

**City Council
Annexation Public Hearing
June 29, 2004**

A Public Hearing on Annexations was held on June 29, 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 Davis called the Public Hearing to order.

Tim Conklin, Director of Community Planning and Engineering Services: This evening this is a Public Hearing for the annexation of the unincorporated areas completely surrounded by the City of Fayetteville. This is on your July 6, 2004 City Council Agenda, the actual ordinances, there are three ordinances which we discussed earlier this evening at agenda session. The purpose of this meeting is to hear from the impacted property owners within the islands and have the property owners express their views and issues or concerns with regard to this proposed annexation. Once again this is a Public Hearing, it's required under Arkansas code annotated, state law with regard to annexing the islands that are completely surrounded. There is no action that the City Council has to take this evening; the action once again will be at the City Council meeting July 6, 2004.

Vice Mayor Davis: Thank you Tim. Is there anyone that would like to address the Council?

Jeff Erf, 2711 Woodcliff Road, Fayetteville: I just had some questions concerning the annexation of the state experiment station off of 112. I was going through the whereas clauses and I had some questions. Under the ordinance it states the research station complies with at least one of the five requirements for annexation stated in Arkansas Code 14-43-02, I was wondering if I could get specifics on which five those were.

City Attorney Kit Williams: The five are in the statutes and there are several, number four certainly would work where it says when the lands are needed for any proper municipal purposes such as the extension of needed police regulation. There are also several others in there, so our allegations are that at least one of those five is appropriate for each one of these annexation parcels. Specifically number 4 and then I would also say number five which states when they are valuable by reason of the adaptability for prospective municipal uses. So even though at this point in time it is used as an educational institution, they certainly would be quite adaptable to other municipal uses. I think it is clear that they do meet the statutory requirement for an annexation.

Jeff Erf: It is my understanding that the university has its own police department which patrols that section of property. So getting back to number four about the extension of police regulation I would question that. Also, the one that I have the most trouble with is there is a clause here that says *whereas at the time of the adoption of this ordinance the highest and best use of these lands, that would be the experiment station, is not for agricultural or horticultural purposes*. I'm just wondering it's the state's research center.

Kit Williams: Probably its best uses are for education.

Jeff Erf: According to this you are stating that the best use is single family housing, is that how I interpret?

Kit Williams: No, the proposed rezoning would be for R-1 Residential Single Family one house per acre. That doesn't mean that would be the way it would eventually end up with the university if in fact the university sold this land and it fell into private homes then the new owner could certainly come to the City Council and request whatever rezoning they wanted.

Jeff Erf: What the ordinance is complying is that the best use for that property is residential single family homes. That is more value than having a research station there.

Kit Williams: No what it is saying is that it is a higher and better use than agricultural or horticultural uses.

Jeff Erf: Okay I thought that is what I just said. You are saying higher and better uses for residential housing than for agricultural research.

Kit Williams: The statute doesn't talk about research; the statute says agricultural or horticultural uses in other words a farm.

Jeff Erf: It actually says purposes.

Kit Williams: Therefore a scientific or educational sort of institution is not just a farm it's different than that.

Jeff Erf: I would disagree with you there.

Kit Williams: I should note for the record that the university was contacted before we ever went forward on this and they are in total agreement to be annexed into the City of Fayetteville.

Jeff Erf: I am sure they would be that brings me to my next point. Back in 1988 the university was under contract with the City of Fayetteville for fire protection and for a one year period they paid the city \$32,000. Since that time the city has gone into another agreement where they are leasing the city Lewis Field where the soccer fields are and in return the city is giving them fire protection over the experiment station and also leasing another piece of city property near the entrance of 6th Street, I'm not sure exactly where the property is. I guess my point is there is some value there that the city gets, with that not being a part of the city, I am just wondering if you annex that in what happens to the

current agreement between the city and the university as far as the contract for Lewis Field goes. In the future if we build a community park we will get out of that lease and there will be some issues there that the city will have to deal with.

Kit Williams: I have reviewed the lease, as you stated the lease was between the city and the University of Arkansas, it was entered into in 1993. The primary parts of the lease were the fact that the university wanted to build a parking lot on its south entrance, which it did, a very large parking lot. The city on the other hand needed space for its growing soccer program which had been at Asbell School and they wanted to go across the street and develop some of the university lands for soccer fields, which they have done. We have even built facilities, restrooms, parking lots and things like that there. This lease was for 25 years and another component of that we told the university we would no longer charge them for fire protection. So if they are brought in, annexed in, of course we are not going to charge them for fire protection, which we couldn't anyway for the next 14 years. This lease would still be in effect, I would think because as long as they are leasing our property, then we have a right to lease theirs. I don't think anything has changed, I think this lease would still be in full force and effect. I don't really think that the annexation of the University of Arkansas Experimental Farms is going to affect this lease at all.

Jeff Erf: That could be true but there may be a different lease if there is a community park built and there is no need for the fields at Lewis Field. The university has indicated that they want that property back and want to build from what I have heard residential student housing there. You all probably know more about this than I do but I just wanted to bring it up for discussion. Thank you for your time.

Alderman Rhoads: Mr. Vice Mayor may I ask Mr. Erf a question?

Vice Mayor Davis: Yes sir.

Alderman Rhoads: First of all I appreciate you have always done your home work when you get up to speak to us. I am sure glad Kit is here because I probably couldn't answer all those questions. What I am curious about is what do you want us to do and why.

Jeff Erf: One of my concerns is that the university cost the city a lot of money, there are a lot for example false alarms on campus. It's taking time and costing the city to control traffic and that sort of thing. What I am saying is that the city in the past there has been a value, they have gotten something out of the university for providing fire protection for that property. Now if it is annexed into the city, I presume there will no longer be that value.

Alderman Rhoads: So you are advocating that we do not annex this?

Jeff Erf: I am not advocating anything at this point; I am just trying to put it out there for you. I haven't heard all the sides yet and I haven't made a decision but I don't want the city to miss an opportunity to get a few bucks from the university if there is a possibility for that.

Alderman Marr: Jeff, I guess the comment as you bring those issues up that come to my mind are that by not having it annexed I think it makes it more difficult for us. If they decide in the future to ever build on those pieces of land, that today are used for other uses to collect impact fees which we recently invoiced as a result of the expansion of the parking lot and to buildings, I see that as a positive. That may be a little more challengeable if it's not a part of the city, why would they have to pay fees to the city for expanding, if in the future they built dorms on say the agricultural site. I also think it gives us, one of our goals was a stronger partnership or working with the university, in that while they aren't required to come to us, I know that in Ward 2 we often have complaints from citizens talking about the fact that they buy homes and they level them into parking lots or they develop without going through the city process. I think it makes a more compelling argument to encourage them to do that like they did with Maple Street with the Street Committee and some of the other locations if they are in the boundary of the city. So, I think your points are valid but I don't think they relate to this particular island. I think the cost of fire services and that particular contract agreement is something we may want to rethink in the future, but I think there are some positives on this particular item.

Jeff Erf: There could be, I've been out of town and I am just catching up. It seems to be that the city has gone annexation crazy lately without knowing what the ramifications of that are. I am just trying to work it through right now.

Alderman Marr: I don't disagree with you on that, I think I voted against the last few, but I think getting the islands in is certainly something that I am more comfortable with because it makes more sense when it's surrounded.

Alderman Thiel: Actually I had questioned Tim about this at the agenda meeting whenever we were looking at this tract and he reminded me that the parcel that was across I-540 that was the fireworks stand that we had to deal with a couple of years, we ended up having to buy it basically for future road right of way. That parcel was outside the city limits because it at one time had been part of the Agri Farm. There is another parcel just like that that lies across Shiloh Drive there just forming a little triangle, that is not really part of the farm itself but it is a concern because it's lying in a very visible area.

Jeff Erf: That is not part of the annexation that you are talking about. You are talking about property besides university property then, it is not all university property, there is other property there?

Vice Mayor Davis: It is all university property.

Alderman Thiel: I am saying that that property at one time had been part probably of, isn't that what you said Tim?

Jeff Erf: Well I am confused because I would think the state wouldn't permit selling fireworks on its property.

Tim Conklin: It does include portions of I-540 which is owned by the Arkansas Highway and Transportation Department.

Alderman Thiel: That doesn't necessarily bring it into the city limits.

Tim Conklin: Yes, but we are talking about annexing areas completely surrounded by the city limits.

Jeff Erf: I understand that, I am talking specifically about the research station. The area in green there does that include other property besides university property?

Tim Conklin: It does include areas of Interstate 540.

Jeff Erf: Which is owned by the Highway Department?

Tim Conklin: Yes.

Vice Mayor Davis: Jeff, if you would, there is a log in form on the podium, would you please sign it.

Jeff Erf: Sure.

Vice Mayor Davis: Who's next?

Jeff Erf: Thanks for your time.

Vice Mayor Davis: Thank you.

Don Golf, a citizen of Fayetteville and a member of Shiloh Community Church: Shiloh Community Church owns four acres of the parcel that is outlined in group three description seven there on Mount Comfort Road. We attended the informational meeting earlier and all of our questions were answered from the aspect of we understand that we can come in and use our land as we are currently using it. We are more than 50% complete in a large scale development, so we have a building going up that we expect to be in September. Our request is that we would like to be considered for P-1 zoning instead of R-1 Conditional Use.

Kit Williams: That is the zoning that the city has set forth for churches and it would be quite appropriate to zone them P-1. Tim do we know which parcel number they are?

Tim Conklin: Yes we do.

Alderman Thiel: Is that group three description seven?

Don Golf: Yes madam. We only own a portion of that, that would be towards the top of the page and about 60 feet that runs down the right hand side, which gives us annex to Mount Comfort.

Vice Mayor Davis: Can you give Tim a copy of the legal for that particular piece of property?

Tim Conklin: We have the legal, if you recall they were part of an annexation to avoid creating an island and withdrew, we have the file, we have the legal, and we have their name we will be able to get that.

Vice Mayor Davis: Shirley did you have a question?

Alderman Lucas: Yes, I was wondering how we handle it, I would like to make a suggestion or motion or whatever we have to do to change that to get their designation.

Kit Williams: If it is a consensus of the City Council we can change that. Is that okay Tim?

Tim Conklin: Once again tonight is the Public Hearing portion, I am listening to the comments from public and the elected officials and we can bring that forward.

Kit Williams: We'll have the amendment ready to go at the next meeting. We will have to present the ordinance at the agenda session but we will have it amended and ready to go.

Alderman Jordan: I don't have a problem.

Alderman Marr: Tim could you at some point I guess when this comes back forward, what are the signification differences between the P-1 zoning and the zoning that was proposed? I know that downtown when we deal with church rezonings and P-1 zonings what often comes up is parking, compatibility with neighborhoods, things of that nature. I am not completely positive on where this sits; I will go drive by it.

Tim Conklin: I can provide that to you at the City Council meeting.

Vice Mayor Davis: Anyone else wishes to address us this evening?

Karen Stewart: We own the property there off Mount Comfort. I have written a letter to staff about having an agriculture zoning because there is no house there. All there is are animals and agricultural things and we have no intention of ever building any houses out there. When we bought the property it also stipulated in there that we couldn't build chicken houses or any of that. I was wondering if the property across the road from us has an R-A rating why don't we.

Kit Williams: You certainly can request the City Council to.

Karen Stewart: Okay, I request that.

Alderman Jordan: Okay.

Karen Stewart: Is there anything else.

Alderman Jordan: No.

Alderman Thiel: Tim are you making notes of that?

Tim Conklin: Yes

Karen Stewart: Did you receive our letter?

Tim Conklin: We do have your letter. Could you state your address?

Karen Stewart: 6178 East Huntsville Road.

Vice Mayor Davis: Is there anything else that you would like to add?

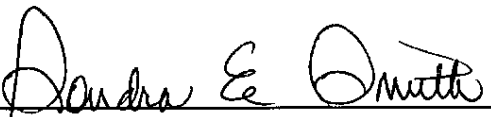
Karen Stewart: No.

Vice Mayor Davis: Is there anyone else that would like to address us?

Stan Thomas of 4050 Mount Comfort: I live in Fayetteville, I have three acres and I earlier requested that it be zoned R-A and I believe that, in just reviewing the notes in the summary, it looks like you are going to go along with that suggestion or at least move toward that direction. I would appreciate it if we could get an R-A zoning there.

Vice Mayor Davis: Is there anyone else that would like to talk to us about the annexations? I guess seeing none, this meeting is adjourned.

Meeting Adjourned at 6:25 pm



Sondra Smith, City Clerk/Treasurer