# City Council
# Meeting Minutes
# March 2, 2004

A meeting of the Fayetteville City Council was held on March 2, 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**

**The meeting was called to order by Mayor Coody.**

**Mayor Coody:** When we have our Council of Neighborhoods and the Ward cleanups, we need to find a way for everybody to pick up all the trash and litter. We should be cleaner than we are. If I can encourage all neighborhoods to please spend time on these Ward cleanup days picking up trash on the roadways we will haul it off, we will do our part. We need everyone in town to help, the government can not do this on our own, we are going to have to have the citizen's pitch in and help.

**CONSENT:**

**Approval Of The Minutes:** Approval of the February 17, 2004 meeting minutes.

**2004 Bulk Construction Material Purchase:** A resolution awarding bids for and approving the purchase of bulk materials and services utilized by various divisions of the City of Fayetteville in the amount of ($195,000.00).

***Resolution 30-04 as Recorded in the Office of the City Clerk.***

**Terracon Contract:** A resolution authorizing Parks and Recreation to contract with Terracon Consultants Inc. to perform the Cummings C & L Landfill Site Characterization Study.

***Resolution 31-04 as Recorded in the Office of the City Clerk.***

**Cruzen Equipment Change Order # 1 Self Serve Fueling:** A resolution approving Change Order #1 to the construction contract with Cruzen Equipment Company, Inc. in the amount of $18,135.50 to include an 87 octane Mogas pump at the Aviation Fuel Self-Serve Facility at the Fayetteville Municipal Airport; approving a project contingency in the amount of $1,814.00 and approving a budget adjustment in the amount of $19,950.00 for same.

***Resolution 32-04 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.**

**OLD BUSINESS:**

**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.***
***This resolution was tabled at the January 20, 2004 City Council meeting until the March 2, 2004 City Council meeting.***

**Kit Williams:** Mr. Earnest has asked that this be tabled again. He has now sent me a memo and I think he has worked out a contract with the Senior Center and that will be before the City Council in two weeks if you will table this.

**Alderman Jordan moved to table the resolution. Alderman Davis seconded. Upon roll call the motion to table passed unanimously.**

**Tabled until the March 16, 2004 City Council meeting.**

**Waste Hauler Contracts:** A resolution authorizing the Mayor to execute contracts with Waste Management of Arkansas, Ozark Sanitation, and Roll-Off Services, Inc. to collect and transport specific types of solid waste within the city limits of Fayetteville.
***This resolution was tabled at the February 17, 2004 City Council meeting until the March 2, 2004 City Council meeting.***

**Gary Dumas, Director of Operations:** We have resolved the issues that were brought up by one of the haulers. Cardboard has been totally excluded from this contract, that will be something we may negotiate a separate contract for in the future, but there were too many issues to resolve it at this time. The issue that it would be mandatory that Class IV material would have to go to the landfill was removed; that Class IV material can go to any licensed approved landfill. The final issue concerned using the City's transfer station for all Class I. We have changed the contract to read that the hauler may take Class I to the City's transfer station or any other duly authorized landfill.

**Alderman Cook:** If they do not use our transfer station how will we know how much they are hauling?

**Gary Dumas:** We will have a meeting with the haulers sometime in the next two weeks and will determine how we will verify how much they are hauling. Even if it was required to go through our transfer station there is no absolute certainty that it would all go through our transfer station anyway with any hauler. We will attempt to come up with some mechanism.

**Kit Williams:** We have a right to audit and if we find that they are in breach of this contract then the contract can be terminated and they would not be able to haul garbage within the City.

**Alderman Reynolds:** Who is going to enforce the ordinance? Will the Police Department write the tickets?

**Kit Williams:** As with every ordinance it is the Police Department that will enforce it.

**Alderman Reynolds:** When does it take effect?

**Kit Williams:** I think the resolution I presented to the Council stated March 16.

**Alderman Reynolds:** Anyone that does not have a contract with us by March 16 will be in violation of the ordinance.

**Gary Dumas:** If they are hauling prior to that date. Any new hauler that comes into town can execute a contract at any time.

A discussion followed on the hauler contracts and the use of the City's transfer station.

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

***Resolution 33-04 as Recorded in the Office of the City Clerk.***

**NEW BUSINESS:**

**Improvement District No. 6 – Rupple Row Development:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 6 – Rupple Row Development.

*Mr. Williams read the ordinance.*

**Alderman Cook:** The Improvement District is basically a financing vehicle where these people are financing the improvements and then the home owners will pay it back. How does that affect impact fees? It seems like the owner would be paying twice for their infrastructure, once as an impact fee and then to pay off the cost of the infrastructure.

**Kit Williams:** The home owners normally always pay for the cost of improvements, because the developer normally would have to pay for the cost of development and then he raises the price of his lots in order to pay himself back for the infrastructure cost. That is a different part than the impact fee which is going toward the sewer collection system and the water delivery system. This is not for the portion that is within the development that has been paid for but for the part outside that development.

**Jim McCord, the attorney representing the District:** The developer must comply with the city ordinances regarding impact fees; this is just a financing alternative for the infrastructure in that sub-division.

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

*Mr. Williams read the ordinance.*

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

*Mr. Williams read the ordinance.*

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

*Ordinance 4546 as Recorded in the Office of the City Clerk*

**Planning Commission Appeal – RZN 04-01.00 (Parnell):** An appeal filed by Bell Cow, Inc. regarding Planning Commission denial of RZN 04-01.00 as submitted by Eric Johnson of Triangle Builders Supply.

**This was withdrawn by the petitioner.**

**ADM 04-07.00 Bill of Assurance Amendment:** A resolution to approve a second amendment to the Bill of Assurance submitted with Ordinance No. 4411 as amended by Resolution No. 28-03.

**Alderman Jordan:** I wanted to be sure that there has been a meeting between the developer and the neighborhood and they are all right with this.

**Chris Brackett, Jorgenson and Associates:** We did have a meeting with the adjoining property owners everything seemed to be resolved after the meeting.

**Bassam Ziada a resident of 723 N. 46th Street** spoke in favor of the amendment.

**Charlie Sloan a resident** spoke in favor of the amendment.

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

*Resolution 34-04 as Recorded in the Office of the City Clerk.*

**R-PZD 04-02.00 (Cross Keys):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-02.00) located south of Wedington Drive at the corner of N. 46th and Persimmon Street containing 38.48 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 Marr:** The Planning Commission does not typically remove connectivity of roads in newly developed areas. Why was connectivity removed on this development?

**Dawn Warrick:** This went to the Planning Commission with a connection to the east between lots 10 and 11 for a stub out of a city street to connect to the vacant parcel that is east of this subject property. The Planning Commission discussed whether that connection should be vehicle or pedestrian. Staff recommended throughout the process that it be a vehicular connection in order to fulfill the city's policy of connectivity. The Planning Commission reviewed that discussed the traffic movements that would function throughout this development and hear from the applicant with regard to his knowledge of the proposed future development to the east and through discussion and process they chose to remove the vehicular connection and change that to a pedestrian connection.

**Alderman Marr:** Are there other developments similar in size or newly developing area like this where we have made that exception?

**Dawn Warrick:** Not that I am aware of in a similar circumstance when there is a vacant property adjacent to the subject track.

A discussion followed on the connectivity of the project.

**Alderman Jordan moved to amend the ordinance to go back to what was originally planned for that area with the connectivity. Alderman Lucas seconded the motion. Upon roll call the motion to amend the resolution passed 7-1. Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Lucas and Jordan voting yes. Alderman Davis voting no.**

**This Ordinance was Left on the First Reading.**

**R-PZD 04-05.00 (Hickory Park):** An ordinance establishing a Residential Planned Zoning District titled (R-PZD 04-5.00) located north of 2730 E. Township Street, containing 4.429 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**, spoke in opposition to this project. He spoke about the current traffic and connectivity.

**Bob Sigafoos a resident of Hardy Lane** spoke of the drainage problems associated with this project.

**Tim Conklin:** With regard to the wet land issue that was discussed at Sub-Division Committee, I think it would be more appropriate for the engineers to address those issues.

**Dawn Warrick:** Our Landscape Administrator has walked the site; our Associate Planner who is the project manager on the site has not walked it but has driven out and around the site to observe the surrounding conditions and the property. The Planning Commission toured the site prior to their meeting.

**Tom Jefcoat, Milholland Company:** It was brought up in the reviews that we have a marsh area on those lots that needed to be considered. We looked at that comment at the time, that land does slope so it is hard to have a bough if you have a pretty good slope. The developer has worked to preserve as many trees as possible on the site. The infrastructure has been removed to preserve a buffer between the adjoining neighbors. As far as wet lands, we found none on site.

**Alderman Thiel:** What are you doing as far as a retention pond to address the slope toward the other properties?

**Tom Jefcoat:** We worked with the City's Engineering Department on that. The configuration of the street intercepts most of the existing flow, there is a detention pond under the asphalt on one of the streets and part of it will be discharged to 265. All the retention is under ground.

A discussion followed on the project, tree preservation, and the drainage.

**Tom Jefcoat:** We are reducing the amount of water that is going onto those lots now by intercepting it with the cross street before it gets there. The street intercepts development water and that water which is being discharged is actually less than what is being discharged now, we have addressed that issue and the engineering staff is satisfied with that.

**Alderman Marr:** Were there any other opposition from the public regarding this project.

**Dawn Warrick:** The statements that were made this evening were reflective of the comments that we've heard throughout the review process. I will be glad to look back through the documents and get you some sort of a count. It was not a high number of people; I will get you a count.

**Tom Jefcoat:** We did have a neighborhood meeting and about 30 people attended; everyone at that meeting was pleased with the development, the layout, and the way that it affected their property but the one gentleman.

A discussion followed on the project.

**Alderman Reynolds:** It looks like there are about 10 other owners outside the church on this piece of property and it looks like we have one opposed. I hope the others will come forward if they have a problem with this by our next meeting.

**This Ordinance was Left on the First Reading.**

**Construction Contract for Fire Station 7:** A resolution to approve a construction contract with _______________________ in the amount of _________________________ for the construction of Fire Station No. 7.

**Chief Bosch:** Bids have been opened and are above the anticipated project budget because of that we took all three deductive alternates on the project to get it down below the 25% ceiling. We are currently working with the architect to get the contract drafted, we would ask this to be tabled to the March 16, 2004 City Council meeting.

**Alderman Jordan moved to table the resolution. Alderman Lucas seconded. Upon roll call the motion to table the resolution passed unanimously.**

**Water and Wastewater Operations Center – Marinoni Contract:** A resolution to approve the construction contract for the new Water and Sewer Operations Center with Marinoni Construction, Inc. in the amount of $3,403,199.00, plus a contingency of $225,159.00 and a budget adjustment of $128,235.00.

**Alderman Jordan moved to approve the resolution. Alderman Davis seconded. Upon roll call the resolution passed 7-0. Alderman Rhoads was absent during the vote.**

*Resolution 35-04 as Recorded in the Office of the City Clerk.*

**Greg Boettcher** thanked the Council for this project. He stated it is one of the most important projects he has been working on and probably one of the most critically needed.

**McClinton-Anchor Purchase Bid Waiver:** An ordinance waiving the formal competitive bidding requirements for the purchase of asphalt and aggregate materials through a bulk purchase contract with APAC-Arkansas/McClinton Anchor in an amount not to exceed $900,000.00.

**Gary Dumas** asked to table this indefinitely.

**Alderman Jordan moved to table the ordinance indefinitely. Alderman Davis seconded. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.**

**VAC 04-01.00 (Michael Campbell):** An Ordinance approving VAC 04-01.00 to vacate and abandon a portion of the water and sewer easement located at 4843 Lavendon Place as described on the attached map and legal description.

*Mr. Williams read the ordinance.*

**Mr. Williams:** I have prepared a release, Mr. Paul Reynolds who represents Mr. Campbell is here and has seen that and I think we have an agreement on the terms and conditions.

**Paul Reynolds:** We have approved the release, it is filed and Mr. Campbell is ready to pay the $9,000.00. We ask that you approve this tonight; we think this is a satisfactory resolution for everybody involved.

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

*Mr. Williams read the ordinance.*

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

*Mr. Williams read the ordinance.*

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

*Ordinance 4547 as Recorded in the Office of the City Clerk*

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

***Ordinance 4547 as Recorded in the Office of the City Clerk***

**Announcements:**

**Mayor Coody** thanked City Attorney Kit Williams for the good work that he did in recognizing some legislative that was passed that was a real problem. I think his good legal work has saved not only the City of Fayetteville but other cities and the state itself from several liabilities with illegal exactions.

**Alderman Reynolds:** The three minute speaker ordinance will be on the agenda for March 16, 2004 City Council meeting.

**Meeting Adjourned at 7:30 P.M.**

Sondra E. Smith

**Sondra Smith**
**City Clerk**