Minutes
Of The
City Council Meeting
November 18, 2003

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

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

Mayor Coody called the meeting to order.

CONSENT:

Approval of the Minutes: Approval of the October 7, 2003, November 4, 2003 Special and November 4, 2003 Regular City Council meeting minutes.

Street, Fire and Police Impact Fees: A resolution to request city staff to study the feasibility and advisability of new impact fees in the areas of street construction, fire fighter operations, police operations and capital cost.

Resolution 167-03 As Recorded In The Office Of The City Clerk.

Crossland Construction Library Change Order No. # 11: A resolution approving Change Order # 11 to the contract with Crossland Construction Company, Inc. in the amount of $41,342.00 for water and sewer improvements at the New Fayetteville Public Library.

Resolution 168-03 As Recorded In The Office Of The City Clerk.

Crossland Construction Library Change Order # 12: A resolution approving Change Order # 12 to the contract with Crossland Construction Company, Inc. in the amount of $110,117.00 to install underground utilities to seven residences adjacent to the New Fayetteville Public Library.

Resolution 169-03 As Recorded In The Office Of The City Clerk.

SBC Long Distance Bid Award: A resolution awarding Bid #03-59 and approving a three-year contract with SGC Global Services, Inc. in the amount of $16,000.00 per year for long distance telephone services for the City of Fayetteville.

Resolution 170-03 As Recorded In The Office Of The City Clerk.

2003 Department of Homeland Security Grant: A resolution authorizing the Fayetteville Fire Department to apply for a Department of Homeland Security Fire Grant in an amount up to $300,000.00 for fire prevention programs.

Resolution 171-03 As Recorded In The Office Of The City Clerk.

U of A Hangar, Department of Aeronautics Grant: A resolution authorizing the Fayetteville Municipal Airport staff to apply for and accept a grant in the amount of $43,820.00 from the Arkansas Department of Aeronautics for the construction of an access road, parking and utilities to serve the University of Arkansas Corporate Hangar.

Resolution 172-03 As Recorded In The Office Of The City Clerk.

U of A Hangar, Architectural Contractors: A resolution awarding a contract to Architectural Contractors, Inc. in the amount of $532,000.00 for the construction of the University of Arkansas Corporate Hangar at the Fayetteville Municipal Airport; approving a project contingency in the amount of $29,565.00; and approving a budget adjustment in the amount of $220,835.00 for same.

Resolution 173-03 As Recorded In The Office Of The City Clerk.

Fleet Vehicle Purchase, Ton Truck from Lander's: A resolution approving the purchase of one pickup truck, 1 ton cab/chassis from Landers GMC at State contract prices in the amount of $24,612.00.

Resolution 174-03 As Recorded In The Office Of The City Clerk.

Fleet Vehicle Purchase, Four Pickup Trucks From Lander's: A resolution approving the purchase of four pickup trucks from Landers Ford at State contract prices for a total cost of $105,721.00.

Resolution 175-03 As Recorded In The Office Of The City Clerk.

Williams Tractor Bid Acceptance: A resolution awarding Bid # 03-61 and approving the purchase of a Bobcat Toolcat 5600 utility work machine from Williams Tractor, Inc. in the amount of $43,306.00.

Resolution 176-03 As Recorded In The Office Of The City Clerk.

Alderman Davis moved to approve the consent agenda as read. Alderman Marr seconded. Upon roll call the motion passed unanimously.

OLD BUSINESS:

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 second reading at the October 7, 2003 City Council meeting.***

Mr. Williams read the ordinance.

Alderman Thiel: What we were given tonight, was that a change from what we had already received?

Greg Boettcher: That is the revised ordinance that reflects conformance with our contracts and the recommendations of the Water and Sewer Committee. The water rates would be an across the board increase and the sewer rates would be an across the board increase. There are a few minor exceptions where we have a contract that is valid that mandates that we use cost of service. The revised ordinance reflects all of the recommendations from the Water and Sewer Committee.

Alderman Thiel: The Farmington rates have changed in this?

Greg Boettcher: Yes.

Alderman Thiel: Where were the adjustments made?

Greg Boettcher: The water rates reflect an across the board 10% increase from the current rate. There was one water customer that we have that has a cost of service rate, which is White River Water District. The sanitary sewer rates, the across the board reflects all those customers, except Farmington that has a cost of service contract and Greenland has a cost of service contract. The contracts with certain customers specifically state cost of service.

Alderman Thiel: With Farmington we are looking at a minus .51 on the water?

Greg Boettcher: The Farmington water rate will go up 10% from where it is now under that proposed ordinance.

Alderman Thiel: It is the sewer that has been changed.

Greg Boettcher: Yes.

Alderman Marr moved to approve the new Exhibit A dated November 18, 2003. Alderman Reynolds seconded. Upon roll call the motion to approve the new Exhibit A dated November 18, 2003 passed unanimously.

Alderman Davis: Greg can you define the cost of service for us?

Greg Boettcher: Cost of service basically looks at the nature of customer demands and then allocates our cost to serve those various groups. For customers that are not within the corporate limits of Fayetteville there is a rate of return added to their cost of service so that the people that are inside the City of Fayetteville that have ownership in the system do receive a benefit for the risk taking and their investment.

Alderman Davis: I understood it also to include the billing of the outside customer, the maintenance.

Greg Boettcher: The City of Fayetteville under the contract provides demand operation and maintenance. We also do some preventive operation and maintenance. We maintain the Farmington lift station, pumps, and provide all the operation and maintenance of the system. We do not do capital reinvestment in the Farmington or Greenland system, but we are under contract and obligated to operate and maintain.

Alderman Davis: Depreciation of the capital portion of that we are not involved in at all?

Greg Boettcher: You are correct. Elkins on the other hand is a wholesale customer that does operate and maintain their own system, so they have a wholesale rate which means they have a main meter into town and their main lift station has a meter on it that we bill for water and wastewater service.

Steven Tennant, City Attorney of Farmington, voiced his concern about the increase in sewer rates that was being proposed for the City of Farmington.

A discussion followed on the changes to the ordinance and the rates.

Greg Boettcher: We have done a detailed rate study. The Council and all of our customers have been advised of the rate study, it is posted on the web site. The study has been done by a reputable firm following what we believe is acceptable mythology. I have not heard any thing other than we don't like the differential rate, I have not heard or received any formal communication that says the rate mythology on page 47 is inappropriate and we believe this is the correct approach. I have not received any formal communication that is the process that I am accustomed to. We may not like the results, if it is the process that we are questioning, what in the process is wrong, tell me and I will try to respond to it. The rate increases are necessary. I have not received anything stating that this mythology is flawed and I don't recall receiving any thing that indicates that what we are doing is not in accordance with the contract. We hired a professional to develop the rates they are an unbiased expert in this field and have given us this recommendation and that is what we have tried to follow.

Alderman Marr: Has there been any change in the mythology of this study compared to previous studies.

Greg Boettcher: I am not aware of any but I was not here when the previous rate study was done. It was done by the same firm and I believe it is following the same process.

Steven Tennant, City Attorney of Farmington asked about the mythology and the cost of service. He asked where the consultant came up with the numbers.

Teresa Clark, Farmington City Council Member spoke of the maintenance that needed to be completed on the Farmington system. She also spoke on the cost Farmington residents will pay compared to the cost the Fayetteville residents will pay. She also discussed the Black and Veatch rate study.

A discussion followed on the rates.

Alderman Jordan: The non owners are 19% with all of them combined.

Greg Boettcher: That is correct, that is out side the city limits customers.

Alderman Jordan: Do you know how much Farmington is of the aggregate?

Greg Boettcher: Farmington is about 5% of our total customer base. Those numbers change year to year.

Carol Tuck from Farmington spoke against the rate increase.

Kim Miller from Farmington spoke against the rate increase.

Mayor Coody: Average unit cost for service for a Fayetteville resident in 2002 per thousand gallons was $3.27 for a Farmington resident it was $4.33. Fayetteville sewer per thousand gallons was $3.44 for a Farmington resident it was $5.24. The Fayetteville residents voted an extra tax to fund a new sewer plant. We also charge impact fees.

Teresa Clark said they are shopping and working in Fayetteville and paying the sales tax.

Alderman Marr: Can you agree that you do not have a ¾ cent sales tax in the City of Farmington for the items that are purchased there?

Teresa Clark: We do not have an additional sales tax.

Alderman Marr: Do you have an impact fee?

Teresa Clark: We do not have an impact fee.

Mayor Coody: Fayetteville residents pay a ¾ cents sales tax and impact fees that Farmington residents do not have. If you paid these it would be about the same as this cost of service rate increase amounts to.

Teresa Clark said they would be happy to discuss these issues.

Greg Boettcher: Hugh Earnest sent a letter to Farmington and we have not received a written response. I have also sent them a letter on some rehab issues and have not received a written response.

Mayor Coody: Mr. Tennant, has Farmington sent any thing to us about sales tax or impact fees?

Mr. Tennant: We have had discussions.

Mayor Coody: The staff has tried over the past several months to have a rate equity discussion and we have not had anything in writing sent back to us. This discussion started in July. We don't like raising your rates but we had to do an election and raise taxes and impact fees.

A discussion followed on the impact fees.

Heather Woodruff: I did not realize we needed to write a letter for questions we needed answered.

Alderman Rhoads: What can we do?

Kit Williams: Cost of services is in the contract and we are required to follow the contract, the contract states that the rates of service shall be on a cost of service basis as computed by a registered professional engineer selected and employed by the City of Fayetteville, Farmington has the right to review such rates and provide the city with their comments. We are required to base our rates with Farmington upon a contract signed by Farmington and Fayetteville on this cost of service basis. I was at the meeting as several other aldermen were when representatives of Black and Veatch were asked how did they come up with the rates and they said it would take weeks to tell you because there is a long document, it is not just three or four simple answers. All the answers that Mr. Tennant has been asking for are in the cost of study document that has been provided that was prepared by an outside engineer that was hired by us that has done this in the past and does this all over the country.

Alderman Rhoads: The contract doesn't give an opportunity for Farmington to get their own engineer if they don't like what our engineer said.

Kit Williams: It says the City of Farmington has the right to review the rates and give the City of Fayetteville their comments.

Alderman Rhoads: They did not put anything in to allow them to get a second or third recommendation.

Kit Williams: That is correct and at the time the contract was signed there was a differential in rates then and they were adopted in the contract at that time. There has always been a differential in rates between Farmington and Fayetteville because we own the sewer plant and put lots on money into the sewer plant and we are providing a service to Farmington and their citizens.

A discussion followed on the rate study completed by Black and Veatch.

Greg Boettcher: The key difference between the inside City of Fayetteville rates and outside the City of Fayetteville rates is a return on investment. What that means is that the people inside the city take the risk, they have the capital expense, they own the asset people that are external pay a higher rate.

A discussion followed on the rate study and the cost of service for each customer.

Alderman Marr asked that we table this and have the consultant come in before the next City Council meeting.

Alderman Reynolds asked that we get a copy of the cost of service rate study to Mr. Tennant.

Steve Davis: We will make a copy and get it to them tomorrow.

Alderman Rhoads: Is there any urgency, will this put the city at a disadvantage by waiting?

Steve Davis: There are two urgencies that the City Council needs to be aware of, beginning November 1, 2003 every gallon of water that flows through our pipes cost us more money and we don't currently have the rate structure to support that 15% water increase. We have a commitment to the Arkansas Soil and Water Conversation Commission to have a rate ordinance adopted by January 1. We need to have these rates in place by December 31, 2003. The rates will not go into effect on that date; it would go into effect 30 days later. For every month we are delayed it costs about $60,000.

Alderman Reynolds moved to table this until the December 2, 2003 City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.

R-PZD 03-04.00 Lazenby Properties*:* An ordinance establishing a Residential Planned Zoning District titled R-PZD 03-04.00 located on the west side of Razorback Road between Baum Stadium and the State Revenue Office containing 7.65 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission. ***This Ordinance was left on the first reading at the November 4, 2003 City Council meeting.***

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

Mr. Williams read the ordinance.

Dawn Warrick: There is a new Exhibit A and legal description. This applicant will be removing the Northwestern portion of this site which is adjacent to an existing contractor's storage facility. There is 1.31 acres of wetlands that was delineated in this site, a wet lands study was performed to delineate that area, if you remove that area along with the area that was removed that was the proposed contractors storage area the over all density would be 17.7 units per area with those areas removed. If you use the entire property which is the way that we traditionally calculate the density that would be a density of 14.6 units per area.

Mr. Lazenby: I think we have tried to address every thing you have asked us to.

Alderman Jordan: I have concerns about the density for this area.

Alderman Lucas: I have concerns about the only outlet being Razorback Road and the intersection; I would have liked to have another exit from the property.

Alderman Cook: I agree about the density and the traffic.

Mayor Coody: What is staff doing to address these concerns?

Tim Conklin: We have looked at a traffic signal at Razorback Road and Fifteenth Street money would be put into escrow from the project for the signal. Arkansas Transportation Department has improving Razorback Road from two lanes to four lanes in their improvement program. We are researching residential design as an action item for 2004.

A discussion followed on the project and emergency access to the project during game day.

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

Mr. Williams read the ordinance.

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

Ordinance 4528 As Recorded In The Office Of The City Clerk.

NEW BUSINESS:

VAC 03-11.00 Vacation Michael & Jill Salazar: An ordinance approving VAC 03-11.00 to vacate a portion of a utility easement along lot 51 of the Brookbury Subdivision as depicted on the attached map and legal description.

Dawn Warrick: When this structure was built we believe through contractor error and information that was not presented in building permits there was a portion of the deck and sunroom at the rear of property which encroaches upon an existing utility easement at the rear of the lot. In order to refinance the home the property owners requested a survey and are trying to resolve the problem.

A discussion followed on the property set backs, the liability for not following set back requirements, and tracking violators.

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

Mr. Williams read the ordinance.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded. Upon roll call the motion passed 7-0. Alderman Marr was absent during the vote.

Mr. Williams read the ordinance.

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

Ordinance 4529 As Recorded In The Office Of The City Clerk.

ADM 03-27.00 Stearns Street Apartments Right of Way Reduction Stearns Street: A resolution approving ADM 03-27.00 amending the Master Street Plan, lessening the right-of-way dedication for Stearns Street, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way, and reconfiguring the connection between Stearns Street and Vantage Drive.

Tim Conklin gave an explanation as to what was being proposed.

There was a discussion on the right of way reduction.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution passed 4-4. Alderman Thiel, Rhoads, Davis and Reynolds voting yes. Alderman Cook, Marr, Lucas and Jordan voting no.

Mayor Coody: What are your reasons for opposing this?

Alderman Cook: There is not enough connectivity there.

A discussion followed on the streets and the capacity that would be on these streets.

Tim Conklin: The Planning Commission has approved this project. What you are considering this evening is not whether or not the access for the development is appropriate, whether or not it needs to be reduced from 70 feet to 50 feet and a 28 foot street versus a potential for a 36 foot street for some time in the future. What you are considering is the right of way that should be required.

Alderman Marr: I think to have a local street intersect with an arterial Joyce Street is bad planning.

A discussion followed on the right of way.

A discussion followed on if discussion should follow a vote.

Mayor Coody: Tim, staff supports this recommendation?

Tim Conklin: Staff recommended the reclassification to a local street and the Planning Commission approved it.

Mayor Coody voted yes breaking the tie thus the resolution passed.

Resolution 177-03 As Recorded In The Office Of The City Clerk.

ADM 03-26.00 Stearns Street Apartments Right of Way Reduction Shepherd Lane: A resolution approving ADM 03-26.00 amending the Master Street Plan, lessening the right-of-way dedication for Shepherd Lane, designated a collector street requiring 70' right-of-way, to local street standards requiring 50' right-of-way.

There was a discussion on Shepherd Lane.

Alderman Davis moved to approve the resolution. Alderman Reynolds seconded. Upon roll call the resolution passed 4-4. Alderman Thiel, Rhoads, Davis and Reynolds voting

yes. Alderman Cook, Marr, Lucas and Jordan voting no. Mayor Coody voted yes breaking the tie thus the resolution passed.

Resolution 178-03 As Recorded In The Office Of The City Clerk.

2004 Annual Budget: A resolution adopting the proposed 2004 Annual Budget & Work Program and the 2004-2008 Capital Improvement Program.

Steve Davis: The overall cost increase from the adopted 2003 budget to the proposed 2004 budget is 2.05%. The budget for operating funds is $75,836,000. There are $8.7 million in transfers, $90.5 million of capital and $8.2 million in depreciation. The largest capital project that is budgeted is the wastewater system improvements project; this budget contains approximately $76 million for that one project alone. The budget contains 18 ½ new positions, 12 of these are for fire fighters to staff Station 7.

Tom Brown spoke on items that could affect the budget and expenditures in the police department.

Alderman Marr moved to table the resolution until the December 2, 2003 City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.

Meeting Adjourned at 8:40 P.M.

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Sondra Smith
City Clerk