City Council
Meeting Minutes
January 20, 2004

A meeting of the Fayetteville City Council was held on January 20, 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, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience

Absent: Mayor Coody

Vice Mayor Bob Davis called the meeting to order.

State of the City Summary:
Hugh Earnest gave a brief summary of the State of the City.

Web Site Award:
Steve Davis presented the Information Technology Department the "Best of Arkansas Web Awards 2004" for the best government/politics site by Arkansas Technology business magazine.

Vice Mayor Bob Davis: I appreciate you and the work that you do, I receive a lot of compliments about our web site and I am sure the other Alderpersons do too. Thank you very much.

Election of Vice Mayor:
Alderman Marr moved to elect Alderman Davis as Vice Mayor. Alderman Jordan seconded the motion. Upon roll call the motion to elect Alderman Davis as Vice Mayor passed 7-0. Alderman Davis abstained.

Addition to the Agenda:
Alderman Cook moved to suspend the rules and add the Meter Operations staffing agenda item to the agenda. Alderman Jordan seconded. Upon roll call the motion passed unanimously.

CONSENT:

Approval Of The Minutes: Approval of the December 30, 2003 and the January 6, 2004 meeting minutes.

Canon Copier Purchase: A resolution approving the purchase of approximately 13 photocopiers from Canon USA at State contract prices in an amount not to exceed $127,000.00; and approving a budget adjustment in the amount of $127,000.00 for same.

Resolution 07-04 as Recorded in the Office of the City Clerk.

Community Access Television (CAT) Contract: A resolution approving a renewal contract in the amount of $69,000.00 with Community Access Television, to provide Public Access Television services through December 31, 2004.

Resolution 08-04 as Recorded in the Office of the City Clerk.

Seven Hills Homeless Center, Inc. Fee Waiver: A resolution to waive the building permit fee and other developmental fees including impact fees for construction and remodeling of a shelter by Seven Hills Homeless Center, Inc.

Resolution 09-04 as Recorded in the Office of the City Clerk.

Community Development Block Grant Fee Waiver: A Resolution to permanently waive the building permit fee and other developmental fees for homes to be constructed by Community Development Block Grants.

Resolution 10-04 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the consent as read. Alderman Reynolds seconded. Upon roll call the motion to approve the consent passed unanimously.

George Weiss asked when the Community Access Television would be paid; they normally are paid the 15th of the month.

Vice Mayor Davis asked Mr. Weiss to contact Hugh Earnest in the morning so he can get that resolved.

OLD BUSINESS:

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. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

Alderman Thiel: This proposed plan has 23 lots with 129 bedrooms, if all these units were three bedroom single family units there would only be 69 bedrooms which is almost half the amount proposed in this PZD.

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

Mr. Williams read the ordinance.

Jerry Kelso with Crafton Tull and Associates gave a brief history of the project. He said they have met with the adjacent property owners. He feels the project is compatible with the area. He also stated the current zoning is RSF-4 and four units per acre could be put on the property at the current zoning which could amount to more bedrooms. We are asking that the City Council support the Planning Commission they approved this unanimously and the Planning Staff has approved it.

Alderman Thiel: I don't see how you could do more lots on that property even if the zoning would allow you more units per acre because of the contour of the land. Why was the single family units not put adjacent to the current single family homes?

Jerry Kelso: Staff recommended and we felt the single family would be better along Highway 265.

Alderman Thiel: I think the residents of the area would be happier if there was less multi-family.

Jerry Kelso: The letters that you have are before we met with them and tried to address their concerns, I thought we had addressed their concerns.

Alderman Thiel: They were also assured that some of those units were one story and now they are one and a half story that are adjacent to the current property owners.

Jerry Kelso: We thought that they had seen this plan and it was our understanding that they were happy with what we have now, if that is not the understanding then we need to talk to them again. We have not heard anything from them; we thought we had taken care of all those issues.

Alderman Reynolds: How much green space are you leaving between the project and Buckner Cemetery?

Jerry Kelso: About 20 to 25 feet.

Alderman Reynolds: The residents are concerned about the cemetery and children playing in the cemetery.

Jerry Kelso: We can install a fence to keep children out.

Alderman Reynolds: I have a hard time seeing this fit in this neighborhood that is so old. Maybe you need to have another meeting with them.

Jerry Kelso: Sure we can do that, again it was our understanding that we had addressed their concerns.

Ilsa Isaacs, a resident of the area, spoke on the PZD and her concern about two story units adjacent to the existing homes. She asked that the single family units be moved adjacent to the existing single family homes.

Jon Brittenum, the owners representative, said they would be happy to meet with the property owners again. He gave a description of the property in the area. He feels this is a nice addition to this area and that it is a need for the area. He stated they had tried to meet every ones needs and wants.

Alderman Thiel: I would like for you to consider the single family against the existing single family and bring the multi-family to the front.

Alderman Marr: We tend to transition density from major roadways, why did we leave the single family along Highway 265?

Dawn Warrick: Part of that was based on the developers' desire because they did want the front of the development to appear to have a single family character. Lot 23 is a Tatum lot and should only have a single family home on it.

Alderman Marr: It seems to be a concern that the single family abuts the current single family if we can do that I would like to see that done.

Jon Brittenum: We will talk with the property owners about that.

Alderman Lucas: This is not compatible with the neighborhood to the east. We need to respect their feelings. She also suggested the density be lower so the development will be more compatible with the area surrounding it.

Jon Brittenum: What type of density? We have taken the PZD and ran full circle with it according to how the ordinance is written with the help of the Planning Staff. We felt we had met the requirements of the ordinance, by saving natural drainage, saving the trees, the setbacks, and the zoning. If it were to be developed as it is currently zoned the natural drainage would not be saved and it would not be here before the Council to make this decision. We feel we are doing what is necessary to get this PZD approved and provide a nice project for the City of Fayetteville and the surrounding property owners.

Alderman Marr: Proposed covenants versus Bill of Assurances, what is the protection difference.

Kit Williams: To change the covenants a majority of the property owners must get together to change the covenants. This PZD process was designed to avoid Bills of Assurances in the future. Bill of Assurances can be enforced by the City, covenants the City does not enforce; those are private agreements among the property owners to ensure that their development is as they like it.

Alderman Thiel: There will be a Ward 1 meeting at the Buckner Church Fellowship Hall on Monday, January 26 at 6:00 PM it might be a time that you can address these issues.

Alderman Reynolds: We want to talk about the proposed covenants at that meeting so we need a copy of it for the meeting.

Vice Mayor Davis: I am impressed with the proposed covenants.

A discussion followed on the landscape plan.

This ordinance was left on the second 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. ***This ordinance was left on the first reading at the January 6, 2004 City Council meeting.***

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

Mr. Williams read the ordinance.

Alderman Thiel: We received a memo from staff stating that we could not request that the developer forego payment into the tree escrow account. In order to plant an evergreen screen, he would be required to submit a full mitigation plan with guarantees to the landscape administrator.

Vice Mayor Davis: Kit, are you in agreement with this memo?

Kit Williams: This came from Planning, I am in agreement with it but you should ask Planning.

Dawn Warrick: This is an action that the Council has taken in the past. That is a waiver that you have granted in the past, it is also an ordinance amendment that staff is proposing and that the Planning Commission has voted unanimously to forward to you.

A discussion followed on the waiver.

Bill Rudasill, Engineer for the project, we are in agreement to the buffer, we are going to do it.

A discussion followed on the screen.

Alderman Lucas: I am concerned about the safety and the traffic. Has that been resolved?

Dawn Warrick: The access easement from North College to this site will be maintained in a permanent access easement providing access to the property.

Vice Mayor Davis expressed his concern about the traffic.

Alderman Rhoads: Whatever else we have for Mr. Rudasill to check out let's state it now so we can make a decision at the next meeting.

Alderman Thiel: You will need to get with the Landscape Administrator.

Alderman Thiel expressed her concerns about the PZD's and the goals and guidelines of a PZD.

This ordinance was left on the second reading.

Council on Aging, Inc.; Lease Senior Center, Walker Park: A resolution to approve a lease and agreement to provide services with the Council on Aging, Inc. for the Fayetteville Senior Activity Center in Walker Park. ***This resolution was tabled at the January 6, 2004 City Council meeting until the January 20, 2004 City Council meeting.***

Janet Linebaugh, Executive Director of the Senior Center spoke on providing additional hours for the Senior Center to be open. She stated they only get a certain amount of money each year; they do not get additional money if they serve additional people. Due to the success of the new center they have tripled the amount of people that come to the center.

A discussion followed on personnel that have been cut from the center due to the increase in the additional services being provided. The money from employees' salaries had to be used to provide the additional services, such as meals.

Janet Linebaugh also explained the Senior Centers budget and the additional cost the Senior Center has incurred.

Alderman Rhoads: You have explained your problems very well; there are some on the Council that would like that facility used to the max. What is your solution?

Hugh Earnest: We would like to review how services are being delivered at that facility. One option is to ask the Public Housing Authority pick up the salary of the individual that is currently assigned by the Council on Aging to provide services at the Public Housing Authority. This is a partial solution. The other suggestion is a survey of the client base to see if there is an interest of having services on Saturday and Sunday. The other conservation is to find the funds from some source to open it more hours.

A discussion followed on the cost estimate to provide services on the weekend that was presented to the Council.

A discussion followed on the current hours of operation and proposed hours of operation.

Paul Vinson, President of the Board, Council on Aging of Washington County said the current hours of operation can not be changed without the approval of the Area Agency on Aging because of the contract that they have with them.

A discussion followed on the hours of use and getting approval for a change on the hours from open all day to open a partial day.

Alderman Rhoads: This is not a reflection on the quality or the job that you are doing. Thank you for what you are doing.

Vice Mayor Davis: Janet, you are doing a tremendous job on limited resources.

Alderman Marr: I would like to know the cost to be open from 8:00 to 1:00 both days and servicing a meal versus being open from 8:00 to 5:00 each both days and serving a meal. Also are these number based on a 12 month period?

Janet Linebaugh: Yes.

Alderman Marr: I would like to know the cost for this additional service until the end of your physical year.

Alderman Lucas: Will you also provide transportation on these extra days?

Janet Linebaugh: That is what we do Monday through Friday; we would have to look at that, it depends on the survey results.

Alderman Davis: I would like to see the numbers for a ten hour time frame split over two days that serves a meal for a half a year.

Alderman Reynolds: What percentage are volunteers? Would they have to work on Saturday and Sunday?

Janet Linebaugh: That is one issue we have discussed, if the volunteers would be there to help us out.

Alderman Reynolds: I had a call from a person that the only meal they get is from the Senior Center. They suggested that you might do a trial period to see if different hours will work.

Alderman Lucas: They do a great service, we must remember they do not charge, they ask for donations, they can't charge a fee if we ask them to do more we need to think about helping them.

A discussion followed on approving the resolution or tabling the resolution until a survey is completed.

Alderman Jordan: I want to stress that if there is more money needed to keep the services to provide the type of employees that you need, I want to know that and I think this Council does too. If changes need to be made I am willing to make those changes. I am here to support you not shut you down.

Paul Vinson: The Library and the Boys and Girls Club are fully funded. We have to get donations for 49% of our budget, we never know if we will have enough money to complete a year. We have lost a couple of sources of revenue if you can help us raise funds we would appreciate that. We would certainly like to do more if we had the funds.

Alderman Jordan moved to table this resolution to the March 2, 2004 City Council meeting. Alderman Marr seconded. Upon roll call the motion to table passed unanimously.

NEW BUSINESS:

WIV-Fayetteville Cost-Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with WIV-Fayetteville, LLC in an amount of $25,512.00 plus a contingency of $3,826.00 for a total of $29,338.00 for the construction of 350 feet of 8-inch water main.

Mr. Williams read the ordinance.

Alderman Jordan: The city is asking this development to construct this, is that correct?

Gary Coover, Engineering: Correct.

Gary Coover explained 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 Thiel: Gary did you have an opportunity to speak with the Northwest Arkansas Mall to see if they were willing to help fund part of this?

Gary Coover: I talked to Kit to see if such an agreement could be worked out and he said that probably wouldn't be a problem, I talked to Mayor Coody and he said to get with him and he would call the mall, but that didn't happen before he left town.

A discussion followed on contacting the Mall to see if they will cost share this and the reason this needs to be constructed.

This item was left on the second reading.

Mount Sequoyah Woods Conservation Easement: A resolution to reaffirm its commitment to sell most of its development rights to the Fayetteville Natural Heritage Committee on the 67 acres of Mount Sequoyah Woods purchased by the City of Fayetteville pursuant to Resolution No. 46-03.

Vice Mayor Davis: We have been asked to table this item tonight by the Fayetteville Natural Heritage Committee.

Alderman Marr moved to table this until the next City Council meeting. Alderman Jordan seconded. Upon roll call the motion to table passed unanimously.

Creation of an Ex Officio, Nonvoting Council Member: A resolution to amend the Rules of Order and Procedure of the Fayetteville Mayor/City Council by adding Section J., creating an Ex Officio, nonvoting Council member designated to be filled by the President of the Associated Student Government of the University of Arkansas.

Alderman Rhoads: I wouldn't do anything to upset what I believe is an incredible chemistry between this Council and the Mayor. I look at this proposal as more of an enhancement to what we can do to achieve one of our principle goals, "A Better Relationship with the University of Arkansas" and in no way is it a suggestion or implication that the Council isn't serving the University very well, it is truly an enhancement.

Jeff Erf: What special rights does this ordinance give a student representative from the University that they don't already have?

Alderman Rhoads: They would be in the pipeline to receive the normal mailings, Council tours and do things the general public normally wouldn't participate in.

Jeff Erf: It is available to the general public.

Alderman Rhoads: When you are appointed to a position you tend to be a little more diligent and more involved.

Jeff Erf: I am opposed to the ordinance. He discussed his concerns about the ordinance.

Price Feland, Secretary of the Associated Student Government at the University of Arkansas expressed his appreciation to Alderman Rhoads for bringing this forward. He spoke in favor of the resolution.

Suzanne Krumpelman, a grad student at the University of Arkansas, spoke in opposition to the resolution.

Dan Oberste, Vice President of the Associated Student Government at the University of Arkansas spoke in favor of the resolution.

Alderman Marr voiced his concerns about the resolution. He voiced his concerns about the lack of participation by university students in the past. He also voiced his concerns about other special interest groups wanting a seat on the Council.

Alderman Jordan said he has had several phone calls against this resolution. He voiced his concerns about the resolution.

Alderman Thiel stated she has had no support for the resolution. She stated her reasons for her opposition to the resolution.

Alderman Lucas stated she has had numerous calls and emails in opposition to this resolution. She stated her reasons for her opposition to the resolution.

Alderman Reynolds stated he had several calls in opposition to this resolution. He stated that he could not support the resolution.

Alderman Rhoads: I feel you have considered this and thought about it. University students don't come as often as they should, I think if we give them a place at the table they will participate more.

He suggested the resolution be changed to read as follows: Whereas the City desires a closer relationship with the University of Arkansas and believes that that relationship will be enhanced with a temporary Ad Hoc student filled Ex-Officio position on its Council. Then change and amend the resolution to read that it would be effective for one year so that it is a temporary position with a realization that we are trying to build our relationship with the University to greater heights and the realization that it's truly something a little bit different than the other groups that have been mentioned.

Alderman Rhoads moved to change the resolution to make the position effective for a period of one year. Alderman Marr seconded.

Price Feland spoke in favor of the change to the resolution.

Susan Krumpelman spoke a second time against the resolution.

David Garcia, a resident, spoke on the resolution. He will ask for other Ex Officio positions to be put on the City Council if this resolution is passed.

Gerald Jordan, a resident, spoke on the ordinance.

Dan Oberste spoke again on the resolution.

Kit Williams read the proposed changes to the resolution.

Alderman Jordan thanked Alderman Rhoads for bringing this forward.

Upon roll call the amendment to the resolution passed 5-3. Alderman Lucas, Jordan, Marr, Rhoads and Davis voting yes. Alderman Reynolds, Thiel and Cook voting no.

Alderman Rhoads moved to approve the resolution. Alderman Marr seconded. Upon roll call the resolution failed 1-7. Alderman Rhoads voting yes. Alderman Lucas, Jordan, Reynolds, Thiel, Cook, Marr and Davis voting no.

Resolution Failed.

Meter Operations Division Additional Staffing: A resolution to approve two full time equivalent positions in the Meter Operations Division and a budget adjustment in the amount of $36,090.00 to pay for those employees.

Greg Boettcher: Two meter operations department employees have been called to active duty. We are requesting that the Council approve two additional full time positions to carry us through the year of service that they have been called in for and a budget adjustment to fund those positions. As the year wears on and we see that our regular employees are coming back we will look at how we either use attrition or transfers to staff back down.

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

Resolution 10-04 as Recorded in the Office of the City Clerk.

Informational Items:

Alderman Reynolds suggested that there be a five minute citizen comment period at the end of each City Council meeting for citizens to come before the Council and express their concerns. He asked the Council to consider his suggestion.

Hugh Earnest: We will receive from the Beaver Water District a refund in the amount of $426,277.

Meeting adjourned at 8:30

Sondra E. Smith

Sondra Smith
City Clerk