Minutes
Of The
City Council Meeting
October 7, 2003

A meeting of the Fayetteville City Council was held on October 7, 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 Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience

Alderman Reynolds was absent during Roll Call, Consent, and Old Business #1.

CONSENT:

Approval Of The Minutes: Approval of the September 2, 2003 meeting minutes.

The minutes were pulled from the consent.

Crossland Contractors Bid 03-31: A resolution awarding a construction contract in the amount of $693,662.00 to Crossland Heavy Contractors, Inc. for Gregg Avenue waterline improvements Phase I; approving a project contingency in the amount of $80,000.00; and approving a budget adjustment in the amount of $53,394.00 for same.

Resolution 144-03 As Recorded In The Office Of The City Clerk.

RJN Amendment #2, Wastewater Collection: A resolution approving contract amendment #2 in the amount of $36,780.00 with RJN Group, Inc. to update the Wastewater Collection System Model; and approving a contingency in the amount of $3,220.00 for same.

Resolution 145-03 As Recorded In The Office Of The City Clerk.

Zion Vantage Apartments Money in lieu of Land for Park Land Dedication: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $108,468.00 cash in lieu of the required park land dedication for Zion Vantage Apartments.

Resolution 146-03 As Recorded In The Office Of The City Clerk.

Lazenby Apartments Money in lieu of land for Park Land Dedication: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept $40,016.00 cash in lieu of the required park land dedication for Lazenby Apartments.

Resolution 147-03 As Recorded In The Office Of The City Clerk.

Cruzen Equipment Company, Inc. Contract Aviation Fuel Self-Serve Facility: A resolution awarding Bid #03-52 and approving a construction contract with Cruzen Equipment Company, Inc. in the amount of $32,534.83 for the construction of an aviation fuel self-serve facility at the Fayetteville Municipal Airport.

Resolution 148-03 As Recorded In The Office Of The City Clerk.

Arkansas Dept. of Aeronautics Grant Aviation Fuel Self-Serve Facility: A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $17,966.00 from the Arkansas Department of Aeronautics for the construction of an aviation fuel self-serve facility; and approving a budget adjustment for same.

Resolution 149-03 As Recorded In The Office Of The City Clerk.

Multicraft Contract Repair Filtering System Bid Waiver: A resolution awarding a contract in the amount of $95,000.00 to Multi-Craft contractors, Inc. for repairs to the effluent filtering system at the Noland Wastewater Treatment Plant; and approving a project contingency in the amount of $5,000.00 for same.

Resolution 150-03 As Recorded In The Office Of The City Clerk.

ADM 03-18.00 (Legacy Pointe Subdivision): A resolution affirming the Planning Commission's approval of a variance from the requirements of §167.04, Tree Preservation Protection, Unified Development Code to allow on-site mitigation in the Legacy Pointe Residential Subdivision.

Resolution 151-03 As Recorded In The Office Of The City Clerk.

Arkansas State Highway & Transportation Dept. Arkansas Recreational Trails Grant: A resolution authorizing the Fayetteville Parks and Recreation Division to accept a grant in the amount of $51,247.00 from the Arkansas Highway and Transportation Department for Arkansas Recreational Trails Funds to continue development of trails at Lake Fayetteville North Shore Park; and approving a budget adjustment for same.

Resolution 152-03 As Recorded In The Office Of The City Clerk.

Alderman Davis asked that the minutes be pulled from consent until he has time to review them.

Alderman Jordan moved to approve the consent as read without the minutes. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

OLD BUSINESS:

Public Hearing Raze and Removal 226 North School Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Timothy C. and Christine Klinger located at 226 N. School Avenue in the City of Fayetteville, Arkansas. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Hugh Earnest: This situation has been resolved and we plan to report to the City Council if there is a lack of progress in the expectations that we have given to the developer. There has to be some movement in redeveloping that structure by the developer.

Alderman Davis: Can you give us an outline of what you expect those movements, the process to be, and the dates we can expect to see something happen?

Hugh Earnest: Within 30 days.

Alderman Jordan moved to table this ordinance indefinitely. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Public Hearing Raze and Removal 323 N. West Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by the Bank of Fayetteville, N.A. located at 323 N. West Avenue in the City of Fayetteville, Arkansas. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Mayor Coody: The building is unsafe; the owners have no plans for it so we basically struck a deal to where they will tear the building down and clean the brick. We will store the brick until an appropriate use for it can be found. The building may be reconstructed in the future.

Paula Marinoni: Ms. Marinoni gave a brief history of the building, the historical value of the building, and the potential uses of the building.

A discussion followed on the removal of the building, the future use of the building, and moving it to a different location.

Alderman Davis: Mr. Earnest, you are recommending that we table this.

Hugh Earnest: I have spoke to Mr. Lewis about finding an appropriate individual to move towards the compromise that was negotiated between the city and the owner of the building to remove that structure.
Our staff moved very slowly and very carefully from February on to move against this structure that is unsightly, depilated, and dangerous. We've never had any problem in working with them for a possible solution for that building. As the Mayor pointed out, that is a private property issue, our responsibility is to make sure it is not dangerous. If the City Council wishes us to see if there is some alternative to preserving that facility at that site, that may be possible. Our

recommendation remains that that building at that location is not in the best public interest at this time.

Alderman Marr: You are not asking the City Council to raze and remove this tonight.

Hugh Earnest: That is correct; we are looking at a solution that is in the best interest to all parties.

Alderman Davis: By tabling this we are giving you that opportunity to continue to negotiate.

Mayor Coody: As an alternate to tabling you could just vote this down and we could continue to work as we have been, or change course if you want.

Alderman Marr: I don't support voting it down because I think we are looking for a solution rather that saying nothing needs to be done related to raze and removal. I take exception to the comment that there is nothing in our vision about history. In our vision 2002 it talks about preserving and enhancing our nature beauty. I don't consider that to be just trees and water, I also consider the word preserving to be very clear that we are not all about new items we are about protecting the items that we have.

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

Police and Fire Pension LOPFI Agreement: An ordinance electing coverage for eligible members of the Police Pension and Relief Fund and Firefighter Pension and Relief Fund under LOPFI and authorizing Mayor Coody to enter into an agreement with LOPFI. ***This Resolution was tabled at the August 19, 2003 City Council meeting.***

Steve Davis: Both Pension Boards have expressed a desire to remain independent and not merge; they ask that we table this indefinitely.

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

Sale of Library Building at 217 E. Dickson: An ordinance to amend Ordinance No. 4358 in order to exempt the City Library Complex on Dickson Street. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

Alderman Rhoads 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.

Cyrus Young: If you go through with this and this is passed, if the Mayor signs an agreement, does that obligate the City Council to go ahead and sale the property?

Kit Williams: It does not; the City Council is required to approve any offer and acceptance. This is only exempting the appraisal and sale procedure that is set forth; any offer would have to be brought to the City Council and passed by the City Council. The Mayor cannot obligate the city to sell real property. All our offer and acceptances within the last several years have always contained at the end of them in bold letter, any offer and acceptance is subject to City Council approval and the contract is void if the City Council does not approve it.

Susan Porter: There are two separate pieces of property and the Library Board does not have to comply with the ordinance that they are asking an amendment to. I ask that the City Council wait and not pass this tonight.

Mayor Coody: If this passes, this does not obligate us to sale or do anything with the building, it just gives us flexibility.

Susan Porter: I am just wondering what is the rush in getting this amendment approved.

Alderman Rhoads: This gives us flexibility, it doesn't lock us into anything, it allows the library and the city to work together to find a good use.

Susan Porter: If this is passed I see that maybe the city and the Library Board may go forward to sell the whole thing together. I know the Library Board has a need for immediate money. If we join with the Library Board for the marketing of it does that mean that the city is going to spend money for the marketing and for appraisals?

Mayor Coody: I do not see us spending money for marketing.

Hugh Earnest: We have authorized an appraisal on the property; we thought that we needed some definite number. There are individuals and firms that have expressed an interest in the property.

Mayor Coody: Just to see what the value is?

Hugh Earnest: Yes.

Alderman Marr: The appraisal that you have authorized, is it multiple options?

Hugh Earnest: That's right.

Alderman Cook: I still question whether this does actually provide flexibility because we're flexible now, bring the offers forward. I am not ready to waive this ordinance until I see an offer.

Alderman Marr: This ordinance talks about that it is there for the sell of municipal owned property in a matter of great importance and concern to citizens of the City of Fayetteville. We've had citizens that we represent who are very concerned about what may or may not happen to this location. I think this ordinance locks us into having a discussion about whether it should

be for sale and whether it could be used for any other municipal purpose in the city. There are some people who believe that there is no locking mechanism, if we waive this to make sure that, that happens. I understand the importance of waiving the bidding process but what we are having a problem in waiving is the discussion in general about whether it should be sold or used for another purpose and compared against other inventory.

Mayor Coody: I think there are uses for the building that we may have.

Alderman Marr: I think we have the best of both worlds, we have the ability for the Library Board to go out and begin marketing their property and if through that marketing process they identify someone that wants it all then we have the ability to hear those ideas without giving up the debate about keeping it in general.

Alderman Thiel: I think there is a certain amount of urgency on the Library Board to go ahead and market this property; I think they have some very good potential buyers out there. We need to initiate some meetings about whether or not we see a need for this building.

Mayor Coody: If this is passed tonight that does not preclude the public debate that would be required to make the determination of what we do with this. We need to know the value of what we are talking about.

Vince Chadick: My firm and I represent the Library. Here is what I think the intention of our request is. The Library Board needs money but they are putting the interest, compatibility and the working relation with the city above that need for money or else the Library would go out and unilaterally try to market that property. That is not what the Library Board as I understand it wants to do. The first thing the City Council needs to do is to make a determination that the property no longer serves a municipal purpose. We are asking you to develop a mechanism that allows you to consider all potential uses. The way you open this dialogue up to give you the proper information you need, I think is to proceed with this amendment, put a mechanism in place to encourage and cultivate this discussion. This will arm you with the information you need to put the highest and best use in that building for the future of all us. The way I see it, this is the only way to trigger that discussion.

Alderman Rhoads: Is there a difference in the time table we have versus what the Library has, or are we on the same time table?

Vince Chadick: Right now we are on the same time table. We want to work with the city.

Alderman Rhoads: So if it is part of a Master Plan Study and it takes a year, are we okay?

Louise Schaper: That would be a problem, our Library cannot afford to operate two buildings and we will be out of this current building next August. The reason this came before you is because we had to get this discussion started. Things take a long time when you are working with two entities and the public.

Mayor Coody: When will the appraisal be completed?

Louise Schaper: In about three weeks, also there have been two verbal offers since we were here last. We would never have put a for sale sign out there without having permission to go forward and do that.

Alderman Lucas: Even with the passing of this we still have to make the decision of whether we want to sell or not. So it does not matter if we pass this now or later, we have to make the decision of whether we are going to sell.

Alderman Marr: That is why I want to know why we need to do it now. Why isn't the resolution before us tonight a recommendation to sell it or not sell it, why isn't that step one.

Louise Schaper: I sat with citizens during many meetings with people from the neighborhood and what I took back from those meetings was the need to move forward outside the city ordinance. Citizens were worried that if we approached the city with that, that we would end up selling to the highest bidder and that is the reason why we are here right now.

Alderman Marr: I was at some of those meetings and their comments were if they had their way they would have a community building, there are people out there trying to find a not for profit use for the building.

Alderman Thiel: The Library doesn't have to ask our permission to sell their portion. I think they are making an effort to make this a partnership.

A discussion followed on the sale and use of the building. There was also discussion on waiving the ordinance and getting public input on the sell of the property.

Louise Schaper: The public has great concerns about not having a vacant building. We don't want to end up a year from now with the building being vacant and going into disrepair. If this process that we have proposed does not work for you, tell us what will work.

Alderman Lucas: I think the Library Board has done an excellent job of trying to get the word out and trying to get the feeling of the neighborhood. We are going to have two boards deciding if this property is sold.

Jeff Erf: Who owns the library?

Mayor Coody: We own the smaller part on the west; the library owns the building on the east.

Jeff Erf: Who paid for the library?

Mayor Coody: The land that the library sits on is owned by the Library Board and the land the doctor office sits on is owned by the city.

Jeff Erf: The building itself?

Mayor Coody: That sits on Library Board property so it is pretty much their building.

Jeff Erf: Who paid for it?

Louise Schaper: The land that the library sits on was donated by the Fulbright family. The building was paid for by a special tax that was specific to that library and there have been private donations all through the years.

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

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Davis, Lucas, Jordan, Reynolds, Thiel, and Rhoads voted yes. Alderman Cook and Marr voted no.

Ordinance 4516 As Recorded In The Office Of The City Clerk.

ANX 03-2.00 (Shiloh Community Church): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 3.95 acres located North of Mt. Comfort Road and West of Rupple Road owned by Shiloh Community Church. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Kit Williams: Before I read this, this began as a voluntarily annexation requested by the petitioner and the information I have is the petitioner no longer wishes to pursue the annexation, so therefore we would not have power to go forward with this at this time.

Jeff Bates, an Engineer with Keystone Consultants: Since the last City Council meeting the church has asked me to do a cost comparison of what it would cost to build in the city verses building in the county. It is going to cost them $80,000 to $100,000 more to build in the city. The church does not feel at this time they have the funds to do that and build their church. They are asking to withdraw their request and not be annexed into the city at this time.

Hugh Earnest: It is a policy not to create as a part of an annexation an island. By them changing their position this creates a problem with staff to continue to recommend that this annexation proceed for the other individuals that still wish to be annexed.

Alderman Davis: How many lots will there be in Mr. Cogers property?

Jeff Bates: Approximately 52 lots.

Alderman Davis: If we allow this to come into the city it will stop those homes from being on septic tanks. We will also get the impact fees; I would suggest we bring the other two in even though we are not annexing the church at this point in time.

Kit Williams: There is a section in the code that if property is totally surrounded by city property, then the City Council without a vote of the people can decide to annex in that island.

Alderman Reynolds: Where did the church come into this, were they first to ask to be annexed?

Tim Conklin: The Coger property and the Shiloh Church property were presented to us together for annexation; the island was the Stevens property.

Joe Jones, Pastor of Shiloh Community Church: We want to be a good neighbor. It is not that we don't want to do the things required by the city, we just can't afford to do them at this time. We just ask at this time that we not be annexed, maybe annex us at a later date.

Alderman Cook: I am struggling with annexations at this time. There is approximately 187 acres that is not developed at this time. We cannot keep pushing the city boundaries out; it is costing us too much.

Alderman Lucas: In this area we are already there, Bridgeport is across the street.

A discussion followed on the traffic study of the road along this subdivision, septic tanks, undeveloped property in the area and other proposed developments in the area.

Jeff Bates: Mr. Coger proposed developing this property with septic systems, city staff asked him to maybe get it annexed, and that's why we are here today.

Alderman Thiel: It is important that we get the infrastructure that we require in the city, not something that is substandard.

Alderman Davis: Should we table this indefinitely and go on with the other items?

Kit Williams: I would like the minutes to show that it has been withdrawn by the petitioners.

This ordinance was withdrawn by the petitioner.

ANX 03-3.00 (James Coger): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of 18.38 acres located North of Mt. Comfort Road and West of Rupple Road owned by James Coger. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

James Coger: I think an important thing to look at is that the growth is orderly and that we don't end up with unorganized growth that is unsafe. I share the same concerns about the highway and infrastructure. I have offered to widen the road in front of my subdivision. The subdivision we have developed meets all city standards. I would appreciate your consideration.

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.

Alderman Jordan: I think that road is too narrow, I think the intersection is too dangerous, and I think this is sprawl and I cannot support it.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-2-1. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voted yes. Alderman Jordan and Cook voted no. Alderman Marr abstained.

Ordinance 4517 As Recorded In The Office Of The City Clerk.

ANX 03-4.00 (Carol Stephens): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of 1.08 acres located North of Mt. Comfort Road and West of Rupple Road owned by Carol Stephens. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

Alderman Davis 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.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voted yes. Alderman Jordan, Cook, and Marr voted no.

Ordinance 4518 As Recorded In The Office Of The City Clerk.

RZN 03-17.00 (Shiloh Community Church): An ordinance rezoning that property described in rezoning petition RZN 03-17.00 as submitted by Geoff Bates of Keystone Consultants on behalf

of Shiloh Community Church for 3.95 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

This ordinance was withdrawn by the petitioner.

RZN 03-18.00 (James Coger): An ordinance rezoning that property described in rezoning petition RZN-03-18.00 as submitted by Geoff Bates of Keystone Consultants on behalf of James Coger for 18.38 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0-1. Alderman Marr abstained.

Mr. Williams read the ordinance.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded. Upon roll call the motion passed 7-0-1. Alderman Marr abstained.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-3-1. Alderman Davis, Lucas, Reynolds, and Rhoads voted yes. Alderman Jordan, Thiel, and Cook voted no. Alderman Marr abstained. Mayor Coody voted yes, thus the ordinance passed.

Ordinance 4519 As Recorded In The Office Of The City Clerk.

RZN 03-27.00 (Carol Stephens): An ordinance rezoning that property described in rezoning petition RZN 03-27.00 as submitted by Geoff Bates of Keystone Consultants on behalf of Carol Stephens for property containing 1.08 acres located North of Mt. Comfort Road and West of Rupple Road. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

Alderman Reynolds 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.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Davis, Lucas, Reynolds, Thiel and Rhoads voting yes. Alderman Jordan, Cook and Marr voting no.

Ordinance 4520 As Recorded In The Office Of The City Clerk.

Amend Chapter 51.136 Monthly Water Rates: An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to change nomenclature; and adjust water and sewer rates consistent with the recommendations of the Black & Veatch Rate Study. ***This Ordinance was left on the first reading at the September 16, 2003 City Council meeting.***

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded. Upon roll call the motion passed 7-0. Alderman Davis was absent during the vote on the motion.

Steve Davis: Earlier today we met with a number of the industrial members of the Chamber of Commerce, they have expressed significant concerns over the proposed rates. We have proposed having a work session at the Chamber of Commerce building within the next two weeks to go through in a more detailed fashion the cost allocation methodology.

A discussion followed on the proposed rate increases.

Alderman Davis: I would like for the administration to come up with some alternatives with the rates. I don't think we want to see our rates go up extremely high for the industry because if we do we will lose some of those clients, not only for the industry but look at the rate increase for residents.

Geary Lowery: Spoke of some proposals and flat rate studies that he presented to the City Council.

Bob Bracy, Superior Industries: We appreciate the City Council looking at the interest of the community and the industry; we want to pay our fair share to support our community. We feel this study needs some more depth into it.

Connie Clampit with Tyson Foods: We would like for you to look at extending the life of the rate proposal, it is currently a three year impact, it would easier to absorb if it was over a five or six year period. I would also like you to consider the difference between the 15% increase in the water rates from Beaver Water, that equates to about a 7 ½ % increase in your operating cost, why is the rate increase a 10% versus the 7 ½ % or 8% and where is that extra 2 ½ % revenue going.

Steven Tennant, City Attorney for the City of Farmington: The City of Farmington resident's rates will be about 142% higher than the City of Fayetteville residents.

A representative from one of the industries: Spoke of his concerns regarding the rate increases.

Teresa Clark, City of Farmington: When you have the meetings regarding the rates, you need to include the citizens of Farmington.

Virgil Neuroth, Vice President of the Chamber of Commerce: We have confirmed October 16, 2003 at 2:00 PM for a work session at the Chamber to discuss this situation.

This ordinance was left on the second reading.

NEW BUSINESS:

Dover, Kohl & Partners Downtown Master Plan Contract: A resolution awarding a contract in an amount not to exceed $200,000.00 to Dover, Kohl and Partners to prepare a Downtown Master Plan

Tim Conklin: Dover, Kohl will be addressing, as part of the Downtown Master Plan, urban design, existing codes, and whether or not they promote appropriate urban design in our downtown area, land use, and compatibility. They have developed a process to create a vision. They will look at a cultural and entertainment district and what uses should be allowed, what are the boundaries, how should parking be addressed, and how do we address the surrounding neighborhoods. They will be looking at economic development, historic preservation, and they will be looking at a parking management strategy.

Alderman Davis: I have been asked if we could wait two weeks and get some comments on this and get some input.

Alderman Thiel: I have heard from several groups that are in support of this.

A discussion followed on the Dover, Kohl plan and group meetings to discuss the plan. There were also comments read from cities that Dover, Kohl has worked with.

Jim Blair: One of the critical things that Northwest Arkansas needs is a cultural development area and the logical place for it is downtown Fayetteville. We need a Downtown Master plan that shows where cultural development needs to be. I urge the City Council to adopt this resolution.

Richard Alexander: This is exactly the type of thing this city needs to be doing. Dover, Kohl has excellent credentials. I encourage the City Council to proceed with this.
He also spoke on the zoning in Fayetteville and the importance of the historic value of our town.

Rob Merryship: I commend you on bringing this proposal forward; I think this is a remedy to a lot of problems.

Laura Kelly: Spoke in support of the resolution.

Bootsie Ackerman: Spoke in support of the resolution.

Anita Scism, Walton Arts Center: Spoke in support of the resolution.

Sharon Hoover a City of Fayetteville Planning Commissioner: Spoke in support of the resolution.

Laura Chioldi: Spoke in support of the resolution.

Jill Anthes: Spoke in support of the resolution.

Rob Sharp: Spoke in support of the resolution.

Mayor Coody read a letter he received from John White Chandler of the University of Arkansas supporting the resolution. He also read an email from Civic Partners, a firm that does construction in downtown areas, supporting the resolution.

Alderman Cook: I think this project will be something from the people, I think this plan can only enhance what we already have in this part of town.

Alderman Jordan: I see a lot of needs in the south part of town. This is a great plan and I believe that the development of that downtown area will bring this city to a new level.

Alderman Rhoads: I see no one against this.

Alderman Reynolds: I have had no calls on this, so I will support it.

Alderman Davis: I am in support of this; I just want to make sure we have unified support from all the different organizations involved.

Alderman Marr: Sometimes we have to have trust in the process.

Mayor Coody: We are the builders of the city and every decision that our planning staff makes affects a small piece of this town that adds up over time.

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

Resolution 153-03 As Recorded In The Office Of The City Clerk.

2003 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2003 fixing the rate thereof at 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund, 1.0 mil for the Fayetteville City Library; and 1.0 mil for General Purposes and Operations of the City; and certifying the same to the County Clerk of Washington County, Arkansas.

Mr. Williams read the ordinance.

Steve Davis: This millage ordinance is the routine millage ordinance that the city has levied every year for the past several years, with two exceptions, we now have to levy the library millage that was voter approved and we also are asking for one mill for general government operations. The policemen's and firemen's pension fund millages were also voter approved some time ago. In order to make the county's quorum court calendar they must have our ordinance no later than November 13th.

Mayor Coody: The one mil for the general operations is for the staffing of the new fire station on the west side of town.

Alderman Reynolds: I thought we were told the money was already in the bank to build and operate that fire station.

Steve Davis: The money is in the sales tax capital improvement fund to construct it; we have been talking about needing additional revenues for the operations of the fire station.

Alderman Davis: I recall last year when we voted to go from 25% to 50% on the one cent sales tax, at that time the fire station was brought into it. It wasn't just the property, it was the people to operate the fire station, that was one of the things we sold the 25% to the 50% increase. We are using the same tool again this year to get an additional mil, why?

Steve Davis: I will have to go back and review those records; we have had a reduction in our sales tax growth from approximately 1.15% on city sales taxes and 1.5% on the county sales taxes.

Alderman Davis: Currently we are at 2.9% on city sales tax increase over last year?

Steve Davis: We had projected 2.5% on each of those sales taxes for the 2003 budget.

Alderman Davis: Currently aren't we up 2.9% over last year on sales taxes?

Steve Davis: I haven't ran the numbers, the last time we ran it we were at 1% on each one, we did have two months that were above 6% each but I am not sure that they are strong enough to bring the total year up that far.

Alderman Marr: When will we get that information on the revised sales tax numbers?

Steve Davis: I would like to wait until I get the September numbers, that way if it is up, we will have three months in a row of increased sales tax. I can run those numbers and have it in your boxes by Friday.

Alderman Marr: I read in the paper that Bikes and Blues generated about $10 million in revenue; we should see a spike in sales tax collection for October.

Steve Davis: It will be from the October receipts but will not show in our bank accounts until sometime in late December. We don't know who is actually collecting those sales taxes.

Alderman Marr: The two months that was the 6% plus was what two months?

Steve Davis: May and June or June and July.

Alderman Reynolds: We had 70,000 people come to town and spend $10 million dollars and we don't know who was supposed to collect the sales tax.

Steve Davis: That is correct.

Alderman Reynolds: Whose department is that?

Steve Davis: Arkansas Department of Finance and Administration.

Alderman Reynolds: What about the city sales tax?

Steve Davis: The state collects all sales taxes. By state law they are the folks that can know who pays.

Alderman Reynolds: That is the reason we need a business license.

Steve Davis: I am not sure that having a business license would provide us with any more information than we have today.

Alderman Marr: I would like to see the yearly average and that we get that updated each month as we go through because from now on through the remainder of the year we are going to be making decisions based off of budget projections and the more critical budget projections in the revenue line.

Alderman Davis: I think we need to look at possible ways we can tighten our belts. We need to see if we need to replace people in certain cases when they leave to keep our payroll down and we need to look at other alternatives.

Alderman Reynolds: I am in favor of the firemen's and policemen's fund but I would like to see those other two mils to go to repairing the city streets and intersections.

Mayor Coody: The one mil for the library is voted on by the public so we can't rededicate that to any thing else.

Alderman Davis: The only thing I have a question on is the 1 mil general fund tax, the rest of it I have no problem with. How can we substantiate that we really need that?

Mayor Coody: If you can help us find ways to do it, we are all ears. Our city staff has not increased at all in the last three years while our population has grown 10% to 11%. I am proud

of these guys that they are making sure our income is used as wisely as possible. When it comes to tightening our belts we get to the point that we have to have more revenue or we have to cut back on services and personnel.

Alderman Jordan: We need a mil for the fire station and a mil to balance the budget and then we want another half mil for unexpected items.

Steve Davis: We don't have any money programmed for any salary range impact from the salary study and we don't have money programmed for any group health care increase, that is expected to be a 9% to a 13% rate increase on our healthcare benefits.

Alderman Jordan: How much revenue did we pull in from the Bike and Blues last year?

Steve Davis: I can't tell you how much we pulled in from those two days last year. October last year was about a $15,000 increase over the previous year.

Alderman Jordan: The fire station is a matter of public safety; it will be difficult to sell this mil and a half.

Kit Williams: If you look at the whole trend, many months last year were higher than the year before.

Alderman Marr: If the new mil were not passed we would have a deficit of $1.6 million?

Steve Davis: That is correct.

Alderman Marr: So really a mil and a half doesn't cover the deficit. Even with the additional one and a half mil, you may still have a deficit if you do increase with your salary structure.

Steve Davis: That is correct.

Jeff Erf: Before you increase property taxes, have you considered impact fees that would cover roads, fire and police protection? Have you considered raising fees for city services? There was a cost of service fee study done several years ago.

A discussion followed on looking at other possibilities.

Alderman Davis: We are asking for this mil for the general fund administration expenses, when you look at impact fees from my understanding that goes over to the CIP to take care of those items that we are putting in.

Alderman Thiel: Is that correct that impact fees can not be used for operations?

Kit Williams: There is a statue that I don't know if anyone in the state has actually used yet. The statue is very broad, some of the impact fees are taxes in effect, they are not fees therefore they would have to be voted on by the people. I think the courts would hold them as taxes and

therefore if we tried to enact them without a vote of the people I think we would probably be sued.

Alderman Thiel: If we were going to use them for operations.

Kit Williams: Yes, building a fire station, roads have been authorized; you still might want to go to a vote of the people. If they say it is really a tax and not a fee, if it has been voted on by the people, that argument is over.

Alderman Marr: Could you update the spreadsheet you did for us last year about what went to schools, etc.?

Steve Davis: The user fee study should be back this month and it probably will reflect some proposed changes in the user fees.

This ordinance was left on the first reading.

Appeal of LSD 03-21.00 Planning Commission Approval: Jones Motorcars, Inc. appeal of right-of-way dedication along Highway 71B/ N. College Avenue.

Tim Conklin: Jones Motor Cars is appealing the requirement for 15 feet of right-of-way dedication on College Avenue. The Master Street plan classifies College Avenue as a principal arterial which requires 55 feet from center line. Currently there is 40 feet of right-of-way; they are appealing the requirement to dedicate an additional 15 feet of right-of-way.

Mike Jones of Jones Motor Cars: He spoke on the history of Jones Motorcars and the reason for the expansion at their site. He spoke of the business that is brought to our town because of the Mercedes-Benz dealership. He spoke of the limitations the project has due to the topography of the site. He said if the highway is widened it would require additional expenses for them above and beyond what the neighbors would have to have. He has made every effort to utilize the property as efficiently as possible to keep the Mercedes-Benz dealership in this location. He said they need this variance for this to happen and that this is a very real and economic undue hardship.

With a loss of 10 display parking places now required to meet the current green space requirements, the loss of 17 spaces, and the drive through that the dedication of this frontage will eventually cost me, will result in a loss of about 25% of my total display spaces. Once I dedicate the property to the city I have lost control of that property, if that happens what will happen when there is a new City Council. Many of my competitors only set back from the street by 8 to12 feet, whereas I currently set back from the road on average at least 20 feet. This will create a unique and potentially harmful situation to my dealership if that should happen. You are asking me to dedicate 7,500 square feet of property plus I would lose the additional 25 feet setback for green space when that happens. The value of that property ranges from approximately $75,000 to $100,000. It will be a significant cost to me to do business here in the city to give that property up. There are no short term or long term plans to widen highway 71. The addition my adjacent competitor just completed with their new large scale development they

were not required to dedicate their frontage on 71 at that time. The development was on the back side of the property, it is all on the same parcel of land that joins Highway 71, although some property was dedicated on Longview and Plainview, the most valuable property is still on Highway 71. I find this to be a significant disadvantage especially now that the property is fully developed and the likelihood of ever dedicating their Highway 71 property is next to nil. I am now at a competitive disadvantage because the property around me will be bought and mine has been given away.

Alderman Thiel: You are not requesting a waiver for the green space requirement.

Mike Jones: I am not requesting a waiver for the green space requirement.

A discussion followed on the dedication.

Alderman Davis: I am in favor of granting this waiver of 15 feet.

Alderman Marr: I am concerned about Millsap; did our traffic study address this particular area at all?

Tim Conklin: We did look at extending the right turn lane at Millsap but there were no improvements on Highway 71.

Alderman Rhoads: If we wanted to widen Highway 71, what would we do with his neighbors to the south?

Tim Conklin: We would be acquiring additional right-of-way.

Alderman Lucas: Have we required this of other businesses?

Tim Conklin: Yes we have, when sites have been redeveloped we have required the right-of-way dedication. Any time there has been new development we have required the additional right-of-way. In regards to his neighbors to the south, we looked at that, the dealership they built accessed Plainview and Longview, staff required 5 feet of dedication on Plainview and 20 feet of dedication on Longview. It was determined the right-of-way on Longview and Plainview was appropriate since that accessed directly on Plainview and not on Highway 71. That is the reason the decision was made to have the right-of-way dedication on those streets instead of Highway 71.

Alderman Rhoads: Did they not take into consideration the widening of Highway 71?

Tim Conklin: They looked at that project fronting directly onto Longview and Plainview. That was the staff recommendation.

Mike Jones: The sites that Tim has mentioned all of these were brand new developments and they can adjust and move their facilities to adjust for right-of-way. As an existing facility I do

not have those options. When you are redeveloping a piece of property it makes more sense to make that change at that point in time.

A discussion followed on the Lewis land dedication.

Alderman Thiel: We have not granted any waivers on Highway 71 since this green space requirement in front of commercial buildings.

Tim Conklin: I cannot recall any.

A discussion followed on the waiving of the right-of-way dedication.

Alderman Rhoads moved to approve the resolution. Alderman Davis seconded.

Kit Williams: The dedication that you are taking must be related to the impact that this new development is causing. Our Master Street Plan does not have any streets larger than five lanes, which is what this street already is. We would be taking land from this car dealership to build a sidewalk. There may be a problem with us requiring a dedication of a substantial amount of land in order to build a sidewalk and have green space when the impact of this development is for at the most more cars but not more walking. This is a potential problem, something that could be argued by the developer if we continue to go forward and demand this dedication. You have to look at each project by itself.

A discussion followed on the right-of-way dedication.

Upon roll call the resolution failed 4-4. Alderman Reynolds, Marr, Rhoads and Davis voted yes. Alderman Lucas, Jordan, Thiel and Cook voted no. Mayor Coody did not vote therefore the Resolution failed for a lack of a majority.

VAC 03-10.00 (Tamara Breland Brickey): An ordinance approving VAC 03-10.00 to vacate and abandon a 10' utility easement along lots 23, 24, and 25 of the Jackson's First Addition as described on the attached map and legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Ordinance 4521 As Recorded In The Office Of The City Clerk.

Meeting Adjourned at 10:30 PM

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Sondra Smith
City Clerk