it a different way we could measure the loading or the organic strength of the wastewater that comes in. We measure that in BOD or biochemical oxygen demand the trend here is steadier, this is a better reflection of the population base that we are serving. There was a little peak in 2001 due to the number of gallons that was treated. We are at 72% capacity measured by this particular parameter. What goes out of the facility is a concern. The water from the Fayetteville facility was an average of 79% better than was required. We remove on the average 97% of pollutions from the water. Fayetteville does an excellent job in removing phosphorus from their water. There were some challenges last year, one was ADEQ decided we did not have approval to use plant effluent for irrigation on the land application site. That is a problem for us due to restrictions on flow to the White River

during the summer time that are unusual and very restrictive preventing us from discharging water when it is very hot and dry. If we cannot irrigate with that water we have a real problem in that we may be forced to violate our permit in one way or another. We are in the process of developing an application for a permit that will allow us that opportunity. ADEQ also decided that our reporting of the organic strength of the wastewater leaving the facility was inappropriate. They decided that we had to report a minimum of 2 milligrams per liter even if the water is cleaner than that. In months when we have higher flow that is a problem because we also have a limit based on the number of pounds that we discharge. We were able to get that decision reversed which is a large win for the City both for the current plant and especially for the consideration of a permit on the West side, without that permitting becomes a very large issue. The City will get a rebate of approximately \$95,000.00 this year.

Mayor Coody congratulated OMI for doing a good job for the City. The Mayor stated that since the City contracts with OMI if anything goes wrong it's not our necks in the noose it is yours and you have done a very good job. The Council would like to tour the plant. The Mayor asked for everyone to check their calendars to see when this might be possible and for Mr. Ammons to get back in touch with him to see when they will be touring.

Alderman Jordan asked about the total organic and hydraulic loading to the wastewater treatment facility is expected to continue to increase during the year 2003. He asked what the organic and hydraulic loadings were. The hydraulic loading is the liquid loading and the organic loading is a measurement of the oxygen demand that would be placed upon the water if it were to become totally stable. The organic loading relates more to the population. The hydraulic loading is influenced by rainfall. Alderman Jordan stated there was a big difference in 2001 and 2002 and you said it was because of the difference in rainfall, what is the average rainfall amount per year in the area. Mr. Ammons stated about 44 inches. Alderman Jordan asked what the rainfall was in 2001 and 2002. Mr. Ammons stated he did not know what the rainfall was in 2001 and 2002 for this area. He stated it is important to keep in mind as you study that number that it is not an absolute direct relationship. It depends on when the rain comes and what the conditions are at the time as far as how much water we get in the collection system and become a problem. Alderman Jordan stated he would like to have the rainfall figures for 2001 and 2002. Mr. Ammons stated he would be happy to provide the information.

Alderman Marr stated the regulatory issues that were faced in 2002, one of them being sludge disposal depending on permitting request for that, could you share with us briefly what that might mean to us in terms of cost if we were required to do sludge removal. Mr. Ammons stated they are investigating the cost. Alderman Marr asked for a range. Mr. Ammons stated that if we have to stop land application and we choose another alternative, it will depend on what the alternative is. If we go with an alternative that does not require stabilization of the sludge, therefore not using the digesters for odor control, we incur a savings. If we choose a method that continues to require that we run the digesters then that cost will not go away. If we are able to offset everything by turning off the digesters and odor control \$300,000.00 to \$500,000.00 more per year if not \$700,000.00 or more per year. What we have now is the least expensive alternate. Alderman Marr stated he has always heard that the capacity of the plant has been 99.6% or some number in that range. Is that the

12.5 gallons per day divided into the 12.6 permitted. Mr. Ammons stated yes. Alderman Marr stated this year if he uses the 11.97 then we are at 95% capacity. Mr. Ammons stated that is correct. Alderman Marr stated that even though we have had additional units come on board our capacity allowance we have more room so to speak because we have not had heavy rain fall on the wrong time of the year on the wrong day. Mr. Ammons said yes. Alderman Marr asked as things continue to build is there any hard data or factual research source that you can go to that says that when you add so many units that it does drive capacity or as you add a certain amount of development that results in more concrete that that results in runoff. Is there any resource out there that you would recommend someone to know about? Mr. Ammons stated there are some basis engineering guidelines, any of the consultants that you are using on the wastewater improvement project would be able to give you a good figure to use in that regard. Alderman Marr asked is it reasonable to think that a certain amount of units drives some capacity. Mr. Ammons stated an average person contributes .17 pounds of BOD per day. That is the standard that is used throughout the industry for calculation purposes. You can say that for every 10 people you get 1.7 pounds more and you will come closer to the theoretical maximum that the plant can handle. Alderman Rhoads said it was good to see that OMI was doing a fine job to keep the odor abated and everything is taken care of. You indicated in your report that you may have to seek a special permit and that you may have to come back to the Council in a couple of months, what would you be coming back to the council for? Mr. Ammons stated that the Council would need to make a decision on alternative the Council might want them to take due to the involvement of money. Mr. Boettcher stated as far as alterative sludge disposal we are ultimately going to a different plan. The land application process that we currently employ will be phased out and we will go to some other more proactive environmentally friendly process with increased cost. Because of concerns over some current site conditions at the sludge application site nothing that is a permit violation, but something that we may need to begin thinking about to be proactive, we may implement alternative sludge disposal in the coming year and that is why we are evaluating it. If it does incur increased cost we will come to the Council with alternatives and a recommendation as to an approach. Over the next four years we will phase out the sludge application site. Alderman Jordan asked if the rainfall amount is 44 inches exactly what that influence flow will be on 60,000.00 people if it is at 44 inches. Mr. Ammons stated he could not do that. He could give them a range and would have to calculate the numbers. Alderman Marr asked about the permitting issue he said Mr. Ammons made a statement that not only would we have an issue with our current situation but the impact it could have on permitting the new facility. Alderman Marr asked Mr. Ammons to expand on that. Mr. Ammons stated he was not the most qualified on this issue but he could give them his perspective. The stream modeling done for the discharge on the new plant so far indicates that the limits there may be a little tighter than they are at the current plant. The rule that I talked about on reporting a number that may or may not be real is a real concern on the new plant. If they base the permit on a given flow and you have a flow for the month that is in excess of that but you are required to report this superficial number that doesn't really mean anything you may violate your permit even though your water doesn't actually violate the permit, this is just a reporting violation, none the less violations are violations. Having the ability to report the real quality of the effluent is a significant thing for the new plant.

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

CONSENT

APPROVAL OF THE MINUTES: Approval of the minutes from the January 21, 2003 City Council Meeting.

RAZORBACK ROAD: A resolution to approve a cost share with the University of Arkansas to fund the preliminary engineering agreement with the Arkansas Highway and Transportation Department for preliminary engineering services relative to Razorback Road. Total cost shall be \$35,000.00 with the City's share to be one-half totaling \$17,500.00.

RESOLUTION 14-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AGREEMENT OF UNDERSTANDING: A resolution to approve the Agreement of Understanding between the City of Fayetteville and Arkansas Highway and Transportation Department.

RESOLUTION 15-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FEDERAL-AID: A resolution to approve the Federal-Aid Project resolution as submitted by the Arkansas Highway and Transportation Department.

RESOLUTION 16-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

POLICE CARS: A resolution accepting the State of Arkansas contract award ST-03-0033, Item #7, 2003 Ford Crown Victoria Police Pursuit Sedan including Option "IO" and modifications to "ee" with authorization to purchase nine units. The vendor for this purchase will be Landers Ford in Little Rock in the amount of \$184,401.00

RESOLUTION 17-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-72: A resolution awarding Bid 02-72 to the lowest qualified bidder, Arkansas Power Steering and Hydraulics, for the purchase of three Freightliner FL70 w/mounted SAC Recycle Body in the amount of \$432,681.00. Approval of a budget adjustment is also requested.

RESOLUTION 18-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BID 02-73: A resolution awarding Bid 02-73 to the lowest qualified bidder, River City Hydraulics, Inc. for the purchase of a demonstrator self powered mobile vacuum with leaf mulcher attachment in the amount of \$35,930.00. Approval of a budget adjustment is also requested.

RESOLUTION 19-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OMI: A resolution approving Amendment No. 8 to OMI'S contract for operation and maintenance of the Wastewater Treatment Facilities, the annual contract amount for 2003 being \$3,874,501.00, including a fixed fee of \$92,509.00, non-overwrite costs for odor control of \$170,000.00 and Phase IV SCADA upgrade of \$44,000.00. Approval of a budget adjustment is also requested.

RESOLUTION 20-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

HANGAR COMPLEX: A resolution approving Change Order No. 1 to the contract with Tomlinson Asphalt, Inc. in the amount of \$67,197.85 for the required changes to water and sewer infrastructure. Approval of a budget adjustment is also requested.

RESOLUTION 21-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD BUSINESS:

NEW BUSINESS:

BROYLES ROAD: A resolution to express the City Council's intent to extend Broyles Road north to Wedington Drive.

Mayor Coody said this is basically a way to save approximately a million dollars in cost in building roads and a way to avoid going through an additional neighborhood and a way to avoid a couple of 90 degree turns.

Alderman Jordan said some of the homeowners had problems and they were suppose to meet with Mr. Boettcher, he asked Mr. Boettcher if they had meet with him. Mr. Boettcher stated that Ron Petrie in Engineering has contacted two of the property owners out there. He thinks he has met with both of them and had some discussions regarding the road extension that would be adjacent to or upon their properties. At this point, I can't speak for their opinions I was not there. I think both have some concerns. One of the issues on the road before the Council is approval of the concept so that we can proceed with some detailed design and find out how much right of way we need, look at where the road would cross the properties, talk with the property owners and try to move forward. The property owners have some concerns and we are trying our best to resolve them.

Mayor Coody said this is not an approval of the extension it is an approval that lets us negotiate with the neighbors.

Mr. Boettcher stated the idea of the resolution is to empower us to move forward with some degree of confidence that the road is a logical extension of Broyles Road.

Fire Chief Chris Bosch said the addition or extension of Broyles Road would probably be beneficial to the fire department in that it will allow again access back into the wastewater treatment plant if necessary an also to areas that are growing in that portion of the City.

Anytime we can add a straight shoot through rather than have to make a lot of 90 degree turns it reduces the likelihood of potential accidents. This would really be beneficial to us.

Alderman Jordan asked if we come out of those two roads would the wastewater treatment trucks be coming up those roads. Mr. Boettcher said approximately two loads of dewatered processed sludge per day would be on the roads from the wastewater treatment plant. Alderman Jordan asked Mr. Boettcher is he thought it would impact the neighbors in that area. Mr. Boettcher said he did not believe the traffic coming from the plant would adversely impact any neighbor.

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

RESOLUTION 22-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

STUDENT HOUSING: An ordinance authorizing the Fayetteville Public Facilities Board to develop student housing facilities and to issue revenue bonds for the purpose of financing student housing to be developed in compliance with all city development ordinances.

Mayor Coody said after talking to the University today they would like for the Council to table this because they do not want to move forward with this at this time.

Alderman Marr moved to table indefinitely. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

VA 03-1.00: An ordinance approving vacation request VA 03-1.00 as submitted by Kim Scott of Mountain Mechanical Contractors on behalf of Gary Harvey of AMC Land Associates and Mountain Mechanical Contractors for property located west of S. School Avenue on 9th Street. The request is to vacate a section of the street right of way as shown and described on the attached map and legal description.

Mr. Williams read the ordinance.

Alderman Thiel would like this left on the first reading since some of the Council was not able to attend the Council tour. This land is about ½ of an acre of heavily wooded area on South School that basically has no trees left, it also forms a large natural drainage area. Based on our recent study showing that Fayetteville has lost over 18% of its heavy tree canopy I think we need to carefully consider giving away land that we already own that has some of the properties that we need to maintain.

Gary Harvey of AMC offered himself to answer any questions the Council might have.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

ANX 03-01.00: An ordinance approving annexation request ANX 03-01.00 for property owned by George and Sara Lee Anderson and located at 3632 East Zion Road. The parcel is in the Planning Area and contains 57.00 acres. The request is to annex into the City.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Rhoads seconded. Upon roll call the motion failed 3-4. Marr, Jordan, Thiel and Cook voting nay.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 03-4.00: An ordinance approving rezoning request RZN 03-4.00 as submitted by Michele Harrington of Harrington, Miller, Neihouse & Krug on property owned by George and Sara Lee Anderson and located at 3632 East Zion Road. The property is currently in the Planning Area with a request to be annexed into the City of Fayetteville pending and contains approximately 57.00 acres. The request is to rezone to R-1, Low Density Residential.

Mickey Harrington of Harrington, Miller, Neihouse & Krug said this is another phase of Copper Creek and will look similar in appearance. She will be happy to answer any questions.

Mr. Williams read the ordinance.

Tim Conklin, Interim Director of Planning & Engineering Services, distributed yesterday information regarding traffic counts that the City of Fayetteville conducted last Friday and also information from the Arkansas Highway Transportation Department. The 2001 traffic count map for Arkansas Transportation Department showed about 14,000 vehicles per day near the intersection Hearthstone Street and 265. Hearthstone Street is the street that does provide standard city street access from Highway 265 through the Stonewood Subdivision into Copper Creek Phase I Subdivision. Our traffic division did traffic counts last Friday south of Hearthstone Street on 265, the northbound traffic was 9,358 vehicles and the southbound traffic was 9,411 vehicles. Mr. Conklin said our master street plan cross section in traffic volume recommendation states up to 20, 600 vehicles per day so we are still within that range. I also provided zoning information how much is developed and undeveloped acres. R-1 zoning total acres in Fayetteville is 9,162 acres of that about 3,359 acres is currently undeveloped.

THE ORDINANCE WAS LEFT ON THE FIRST READING.

RZN 02-14.00: An ordinance approving rezoning request RZN 02-14.00 as submitted by Raymond Smith, Attorney on behalf of John & Janet Kesner for a parcel containing 3.12 acres located at the northeast corner of Crossover and East Zion Road from A-1, Agricultural to R-O, Residential Office.

Mr. Williams read the ordinance.

Tim Conklin said this ordinance is basically correcting a previous ordinance. He requested that all three readings be done today. The Council had already approved this zoning.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Marr 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 Marr 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 4458 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 03-1.00: An ordinance approving rezoning request RZN 03-1.00 as submitted by Laura Kelly of Rob Sharp Architects on behalf of David McClinton for property located at 240 Block Avenue. The property is zoned C2, Thoroughfare Commercial and contains approximately 1.08 acres. The request is to rezone to C-3, Central Commercial.

Mr. Williams read the ordinance.

Laura Kelly, of Rob Sharp Architects, said the proposed development on this site is designed to help bring pedestrian scale to Dickson Street which is impossible with the current zoning because of the setbacks.

Cyrus Young, a citizen, stated he was concerned with the parking of the existing building and the future building. It is my understanding this project will go through the large scale development process and that issue will be addressed at that time.

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

Mr. Williams read the ordinance.

Alderman Marr asked Mr. Conklin is this property 1.08 acres and will it go through large scale development. Mr. Conklin stated the legal description that is attached, that is part of the ordinance is 1.08 acres, it is over an acre it will require a large scale development that projects over 10,000 square feet require. Combined together any development that is an acre or over and adds more than 10,000 square feet has to go through the site plan approval process through Planning Commission. So yes it will go through large scale development.

Alderman Marr 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 4459 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 03-3.00 LOW DENSITY: An ordinance approving rezoning request RZN 03-3.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Mark Foster for property located at the southeast corner of Crossover and Albright Road. The property is zoned A-1, Agricultural and contains approximately 6.65 acres. The request is to rezone to R-1, Low Density Residential.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance

Chris Brackett from Jorgenson and Associates said he was there to answer any questions the Council might have. Mayor Coody asked is this going to be the standard subdivision or do you think this might be more along the line of the new traditional neighborhood development that we would like to see here in town. Mr. Brackett stated currently what they have laid out is two residential lots that are over 1½ acres and there is one residential lot that has over 3 acres where the current house is sitting. The lot adjoining Crossover would be the R-O which is part of this rezoning and they are looking at an office complex there.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Marr 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 4460 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 03-3.00 RESIDENTIAL OFFICE: An ordinance approving rezoning request RZN 03-3.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Mark Foster for property located at the southeast corner of Crossover and Albright Road. The property is zoned A-1, Agricultural and contains approximately 3.36 acres. The request is to rezone to R-0, Residential –Office.

Mr. Williams asked Mr. Conklin when you drafted this ordinance at that point it was zoned A-1 but did we not just rezone it to R-1, or is this a different property? Alderman Davis said it is not part of the 6 acres that was rezoned.

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance

Alderman Davis asked how many lots would be on the R-O property should the ordinance pass.

Mr. Brackett said one lot of three acres. One lot of R-O one development. Alderman Rhoads asked does that mean one office building . Mr. Brackett said he did not know how many buildings, but it would be one development. He has not seen a concept plat for this. Alderman Davis said he did not see a problem with it.

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

Alderman Marr said that the City of Fayetteville zoning acreage that Mr. Conklin handed out to us on a prior item, the annexation is a great tool and something we should probably keep when we look at rezoning. I do want to note that 45% of the land that we have zoned R-O undeveloped at this point. We need to be cautious if that gets over 50%.

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

ORDIANANCE 4461 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ENVIRONMENTAL CONCERNS: An ordinance repealing Ordinance 3922 and adopting a new ordinance governing the Environmental Concerns Committee.

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance

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

Alderman Thiel said basically the only thing this is changing is the composition of the membership, we reduced it down to one Alderman and we reduced an Environmental Law member. We also staggered the terms.

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

ORDINANCE 4462 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Mayor Coody asked the Council about having a rule of thumb for the meetings that if someone speaks on an issue on the agenda from the public that they can speak once in the evening, in a rare case twice but not on every single issue that comes up. Would that be acceptable? Can we ask people to basically choose what they are going to speak on when they come? There was a discussion that followed with the Council not wanting to put a limit on the number of times a person can speak.

Meeting adjourned at 7:55 PM.

Sondra Smith
City Clerk