City Council
Meeting Minutes
February 20, 2001

A meeting of the Fayetteville City Council was held on February 20, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Mayor Coody, Aldermen Reynolds, Thiel, Young, Zurcher, Trumbo, Davis, Santos, and Jordan, City Attorney Jerry Rose, City Clerk Heather Woodruff, Staff, Press, and Audience.

Mayor Coody presented the State of the City Address a copy is attached.

CONSENT

APPROVAL OF THE MINUTES: Approval of the February 6, 2001 City Council minutes.

SW BELL: A resolution approving an easement consisting of 400 sq. ft. for Southwestern Bell to install additional fiber optic equipment. The easement will be adjacent to an existing SW Bell easement which was granted in 1995 for a sum of $500. This new easement will have a one time fee of $1,000.

RESOLUTION 16-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

PARK RENOVATION: A resolution approving a contract with McClelland Consulting Engineers, Inc. for the design and construction supervision of the renovation of Wilson and Walker Park tennis and basketball courts.

RESOLUTION 17-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TCA CABLE: A resolution approving an extension with TCA Cable Partners to temporarily operate the cable communications system until April 30, 2001.

RESOLUTION 18-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

OLD MISSOURI ROAD: A resolution approving an engineering services contract in the not-to-exceed amount of $256,420 with Garver Engineers for the design and construction administration for improvements to Old Missouri Road from intersection with Rolling Hills north to the Mud Creek Bridge.

RESOLUTION 19-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

ADDITIONAL PERSONNEL: A resolution authorizing personnel for the Engineering Division and the City Clerk/Treasurer Division.

RESOLUTION 20-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BLOCK GRANT: A resolution approving a budget adjustment to accept the 2000 Local Law Enforcement Block Grant.

RESOLUTION 21-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 00-47: A resolution amending the City's Master Street Plan by removing the current line on the map that indicates the Eastern Bypass and to show a corridor that is the same as the Northwest Arkansas Regional Planning Commission's 2025 Transportation Plan and the Northwest Arkansas Regional Transportation's Major Investment Study.

RESOLUTION 22-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Zurcher seconded. Upon roll call the motion to approve the Consent Agenda passed unanimously.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

PARKS AND RECREATION BOARD: An ordinance approving an amendment to the Code of Fayetteville Section 33.018 requiring the Parks and Recreation Advisory Board to be composed of eight members appointed by the City Council.

Mr. Rose read the ordinance.

Alderman Thiel: When I was on the Parks Board, this was one of the last things that we addressed. We always found that it was important that we had members that had different areas of interest and expertise and this current ordinance kind of defeats that idea by requiring that we have members from the Youth Center. It certainly doesn't say that they can't be members of the Youth Center, but by making it a requirement, it sometimes defeats the idea of us having a diverse group of Park Board members. Also, the Youth Center does not have the same requirement – there is not a requirement on the Youth Center Board to have a Parks member on that Board.

Alderman Zurcher: Is that basically the only change that is proposed with this?

Alderman Thiel: That is the only change. It's just that right now the ordinance requires two Youth

Center members.

Alderman Trumbo: It is my understanding that the Youth Center has offered a position on their board to the Parks staff. I don't know if they have accepted it. Just to keep the communications open. I understand the Youth Center has reciprocated in offering board membership on the Youth Center Board.

Alderman Thiel: But it's not mandated, whereas this would remain a mandate. I think there's nothing wrong with a Youth Center Board member being on the Parks Board but I just think it is ill advised to make it mandatory.

Mr. Wade Coldwell, Chairman of the Parks Board: We have talked about this and under the current situation, since we do not have current representation on the Youth Center Board, and the funds are donated to the Youth Center from the City, we don't think there is reciprocity there. I think this change would be in the best interest of everybody involved. One thing we do want to do is keep the communication open and we have talked about that with annual meetings.

A discussion followed on the ordinance.

Alderman Santos moved to suspend the rules and move to the second reading. Alderman Davis seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Alderman Santos moved to suspend the rules and move to the third and final reading. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4290 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Santos moved to accept the Parks Board nomination of Craig T. Mauritson to the Parks and Recreation Board. Alderman Thiel seconded the motion. Upon roll call the motion carried unanimously.

TROLLEY BUS: An ordinance waiving the requirement of formal competitive bidding and approving the purchase of used diesel powered passenger vehicles to be utilized by the Fayetteville Trolley Program.

Mr. Rose read the ordinance.

Mayor Coody: We are going to try to expand the trolley route and try to cover more area, maybe go up to Evelyn Hills. We are still researching the project, rider ship and routes. We do want to expand

our public transportation program as much as we can.

Alderman Zurcher: Has this been through the Equipment Committee?

Alderman Reynolds: The Equipment Committee has okayed this and given their approval to start seeking buses.

Alderman Davis moved to suspend the rules and move to the second reading. Alderman Santos seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Alderman Young moved to suspend the rules and move to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4291 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZ 98-22: An ordinance approving an amendment to the Bill of Assurance to provide for the use of a metal fence on that property described in RZ 98-22, approved in Ordinance 4175 and amended in Ordinance 4184, submitted by Richard Osborne on behalf of Littlefield Investment Company.

Mr. Rose read the ordinance.

Alderman Thiel asked if Planning Director Tim Conklin had any comments.

Mr. Conklin told the Council that the applicant was present and that he had submitted a site plan showing the fence, and some photographs of a fence of the same type that is currently on Huntsville Road. This information is in the Council packet.

Alderman Reynolds: As Alderman in Ward 1 I have had no objections.

Alderman Thiel: The Planning Commission did recommend a wood fence and looking back at the City Council minutes of August 3, 1999, I notice it was not a unanimous decision. What is the staff recommendation?

Tim Conklin, Planning: The item passed at the City Council meeting with a 5-4-0 vote. There was some controversy with regard to this rezoning. They had requested C-2, staff recommended denial. From the Planning Commission, it was appealed to the City Council, at that time the applicant did offer a Bill of Assurance. The Bill of Assurance did state that he would keep the vehicles behind a six-foot high wood fence. There was some misunderstanding between the staff and applicant with the intent of that Bill of Assurance. We were trying to keep the cars he was working on screened from the residential neighborhood to the north. The applicant did not understand that the Bill of Assurance stated a six foot high wood privacy fence. Since the rezoning passed, a metal fence was

installed. I contacted Mr. Johnson and explained to him that legally we have a Bill of Assurance that I can not ignore which requires a six-foot high wood fence. The applicant is going to ask the City Council to allow the metal fence to remain on Huntsville Road and that he be allowed to have a metal fence on Happy Hollow. My recommendation is to allow him to have the metal fence on Huntsville Road, but I do believe that a wood board fence, six-foot high is more appropriate on Happy Hollow Road, since it does adjoin residential to the north.

It was clear to me that a wood fence was required in the Bill of Assurance, but since a metal fence has been installed it does not look that bad and it kind of fits in with the theme of the old time gas station. The only concern I have is the single family home that is adjacent to this property. It would be more in character with the residential neighborhood to have a wood board fence. The whole issue of the rezoning at the time was when we rezoned it to C-2 it allowed car sales which is what he intends to do. Used car lots are not something we encourage in Fayetteville next to single-family homes; therefore staff was trying to make sure it was compatible with the residential neighborhood to the north.

Alderman Trumbo: I don't have a problem with the ordinance; the owner has put a lot of sweat and equity into fixing up the property.

Alderman Thiel: I don't have a problem with leaving what he has already built. I would like to see the wooden fence on the Happy Hollow side. How would we change this to reflect that requirement?

Mr. Rose: We would have to have a new Bill of Assurance.

A discussion followed on a new Bill of Assurance.

Mr. Conklin: The City cannot ask the owner for a Bill of Assurance, he has to offer that. He did offer one and signed the Bill of Assurance that stated he was going to build a wood board fence on Happy Hollow and on Huntsville Road. Unfortunately, he did not build a wood fence along Huntsville Road. This causes me some concern knowing that the rezoning was subject to that Bill of Assurance and now we have a Bill of Assurance that is not being complied with. I thought it was my duty to bring that forward to the City Council because you do rely on Bill of Assurance's. When an applicant promises you something I think they should keep their promises. I am okay with the metal fence on Huntsville Road. I do believe that on the adjacent property to the north, which contains a single-family home, a wood board fence six feet high that would typically be found in a residential area would be more appropriate.

Mr. Clem Johnson, property owner: The main thing that bothers me is to have two types of fences on the same property. I think the metal fence is attractive and I have put a lot of effort into it and its well built. Wood fences are nice when they are first built, but they age and change and they require a lot more maintenance. The misunderstanding was I keyed on the word "privacy" and not on the word "wood". I built a privacy fence that is more in flavor with a nostalgic old gas station. I do not want a different type of fence on the other side. I have already talked to my neighbors and they have no problem with anything I am doing. I think I have really done a good job out there so far. I would like to change the Bill of Assurance and go with a complete metal fence.

Alderman Reynolds: I made a trip out to the property. He has done a great improvement to that property. What he has done I am sure is more expensive than a wooden fence. If the neighbors have

no problem with it, I think it looks nice and I have no problem with it.

Alderman Thiel: I tend to agree with you. My concern is that we don't start making a habit of not enforcing these Bills of Assurance. But since there are no problems and the neighbors haven't complained, I don't have any problem with it.

Alderman Young: One of the aspects of enforcing these is exactly what Mr. Conklin did. I would like to thank him for bringing this to our attention. After it is brought to our attention then we have to decide what to do.

Alderman Reynolds: Tim did an excellent job.

Alderman Zurcher agreed that the Council does not want to see a Bill of Assurance ignored. He said a couple had been brought to his attention but the situations were different. This issue has to do with materials, not a situation where what was promised did not happen

Alderman Jordan also agreed that the Council cannot get into the habit of not enforcing Bills of Assurance. But in this case, he felt the fence looked very nice

A discussion followed regarding this issue.

Mr. Conklin: Keep in mind, the reason we were requiring the fence is to screen the vehicles that will be sitting behind it. Typically in a C-1 zone you wouldn't have a need for this type of fence. That is why we are requiring a fence.

Alderman Trumbo moved to suspend the rules and move to the second reading. Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

Mr. Geary Lowery, a resident, questioned the legal ramifications of a Bill of Assurance without it being filed (dated and stamped) at the Circuit Clerk's office. He believes it is pretty useless and cannot be enforced. He spoke of instances of Bills of Assurance he felt had not been adhered to and which the City had not enforced.

Mr. Rose: They do have to be recorded. About the only way we have of enforcing a Bill of Assurance, if somebody won't do it voluntarily, is to take them to court. It is not a criminal or a summary proceeding; we would probably get a mandatory injunction. It is a lengthy and expensive process, but it can be done. To my knowledge that is the only way that you can enforce it.

Mr. Lowery: Why doesn't the City make an ordinance where it's mandatory that every Bill of Assurance is recorded at the County Clerk's office?

Mr. Rose: Yes, I think they probably should be recorded. I am not sure the one you have before you tonight would be any more enforceable if it were recorded. There is no reason why we could not pass an ordinance requiring all Bills of Assurance to be recorded.

Alderman Trumbo moved to suspend the rules and move to the third and final reading.

Alderman Zurcher seconded the motion. Upon roll call the motion carried unanimously.

Mr. Rose read the ordinance.

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

ORDINANCE 4292 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

VA 01-1: An ordinance approving a vacation request VA 01-1, submitted by Steve Winkler for property located east of 607 Peach. The property is zoned R-1, Low Density Residential and contains approximately 0.08 acres. The request is to vacate the street right-of-way.

Mr. Rose read the ordinance.

Mr. Bunn: We have scheduled the maintenance on the road ditch there. We looked at the situation along the unopened street and feel what the applicant was talking about in terms of making a ditch there would work. I do not know if it will solve the gentleman's problem one house down or not, but it would certainly help.

Alderman Reynolds: What bothers me on this project is when we met on site and we spoke to Mr. Winkler he had agreed it would take about two hours to cut a ditch and run the water off. This would solve the problems to the west. Before we left he had changed his mind and did not want to sign an agreement that he would cut the ditch and help his neighbors. He wanted the City to give him twenty-foot of property and the City cut the ditch too. I feel like if we are going to give up twenty foot of property then we need to get something from Mr. Winkler in the way of aid for his neighbors. I am in doubt of giving him twenty foot without him putting a little effort into it.

Alderman Thiel: What concerns me is us keeping the utility easement, because if there is further flooding we are going to be responsible for it. I am not sure if we really wanted or needed that utility easement.

Mr. Bunn: We want the utility easement; the question was whether to also designate that as a drainage easement. I think if we put a ditch there then we would probably want to go ahead and make it a drainage easement also.

Alderman Thiel: I agreed with Mr. Reynolds that if we are going to do that, why abandon the street. We are just basically cutting ourselves off from that street. If we are going to keep the utility and drainage easement and be responsible for maintaining that, then I don't see any reason to abandon the street.

Alderman Reynolds: If we are going to be responsible for that easement and that ditch, then I don't think we have any reason to give up the street, or give up 20 foot of property.

Alderman Santos: We have a staff recommendation and a 9-0 Planning Commission decision to vacate this?

Mr. Conklin: Yes we do. The issue came up at Planning Commission from the resident to the west

down the hill with regard to drainage. The big concern was if we do vacate this street right-of-way that the city would not have the ability to go in there and take care of the drainage. He is not opposed to vacating the right-of-way but he is concerned about the drainage issue.

Alderman Santos: What about the lots to the east? Are these R-1 lots that we are going to land lock?

Mr. Conklin: They do have frontage currently on Peach. They would have to comply with our zoning ordinance with regard to lot area and lot frontage when they come in for a building permit.

A discussion followed on the subdivision itself.

Marvin Freeman, 2856 South School: Mr. Freeman said his property joins Peach Street. He commended the Planning Commission and City Council for coming out and viewing the property and speaking to both him and Mr. Winkler. He discussed the problem he is having with the water running down the hill and washing sand and gravel onto his property in great amounts. He says he has had water in his house 3 or 4 inches deep. He said he has replaced all the carpet and walls in his house twice. He further stated that he does not have any problems with Mr. Winkler or any of his neighbors but feels if the City abandons the street and no drainage ditches are cut through, he will continue to have the same problem.

A discussion followed on the ordinance.

The ordinance was left on the first reading.

AD 00-45: An ordinance approving Administrative Request, AD 00-45, as submitted by Laura Kelly on behalf of the Fayetteville Sidewalk and Trail Committee for Bike Parking Ordinance.

Mr. Rose read the ordinance.

Alderman Young: This ordinance was presented to the Ordinance Review Committee and we made just a couple of minor changes to it and gave it to Jerry to put together. We have just received the ordinance tonight and I have skimmed through it. It appears the changes have been made.

Alderman Davis: I looked at it also and the changes are in the ordinance. This originally started a year ago in May through the Sidewalk and Trails Committee. Laura Kelly is the one who helped put all this together and I would like to compliment her on all the work that she has done through that committee to bring this forward. It has also been through the Planning Commission, as well as Ordinance Review.

Alderman Santos: One thing I would like to point out is that you are allowed to substitute 10% of your required automobile parking with bicycle parking, add one bike rack for one automobile space. So this is going to save thousands of dollars for developers as well as help encourage bicycling as an alternative transportation method.

Alderman Reynolds: Who makes this particular bicycle rack? Who are we going to buy these from?

Laura Kelly, Ward 1 Resident: I have done a lot of research on this bike rack and there is going to be a document available in the Planning Department to help developers who are working with this. I have a rough version of the bicycle parking guidelines, and there is a list of about 30 suppliers who have this kind of rack.

There was discussion about the ordinance.

After discussing the size of the mounting flange on section H, 4: B, a decision was made to change the 1/4 inch flange to a 3/8 inch mounting flange.

Alderman Santos moved that the ordinance be amended to read a 3/8 inch mounting flange. Alderman Jordan seconded the motion. Upon roll call the amendment to the ordinance passed unanimously.

A discussion followed on the project.

Laura Kelly: Section E, that talks about the position of the bicycle parking racks. We have changed all the "shall's", except for the ADA requirement, to "should's" to reduce the necessity for variances. When I checked with the Fire Marshall, he said bicycle parking racks should have a 15 foot clearance from edge of fire hydrants, the copy that was read tonight said 12. There may need to be another amendment changing the 12 to 15...

Alderman Santos moved to change section E-5 – twelve-foot clearance for hydrants to fifteen-foot clearance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

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

Mr. Rose read the ordinance.

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

Mr. Rose read the ordinance.

Chuck Rutherford, Sidewalk Coordinator, stated that he felt that the "should" in Section 5 regarding the fire hydrant clearance should be changed to "shall".

Alderman Davis moved to amend the ordinance by changing the "should" in Section 5 to "shall". Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

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

ORDINANCE 4293 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

AD 00-49: A resolution approving an amendment to the City's Master Street Plan by eliminating the requirement for dedication of right-of-way for designated freeways/expressways.

Alderman Santos: I noticed this was a problem, with requiring land dedication for 300 feet of right-of-way on these expressways that may never be built. I didn't think it was a fair thing to ask landowners to give to the City. That's another problem we can fix when we get our impact fee system in place.

Alderman Santos moved that the resolution be approved. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 23-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SANITARY SEWER REHAB: A resolution approving a construction contract with T-G Excavating Contractors, Inc. for sanitary sewer rehabilitation, Illinois Basin 6, 9, 12, and 16, in the amount of $1,100,000 and approve a 5% contingency of $55,000.

Alderman Santos: This is something that's going to come along with the new sewage plant. We're not going to have that inefficiency of pumping our sewage from the west side over the mountain to the east side and then pumping the effluent back. But the existing lines aren't going to work. We're going to have to have a lot of rehabilitation and line work done in the Illinois basin so we can have the gravity flow to the new plant.

Alderman Santos moved that the resolution be approved. Alderman Reynolds seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 24-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

SANITARY SEWER EVALUATION STUDY: A resolution approving an engineering contract with RJN Group, Inc. for a sanitary sewer evaluation study for Illinois River Basin 1-5, 18, 19 and White River mini system 27 (Industrial Park), in the amount of $471,231, and approval of a 5% contingency in the amount of $23,562.

Alderman Davis moved that the resolution be approved. Alderman Jordan seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 25-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MOSS AND BARNETT: A resolution authorizing the extension of the engagement agreement with Moss and Barnett to allow for further negotiation of a franchise agreement until said task is complete and approving an amount not to exceed $20,000 to cover expenses for legal services and travel expenses.

City Attorney Rose: This is an extension of a $30,000 engagement agreement approved back in March, 2000 with Moss and Barnett to act as our negotiators for our negotiations with Cox Cable on our franchise ordinance. It's also there to get Moss and Barnett's assistance on the telecommunications ordinance, which was before the City Council. I'm asking for an additional $20,000 over the $30,000 previously approved, which will bring the total cost of this contract to

$50,000. The reason for the overrun is that the telecommunications ordinance in particular required two trips by Brian Grogan to speak before the Council. It also required some rather extensive negotiations with Southwestern Bell. In addition to that, the negotiations with Cox Cable have been more lengthy than we anticipated, due largely to some conversation about the institutional network and how it should be placed within our agreement. I would hope that this will be the last time this will be before you. I think that we are going to be very close to presenting a finished document to you.

Alderman Davis: How long do you think it will be before we see that document?

Mr. Rose: I don't have a date certain. My guess is that it will not be before you within 60 days. If we agree tomorrow on it, it would need to be typed up and it would need to be considered by the Telecommunications Board. They would have to make a recommendation before it could go on the Council agenda. My guess would be a minimum of somewhere between 60 and 90 days.

Alderman Thiel: One of the concerns I have is that Grogan hasn't reported to the Telecommunications Board. Maybe he isn't required to?

Mr. Rose: He certainly is not required; in fact, just the opposite. The Telecommunications Board is not involved in the negotiation of this franchise. The negotiation of the franchise was given to me as city attorney by the previous mayor. I assume this mayor also wants me to do that. Once the document is completed, it then goes to the Telecommunications Board and they advise as to whether or not they believe it is a good agreement or a bad agreement. But they are not involved in the negotiation of this franchise agreement.

Alderman Thiel: Even though they were the ones that suggested the original proposal that he is negotiating?

Mr. Rose: No, Ma'am. They did not suggest that, that is just not correct. We had a needs assessment that was completed by a member of the Telecommunications Board. That needs assessment was an invaluable document and it was from that needs assessment that our negotiations have proceeded. The Telecommunications Board has expressed a strong interest in an I-Net system, and that I-Net system has become the single most important thing in our negotiations, but the Telecommunications Board did not initiate any of this.

Alderman Davis moved that the resolution be passed. Alderman Santos seconded the motion. Upon roll call the resolution passed unanimously.

RESOLUTION 26-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CIVIL SERVICE: An ordinance granting authority to the Fayetteville Civil Service Commission to appoint and remove the Police Chief and Fire Chief; and for other purposes.

Mr. Rose read the ordinance.

Alderman Trumbo: I brought this forward for the City Council to consider. Obviously, going back in history, Chief Watson and Chief Jackson were both appointed by the Civil Service and then the State statutes changed years ago. I think with the City's growth and the size of our fire and police,

there are good arguments on both sides of this issue. I know Springdale implemented Civil Service for their fire and police chiefs. Some other municipalities comparable to our size do have Civil Service. As everyone does know, Civil Service has for many years conducted hiring, disciplinary action, appeal process of our fire and police rank and file. It did change with the state statues where that was given to the authority of the elected Mayor. Obviously at this point, you have mayoral discretion in termination of the fire and police chief positions and you do have city council oversight in the form of a two-thirds majority to veto a mayoral decision. I just want to throw this out and have a good, open discussion and take a look at implementing Civil Service oversight to the two chief positions.

Alderman Thiel: Well, initially I had thought that placing the fire and police chiefs back under the Civil Service Commission was a good idea. I agree with Alderman Trumbo that I certainly respect the Civil Service Commissioners that we have in place now. I agree that there needs to be a lot of discussion on this issue. I've had a lot of calls and talked to a lot of people about this. On one hand, many people feel strongly that consideration of the police and fire chief's employment should not be political because of the nature of public safety. They feel that these two jobs should be reviewed by a non-political board. However the Civil Service Commission is made up of five citizens of the community selected by the City Council, so it is not entirely a non-political group. On the other hand, people have told me they want their police and fire chiefs to be held more directly accountable and under the current law they are accountable to both the mayor and the city council. The Council can overrule the mayor's decision regarding employment with a two-thirds vote. I have spoken with Don Zimmerman *(Director of the Arkansas Municipal League)* and with several members of the University of Arkansas Political Science Department and they share the view that Civil Service Commissions have basically outlived their usefulness in cities that can afford highly skilled human resource directors. They also agree that most cities have found it better to have all department heads held accountable to the mayor or the city manager. I know there is need for more discussion about this tonight, but my recommendation would be that we refer this to the Ordinance Review Committee and that would give us an opportunity to visit with the Civil Service Commissioners and really discuss this issue.

With some discussion among Council members, it was decided to refer the issue to the Ordinance Review Committee, with the full Council meeting with the Civil Service Commission, possibly after the next agenda setting session to discuss the issue.

There was some further discussion among alderman about the ordinance.

Samuel Campbell, 1881 North Pine Valley Drive: Mr. Campbell spoke of his concerns about doing anything that would allow the Fire Department to have the appearance of being operated by impulsive and irregular acts. He spoke about the connection between the insurance rates and the Fire Department and brought up events that had happened in the past regarding the Fire Department Union and fire chief. He felt checks and balances are needed without disturbing the ultimate authority of the mayor.

Jeff Erf, 2711 Woodcliff Rd.: Mr. Erf felt this ordinance is a solution looking for a problem. He had concerns about removing checks and balances that are already in place for the process of hiring and firing chiefs. This ordinance would require more time from the Civil Service Commission to oversee the day-to-day duties of the police and fire chiefs. His concern is that the members of the Commission don't have much hands on experience and would not be in the position to judge the

performance of the chiefs. He expressed his concern about a conflict of interest that might occur if the Civil Service Commission had the authority to hire and fire the police and fire chiefs.

Terry Eastin, 2033 S. Ashwood: As Chairwoman of Friends for Fayetteville, she urged the City Council and the Mayor to examine this issue thoroughly and to study cities of similar size across the United States. The group is concerned that this move would prohibit citizen input in the decision making process surrounding the hiring of the chiefs. Without the hiring and firing authority over the police and fire chiefs, the mayor cannot be effective in his leadership role with regard to these two departments.

She continued to express her concerns about this ordinance. She said Friends for Fayetteville would like to hear more from the citizens.

Morton Newmark, a citizen: Mr. Newmark expressed his opinion that this ordinance would not take the politics out of the hiring and firing of the chiefs. The mayor is elected by the voters to be responsible for running the city, which also means being responsible for the safety of our city and property in the form of fire and police protection. If he cannot select or dismiss his department heads, then he can't have control over what happens and cannot be held responsible. Members of the Civil Service Commission are appointed, not elected by the people. He is concerned about appointed people hiring and dismissing other appointed people, thus effectively taking the citizens out of the decision making process.

Bill Moeller, 1511 Markham: From an organizational point of view he questioned fixing what is not broken. He has seen no evidence of a problem. He cautioned the Council not to hasten in to significant organizational change without considering the implications.

After further discussion, the Council agreed to set up a meeting with the Civil Service Commission and the Council after the next agenda setting session.

The Ordinance was Left on the First Reading.

CITY BOARDS AND COMMISSIONS: A resolution establishing criteria, rules and regulations for appointment to the city boards and commissions.

Alderman Young: I brought this forward. The main purpose was just to eliminate the requirement of being a registered voter, but also one of the purposes is to have a resolution for the items that have been practiced. The legal department could not find the actual passage of these things we have been doing.

Alderman Davis: Being a registered voter versus just being a resident is rehashing the discussion we had at agenda session.

Alderman Young: The question is whether or not you want to encourage people to participate in government. If you require them to be a registered voter before they participate on a board or commission, you are preventing them from participating.

Alderman Davis: But we also know a ton of people who are registered don't vote.

Alderman Young: They don't want to. There are reasons why they don't want to be registered voters, a lot of reasons. In fact, the statistics are that half or more of the population of the United States is not registered to vote. That means they are the majority.

Alderman Santos: So we want them running the government? The people who don't participate?

Alderman Young: They chose not to do that but they might choose to participate on a board or commission.

Alderman Santos: I don't see any reason why we shouldn't require people who want to serve on city committees, who want to be involved in government, to take the simple step of registering to vote.

Alderman Young: On the other hand they might serve on a board or commission and then register to vote.

Alderman Thiel: If we do continue to use registered voters, which obviously has been a long standing policy, we do more or less eliminate felons, because that is done in the process. I don't know if we have a requirement about 18 years of age, but that also is done in the voter registration process. I think the City would be doing a good service by advocating that we support people being registered to vote by continuing the process that we have always had.

Alderman Davis: Do we need to re-write this. Is it because there actually isn't an ordinance that you can find addressing this? We need to do something with this anyway. We can make an amendment to this by putting the words, "registered voter within the corporate limits of Fayetteville" on No. 4 and take out the word "residents" if we so desire. Is that correct?

Mr. Rose: Yes, I think that is accurate.

Alderman Davis moved that the resolution be amended to add the word registered voter. Alderman Santos seconded that motion.

Bobby Ferrall, 2413 Twin Oaks Court: Mr. Ferrall is with the Fayetteville Chamber of Commerce and commented that we teach our young people all the way through the educational process how important the right to vote is. It would seem to logically conclude that government at all levels would try to reinforce citizen action through the vote. He stated that people who serve on boards and commissions are an extension of the elected officials who appoint them. If a person has time to go through the application process for a board or commission, they would certainly have time to register to vote. He questioned why we wouldn't want everyone serving on boards and commission to be registered voters.

There was some additional discussion among the aldermen regarding this ordinance.

Mayor Coody: It seems to be a paradox. I appreciate everyone's interested in trying to get as much involvement as we can with our citizens. I think that is a very noble cause. But it seems paradoxical to me to want to open up the committees and commissions to people for their involvement who are making it a point to not be involved in government service. So I would like to see everybody get

registered to vote and participate on the most elemental level and then, once you reach that point, then become more involved in the committees and commissions that we have to offer here in the city. We invite everyone that is interested to participate in the government on a local, state and national level.

At Mayor Coody's request, Mr. Rose read the amendment back to the Council.

Upon roll call the amendment to the resolution passed 6-2. Alderman Trumbo, Davis, Santos, Jordan, Reynolds and Thiel voting yes. Alderman Zurcher and Young voting no.

Geary Lowery, citizen, commented that some of the 19, 20 and 21 year old individuals that fought in Southeast Asia did not have a chance to register to vote. Some of them performed the most outstanding form of citizenship possible by giving their life for this country. He said he did not feel anyone on the Council had the right to deny anyone the chance to sit on any committee.

Alderman Santos moved that the resolution be passed. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 7-1. Alderman Zurcher, Trumbo, Davis, Santos, Jordan, Reynolds and Thiel voting yes. Alderman Young voting no.

JERRY ROSE, Farewell Address: Mr. Rose spoke of his tenure as City Attorney. He estimated that he had attended roughly 275 meetings of the City Council since 1989. He has been through two city managers, four mayors and thirty-six different aldermen. He thanked everyone for all they had done over the years and spoke of how much he had enjoyed getting to know all those he worked with in the City and how much he would miss them. He thanked his wife for her support and his staff. He also thanked E.J. Ball, Mike Green, Maryann Westfall, and Molly and Jimmy Rapert.

Meeting Adjourned at 8:50 P.M.