MINUTES OF A MEETING OF THE CITY COUNCIL DECEMBER 18, 2001

A meeting of the Fayetteville City Council was held on December 18, 2001 at 6:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain, Fayetteville, Arkansas.

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

AWARD PRESENTATION: Presentation of the GFOA Distinguished Budget Presentation Award. Ms. Marsha Farthing, Accounting Manager, presented the GFOA award.

CONSENT

APPROVAL OF THE MINUTES

SUNBRIDGE AND GREGG: A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $241,627.00 (contingent upon receiving an easement or right-of-way from the Arkansas & Missouri Railroad), approve funding of $30,000 for project contingency and of $3,000 for materials testing for the project entitled "Sunbridge Drive and Gregg Avenue Intersection Improvements" and approval of a budget adjustment.

RESOLUTION 171-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

MICROSOFT OFFICE: A resolution approving the purchase of 223 Microsoft Office XP software licenses from Dell Incorporated. The purchases are authorized through the State of Arkansas Contract Award ST-98-0491; and approval of a budget adjustment.

RESOLUTION 172-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

US ABLE LIFE: A resolution renewing employee group policies from US Able Life to provide life, AD&D, and LTD coverage and Section. 125 Cafeteria Plan Administration.

RESOLUTION 173-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

TROLLEY: A resolution accepting the renewal agreement with Jones Transportation for trolley operations for the period of January 1, 2002, through June 30, 2002. This is in accordance with the provision of Resolution 11-99.

RESOLUTION 174-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

Alderman Davis moved to approve the Consent Agenda. Alderman Jordan seconded. Upon roll call the motion carried unanimously.

street plan. He required right-of-way dedications from individuals. He had a future land use plan which showed commercial nodes. The point he was trying to make was that they had a lot of planning in this area. This was in their planning area. There are planned street connections to tie these neighborhoods together.

Alderman Thiel stated she had a major concern about septic systems and their affect on our ground water. An area like this was going to develop. It would not have as many homes, but it could have quite a few on septic systems. She would rather have them hooked onto the sewer system.

In response to questions, Mr. Greg Boettcher, Public Works Director, stated the capacity of the plant was rated by the State. As growth occurs, they will be monitoring how the plant performs. Their permit stated that they had to meet certain limits to discharge in the receiving streams. They will begin to see that they are having more difficulty meeting limits. If they get to a point where they were at one hundred percent capacity and that they were having trouble meeting limits, at that point the city may need to look at other options as far as controlling connections. But, he also thought that if they were close to the completion of the project the State would work with them to maintain proper treatment and continue with growth. They may need to allocate building permits for a period of time. The public has approved the project and they were moving ahead.

Alderman Young stated seven hundred units was more than the city of Elkins. So, every time they did that they were adding the city of Elkins to the City of Fayetteville. Then, it put into context all of the other things that they were supposed to provide for a city.

Mr. Jeff Erf, an area resident, asked if there was anything that prohibited the developer from putting in an septic system if it were annexed into the city.

Mr. Williams stated there was an ordinance which required them to hook up to the sewer if they were within two hundred and fifty feet.

Mr. Erf stated one of the benefits of the new system was that it would help water quality and they would avoid septic systems. He thought they should require all new annexation to be hooked up to the wastewater system.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 6-2-0, Zurcher and Jordan voting nay.

ORDINANCE 4355 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

RZN 01-22.00: An ordinance approving rezoning request RZN 01-22.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Mark Foster for property owned by Eugene Nottenkamper and Anthoney Turchi and located north of Wedington Drive on the east side of 51st

Street. The property is zoned A-1, Agricultural, and contains approximately 30.99 acres. The request is to rezone to R-1, Low Density Residential. The ordinance was left on the second reading at the December 4, 2001, meeting.

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

Mr. Williams read the ordinance for the third and final time.

In response to questions, Mr. Conklin stated they were growing in Northwest Arkansas. They had a planning area boundary. This was in their planning area boundary. The purpose of that boundary was to plan for future growth and development. They were currently providing services in this area. As a planner and the Planning Commission recommended that it would be better to develop this and urbanize this for a city, Urban Development. They were trying to create a city that was efficient. They had many ordinances that managed their growth and development. They led the State of Arkansas with their ordinances to manage growth and development.

Alderman Zurcher stated they did not want a city every where. He thought they were looking at this as regional to the determent of Fayetteville. He did not consider this an urban area. To him this was sprawl and they were losing the natural spaces out there. He thought they should be less dense on the edge of town.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed by a vote of 6-2-0, Zurcher and Jordan voting nay.

ORDINANCE 4356 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

BUDGET: A resolution adopting the 2002 Operating Budget. The resolution was tabled at the December 4, 2001, meeting.

Alderman Trumbo stated that they were anticipating using about two and half million dollars in reserves this year, about two million for next year.

Mr. Jim Foster, Downtown Dickson Enhancement Project, stated the level of funding they would be receiving would put them out of business. They were the economic development for downtown Fayetteville and they could not survive without a major public commitment to them. He asked them if it was the right time to put the brakes on economic development.

Mr. Bruce Johanson, Bank of Fayetteville, Fayetteville has a strong history where the city has teamed up with public and private sectors to create the culture and community that they enjoy today. For example the Walton Arts Center. DDEPT was established as a partnership between the city, businesses, and residential owners within the project area. This program has served their community well and it needed to continue. He requested the city locate the funding needed for this project. They were requesting forty thousand in city funds for the 2002 budget. They have secured 1.95 million dollars in funds that will be available to work the Dickson Street renewal area.

In response to questions, Mr. Johanson stated they had approximately one hundred and eighty people.

Alderman Davis stated if they went to those members and asked for sixty-two dollars, they would have their additional funding. They were running two million dollars in the hole now. They had to be very careful on the money they were spending.

Alderman Thiel asked if they had sought funding from the A&P Commission. She felt it was appropriate for them to fund this.

Ms. Bootsie Ackerman, DDEPT, stated they will be applying to the A&P Commission. They normally asked them for funding in April. DDEPT should have been included in the Citizens Survey Growth and Development Services. They were currently contracted with the city for design, planning, and economic development. Had they been included, they would have placed fourth position on the priority. Their project was a model public/private partnership. The streetscape improvement on Dickson Street are expected to begin in the spring and they would be able to see progress. Ongoing marketing and public relations were readily apparent in approximately seventy -five million dollars in private investment that has been attracted to the area. Resulting property sales and HMR Tax reflect the growth and development. The city's investment represented about one-third of their budget.

Alderman Davis suggested that they may allocate some additional money when they approve their rollforward money from 2001, but he did not believe they could pass the budget tonight with any additional increase.

Alderman Thiel stated if they increased the funding at all, she would like for them to look at it in the rollover funding.

Mr. Rick Alexander, an area resident, stated this project brought home the bacon. This was a group of interested citizens that have come together three or four years ago with the goal of facilitating and fostering the rehabilitation and renovation of their downtown area. This was the time to put their money where their mouth was. This organization has brought in a million and five dollars of federal money. The city did not bring that money in, the DDEP brought that money in. That money was being matched by the city. They have returned more than any other investment the city has made and they have not even done the improvements yet. They had items for transportation systems that were empty. This project needed their support, they were just at the beginning of what they it would be nice if the council had the option to consider that proposed use of the land as important as the highest money. Highest and best use of land did not always equate with money. On "H", "the sale of industrial, business, technology park land, the sale of real property to other public entities." This was public land and the public did need to know about it.

Mr. Williams stated land could not be sold without consent of the city council. It would have to come before the council. There would be notices then. Often when there was a sell from government to government, there were often other issues involved.

Ms. Alexander stated her concern was citizen notification. Public notification needed to come forth on land sales, other than just the agenda.

In response to discussion, Mr. Williams stated he could draft a revision with two sections under (h) the first on being "the sale of industrial, business, and technology park land are expressly exempt from provisions of this section." The next one, (h)(b) "that the sale of real property to other public entities are expressly exempt from the provisions of this section, except that they must provide the same notification as required by sale to charities." Which would be one advertisement in the paper and the certified mail and the signs.

Alderman Santos moved to amend the ordinance as recommended. Alderman Zurcher seconded. Upon roll call the motion carried unanimously.

THE ORDINANCE WAS LEFT ON THE FIRST READING AS AMENDED.

NEW BUSINESS

ANX 01-5.00: An ordinance approving annexation request ANX 01-5.00 as submitted by Raymond C. Smith on behalf of Gerald and Irene Griscom and Sylvester and Carol Guist for property located east of Double Springs Road and south of Owl Creek Subdivision. The property is in the Planning Area and contains approximately 13.61 acres. The request is to annex into the city.

Mr. Williams read the ordinance for the first time.

Mr. Charlie Sloan, developer, stated he had done several subdivisions back in the 90's. Most of the development would be residential, single family homes. There would also be town homes. There would be a home owners association that would do all the maintenance, that was what they did at North Heights. They also had some land that they could make a park out of. There was a subdivision to the north and to the west of them. They would like to access Double Springs Road the land to the east.

Alderman Thiel asked if there was any consideration in making this a PUD?

rezone to RMF-6, Low Density Multi-Family Residential.

Mr. Williams read the ordinance for the first time.

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

Mr. Williams read the ordinance for the second time.

ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 01-26.00: An ordinance approving rezoning request RZN 01-26.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 12.08 acres. The request is to rezone to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance for the first time.

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

Mr. Williams read the ordinance for the second time.

THE ORDINANCE WAS LEFT ON THE SECOND READING.

RZN 01-28.00: An ordinance approving rezoning request RZN 01-28.00 as submitted by Dave Jorgensen of Jorgensen and Associates on behalf of Tom and Louise Sager and Paul and Bernice Guisinger for property located west of Shiloh Drive and north of Porter Road. The property is zoned A-1, Agricultural and contains approximately 11.68 acres. The request is to rezone to R-2, Medium Density Residential.

Mr. Williams read the ordinance for the first time.

Mr. Chris Brackett, Jorgensen and Associates, stated they did not have a concept for this property yet. The owners were looking to sell the property.

Mr. Conklin stated they allowed property owners to petition for rezonings, if it was consistent with their land use plan, staff would make a recommendation. The Planning Commission did recommend approval for this property. This was shown as regional commercial area. The property was also within the Overlay District.

DOWNTOWN DICKSON ENHANCEMENT PROJECT: A resolution approving an amendment for Downtown Dickson Enhancement Project in the amount of $120,972.03 to address: (1) easement revisions - $9,660.00, (2) construction engineering - $39,552.03, and (3) project construction inspection - $71,760.00 (option to allow use of Engineering Division personnel for full-time inspection. Current contract amount is $530,227.62 to $651,200.15.

Alderman Trumbo moved to approve the resolution. Alderman Davis seconded. Upon roll call the motion carried unanimously.

RESOLUTION 177-01 AS RECORDED IN THE OFFICE OF THE CITY CLERK.

CAT: A resolution approving a contract in the amount of $34,500.00 with Community Access Television for public access television services for 2002.

Alderman Jordan moved to approve the resolution. Alderman Santos seconded.

Mr. Bob Emennegger, CAT, asked if they were discussing a six month contract? He asked if they could add an option to renew at the end of this.

Mr. Williams stated that he did not believe that they could, because there was no money budgeted to fund the option to renew.

Alderman Davis stated they had approved the budget based on the $34,500 for CAT.

Mr. Williams stated they were still in negotiations with Cox. He was hoping that they would receive some money from them to apply to this contract. There was no guarantee.

Mr. John Zimmer, CAT, stated Cox paid $420,000 per year to the city. In return the city only gave CAT one-sixth of that amount. Now they wanted to cut them down to one-twelveth. They were not asking them to give them more money. They were asking them to take less money. Let them have enough to operate on. They could not run the station on $34,500. He did not see why they did not fund the full amount.

Mr. Morty Newmark, an area resident, stated the money used to fund CAT did not come from taxpayer dollars, it came from the money negotiated from Cox Cable. CAT uses up to eight percent of the station. The majority of the money should come to them. One of the things they may want to consider was it in the best interest of the city to be in the television business. Would it not be best to take that money that came from Cox and give it to CAT to serve as the government provider and the community access provider. They could not operate on $34,500 a year. He would like to see them funded by some of the rollover money. They were leasing right of way to Cox and the city needed to get what it was worth.

attorney.

Mr. Davis explained the way the program worked. The participant did not know where the money was coming from. All they knew was that they received it through the community development office.

Mr. Ted Webber, Administrative Services Director, stated this amount would serve one hundred and thirty-three residents. It was thirty dollars per month. Each coupon was worth two dollars. They received fifteen a month. There were a lot of administrative costs associated with this grant.

Upon roll call the motion failed unanimously.

THE RESOLUTION FAILED.

The meeting adjourned at 10:05 p.m.