

**Minutes
Of The
City Council Meeting
December 2, 2003**

A meeting of the Fayetteville City Council was held on December 2, 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 21, 2003 and November 18, 2003 meeting minutes.

Police Department Policy – Racial Profiling Prohibited: A resolution to adopt a Fayetteville Police Department Policy prohibiting racial profiling.

Resolution 179-03 as Recorded in the Office of the City Clerk.

APAC Arkansas Inc; Church Avenue Retaining Wall: A resolution awarding Bid # 03-66 to APAC-Arkansas Inc. in the amount of Twenty-Eight Thousand Fifteen Dollars (\$28,015.00) to replace a retaining wall at the Church Avenue employee parking lot; and approving a project contingency in the amount of Two Thousand Eight Hundred One Dollars (\$2,801.00).

Resolution 180-03 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC; Mount Sequoyah Water and Sewer Improvements Project: A resolution approving a contract in the amount of Sixty-Eight Thousand Three Hundred Dollars (\$68,300.00) with Garver Engineers, LLC for engineering services relating to the Mount Sequoyah Water and Sewer Improvements Project.

Resolution 181-03 as Recorded in the Office of the City Clerk.

Cross Keys Subdivision – Park Land Dedication – Money in lieu of land: A resolution accepting the Parks and Recreation Advisory Board's recommendation to accept \$58,830.00 cash in lieu of the required park land dedication for Cross Keys Subdivision.

Resolution 182-03 as Recorded in the Office of the City Clerk.

Fleet Purchase of 2 Expeditions for the Police Department: A resolution approving the purchase of two Ford Expeditions from Landers Ford at State contract prices for a total cost of \$56,322.00 for use as police K-9 units.

Resolution 183-03 as Recorded in the Office of the City Clerk.

Special Election for the Referendum Election on Ordinance No. 4512: A resolution setting the date for the Special Election for the Referendum Election on Ordinance No. 4512 which amended §95.05 of the Fayetteville Code to Regulate Smoking In Most Public Places And Places Of Employment and requesting the Washington County Board of Election Commissioners to place this referendum on the ballot.

Resolution 184-03 as Recorded in the Office of the City Clerk.

Alderman Davis asked that the minutes be pulled from the consent agenda.

Alderman Marr moved to approve the consent as read with the minutes removed. Alderman Reynolds 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. *This Ordinance was left on the second reading at the October 7, 2003 City Council meeting. This Ordinance was tabled at the November 18, 2003 City Council meeting to the December 2, 2003 City Council meeting.*

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

Mr. Williams read the ordinance.

Alderman Cook: We had a Water and Sewer meeting last night and there were three key points that we discussed. We asked that the city stay with the winter averaging as opposed to the 85% rule. We wanted the water and sewer rates to be looked at again in three years and to do another cost of service study at that time. We would also like to do a RFQ at that point and open it up for bidding, this is no reflection on Black and Veatch, we have been with them for years and just felt we should open it up for competitive bidding.

Do we need to officially amend the ordinance with the amended version that we have.

Kit Williams: The winter averaging was not included in the last one that was read, so that part would have to be amended. The other items can be done in the future.

Alderman Thiel: We left Section II in here, that section relates to the 85% on the year round average of the water usage. This section should probably be removed.

Steve Davis: If the City Council wants to provide the opportunity for some of our existing customers to move to an irrigation meter it would be appropriate to leave it, but if as a policy decision City Council doesn't want to provide that opportunity then it can be removed.

Alderman Thiel: You are right it could stay in regardless of where we go with the 85% or not. It is just kind of an incentive by waving the impact fee.

Alderman Marr: Is it currently limited to a time period.

Steve Davis: There is nothing in the current ordinance that has a limitation on it at all.

Alderman Marr: What is the reason for the 36 month from the start of this plan? I like the idea of adding that this is an option but tying it only to a certain time frame.

Steve Davis: The original reason was to provide some method to transition folks that were going to have a higher sewer bill under the 85% rule, because under the 85% methodology even though for the sewer utility as a whole it was revenue neutral, there would be some users that would experience a higher sewer bill because of the 85% calculation than they currently would under a sewer average. If we are going to retain the winter average methodology then you could also remove the 36 month if the City Council chose to offer that as an incentive to move to irrigation systems.

Mayor Coody: Would there be anyone that would see a decrease in sewer?

Steve Davis: Yes, those folks that had very little lawn watering or had very few outside uses of water.

Mayor Coody: Do you have any kind of an idea of the ratio of those that would see higher versus those that would see lower?

Steve Davis: I would think that there would be a multiple impact.

Mayor Coody: More people would see a decrease than would see an increase?

Steve Davis: I would expect that to be the case.

Alderman Marr: If we leave winter averaging in place as proposed by the Water and Sewer Committee then there really is no advantage of keeping within 36 months in Section II.

Steve Davis: No.

Alderman Marr: We could remove that time and then all that we are making people aware of in the ordinance is that they have the ability to request separate irrigation meters and not within a specific time frame.

Alderman Davis: People that are currently on the system would have the impact fee for the meter waived, but those that have new housing they would have to go ahead and pay that impact fee.

Steve Davis: Yes, because they are placing new burdens on the system, those folks that are currently on the system with an irrigation system running through their household meter or watering extensively through a hose network, we have already accounted for their impact on the system.

Alderman Davis: The new residents that have paid the impact fee for their new home, why couldn't they go ahead and hook on with an irrigation system then and not have an impact fee?

Steve Davis: The new building represents an additional impact on the water system.

Alderman Davis: Which they are picking up at that time when they come to the city and pay that impact fee for the water and sewer hookup.

Steve Davis: There would also be an additional impact for the irrigation meter.

Alderman Reynolds: So you are talking about from \$800 to \$1,100 for an irrigation meter plus impact fees.

Steve Davis: Yes.

Mayor Coody: If someone has an existing meter and wants to add an irrigation meter so that he can keep his water bill separate from his sewer bill, if he is not adding any impact to the system, would adding the irrigation meter be constituting a new impact?

Steve Davis: Under that condition it was not envisioned that it would create a new impact.

Mayor Coody: So he would not pay the impact fee with an existing home that was built before impact fees were in effect.

Alderman Davis: The individual that builds a home today and wants to put an irrigation system in also they are going to get the double whammy.

Steve Davis: Yes.

Mayor Coody: We have talked about when new construction happens instead of having a single yolk meter set, we could encourage builders to put in a double yolk to where if they wanted to have an irrigation system they could simply add the meter without having to have a new water tap.

Alderman Davis: I would like to see that for those people that are coming to the community that may want to irrigate their yards in the years to come.

Alderman Thiel: I had a constituent that was going to have to pay an impact fee that lived in an existing home. Our current policy is that we do charge an impact fee for anyone for an irrigation meter and this would have changed that.

Steve Davis: Yes it would.

Alderman Davis: If you are going to change it you might as well change it for all and make it uniform instead of just picking out those that have been in their home for five to ten years.

Alderman Thiel: In other words just waive the cost for an irrigation meter.

Mayor Coody: What would the down side be to that?

Steve Davis: You have impacts to the water supply system and the storage capacity system that would not be recognized if that impact fee were to be waived for those irrigation meters.

Dawn Warrick: The way the ordinance was drafted and adopted is that a new meter is a new impact and requires a fee, whether it is an irrigation meter or a service meter for residents or a commercial structure.

Mayor Coody: Is there room for fine tuning of the impact fee ordinance to cover these situations where we might see an extra meter yet not see an additional impact.

Dawn Warrick: The City Council adopted the ordinance in its current form, it specifically addresses irrigation meters and exempts them from having to pay the sewer impact fee and only requires that water be applied to those irrigation meters as far as the fee that is being accessed. I believe it would require an ordinance amendment to change the way it is drafted currently.

David Jurgens: From the mechanics of the water business, most residential meters will not accommodate an irrigation system, so when an irrigation meter is put in, it is more commonly a 1" rather than a ¾" and has more than twice the volume capability. Most often when an irrigation system is put in it is in fact creating an increased demand on the system. Additionally in the older part of town where we have pipes that are smaller than 6" in diameter and we have hundreds of miles of them we often can't even handle irrigation systems on them and I have to tell people no. If an irrigation system draws the pressure down under high demand times to where people don't have adequate water pressure for domestic uses, we don't want one person's irrigation system to scald the other guy in the shower. Water mechanics wise a separate irrigation meter almost always produces an increase demand on the system. We do have those that have sized their irrigation systems small enough so that a domestic meter can handle it. My understanding is if they already have an irrigation system in place they wouldn't have that impact fee, but if they don't already have an irrigation system in place they are almost certainly going to increase the impact. New developments that have large size lots where it is likely that they will be putting irrigation systems in, we have been requiring developers to put in a two inch main across the road so that we will significantly reduce the cost and amount of work required in order to hook up an irrigation system. They still have to buy the tap to put the loop in and to actually make the final connections to get everything there to do it.

Peggy Howell with Black and Veatch gave a presentation on the cost of service methodology and examples of how it specifically applies to our utility. The basis for the water study is the AWWA manual and for the wastewater is the WEF manual; these are the bibles of the industry. There are three components to a full rate study, the cash flow or revenue requirements analysis, the distribution of that requirement to your customers and the return on your investment. There are different unit cost based on an owner (City of Fayetteville resident) and non-owner (non resident of the City of Fayetteville).

Alderman Marr: Looking at the O & M cost per class, is the city allocating what cost to operate the system is going to each particular class?

Peggy Howell: We look at each line in your 2002 actual budget and your 2003 budget. We identify the line items that address the function of volume, strength or customer and allocate to what we call functional components. We add all those up for O & M, so we have a total O & M cost allocated to the functions. We then look at the units of service and come up with a unit cost. That unit cost for O & M is multiplied by the units for the residential to come up with the residential cost, the units for the commercial to come up with the commercial cost and the units for the industrial to come up with the industrial cost.

Alderman Davis: How do you determine the rate of return on the sewer?

Peggy Howell: Your total cost less your O & M and your depreciation. Your rates are not providing on their own enough money to reinvest in your system. You are using another source of revenue, sales tax to make up for the negative. You start with the assets that you can earn a return from your outside city folks on and end up with your total return that is required that's required per your revenue requirements.

Steve Tennant, City Attorney for the City of Farmington: I asked Black and Veatch today what are the actual costs that are attributed to the operation and maintenance of the Farmington system and they told me that that was hard to determine. This study has nothing to do with our contract. We are trying to justify how you are putting the rate increase on us. Fayetteville has done nothing for our infrastructure repairs in the past nor do they have any planned for the future. The rate of return is not part of our contract; we should not be required to pay it.

Mayor Coody: Can you please explain how your company came up with these figures in the rate study?

Peggy Howell: You have to look at the configuration of the Fayetteville system, Farmington is outside the city, it goes to your wastewater treatment plant, and in order to get from Farmington to the wastewater treatment plant they use your collection system. It is not just a matter of Farmington participating in the treatment plant portion of your capital investment, but they are currently using your collection system, so as such they should participate in a portion of that system also. Secondly, as far as the specific cost for Farmington, in order to keep rates on an even keel instead of specifically identifying the cost to serve Farmington, we put them in the system and every customer in the system on the O& M is treated the same. We take the total O & M cost and divide it by the total units associated with all customers.

Alderman Marr: When you talked about Farmington's cost using our system to take it from Farmington to our current plant, when the new plant is built and it is not using the current part of the system, how will these rates be reconfigured at the time because it seems to be cost would go down at that point.

Peggy Howell: That's correct. I would suggest as a consultation to you, when the new plant comes on line and you have actual operating data that you revisit the contract and write the contract to reflect the facilities that are being used by those communities at that time. You can't do that now because you don't know specifically how Farmington's discharge is going to arrive at your old treatment plant or the new plant.

Mayor Coody: We have talked about revisiting this whole issue in an about three years.

Alderman Marr: Were there other cost items identified that have changed that have been taken into account with this rate structure?

Blaine Bickel with Black & Veatch: The study and the rate design include projections of operation and maintenance expense associated with this new plant which amount to approximately \$4 million in additional operating expenses per year. Included in that are both increases and decreases.

Alderman Reynolds: Are we going to have to invest \$2.5 million in the pump station at Farmington before we move into 2006?

Greg Boettcher: The City of Fayetteville's financial plan does not include investing any money in the major upgrade of the Farmington lift station. I believe the original estimate on upgrading that lift station is \$3.5 million which Farmington's consultant is currently evaluating. Since they own the system that capital improvement was anticipated to be at the system owner's expense.

Ernie Penn, City of Farmington resident spoke against the proposed increase in the rates. He said the rates should be fair and equitable. He thinks there is an equitable solution that can be negotiated with the right parties involved in those negotiations so that there would be a fair and equitable solution for both cities.

Danny Spears, Farmington City Council: We need to work together to try to get this resolved. There is room for improvement in the existing contract.

Teresa Clark, Farmington City Council: The mythology to determine the difference is what we are arguing.

Kelly Thomas, Farmington City Council: The mythology is what we are concerned about. There needs to be further discussion on the increase in the sewer rates.

Mayor Coody: I did meet with your Mayor and tried to work something out but we failed. There has been an attempt to find some middle ground.

Kelly Thomas: Hopefully in the future we can have better communication. We met with Black & Veatch today and thought your City Council would be attending that meeting but they did not.

Alderman Rhoads: The only thing this City Council officially requested was to have the engineers here and to explain the rates at this City Council meeting. The fact that you were able to meet with Black & Veatch was good, but I don't feel that I needed to be invited to that because I knew that I would be here for Black & Veatch's presentation tonight at the City Council meeting. I think there has been a lot of open communication on this subject.

Kelly Thomas: After seeing the Black & Veatch presentation the only thing we could agree on is that there were no specific facts or figures used for the mythology of why this cost of service rate for the City of Farmington and the 6% rate increase was not based on how much it would

cost you to provide us service. The 6% was the rate of return on the investment that you look to get.

Paul Graham, Farmington City Council: If the City of Farmington imposed an impact fee or sales tax, would you consider giving us the same rate plus have us pay 6% more than a citizen if Fayetteville is paying?

Mayor Coody: Speaking for myself, if Farmington residents were more on an equal investment footing along the line of Fayetteville residents certainly you will find an open door with this governing body to see if there is a way that we can bring a more perception of equity to this rate structure.

Ms. Howell, if Farmington was to have a $\frac{3}{4}$ cent sales tax and if they were to pass impact fees, how would that impact our rate of return.

Peggy Howell: The cost of service analysis is determined the total cost to serve the City of Farmington, how they choose to transfer that money to you, be it through rates, impact fees or sales tax, the total cost to serve them has been defined. The reason the rates appear as high as they do is because we have taken that total cost and put it in their sewer rate. If they choose to reduce their sewer rates the same way the citizens of Fayetteville chose to through a sales tax then it could in theory be equal to what you are paying if they recovered enough revenue through other sources.

Mayor Coody: So it is feasible to think if they were to do the same pay structure that Fayetteville residents have adopted, that their bills might be more in line with what we are paying.

Peggy Howell: That is correct, it is feasible.

Shannon Freeman resident of Elkins spoke against the proposed rate increase.

Heather Woodruff Dumas spoke of her concern regarding the current rate of return and the future rate of return.

Geary Lowery: Spoke against the proposed rate increase.

Mayor Coody: Mr. Boettcher, do you know if there is a 350% rate increase in Elkins?

Greg Boettcher: No, I do not. I can tell you the rates are going up for all customers. The water rate is being decreased based on cost of service. The wastewater rate is going up substantially, but I do not believe that totally accounts for the increases that they are contemplating, I believe the City of Elkins operates and maintains a system that they add a cost on top of our delivery and treatment charges. I do not know the makeup of that, so there may be some additional factor in the increase that represents the local delivery cost.

Mayor Coody: So we are reducing our charge for water rates to Elkins?

Greg Boettcher: In the current cost of service arrangement with Elkins in the ordinance that the Council has before them now there is a decrease in the cost of water to the City of Elkins.

Mayor Coody: The increase for sewage is going to be more than the decrease for water. Ms. Howell, do you know the wholesale increase that we would pay.

Greg Boettcher: No, I did not bring that with me. I wish I could tell you that the objective we had in doing a rate study was to find a way to make people outside of Fayetteville pay more so we could capitalize on that but actually we retained a professional consultant to do an unbiased rate study following accepted practices. There are different impacts because there are different categories of service. What we have to remember is there are multiple governments and entities that are making contracts. When we are investing large amounts of capital money in the system and paying for it not through rates but through other mechanisms, others that use those resources have to also pay but our only mechanism to access them is rates.

Mayor Coody: We have a contract with our sister cities, are we abiding by the terms of the contract that was signed by Farmington in 1994?

Kit Williams: Yes, I believe we are fully compiling with all the contracts that we have. I have instructed the Council that we should follow our contracts and abide by them.

Alderman Marr: Mr. Tennant made a comment that the rate of return portion that is in our rate he doesn't believe it is part of our contract; could you advise us on that point?

Kit Williams: The rate of return has always been a part of this contract and earlier contracts that we have had with the City of Farmington and other cities. As part of the contract with Farmington there was an exhibit attached that was accepted as the current rates at that point in time, showing a different rate for the City of Fayetteville than what Farmington was paying. Farmington was paying more at that point in time than the citizens of Fayetteville because in fact we own the system. If you look at the contract itself, it specifically says how our sewer rates are going to be determined. It says the rates for sewer service shall be on a cost of service basis as computed by a registered professional engineer selected and employed by the City of Fayetteville. They use the accepted industry standards in order to determine what the cost of service cost would be. Our tax payers own the sewer plants and therefore it is only reasonable that our tax payers get the benefit of the taxes that they are paying because of that there is a rate of return. Mr. Tennant said the sewer rates include maintenance and treatment cost, if you look at treatment cost, what is treatment cost, how about building a new wastewater treatment facility and upgrading our current one. Those are obviously treatment cost, they are always interpreted and understood to be part of the cost of providing services to them. I think it is clear the way this contract was written that it was anticipated at that time when it was originally signed that the Farmington residents would pay more than Fayetteville residents. Rates were raised in 1997 with the City of Fayetteville, rates on Farmington were raised and they were higher because we get an 8% return on the contract, no one argued, no one disagreed. This has been a long standing contract between Fayetteville and Farmington it has been interpreted in the past to include this rate of return that is the industry standard, obviously that is a very proper thing for us to consider.

Kit Williams read case law.

Mayor Coody: Did you find that wholesale rate increase?

Greg Boettcher: What we found is that the wastewater service charges will go up \$4.40 per thousand; the water charges will go down 70 cents per thousand so there is a net increase per thousand gallons for water and wastewater wholesale to Elkins of \$3.70. I have no knowledge of the retail rate that Elkins is building from our wholesale rate.

Alderman Thiel: The existing rates have a larger discrepancy; can you explain that to me?

Peggy Howell: Keep in mind that the 8% is no difference between the rates, the 8% is the return on your investment, so in developing that rate there was three elements of it, there was the O & M and then return, so the difference between the inside and outside city rates is entirely dependent upon the return element because the other two elements we pay the same on. Because inside city choose to address their capital with the sales tax and outside the city at this point does not, they are paying for their portion of the capital investment through their rate. If Farmington chooses to pay through the form of a sales tax then their sewer rate would go down.

Steve Tennant spoke about the contract and the rate of return.

Geary Lowery spoke about the rates and the impact fees that would be charged for irrigation meters.

Alderman Davis: If we decide to delay this increase for Farmington for 30 days, what deficit would we have to our budget?

Steve Davis: The City is already being charged the increased water purchase rates from Beaver Water District. That cost is estimated at \$50,000 per month on an average month. Those rates went into affect November 1, so every gallon of water from November 1 until the ordinance takes affect is costing us \$50,000 on an every 30 day increment. Farmington is somewhere between 4% to 5% of the total dollar volume the sewer side we are already incurring the increased cost on the sludge handling, I would have to figure what that cost would be.

Alderman Davis: If we went ahead and passed this tonight we could still have open negotiations with the City of Farmington in the mean time to have changes in the water and sewer rate. Once their Council came together and the citizens came together and made a proposal to the Council, that is they passed a sales tax and an impact fee, those dollars would come to the City, then we could automatically change those rates at that point in time, would that be a fair statement?

Mayor Coody: I suspect that if two people want to renegotiate a contract they can.

Kit Williams: We wouldn't actually have to renegotiate the contract, if they raise money through a sales tax or impact fees and send those monies to us that should automatically require us to look at their rates. You would not have to change the contract; it would still be the cost of service basis.

Alderman Davis: If I were a resident of the City of Farmington I would want to know at that time that if I passed that sales tax and that impact fee that I would be granted the same rates as the City of Fayetteville.

Kit Williams: We probably could not do that with the contract that we have because they would not be raising enough money to fully fund their sewer rates. Before we had our election the citizens of Fayetteville had the choice of 134% sewer rate increase or you can have a sales tax and a 29% sewer rates increase which is what we are having.

Alderman Davis: It was my understanding that there was no dispute from the Farmington folks on the water rates increases, so that portion of the ordinance could be enacted without any question.

Alderman Reynolds: We need to negotiate with them.

Mayor Coody: If we were to pass the rates that we have exclusive of Farmington we would pretty much have to do the same thing with Greenland since we have the same contract with them. If we were to do that, what rate would we charge them and if it took a year to negotiate something that is agreeable what would we do to make up for that lost?

Kit Williams: That is why we do these rate studies to make sure we have enough money to operate our system and by not having about 9% of our system pay the new rates then that might have some implications.

Alderman Rhoads: If we adopt this what would be the increase in the total amount projected that we would receive from the Farmington residents.

Steve Davis: I have not run the numbers specifically for Farmington.

Peggy Howell: What I can give you are the figures for all outside customers we don't have the individual customers broke down within this rate report. We can calculate that. The allocated cost of service to the outside of the city customers for 2006 is \$1,136,000; revenue under their existing rates is \$772,000. Farmington is approximately 60% to 65% of that amount.

Mayor Coody: What the Mayor of Farmington and I discussed was the idea that Fayetteville would go ahead and pass the study as presented and then we could renegotiate the rates if the City of Farmington would pass impact fees. If we were to pass it as presented tonight we would have hard figures and Farmington would have a very strong incentive to have the discussion on impact fees and sales tax. I would rather pass this as it is set up and then work with Farmington.

Alderman Reynolds: I would like to hear from Mayor Harris of Farmington.

John Harris, Mayor of Farmington: Mayor Coody and I did discuss that at our meeting. The bottom line was no matter what we discussed we were going to have to come back to the Councils for approval. It looks like this is something that both sides are willing to negotiate on.

Alderman Cook moved to amend the ordinance by adding the new Exhibit A dated December 2, 2003, winter averaging. Alderman Davis seconded. Upon roll call the motion passed unanimously.

Alderman Thiel moved to amend the ordinance by removing Section 2 of the proposed ordinance. Alderman Reynolds seconded.

Steve Davis: That section was put in there to provide an incentive for folks to move to an irrigation meter for their irrigation systems and if it is a policy decision for City Council to not offer that as an incentive that's fine.

Alderman Thiel: The reason we were offering that as an incentive is because of the change in the way that we were charging the sewer rates. There is a cost associated with irrigation systems with a separate meter so for us to be giving up that impact fee for that separate system might not be a wise thing. There is a cost attached to that it is not free, that is the reason that we passed impact fees to try to pay back for the cost of service, so there is a cost attached to this service, since there is no longer a need for the incentive, I do think we should remove it.

Alderman Marr: I thought we heard earlier this evening that we are requiring an impact fee so if we leave it in we have conflicting ordinances.

Mayor Coody asked shall the amendment to the ordinance pass. Upon roll call the motion to amend the ordinance passed unanimously.

Alderman Marr: The cost is the cost; we are losing money somewhere if we are not covering the cost. I do think that the cost will change in the future and will be less in the future. If we don't pass it, when are we going to start to negotiate between the cities? Passing it almost puts a time frame or a more sense of urgency to negotiate.

Alderman Rhoads: Ms. Howell, would Farmington's charge be less once the new plant is in place.

Peggy Howell: Yes that will result in a different charge, I can't say that it will be less, one of the things you have to consider is right now they are considered 4% to 5% of a total system, if they claim they only discharge to one of your treatment plants, should that be a percentage of that treatment plants flow as opposed to 4% or 5 % of the whole system. Those are all things that have to be looked at.

Alderman Rhoads: If they are using considerably less of our facilities wouldn't you expect the cost to go down?

Peggy Howell: I would expect it to go down, I question what would replace the use of your collection system right now, how are you going to transfer their waste, that is not designed at this point in time and how it should be funded, by Farmington or Fayetteville.

Alderman Rhoads: I think we have to know how much we are giving up in dollars and my calculation is about \$219,000 per year if we were to not raise the rate at all. I believe we should go ahead and pass this and then negotiate.

Alderman Cook: No one wants to pay more in rates; I have to rely on the staff and the consultants that were hired. I feel that in three years when we do another rate study after we get our entire infrastructure on line we will readjust and things could change at that point. I think we should pass this tonight and negotiate.

Alderman Thiel: We need to get back on line with a cost of service for everyone, the industry and commercial also. We are relying on these experts to tell us what these rates should be; I will support this because it will be looked at in three years again.

Alderman Reynolds: We need to get gripe on what we are doing and cut our spending.

Alderman Jordan: I don't like raising these rates any more than anyone else does. Uncontrolled growth brings about these types of things; growth has to pay its price. We must develop long range strategic growth plans in this city. This is to maintain what we are doing now; it does not address the future growth of the city. I will support this ordinance.

Alderman Davis: We need to find some way to take care of our 22% loss of water before it gets to our customers. I think we need to agree to allow the other cities to pass impact fees and sales tax and get those monies to the City of Fayetteville to offset some of our cost then we can re-look at those agreements with those cities.

Alderman Lucas: This is not new; the citizens voted this in a couple of years ago. People knew that rates were going to go up. The citizens of Fayetteville choose to offset some of their cost with the impact fees and the sales tax in order not to have the big hit on their bills. I think everyone was aware that these were options because we certainly voted on them and brought them forward. If we had not had the fees it would be a big hit on my bill also.

Mayor Coody: Conservation, the average user uses 5700 gallons per family; if you would like to reduce your bills reduce consumption. None of us like raising rates but operating cost keep going up, the tax payers cannot keep absorbing the increase in cost without having an increase in revenue to cover it. We are the lowest city tax rate that other cities in the area. You can not cost your cost and spend more money on repairs at the same time. We need to find a way to solve these problems and do it as cost effectively as possible. Our door is open for other cities to discuss this issue.

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

Ordinance 4530 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. ***This Resolution was tabled at the November 18, 2003 City Council meeting until the December 2, 2003 City Council meeting.***

A discussion followed on the budget. Alderman Marr would like to have a budget work session before the budget is passed. Alderman Marr would also like to have a one page bullet point item of what were the policy decisions that we were asked to make decisions on. Alderman Marr also said if people have political oriented issues, how we spend money in a particular area he would also like that before a budget work session.

Alderman Reynolds asked for a line item budget detail before the work session. He also wanted to see the other departments to present items they would like to see cut to save money.

Steve Davis said those items surfaced as part of the zero based budget exercise that was done by Parks, Police and Fire. We can ask for a list from other departments of policy type decisions that they would like the Council to consider at the next budget work session.

Mayor Coody said while we might make a political decision to change how we do business, we could not do some of the services but that would not save us any money the manpower would be diverted to doing something else. From what I understand it would not help the budget process much.

Alderman Reynolds said he thought we were trying to cut money to save the tax payers money.

Alderman Marr said in a longer term vision it does save us money. It may not help us right now but it may in the future.

Alderman Marr moved to table this resolution until the December 16, 2003 City Council meeting. Alderman Reynolds seconded. Upon roll call the motion to table passed unanimously.

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.

Mayor Coody: They want to take bids for construction.

Hugh Earnest: We started moving against this structure in February of this year. I would suggest that we pass the resolution.

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

Resolution 185-03 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Raze and Removal 1905 S. Brower Avenue: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Jonathan M. and Jennifer L. Rich located at 1905 S. Brower Avenue in the City of Fayetteville, Arkansas.

Alderman Jordan: I have had a lot of complaints about this piece of property.

Hugh Earnest: We sent a notice to the owners in May of this year. I think it is appropriate that the Council take the action that is recommended by staff.

Alderman Davis: Hugh, have you heard any thing from these individuals regarding your letters.

Hugh Earnest: No we have not gotten any feedback.

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

Resolution 186-03 as Recorded in the Office of the City Clerk.

VAC 03-12.00 Combs Street Church of Christ: An ordinance approving VAC 03-12.00 to vacate and abandon a portion of 4th Street right of way, City of Fayetteville, Washington County, Arkansas as described on the attached map and legal description.

Mr. Williams read the ordinance.

Dawn Warrick gave an overview of the project.

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

Mr. Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. **Alderman 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 4531 as Recorded in the Office of the City Clerk.

Hay Group 2004 Salary Recommendation: A resolution adopting the Hay Group's recommendation in the 2003 compensation practices update; implementing 50% of the recommendation in January 2004 and the remaining 50% in January 2005; and approving the 2004 city and employee premium amounts for the group medical plan.

Steve Davis: The city contracted with Hay Group for a salary survey for 2003. They surveyed the public sector employers that had been selected by the Wage and Benefit Committee from prior years. This item is to do a phased approach; we are also proposing to adjust the merit matrix to be more in line with Hay Group found in the municipal market. They base their recommendation off of using a municipal cost survey that was conducted by Watts and Wyatt, it is a national survey merit matrix for municipal governments for 2004, it is between a 3% and 3 ½ % cost. The 2004 budget that you have before you contains a merit budget of 3.28% so we are right in the middle of that range that they recommended. This merit budget will reduce cost to our largest cost item, personnel services if you want the cost on a city wide basis the best way to do that is to try to control the cost growth in your major cost element which is labor. The employees will still be receiving a merit increase, on the average it will cost the city next year 3.28%, the police and fire fighters will still receive their step increases that will be in the vicinity of 4% to 5%. Adjusting the merit budget will have the impact of reducing cost in future years about \$69,000, concurrent with this we are asking the city to pick up a portion of the health care increase, we are asking that the health care cost be shared between the city and the employees, that each pick up a portional share by increasing their participation by 9.5% each. The insurance cost increase for the city is \$185,000 for next year, \$117,000 in general fund.

Michele Bechhold explained the merit matrix.

Alderman Davis asked for the positions to be associated with the grades.

Jason Alvarado, FOB Vice President for 2003 and a representative on the City's Wage and Benefit Committee: We would like to thank the city for allowing the committee. The FOB is asking the City Council to vote no on the first portion of the resolution the 50/50 they are asking that it be funded fully. Since the inception in 1989 every year to this point, the City Council has fully funded it. This year it will cost \$300,000 to fund it at 100% to do the entire city. Partially funding salary increases means our salaries are not competitive; it only makes our salary average for 2003. This will negatively affect moral if the full increase is not granted.

He also spoke on the insurance turn back funds that are received do to this turn back money it does not cost the city to fund the police or fire retirement. He also spoke about the guiding principle and the high approval rating the police and fire departments received. He said the FOB applauds the City Council for the efforts of being good stewards of our tax dollars, funding our salary increases at 100% is a responsible use of those tax dollars. We are asking for our wages to be competitive. The first report that Hay Group gave stated that employee's increases should not be a swing item in the budget as employees are the cities contact with the public.

Mayor Coody: This decision we have to make tonight on budgeting salaries is the toughest one we have to make. All the city staff is doing a great job. 80% of our budget goes to salaries and when you have City Council people saying we need to cut cost you have to look at the 80% of your expenses and that is where you are going to have to look at cutting cost. None of us like the idea of not fully funding wages for our employees because you are doing a good job.

Jason Alvarado: Dialog is good, but it is hollow without action.

Mayor Coody: With raises, with LOPFI and establishing of the committee we have put our words into action time and time again. We have a track record of doing some good.

Alderman Marr: Voiced his concern about the Hay Group study this year and how far off market we are on this new study.

Michele Bechhold: Part of the answer is that the survey was actually completed in 2002 and aged for implementation in 2003. This time we had 58 cities in the survey group and 32 cities participated this year, 40% of this survey group was new participants.

Hugh Earnest: When we picked those 58 cities it was very carefully done. We very carefully choose those cities and we tried to pick a base that would accurately reflect Fayetteville, Arkansas.

Alderman Marr: I completely agree with the statement in 1989 that says that your pay should not be a swing item in the budget because basically every business's best access is its people. It does concern me about this survey.

Alderman Marr spoke of the survey and his concern about the percent that we are lagging behind this year. He does not feel the increase matches inflation.

A discussion followed on the salary survey.

Alderman Marr asked to see what our turnover rates are by departments for 2003.

Michele Bechhold: The last part of the agenda item is requesting a decision on the health insurance premiums, we have open enrollment scheduled to begin on Monday, December 8, 2003 if the City Council would consider making a decision on that issue it would be very beneficial to us in being able to communicate to the employees what their insurance premiums would be for 2004.

Alderman Thiel moved to remove Sections 1 and 2 of the resolution. Alderman Marr seconded. Upon roll call the motion to amend the resolution passed unanimously.

Alderman Marr: We are voting to go ahead and do the insurance amount without making a decision on the funding of the Hay Group study?

Michele Bechhold: Our original proposal was if the pay plan is passed at 50% implementation or full implementation that the city and the employees share the increase to the insurance premium. The city would pay 9 ½ % of the increase and the employee would also pay a 9 ½ % increase. We did also say if no changes were made to the pay plan that we would propose that the city pick up the entire increase on the health insurance.

Alderman Marr: So there is no different premium break if we decide to fully fund it?

Michele Bechhold: That is correct.

Alderman Thiel moved to approve the resolution as amended. Alderman Reynolds seconded. Upon roll call the amended resolution passed unanimously.

Resolution 187-03 as Recorded in the Office of the City Clerk.

Steve Davis: I do have a clarification, the information that Mr. Alvarado shared with you about the LOPFI turn back monies, he was told by Mr. Clark at LOPFI that the turn back monies are fully funding the LOPFI retirement, our accounting records indicate we received \$490,000 in turn back monies in 2003 and we are spending \$750,000. In our 2004 budget we are expecting \$369,000 in turn back monies and we are projecting \$680,000 LOPFI expense. I have been told by the actuaries that in the future cities can expect 32% of LOPFI expense to be covered by state turn back. I have asked Jody to develop a report to that affect. I have not received that report but when I do I will make it available to the City Council, the policemen and the fire fighters.

Mr. Alvarado: Speaking to the last part of what Mr. Davis said, the way it was done before the least amount of money the city has had to pay in one year to our retirement was \$12,000, the most \$100,000 and that was before this legislative session changed the way the money was allocated. The 32% is completely different not only from what I am getting from Mr. Clark but also from what I have gotten at the quarterly LOPFI meetings when I have attended them.

Mayor Coody: Can we iron out these discrepancies before the next meeting?

Steve Davis: When we produce the report from the actuary those differences will be ironed out, they work with LOPFI on a daily basis.

ADM 03-29.00 Amend Master Street Plan – Cliffs Boulevard Eastern Extension: A resolution approving ADM 03-29.00 amending the Master Street Plan by removing the Eastern extension of Cliffs Blvd. between Crossover Road and Starr Drive.

Dawn Warrick explained the request. Staff is recommending this be removed from the Master Street Plan.

Mayor Coody: The off set and the grade concern me.

A discussion followed on the street, the traffic volume and the type of street that this street should be.

Alderman Davis felt it needs to remain as a Collector Street.

Dawn Warrick: I think right now the consideration is to classify it as a collector or remove it completely from the Master Street Plan. We are asking that the eastern side of Cliff Drive be removed as a line on a map from the Master Street Plan. We are not asking that this street not be constructed as a part of this subdivision, we are asking that our Master Street Plan be amended not to call that extension a minor arterial or a collector, but to remove it.

Alderman Marr: I think what the resolution is saying by removing it from the Master Street Plan we are conceding that it will be something less than a collector street. If we don't think it should be less than a collector street we should vote against this resolution.

Kit Williams: You could amend it to relocate Cliffs Boulevard and reduce it to a collector street. You have to relocate it because right now some of it runs across land they do not own, so if you require them to build it would not go any where, so you would need to relocate it and reduce it to a collector size.

Dawn Warrick: The Planning Commission approved it with the amendments to pass on their recommendation to remove it from the Master Street Plan. It is platted as a collector on the approved preliminary plat.

Mayor Coody: Land ownership is temporary, but once this street gets built it is there for the next 150 years, so I hate making a decision that is a bad alignment, a permanent mistake over a temporary problem.

Dawn Warrick: I believe that the street if it were connected at Cliffs Boulevard extended to the east would be steeper than the 14% grade that is proposed and approved for this street.

Mayor Coody: If this topical map is accurate at all it would be a lot less steep grade if it were lined up and just headed to the southeast.

Alderman Reynolds: How is Hyland Park classified?

Dawn Warrick: It is a local street.

Alderman Cook: I am struggling with this it looks like we are trying to make concessions here only because the land owners did not own the right of way to build the street to connect it through the way we thought it was going to be in the first place.

Alderman Thiel: This street can be built like it is now but at some time in the future you could come back and pick up this angle. This needs to remain a collector street.

Dawn Warrick: So you are suggesting that the street through this subdivision not serve as the Master Street Plan Street but continue to have a connection south of the proposed intersection where it is currently shown on the Master Street Plan in a different configuration.

Alderman Thiel: No go ahead and build the street but not reduce the size of it.

A discussion followed on the street, relocation of the street and removing it from the Master Street Plan.

The developer spoke about the development and the street.

A discussion followed on the road and the development.

Dawn Warrick: So do I understand the Council is looking to table this item so we can bring you an exhibit that shows an eastern connection to Cliffs Boulevard in an alternate location that will still provide that Master Street Plan connection and we need to look at bringing it farther to the east.

Alderman Davis moved to table this resolution until the December 16, 2003 City Council meeting. Alderman Reynolds seconded. Upon roll call the motion to table passed unanimously.

Meeting adjourned at 10:25 p.m.

Sondra Smith
City Clerk