

City Council Meeting Minutes January 6, 2004

A meeting of the Fayetteville City Council was held on January 6, 2004 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.

Geary Lowery: Mayor I rise on a Point of Order and request that I may be heard.

Mayor Coody: I am afraid that we are right in the middle of a City Council meeting, and that we are beginning the consent agenda right now.

Geary Lowery: Yes sir and under Roberts Rules of Order I request this before the continuance of the original agenda meeting.

Mayor Coody: I think the agenda meeting has just started.

Kit Williams: This is not an agenda meeting, the agenda meeting is not an official meeting, and it is just when the agenda is set, this is not a continuation, and this is a new meeting.

Geary Lowery: Excuse me, I'm addressing the Chair, I'm addressing the Chair.

Mayor Coody: Excuse me just a minute, Kit what do we do in a situation like this, this is a first.

Kit Williams: I haven't heard any Point of Order, it does take precedence. Usually a Point of Order is only brought up by a City Council Aldermen and not by the public. If a Councilman has a Point of Order then of course it is relevant. But since this is a City Council meeting and not a public hearing or public meeting, a Point of Order is not appropriate to be brought up by a non-City Council member.

Geary Lowery: This is not a public meeting?

Mayor Coody: Alright, so what I would have to do is respectfully request that you visit us and have something on the agenda, we generally have people put things on the agenda that want to speak to us.

Geary Lowery: If I may Mr. Chairman, then I call for the question.

Kit Williams: That is improper, in fact he is not on the agenda, and we should not be having this discussion.

Mayor Coody: That is kind of how we have to look at it.

Geary Lowery: Excuse me that is why I rose prior to the agenda, whether it be the consent agenda or the rest of the agenda, sir.

Mayor Coody: If you don't mind we might have to take this up another time because we need to go ahead and commence, keep with the City Council meeting.

Geary Lowery: I call for the question.

Mayor Coody: Alright, thank you very much.

Geary Lowery: I call for the question and I will not be seated until this body has taken a vote on the question.

Alderman Reynolds: Mayor, under Roberts Rules of Order doesn't he have a right to speak?

Kit Williams: No, he would not. We are bound by what the City Council has adopted in their Rules of Order and Procedure. If it is not covered in our Order of Procedure then it says we defer to Roberts Rules of Order. In our Rules of Procedure what is discussed at a City Council meeting is the agenda, which this City Council has agreed upon at the agenda session. In order to discuss an item that is not on a particular agenda, just as we have done many times before, there has to be a motion to suspend the rules so that you can place another item on the agenda to discuss. Right now I have not heard that motion. A motion must be made by the City Council, just like a Point of Order must be made by one of the elected officials and not by just anyone that steps into the room that wishes to make some sort of statement.

Alderman Davis: So if one of us says a Point of Order then is he allowed to speak for a period of time if we so desire?

Kit Williams: You would have to suspend the rules if you want to place him on the agenda or place some subject on the agenda. I don't know what that subject might be.

Alderman Lucas: But this is before the agenda.

Alderman Davis: Right.

Mayor Coody: It is before we have started the consent agenda.

Kit Williams: Well the meeting has already begun.

Mayor Coody: We have convened the meeting. Is what you want to discuss on tonight's agenda?

Geary Lowery: Mr. Mayor.

Mayor Coody: Is it on tonight's agenda?

Geary Lowery: Mr. Chairman, it is not on the agenda and I would not be allowed to do that at this point.

Mayor Coody: Okay

Geary Lowery: Please hear me out sir.

Mayor Coody: Before you keep going here, does someone want to move that we add whatever subject he wants to discuss to the agenda?

Alderman Reynolds: Out of respect I would, yes.

Mayor Coody: We have a motion to suspend the rules and add whatever this subject is, what is the subject that you want to address in a couple of words.

Geary Lowery: The subject I want to address is the Rules, Procedures and Code of Conduct that is compliant with this meeting.

Mayor Coody: Okay, so we have a request to suspend the rules to add Code of Conduct.

Alderman Davis: I will second that and I would like to make an amendment to Alderman Reynolds first, to limit it to five minutes max.

Geary Lowery: Yes sir.

Mayor Coody: Is that acceptable?

Alderman Reynolds: It is acceptable.

Mayor Coody: We have a motion and a second to suspend the rules to have discussion for no more than five minutes on this topic. Shall the motion pass?

Alderman Rhoads: I would like to get some clarification; Mr. Lowery said he wanted to talk about, would you say it again?

Geary Lowery: Codes conduct and rules governing this meeting.

Mayor Coody: Any other question? Shall the motion pass?

Alderman Reynolds moved to add Codes, Conduct and Rules of Procedure to the Agenda as requested by Geary Lowery. Alderman Davis seconded. Upon roll call the motion passed 7-1. Alderman Reynolds, Thiel, Cook, Marr, Davis, Lucas and Jordan voting yes. Alderman Rhoads voting no.

Mayor Coody: Thank you, you have five minutes, go ahead.

Geary Lowery: Thank you Mr. Mayor, thank you Chairman. On the question of appeal which I performed earlier, a majority of those present is required to overturn a ruling of the Chair, in this instance, Mr. Mayor that would be you. When I asked for a call of the question that means I'm asking this body whether or not to either vote me up or vote me down to be heard. You have that right as City Councilmen to vote me up or vote me down when I ask prior to a properly noticed agenda and I say properly noticed agenda because that's what we're talking about this evening. It has been brought to my attention by some of the new comers to the City of

Fayetteville (new residents) as well as some of the older residents that this body does not produce a set of Code, Conduct or Rules on it's agenda for the public at large to know how we are to play by the rules and what is expected of us as our conduct and a procedure that we may be guided by. Now if it is my understanding and I have the information before me that this meeting is officially dedicated and known through the Handbook for Arkansas Municipal Officials. Where that handbook does not cover the questions of procedure or questions of comment, then you defer to the Parliamentary Procedure in Roberts Rules of Order. If you are aware of that and I would like to make you so, may I suggest instead of ejecting people from meetings that you follow the proper procedures and the proper rules and guidelines set forth not only in your handbook but Roberts Rules of Order and the Parliamentary Procedure because my civil rights and my right to be heard was subject to other than legal means.

One of the things that I want to bring forward to this body is that I see a continuance of violation of the Roberts Rules of Order and your procedure for your municipal government, that is anytime someone wants to speak or is spoken to they have to address the chair, which Mr. Mayor that is you and if they open their mouth and speak out of turn you are required to call them out of order, regardless of who they may be. If someone else is speaking on this floor or up on that dais and someone else opens their mouth and interjects, which they have time and time again and I will not point the finger at anyone but it is pretty prevalent as to who that individual is, may I suggest that if we are to be governed under the laws of the State of Arkansas, the Roberts Rules of Order and Procedure that you aluminate that on your agenda and let the public know what Code of Conduct and Rules that are established in this meeting. I thank you for your time and your indulgence.

Mayor Coody: Thank you sir.

Alderman Reynolds: Thank you Geary.

Mayor Coody: Any questions or comments. Alright, thank you very much. We have the first thing on the agenda is.... Is there anything else we need to do on this?

Kit Williams: What ever you want to do on this.

Mayor Coody: Have we done anything out of line, as far as he mentioned the ejection.

Kit Williams: As a presiding officer of this body, it is part of your responsibility to maintain order in the house, and in fact if someone is disrupting a public meeting, that could be criminal disorderly conduct. I think that in your attempt to maintain order, you have every right as Mayor Hanna did before you, at one time he had to call the police when we had a man that was standing at the podium and refused to leave the podium when he was ruled out of order by the Mayor and was told to sit down. At that point Mayor Hanna left this room and called the police. Fortunately no arrest had to be made because that man decided to leave. I think it is incumbent of the residing officer to maintain order within this body and within this room as part of your job. There are parts of our procedure that says that all remarks shall be addressed to the City Council as a whole and not to any particular member of the City Council. When the rules were adopted by the City Council, as you remember we have made some changes to the rules. That was subject to a resolution it was presented publicly, voted on publicly and that is a matter of public record. I do think it is probably advisable to make sure these Rules of Procedure are available to the public. They always are through the clerk's office or my office, but maybe there could be other copies made or posted on the City's web site, but everyone is required in fact to abide by these

Rules of Procedure. When Mr. Lowery said there should be a calling of the question, then therefore there should be an immediate vote, he alluded to this particular book, "The Procedural Rules for Municipal Officials." In there they say "The Mayor should ignore calls of question from the floor for no member has the right to try to force an immediate vote in the matter." That is actually talking about the City Council, much less someone from the public coming up and saying I call for the question. That is improper. That would not be a proper motion, and you were correct in ignoring that.

Mayor Coody: Alright, thank you. Any questions from the Council on this?

CONSENT:

Approval Of The Minutes: Approval of the December 16, 2003 meeting minutes.

Minimum Standards; Fayetteville Municipal Airport: A resolution approving the revised minimum standards for the Fayetteville Municipal Airport as approved and recommended by the Airport Advisory Board.

Resolution 01-04 as Recorded in the Office of the City Clerk.

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

This item was moved to New Business # 6.

Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in an amount not to exceed \$59,325.00 to provide independent audit services to the City of Fayetteville.

Resolution 02-04 as Recorded in the Office of the City Clerk.

Purchase of 3 Komatsu Backhoes from H & E Equipment: A resolution approving the purchase of Three (3) Komatsu Backhoes from Head & Engquist Equipment in the amount of \$159,525.00; and approving a budget adjustment in the amount of \$1,970.00 for the same. This request was approved by the Equipment Committee on December 9, 2003.

Resolution 03-04 as Recorded in the Office of the City Clerk.

ADEQ and Tri-County Solid Waste District Recycling Grant; Roll-off Recycling Boxes: A resolution authorizing the Fayetteville Solid Waste and Recycling Division to accept a grant in the amount of \$18,000.00 from the Arkansas Department of Environmental Quality (ADEQ) and the Tri-County Solid Waste District for the purchase of roll-off recycling boxes for use at the 24-hour community recycling drop-off; and approving a budget adjustment to recognize the grant revenue.

Resolution 04-04 as Recorded in the Office of the City Clerk.

Homeland Security Fire Grant; Wellness & Fitness/EMS Training Program: A resolution authorizing the Fayetteville Fire Department to accept a Department of Homeland Security Fire

grant in the amount of \$92,820.00 to establish a wellness and fitness/EMS training program; approving a new temporary staff position to establish and coordinate the program; and approving a budget adjustment to recognize the grant revenue.

Resolution 05-04 as Recorded in the Office of the City Clerk.

Alderman Lucas: I have a question about # 4 Baird, Kurtz & Dobson, LLP Audit Services Contract Renewal.

Kit Williams: Do you want to remove that from the consent agenda?

Alderman Lucas: No, do I have to remove it to ask a question?

Mayor Coody: If you just have a quick question let's go ahead and do that.

Alderman Lucas: If it is a five year contract why do we have to renew?

Mayor Coody: Usually when we have contracts they are renewable every year as long as there is not a problem. Is that right Kit?

Kit Williams: Sometimes, they are set up for the project. If they are renewable, they would not have to be brought back to the City Council, but the Mayor has seen fit to do that.

Alderman Marr asked that Item # 3 the Council on Aging, Inc., Lease of the Senior Center at Walker Park be removed from the Consent Agenda and be moved to New Business # 6.

Alderman Jordan moved to approve the consent as read with Item # 3 Council on Aging, Inc., lease of the Senior Center at Walker Park moved to New Business # 6. Alderman Davis seconded. Upon roll call the amended consent agenda passed unanimously.

OLD BUSINESS:

There was no Old Business.

NEW BUSINESS:

Impact Fees for Road, Police and Fire Improvements: An ordinance waiving the requirements of competitive bidding and approving a contract with Duncan and Associates to calculate Impact Fees for Road, Police and Fire Improvements in the amount of \$25,890.00 with a contingency amount of \$1,500.00 and approving a Budget Adjustment of \$27,390.00.

Mr. Williams read the ordinance.

Alderman Davis: Kit in your memo that you sent us on January 2 and January 5, you appeared to have some real hesitancy about the way we are going about this. Could you explain this to us?

Kit Williams: I just felt as your legal council that I wanted to explain some possible legal concerns that I had about various types of impact fees. My first memo basically dealt with the

fact that I feel like it would be safer if you do enact these impact fees to refer them to the voters. There is a reasonably good chance that the court might interpret these fees to be taxes, and if they have been voted on by the citizens, that would be alright. But if they have not been voted on by the citizens, that it would termed an invalid tax. And therefore they would be repealed, and we might have to pay attorneys fees.

The other memo was simply more along the statutory terms and what do the statutory terms mean especially in relation to Police and Fire. Would we be able to effectively adopt impact fees in those two areas in compliance with the new State Statute? One problem we have is this is a brand new State Statue so there has not been any interpretation of it by the Supreme Court. They haven't had a chance to yet, so it makes it more difficult to analyze exactly what we have to do and what we can do under that Statue. I am not trying to throw cold water on impact fees and say the City can not do that. I think Conway has already passed some impact fees based on this new State Statue. But I did want to call to your attention some concerns I have as we go down this road toward looking at whether or not we want to enact impact fees in these other areas.

Alderman Davis: What is the difference, Kit, between what we have already enacted with water and sewer impact fees versus looking at these three new ones.

Kit Williams: One of them is acceptance by the Supreme Court. There was a case about ten years ago where the Supreme Court specified water and sewer impact fees, if they were devoted totally to new construction and new capacity in order to serve the people that would be taxed in the new development, that these were constitutional and legal. Therefore, just as our consultants told us when they made their initial report, they said water and sewer was much safer. They were more concerned about the other types of impact fees, and I agreed with their analysis. I felt that the history even as far back as 100 years ago in the sewer area, the courts have been fairly favorable towards sewer fees, but there was nothing in relation to roads and fire and police at this point in time. A new Statue has been enacted by the legislative to give us broad powers to enact impact fees in various areas. I just want to bring this to your attention so as we go forward you can look at this, and I can discuss this with the experts that you would hire if you do pass this resolution.

Hugh Earnest: We also have some questions about how we could implement this. We would like to ask the Council to defer this to the first meeting in February.

Alderman Davis moved to table this item until the first meeting in February. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.

VAC 03-13.00; Northwest Arkansas Mall Lot A Utility Easement: An ordinance approving VAC 03-13.00 to vacate a portion of a 25 foot utility easement lying in Lot A in the Northeast corner of the Northwest Arkansas Mall as depicted on the attached map and legal description.

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

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

Mr. Williams read the ordinance.

Alderman Thiel: I support this because the building has set vacant for some time and it looks like they are moving forward with a nice office building there and I think it will be something I can support.

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

Ordinance 4537 as Recorded in the Office of the City Clerk.

R-PZD 03-6.00; Benton Ridge, Long, LLC: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-6.00) located on the east side of Crossover Road north of Huntsville Road and south of Wyman Road containing 8.34 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Geary Lowery, a resident voiced his concern about the traffic in this area. He asked that a traffic study be conducted.

Alderman Thiel: I am very concerned about the density of this project. How many single family residents can be built on this property now? Will the set backs be greater than shown on this proposal?

Dawn Warrick: The current zoning allows for 4 units per acre which would equal approximately 32 units; the proposal is for 5.2 units per acre, a total of 43 units. The set backs were revised, the rear set back is a 20 foot building set back which is the same as a rear set back requirement in the current zoning district.

Alderman Thiel: Not a 35.

Dawn Warrick: In single family the rear set back is 20.

Julia Zimmerman with Crafton, Tull & Associates: I am the project engineer representing Long, LLC.

Alderman Thiel: The owner of the property is not the developer?

Julia Zimmerman: The owner of the property is Long, LLC as a corporation and the only contact I know is Brandon Barber.

Alderman Thiel: All these plans are so varied, I just wondered if it was the same builder on each lot.

Julia Zimmerman: Yes, just different foot prints and elevations for variety.

Alderman Lucas: On Chelsea Boulevard by your description of the different buildings that is going to be a two story, but on your building elevations it doesn't indicate two stories.

Julia Zimmerman: I believe Chelsea Boulevard is shown with an eve height of ten feet which would be one story, you are correct, that is an oversight on my part, if we need to we can swap foot prints, we have been trying to work with the adjacent property owners, so if some of them are opposed to a two story building we have been swapping out foot prints. I can ask the developer if he would be willing to do that.

Alderman Lucas: There is going to be a property owners association?

Julia Zimmerman: Yes.

Alderman Lucas: These are all going to be sold, so when they are sold who will be responsible for the up keep of the green space?

Julia Zimmerman: All of the lawns, green spaces and conservation easements will be maintained by the property owners association.

Alderman Lucas: I think of a property owners association as homes that are owned by people that live there and if the property is owned by people that don't live there how does that work?

Julia Zimmerman: I can check with the developer on that.

Alderman Jordan: What is the overall feel in the neighborhood about this development?

Julia Zimmerman: At first I feel they were opposed, but we worked with them changing the set backs and some foot prints, I think they are pretty much agreeable now.

Alderman Jordan: There is a neighborhood association correct, what is their feel on this?

Julia Zimmerman: There is someone here from the association they may want to speak; I think they are happy with it. We have tried to be good neighbors.

Alderman Davis: My only concern is the density, is there anything you can do to decrease the density?

Julia Zimmerman: In my opinion we are only slightly increasing the density that is there now. We have dedicated a portion of the property as a conservation easement to preserve the trees. There is also a 40 foot strip between lot 16 and 17 to maintain an existing drainage way through property, which also gave up a bit of land. We are hoping we can maximize the rest of the property as much as we can.

Alderman Davis: I do like the proposed covenant portion where you have 70% that's brick and you are using architectural shingles which tells me you're trying to put something in that's going to be a little more upscale which is a plus, could you look at the density issue before the next meeting?

Alderman Reynolds: The Stonebridge Association that is an older group of homes, this is not compatible with that neighborhood. The traffic and what this will bring is not going to be good for the health safety and welfare of the people of that neighborhood and I will not support this in my ward.

Alderman Marr: We have heard a concern about traffic and in the staff report it appears that it is the staff's position that it will not create an appreciable increase in traffic. Where did this data come from, has there been an actual traffic study done on what this development would be?

Tim Conklin, Planning: The numbers in the staff reports are from trip generation software that the city has, it estimates how many trips would be generated by this type of development.

Ilsa Isaacs, a resident of the area: Only property owners contiguous to this development seemed to have shown interest and not even all of them. I withdrew my objection after modifications were submitted to the Planning Commission because some accommodations have been made. The increase in density is 30%.

Alderman Rhoads: Are you representing the property owners association?

Ilsa Isaacs: No I am not.

Alderman Rhoads: When you said you withdrew your objections that was just your own personal objections?

Ilsa Isaacs: Yes.

Alderman Lucas: Did you say the lots were going to be sold and then the people that buy them will be building?

Ilsa Isaacs: That is what I understand; I hope I am correct on that.

Hugh Earnest: One of the advantages that we have in a PZD is a clear understanding as to what can be built.

Geary Lowery, spoke on the traffic issue again. He also spoke about his concern on the formation of the POA.

Alderman Jordan: How many people are being affected by this?

Alderman Thiel: Just the ones adjacent to this.

Alderman Jordan: Would you say it is a significant amount?

Alderman Thiel: No. I think there have been a lot of concessions made.

Alderman Marr: I would like to encourage the developer to see if they could revisit the density issue.

Alderman Davis: The proposed covenants are not signed; it would nice if they were signed.

Alderman Thiel: What is the general slope of this property?

Dawn Warrick: I will have to let the project engineer answer that I don't have that number.

This ordinance was left on the first reading.

R-PZD 03-7.00; Brophy Condominiums, Ralph Brophy: An ordinance establishing a Residential Planned Zoning District titled (R-PZD 03-7.00) located east of College Avenue, north of Township on Brophy Circle containing 6.01 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the Associated Residential Development Plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Alderman Thiel: If this PZD was turned down by this Council could the developer build the same amount of multi-family units on the western portion of the property and would the setbacks be as close to the commercial property on North College?

Hugh Earnest: You are looking at about six acres that currently has three zones on it; the potential development on those three zones could be as many as 129 units. The reason this developer is putting this together is it is not economically feasible to do any type of development on the separate site, so he is trying to pull the development together so it is economically feasible and he proposes less units than would technically be possible if he followed the existing zoning.

Alderman Thiel: I am concerned about the area that is closest to the highway that is the area that has the densest zoning, how much can he build on that area?

Dawn Warrick: If the applicant maximized his density on the area that is currently zoned for multi-family he could provide a total of 120 units by ordinance at a maximum development.

Alderman Thiel: Could he physically do that on that property?

Dawn Warrick: I am not an engineer; they would have to propose a plan for us to review it.

Alderman Thiel: How many units are on that area right now?

Dawn Warrick: 28.

Bill Rudasill with WBR Engineering: We have looked at it, the intent was also to try and maintain the hillside as best we could, the trees, grade and all that. They could develop pretty close to 120 units on that R-3 property.

Alderman Thiel: Physically that could be achieved?

Bill Rudasill: Yes, but it would require more development cost.

Alderman Davis: My concern is the egress and ingress to the private drive and exiting 71.

Bill Rudasill: We have the connection to Brophy Circle which goes back out to Township; there is the alternate connection that goes down to 71. The primary reason that we provided that is for

fire protection and circulation. It will most likely be right hand turning people that go down to 71 during heavy business hours, otherwise they would go to Township where they have a light. It is a private road because there is not enough room to build to a public street or make corrections to it.

Alderman Reynolds: How many high pressured gas lines are running through this project, it looks like two side by side.

Bill Rudasill: Yes there are two.

Alderman Reynolds: What size are they?

Bill Rudasill: They are six inch mains, major pipe lines.

Alderman Reynolds: How many fire hydrants do you have on that street?

Bill Rudasill: There are currently five new fire hydrants.

Alderman Reynolds: How many street lights?

Bill Rudasill: There will be one at every intersection.

Alderman Reynolds: Is that enough for that project?

Dawn Warrick: That meets our street standards.

Alderman Reynolds: How much distance is there between the driveways? It looks like there is not going to be enough parking on the street.

Bill Rudasill: All these units have garages and there is the driveway and parking on one side of the street for visitors.

Mayor Coody: We are looking to enhance and make College Avenue more attractive, I think the affect of this development without any screening from the street will be just the opposite of that, so if there is any way to develop a screening. That is a concern that I have.

Alderman Jordan: I have the same concern.

Alderman Thiel: Not only for screening but for holding back that hillside.

Alderman Davis: Mr. Rudasill, are you receptive to that?

Bill Rudasill: As far as a tree screen that was discussed at Planning Commission and we were willing to do that, as far as a fence goes there are other units there that go to the south that are already existing and there is no fence existing, one is as close to that area as these units would be. We could put one in, I think if we do a year round green cover it would solve the same propose as a wood fence and probably look better. We would do it at a density that would close that off so you wouldn't see it.

Alderman Davis: I would tend to agree because a fence the height that you would have to build it to be able to not see the back would definitely attract your eye, whereas the greenery would just look natural.

Bill Rudasill: There is a pretty dense thicket of trees and brush there now.

Alderman Lucas: What is a double hatched area?

Bill Rudasill: There are existing easements lying within this property so when you look at the tree canopy that was proposed and that is existing, the tree canopy that exists in those easements cannot be counted as part of our tree preservation canopy that is what that double hatched area is.

Alderman Lucas: The sidewalk and the green space from the street to the sidewalk was changed. How much distance is there from the sidewalk to the building?

Bill Rudasill: 25 to 30 feet or more.

This ordinance was left on the first reading.

Black & Veatch Contract Amendment #4: A resolution approving contract Amendment #4 in the amount of \$30,000.00 with Black & Veatch Corporation to perform continuing water and sewer operations and rate study services; and approving a Budget Adjustment in the amount of \$25,000.00 for same.

Hugh Earnest: Gave the Council a memo that clarified information that was provided at the last meeting.

Alderman Lucas: How much have we actually spent on this contract?

Steve Davis: City Council last April approved \$42,000 to be spent through this consulting period; through the bills that were paid we have written checks for about \$34,000 of that \$42,000. The only bill that we have not paid was for the December 2 meeting which was 30 hours which we expect to be \$5,000 to \$6,000. We did not receive the bill for the December consulting fees in 2003; we need to add the December bill to the \$25,000 for 2004 consulting fees for a total of \$30,000 to be paid in 2004.

The original contract was \$20,000, a change order was approved by City Council for \$133,000, a second change order of \$37,000, so that is \$190,000 so far and we are asking for an additional \$25,000.

Alderman Reynolds: We've had water and sewer operations study with Black & Veatch since 1998 is that right.

Steve Davis: Actually the original contract with Black & Veatch was somewhere in 1971 or 1972. The last time the City did a professional selection process for a consultant to perform an operation and rate study was in 1998.

Alderman Reynolds: How long was that RFP good for?

Steve Davis: Until we go out for another RFP for a consultant, the City routinely does this every five to seven years. The 2005 operation staff has already committed to go through another request for proposal process.

Alderman Cook: The Water and Sewer Committee did recommend that we do another RFP before the next rate study which is in 2005.

Geary Lowery voiced his concern about the way the dollar amounts were presented and that the way it was presented could be confusing to the public.

Alderman Marr moved to approve the Resolution. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

Resolution 06-04 as Recorded in the Office of the City Clerk.

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park.

Alderman Marr: I apologize for not letting the group know that I was pulling this from consent. Do we have the ability to request that the building be open a sixth day, on a Saturday like our library, even if it is not staffed for programming.

Hugh Earnest: That issue has been raised the problem is budget. It is a concern that we have that this building sits idle two days a week.

Alderman Marr: I would like to move that we table this item until they can present to us why they can't do that and if there is any room for negotiation.

Alderman Marr moved to table the resolution until the next meeting. Alderman Rhoads seconded. Upon roll call the motion passed unanimously.

Meeting Adjourned at 7:25 P.M.

Sondra Smith
City Clerk