

**REVISED
MINUTES OF A MEETING
OF THE CITY COUNCIL
MARCH 18, 2003**

A meeting of the Fayetteville City Council was on March 18, 2003 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

CONSENT:

APPROVAL OF THE MINUTES: Approval of the March 4, 2003 meeting minutes. Revision of February 18, 2003 meeting minutes.

BOND ISSUES AND LEASE AGREEMENTS: A resolution of intent to reimburse for bond(s) issues and lease agreement(s) for 2003.

RESOLUTION 38-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

FLYING INVESTMENTS, LLC: A resolution to review and approve ground lease to Flying Investments, LLC for construction of a hangar and office/shop at Fayetteville Municipal Airport, Drake Field.

RESOLUTION 39-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

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

OLD BUSINESS:

COMPOSTING SITE: A resolution authorizing staff to begin the purchasing process for a compost row turner and to solicit bids for a contractor to construct the compost pad. The resolution was tabled at the February 18, 2003 City Council meeting.

Alderman Jordan moved to table this resolution indefinitely. Alderman Marr seconded. Motion carried unanimously.

COMPACTOR AND DROPBOX BUSINESS EXPANSION: A resolution approving a budget in the amount of one million one hundred seventy-three thousand two hundred eight dollars (\$1,173,208.00) to allow the Solid Waste and Recycling division to implement a new commercial drop box program. The resolution was tabled at the February 18, 2003 City Council meeting.

Alderman Marr moved to remove from the table. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

Gary Dumas addressed some of the questions about this program. One of the concerns has been the discussion of the residential composting and recycling program last year when we talked about the need for an additional half million dollars or so in revenue for that program. Some concerns have been as I understand, if this new program expansion for the large commercial customers was approved that there might be uncontrolled rate increases for that large commercial sector in the future in order to cover that necessary income needed for the composting and recycling operation. I think that we all learned something last year when we talked about the rate increases for the residential system in that what we need to do first if the Council approves this, the large commercial rates will be adopted by Ordinance by the Council. I would suggest that if we get into a need to review our rate structure that we look at all the rates of the system, the residential, the small commercial and the large commercial together so that there can be an equity built into the system that is based on the Councils desires and we would not be looking at just one sector of the solid waste system, make decisions on it and six months later look at another sector. They are all special areas that we would like to protect, so if we look at them all inclusively we would be looking at all those special areas that we want to protect at one time instead of separately and hopefully we can maintain a very viable solid waste system as we have right now without penalizing any one user group. That is something I would recommend if you do choose to approve this. I would recommend that anyway to look at all of our rates what ever the business lines are in the future all at one time instead of looking at them separately. I have a short presentation that talks about what some of the large container rates were in the community as best as we could determine. I think they are fairly accurate. The rate structure that we proposed that has been in existence now for some time at solid waste is \$150.00 for a service call with a lease rental depending on the container size if it is open top of \$37.00 for 20 yard, \$40.00 for the 30 yard and \$45.00 for the 40 yard, plus disposal. This has been the rate structure that we have had for a while.

Alderman Davis asked Mr. Dumas to repeat the rates.

Mr. Dumas said \$37.00, \$40.00 and \$45.00. Mr. Dumas went over the memo where they talked about how the funds would be expended. There is about \$550,000.00 in equipment, the equipment that we are talking about are for the containers. Those containers are leased out; they will be purchased in small groups, and then leased out to the customers. That lease rate recovers that capital investment plus eight percent over eight years, so that we have recovered enough in that initial term to replace that container when its life is up and hopefully its life will be much

more than eight years. Eight years is a fairly reasonable term for some of the containers. The vehicles which is another \$130,000.00 a piece, almost a half million dollars, those will be paid for out of the fleet fund and there is built into the fleet charge backs to the various user departments, a more than adequate replacement rate that covers replacement, repairs, all of the expenses of the fleet, that a vehicle would have in the fleet. When we talk about the \$150.00 rate it recovers the operational expenses, which are vehicles and personnel, and the operational expenses for the vehicles and the personnel. The lease covers the containers. Does this make sense?

Alderman Marr said your explanation makes sense.

Mr. Dumas said when we talk about the return on that \$600,00.00 or so in operating cost what we are doing is not utilizing the equipment purchase in that revenue except for just that replacement. There is approximately \$92,000.00 in administrative cost, depreciation and building expansion cost that are expenses; there is about \$77,678.00 in current expenses that the system is now absorbing just in administration and depreciation. What we will be doing by expanding this service is spreading those expenses over a larger basis. There has been some discussion about the rate of return and the fact that this proposal only makes \$3,592.00, ideally it wouldn't make anything, because the purpose of the government is not to make money the purpose of the government is to provide as efficient a service as possible and as economically as possible, that's what I think we have done here. The Council if you choose as you discussed last week to delete the dispatcher that would add \$30,000.000 to that bottom line which could easily be taken up in additional depreciation for the other fixed assets of the system. Mr. Dumas asked if there were any questions on the background that he has provided. Mr. Dumas presented a slide presentation. In September 2002 Roll Off Services attorney mentioned that they had recently acquired a contract in Gravette and Decatur and lost one in Sulphur Springs. I talked to the Mayor's of these three communities to try to find out what there rates were and this is the contract rate not the actual rate that the actual rate that the customers there may be paying, because I think in each of these communities there is a sur charge added on. In Gravette the contract was \$6.40 with fairly limited additional services and \$3.90 per cubic yard for commercial waste. In Sulphur Springs, which was an American Disposal contract, not a Roll Off Service contract, \$5.75 again with fairly limited services that they provide and \$3.90 for commercial disposal. Decatur \$7.90, no yard waste, no recycling, twice a year curb side bulk pickup and I cannot explain the \$17.00 per cubic yard commercial disposal cost except that is what the Mayor told him. There were some discrepancies in some of those rates, but we are only talking about the commercial side of the equation now, \$3.90 in Gravette \$17.00 indicator and the cities commercial rate is \$3.78 per cubic yard. There is no comparison between the services that these other communities were getting and what the citizens of Fayetteville get. A lot of these services here could just as easily be considered expenses of the system as they are expenses of the residential program, but now all of these services are incorporated within the residential rate structure. Perhaps what we should do in our rate analysis is take out some of these that are basic system cost, they may even be most reasonably allocated to the commercial sector rather than the residential sector, but in the past that is just the way that all of these have been

considered recycling efforts and therefore have been considered part of the residential portion. Those are some of the things that we are doing. We did get some information on what some rates were in some of the larger commercial businesses, for example, this is third party information as of August, 2002, for Walmart, Harps and Hanna's they were all \$120.00 a service call plus disposal at \$28.85 a ton. Kohl's was \$115.00 a service call plus \$28.80 a ton plus \$75.00 a month rental. Some of the open top rates, that we collected ourselves by making a few phone calls, on March 10th the 30 yard container, you can look at the various numbers, was \$338.00 of one service call per month, the 40 yard \$350.00. Back in February the cost for a 40 yard was \$418.00. On Waste Management we have some information primary from the City of Rogers that has an exclusive franchise with Waste Management and these number are from their ordinance but you can go through the various ways to get to the total cost per month, for example those rates would range is you had a 20 yard open top permanent container is \$238.00, plus the initial \$40.00 delivery fee, plus \$82.20 for the monthly container rental, plus a two hour haul minimum of \$131.00. The minimum price would be \$491.00 and if you went with the largest container, up to \$739.00 per the ordinance in Rogers. Temporary service rates are higher than that as per the ordinance. We have a little bit of information from a few locations here in Fayetteville, Tyson Foods Location 1 \$ 120.00 per services call, \$36.00 per ton, plus \$325.00 per month lease. Tyson location 2 - \$120.00 per service call, \$36.00 per ton, plus \$125.00 per month lease.

Mayor Coody asked Mr. Dumas that is a pretty big discrepancy between the lease rates is that based on the size of the container?

Mr. Dumas said he did not know. There are discrepancies all across the board in these and that's why I think what we would do is to have our rates adopted by ordinance so everyone would know what they are, what to expect, what to plan for and the Council would be the recourse in changing or leaving the rates as they are as the system moves forward in the future. We have one fairly good example here as what has happened since we have entered the market. This is a local business that has asked that their name not be used, prior to January, 2002, their average monthly bill was \$5,280.00, since we acquired the account, and their average monthly bill be \$4,011.00 for a savings of \$1,269.00 per month on average. They are saving money and we are making money on the account and we are servicing it very well. If Waste Management wants to talk about it they can tell you who it is, but there was a head to head competition on service levels and the business chose to move to us.

Mayor Coody asked if there were any questions for Mr. Dumas

Alderman Thiel said the two concerns that she has was the price going up eventually and the other concern is that right now the service is very good because of the competition and they are concerned that the services won't be as good, so I guess I want some assurances from the City that the services will be as good and that they will whenever they call they will have someone there johnny on the spot because that is really critical particularly on construction sites and areas like that.

Mr. Dumas said that is a very real concern that any customer of any business would have especially in an exclusive franchise, I guess my response to that is we have an exclusive franchise now on the residential system and small commercial and that with very few exceptions, and there is always an exception, but I don't think there are any complaints by any of our customers. The people down there strive to provide that service they have strived to provide that service on the limited number of large container customer we have now. We have a extraordinary competent staff and competent management down there and I don't think that any of the things that have been accomplished, even before the current administration there was a very good staff down there who did a bang up job, I think it has only gotten better since then and there is no reason to think that it would so anything but continue to improve.

Mayor Coody asked if there were any other question.

Alderman Reynolds said he would like to ask the City Attorney to rule on is he thinks I have a conflict of interest in this solid waste matter.

City Attorney Kit Williams said Alderman Reynolds I saw the newspaper political ad posing that question so I thought about it and I realize that your daughter does work in the solid waste division and has done that for a couple of years or so, I am not sure exactly how long, obviously her job is not dependent upon whether or not the city decides to expand its commercial operation, she has been working there for a couple of years under the system where we didn't expand into commercial operation. Therefore I could not see how you would have any conflict of interest in making a decision whether or not the city should expand into commercial operations, I do not see how that could affect your daughter at all and therefore you would have no conflict of interest in my opinion.

Alderman Reynolds thanked Mr. Williams. Gary I had an industrial customer call me from our part and he said if he needed a dumpster pulled in 30-45 minutes he could make that call and it would be done. Do you think the city would be able to furnish that same service level?

Mr. Dumas said yes. I can ask the people who respond to those questions to respond to that question if you would like also, they are here.

Alderman Reynolds said he was satisfied.

Alderman Marr said one of the questions that he has is there are different types of waste and I guess I want to know by this decision that we are looking at tonight is special waste a part of the program, not a part of this program and if it is in some cases and not in other could you explain to me what the parameters are going to be.

Mr. Dumas said we will not be hauling any special or hazardous waste, we are not licensed to do that and we do not want to be licensed to do that. We had a request last year from Hiland Dairy,

the person that comes to get their spoiled milk didn't come to get it so they wanted us to come and take it. Which at the front end that was a pretty good idea, mix it with the our compost for example to add some moisture to it, but our license for the transfer station does not allow liquid on the transfer station floor and our license for the composting area doesn't allow that kind of product in the compost, it is just milk, but we could not haul it. Fiberglass is a special waste also we would not haul it either. Anyone who currently has a special or hazardous waste hauler would maintain that contract with them.

Alderman Rhodes asked Gary as far as the Council setting rates what factor and I presume you will make a recommendation on how we should go about setting those rates, but what factor should we consider?

Mr. Dumas said the basic factor is that this operation should pay for itself. The rates that we have proposed do that, the Council is up to do whatever they choose. I would suggest that might be a variable portion of that would be the amount of depreciation or administration that you would allocate to this program. That could be a big number, much bigger than we proposed or it could be what we proposed which I think initially at least is a very reasonable number until we get into a comparative rate analyst on all parts of the system which I would not expect to happen for another year or two.

Alderman Rhodes said how to we factor in as you walked us through those slides I was unsure exactly if we were ever getting an apples to apples comparison with what was out there being charged to people in the community. How would we go about seeing where are potential or our proposed rates would fit in with the rest of the competitors?

Mr. Dumas said I think the rates have dropped in the community over the last couple years, one when Roll Off Services first came to the community and then secondly when the city got into the business back in late 2001, early 2002. I think that we have had a very real impact on the rates that the commercial customers are now paying. I think that is fairly obvious in the fact that one fairly large commercial customer that I used as an example decided to come with us, and that was not only based on rates although \$1,000.00 per month for even a large business is still \$1,000.00 per month, but it was based on our ability to provide the service that they wanted also. I do not know if there is a definitive answer except what it cost to provide the service. You can see from the numbers that the rates charged in other parts of the area and even in the City of Fayetteville were all across the board. Maybe it is whatever the market will bear but it was beyond me to understand that logic in looking at it too.

Mayor Coody asked do you think those prices could have been negotiated business by business and not just.

Mr. Dumas said he was sure.

Mayor Coody said so there wasn't a consistent policy that what it appears.

Mr. Dumas said our rates are set to recover the expenses of the system, that is the basis of it and for the Council who were here when we first got into this, you allowed us to play with the rates a little so we could, not play with the rates, that is the wrong term, but to adjust the rates accordingly so that we could find exactly what our expenses were and what the market was. What we found was that the market was well above what our expenses were.

Alderman Davis said competition as I see it is good, as you brought out a minute ago one business has saved \$1.029.00 per month because of the competition, that is wonderful, I think that is what we want to see in the community. We also have two other providers, you have Roll Off and Waste Management, we being a third, I am not sure that the city needs to get involved in another aspect, I looked at the city, we need to supply those things that others can't, such as water, sewer and things of that nature. I am not sure that we really need to continue to go further outside of what our public services really should be in my opinion. That is just my opinion. Concerns that I have, this is definitely a profit center I know for Waste Management and Roll Off, I assume right now we use the Waste Management landfills to dump our trash. They pick it up from the transfer station and take it for us, is that correct.

Mr. Dumas said that is correct.

Alderman Davis said if we begin to take away their profit center on the commercial side what can our residents expect to see as an increase, because you have all of the sudden taken away a businesses profit center and they have to make up that profit somewhere along the line possibility, so what do we see the residents facing in the future as these contracts come up for renewal for landfill space along with the commercial side, because once again we have taken away that profit center.

Mr. Dumas said the response to that is we have a contract with Waste Management right now and they will honor that through the term of the contract, which has another 2 plus years to run. I would think that when that contract does expire I would suspect that whether Waste Management continues to haul large commercial waste in Fayetteville or not there will be a rate increase just because of the expenses that they incurred last year. Probably substantial which will pale by comparison of a loss of a half a million dollars per year or so from the Fayetteville waste hauling Waste Management portion of the business, but in anticipation of that increase already we are beginning to explore other options when that contract does expire which might include the city hauling our waste to some other approved landfill, it might include another provider for that service. We or they will have to take it to an approved landfill that is the only given. I would expect regardless of whom the provider is and even if the city, there will be an increase.

Alderman Davis said do you see where I am coming from, if you take away some ones profit center the chances are you are going to receive a bigger increase in the long run than if you allow them to be a competitor of yours for a segment of the business

Mr. Dumas said he thinks there are probably different business centers in Waste Management, that's transfer station services and land fill providers, but whether those profit centers merge at some point higher up the corporate ladder, I don't know, I'm sure they do, but regardless we will be looking at all avenues to maintain an attractive disposal rate, I'm not sure what it will include, but we will look at all those options.

Alderman David asked Mr. Williams should we pass this tonight should the city begin to take on more of the trash throughout the community and we are actually picking it up and someone else is transferring it to the landfill does that increase our potential liability exposure for super funds in the future if and when we find that landfill has contamination because we are little more involved now, in this case if we pass this vs. what we were before if we approve this evening.

Mr. Williams said if there is any increase in our exposure it would be very minimal I think, our current contract with Waste Management is for them to run the transfer station, the trash becomes theirs at the time it is dumped at the transfer station then they load it and deliver it to the proper landfills which happens to be their landfills. That is something we have to look at very carefully in two years when we renegotiate that contract or decide to do something else with it, that is the place where potential liability would be much more likely to arise, here we are already collecting commercial trash and a lot of residential trash and so if there is any potential liability we are just slightly, but I think it is minimal compared to what we need to look at when this contract expires and we have to decide again who is going to do the transfer station and who is going to take control of the trash at that point. Hopefully the way the contract was written up and it is my understanding that it pretty much when we dump the trash at the transfer station it is no longer ours, we give it up to Waste Management, they then assume jurisdiction over it and it is their responsibility to transport it to a proper landfill and have it properly land filled. I think we are fairly well protected at this point in time.

Alderman Davis said does that mean that once their liability limits are fully used then the city's policy probably somehow the citizens would be responsible and be layered in regardless, depending on what cities are involved and what percentage of trash they themselves have possibly contributed to this.

Mr. Williams said it is possible, when you are dealing with trash you are dealing with something that they try to spread the net as wide as possible, fortunately Waste Management as you are aware is a very large company and handles probably the largest trash hauling company and trash disposal company in the United States and so we hope that case will never happen and it will never be beyond their limits of liability if something happens. Also they have done a very good job at our transfer station and disposing of our trash despite some problems with the local landfill they have several other landfills, I think for the most part they have a fairly good record I think of disposing of it despite some of the problems at the Tontitown Land fill when eventually will be closed and we will have to use other landfills.

Mr. Dumas said the transfer station just the way the operation works it's unlikely, not impossible, but unlikely that inappropriate waste is going to get hauled out of there. Just by the nature of the operation, the fact that it comes in is dumped on the floor and then actually handled twice after that, so there is an opportunity to observe what is leaving the facility, vs. at a landfill when the trucks just pull in and its out in the middle of wherever and it's dumped and then it is covered by large equipment. Here it is dumped on the floor, it's observed by the driver, it's pushed around by the transfer station equipment operator and then it is compacted into the trailer, so it is observed three times after it is dumped on the floor at a minimum.

Alderman Davis said he has had some calls from some of the business individuals in the community and they have indicated that they have a rate but they are also able to get dollars back for recycle able items such as cardboard, glass and things of that nature so you may show a \$250.00 rate but actually in reality it is less than that because of the return they get for the recyclables that they contribute.

Mr. Dumas said we have talked about that and we even had some large cardboard user give us a call yesterday and I tried to get what their return was on their recycling. What we are talking about here first of all is just the waste that is going into the landfill. The recycling rates would be different and if they are a large user and they do recycle we can provide the same type of bulk that any other private company might provide because we broker our recycle able right now also. Went we get an adequate supply we check the market, find out whom the highest bidder is and call them to come and get it or haul it to them. We can provide for those large contributors because we will be making some money off of it also, a return just like any other providers do.

Alderman Marr asked what are the most volatile areas of rate impact?

Mr. Dumas said probably at this time fuel, and that is going to impact not just the commercial but the residential also. We have been looking at fuel increases already over the past six months and if they continue to increase the way they are that could be substantial. Every operational department budget it would have a significant impact on their budgets.

Alderman Marr asked if there were other areas.

Mr. Dumas said he could not think of any that would have a short term impact, all of the others increasing volumes might require additional vehicles but then that additional vehicle and equipment is going to be paid for by the users anyway so that's not something that is going to impact the rate, it would just impact the overall cost of the system. I can't think of anything that would have a short-term impact except for fuel.

Alderman Marr said we received an article on going into going into business, an article on decisions that should be made and looked at when making this kind of decision. It talks about areas as to why someone would want to go this route and it gave options of increased control of waste stream, increase revenue potential, act like a business spreading your overhead over a

larger base, improve quality control cost, implement policy objectives and when a city gets into it competitively spur competition. Which of these areas is the primary reason for pursuing this?

Mr. Dumas said he thinks there are three areas. Spreading the overhead cost across a larger basis. But I think more importantly it is controlling the waste stream to try to encourage throughout the system the same types of programs that we have tried to promote in the residential sector, that being the recycling effort and the reduction of waste going into the landfill.

Alderman Marr said it also gives obstacles or challenges or things to be concerned about one of them is experience and know how, so I guess my question is do we have the management expertise on staff to do that and if so could you give us a little background about why you think we do.

Mr. Dumas said the current group cannot take credit for all the improvements that are in the system that is out there now. Three years ago there was a very efficient system in place the Council made a lot of decisions back in the late 90's that I think helped make the system become what it is. I think that in the last couple of years thought we have made some leaps in knowledge and abilities in the system. One of those is the current environmental affairs administrator who has very serious experience I will not get into the decades in managing waste with a very large waste hauler in the U.S. that perhaps the City Attorney mentioned a while ago. I think that the teamwork down there, the ability of the group to come together through a lot of adversity shortly before I got here, I think it is an extraordinary good group down there now, turnover has reduced almost to nothing and there is an extraordinary team spirit that, I think that is indicative at how they have handled their expansion over the last year or so and the way they provide the customer service to those new large commercial accounts and existing small commercial accounts.

Alderman Marr said you have given us an outline of the container impact, the fleet impact, are there any issues on future computer systems or billing system, that we going to need to do that is there any anticipated upcoming cost related to the administrative functions of this.

Mr. Dumas said there will be some issues in the billing system but we will be using the billing office now. Whatever issue those are they pale in comparison to the change that we have had to go through with the multiple size carts, as we are going through right now and the new billing system that will be in place as a result of that come April and May. There will be a few issues I'm sure there always are when you expand a program like that, but I don't anticipate any increase in staff required at either the solid waste division or in the budget and accounting area.

Alderman Marr said did we consider any other alternates, did we look at the degree of exclusivity compared to taking it all, did we look at franchise arrangements, setting service covered areas, whatever the issues that we were trying to control before we made this recommendation.

Mr. Dumas said there was a cursory evaluation at franchising the system out and I think if you look at what the small communities of Gravette, Decatur and Rogers also they have added a service call to the contract price. In Rogers, you can see that those rates up there by their ordinance are fairly substantial compared to even the private hauler here in Fayetteville. There was some discussion by one waste hauler of providing a \$30.00 franchise fee per service call. It did not take very long to think that that \$30.00 franchise fee per service call is going to be an add on to their bill every month which is going to be identified as a franchise fee to the City of Fayetteville, so there would be a franchise fee in addition to their profit, which it is a business they have to make a profit, but if we could provide the same service with the same efficiencies and customer service levels that they are or better than they are and save the \$30.00 franchise fee and save the profit, spread the cost of the system over the larger basis and save the customer in some cases substantial annual or monthly bill, it did not take much thought to come to the conclusion that we should be providing the service. There may be some debate on that but I think that franchise fee plus profit is a substantial savings right off the top that you are saving the consumer, if we can provide the service and I think that not all communities may have the same type of system that Fayetteville is lucky enough to have in the solid waste area but we have a good system, even though it is trash it is something we all make and we all have to get rid of every day. If it does not go away every Monday morning I am going to be upset and so are you. It is the same thing whether it is a residence or a business.

Alderman Jordan said how much commercial waste do we generate per day in the city, do you have any idea.

Mr. Dumas said no. City wide no, 136 tons is what we haul. There is suppose to be as I understand in the solid waste regulations of the state some reporting that goes on to the waste management district, I am not sure if those numbers are getting in or not, that number is suppose to be available, but I don't think it is.

Aldermen Jordan said we will not have any sites inside residential areas where will be any containers left open will we.

Mr. Dumas said no. We will store all of our equipment at the Happy Hollow site in a neat matter, which I hope you think we keep it pretty neat right now.

Alderman Jordan asked Mr. Williams I have heard a lot of talk and have received a lot of letters that they think it is illegal for the city to venture out into this commercial business and take it completely over is it illegal for the city to do that.

Mr. Williams said I think the correct answer is no it is not I gave you memos to this effect in August, I sited the ordinance that has been on the books for more than 40 years in Fayetteville that gives us the right to control who would pick up trash, that they are suppose to have a contract with us. There was a specific law passed by the legislature and the solid waste management act is I think what it was that gave the cities the power to control the trash flow and also the responsibility. So you have both the power and the responsibility t do that. It also gives

the cities the right to enter into an exclusive franchise agreement and that is what Rogers has done and I think probably that is what Springdale has done. I think it also gives us the right to enter into a comprehensive plan and run it ourselves plus I think we have the right just under general police powers and things like that even without that particular act because trash was picked up long before that act was even instituted. When I wrote that memo there were five different basis I found in Arkansas law that I thought gave us the right to do this if that what the City Council wanted to do and I think that what you decided to do back on August 20, 2002 when you passed the resolution for an action plan to implement the consolidated solid waste management plan for Fayetteville. I think this is kind of the combination of it tonight.

Mayor Coody asked if there were any more questions for Mr. Dumas. There were no more questions. The Mayor then thanked Mr. Dumas for his presentation.

Mayor Coody said he saw an ad also in today's paper where one of our staff is quoted about saying something about a 50% rate increase. I was wondering if you had any information on that because that was news to him.

Mr. Dumas said the person quoted in the paper is here and he would be happy to answer that question since he was the one quoted that was quoted in the paper.

Mayor Coody asked Travis from solid waste, the ad today said you are probably familiar with it said that you are quoted as saying that there would be something about a 50% rate increase and I didn't know if you had a response to that.

Travis from Solid Waste said Mr. Mayor when we quote rates the only time we change a rate is when I talk to either Gary Dumas or Carol Hill and we haven't done that in quite some time and I don't know how they figured that there was a 50% increase. For quite some time we have charged the same rates \$187.00 for a 20 yard that includes a lease, \$190.00 for a 30 yard which includes a lease and \$195.00 for a 40 yard which includes the lease. When anyone calls in these are the prices, this is what we charge every time someone calls in.

Mayor Coody said there is the per tonnage rate.

Travis said I am sorry, plus the disposal rate of \$29.20 per ton.

Mayor Coody said that varies depending on each pull?

Travis said yes it does. We try to stress to people when they call in and ask us to supply them with a roll off that the rate is \$29.20 plus the \$187.00, the \$190.00 and the \$195.00 includes proper disposal as well.

Mayor Coody asked how many tons average, I think it is 3 ½ tons if I remember correctly.

Travis said the best that we can figure Mr. Mayor is that last year we pulled over 900 loads and the average rate on average 20's, 30's and 40's yards all together, the average weight was about 3 ½ tons per load, some would weigh considerably more and some considerably less than 3 ½ tons.

Mayor Coody asked the public to sign your name on the form on the podium so we can correctly reflect that in the minutes of the meeting, please.

John Sampier, I am here tonight speaking on behalf of Waste Management, for many years Waste Management and its predecessors USA Waste, Fulton Sanitation and Sunray Services have been pleased to have a business relationship within the City of Fayetteville and the Fayetteville business community. Currently today we have over 70 contracts within the city limits that we serve in terms of what we call open top roll off containers and industrial compactors. We have never interfered with the City of Fayetteville servicing commercial dumpsters as they are called or residential services, we have not been in the newspaper, we have not been sponsoring websites, we are just trying to quietly and professionally provide service to our customer that have been our customers for many years in the City of Fayetteville. We have also had a good relationship we believe with the City of Fayetteville itself some of which has been eluded to tonight. We operate under contract with your transfer station as has been discussed earlier and for the pleasure of doing business in Fayetteville we have remunerated a franchise fee to the city for that. We are a long time and active member of the Fayetteville Chamber of Commerce and we provide complimentary services within the city limits of Fayetteville to such events as Bikes, Blues and BBQ, the Walton Arts Center the recent Northwest Arkansas Home Builders Association show that was held in Fayetteville, the University of Arkansas and others. We believe that we have provided a complete rate and reliable service as a member of the business community in the City of Fayetteville for many years. We believe that since we are providing a reliable service at fair and competitive rates that we should be allowed to continue to do so. I want to close with just three comments, our purpose tonight and my representation of Waste Management is not to be argumentative or to challenge certain ideas, but I must tell you that I think if your decision is partially based on the financial information that you heard tonight, I can tell you that there are miss calculations in the way Waste Managements rates were presented tonight and if that is part of it we should have the opportunity to provide you the City Council with our rate structure and what we have within the city limits of Fayetteville and areas for that matter. Mr. Dumas made a reference tonight that he foresaw some clandestinely rate increase in the years to come because of the reference of the closure of our landfill that has no basis in fact; we said from the time that happened and continue to say that we have never tried to recoup those losses and we never will. Their record will show that any rate increase that we have had commercially or residentially in the cities that we serve in Northwest Arkansas since that time have been due to the consumer price index for this part of the United States and that's all and that is all it ever will be. Finally there was mention of a \$30.00 franchise fee, Waste Management did not propose a \$30.00 franchise fee to the City of Fayetteville, we proposed a \$25.00 fee pull for our containers, you set the rates, you control the rates, and we act as a subcontractor. Currently we pull some, we call it pulling, we haul some

300 loads per month, at \$25.00 per load that is \$7,500.00 per month into Fayetteville's coffers just from Waste Management thus allowing you apply over one million dollars to other needs that the citizenry may have. Thank you for this opportunity.

Mayor Coody said you have been very professional to work with too and I commend you for that.

Delia Foster a resident of Elkins, I worked for the City of Fayetteville for ten years which included working in your solid waste division. I am here tonight in response to the article that was in today's Northwest Arkansas Times. I was absolutely shocked and out raged to read a half page ad by Roll Off Service that included a letter of resignation with my name on it. I had to come tonight to make sure you the City Council, City Staff and Fayetteville Residents know the truth about this ad and Roll Off Service. I did not write that letter of resignation nor did I supply any documents to Roll Off Service or anyone else. Roll Off Service manipulated that document. This is not the first time that Roll Off Service has manipulated or fabricated City documents and unless you take action it will not be the last. I am outraged at this attempt to take advantage of me, Alderman Reynolds and the City. The truth is that I am absolutely embarrassed to even be associated with the Roll Off name. I hope that you and all companies doing business with Roll Off take note of this action. This once again demonstrates their lack of respect for laws and regulations. They believe that they do not have to follow rules, regulations, permits and basis business ethics. I intend to take legal action and I hope that you City Council will also prove to Roll Off Service that they are not invincible by voting to support your solid waste divisions request to privatize the industrial waste collection program. Thank you for your time.

Alderman Rhodes said he appreciated Ms. Foster coming forward and saying what you had to say. Can you tell me you mentioned that the manipulated a document.

Ms. Foster said yes, that was not the letter of resignation that I wrote and it is proven in my personnel file here at the City. I do not know where or how they got it but it was not what I wrote to the City and turned in.

John Scott, representing Hanna's candle company, said he is a little considered about this current proposal to take over industrial waste hauling in the City of Fayetteville. We are currently customers of Roll Off Services, we have been customers of Waste Management, we were benefited by Roll Off coming to town, and the increased competition lowered our average pull bill from \$425.00 to \$385.00. Usually when the City wants to get involved in spending monies it's for a need that has been identified by its constituents, someone complaining about a road needing to be paved in front of their house, a neighborhood wanting a new city park near their house. In this case I don't know of anyone that has complained or ask the city for help in controlling our cost, as businesses it is our responsibility to control our cost not yours. If I think that Roll Off is charging too much, I go to Waste Management and I ask for a new deal or I ask Roll Off for a new deal. I don't need a monopoly coming in and dictating who will haul my trash and how much they will charge me. I don't have any control in this situation. It has been

said that the city wants to spread its overhead and control its waste stream. Mr. Dumas was quoted in the paper, as saying the purpose of this program is to keep our rates lower for the residential customers. It is already well known that the solid waste division has a \$568,000.00 operating deficit this year. Based upon the numbers that Mr. Dumas provided in the previous meeting the total cost of operating this new division or service is going to be \$635,000.00 and they project to have about 3,000 pulls a year which makes our cost initially \$284.20 per pull which is better than what we are paying now, that's great, but you add in the short fall, which it is going to be real tempting for you guys to put the residential short fall on the residential customers, you put that short fall on top of the cost, that is 1.2 million dollars that the industrial customers I suppose will be asked to shoulder, 3,000 pulls per year that is \$ 401.00 per pull, now you are over what I am charged right now. I don't want that, if you guys want to be in the industrial waste hauling business, come on in but don't make yourself a monopoly, compete with these guys, if you are better, do it but don't kick them out. I am not asking for you to be in this business I will handle my own cost. It is not your responsibility. I went to a manufactures committee meeting a couple weeks ago this is a committee of the Chamber of Commerce and we talked about that, there was probably ten manufactures represented in that room and not one of them supported this. We are the constituents in this case, we didn't ask for this so we don't want you involved.

Mayor Coody said Mr. Scott brings up a question; Mr. Dumas the \$284.20 is that the rate this Council would be approving?

Mr. Dumas said no, it would be approving \$150.00 plus lease plus disposal. The lease was \$37, \$40 and \$45 dollars per open top container, if it is compactor containers it is based on whatever the price is when we work that out with the customer before we purchase. They purchase and we lease it back to them after they purchase it. We made an assumption on a certain number of service calls per year, I told you I thought that number was conservative and it very likely is based on the 3600 or so service calls that I think Waste Management mentioned they had per year. If you increase your number of service calls the revenue portion ally increases.

Bob Bracey of Superior Industries, in the presentation I heard as an industry rather than, I assume that when we use the term here commercial this is including the industrial basis. In our particular case we have a private contractor that has been servicing us for many years. I heard mention that this will not initial special waste, more than 50% of our waste is classified as special waste. I don't know how that would impact Superior as a long time manufacturer employer in the City of Fayetteville. What are compact hauls, we have a compactor that handles general waste and I assume that that would classify into this particular proposal. Is the waste going to be hauled directly to the landfill, I think I am hearing that it will not be, it will be put in the transfer station, I presume it's the one that is in the industrial park. It is my understanding the way that operates a truck drives in drops that waste on the floor and it's spread out on the floor and gone through for whatever particular recycling needs and then it is re-picked up, re-packaged and sent to the landfill if I understand that correctly. That is like handling our waste two different times, because most of or all of our waste is going to end up in the landfill, we feel

that we have a significantly amount of programs that there is very little recyclable materials that the City or any hauler is going to find from Superior. We haul tons of material out of Fayetteville, most of it is recycled material, and it goes to other parts of the country for feedstock and to other materials. About that we want to put into the Tontitown landfill is things that nobody wants for any other particular reasons. We are not sure how we can contribute to the financial gain of this particular program. We have hauled approximately 28-30 truckloads per month, more than 50% of those must go into a Class IV landfill, special waste it is not recycled material. A lot of our preventive work is done on the weekend, many times we call on our present hauler to come in Saturdays and Sundays to pick up containers and then bring them back to us. Right now on site we probably have about 7 – 8 containers on our property that are being filled up at random rates and pulled on a continuous weekly basis we are a 24/7 operation. That is a large concern for an organization like ours that we have service on the weekends. The contractor that presently services us tells us that we are one of their largest customer in the city, I understand listening tonight that the city also contracts that contractor, if we are not allowed to allow them to competitively quote us for services for us to stay in a competitive business, what would that revenue loss to them mean to the rest of their base. They may have to recover those losses in some other fashion. We want to have the opportunity to stay competitive, we would be considered that any monopoly or dictatorship comes into our community that really restricts our ability to go out and fairly price what we have to do. Would we have two contracts, with a private carrier and with the city?

Mayor Coody asked Mr. Dumas will we be able to service weekends.

Mr. Dumas said yes. They can call at any time and get a service call.

Mayor Coody asked about the recycling off the floor.

Mr. Dumas said we do not recycle off the floor.

Mayor Coody said so it goes straight to the trailer and is compacted.

Mr. Dumas said yes.

Mayor Coody told Mr. Bracey the special waste contract would be continued with the current special waste hauler.

Mr. Dumas said yes, he did not know what Mr. Bracey's special waste is, we will haul Class I and Class IV waste, that is not special waste, but if it is hazardous waste we will not haul it.

Alderman Thiel asked Mr. Dumas you stated you had not looked at contracting with Waste Management, was there any real consideration, an offer or a discussion with Waste Management about them providing the service, that would still be a monopoly, but us not getting into the

business and they can handle the special waste I understand. It does not sound like you had a very serious discussion on that.

Mr. Dumas said the hazardous waste hauler would still be here. I just go back to the basis issue if there is a cost of the service and then you are adding a city fee to it that would seem like it would be costing the consumer more than it would if there was not that additional fee on top of it. There would be a fee above the cost of service that you would be charging to the consumer. That is certainly an option. The city can provide this service for the same or less.

Alderman Thiel said it all goes back to why we are doing this. I would support this because it would help implement a recycling program for industrial and commercial that probably private providers don't encourage, but we haven't even looked at the cost of that yet.

Alderman Davis said as you were making your statement Mr. Dumas Mr. Sampier was in the back shaking his head indicating that what you were saying was incorrect to some degree. I would like to give him the opportunity to rebuttal what you stated.

Mr. Dumas said there is a cost of service whether we do it or any private provider provides it.

Alderman Dais said I agree with that but the cost of service could be different between the city and the individual provider.

Mr. Dumas said I know it is, I can tell from the rate structures that are out there that there is a different cost of service. Whatever that cost of service is though is you add an additional tax onto it, which I suppose that is what this would be, then that is the cost of service plus the tax.

Mr. Sampier said he did not say they would add on a rate increase because of this, I wasn't suggesting that we would be the only one, whoever the private haulers are impose a \$25.00 per haul fee on everybody. Our rates would be controlled by the City Council, adjusted by the City Council, certainly in concert with the private haulers so there was a fair profit for the private hauler, but not to establish a fee and then tack something on to the end of it, that is not what we are suggesting. That was one conversation we haven't had the opportunity to pursue that any further. As members of the private sector it seems it is something worth exploring if it is practical, I have had a little experience in this business myself, if the municipality can gain some revenue without having to put out the cost of equipment, workers compensation, labor cost and that sort of thing it is certainly something worth looking at. Our rate structure has variables in different cities, the length of the haul and any number of things, your decision, making may be based on other thing, but there may be an opportunity here to explore this a little further.

Paul Pinneo with Marshalltown Tools we have been in business some 110 years and we attribute that 110 years to doing good economic decision during those 110 years. A year and a half ago we had Roll Off come to us with a proposal. Our cost for trash hauling in the year 2000 was 7,800.00. Roll Off services gave us a proposal that ended up saving us \$3,000.00 in one year,

offered us saw dust removal, provided us a trailer to store our recyclable bailed cardboard, paid us for that bailed cardboard, poured us a concrete slab to set the trash container on and provided us with a trash compactor for just \$287.00 for the first 12 months which was a total of \$3344.00. During that year and a half Roll Off has performed flawlessly, the cost they gave they gave us is exactly what we have been getting, we have a much better looking service area now that we have a closed compaction system, our bailed cardboard no longer sets in the back yard, but in one of Roll Off's trailers and we have been receiving approximately \$7,500.00 annually for recycled cardboard. We are now being faced with the city coming to us and saying we have to go to the city for our trash hauling. We have received a quote from the city and it appears as though the trash hauling per load is approximately the same, within \$10.00 of each other, not a big problem. The real problem we have is if Roll Off can longer be our provider, we are without a compact system and we have been given a quote by the city for \$16,520.00 plus tax to purchase a 40 yard container and a compacting unit. We have the opportunity to do that over an eight-year period, which would run the cost of \$21,806.00 plus tax. We are looking at a considerable increase if you go through with this proposal tonight. I am concerned that we will wind up with a monopoly, Mr. Dumas was apologizing for having an extra \$3,250.00, but with a budget like that, that will be spilled on a certain day, a truck goes bad and has to be repaired, gasoline goes up, I can see the cost we have today is going to escalate. I am also concerned about my recycling of cardboard and my \$7,500.00 a year recycling fee for the cardboard could go away, there is one in Fort Smith that we have had in the past that was unreliable. I would encourage you not to pass this, I have heard the reason for doing this is for more revenue, I would loved to have heard that you were doing it because you could do a better service for the community and that you could do it more economically but I haven't heard that.

Mayor Coody said the cardboard recycling would stay in place and I suspect you would not see a change there. The compactor I do not know how to answer that we might discuss that. I don't think the staff's intent here is to increase anyone's fees or rates. I think the intent is to bring the rates down and to have a more equitable distribution of rates across the board.

Mr. Pinneo said he brought them an example where his was going to cost more.

Alderman Reynolds asked the city Ordinance pertaining to this matter be read and how long it has been into effect and what year it went into effect. About allowing outside haulers to come into our city.

Mr. Williams said it is a short ordinance; it was passed on April 6, 1959. Mr. Williams read the ordinance.

Tom Smith of Roll Off Services said we contact our competitors to see what they charge; we have had contracts of Waste Management shared with us so we are very familiar with their rate structure. The rate structure proposed by Mr. Dumas, as I understand it is \$190.00 per haul fee plus a rate of \$29.00 per ton for disposal. If you compare apples to apples with an eight-ton load in an open top container with a size of 30 yards that would be a \$422.00 bill, plus the lease on

the container while it is at the location. Roll Off Service provides the very same service for \$235.00 in the City of Fayetteville, eight tons of trash included in that price. Waste Management's price is \$235.00 for the very same service with a ten-ton limit. The rate structure proposed by Mr. Dumas is over 50% higher than Waste Management now services. The rate structure in the PowerPoint presentation is not accurate. We would be happy to discuss our rates with the Council and Mr. Dumas; we have made several attempts to do so in the past. I am in agreement with Mr. Sampier on a proposed fee paid by each private hauler to the City of Fayetteville as a franchise fee, I am all about competition, I would encourage the City of Fayetteville to compete with Roll Off Services and Waste Management side by side. Competition is good it can only bring more competitive prices. We supply service to our customers within one hour of a phone call 24 hours a day 7 days a week. I believe the City of Fayetteville could provide that service also, but at what cost. How much do you want to send to supply this service to be the exclusive hauler? I do feel the City of Fayetteville has knowledgeable people, however there are some limitations there. I think the myth that the municipalities are exempt from having permits, so instance I am aware of the Fayetteville truck hauling recycled glass over to Oklahoma to the recycler. The commercial and the industrial people of Fayetteville risk losing competitive rates. I do not believe there is a need for you to get into this type of business. Charge a franchise fee, we do not want to lose the business and the folks that are here tonight don't want to lose us as their service provider.

Alderman Rhoades asked Mr. Smith if you were to lose the business what percentage of your business would that be?

Mr. Smith said Roll Off Services has invested right at \$967,000.00 to do business in the City of Fayetteville; the percentage of business would be approximately 20%. We would lose 27 employees if you pass this measure and we have to leave town.

Mayor Coody asked about the letter Ms. Foster spoke of, would you please explain that, where you got it, how the changes were made, why, etc.

Mr. Smith said that was not from him, he did not put that letter in there and know nothing of it. Roll Off Services had nothing to do with the ads in the paper, nor did they have anything to do with the letter from Ms. Foster.

Mayor Coody said was that Marc Berry with LOOK, is he here tonight?

Mr. Smith said I believe so.

Mr. Berry said a copy was provided me through the Freedom of Information Act, that is the copy that I got. I was not able to get a hold of Delia, I was out of town, so she may have a problem with me and I will take it up with her.

Mayor Coody said from what I understand that was not asked for nor was it delivered, plus the fact that that is not the letter that we have in our file. It would have been nice for you to visit with Ms. Foster to ask permission to use that to make sure everything was accurate.

Mr. Berry said I understand that.

Mayor Coody said you work with Roll Off.

Mr. Berry said I am an employee of Roll Off, I have several other clients, and tonight I am here on behalf of Look. I have brought with me tonight 950 signatures on a petition of business owners, managers, and citizens of Fayetteville, along with 325 letters indicating that they would like a chose with their waste disposal within the city limits of Fayetteville. This information was compiled in five days, these pieces of paper represent the voices of the business community and citizens in Fayetteville, I would hope that each of you would take careful consideration when passing this legislation tonight and listen to your constitutions. I will go to the clerk if you don't mind.

Alderman Thiel asked Mr. Berry, you said you FOI'd that letter, who did you FOI?

Mr. Berry said I had some information that I had gotten from the City in the past.

Mayor Coody said but you didn't get it from the city.

Mr. Berry said maybe I didn't get it from the city.

Mayor Coody asked might it have been from a former city employee?

Mr. Berry said possibly.

Alderman Rhoades said lets presume the letter was perfectly accurate which it sounds like the author does not believe it to be accurate, what was the purpose.

Mr. Berry said I have been coming to these meetings for the last six months and nobody has gotten excited about this issue. I have dealt with this issue for about the last eight years and I wanted to get some involvement, am I extremely proud of what I have done maybe not 100%, did I get some people out to tackle the issues. My purpose was to get people up in arms about having the city taking over the rates and them doing nothing about it. If that is the best decision for the city and you have discussed all the issues and discussed them fully and having your community come out and talk to you about that, so be it, pass it that's what the purpose was.

Mike Stout with Associated Builders and Contractor of Arkansas, we are a trade organization of general contractors, subcontractors industry professionals and suppliers. I represent commercial contractors that are mostly building schools, hospitals and other infractstructure in Northwest

Arkansas; many of these projects are for the City of Fayetteville or the University of Arkansas. I was asked to prepare a consensus of the thoughts of our membership. During my poll of the members I found one that was so concise that I paraphrased his thoughts here. A few years back construction waste removal was a mess, rates were high and service was either lousy or not existent. Since we now have competition in this area our rates are better and service is great. Why does the City of Fayetteville want to take this away from us? This is proof that the free enterprise system and competition work in real life. I don't know anyone in Northwest Arkansas who doesn't want this lesson taught to our children in their economics classes. If the City of Fayetteville wants to get into the business of construction waste and compete with the two companies currently doing business, then we welcome you. However compete on the basis of service and price, don't create a monopoly to insure your success. I remind you that the citizens of the City of Fayetteville are the people that pay for public building through their taxes, are the citizens willing to pay for the increased cost that we have experienced when the competition is removed.

Mr. Bracey said we have the opportunity here to demonstrate that we live in democracy. We welcome the opportunity to be in competition.

Chris Sargent a business owner said he his excited that the city would get into this business on a competitive level because our rates would get lower.

Alderman Rhoads said Mr. Sargent are you advocating the city get into the business with the other two remaining or by itself.

Mr. Sergeant said on a competitive level. It would be just one more place to shop.

Susan Porter, a resident said she would hate to see the city take on such a major administrative and management job as this and I think that it is nice that it would help our residential rates but I think it would be eaten up with the management of a large system.

Frances Langham, a business owner, said she is disturbed, as a business broker in the area, I saw their businesses and many were not saleable. I find that this is a hardship for those that have spoken tonight and I think that I have a view when a municipality gets in trouble they ask for a tax increase, so I wonder if this is not something that would affect everyone. This is just not good, there is not a choice here, competition is always good. I can't imagine why we would do this, I can tell you a lot of businesses fail and I would hope that we the citizens of Fayetteville wouldn't have to be responsible for something that could be this drastic.

Bill Ramsey, President of the Fayetteville Chamber of Commerce said I think what we have heard here tonight is competition and competition is good. There is not anything wrong with the city being in the business, the concern is that you are in an exclusive business and that you are eliminating competition. There are a lot of unanswered questions, I had one today and maybe you can answer this for me know, that was concerned about they have another private company

that's coming and picking up scrap metal of which they pay them to do that. Is this included in the proposal, will they continue to be able to do that. I think we need to get all the facts, some of the figures have been disputed, I would just urge you to not rush into this decision, lets have some meetings of the mind and lets get some true facts and lets not do something in haste, something that we are going to regret down the road. I will admit I am a free enterpriser and I believe that private industry can do it better than government any day of the week, but I don't have any problem, I think we have competition, the city is in the business now and I think that has been a good marriage and its working, just think about that as you make your decision.

Alderman Thiel said initially she was in favor of us doing this for the reasons that we discussed early on that it might provide some savings on the residential side and that we would be able to encourage recycling more actively. After listening to the constituents in this case the commercial and industrial business it has been quite an eye opener, because they pointed out they did not ask for this, what is the motive for us doing this, why do we need to do this. At this point I don't think I can favor this proposal like it is, I would like for us to have some discussions thought based on our ordinance that we have with Roll off and Waste Management about a contract, apparently we have an ordinance in place that requires that we have a contract, I think we need to certainly pursue that and at that time maybe we can discuss the possibility of a franchise fee. I think the commercial business that we are doing with resources right now has been a goof thing it has added to the competition. With the economic times like they are that aren't very sure I think this is not a good time for us to hamper our commercial and industrial businesses in the City of Fayetteville, this is probably the worst time for us to do this. I am not going to discuss some of the issues that we have had with one of the competitor's in the city, but I think we can work out some of the problems we have had without resorting to doing this. I think I will probably vote against this at this time.

Mayor Coody asked for a motion to table this so we can do some more homework and come back with some more information or some different ideas and look at some alternatives.

Alderman Jordan moved to table the resolution to the April 15, 2003 City Council meeting. Alderman Reynolds seconded.

Alderman Thiel asked what are we coming back with.

Mayor Coody said we may be coming back with talks about franchise fees, there were a lot of questions here tonight, and if the business community is not interested in this, I don't want to force any thing on anyone that they are not interested in. Right now we are not fulfilling the ordinance that was put in place in 1959. We need to find a way to start fulfilling that ordinances responsibilities, at the same time meet the needs of the community. If we can do that then I would like to bring something back to the Council to discuss at that time, that is basically my intent here.

Alderman Davis said my concern about this is that we have had good show of people tonight that are opposed to this and with just cause in my opinion and trying to get these same people out again at a latter date may be more difficult. I would hate for the Council at that point in time to forget what has been said tonight because of other conflicts that may occur in the future where they couldn't attend. I think we have to make sure that we listen to what the people in the business community have just stated because this is who this really affects and if it is their wishes and desires for us to not implement this we need to listen and we need to act on their behalf and I think that this past weekend at our retreat we all talked about one of those 23 items was that we did want to work with the business community and work to have a better relationship, so we need to make sure that we follow through with the things that we talked about this weekend.

Mayor Coody said I don't think anyone is going to bring anything up to try to sneak it through or past anybody. I don't think anything that has been said here will be forgotten by any of us tonight.

Alderman Lucas said she thinks we will not forget. I do think we do need to consider our ordinance that we have in place and work within that.

Mayor Coody said I am sure I speak for all of us; we don't want to ignore an ordinance that has been ignored for the last 44 years.

Alderman Jordan said he would like for us to look into the what John Sampier and John Smith said tonight about their proposals of what they can do for the city, I would like to see what there rate structure is and look into what they have.

Alderman Marr said I am glad we are tabling this to get further information, because one area that I am very uncomfortable with is dealing with special waste and the impact that it might have on the overall rates of someone. If we pull out the good part of the business and they are stuck with the bad part of the business what that might do in terms of their cost structure to get that service taken care of. That is certainly something that I think we need to investigate more. Alderman Marr said there was a very good article in Municipal Solid Waste that talks about various options. Chris Sargent said he liked that the city got into rate because it did make rates lower. I think that we need to remember that was a positive outcome for our businesses going back to our Retreat and our desire to do that. It went lower because other people providing it dropped their rate, it wasn't necessarily just our rate that impacted them. I do think we need to look at this and we need to ask ourselves the overall question how does this fit our priorities. There are two areas that I see it, one is additional positive impact for businesses and two was other revenue streams, which is something we talked about at the city level. This is another revenue stream; we can't forget that, we can't forget that it does allow us to spread our administrative cost over a much wider base. Those are things that I think we need to keep in mind. I appreciate the business constituent's comments tonight.

Upon on roll call the motion passed unanimously.

NEW COMMERCIAL COMPACTOR AND DROP BOX PROGRAM: A resolution authorizing the hiring of seven (7) additional full time employees to implement a new commercial compactor and drop box program. The resolution was tabled at the February 18, 2003 City Council meeting.

Alderman Jordan moved to table the resolution to the April 15, 2003 City Council meeting. Alderman Lucas seconded. Upon roll call the motion passed unanimously.

OLD MISSOURI ROAD: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by JTK Trust, James T. Keenan and James F. Keenan, trustees, to secure the necessary easements and rights-of-way for Old Missouri Road improvements. The resolution was tabled at the December 3, 2003 meeting.

Mayor Coody said as of this afternoon we have a signed contract with Mr. Keenan so that we can avoid this condemnation.

Mr. Williams said I would suggest that you indefinitely table this resolution, which is sometimes known as killing it.

Alderman Thiel moved to table this resolution indefinitely. Alderman Jordan seconded.

Alderman Marr said he would abstain; he has a personal business relationship with Mr. Keenan.

Mayor Coody thanked Mr. Keenan for working with the city on this. I made a personal guarantee that this project would not lag, drag or slow down, so once we kick this off I will be taking a personal interest in making sure that this gets done as quickly as possible.

Upon roll call the motion passed 7-0-1 with Alderman Marr abstaining.

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. The ordinance was tabled at the February 4, 2003 meeting.

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

NEW BUSINESS:

ANIMAL CONCERNS COMMITTEE: A resolution establishing an Animal Concerns Committee.

Alderman Thiel said Mayor Coody I brought this forward and I am passing out some amendments to the original resolution based on recommendations coming out of our retreat to reduce permanent citizen committees and some of the concerns made to me about his committee I have the following amendments to the resolution, it now reads to establish it as an ad hoc committee, to serve until such time as a successful spay/neuter program has been established with a major reduction with the number of animal being euthanized at the City's animal shelter. I would also like to increase the number of at large members from three to four. I would also like to add term limits to the Humane Society of the Ozark members. They will have the same terms as the citizen-at-large member.

Alderman Dais said I think of an ad hoc committee being something that lasts for 6-12 months; I don't look at something that lasts for 3-4 years when I think of ad hoc. and you are talking about having terms for everybody of 3-4 years at a time.

Alderman Thiel said I don't know if there is any particular length of time for an ad hoc committee because the Tress and Trails Task Force has been going on now for almost three years. I think that I am trying to specific a time until such time as a successful spay/neuter program has been established with a major reduction with the number of animal being euthanasied at the City's animal shelter. I think that is the main reason that his committee has been meeting, there were concerns from the general public and the Human Society. The Human Society of the Ozarks paid for and built the clinic at the animal shelter and contributed a large amount of the revenue and fund raising to build the new shelter so they felt like they had a lot at stake out there.

Alderman Dais said how you establish a measurable reduction. Is that 50%, 100%, I am just asking how do you determine that.

Alderman Thiel said we have the shelter director here and our new veterinarian here, possibility they could elaborate on the need for this committee and possibility they could help me out on what constitutes measurable if you do want some percentages. That is a good question.

Alderman Marr asked on the membership makeup, it was my understanding there was some discussion on dissolving the Human Society. Have there been discussions about that and if they are how do you plan to adjust the membership if that group doesn't exist any longer.

Alderman Thiel said that has not been discussed publicly to my knowledge. I don't think that is going to be an issue at all. They are having some reorganization problems and whenever their membership discovers that there is an issue, there will no longer be an issue. There has been a

resignation of the President, Vice President and secretary, but the treasurer is still there. I think in a very short time you will have new officers; there is still a full board.

Alderman Marr said the reason he asked is that if it wasn't going to exist that this is not back in front of us 6 months later.

Mayor Coody said this committee was started back when we got surprised by the letter from the National Humane Society about some concerns at the animal shelter, we didn't have a vet in place and we had a problem keeping a good vet down there. We thought about making a Vet/Director combined position which did not set well with the Humane Society folks so I asked some people to get together to form an ad hoc committee to help get some of the issues resolved at the animal shelter that I think are now resolved. From my perspective the purpose for that ad hoc committee with the hiring of Dr Moore and resolving the other problems down there, I think the committee has basically has done a very good job in fulfilling its original intent. Mayor Coody asked Rick Hoyt, Police Chief to address the Council since he is over that department.

Chief Hoyt said I would hope you would not vote on this tonight due to the fact that there have been some changes in it, table to another meeting so the Police Department can take a look at these changes. I was unaware until you brought them up that there was going to be some changes. I was under the impression that the resolution was to establish a permanent city committee and I had come prepared tonight after consulting with my staff and members of the animal division to actually oppose the establishment of a permanent committee for a number of reasons. Bear in mind that my remarks are aimed at establishing a permanent committee. In January of 2003 of this year there was reorganization and it was announced that the Animal Services Division was now going to be under the Police Department. After talking with my staff and the staff of animal services we did not see the necessity of formalizing the Animal Concerns Committee. The current committee was formed in April of 2002 because of specific problem that had faced the Animal Shelter, since that time these problems have been address. I put Captain Frank Johnson of the Animal Services division; he will continue the best practice possible. Mr. Sumek talked about the down swing of committees across the nation and that task a task force seems to be a better way to go, because you have a starting and ending point. This Council has had discussion in the past about limiting the committees that you have. I think with the leadership and the management that the Police Department brings to the table, I do not see the necessity in formalizing this committee. I think you should here from members of my staff and the Animal Services people here to form your opinions any further. I would say for the time being you should table this until be can look at the amendments that have been offered.

Captain Johnson with the Police Department said Dr. Moore and Jill Hatfield have a lot of good ideas. Things are going pretty good right now in my opinion.

Jill Hatfield, the Director of the Shelter said the overseeing of the Police Department for our division is a very good transition for us. We feel very comfortable that we are on the right track. Dr. Moore and I have come together to try to improve our services and make people aware of

what we are about and what we are trying to do. I really wanted to reach out to the citizens of Fayetteville; I was hoping that the Animal Concerns Committee would help me do so. Throughout our meetings it has been very disheartening to see that not more citizens come to us. My time is invested heavily within that committee, sometimes it puts precedence over priorities that I feel that needs to be addressed. I would like to see me be able to reach out more to the community. At this point in time I am not getting service complaints. I would like to see a lot of my time spent in the community.

Alderman Rhoades asked as a committee how will it help you do that.

Ms. Hatfield said it is not, citizens are not coming to the Animal Concerns Committee to talk to us about complaints and that is not happening. We have had three citizens come to the committee meeting, they are the same citizens, we talk about issues that are important, but I don't think I am getting results.

Alderman Rhoades said maybe a committee is not necessary at all maybe what is necessary is whatever is keeping you from doing your job to the perfection that you are looking for; get those roadblocks taken out of your way vs. having this committee. I am having difficulty understanding what this committee will do to lower the number of dogs and cats that we are having to deal with.

Alderman Thiel said she was not aware that the Police Department and the Animal Services was not happy with this committee, this is a major surprise to me tonight, it would have been nice if someone would have let me know in advance of this, I would probably pulled it. I discussed this via email that this proposal was going to be on here. The committee has served the purpose to this point, we have lost two vets since this committee was formed, we finally have one now, I certainly hope that you keep her. That is largely why this committee has stayed active because there are some issues down there. I certainly don't want you spending one night a month at this committee meeting taking away from you going out and doing public service, I think you should go to the Ward meetings and Council of Neighborhood meetings. I also saw this as venue also for being televised and being a way of publicizing events, but you are right we don't have good attendance. I have no problem pulling this, we have a meeting scheduled for Thursday and I will let you contact everyone via email that this committee no longer exists and we can start this up again if there is another issue.

Alderman Rhoads said he thought that is probably the right thing to do and I did not mean to put you on the spot, because my questions were just pure ignorance I don't know much about the subject but I think that is probably the best idea. If things need another set of eyes so be it.

Alderman Thiel said this probably the last shot that we are going to get at a veterinarian and I just hope it works out.

Alderman Lucas said I don't think they have a problem with the committee, they feel like they can reach out to the community, better in a different way since there is not a participation from the community coming to the committee meeting.

Alderman Marr said the committee was suppose to end on 12/31/2002 and now we are in March. She like other aldermen was asked to look at certain committees at our retreat at the Airport. Is there any action that needs to be done to dissolve it or does it dissolve by the nature of not creating a new resolution of an ad hoc committee?

Alderman Thiel said just us notifying the member that there is no longer a committee.

Alderman Marr said I just want to make sue that whatever we are deciding tonight we are doing it in the point of order.

Mr. Williams said he is not aware of any resolution that formally established this even as an ad hoc or task force. Therefore you would not need any type of resolution to de-establish it. It might be that since the Mayor originally asked them to serve it might be that the Mayor may want to send them a letter to thank them for their service and the fact that the original purpose of the task force has been met and he is appreciative of them helping Fayetteville get past the problems that were in existence at that point in time.

Alderman Thiel said the Mayor did not form it, she did.

Mr. Williams said then it should come from you with the same sort of information though that we certainly appreciate all the work that they have put in and that it has showed good results, they have accomplished their task.

Alderman Thiel said absolutely, I think Jill would testify to that.

Ms. Hatfield said the committee has been a big help, we have been through some rough times as Brenda says, it has been a big challenge and they have been very helpful so I don't want to say that there weren't issues talked about and discussions that weren't valid. I do want to thank her and the other members of the committee. It was s good thing.

Mayor Coody congratulate the Shelter and Dr. Moore, there have been some really good stories in the paper about the new programs that you put in place and the work that you are doing down there.

Ms. Moore thanked the Mayor and the City Council members for giving her the chance to have this job. The pet over population has always been a huge concern of hers and she feels like in this job she can finally make a difference and I do think we are making a difference in the short time that I have been there. I just want to assure you that we will continue to make a difference, not only are the public needs going to be met for the stray animals but also I think we are going

to reduce the euthanasia and increase the spay/neuter. I want to thank that committee and Brenda Thiel.

Mayor Coody thanked Ms. Moore for her hard work, the Shelter is going very smoothly down there. The Animal Shelter having the authority of the Police Department behind them has been a big help. Jill you have done a good job, Frank we are really pleased with your involvement and De. Moore. We appreciate you more than you know.

Alderman Rhoads said he firmly supports what you all are doing, I appreciate the fact that Brenda started this thing rolling in the first place and I also appreciate her flexibility tonight as we looked at the issue and then pulling back on it, I think that was great.

Alderman Thiel moved to table this resolution indefinitely. Alderman Marr seconded. Upon roll the motion passed unanimously.

SENATE BILL 407: A resolution to express the City of Fayetteville's opposition to Senate Bill 407 prohibiting most zoning and regulation of mobile homes.

Mayor Coody said this has been brought forward by the State Legislature to regulate mobile homes anything built before 1976 I think would be a mobile home anything after that would be considered manufactured housing and we would be forced to allow them in a particular zone in Fayetteville. Mayor Coody asked Mr. Williams if he had any other input.

Mr. Williams said this was presented by Alderman Thiel so I should probably allow her to go forward first with any comments that she would like to make.

Alderman Thiel said she passed out some information from the Northwest Arkansas Regional Planning Commission's Executive Committee sent pointing out that they have voted unanimously to express their opposition to Senate Bill 407. Bill 407 would not allow cities to regulate or set standards for mobile homes, our UDO currently allows mobile homes in mobile home parks and on three acre agriculturally zoned lots in certain circumstances. If this passes we would be required to allow mobile homes in our residential zones without the same regulations and conditions imposed on other single family dwellings. The bottom line is that planning and zoning issues should be decided by the local government who listens to their citizens directly affected by these zoning decisions. I strongly support that we adopt this resolution and send this message to general assembly that they not pass SB 407.

Mayor Coody said I think this comes up in the committee meeting tomorrow so if this is approved tonight we will be sure and fax it down first thing in the morning.

Alderman Davis thanked Alderman Thiel for bringing this forward; I think this is something that we probably were not aware of.

Mayor Coody said the Municipal League has been very adamant in support upon rule and municipalities being able to determine their own futures and this is something they opposed.

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

RESOLUTION 40-03 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

NARENDRA KRUSHIKER BID WAIVER AND COST-SHARE: An ordinance approving a cost-share and bid waiver in the amount of \$ 25,491.00 with Narendra Krushiker for the construction of approximately 650 feet of 8" water main.

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.

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

Mr. Williams read the ordinance.

Shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4469 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 03-6.00 (Brophy): An ordinance approving a rezoning as submitted by Bill Rudasill on behalf of Ralph Brophy for property located north of Township and east of 71B. The property is zoned C-2, Thoroughfare Commercial and contains approximately 1.65 acres. The request is to rezone to R-3, High Density Residential.

Mr. Williams read the ordinance.

Mr. Rudasill said that we have an arbitrary line established by the city wide rezoning, which created a straight line which didn't follow any property lines and we have a piece of property that has some property lines that cut into a portion of the commercial property, but that commercial property is basically land locked, it is too small to do anything with. It is attached to a portion of land that was originally planned as a multi-family R-3 type development, with townhouse type homes, so this is to resolve that issue of the arbitrary line that was established by the zone to bring the R-3 back to the property lines.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded. Upon roll call the motion passed 6-2-0. Alderman Thiel and Marr voting nay.

Mr. Williams read the ordinance.

Alderman Thiel said she would like to leave this on this reading until the council has a chance to look at this.

Tim Conklin, Planning Department said why the petitioner has asked for a re-zoning is to take what has been platted, zoned already R-3 up against Brophy circle and take the back portion of those lots that are zoned C-2 and make those R-3 also. It is already developed down the hill on College Avenue this would just make the entire lot zoned R-3.

Alderman Thiel said so you are taking some C-2 and making it R-3.

Mr. Conklin said there are some existing lots; access to this property is from Brophy Circle. The back portion of these lots is zoned commercial. We are taking on Brophy Circle you have the majority of the lot zoned R-3 currently, as you move down the hill toward College Avenue this same property owner has a portion of that lot zoned C-2, we are trying to make all of the lot the same zoning district.

Alderman Thiel said she personally would like to go look at this and see how steep this is, how it relates to the commercial property down below.

Alderman Marr asked will this allow additional density in this area, is there plans for additional building.

Alderman Reynolds asked is this to correct a mistake or is it to make room for more building.

Mr. Rudasill said the commercial line basically runs through the middle of these properties and it is a property that was approved as a multi-family project in the past.

Alderman Thiel said one of our priorities at the Retreat was to look at down zoning or rezoning and our zoning on hillsides, because we need look at the density that we are creating on our hillsides. That is why I would like for us to go visit this. I have no way determining how this slope is and how that impacts that hillside. This is in close proximity to College and we just looked at another area just a little further on and we are very reluctant about zoning it multi-family because of the proximity to the commercial area. So if we are going to do it in one circumstance we need to at least go look at this.

Alderman Marr said he agrees with Alderman Thiel. I think our priority of the study of hillside zoning's we need to at least take a tour and look at it. I would defer to our Ward III Aldermen

who represent that area, we are directly on the other side of the road which we represent which is a hillside and I don't want to have someone come back later and say significant multi-family makes it okay to rezone this on the right. I am going to have a real problem with density on our hillsides when we have that as a priority of study. I think it is very smart for us to go look at it first.

Mr. Rudasill said he had no problem with that. We can do the last reading next meeting or whenever it needs to be done and I can show you what I am talking about and explain it. It is not usable as commercial and it's creating a situation where the R-3 is not usable either because it cuts right through the developable portion of these lots. The access to it is through R-3 and R-1 development so there is no way to get commercial traffic into the property.

Alderman Davis said that is fine if you want to wait until the next meeting, I know that this came before the Planning Commission and there was nobody that night that opposed this, I have yet to receive any phone calls regarding this issue.

Alderman Marr asked is there currently some type of buffer between the commercial on College, a tree buffer or anything before it actually gets to the residential area.

Mr. Conklin said it is going up a fairly steep hillside, almost like a bluff. This recommendation from Staff and the Commission is not rezoning an entire lot or an entire area for development. We are looking at a split zone on a piece of property that is already currently zoned R-3. One of the discussions that we had with Mr. Rudasill and the applicant was that the applicant thought that maybe all of this should be rezoned commercial up there. It is partially zoned commercial and partially zoned multi-family. Staff is more in favor of matching the residential zone that is up there since it is between College and the R-3 up against Brophy Circle. We are not recommending rezoning an entire lot to R-3. We are recommending rezoning a portion of a lot that is currently zoned C-2 to what is up there already. Brophy Circle has developed with some duplexes and apartments; it is not an undeveloped area except at the end of Brophy Circle where you have these lots that are split zoned. Taking a look at it helps to understand what we are looking at and the decision that we are trying to make.

Mr. Rudasill said when you do that Council Tour if you would like for me to meet you out there.

Mayor Coody said generally at 4:30 on Monday afternoon we will be taking a tour that day. That will be March the 31st. You can get with Tim on that.

The Ordinance was left on the second reading.

RZN 03-12.00 (Broyles): An ordinance approving a rezoning as submitted by Jerry Kelso of Crafton, Tull & Associates on behalf of Tom Broyles for property owned by Helen Adams and located at the northeast corner of 18th Street and Futrall Drive. The property is zoned I-1, Heavy Commercial/Light Industrial and contains approximately 17.65 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Jordan said he had not had any complaints.

Alderman Lucas said she had not had any either.

Alderman Jordan said the neighborhood seems to be alright with it, I have talked to Tom and looked at the plans.

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

Mr. Williams read the ordinance.

Shall the ordinance pass. Upon roll call the ordinance passed unanimously.

ORDINANCE 4470 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Announcements:

- Ward I meeting at the Yvonne Richardson Center at 6:00 pm, Monday, March 24, 2003.
- Ward IV meeting City Administration Building Room 111 at 7:00 pm, Monday, March 24, 2003.
- The Nominating Committee will be meeting on Wednesday, March 26, 2003 at 4:00 pm, Room 111 to interview applicants for city committees. If you will get me your comments, for those Aldermen that are not on the nominating committee.

Meeting adjourned at 9:00 pm.

Sondra Smith
City Clerk