Meeting Minutes
City Council Meeting
April 20, 2004

A meeting of the Fayetteville City Council was held on April 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.

Alderman Rhoads was absent during the roll call and the Nominating Committee report.

The meeting was called to order by Vice Mayor Bob Davis.

Kit Williams: For the record the reason Vice Mayor Davis is conducting the meeting is because Mayor Coody is in Washington D.C. at a conference. During this meeting even though you are the chair you are entitled to all the rights of a normal Alderman so you can make and second motions even though the Mayor can not.

Nominating Committee Report: Dusti Miller – Fayetteville Housing Authority Appointment.

Alderman Jordan moved to approve the Nominating Committee Report. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

CONSENT:

Approval Of The Minutes: Approval of the February 20, 2001, May 15, 2001 and April 6, 2004 meeting minutes.

Multi-Craft Contractors-Emergency Generator for City Administration Building: A resolution approving amendment No. 3 to the contract with Multi-Craft Contractors for the purchase and installation of an emergency generator at the City Administration Building in the amount of $41,903.00; and approving a contingency in the amount of $2,095.00.

Resolution 55-04 as Recorded in the Office of the City Clerk.

2004/2005 Drug Enforcement Grant: A resolution to accept the 2004/2005 Drug Enforcement Grant in the amount of $305,095.00 with a commitment to match it with $75,929.00 in city funds.

Resolution 56-04 as Recorded in the Office of the City Clerk.

Crossland Construction Company Library CO #14: A resolution approving Change Order #14 to the contract with Crossland Construction Company, Inc. in the amount of $78,454.00 to install landscape irrigation, engineered soil and mulch and low voltage conduit at the New Fayetteville Public Library.

Resolution 57-04 as Recorded in the Office of the City Clerk.

Henard Utility Products-Compost Grinder: A resolution approving the purchase of a Bandit 3680 "Beast" Compost Grinder by the Solid Waste & Recycling Division from Henard Utility Products in the amount of $239,068.75.

Resolution 58-04 as Recorded in the Office of the City Clerk.

Landers Ford -Fire Department Vehicle Purchase: A resolution approving the purchase of a Ford Expedition from Landers Ford at the state contract price of $25,811.00 for use by the Fayetteville Fire Department; and approving an additional expenditure of $2,350.00 to equip the vehicle with lights, siren and console.

Resolution 59-04 as Recorded in the Office of the City Clerk.

Ron Blackwell -Water & Sewer Vehicle Purchase: A resolution approving the purchase of two Ford F550 Trucks for the Water and Sewer Division from Ron Blackwell Ford for a total price of $79,133.76.

Resolution 60-04 as Recorded in the Office of the City Clerk.

Schwarze Industries Street Sweeper Purchase: A resolution approving the purchase of a Street Sweeper for the Transportation Division from Schwarze Industries in the amount of $139,376.00.

Resolution 61-04 as Recorded in the Office of the City Clerk.

Basic Construction Top Soil Purchase: A resolution to award a bid to the low bidder, Basic Construction, Inc. in the amount of $50,000.00 to purchase top soil for street and sidewalk projects.

Resolution 62-04 as Recorded in the Office of the City Clerk.

2004 FEMA Fire Act Grant: A resolution to approve a grant request for a FEMA Fire Act Grant and Agreement to match any received grant funds in an amount equal to 30% of the total budget.

Resolution 63-04 as Recorded in the Office of the City Clerk.

Gregory Park Land-Convey to U.S. Army Reserve Center: A resolution approving the acceptance of a Quitclaim Deed for approximately 19.38 acres of land from the United States Department of the Army in exchange for conveying a Warranty Deed for approximately 0.412 acres of land to clear title and resolve an encroachment; and authorizing the Mayor and City Clerk to execute any and all documents required therefore.

Resolution 64-04 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda as read. Alderman Thiel seconded the motion. Upon roll call the motion to approve the consent agenda passed unanimously.

OLD BUSINESS:

Central Emergency Medical Services, Inc.: A resolution approving the renewal of the contract for services in the amount of $156,000.00 between the City of Fayetteville and Central Emergency Medical Services, Inc. to operate and maintain an emergency ambulance service to serve the residents of Fayetteville.

Alderman Marr: If I understand the average response time is 7 ½ minutes, they are committing to an average response time of 8 minutes. Is that in the contract?

Chief Bosch: We have provided a new contract to the City Clerk with the response time of 8 minutes. The National Fire Protection Association recommends a response time of not to exceed 8 minutes 90% of the time.

Alderman Marr: The only commitment we are getting is an 8 minute average. There is not a maximum in this contract at this time. Do we have a plan to try to get to that?

Chief Bosch: Yes sir.

Hugh Earnest: Before the summer is over we will have a report to you that details a series of options that will improve the service delivery.

Alderman Thiel moved to approve the resolution. Alderman Rhoads seconded the motion. Upon roll call the resolution passed 6-2. Alderman Rhoads, Davis, Lucas, Jordan, Thiel and Cook voting yes. Alderman Reynolds and Marr voting no.

Resolution 65-04 as Recorded in the Office of the City Clerk.

ANX 03-5.00 (Dunnerstock Development): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Dunnerstock Development, Inc. located on Rupple Road north of Wedington Drive containing approximately 17.19 acres.

Alderman Marr 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.

A discussion followed on widening Rupple Road and the ingress and egress to the property.

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

Mr. Williams read the ordinance.

Alderman Cook: I am usually not in favor of annexations; the only time I would be in favor of an annexation is to bring islands into our city limits. My frustration with this annexation is Rupple Road. We are building these projects before we have the infrastructure for these projects. I am for more single family housing but the additional load to this street is my concern.

Alderman Jordan: I agree with Alderman Cook. I have concerns about this street.

Jim McCord, representing the applicant: Patrick is stubbed out adjoining this property to the west so there will be connectivity. Rupple Road will not be the only ingress and egress.

Dawn Warrick, Planning: Staff will require connectivity for this project.

A discussion followed on the project.

Alderman Marr: The Planning Commission minutes only show one citizen opposed to this annexation and rezoning. I think it does begin to pick up islands and gets government control that is city regulated rather than county regulated. I support it for those reasons.

Alderman Lucas: The redeeming quality is it does have other access. We do need to get these islands annexed in.

Alderman Jordan: I do believe we need to annex in these island but we must address the infrastructure of this city, this can not go on forever.

Alderman Cook: When are we going to actually adopt the traffic study?

Tim Conklin, Planning: The traffic study was accepted by the City Council in December and we are working on some of the intersections that were identified. We are working on those projects.

A discussion followed on the traffic study and the information on upgrading city streets that will be brought to the Council in the near future.

Vice Mayor Davis asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Rhoads, Davis, Lucas, Jordan, Reynolds, Thiel and Marr voting yes. Alderman Cook voting no.

Ordinance 4555 as Recorded in the Office of the City Clerk

RZN 03-33.00 (Dunnerstock): An ordinance rezoning that property described in rezoning petition RZN 03-33.00 as submitted by James McCord on behalf of Dunnerstock Development, Inc. for property located on Rupple Road north of Wedington Drive from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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

Mr. Williams read the ordinance.

A discussion followed on the type of zoning.

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

Mr. Williams read the ordinance.

Vice Mayor Davis asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Rhoads, Davis, Lucas, Reynolds, Thiel and Marr voting yes. Alderman Jordan and Cook voting no.

Ordinance 4556 as Recorded in the Office of the City Clerk

ANX 03-06.00 (Hoskins/Schlegel): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres.

Alderman Lucas 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 Thiel: This project concerns me because of the report from our police department regarding the access into this project. I am also concerned about the frontage.

Alderman Jordan: Are there possible wetlands on the site.

Dawn Warrick: I do not know if a study has been done with regards to that.

Mel Milholland, Milholland Engineering: A study has been made and to my knowledge no objection has been made to the site.

Alderman Jordan: Chief Bosch you said the response time was 5 minutes and 42 seconds. How would you rate that?

Chief Bosch: That is about average, it is pretty good. We do have a concern about the access into that area.

Alderman Jordan: Mr. Boettcher, what lift station will be handling this project?

Mr. Boettcher: Crystal Springs.

Alderman Jordan: Is the capacity good there.

Mr. Boettcher: We have reserve capacity in Crystal Springs. Once they develop their final loading projections we will be evaluating that and confirming that there is capacity to handle it. If there is a need to upgrade the station that will be included. In terms of long term there is an interceptor sewer that will come down through that area and this will ultimately connect to it.

Dawn Warrick: The preliminary report from RJN indicates that lift station has capacity for 670 units; the maximum density for this development is 290 units.

Alderman Jordan: How many trips a day is this development going to add to the road?

Dawn Warrick: An average single family home generates between 9 and 10 vehicle trips per day.

A discussion followed on access to the development by the fire department, the traffic danger that might be created by the development and the improvements to Rupple Road. There was also a discussion on the undeveloped land in Fayetteville.

Alderman Marr: Do we have a justified need to annex these 72 acres?

Tim Conklin: The location of this in relationship to the infrastructure in the area and the potential and existing growth that is occurring in this area, it is my opinion that it would be better to have this inside the City of Fayetteville versus having it outside the City of Fayetteville where there is very limited control by the City of Fayetteville. This is an area that is growing and should be developed to city standards.

Alderman Davis: What you said makes sense; this is adjacent to the property that we sold to Collins Haynes who is installing an upscale development. If we are having a high end development beside this property, I think we need to have this property inside the city so we will have something looking nice in this area. Planning Commission has approved this 9-0.

Alderman Marr: How do we justify the need and are we bringing more in than we will be able to handle and be able to finance?

Hugh Earnest: We do need to provide a map showing the undeveloped land in the City of Fayetteville. It does not mean that land is subject to development.

Tracy Hoskins, the owner asked that this be approved. He stated this will be an upscale development.

A discussion followed on this project, the roads in this area, the access to the property and how the funds will be obtained to improve the infrastructure.

Alderman Jordan voiced his concern about the roads around this project.

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

Mr. Williams read the ordinance.

Alderman Marr: It looks like we are fairly split on this ordinance. If this is a tie it is a denial, is that correct?

Kit Williams: In order to pass an ordinance or a resolution it requires five affirmative votes.

Alderman Marr: We may want to table this until our Mayor is back.

Tracy Hoskins explained the project to the Council.

Mel Milholland: What happens if this is a tie tonight?

Kit Williams: A 4 to 4 vote would not pass the ordinance, the ordinance would fail.

Tim Conklin: There is a one year waiting period before they could bring this back before us.

Alderman Marr moved to table the ordinance. Alderman Davis seconded the motion. Upon roll call the motion to table passed 7-1. Alderman Davis, Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting yes. Alderman Rhoads voting no.

RZN 03-34.00 (Hoskins/Schlegel): An ordinance rezoning that property described in rezoning petition RZN 03-34.00 as submitted by Milholland Company on behalf of Tracy Hoskins for property located north of the proposed Crystal Springs Phase III Subdivision, west of Deane Solomon Road and south of Salem Road containing approximately 72.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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.

This Ordinance was Left on the Second Reading.

RZN 04-2.00 (Chance & Tuggle): An ordinance rezoning that property described in rezoning petition RZN 04-02.00 as submitted by Geoff Bates of Keystone Consultants on behalf of David Chance and John Tuggle for property located at West Tackett and Genevieve Avenue containing approximately 7.94 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

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.

Alderman Thiel and Alderman Lucas wanted to know if improvements will be made to the adjoining streets.

Tim Conklin: This is not part of our CIP. No major road widening improvements are planned.

Alderman Lucas: How wide is 54th street?

Jeff Bates the engineer for the developer: 22 to 24 feet. We have changed our zoning three different times, we have met with the adjoining property owners and staff. We received unanimous approval from the Planning Commission and we have had not public comments since

we changed the zoning. We would like to ask the Council to approve this. This project will be 25 single family homes.

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

Mr. Williams read the ordinance.

Alderman Jordan: Asked Chief Bosch how he would rate the road for emergency vehicles.

Chief Bosch: I would say that compared to other roads in that area it is average.

Alderman Jordan: If you met a car on that road you could pass.

Chief Bosch: Yes sir.

Alderman Cook: You were asking about the width of the road, in the Planning minutes it sates 16 feet at the narrowest part and 30 feet at the bridge. It goes back to 18 feet up to Highway 16.

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

Ordinance 4557 as Recorded in the Office of the City Clerk

NEW BUSINESS:

Northwest Arkansas Regional Planning Commission Storm Water Education Contract: An ordinance to waive competitive bidding and to approve a five year contract for $239,000.00 with the Northwest Arkansas Regional Planning Commission for services by the University of Arkansas Cooperative Extension Service to satisfy portions of the requirements of the NPDES Phase II Stormwater Permit.

Mr. Williams read the ordinance.

Alderman Thiel: The Environmental Concerns Committee reviewed this and they were very supportive of this.

Alderman Marr: I want to thank the staff for seeking regional solutions that save the city money.

Alderman Thiel: We should thank the Northwest Arkansas Regional Planning Commission. They took this on as a project. I think it is a very good reason why the City of Fayetteville should remain a member of that organization. They do a great many good things for the area.

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

Mr. Williams read the ordinance.

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

Ordinance 4558 as Recorded in the Office of the City Clerk

R-PZD 04-4.00: Residential Planned Zoning District (Stonewood Gardens): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-4.00 located south of Albright Road and north of the Stonewood Subdivision containing 3.36 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 Davis moved to suspend the rules and go to the second reading. Alderman Reynolds seconded. Upon roll call the motion passed unanimously.

Mr. Williams read the ordinance.

Alderman Davis: This will be a gated community, if this passes this evening will more of these be occurring in the City of Fayetteville in the future?

Tim Conklin: Our General Plan recommends that we avoid putting gates on communities. We typically discourage the use of gates where there is connectivity. With existing development on the sides of this project we were not allowed to do that. In the past if it had connectivity we did not allow gates.

Alderman Davis: Chief Bosch, in this particular gated community they are talking about having a key and lock box, is that a problem.

Chief Bosch: That would work for us.

Alderman Reynolds: Would that be shared with the police.

Chief Bosch: Yes, we could do that.

Alderman Rhoads: Does that add to the response time?

Chief Bosch: It may add some, maybe 30 seconds.

Alderman Marr: If it is in our plan to not have gated communities and this was recommended by staff, why did you depart from the plan?

Tim Conklin: We currently do not have an ordinance that prohibits gated communities. It is a policy in our General Plan, but we do not have an ordinance. It would be better to not have this

gate because in the future it could cause issues between staff and developers. This project does not have connectivity so it is difficult to not let them have a gate.

Alderman Davis: The only ingress and egress is off 265. This project is surrounded on three sides.

A discussion followed on the single family home on the property.

David Gilbert with Jorgenson and Associates representing the developer: This project is such a small tract of land, the existing home will stay in place. With the development to the south there is no connectivity to the south, there is no connectivity to the north. We do not believe there is a significant benefit to the City of Fayetteville to have a through street on this tract.

Alderman Jordan: What are the benefits to having a gated community.

David Gilbert: The development as a whole was developed by the developer with some definite points in mind. He wants to create something more upscale, we are trying to do something that will present a positive image as people enter Fayetteville. The wall across the front is for noise reduction. Gated communities are very common in large parts of the country, they convey to people a sense of security. This will be single family homes only.

Mr. Gilbert continued to explain the project to the Council.

Alderman Marr: I like everything about this but the fact that it is gated.

Mr. Gilbert explained the reason they wanted to install the gates. He commended the staff for their help on this project.

This Ordinance was Left on the Second Reading.

VAC 04-3.00: Vacation (Sohraby): An ordinance approving VAC 04-3.00 to vacate and abandon a portion of an existing utility easement to allow for the eave of an existing home at 2474 Fennchurch Way in the Covington Park Phase I Subdivision as described on the attached map and legal description.

Mr. Williams read the ordinance.

Alderman Reynolds 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: I hope we can avoid these in the future.

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

Mr. Williams read the ordinance.

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

Ordinance 4559 as Recorded in the Office of the City Clerk

VAC 04-8.00: Vacation (CMN II, Phase II): An ordinance approving VAC 04-8.00 to vacate and abandon a 20' utility easement located along the boundary of lots 17E and 17F of the CMN Business Park II, Phase II as depicted on the attached legal description.

Mr. Williams read the ordinance.

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.

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

Mr. Williams read the ordinance.

Alderman Marr: Did the Planning Commission vote on this on April 12th and did they recommend this?

Dawn Warrick: The Planning Commission approved this unanimously on April 12th.

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

Ordinance 4560 as Recorded in the Office of the City Clerk

Library Project Contingency Increase: A resolution to increase the project contingency for the Fayetteville Public Library construction by $999,691.00 from settlement and budgeted items.

Michael Thomas, Vice President of the Library Board of Trustees: We ask that you approve this resolution. The library project continues to remain on budget.

Alderman Cook: Would staff people explain this, I have had some calls from people thinking we are adding more money to the project.

Louise Shaper, Library Director: This is a reapportion of funds.

Steve Davis, Finance and Internal Services Director: This will provide the library staff the opportunity to finish the project by going through the public bid process but signage of the contracts will be completed without having to come back to the City Council before ordering the materials. This will save them approximately three to five weeks.

Alderman Marr: This is money that was in the overall project budget.

Steve Davis: The overall project budget remains the same with the exception of the $105,000 settlement that the City Council accepted with Grubs Hoskins.

Alderman Davis: We have a list of the items these funds will be used for.

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

Resolution 66-04 as Recorded in the Office of the City Clerk

Sewer Committee: An ordinance to enact a new section of the Fayetteville Code, **§33.112 Sewer Committee.**

Mr. Williams read the ordinance.

Kit Williams: I brought this forward to make sure we are in compliance with the state law. This is not a change in the way the City Council has done business since 1992, when we established a Water and Sewer Committee. I could not find any ordinance that created the Sewer Committee, state law says you shall create one.

Alderman Thiel: Why does this have to be a separate committee?

Kit Williams: The statues state it will be called the Sewer or the Wastewater Committee. I think we should also give the committee advisory authority over our clean water system. This is not changing their authority it is just making sure we are in complete compliance with the state law.

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

Mr. Williams read the ordinance.

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

Ordinance 4561 as Recorded in the Office of the City Clerk

Meeting Adjourned at 8:25 p.m.

Sondra E Smith

Sondra Smith
City Clerk