Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council Meeting Minutes March 15, 2005

A meeting of the Fayetteville City Council was held on March 15, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Alderman Rhoads was absent until 6:10 PM.

Pledge of Allegiance

Moment of Silence for Brandon Smith: Mayor Coody asked for a moment of silence for Brandon Smith who died over a year ago in Iraq.

Mayor Coody: On behalf of the City Council and everyone in Fayetteville for all the folks that have family and friends in Iraq we wish everyone well. For those who have lost family and friends, our condolences.

Mayor Coody asked the Council to add a report from Burns McDonnell on the progress of the wastewater plant to the agenda.

Alderman Jordan moved to add the report from Burns McDonnell to the agenda. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Jerry Sondereggar, Burns McDonnell gave the report to the City Council. He stated increases in material are affecting the budget. He said they have some possible cost saving measures ready in case the budget is affected or the bids that we receive are higher than we think. We are looking at purchasing the pipe for the project and keeping it in a city yard. He also discussed the scheduling for the project. He said they do have a target schedule for each one of the individual projects. The start date is kind of a moving target right now even though the designs are ready; they can't be advertised and started until some other aspects are completed. There are a lot of permits that are required. The 404 permit has been completed as soon as the Corp of Engineers signs it that 404 permit will be official. We are expecting EPA approval any day of the effluent limits that have been set for the west side plant. When those two things are done then Soil and Water can issue the finding that there is no significant impact to the environment, at that point we are pretty much done with the permitting. The loan closing depends on these items being complete. There could be as many as 200 easements to be obtained on the 30 miles of pipeline. Soil and Water doesn't allow us to start the project until we have a clear site certificate that means the city has the right to be on the land. The target for completion of the Noland Plant is 24 months we feel like we can reach substantial completion on the Noland Project by the end of 2006. The west side plant is more complex, more expensive and a much bigger job to handle. It also has a 24 month completion schedule. I think we can have that project substantially completed by the spring of 2007.

Nominating Committee Report: Alderman Cook gave the Nominating Committee Report. A copy of the report is attached.

Alderman Lucas moved to approve the Nominating Committee Report. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the Minutes: Approval of the March 1, 2005 City Council meeting minutes.

Geological Survey: A resolution approving a joint funding agreement in the amount of $16,235.00 with the United States Geological Survey for three (3) Urban Stream Gauging Stations in Fayetteville for the year 2005.

Resolution 46-05 as Recorded in the Office of the City Clerk.

Purchase Four Skid Steer Loaders: A resolution approving the purchase of four (4) Skid Steer Loaders with two (2) hydraulic breaker attachments, one (1) planer attachment, one (1) utility bucket with digging teeth, and two (2) forklift attachments from Williams Tractor Co. at a total cost of $123,113.00.

Resolution 47-05 as Recorded in the Office of the City Clerk.

Williams Tractor Co. Backhoe Purchase: A resolution approving the purchase of Five (5) medium four-wheel-drive loader backhoes from Williams Tractor Co. at a total cost of $268,240.00 for use by the Water and Sewer, and Transportation Divisions.

Resolution 48-05 as Recorded in the Office of the City Clerk.

Bale Chevrolet Vehicle Purchase: A resolution authorizing the purchase of one (1) half-ton extended cab 4x4 pickup truck from Bale Chevrolet at a cost of $17,868.00 for use by the Water & Sewer Division.

Resolution 49-05 as Recorded in the Office of the City Clerk.

Beaver Lake Concrete Bid Approval: A resolution awarding Bid #05-09 and approving the purchase of Ready-Mix Concrete from Beaver Lake Concrete in the amount of $350,000.00 to be used by various divisions of the City of Fayetteville.

Resolution 50-05 as Recorded in the Office of the City Clerk.

Construction Materials and Services Bid Approval: A resolution awarding bids for and approving the purchase of bulk materials and services utilized by various divisions of the City of Fayetteville in the amount of $1,156,000.00.

Resolution 51-05 as Recorded in the Office of the City Clerk.

McClelland Engineers Agreement Kings Drive Improvements: A resolution to approve an engineering services contract with McClelland Consulting Engineers, Inc. in the amount of $26,479.50 plus a contingency in the amount of $4,000.50 for a study of options for the Kings Drive Improvement Project and to approve a budget adjustment in the amount of $35,000.00.

Resolution 52-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

PUBLIC HEARINGS:

Mayor Coody Opened the Public Hearings

Raze and Removal of 1101 Indian Trail: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Mohsen and Rhonda Khodabandeh located at 1101 Indian Trail in the City of Fayetteville, Arkansas.

Chad Ball, Code Compliance: October 10, 2004 the fire department responded to a structure fire at this address. The structure has a lot of fire and water damage to it due to the fire. It has deteriorated to the point that it is no longer safe. The property owner has been notified and as of today there are no open permits. Staff recommends approval of the raze and removal.

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

Resolution 53-05 as Recorded in the Office of the City Clerk.

<u>Highway 71 East Square Redevelopment District #1 Project Plan Amendment No. 1:</u> A Public Hearing to allow all members of the public and representatives of taxing entities to present their views on the Proposed Project Plan Amendment No. 1 for the Highway 71 East Square Redevelopment District Number One.

Tim Conklin, Director of Planning and Development Management: One of the changes was the inclusion of approximately $180,000 worth of sidewalk work. The $180,000 is funded from the proceeds from the sale of the property the district will assemble as part of this project when they sell it back to the developer.

Kit Williams: This that was prepared by Tim Conklin should be accepted by acclamation by the City Council as the exhibit to the ordinance. When this ordinance was read there was a different exhibit. I would actually like a motion to substitute the original exhibit that was attached to the ordinance and place this as the exhibit. This is the project plan that was prepared by Mr. Conklin and handed out to you last week.

Alderman Rhoads moved to replace the previous exhibit with the current exhibit. Alderman Marr seconded the motion. Upon roll call the motion passed unanimously.

John Nock: Gave an update on the TIF project.

Kit William: As you asked me to do I prepared a resolution pursuant to your conversations with Superintendent New.

Mayor Coody: I think this would be the time to discuss that.

Kit Williams: I have handed out a copy of the resolution. It would have to be placed on the agenda by suspending the rules.

Alderman Jordan moved to add the resolution to the agenda. Alderman Marr seconded the motion. Upon roll call the motion to add the resolution passed unanimously.

The following resolution was added to the agenda:

Highway 71 East Square Redevelopment District City Council's commitment to not propose additional Redevelopment Projects: A resolution to express the City Council's commitment that after the bonds for the initial Project Plan have been paid the City Council will not propose additional Redevelopment Projects in the Highway 71 East Square Redevelopment District without the consent of the Fayetteville School District, Washington County, Fayetteville Public Library and Police and Fire Pension Boards.

Mr. Williams read the resolution.

Mayor Coody: A letter that we have received from Booby New of the Fayetteville Public Schools reads *the Fayetteville School District has reviewed the resolution outlining the City Council's intent to not propose future redevelopment districts without the consent of Washington County and the Fayetteville School District. Therefore the Fayetteville School District will support the city's proposal to immediately move forward with the plans to sell tax increment financing bonds secured by 3.16 mils for the purpose of the amended project plan Highway 71 East Square Redevelopment District. We are appreciative of the Mayor and the City Council for their willingness to involve the School District in this important project. Their efforts have strengthened the relationship between our two organizations.*

Alderman Jordan: This basically means the school systems are on board with this TIF as long as we do not do any more in this area.

Mayor Coody: Basically once these bonds are paid off that we wouldn't just extend the increment to another project without their partnering with us.

Alderman Marr: Does it prohibit the city from doing additional projects or just requiring that it be a collaborative effort between us and the school district.

Jeff Erf: I would suggest you amend the resolution to also include the other government entities, the Washington County Quorum Court, Fayetteville Library Board and the Police and Fire Pension Boards.

Kit Williams: Washington County actually is included here. The two major taxing entities and the ones that are listed in the statue as taxing entities are Washington County and the Fayetteville Public Schools. Even though there is a mil appropriated for the city library and four tenths of a mil for each of the pension funds they are not listed in the statue as taxing units. Whether or not the court would find them as taxing units, I am not sure. I think the city might be the taxing unit for them because we are listed as the taxing unit. We did submit this to the school district for their approval so I would recommend that it remain as is requiring the consent of both the Fayetteville School District and Washington County before a future project would go forward.

Alderman Ferrell: Would there be any problem in using language like Mr. Erf suggested?

Kit Williams: If you wanted to amend this by adding other groups you can certainly do that.

Mayor Coody: The down side to that would be instead of having three people to get the consent of we would have a large number of people to get the consent of and if one says no then it would be against the intent of this resolution.

Kit Williams: It is going to be very difficult to get the agreement anyway so you can basically add whoever you want to. I don't think the final affect is going to be much different.

Alderman Ferrell moved to amend the resolution to add the Fayetteville Public Library and the Fire and Police Pension Boards. Alderman Reynolds seconded the motion.

Alderman Marr: I will support it because I think that the interest of all the groups is the same.

Upon roll call the amendment to the resolution passed unanimously.

Alderman Jordan moved to approve the resolution. Alderman Marr seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 54-05 as Recorded in the Office of the City Clerk.

Mayor Coody Closed the Public Hearings

UNFINISHED BUSINESS:

Highway 71 East Square Redevelopment District #1 Project Plan Amendment: An ordinance amending the Project Plan for the Highway 71 East Square Redevelopment District Number One, finding the Plan is economically feasible and declaring an emergency. ***This ordinance was left on the first reading at the January 25, 2005 City Council Meeting. This ordinance was left on the second reading at the February 1, 2005 City Council Meeting. This ordinance was left on the third reading at the February 15, 2005 City Council Meeting and tabled to the March 1, 2005 City Council Meeting. This ordinance was tabled at the March 1, 2005 to the March 15, 2005 City Council Meeting.***

Alderman Thiel: How long would it take for the city in your estimation to recover the cost through a regular condemnation of the Mountain Inn and why would it not accomplish the same goal as doing this TIF?

Kit Williams: There are some problems with the condemnation. The problems are if we do a raze and removal that does not mean that we own the property we would have a tax lien on it. Part of the problem with that is the Mountain Inn itself; there was a part that was built in the early 60's that has the parking deck and the newer part of the Mountain Inn. The parking deck seems to be in pretty good solid shape. I am sure I would hear arguments from the owner that it doesn't qualify for a raze and removal. It would be very difficult to raise and remove the building on top of the parking deck without doing something to the parking deck. That is one issue that we might face in court. Another issue is the old part of the Mountain Inn which is only about a third of the original building, that building has people living in apartments that have been rehabbed and remodeled and is not in bad shape. Therefore we would be in court asking the Judge to let us raze and remove a portion of that building and I can see some problems with that.

Alderman Thiel: How long do you think it will take to get a ruling from the Supreme Court and what will prevent illegal exaction lawsuits from being filed in the mean time?

Kit Williams: I could not as a City Attorney support this project without the authority to at least attempt to prevent an illegal exaction suit from being filed or being successful. This law is brand new it has never been interpreted by the Supreme Court and it is not very clear in some of its context. I think the only way to attempt to not allow an illegal exaction case to be successful is to file a declaratory judgment action and ask the court to determine how the tax increment millage should be divided and also ask the court not to allow any division of the tax increment millage until the court rules. The act allows for advancement on the docket. That means you can ask the court to speed up your case. The good thing is there is very little tax increment the first year or two. There would be very little funds that the court would have to sequester and hold back prior to the final decision of the Supreme Court. I think the ruling from the Supreme Court will be in 2006. The benefit of this suit as opposed to the condemnation case is that we don't have difficult, confusing or conflicting facts that we have to argue about.

Alderman Thiel: A bill is pending in the legislative which would prevent the library millage from being used for this project and the same measures may take place for the fire and police millage. What happens if the millage for the library and for the fire and police cannot be used for this TIF and what if the Supreme Court rules that the schools 4 mils cannot be used?

Kit Williams: Well there is always going to be some millage available but I would have to pass most of those questions on to our financial advisors. Usually a statue that has not been enacted before, bonds have been let in reliance upon the current law, that law cannot change the law. Our procedure would be grandfathered in. There is a problem with trying to resolve some of these issues with tax increment financing through state legislation. I think some of these issues are involved in the actual amendment itself, the constitution. That can't be altered by legislation usually.

Alderman Thiel: If the library is used for this project how will the difference needed to pay for the library's operational expenses be made up?

Kit Williams: That comes from the City Council. The City Council has always used General Funds to help fund the library. We have for years subsidized and sustained the library and I would imagine that's what the City Council would do in the future.

Alderman Thiel: So the city will be expected to come up with the difference in their loss then?

Kit Williams: Just like they are doing this year. For the difference in what money they have in their one mil as opposed to what they need to operate the library.

Alderman Ferrell: I don't think there are any friendly lawsuits. This will be a lawsuit asking for declaratory judgment is that correct?

Kit Williams: That is correct.

Alderman Ferrell: If the city files suit for declaratory judgment then we are necessitating the entry into the suit by the Fayetteville School Board, Police and Fire Pension Funds, Fayetteville Public Library and there will be legal cost to the citizens of Fayetteville and the other entities that I mentioned is that correct.

Kit Williams: Actually since I will probably be handling the case for the City of Fayetteville I don't think there will be legal cost beyond printing briefs and things like that which basically comes out of my budget.

Alderman Ferrell: If there is some outside litigation on this what is your best guess on how long this will be in the courts before you get a final resolution?

Kit Williams: I do not expect a final resolution this year. I think we will get a final resolution by the end of next year and hopefully sooner than that. I think we can all agree on the facts.

Alderman Ferrell: Have you had any local legal professionals advise you that in a sense this could be opening Pandora's Box?

Kit Williams: None of the illegal exaction experts that usually sue the city have been in contact with me.

Alderman Ferrell: I am just talking about general attorneys.

Kit Williams: Obviously there is no guarantee. There is a risk in everything. The basic decision is do you want this project or not. If you don't want to go through with the project then don't do it, if you want to go through with the project the safest way to go through with that is to file a declaratory judgment action and get the protection of the court.

Alderman Ferrell: Your contention is the safest thing would be to file for declaratory judgment as opposed to a condemnation order on this property?

Kit Williams: No. Here is the issue that you all have to decide do you want to do this project or do you want to just go ahead and use the procedures we have to try to condemn the Mountain Inn which is another difficult lawsuit. If you want to make this project work then the safest legal thing to do at that point is for me to file a declaratory judgment action to try to give us the best protection I can from any illegal exaction suits.

Alderman Ferrell: I think everyone wants this thing done. They want to see something happen to the Mountain Inn. A lot of people have reservations about being sued. It's not that we don't want something done there it's just do we rush into something. What would happen if there was a mandated rollback of millage?

Kit Williams: I think Amendment 78 said it was not affected by that. I would defer to our bond counsel.

Gordon Wilburn: As I recall the language in Amendment 78, I would have to look at it specifically; the language that I remember is the increase in value in the district is not taken into account for purposes of determining whether there is a roll back. So, all these new projects wouldn't go into the calculation but there could still be a rollback.

Alderman Ferrell: The biggest thing from the calls that I received was that if we raze and remove this place and we sell it for $300,000 they think that opens us wide open.

Jeff Collins, Center for Business and Economic Research: I have a vested interest in the credibility of our work. I think it is very important that in any study where you are looking at events which may happen in the future there are a set of assumptions that have to be made. In the course of our study we made what I consider to be very good sound assumptions. We also tried to include some sensitivity analysis in terms of what scenarios might occur trying to figure out what the worst case scenario in our estimation would be of the change in property values and therefore the revenues that would be available to pay off the bonds from any TIF District. In the worse case scenarios that I have heard talked about this TIF District would be probably one of the least of your concerns. If you had that level of economic activity that was forcing property values to grow at that low of level, I think there would be a lot of other tax issues that would also be problematic. We have tried to give you as competent of an effort as possible rooted in sound economic theory and practice.

Alderman Jordan: Basically what you are saying is if the TIF District begins to go bad that will be the least of our worries in this city.

Jeff Collins: You have to understand that the TIF District and the properties in the TIF District if they are not growing what it means is that the overall economic climate is such that you will have all sorts of revenue problems. This will only be one of many.

Alderman Marr: Based on your knowledge of the economic status of our region what probability do you think there is of seeing that worst case scenario?

Jeff Collins: Personally I think it is very low. Back to 1994 we have unbelievable consistent job growth in the MSA. Now Fayetteville is one city in the MSA obviously there is a distribution of that growth however clearly Fayetteville has continued to prosper right along with the other communities that are further to our north. The bottom line factor that the primary drivers strong corporate growth both to the north and within the city are going to be there for quite a long time to come. I have no qualms about the five year projections and really not for the next 15 years.

Alderman Jordan: So you would say in your expert opinion this would be a pretty solid investment?

Jeff Collins: That in my opinion is absolutely correct.

Tim Smith: It concerns me when you say if everything goes bad one more thing is not that big of a deal. Why add one more thing. What is the role of government? I believe the design of government was to insure liberty it was not to ensure economic growth. Why is there not the amount of money necessary among the private sector to make it viable?

Louise Schaper, Executive Director of the Fayetteville Public Library: Thank you for allowing me to speak tonight and share with you the impact of the TIF on the Fayetteville Public Library. We know this is a very difficult and a very complicated decision for you all to consider tonight. Our funding is made up of a mix of primarily General Fund, Capital Improvements Funds and a one mil dedicated library tax voted on by the citizens of Fayetteville in October, 2002. To offset shortfalls it has been suggested by city staff that the library seek all of its funding from property tax. It would take about 3.5 mils to fund the library at present operating levels and 4 mils to fund it adequately. We would like to ask the City Council for their thoughts on the matter of increasing millage, is this in fact an avenue that you would like us to pursue in an effort to balance the overall city budget.

Ms. Schaper also gave an update and what steps the Library Board has taken thus far. She also voiced her concerns with the full 25 year impact to the Library if the TIF is approved. She explained what they have calculated that the library will lose over the course of the 25 year period. She stated if more TIF's are approved or if the number of projects in this TIF increases the loss to the library becomes even more significant.

We don't think that the city should have to choose between the library and the Mountain Inn project. We know that the City Council has a hard decision to make.

Alderman Rhoads: What does it take to run the library this coming year?

Louise Schaper: We are at about $2.6 million including our capital funds.

Alderman Rhoads: What will it take in 2029?

Louise Schaper: I don't have a plan for 2029 at this point.

Alderman Rhoads: How far out can you go?

Louise Schaper: It's really difficult to say at this point because this year everything is an unknown. This is the first year that we are in the building and we will not know what everything will cost until we complete this year. We are completing a long range plan that will take us out 20 years.

Alderman Marr: On this schedule is this only the revenue within the TIF as it relates to property tax and if so what percent of this is the total millage collected city wide.

Louise Schaper: That is the increment on the library's one mil that is captured by this TIF District.

Steve Davis: The TIF District makes up about 4.7% of the total property tax millage collected in the city in value.

Alderman Marr: In addition to this money there would be a 25 year projected collection that is also additional funding to this number?

Steve Davis: That is correct.

Alderman Marr: 93% more?

Steve Davis: Close to 95%. The caps of 5% on homestead property and 10% on all other property are Amendment 79 caps. A rollback is only triggered under Amendment 59 when the increase in total assessed value for the entire city goes above 10%.

A discussion followed on rollbacks.

Alderman Marr: I want to make sure I am looking at this correctly because I understand their concern. On the 26th year whoever had been frozen begins to collect their appropriate percentages or whenever the bonds get paid off which ever comes first. Isn't the payback at that point explicatively quicker since it is escalating in years 2021 – 2029 that the next five year period you make up almost the entire amount over the 25 period lost? Is that correct or roughly.

Steve Davis: Roughly.

Rick Alexander, Developer: I support the library. The project that we are proposing is going to generate in excess of 40 million in taxes. Many of those dollars will be at the city's disposal to spend. These numbers include the assessed value of the Mountain Inn the Mountain Inn should only be included if you do the project. If you don't do the project these numbers are inflated and really these kinds of tax dollars will not be generated. The maximum exposure in terms of revenue lost to the library, if they lost at all, would only be the $3.5 million. The project itself will generate 40 million in taxes.

Alderman Jordan: If we chose to we could take tax increment money and put it into the library?

Mayor Coody: What he is saying the sales tax generated from the project is going to go into the General Fund to supplement the Library.

Alderman Jordan: Indirectly basically that is what would be happening?

Mayor Coody: Yes.

Hank Broyles: Spoke in favor of the TIF District. He stated he supports this project.

Jeff Erf: My concern is that we are diverting public money that was intended for another purpose for private development. I am also concerned that the Council does not have a problem with that. He spoke of the language on the ballot for the one cent sales tax. He is concerned some of this may end up going to the Mountain Inn project. What is the city's total investment in this project when you include the bonds and the interest on the debt? It is potentially $13 million dollars.

Alderman Rhoads: I appreciate you coming to the Council meetings because I think you bring up excellent points. I also appreciate your emails. You indicated in an email that you had real ethical with what we are going to vote on. What are those concerns?

Jeff Erf: My concern is that you are diverting money that was intended for another purpose. I voted for the library millage and my understanding was at the time that that was to be used solely for maintenance and operation of the library. Now to find out later Council doesn't have any problem with diverting some of that money however limited. Even if it is legal I don't know if it is the right thing to do.

Kit Williams: I guess the ethical consideration is the fact that Amendment 78 was passed by the voters of the State of Arkansas and Amendment 78 specifically held that a TIF District could divert monies that normally would go to one taxing entity into the TIF District project. That was passed by the entire voter in Arkansas and the constitution overrides any other particular statues or other votes.

Ramsey Ball: I worked with the river market district in Little Rock and what I see here are similarities with the river market district in Little Rock. He spoke of the project in Little Rock, how the property values have escalated, more apartments and hotels. He stated it was really a transformation of that area. He said the only way you can achieve those types of developments is through a public and private partnership. I am proud of these types of development. I would appreciate your vote in approving the project.

Steve Rust, Economic Development Council spoke of the effort to get us to this point. He spoke in favor of the project. He urged the Council to be in support of this.

David McGeady, Radisson Hotel stated he believes that Fayetteville can easily sustain this project in downtown Fayetteville. He is in support of the project.

Sharon Hoover, Downtown Partners said the Downtown Master Plan identified the Mountain Inn as the number one project for redevelopment. She stated to do this project we need these developers. She explained different projects that these developers have been involved with in our town. She said they have a proven track record.

Daniel Hintz, Fayetteville Downtown Partners spoke in favor of the project.

Bill Ramsey spoke in favor in of the project.

Ron Woodruff spoke in favor of the project.

Steve Singleton asked the Council to remember the library during the budget time if this causes it to be short of funding.

Leslie Belden encouraged the Council to approve the TIF and not lose the other things that Fayetteville has going like the library.

Alderman Thiel: Where the figures given to us by the library based on the improvements to the Mountain Inn?

Louise Schaper: The figures that we showed you were the exact figures that the U of A study used.

Alderman Thiel: So they included the improvements?

Louise Schaper: Yes

Alderman Thiel: These figures would be much different if the Mountain Inn was not done.

Louise Schaper: Correct.

Alderman Thiel: That does change the way I have to look at this then because if that project is not done you would not stand to lose as much possibly.

Steve Davis: In the year 2029 with the Mountain Inn the district has an assessed value of $713,000,000. The Mountain Inn and related projects are worth $31,000,000 by 2029. There are other improvements along Center Street.

Alderman Thiel: The table that Louise showed us is that without the improvements?

Steve Davis: No, the table that Louise showed is with the improvements.

Alderman Thiel: There will still be a great deal of money that we will have to consider making up the difference on.

Steve Davis: On the millage that it would generate, yes. In year 9 there is $82,000 that is generated from HMR taxes while we do not have sales tax information we can use the HMR tax as a correlation to what the sales tax would have generated. If the City Council chose to allocate the incremental sales tax generated by this project to the library that would be a policy decision that you would need to make.

Alderman Thiel: What would we do if none of the mils from the library, fire and police cannot be used for this TIF?

Kit Williams: There would not be enough mils at that point to do very much. The City Council would still have within its power to raise millage itself. I think we have heard from our financial advisor that there are things the City Council can do in the future to insure that this district would be financially feasible and pay off the bonds.

Alderman Jordan: How much will the city have invested in this?

Bob Wright: That projected number that we expect is principle and interest is about $9 million before the bonds are paid off so if you net that against the projected $40 million of tax revenues generated.

Alderman Jordan: If the city had to demolish the building what would it cost?

Steve Davis: After we got through the court system?

Alderman Jordan: That's my next question.

Steve Davis: The estimate that we were given by the developers from their contractor was approximately $887,000 and you would have to get court approval to take it down.

Alderman Jordan: How much could it cost us to condemn the property and in legal cost?

Kit Williams: I don't think there would be substantial legal cost. However if we lost it would be possible that we would be hit with attorney's fees from the other side. It depends on what the court would award if we lost.

Alderman Jordan: Steve, in this area that we are looking at right now how would you compare that with growth to the rest of the city right now?

Steve Davis: Comparing 2001 and 2004 this grew at an average rate of 5.6 at the same time the city was growing at 8.34. So it is roughly 60% of the overall city growth.

Alderman Jordan: So in other words this area is growing very slow?

Steve Davis: Yes.

Alderman Jordan: When the Mountain Inn comes down will the property be more valuable than it is right now? Will that raise the property tax do you think in the area or do you think it will cause growth in the area once this eyesore is taken down?

Steve Davis: The only thing that I can see different about that part of town is the Mountain Inn and so is it a drag on the rest of the property values, I believe that Ron Woodruff indicated that there are numerous storefronts that are vacant along Center Street. I think the short answer to your question is yes. I think it is a drag on the entire downtown.

Alderman Jordan: Could you say that the area is almost more valuable with it torn down than it is with it sitting there?

Mayor Coody: It would be worth more because we would have more invested in it.

Alderman Jordan: Do you in your opinion think that this is a good investment for the city?

Steve Davis: I don't think the city will lose money at all. I think that the city will actually see growth occur as a result of this project being completed.

Alderman Jordan: So you don't think the city will lose money?

Steve Davis: No sir. I am 75% to 80% positive.

Alderman Reynolds: How are we going to make up the funding for the fire and police pension?

Steve Davis: Because we are not collecting any sales tax off of that property right now everything you get from it will be new money into the city treasury so the City Council can make that decision every year.

Alderman Reynolds: The county general operations and road millage are they going to get that back from our taxes too?

Steve Davis: Not unless you authorize it to be spent that way.

Alderman Reynolds: How are they going to recoup their loss?

Steve Davis: This is a very small percent of the entire county; it is probably less than a percent. They will also get funds from the sales of the court building due to this. We are talking about this TIF district paying off after 22 years not the full 25 years.

Alderman Reynolds: We are selling this property back to them for $300,000 but there are a couple of pieces of property in close proximity that just changed hands recently for around $500,000.

Steve Davis: The $300,000 was negotiated by the City Attorney because the appraiser placed the value of the raw land at about $220,000. The City Attorney actually negotiated more money out of the developer than the appraiser placed the value of the raw land at.

Kit Williams: You need to keep in mind that what is being asked of the City Council is to make an investment into this project. That is what you are allowed to do under a TIF that you can't do in other ways. I am glad they agreed to pay more than the appraised value. If we insisted they pay back all the money we spent then we wouldn't be making any investment into this project and I don't think it would be viable. The TIF statue itself talks about that you can use TIF funds to make up the difference between your accumulation cost when you accumulate land and when you sell it to a private entity for redevelopment.

Alderman Rhoads: Is the millage at a low right now compared to the past 14 years? The city's total aggregate millage is it less now than it has been historically?

Mayor Coody: The rate or the income?

Alderman Rhoads: The rate.

Steve Davis: Yes

Alderman Rhoads: This City Council or other City Council's in the future can raise that millage if they see something going awry in this TIF.

Steve Davis: That is correct.

Alderman Ferrell: Kit do you have a recollection of what the Council said when the sales tax was proposed about raising millage in the future?

Kit Williams: In 1993 the City Council asked the voters to go ahead and approve a one cent sales tax. At that time the city was operating using 3.8 mils. We indicated that if the voters approved the one cent ten year sales tax that would go from 1993 to 2003, that we would drop the millage, the 3.8 mils. After the election occurred that is exactly what we did. A couple of years ago there was another election on the sales tax. During that election no such statements were ever made saying the city would never look at millage again.

Alderman Ferrell: One of my concerns is some of the shortages that we have talked about tonight are going to prompt a millage increase or an attempt for a millage increase. That concerns me about the possibility of problems in the legal community.

Alderman Lucas: At the end of 25 years, worst case scenario we don't pay these off what happens?

Kit Williams: The TIF district would continue, the tax increment would continue paying the bonds until they are paid off.

Alderman Lucas: How much time is going to be involved with city staff on this building and the demolition?

Steve Davis: There is a city staff person that will be assigned to oversee the demolition phase. I expect it should be completed within three to four months. Then after that the site will be turned over to the developers and the city staff function will cease.

Alderman Lucas: I am concerned about lawsuits. There is really no guarantee that this will not happen.

Kit Williams: No, I certainly can't guarantee there will not be a lawsuit. That's why I think we need to file a declaratory judgment action. I would use that as a shield against illegal suits.

Alderman Lucas: I guess we need to determine if it is worth the risk to take care of this project. To me we are going to take care of the library whatever happens. The pension funds I am sure we will take care of. I feel good about this in that I trust Steve Davis and Kit Williams and the developers. I think they have done some good projects.

Alderman Cook: When do we hear how the marketing of the bonds did?

Bob Wright, Crews & Associates: I want to make sure that we understand that we would not be here tonight or anywhere near this project if we did not have the utmost confidence in the numbers that Dr. Collins and his department have put together. We have asked them for their most conservative projects on what this district is going to produce. We have used that report extensively, we believe in that report.

He explained their marketing strategy.

We have committed with your approval tonight $3,725,000 principle amount. With the 3.16 mils that is all we are projecting on the pay back of these bonds. That's what the investor when they are making the decision to purchase these bonds on the City of Fayetteville they are looking at just the 3.16 mils. We certainly have no additional requirements above that. These bonds actually pay off in 2026. The remaining revenues based on the U of A report when the bonds are paid off, $5.78 million. By getting the bonds marketed at the 6.5%, getting the bonds marketed without the need for that very inefficient debt service reserve that we knew would sit there for 25 years and cost you a float because you are paying 6.5% and you are going to earn 3% to 3.5%. By eliminating that you can see that knocking a whole year off the bond issue they are paying off in 20 to 21 years. That is really what we expect. The efficiencies are over a million and a half versus what we looked at last week. The two scenarios, the expected what the U of A provides and the stress test on a conservative basis shows the bonds do pay off with excess.

Mr. Wright also explained to the Council the presentation that was made to the investors.

This is an issue based on growth within the district itself, we have used that, we have relied heavily on the University's report, we believe in it and have every confidence that this bond issue will pay off pretty soon.

Alderman Lucas: What were the two things that made you change your projections?

Bob Wright: The two main factors that changed what you looked at last week versus this week one was we had projected an interest rate of 6.85% we actually locked in the bonds, upon your approval here tonight, at 6.5%. That certainly had a huge economic impact. Couple that with the fact that what you looked at last week was $4.1 to $4.2 million principle amount that included about $415,000 of a debt service reserve that was going to sit there for a period of time until the bonds were paid off. It was never going to be required but we also knew just from a starting point to get into the market to start discussing with investors that we needed it in there. Once they saw the documents we were able to get these bonds marketed without the need for that reserve fund and that certainly saved quite a bit of money.

Kit Williams: I would like to thank Bob for doing that. Tentatively you have commitments for the $3.7 million or the amount of bonds the City Council may authorize?

Bob Wright: At this point out of the $3.7 million since we did have such a short time frame last week, we were not actually able to start our marketing period until yesterday at about 3:00. At 2:00 this after noon there was about $1.2 million unsold at this point but if the city approves the financing there is no risk to the city whether or not those bonds get sold. Crews and Associates have taken that responsibility that we believe we will get those bonds marketed in a timely fashion.

Steve Davis: Typically underwriters make an underwriting decision somewhere between 70% and 75% of bond subscription. The fact that they had a 60% to 67% bond subscription with marketing less than 24 hours is a good sign.

Alderman Marr: I go back to do we want the Mountain Inn in the current state my answer is no we don't want it in the current state. Amendment 78 was overwhelmingly supported by citizens in the state of Arkansas. I think citizens in the state look at this as a viable financing option. I think there is a greater chance of higher litigation cost in condemning the land. I heard not even a 1% chance that the worst scenario will happen, a four year earlier payoff, and a 375 basis point better interest rate. I fully support the project.

Alderman Jordan spoke of what is blight and to him blight is the Mountain Inn. He stated he thinks it is a health hazard and a danger. He thinks it is an accident waiting to happen. I trust the developers. For this project to work we have to look beyond what is and look to what will be. I am going to support the project.

Alderman Thiel: I have had a lot of concerns about this but those have been cleared up. I think the Mountain Inn is a drain on our economy. I think we have to look at this as an investment. I am for this project.

Alderman Reynolds: I have not heard very many negatives tonight, if people are against this they should have been here tonight and spoke.

Alderman Rhoads: The only thing we have is risk reduction. I believe the university and Mr. Wright have used conservative numbers. We have good developers that care about our city. Competitors have stood up and say they are for it that means it must be viable. If things go awry taxes can be raised. The school board is in agreement with this project. There is some risk here but it is a risk well worth taking. I am for the project.

Alderman Ferrell: I still maintain the risk would be much less to condemn it and I don't think it would take two years.

Alderman Lucas: I was thinking condemnation would be the easiest way to go but I think the risk might be a little bit more when it comes to lawsuits if we go that route. The bottom line is we need to get rid of the Mountain Inn. I think after listening to everything tonight condemnation might be more of a risk than going this route, I think I am going to support this.

Mayor Coody said there have been a lot of people that have spent a lot of time on this. He talked about other projects in Fayetteville that were bold moves to complete. He stated this is going to be a milestone in the development of downtown Fayetteville.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Marr, Rhoads, Lucas, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no.

Ordinance 4683 as Recorded in the Office of the City Clerk.

Kit Williams: There is an emergency clause on this ordinance. I would like to ask our bond counsel if we need to go forward with the emergency clause.

Gordon Wilburn: I don't think it is necessary on the project plan ordinance. It will be effective before we issue the bonds.

Mayor Coody asked shall the emergency clause pass. Upon roll call the emergency clause failed 4-4. Alderman Marr, Jordan, Thiel and Cook voting yes. Alderman Rhoads, Ferrell, Lucas, Reynolds voting no.

NEW BUSINESS:

John Nock and Richard Alexander TIF Contract: A resolution to approve a contract with John Nock and Richard Alexander for their purchase of property to be obtained by TIF funding for $300,000.00 and for other matters.

Kit Williams explained the contract.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 7-1. Alderman Marr, Rhoads, Lucas, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no.

Resolution 55-05 Recorded in the Office of the City Clerk.

Highway 71 East Square TIF Bond Issue: An ordinance approving the issuance of bonds to be paid by tax increment financing to obtain necessary funding to achieve the Project Plan for the Highway 71 East Square Redevelopment District No. 1.

Mayor Coody: This item and the next item are combined together.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Marr, Rhoads, Lucas, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Ferrell voting no.

Ordinance 4684 as Recorded in the Office of the City Clerk.

Mayor Coody: Now we need to act on the emergency clause.

Kit Williams: I would ask our Bond Counsel, Gordon Wilburn what we need to do concerning the emergency clause. I think it is for the bond purchase agreement is that correct?

Gordon Wilburn, Bond Counsel: That is correct. That is the one action that we will take in the interim before the closing date which we are projecting to be April 19th. The one thing that has to be done now is the signing of the bond purchase agreement.

Alderman Jordan moved to approve the Emergency Clause. Alderman Marr seconded the motion. Upon roll call the Emergency Clause passed unanimously.

Mayor Coody: Now does that take care of number 3 on the agenda as well?

Gordon Wilburn: Yes.

Mayor Coody: So we can skip that one then. Okay. We will move to number four.

Highway 71 East Square Bond Purchase Agreement:

This item was included in the item above, Highway 71 East Square TIF Bond Issue.

CCG Systems; Fleet Management Software Purchase: A resolution approving the purchase of Faster Fleet Management software from CCG Systems in the amount of $96,174.00; and approving a Budget Adjustment in the amount of $25,565.00.

Alderman Thiel: It might be good to have a brief explanation of this.

David Bragg, Fleet Operations Superintendent: This is to basically bring the computer data base management of the whole Fleet Operation live where we will have live data available.

Also, people in the City Hall will have live data available to know what is going on. This will help us keep better track of our vehicles, the maintenance that we do on them and also to help track the timely replacement of those vehicles.

Alderman Reynolds: It has been through the Equipment Committee and approved.

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

Resolution 56-05 as Recorded in the Office of the City Clerk.

Dynamic Information Solutions Company, Inc. Sales Agreement: A resolution approving a sales agreement in the amount of $284,000.00 with Dynamic Information Solutions Company, Inc. for the purchase and implementation of an Electronic Document Management System; and approving a budget adjustment in the amount of $200,000.00.

Mayor Coody: Does this square with the latest resolution that was given to us, what I just read?

Kit Williams: Actually the amount should be $255,780.00. Is that what you read Mayor?

Mayor Coody: No, I read $284,000.00.

Kit Williams: Okay. So the actual sales agreement would be $255,780.00 but the budget adjustment remains the same.

Mayor Coody: Yes. So we are amending the amount from what is printed, but the resolution says $255,780.00.

Kit Williams: You probably should ask for an amendment to that affect. What has happened is they went back and looked at some of the things they were purchasing and the numbers did not add up exactly right, so we had to redraft the resolution to make it match the sales agreement that we had. I would ask that someone move to change the amount in the resolution to $255,780.00.

Lesa Brosch: Out of that $288,100.00 that we will be sending $255,780.00 is for the Dynamic Solution and $32,320.00 which would bring the amount to $288,100.00 is the hardware. You have to have the servers, the software, the license, and the scanners. That is the difference.

Mayor Coody: The resolution says $284,000 so it is different than the number you just said.

Lesa Brosch: It is rounded up.

Mayor Coody: So this resolution then doesn't account for the hardware that is anticipated.

Lesa Brosch: Right.

Mayor Coody: So which resolution should we go with the new amended one or the original.

Lesa Brosch: That is with Dynamic Solutions. When we purchase this through Dynamic Solutions you also have to have the servers to put it on.

Sondra Smith, City Clerk: The hardware that Lesa is speaking about will be purchased from other companies and will be under the dollar amount that is budgeted.

Kit Williams: It can't be within this resolution then if you are buying it from other companies.

Lesa Brosch: Right.

Kit Williams: This resolution covers one contract.

Mayor Coody: Yes.

Kit Williams: The contract with Dynamic Solutions.

Mayor Coody: Let's go ahead and approve the $255,000 right now.

Alderman Reynolds moved to amend the resolution. Alderman Marr seconded the motion. Upon roll call the motion to amend the resolution passed unanimously.

Alderman Ferrell: What is the life expectancy of this document imaging system?

Steve Davis, Finance and Internal Services Director: Because we are going to a digital capture the life expectancy is actually as long as we continue to capture data in a digital format, we can continue to upgrade the servers and the processes at a significantly lower cost. We will not have this type of expenditure, of this magnitude, I don't expect for another 15 to 20 years until the entire technology changes again.

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

Resolution 57-05 as Recorded in the Office of the City Clerk.

Data-Base Administrator Position: A resolution authorizing the hiring of one (1) full-time employee (Data-Base Administrator) by the Information Technology Division; and approving a budget adjustment in the amount of $41,847.00 to fund the position for the final eight months of 2005.

Steve Davis: Basically what we are asking for is a new employee. The reason that we have a need for this new employee is that we have multiple databases that the City has to maintain. Our technical staff in IT has not grown since 1997 and from 1997 through today our work load has increased substantially. Major software systems in 1997 that the IT technical staff maintained were three systems and today they maintain 10, that was before you added these last two. We still maintain one mainframe. We maintained in 1997 one network server, today we maintain 23. In 1997 we had 8 routers which are in bay stations, today we have 87. Our technical staff was 6 in 1997 and it is 6 today. So we are respectively requesting an additional person.

Alderman Lucas: You are doing a great job.

Alderman Marr: Was there a reason why this was not asked for at the budget process when we addressed the head count in November.

Steve Davis: Yes. These projects have been talked about for many many years and at the time we were developing the 2005 budget the highest priority, the most important that IT had was in the GIS staffing because of all the planning issues and the other mapping requirements. As we were looking at the constrained resources for 2005 I made the decision that if I was going to get additional resources for IT it was going to have to be in the GIS area because that was our most crying need. As has been previously indicated both the Fleet software and the document imaging system have been long running projects for the city. At the time we put the budget together we were still evaluating various options and I didn't know when the decision would be made to recommend a purchase. I did not want to tie up resources in a position that wouldn't be more fully utilized. It will be utilized with these new databases and that was the reason that I chose not to ask for a Database Administrator during the budget process.

Alderman Reynolds: Is this salary entry level or is it tops.

Steve Davis: No sir that's about entry level. That includes the benefits and all of the equipment necessary to have the work station available for them as well. I think it has about $5,000 to $6,000 of hardware in the $41,000.

Alderman Reynolds: Thank you.

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

Resolution 58-05 as Recorded in the Office of the Clerk.

Archer Western Construction, LTD Construction Contract: A resolution to approve a construction contract with Archer Western Construction, LTD. in the amount of $14,644,000.00 for improvements to the Noland Wastewater Treatment Plant and approving a contingency of $292,880.00.

Mayor Coody: Bob Davis you might mention that this $14,644,000 may be impacted on the generator question since we bought the generators that would have come out of this.

Bob Davis, Water and Wastewater Director: Correct. That would be in the neighborhood of $300,000 deducted from the total that you see there.

Mayor Coody: Of course that would take a change order, we would not know the exact amount until the contract is let and the change order is made.

Bob Davis: That is correct.

Alderman Jordan to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 59-05 as Recorded in the Office of the City Clerk.

Nock Investments, LLC Cost-Share Agreement: An ordinance waiving the requirements of formal competitive bidding and approving a Cost-Share Agreement with Nock Investments, LLC in an amount not to exceed $119,998.86 for improvements to the intersection of Persimmon Street and Rupple Road.

Mr. Williams read the ordinance.

Alderman Jordan: I have had a few phone calls and a few contacts from people that are concerned about that intersection, about the five lanes coming in and then Persimmon coming in with three lanes and children crossing at that area. Now I know there is not a danger right now but when that road is built all the way through from Highway 62 to Howard Nickel Road they are going to be moving in there pretty quick. I guess the thing that I want us to do and I want to get input from my peers here on this Council is that I certainly want to make that intersection as safe as I possibility can for those children crossing at that intersection. So, what can we do?

Ron Petrie, City Engineer: One thing we will do when we construct it, is we will construct it as a raised intersection. The first true raised intersection in the city. There have been some attempts by the University to try it, but those were really not properly installed and designed. What that will do is bring the intersection up a couple of feet higher than the adjacent lanes coming into it so you are up higher and you have a better visual of any pedestrians in the crosswalks. Obviously you have to slow down to go through the intersection. Another thing is we will obviously have to signalize that intersection when Rupple Road is connected to Highway 62. When you look at school pedestrians you really look very specifically at two times of the day. It is really not as scattered, the AM and PM peak is obvious times. The best option is obviously crossing guards and I hope they will be utilized by the school.

Alderman Lucas: I think we are going to have a traffic problem even before we get Rupple to Highway 62 with the school having the grades that they have and Persimmon coming in there and the Boys Club all at that one corner. It really concerns me. I know you are doing all you can but it just seems like we should be able to maybe move forward on the light before we get to Highway 62. I know you are thinking it is only twice a day that it is really going to be bad but the Boys and Girls Club is very active all evening too with children and the parents picking them up. I know at the schools sometimes there is traffic for two blocks waiting to pick up children. You have two different schools there basically that are going to be picking up children.

Ron Petrie: That is obviously a good point and valid point and it is something that we can move forward with. We can look at moving that signalization up. This is all city streets it is not a State Highway you are not controlled by their regulations so obviously as staff we are going to do what the Council or the Street Committee directs us to do. We are certainly open for that.

Alderman Marr: Lioneld, you would not be supportive of the cost share widening unless there is that signalization or some type of cross walk area? I am trying to figure out is your issue that you don't think we should be building it now as a cost share or is it purely a children and pedestrian issue that we need to be in coordination with.

Alderman Lucas: I think we need the intersection but after we do this we won't see this again and someone else decides how that intersection is going to be built. I am trying to get that point across that we do need to figure that into the plan. Now I don't know if there is a way of doing that.

Mayor Coody: Do you have engineering concepts on the intersection design?

Ron Petrie: Yes sir. It is fully designed.

Mayor Coody: Okay so the intersection is designed already then?

Ron Petrie: Obviously not the signalization.

Mayor Coody: But we would plan for that in future applications?

Ron Petrie: Right. We don't have money budgeted for the signalization at this point not to say that we can't bring that forward and have a budget adjustment to create the project. Usually when you install a signalization you can do it in house by city staff, if they have the time, much cheaper than we can actually bid those out. It would save us money if we could schedule that through our Transportation Division to actually do the installation. What we can do now is install the conduits underneath the streets to where we are not going back and boring and that is a part of the plan.

Alderman Lucas: Where all traffic stops when those kids go across the street?

Ron Petrie: Right. It will have the push button pedestrian crossing.

Alderman Lucas: Kind of like the corner up on Garland and Maple at the University. I know that traffic gets frustrated but I think that is really good where students can walk catty cornered on that intersection because they stop in all directions.

Alderman Jordan: I think the point that we want to stress is that as we plan this we want to be sure and incorporate safety issues. If we need to put something in there I want us to get it out now rather that having it built and a problem created. Now is the time to do whatever planning we need to do. I am not being critical of the job that you all have done; you do a very fine job. I am just saying that I want to be sure that this thing is built correctly for the future.

Ron Petrie: We can bring a proposal to the Street Committee and deal with that in a separate item. I don't think I would recommend it being added to this cost share. I think money wise we are better off doing it ourselves. If it is your wish we can put something together for the Street Committee to discuss.

Mayor Coody: You can also look at the timing too. It might be a little early today to put out a signal but you might figure out when the best time would be to put a signal out there.

Ron Petrie: If the traffic volume is not there we might want to do just a pedestrian type crossing. There are some options other than a full signalization.

Alderman Cook: I think the speed table will do a lot initially. I think as far as getting to the traffic signal we will see that, when the warrants get there, we will see that very quickly. I don't think there is any doubt about that. If you are going to do a speed table with a crown of two feet if anyone is going at any rate of speed on that they are crazy because that will bottom out. I think that will do a good job in the interim.

Jim Bemis: I sent you some information today. I am concerned and I think Alderman Marr asked the correct question, am I really concerned about the money that is going to be spent tonight? No. I am very much in support of Mr. Nock's project but what I do see is what I sent you in the map. It is not just what we see on that particular intersection although that is my concern as a teacher who has to walk children every day up on College and Lafayette. I think it is going to take a whole lot of engineering to convince me that you have a safe intersection there. You have right now a two lane road you have talked about a four lane road for Rupple up to Howard Nickell, that thing is going to be a bypass for the city. You can't help but see that if you look at the prints that I sent to you. It is not going to be just a regular little country lane like Rupple is now; it is going to be a freeway. It is going to be a freeway going all the way up to Highway 112, all the way up to Cave Springs. I watched College go in and you are building another College on Wedington and Highway 62 and all the way up that stretch west of town. That is what we are doing. My generation did a lousy job on College don't make the same mistakes that we did. Please find a way to look at that intersection and what is going to happen out there. You have got developers putting in thousands of acres of new residential there it is not going to be what you see out there now. That's all I am saying to you. Rupple will pass right by Holt, and it is going to be a block or two away from Holcomb. Thank you for your attention. I hope you will pay attention to what is going on out there. I am not blaming the engineering folks or the planning people. It is something that you all and the school board are going to have to watch.

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

Mr. Williams read the ordinance.

Alderman Jordan: I would like to see a few plans on that before I just go ahead and pass this.

Mayor Coody: What is the schedule for the construction out there?

Alderman Jordan: Let's give it a week or two. Show me something on some signalization and things.

Mayor Coody: Do you have that intersection already designed?

Ron Petrie: It was designed by the developer's engineer. Are you asking me for signalization plans?

Alderman Lucas: Was it designed with the raised area?

Ron Petrie: Yes madam.

Tim Conklin: When we started taking about this intersection probably three or four months ago the school district was involved along with Mr. Terminella and Mr. Nock and this was not a decision that was just made by one developer. The big concern that we had from the city's stand point was having half of an intersection being done by Mr. Terminella a quarter of a intersection being done by the Fayetteville Public School District and a quarter of an intersection being done by Mr. Nock. We had a series of meetings to try to find a solution. The engineer is the same engineer for the Fayetteville Public School District and Mr. Terminella. There will be coordination with regard to how the road comes up to that intersection also. I just wanted to share that and as we move forward the School District is aware of what we have talked about with this raised table.

Alderman Thiel: Didn't you also say that the capability of adding the infrastructure to add a light is part of the plans?

Mayor Coody: Conduit for the wiring.

Alderman Thiel: So that is there.

Mayor Coody: Yes. That is in the plan.

Alderman Lucas: You are saying that Mr. Terminella is in on this so are we going to be seeing another cost share?

Ron Petrie: Yes. You will be seeing a cost share for Rupple Road extended in front of the school with the school system or with Terminella depending on who comes first.

Alderman Lucas: Okay so we will be seeing two more then, one from the School District and one from Terminella.

Ron Petrie: And then probably future ones from Charlie Sloan.

Alderman Lucas: Those are the ones that are right on that corner, the School District, Mr. Nock and Mr. Terminella.

Ron Petrie: That is right.

Alderman Reynolds: If you are going to pre-wire it for future lighting, then it should be in pretty good shape for you.

Alderman Marr: I think the key is that certainly I think everybody is behind what the Alderman in that ward are saying as it relates to that. When you end up with roads that end up being four lane roads like College Avenue maybe the solutions aren't just raised table intersections. Maybe we need to look at something that other cities do with pedestrian crossovers in the busiest areas where we have schools. That might be another solution for that area.

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

Mr. Williams read the ordinance.

Alderman Jordan: I will push for that signalization. We are going to make that intersection safe.

Alderman Lucas: I think what Alderman Marr recommended we might look at that across from the school.

Ron Petrie: Would you like for me to bring something forward to the Street Committee.

Alderman Jordan: I wish you would. I don't have a problem with going ahead and passing this but I want to look at what is planned for that area.

Mayor Coody: The only real difference would be a signal will cost maybe $85,000 where a pedestrian over pass maybe as much as $250,000.

Alderman Lucas: One child.

Mayor Coody: I know. I am just giving you a heads up that there are major cost differences there. We have places all over town we could use pedestrian overpasses.

Alderman Jordan: I understand that. That does not mean we create another one just like all the rest of them.

Mayor Coody: I know. There are just big differences between the two. We want to do the right thing though.

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

Ordinance 4685 as Recorded in the Office of the City Clerk.

ANX 05-1365 (Wilkins): An ordinance annexing that property described in annexation petition ANX 05-1365 annexing to the City of Fayetteville, Arkansas, certain property located east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres.

Mr. Williams read the ordinance.

Jeremy Pate: Gave a brief history of the annexation.

Alderman Jordan: I would like to hold this at least on the second reading.

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

This Ordinance was Left on the Second Reading.

RZN 05-1366 (Wilkins): An ordinance rezoning that property described in rezoning petition RZN 05-1366 for property east of Salem Road, north of Crystal Springs Subdivision Phase I, containing approximately 10.00 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

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

This Ordinance was Left on the Second Reading.

RZN 05-1372 (Mailco USA, Inc.): An ordinance rezoning that property described in rezoning petition RZN 05-1372 for property east of S. School Avenue, north of Whillock Street, containing approximately 2.536 acres from RSF-4, Residential Single Family, Four Units per Acre, to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance.

Jeremy Pate: This applicant is requesting rezoning of approximately 2.56 acres. A portion of this property is already zoned C-2 it fronts onto South School. The request to rezone to C-2 is the property that is to the rear and behind the single family homes.

Alderman Thiel: We have seen this lot sitting there empty for years. I am supportive of this if this is what the company needs to make this thing work. There is still a great deal of residential zoning around this property but I don't think this is what I would call strip zoning because of the uses in that area. I think this is very appropriate and I think it compliments the area.

Alderman Reynolds: It is going to be a good employer and we certainly need employment in south Fayetteville.

Ken Shiremen, Mailco: I appreciate the Planning Commission approving this project. I respectively request that you approve our rezoning.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4686 as Recorded in the Office of the City Clerk.

<u>RZN 05-1374 (Cornerstone/Futrall):</u> An ordinance rezoning that property described in rezoning petition RZN 05-1374 for property located at 1144 Futrall Drive containing approximately 0.53 acres from RSF-4, Residential Single Family, Four Units per Acre, to R-O, Residential Office.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4687 as Recorded in the Office of the City Clerk.

ANX 05-1370 (Hall): An ordinance annexing that property described in annexation petition ANX 05-1370 annexing to the City of Fayetteville, Arkansas, certain property located at 2577, 2216, 2844, 2822 Dead Horse Mountain Road, containing approximately 235.38 acres.

Mr. Williams read the ordinance.

Tim Conklin gave a brief description of the property that surrounds this property and presented the Council with a map showing the area.

There are parts of Dead Horse Mountain Road, south and east of this potential annexation that are currently in the city limits. We are not extending out city limits any further south than they currently exist. Approximately 80% to 85% of this area is surrounded by our current city limit line. This will somewhat fill a gape that is almost surrounded by our city limits. We felt that it would be in the best interest to the city to annex this area and plan and manage growth in this area.

Jerry Hall stated that he lives on a portion of the land that is to be annexed. He voiced his concerns about the wetlands, archeological sites and wildlife that would be affected by this annexation. He said he thinks we need to concentrate on infill in the downtown area. He also said he wondered if the city had the resources at this time to be taking on this kind of responsibility.

Mayor Coody: If there are wetlands that will be impacted, wetland mitigation would have to be done.

Alderman Lucas asked Mr. Hall to show on the map where he lives.

Mr. Hall showed the Council on the map where his property was and other property in the area.

Alderman Marr: Mr. Hall are you the owner of the property that you pointed out?

Jerry Hall: No. I have lived there my whole life. I am not the owner it belongs to my mother.

Alderman Marr: The property where you live is it part of the 200 plus acres that we looked at yesterday?

Jerry Hall: Yes.

Tim Smith stated that his wife has lived just to the east of this property for the last 13 years. He pointed on the map where his wife's property is. He said her concern is that she does not want to become part of the city; she is not interested in annexation. That is their private property and if they want to have it annexed in and develop it that is their business. He said they are not concerned about that they are simply concerned with us being forced into annexation of some sort.

Jackie Hall, a resident of the Hall farm asked what advantage being in the city is going to be for her. She spoke of the traffic problems in this area.

Mayor Coody: Are you related to the petitioner?

Jackie Hall: I am the daughter of the owner of the property.

Alderman Thiel: Has this property actually sold or is the sale of this contingent on this annexation?

Jackie Hall: It is contingent.

Alderman Lucas: You don't own the property you are living on?

Jackie Hall: It belongs to my mother; we are basically heirs of the property. There are four heirs and we have all lived there all of our lives.

Alderman Lucas: You mother wants to sell then.

Jackie Hall: Right.

Alderman Lucas: Since she owns the property then she is proposing to sell it.

Alderman Ferrell: You said that you had been put over into four or five acres. Is that a portion of the property that will be deeded to you?

Jerry Hall: It is all set up as a trust. There are areas where we live that have been excluded from the sale.

Jackie Hall showed the Council where her property is on the map.

Alderman Reynolds: You said you have been pushed to that area. Is it because your mother is selling the farm and she is deeding to each of the four heirs a piece of the property? Are all the four heirs to this property against the sale?

Jackie Hall: Not all four.

Alderman Lucas: So two are for and two are against?

Jackie Hall: Yes.

Alderman Reynolds: Sentimentally two of you don't want the farm developed but sentimentally your mother wants to sell it.

Jackie Hall: Yes.

Alderman Reynolds: It looks like we are in a tough position.

Alderman Marr: While I can appreciate you wanting more or the family debate on what pieces of land go there, I don't really feel like it is our place to deal with how the owner of the property decides to divide it or not divide it. I am interested in hearing what the issues as they relate to the annexation, the cost to the city and the traffic.

Jackie Hall: The islands that are being created are also a problem.

Alderman Marr: It is your position that where those islands are created that you do not want to be part of the city or see no benefit of being part of the city.

Jackie Hall: Right.

Alderman Lucas: Why is her part of the property part of the annexation if she doesn't want to be in it?

Mel Milholland engineer for the purchaser: Ms. Hall is the sole owner of all the land that we have talked about so far. It was her choice as to what portion she wanted to exclude to leave to her children. It is my understanding this property will be deeded to the daughter at a time in the future. To my knowledge Ms. Hall has made all the decisions.

Alderman Marr: So the land that has been carved out is being carved out after the annexation.

Mel Milholland: Yes.

Butch Bayers: I feel I know the area. I am on the side of development in a lot of places around Fayetteville. Something you might consider is the blueberry patch on this property.

Jeannie Hall: I own the property that all these folks have been talking about. My husband and I together have owned this property since 1953. He passed away two years ago after a ten year illness. We operated a farm on the property. We allowed our son to have a blueberry field on the property. We dreamed of retiring and at some point selling the property for our retirement. My son and daughter will be allowed to live on the property. My other daughter and I would be moving because that is the area that we are selling. I intend to sell it, so to me it makes since that we be brought into the city for city guidelines under the umbrella of the city then to be left within the county and have septic tanks. I think it is a very smart thing that we are brought into the city at this time as far as the natural habitat very little is going to be disturbed. Most of the flood plain will remain the same except it will be under the city's protection if it is annexed. There are very few trees that will be disturbed because it is all open land that we are selling. The smart think for me and for the city to do is to bring us into the city.

Alderman Thiel: I do not want to go through all three readings on this tonight.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-1. Alderman Rhoads, Ferrell, Lucas, Jordan, Reynolds, Thiel and Cook voting yes. Alderman Marr voting no.

This Ordinance was Left on the Second Reading.

<u>**RZN 05-1371 (Hall):**</u> An ordinance rezoning that property described in rezoning petition RZN 05-1371 for property located at 2577 Dead Horse Mountain Road, containing approximately 125.179 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate: The rezoning request is for approximately 125 acres of the overall 235 acre tract. It does not include a majority of the flood plain area to the west. With regard to the traffic issues our ordinances would require the developer to improve traffic situations based on what they are developing. That would in this case likely be improvements to Dead Horse Mountain Road which would include sidewalks, which are needed in this area. Additionally park land fees or dedication of land would be required with any development of this property whereas outside the City of Fayetteville the city would not benefit from any of those fees and or land. In response to bridge concerns this area is within the assessment area that city staff has established in which any development that might come through would be portionally assessed a fee to potentially relocate or reconstruct that bridge in the future for a larger bridge to accommodate traffic in this area. Staff finds that it is more appropriate, especially in areas that are directly adjacent to sewer lines, to connect to those sewer lines, extend that infrastructure and be a part of that system which in the long haul is more environmentally friendly.

Jenine McClelland: I live on my parent's place that is beside the Halls. They are talking about putting a pumping station somewhere out there for the sewer. I would like to know where they are going to put it and how they are going to put it in.

Mayor Coody: Mel is your design to the point of knowing roughly where the lift station would be?

Mel Milholland: We do have a plan. We will put a pump station on about the central part on the tract that is almost directly west of the house site. Mr. Milholland showed the Council on the map where the pump station will be.

Mayor Coody: Would you get with Ms. McClelland after the meeting and answer her questions that she has not been able to get answered.

Alderman Thiel: Is this just getting the sewer to your project and that is it? It is going in through the creek right?

Mel Milholland: Yes.

Alderman Thiel: And that's the only way to do it?

Mel Milholland: Yes.

A discussion followed on the sewer to the property and the location of items on the property.

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

This Ordinance was Left on the Second Reading.

RZN 05-1378 (Goff/Hall): An ordinance rezoning that property described in rezoning petition RZN 05-1378 for property located at the south side of Highway 16 East and west of Dead Horse Mountain Road, containing approximately 15.12 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, Four Units per Acre.

Mr. Williams read the ordinance.

Jeremy Pate: This property is not part of the annexation request it is already within the city limits.

Alderman Marr: In the minutes of the Planning Commission I think there was some discussion on the surrounding zoning and whether RSF-2 was a more appropriate zoning. If I remember right you all said that most of the RSF-4 development was developing at the two level?

Jeremy Pate: You are exactly right. The discussion was centering around should there be a transition type of zoning from what the county has developed as to this RSF-4 zoning which is what we see most of our single family residential developments. It is very rare that we see anyone requesting RSF-1 or RSF-2. With infrastructure requirements, streets, parks and anything else that goes in with a development the typical density we look at with developments are between 1.8 and 2.6 with regard to actual development under the RSF-4 zoning umbrella.

Alderman Marr: That vote was 5-4?

Jeremy Pate: For the rezoning request that is correct.

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

Mr. Williams read the ordinance.

This Ordinance was Left on the Second Reading.

Meeting Adjourned at 11:10 pm

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk

Nominating Committee Report
Meeting Date: March 7, 2005
Room 111, City Hall 5:00pm

Members present: Kyle Cook, Shirley Lucas, Robert Rhoads, and Brenda Thiel.

The following is being submitted by the Nominating Committee to the entire City Council for consideration.

Advertising and Promotions Commission

The Advertising and Promotion Commission recommends the following candidate for appointment:

Bob Davis - One Citizen-At-Large term ending 04/01/09

Maudie Schmitt - One Tourism Industry term ending 04/01/09

Board of Adjustments

The committee recommends the following candidate for appointment:

Eric Johnson – one term ending 3/31/10.

Civil Service Commission

The committee recommends the following candidate for reappointment:

Stan Adelman – one term ending 3/31/11.

The committee recommends the following candidate for appointment:

Peggy Hart – one term ending 3/31/11.

Construction Board of Adjustments and Appeals

The committee recommends the following candidates for reappointment:

Thomas Campbell – one term ending 3/31/10.
Kit Schmelzle – one term ending 3/31/10.

The committee recommends the following candidate remain an alternate until the position is filled:

O.E. Luttrell.

Planning Commission

The Committee recommends the following candidates for reappointment:

James Graves – one term ending 3/31/08.
Alan Ostner – one term ending 3/31/08.

The Committee recommends the following candidate for appointment:

Audy Lack – one term ending 3/31/08.