City Council
Meeting Minutes
July 20, 2004

A meeting of the Fayetteville City Council was held on July 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 Thiel, Cook, Marr, Rhoads, Davis, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Reynolds

Mayor Coody called the meeting to order.

Alderman Thiel announced a Ward 1 meeting to be held Monday, August 2 at 6:00 p.m. at Root Elementary Cafeteria. The primary topic will be the traffic and safety issues on Crossover Rd., but any other topics of interest can also be discussed.

Alderman Marr stated that the Council is currently taking applications for City committees. The committee vacancies are posted on the City website. Interviews will begin very soon.

Alderman Jordan announced that there would be a Ward 4 meeting on Monday, July 26 at 7:00 p.m. at City Hall, Room 111.

Mayor Coody awarded a plaque to Alderman Bob Davis in appreciation for his service to the City of Fayetteville and City Council from January 1999 to July 2004.

CONSENT:

Approval Of The Minutes: Approval of the July 6, 2004 meeting minutes.

Architectural Contractors T-Hangar Construction: A resolution awarding a construction contract to Architectural Contractors, Inc. in the amount of $314,135.00 to construct T-Hangar "H" at the Fayetteville Municipal Airport; approving a five percent (5%) project contingency of $15,707.00; and approving a budget adjustment of $9,695.00 for same.

Resolution 102-04 as Recorded in the Office of the City Clerk.

Federal Aviation Administration Lease: A resolution to approve a ten-year lease of a brick building at the Municipal Airport to the Federal Aviation Administration at a beginning monthly rent of $2,350.00.

Resolution 103-04 as Recorded in the Office of the City Clerk.

Tomlinson Asphalt–Wilson Park Basketball Court: A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of $32,977.00 for the renovation of the Wilson Park Basketball Court; approving a project contingency in the amount of $3,298.00.

Resolution 104-04 as Recorded in the Office of the City Clerk.

Arkansas Parks and Tourism Grant for Braden Park Project: A resolution authorizing the Fayetteville Parks and Recreation Division to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount up to $50,000.00 for the Braden Park Project.

Resolution 105-04 as Recorded in the Office of the City Clerk.

One New Holland Tractor Purchase: A resolution approving the purchase of one (1) New Holland TS115A Tractor from Williams Tractor and one (1) Tiger TRB-50C 20' side mower from the Countryside JD in the amount of $67,859.00.

Resolution 106-04 as Recorded in the Office of the City Clerk.

Two New Holland Tractors Purchase: A resolution approving the purchase of two (2) New Holland TS115A Tractors from Williams Tractor and two (2) Tiger TRR120C mowers from Countryside JD in the amount of $129,332.00.

Resolution 107-04 as Recorded in the Office of the City Clerk.

Scottsdale Insurance: A resolution approving a budget adjustment in the amount of $55,000.00 to add funds to the miscellaneous program to offset payments to Scottsdale Insurance.

Resolution 108-04 as Recorded in the Office of the City Clerk.

COPS Methamphetamine Training Grant: A resolution to authorize Mayor Coody to apply for a $164,900.00 Grant from the COPS Methamphetamine Training Initiative.

Resolution 109-04 as Recorded in the Office of the City Clerk.

McClinton-Anchor Taxiway Extension: A resolution awarding a construction contract to APAC-Arkansas, Inc., McClinton-Anchor Division in the amount of $607,078.90 to construct Taxiways "A" and "E" Extensions at the Fayetteville Municipal Airport; and approving a ten percent (10%) project contingency of $60,708.00.

Resolution 110-04 as Recorded in the Office of the City Clerk.

Alderman Davis moved to approve the Consent Agenda as read. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

OLD BUSINESS:

R-PZD 04-1075 (Cambridge Crossing): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1075 located at Lot 6C, Vantage Square containing approximately 11.525 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 Second Reading at the July 6, 2004 City Council meeting.***

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Dawn Warrick, Planning Division stated that the land agent's office in the City engineering division has been working on a project to acquire easements to move forward with the installation of necessary infrastructure for the west side wastewater treatment plant. This particular project has a 40' sewer easement that runs along the south property line. There are two 10' temporary construction easements that the City has identified as necessary for this project within the boundaries of this property. Staff would recommend that the Council add an additional condition of approval to this item reading, "*The applicant shall execute necessary easement documents in order to grant temporary construction easements to the City of Fayetteville for the WL1 line associated with the new wastewater treatment plant. These documents shall be executed prior to approval of construction plans for the subdivis*ion".

Thomas Jefcoat, Milholland Company said these temporary easements were new items for his consideration but they could be worked out to meet the City's requirements.

Alderman Cook asked Steve Hatfield from the Parks & Recreation Division about the desirability of the buffer between the trail and this project, questioning whether the buffer might simply serve to shut off the trail from site of the public. His concern was that too much shrubbery would hide the trail from the public and might cut down on its usage.

Steve Hatfield, Parks & Recreation stated he had not seen the project's final landscape plan. He said that his department would like to see some openings to allow access for pedestrians; however, they would also like to have some areas with shade.

Dawn Warrick said that the detail of the buffer has not been finalized at this point. Prior to a final plat, a detailed landscape plan will be reviewed by Planning and Parks staff to ensure that it provides screening to residents with back yards in this area but also enough landscaping, trees, shade and openings to satisfy the needs of the Parks department with regard to the trail.

Mayor Coody opened the floor up for public input.

Cyrus Young discussed concerns about another PZD (Rupple Rd.) and his understanding that the developer had begun moving dirt and had been issued a grading permit without the Engineering Division having a grading plan from the developer. He asked Mayor Coody how the developer was allowed to begin construction without a grading plan and a proper grading permit.

Tim Conklin responded to Mr. Young's concerns at the request of Mayor Coody. He said that the developer did apply for and was issued a grading permit to stockpile topsoil. A permit has not been issued for grading of the site for construction of the subdivision. He will report back to the Council with further information when he has had the opportunity to speak with the Engineering staff on this issue.

Cyrus Young said the ordinance does not make a provision for stockpiling of topsoil. He said the developer must have a grading plan to be issued a permit and he wanted to know how this developer was issued a permit without a grading plan. He asked if the developer of the PZD currently under consideration was going to be allowed the same privileges and stated his belief that this was not legal.

Tim Conklin stated that he would direct Staff to follow the City's ordinance in this and every issue. He repeated that he will look further into the detail of this item and will report back to the Council.

There being no further discussion from the public, Mayor Coody turned the discussion back to the City Council.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4586 as Recorded in the Office of the City Clerk.

Annexation of Islands (University of Arkansas Property Containing Approximately 704.84 acres): An ordinance to annex into the City of Fayetteville, Arkansas a large parcel of land owned by the University of Arkansas which is completely surrounded by the incorporated limits of Fayetteville. ***This Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mr. Williams said that he had received a letter from University counsel requesting that the zoning of this parcel be changed from RSF-1 (Residential Single Family) to RA (Residential Agricultural).

Alderman Jordan moved to amend Section 2 from RSF-1, Residential Single Family, one unit per acre to RA, Residential Agricultural. Alderman Lucas seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Lucas moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public discussion. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4587 as Recorded in the Office of the City Clerk.

Annexation of Islands (Containing Approximately 461.74 Acres): An ordinance to annex into the City of Fayetteville, Arkansas several parcels completely surrounded by the incorporated limits of Fayetteville. ***This Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mr. Williams explained to the Council that this ordinance would have to be amended several times. One amendment would amend a couple of parcels in the Rupple Road area that the landowners wish to be zoned as Residential Agricultural. A second amendment would address six parcels that are largely surrounded by the City. When an annexation was done in this area, the annexation did not go to the middle of the road, leaving two small sections of road right of way not annexed. All the individuals within the two islands in question wish to be annexed. He said he felt the City has substantially complied with the State statute because there is nothing usable between the landowners and the County, only street right-of-way. But because of his concerns that there could possibly be some sort of legal challenge, he recommended that those parcels be removed from the main ordinance and placed in their own ordinance. If the Council chooses to go forward with this recommendation, the new ordinance will have to be added on the agenda. The City Attorney would then read the new ordinance, which would be on its first reading.

Alderman Marr moved to amend Section #2 to add at the current end of the sentence: "except for parcels identified as numbers 001-11380-001 and 001-11399-000 which are assigned the zoning of RA, Residential Agricultural." Alderman Lucas seconded the

motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Marr moved to amend the ordinance to remove from Section # 3 the following parcel numbers: 001-10757-001, 001-10763-000, 001-10763-000, 001-10764-000, and 765-13156-000 to be placed in a new annexation ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Marr moved to amend the ordinance to amend Section #4 to remove parcel numbers 001-11380-004 and 001-11380-003 to be placed in a new annexation ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to amend the ordinance passed 7-0. Alderman Reynolds was absent.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public discussion.

Crystal G, 1760 Starr Rd, stated that her situation was similar to what the Council had already discussed. She asked that the property be deferred from being annexed for a period of time because it is RA. Within the property, there are several different uses including an office. She has spoken to the Planning Division and they have asked for legal descriptions. Dave Jorgenson could not produce those within 24 hours because the property has always been viewed as a whole. The owners are not fighting on the annexation but would like to have time to do everything properly so there will be no problem in the future. She asked that her property be removed from this ordinance and placed in another ordinance if possible.

Mr. Williams explained that by both City ordinance and State statute, all parcels coming in through this annexation are guaranteed the right to continue their agricultural uses. The Council had made the decision at the last meeting to bring everything in as RSF-1 or RA. He suggested that the land be annexed in and if the landowner wishes to change the zoning after that time, she should come back to the Council with that request. However, the property is grandfathered in with its current uses; nothing will change with regard to how it can be used. If it is used for agricultural or office now, it can continue to be used that way.

Crystal stated her concern that if the office that is currently on the property were to burn down, the property would not be zoned to rebuild that office.

Alderman Thiel stated that since the property that is currently being used as a dental office has been there for quite some time and the neighbors do not object to that use, she sees no problem with the property being rezoned in the future if the need should arise or if the property owner wishes to change it. However, at this time it would be easiest for the Council to bring all the properties in zoned consistently.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4588 as Recorded in the Office of the City Clerk.

Annexation of Islands (Containing Approximately 168.747 Acres): An ordinance to annex into the City of Fayetteville, Arkansas certain lands south of Huntsville Road, which are completely surrounded by the incorporated limits of Fayetteville. ***This Ordinance was left on the First Reading at the July 6, 2004 City Council meeting.***

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Thiel asked if all the property being discussed in Group #2 is owned by Mr. Combs.

Mr. Williams said Mr. Combs only owns about 80 acres of the land in question.

Alderman Thiel said she had understood that Mr. Comb's property was going to be separated out as a separate ordinance. She asked if the other adjoining property owner objects to the annexation also.

Mr. Conklin explained that the property owners did attend a couple of meetings and did express concern with regard to the zoning that would be applied to the property. There is currently a lawnmower repair shop there and they did have some objections. The reason for keeping the parcels as one group is that state law speaks of annexation of areas completely surrounded by the City limits. If you only annex a portion of the area, then you have one side of the property not adjacent to the City limits.

Mayor Coody opened the floor to the public. There was none.

Alderman Davis moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Alderman Marr said that two memos from the City Attorney that included communications from the attorney of the owner of the largest parcel of land in this item. The memos mentioned the use of firearms being allowed on City annexed land and the use of shotguns. He wanted to be clear that the current vote would be just to annex the land, with no provision for allowing firearms and hunting.

Mr. Williams stated that the Council is voting on the annexation ordinance only. If someone wants to change Fayetteville code in order to eliminate the prohibition on hunting or use of firearms in the City limits, that would be a separate item and is not before the Council tonight.

Alderman Thiel: It concerns me that the Council is annexing property when the owner is objecting to that annexation; however there are many new developments around this parcel of land and I am also concerned that if the City doesn't have some control over the use of firearms on this property there will most likely be concerns expressed by the neighbors of this property who are in the City limits.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4589 as Recorded in the Office of the City Clerk.

Alderman Marr moved to suspend the rules to add to the agenda the new annexation ordinance covering those parcels just removed from the original annexation ordinance. Alderman Jordan seconded the motion. Upon roll call the motion to add the parcels to the agenda passed 7-0. Alderman Reynolds was absent.

Annex Parcels Removed from the Islands: An ordinance to annex into the City of Fayetteville, Arkansas six parcels surrounded by the incorporated limits of Fayetteville.

Mr. Williams read the ordinance.

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public discussion. There was none.

Alderman Marr moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Reynolds was absent.

Ordinance 4590 as Recorded in the Office of the City Clerk.

Re-codification of the Fayetteville Code: An ordinance adopting and enacting a new Code of Ordinances of the City of Fayetteville, Arkansas; providing for the repeal of certain ordinances not contained therein, except as herein expressly provided; and providing for the manner of amending the Code. ***This Ordinance was left on the First Reading at the July 6, 2004 City Council meeting***

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Mr. Williams noted that the changes that were requested at the last Council meeting have been made in the Code and it is now ready for passage unless the Council wishes to make further changes.

Alderman Thiel wanted to clarify that the Council is bringing the current code up to date and not making any major changes in the Code.

Mr. Williams agreed that there are not any significant, major changes being made, though there are some substantive changes. However, but those changes are pretty much being made simply to get the Code in line with State law or to change such things as staff titles, which have been changed since the Code was written. The changes are being made basically to get the Code up to date and to get an agreed-upon code that is in digital format that can be posted on the City's website so all citizens can have access. Any changes to be made in the future will be easier with the digital format and the Code can be kept current from this point on.

Alderman Marr said he had not finishing reading the Code and asked that the item be left on the second reading.

Mayor Coody opened the floor for public discussion. There was none.

The Ordinance was left on the Second Reading.

NEW BUSINESS:

Tyson Food Company Building Purchase: A resolution authorizing city staff to develop and present to Tyson Foods, Inc. an Offer and Acceptance Contract for the purchase of property located at 1851 East Huntsville Road in an amount not to exceed $1,100,000.00; and approving a budget adjustment in the amount of $1,000,000.00 for the property purchase and $551,000.00 transfer from General Fund to Sales Tax Capital Improvement Fund.

Fire Chief Chris Bosch gave a presentation on the facility and how the Fire Department could use the facility. In 2004 the Fire Department set goals for the organization, including a six-minute response time 90% of the time for every place in the City. That goal was also identified in the 2004 Deployment Study requested by the Council and distributed in February. The Deployment Study also identified the need to relocate some of the Fire Department's existing resources and to add new resources. One of the relocations needs noted was Fire Station #5 on Crossover Rd., south of Mission Blvd, to the northern part of Crossover, somewhere near Old Wire Rd. The need to locate a new fire station in the southeast corridor of the City somewhere in the area of Huntsville and Happy Hollow was also identified. Both response time needs on the east side of the City and internal needs for future growth and expansion could be addressed with this proposed facility. A fire station at this location would allow the Fire Department to reduce response time throughout the City because when resources are added in one area, it releases resources from another area. It will also help the Department to meet the future response needs and goals recommended by the ISO. There are also many benefits associated with consolidating Fire Department resources by placing Fire prevention, training and administration together, including making public access to services easier.

Police Captain Frank Johnson gave a presentation on how the Police Department could use this facility. He spoke of the space needs of the Police Department. The current space is filled, with very little room to grow. The proposed site would provide plenty of growing room to meet future needs. He discussed advantages of sharing training space with other departments. He spoke of limitations in the current space and problems associated with that limitation. He then said that there are many things the Department would need to look into, including security needs, before they could say that the proposed space would be usable as a Police Building, but it would definitely meet the space needs.

Steve Davis, Finance and Internal Services Director gave a presentation on the purchase of this building and where the funds to purchase this building would come from. Mr. Davis said that in addressing both the Fire Department and Police Department space needs, they have the opportunity to either build stand-alone facilities or, with this proposed site, share the facility between the Police Department, District Court, Prosecuting Attorney, Fire Administration and an additional Fire Station. If the City builds stand-alone facilities, there would need to be three buildings – two fire stations and a combined Police Department/District Court/Prosecutor's Office. The cost for those three facilities is estimated at $22,156,000. If the Mexican Original facility at 1851 E. Huntsville is purchased, it can house the Fire Administration, Fire Station #3, Police Department, District Court, Prosecutor's Office and still have approximately 40,000 sq. ft. left over for other municipal needs at a cost of approximately $14,455,000. The cost difference is $7.7 million.

Alderman Rhoads asked Mr. Davis if he is comfortable that the estimate for the Mexican Original facility is a pretty solid number.

Steve Davis said he felt the number was solid. He stated that both numbers were taken off fairly recent costs in the bid market. These numbers are only valid for 2004, however, with the construction market and material prices, there is no way to know what the costs might be in the future. But there is always a significant cost difference between remodeling an existing facility and building a brand new one.

Alderman Rhoads asked if the same effort, same time, same assumptions were used to get to both numbers.

Steve Davis: Yes. The difference between the two numbers is essentially that with the 1851 E. Huntsville property, the foundation system, concrete floor, walls, roof, parking facilities, etc. are already there. Both estimates also include land acquisition costs. Land acquisition for three stand-alone facilities was estimated at approximately $100,000 per acre.

Alderman Rhoads: How much extra space would be result at the East Huntsville location?

Steve Davis: The East Huntsville location is 126,000 square feet located on 11.8 acres, more or less. After the needs of Police, Fire, District Court and Prosecutor's office are met; there would still be approximately 40,000 square feet of space left. The stand-alone facilities estimate was based on 80,000 square feet of space, plus two fire stations at about 7,800 square feet on about the same acreage.

Alderman Thiel: In speaking of the three stand-alone facilities: joint public safety complex, Fire Station #3 with equipment and Fire Station #5, asked if this would only replace one of those fire stations.

Steve Davis said the $14 million number would build two fire stations plus the joint public safety complex. The Fire Station #5 relocation will cost approximately $1,850,000 by the time land is purchased and construction is completed. If the City builds Fire Station #3 and equips it, it will cost $3,170,000. If the Mexican Original facility is used for Fire Station #3 and it is equipped, the City will spend $2,162,000.

Alderman Davis: Asked where the money for the renovation will come from.

Steve Davis: The dollars for the renovation and dollars for the construction of Fire Station #3 and #5, under all scenarios, will have to be found. In everything being presented to the Council today, the money will have to be located.

Alderman Davis asked what time frame the administration is looking at doing all this.

Steve Davis: Fire Station #3 would be the first priority. Staff would expect to purchase land by the end of 2004 and have occupancy by the end of 2005. The next year, Station #5 would be relocated. The time frame currently being estimated is no earlier than 2007.

Mayor Coody asked for clarification from Mr. Davis about funds available for the purchase price for the property.

Steve Davis: If the City Council approves the budget adjustment, the money is available to purchase the property. The bulk of that money will come from the sale of the library, as well as some additional interest earnings. Some money was also pulled from other building projects. There is also $100,000 in the 2004 Capital Plan for this facility.

Alderman Jordan asked if impact fees, which can be used for police and fire needs, could be used on a building.

Mr. Williams said he thought that fire and police impact fees could be used for a building if they expand the capacity. They cannot be used for current, ongoing operations.

Alderman Davis asked if impact fee dollars have to stay in the areas in which they are assessed or if they can be used anywhere in the city.

Mr. Williams: Since this particular facility will be serving the entire City, impact fees from all over the City could be used for it. However, if a single fire station were being built in a particular area, the question would arise as to whether it would be considered as a part of the entire fire department or as an individual facility. Mr. Williams was uncertain about that question, but felt comfortable that use of impact fees for this particular facility would be appropriate.

Alderman Rhoads: Presuming that money can be found, where does this project rank in the City Administration's priorities?

Mayor Coody: We need to build more fire stations. The fire station on Rupple Rd. is the first fire station built in 26 or 28 years and the City is playing catch up.

Alderman Rhoads said he understood that need, but this is more than a fire station. He asked where the other parts of this proposal, the police station, police training needs, etc. fit into the City's priorities.

Mayor Coody: Some priorities can be advanced by finding opportunities and taking advantage of them. If we did not have an opportunity to buy this building at this price, the City would probably still be looking at three stand alone buildings and, over time, probably spend a lot more money. One of the reasons this particular piece of property is being considered is its purchase price.

Steve Davis: Tyson's asking price for the property is $1.5 million. If the City can purchase the property for $1.1 million, we would be getting the 126,000 sq. ft. building basically for the price of the land. We don't know if Tyson will accept that offer. The City is saying that we can find $1.1 million. The next step is to negotiate with Tyson's to see if they will accept that offer.

Alderman Davis clarified that all the Council is doing tonight is giving the mayor and staff the ability to present an offer to Tyson's, then the issue would be brought back to the Council.

Alderman Thiel said we need a fire station to serve the south and east part of Fayetteville. He asked a question about the amount of money budgeted in the CIP for the 04-08 budget.

Steve Davis: The cost of building a free standing fire station and equipping it in Ward 1 to serve south Fayetteville and east Fayetteville would be $3,170,000. What you get is a 7800 sq. feet fire station. If you purchase the Mexican Original facility with 11.8 acres and 126,000 sq. feet, you get a 7800 sq. ft. fire station and 119,000 square feet more to address other municipal needs.

Alderman Thiel said her point is that the City will spend that money anyway for a fire station. It just makes sense to buy something that will serve a great many more purposes at what appears to be a total cost avoidance of over $4 million.

Steve Davis said he would expect that by the time it is finished, the cost avoidance would be closer to $7 million.

Mayor Coody wanted to point out again that if Tyson does negotiate down to $1.1 million, which is possible but not certain, and with commercial rents as low as $8 per sq. ft for a year, the City would be buying this building for the same price someone would rent if for one year. In addition, the City would have to be putting money into acquiring right-of-way for that intersection anyway.

Alderman Davis: Has the administration thought ahead to what will be done with the current fire station on Hwy 265 and the current police facility?

Steve Davis said he couldn't answer about Fire Station #5, but as to the current Police/Courts building, he explained that Coy Hurd wrote a space assessment report last October that was distributed to the City Council. In that report it was noted that if a joint public safety complex became possible, it would free up space to relocate Planning, Building Safety, Engineering and Community Code Enforcement staff to the current Police/Courts building. With the current Engineering/Planning space freed up, the staff currently housed in the metal buildings on Rock Street could be relocated to Mountain St.

Alderman Lucas agreed that a fire station is important. She also feels the police need more room, but wanted to be sure to consider if the Mexican Original facility is the appropriate place for a police building.

Mayor Coody said that at this point, the City is simply looking at projected, possible uses. The Parks Department might be able to use part of the facility. It is pretty open ended as to uses.

Alderman Cook agreed that the space was needed. But the question is: Is this the right building? He said he had serious doubts about the numbers presented by staff as far as remodel costs vs. new costs. He said he had particular problems with the building itself because of its configuration due to past uses. He feels it will take a lot more to remodel that particular building than is being estimated.

Alderman Marr wants to make sure the City doesn't just find a good deal and then try to make it work. He prefers that we find out what we need and then look for the best deal for what we need. He questioned the numbers on page 4 of the packet; regardless of location, the exact same construction/renovation/additional facility cost of $13,440,000. He asked if that was a standard number and where the numbers come from. I am not opposed to looking at what space the City needs and when it is needed, but I'm trying to get comfortable that we are not just making it fit.

If the police department outlined what is ideal for access, security, etc. would it be at this facility? It also concerns him that the additional space will fill up quicker than 20 years, simply because it is available.

Steve Davis: In 1991-92, the City commissioned Roth and Shepherd to provide a space-needs assessment for the current police/courts building. At that time it was determined, based on growth rate being experienced at that time that the current facility would be suitable until 2012. Our growth rate has not been what it was in 1991-92. We have already gone past the staffing levels that would have allowed the facility to remain suitable to 2012. District Court and Police have both reported that their space needs have reached a critical point.

Alderman Marr: In that study, were there recommendations about whether the location should be within the population center, population growth area, where was the target for a locating expanded services?

Steve Davis: In the planning that went into developing the report that was distributed last year, the key locations from the police department perspective were Cato Springs and I540 or 112 and I540. Those were the preferred locations because of easy access to the bypass and easy access to a 4-lane State highway. In looking at the Mexican Original site, it has easy access to a four-lane highway (getting ready to improve the intersection at Huntsville Rd. and 15th St. is a proposed project) and easy access to Hwy 265, which is also a State Highway, that functions as a by-pass on the east corridor. This location was not their ideal choice, but it was also not available to be considered when the report was distributed last October.

Alderman Thiel: This location may be not be the first choice by the Police Department, but there does need to be a fire station in this location. The idea of combining the two into one facility would obviously lend some cost savings. She shared Kyle's concerns about renovation costs because they are very difficult to project. She did notice that in the offer and acceptance, Tyson's would be held responsible for removal of any environmental hazards, etc. I see the location as very accessible and a good location.

Alderman Rhoads: If this is indeed as good a deal as presented and if it is going to enhance services in that part of town, maybe it is something worth passing.

Alderman Jordan: It tends to agree with Aldermen Rhoads and Thiel. The fire station is probably the number one priority. If the City just buys the building and puts in the fire station, what would the cost be?

Steve Davis: Approximately $3,170,000 to put equipment in it.

Alderman Jordan: What was the cost of Fire Station #7?

Steve Davis: $1.6 million, plus equipment. They are proposing about $1.2 million worth of equipment. It would cost approximately $1.8 to build a fire station here as opposed to about $1.6 to build Fire Station #7.

Alderman Davis asked if the City is looking at putting a sub-station of the police department somewhere in the northwest area of the City in the future.

Captain Johnson: The PD has thought about locating the community arm of the policing division offsite, but not a 24-7 substation that would duplicate all the services provided at the headquarters. That has been discussed but has not reached the planning stage.

There was some discussion about the potential need for a substation in that area if the PD headquarters is moved, distances involved, access, possible delays in response time, etc.

Captain Johnson: With the exception of the investigative and administrative component of a police department, the location is not as important as it would be for a fire department. For the most part, officers are mobile, out in their cars, and response time wouldn't be an issue.

Chief Bosch: The Deployment Study mentioned earlier lays out the needs of the Fire Department over the next twelve to fifteen years. In that study, Fire Station #3, located in this area, along with Fire Station #5 are both the #1 and #1A priorities for the Fire Department. In the 04-08 CIP Budget, funds were requested for replacement of Fire Station #5 and the addition of Fire Station #3. The projects were unfunded because of the lack of capital money available. This potential purchase presents an opportunity to relocate Station 5, add Station 3 and consolidate support services. He stated that he is very comfortable with this and thinks it is a very good project. In regard to the goal set by the Fire Department for 6-minute response time 90% of the time, Engine #5 on Crossover Rd. is only meeting that goal 50% of the time because their call volume is in the southeast and northeast corridor, outside their 1-½ to 2-½ mile response radius. We have to move Station #5, and when that station is moved, a station has to be added to serve south and east Fayetteville. As to what would be done with the property housing Fire Station #5, it could be used for other city services or could be sold.

Alderman Marr said he resented Chief Bosch's comment that the Council's questioning of financial issues meant that they did not support and understand the need for a new fire station. He said that he feels the Council understands the need for response time coverage. The question is whether this is the best place. This is also much more square footage that is needed for a fire station. The concern is over how that will be used, what is going to happen with existing space and what are the operating costs to continue those spaces and take on the new ones.

Chief Bosch said he was sorry if his comments were offensive, he did not intend for them to be. He simply wanted to state that he saw the need from the perspective of the Fire Department and felt this is a good opportunity to take positive steps.

Mayor Coody opened the floor for public comment.

Cyrus Young suggested that if the Council is not deciding tonight whether or not to buy the Tyson building, the resolution should be changed.

Mayor Coody: The way an offer and acceptance is handled, the Council will authorize the Mayor to negotiate a contract with Tyson's. A price will be agreed upon, which will have to come back to the Council for approval.

Cyrus Young said the wording should be changed to say that the resolution authorizes the Mayor to negotiate. What it now says is that the mayor will offer a contract. He also suggested that if a contract is offered, that somewhere in that contract the seller guarantees the roof will not leak for a certain period of time.

Alderman Thiel: I wondered if, since the other Ward 1 alderman is not present tonight, the issue could be tabled until the next meeting.

Alderman Davis reminded the Council that in two weeks, Ward 3 will have one less representative also. He would prefer to go forward with the vote now.

There was a general consensus among Council members to go forward with the vote.

Alderman Davis suggested taking Cyrus' suggestion to change the ordinance from an offer and acceptance to allow the mayor to negotiate with Tyson, not to exceed the estimated amount of $1.1 million.

Mayor Coody said, though the wording of the resolution might be misunderstood, all contracts have to be accepted by the City Council.

Mr. Williams: In listening to the Council, it is obvious that their intent is not to authorize a sale without further City Council action. Any expenditure such as this would have to be clearly done by action of the City Council. Though the resolution is somewhat misleading because it offers a budget adjustment, he, as City Attorney, will interpret the resolution to mean that any proposed offer would have to come back to the City Council for final approval.

Alderman Marr wanted to clarify: $1.8 million, purchase the building and get a fire station; $1.6 million to build a fire station in this area with 7800 square feet.

Steve Davis: On Page 4, line 37-line 42: Construction cost of a fire station is $1,620,000; cost of fire apparatus is $1,320,000; land purchase is $230,000. Taking out the fire apparatus, it would cost $1,850,000 to buy land and construct a fire station. Including cost of land purchase, it would be approximately $1.9 million to put a fire station at this location.

Alderman Davis moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 5-2. Alderman Rhoads, Davis, Lucas, Jordan and Thiel voting yes. Alderman Cook and Marr voted no. Alderman Reynolds was absent.

Resolution 111-04 as Recorded in the Office of the City Clerk.

OPO Enterprises, Inc. – Square Garden Lease: A resolution approving a two-year lease with OPO Enterprises, Inc. for rental rate of $1 per year plus other good and valuable consideration, for a period of two (2) years, and allowing the lessee five additional two (2) year periods renewing the lease for outdoor dining on the Town Square for a total lease period of twelve (12) years.

Gary Dumas, Direction of Operations: Kit has rewritten the contract so you will have to ask him what the contract says now because I haven't seen a current copy of it.

Mayor Coody: All right, first I want to clear up a misconception while Kit is busy with Mr. Fancher. I think there must have been some miscommunication thinking that we would be expecting the simple sales tax or the HMR tax to be the consideration for the dollar a year and what we were intending was to have them do quite a bit of work around the square, cleaning it up, making sure it was policed, picked up, litter free a couple of times a day every day for a year for that dollar. So that was the consideration we were talking about.

Gary Dumas: That's correct. And the value of that consideration was about $5,200 a year from existing staff time that is spent on the Square currently.

Mayor Coody: That's just to clear that up. I know we are looking at a different lease right now but I didn't want folks thinking we were just trying to give something away for a dollar a year and have no other consideration, because that never was the plan.

Alderman Davis: We have another lease we are suppose to receive?

Mayor Coody: To Mr. Williams, do we have another lease? Have you passed one out?

Kit Williams: Yes. I have passed one out to each one of you and I can report that I have gone over this lease with the Fanchers and I have a signed copy of the lease by Mr. Fancher, signing for the corporation. He is right here and he can address you. As I pointed out in my memo, the consideration would be $2400 a year, payable at $200 a month; still very reasonable. However it is over a 40% increase from what the rates were in the previous lease that the City agreed to. And it is up to you all still to decide what you want to do, obviously; this is land that you control as a City Council. But I think that at this point in time it probably could stand the test of adequacy from a legal point of view.

Alderman Rhoads: Yes. I have a question, Kit. You indicated that the lease was about 43% greater than what it was before. But, under the old lease, with the old tenant, weren't they required to do a number of things, as far as constructing things and things of that nature that obviously brought consideration to the table? My general notion is that just having something viable in that spot is a good thing. And I'm not going to be disabused of that notion I don't think. But, I want to make sure also that we're getting a really good deal. Give me an apples-to-apples if you could, Kit.

Mr. Williams: Well, obviously the earlier developer of this spot, the Hog City Diner, did spend many thousands of dollars to level the concrete, to put in the columns with the wall. Spent about $3,000 to build us a potting shed because we had been using that place as a place for our, to grow plants for the Square. And so there was a lot of considerations that they gave us and I think that one of the reasons the City Council agreed to a fairly low rent, $139.75 a month, was in order to give the Hog City Diner a chance to amortize all their expenses that they had invested. Unfortunately, of course, after a few years Hog City left and so, at that point in time the improvements because the City's, as always. It was placed in the lease that the improvements would remain ours. And so they are now to our benefit. They have now created a nice seating area in there that can seat, according to what the Hog City Diner owner said, 75 to 80 customers, so it vastly increases the seating capacity; not as much as the restaurant, of course that is only seasonal seating also, not more than six months a year. But it does provide a very nice place. I have eaten out there myself, enjoyed sitting underneath the trees, surrounded by our beautiful garden. Of course they have walls up and you can't see the gardens too well, but you know they are there. I would say, as I did in my memo, that $200 a month is probably the absolute minimum that I would be able to sign off on as your City Attorney and that is what I have done with the Fanchers. And like I say, they have also signed this lease for that amount.

Alderman Rhoads: But, and maybe Kit, maybe someone else can answer, but the value that the prior tenant gave the City was approximately how much versus $200 a month?

Mr. Williams: They did not tell us precisely how much their improvements cost. That was not part of the negotiation. We knew that the potting shed improvement was going to be not more than $3000, but maybe it didn't even cost that much for them to build that. I think it was several thousands of dollars, but I can't tell you how much it was.

Alderman Rhoads: Mr. Dumas, do you know? Do you have an estimate?

Gary Dumas: (response inaudible)

Alderman Rhoads: All right.

Mayor Coody: How are you today, Mr. Fancher. Welcome to town. I hope all your future experiences are more pleasant than what you have been suffering here lately.

Gary Fancher: I'm just fine. And we appreciate the help you have given us so far. You were talking about the improvements, we were over there today looking at those improvements and I was just talking to your attorney. The pipes are broken; those are going to have to be repaired. The potting, the landscaping, which is so wonderful has also created another little problem which caused some more flooding downstairs so we're trying to correct that. As it has grown up it has gone over those drains on the lower part of the building. So we've had roto-rooter over there today and I've been back in the back, so there's quite a bit of work that's going to have to be accomplished before we'll be able to use that. We're going to have to possibly tear the concrete up just to fix the pipes that are broken. Some of the fixturing that's out there is going to have to be replaced. There'll be some additional expenses we're going to have to put on ourselves to bring this up to par. One of the things, when we came here, about a year and a half ago we started trying to negotiate with Mr. Bumpas to lease the property. And one of the things that made us want to come here is, with our present operation in Flippin we have inside dining and outside dining. And so this is just the perfect mix for that. I'm not sure that – I'm sure you could extract to the nth degree on the property – I think that we're going to bring some other things to your community that is going to be above and beyond just the financial remuneration, just exactly what you can get out of us. We think that what we've agreed to is adequate. I think it does give the City some reason to say they've got remuneration for their property without putting a bind on us that we're not going to be able to meet financially. We think this is plenty adequate. We hope that you feel the same way. We're going to bring some nice things, we think to your community. When we come to the community, we're going to be totally involved in your community, whether it be the Chamber…as we came here; we found a number of our clients, customers that now go to Flippin. So I think you're going to find that we're going to be an asset to your community and bring more than just – I would hope that you'll not just put a dollar figure on us coming here, on that piece of property. We feel like that this is certainly adequate and I hope that you do also.

Mayor Coody: I'd like to add that we're very glad that you're coming into the downtown area because we've needed someone in that building ever since it's been vacant for the last couple of years.

Mr. Fancher: We just think the place is awesome. When we first came over here, my son had kept insisting that we come look at Fayetteville. We were looking at three other locations. And the Depot is what we came to look at, then when we saw this building, we just fell in love with it. I mean, it is a gorgeous place and we felt like, with the kind of operation that we have, it's just going to be a perfect mix. So we can't wait to get open. We're hoping to be open in September; that may be optimistic. We'd like to be open by the 1st, but I don't know if it's going to come that quickly.

Alderman Thiel: Well, I'm certainly glad someone's going to occupy that space. It needs to be occupied and of course, I think the Square Gardens totally enhance and add to the value of any property, any commercial business that is located downtown. But, at the last meeting I had asked, and I was absent for a moment whenever we started this discussion, but I had asked the staff to find out approximately, not that necessarily we would use that price, but it would be kind of a starting point for us to consider, kind of an estimate of what the fair market price for a lease on that type of property would be. Did they get that? Did someone already ask that question and get a response to it? I had asked that at the last meeting.

Gary Dumas: The lease was with … Bumpas…

Alderman Thiel: And I think that Mr. Davis said that we probably couldn't get that and I think I said then, well, could you get an estimate. In other words, based on the market value. Yes, we did ask that…

Gary Dumas: I have no idea what downtown…

Alderman Thiel: So we still don't know that?

Gary Dumas: No.

Alderman Thiel: So that kind of, I guess, is frustrating to me because, you know, looking at the initial lease, what, how many years ago?

Kit Williams: It was about four years – five years ago. Maybe six years ago.

Alderman Thiel: Five years ago that we did that. And that was supposed to have been estimated, I guess, at the market value of …during that period…

Kit Williams: I don't remember actually any market value analysis being presented to the City Council at that time. It was…

Alderman Thiel: Where did they come up with that figure? I mean can you…do you remember?

Kit Williams: I'm not sure the…

Mayor Coody: If I remember right, it was about $1 a square foot – it's about 1647 square feet. I think that's close. And it was about a dollar a square foot.

Kit Williams: That's what it comes up to.

Alderman Marr: According to the minutes, page 23 and 34 in the minutes of July 21, 1998 that our City Attorney gave us, the City's land agent said the going rate for unimproved property was $1.50 a square foot. And Alderman Trumbo suggested that a $3 per square foot rate be evaluated for the lease.

Kit Williams: But that was later then reduced by two-thirds to the dollar a square foot.

Alderman Thiel: Right.

Alderman Lucas: Due to the construction they were going to do.

Alderman Thiel: And that was based on, basically that reduction was in consideration of the capital improvements that that business was going to make on the property.

Kit Williams: That was one of the factors. Another factor was the same thing I think that you're looking at right now, the desire to get a prime building on the Fayetteville Square occupied again by a restaurant. At that point in time, the City Council was faced also with the empty old post office, which had been empty for a period of time and we were very much wanting, as part of …to maintain the life and vitality of the Square, to have another business in there.

Alderman Thiel: Well, I might also add that it does cost a great deal to maintain the Square Gardens, which does enhance that building, something like a $127,000 just for the operation and our HMR taxes, which would be derived from this such business cannot be used for operations, they can only be used for capital improvements and, you know, whatever we consider, whether it's…if we do agree, you know, that the $2400 is enough, I would urge that that go directly, as directly as it can, to the Parks Department to be used in operations to therefore cover some of the $127,000 plus that it takes to maintain the Square Gardens.

Mr. Fancher: I can assure you that, as you well know, that the amount we are paying is not properly fair market value. I don't know if it makes any difference to you, but when I first came to Flippin, Arkansas twenty-seven years ago, they needed someone there to get some stimulus going. They had no doctor, they had no pharmacy, so they were encouraging us to come and did so and gave us some considerations for doing it, for much the same reasons that you're talking here. I can't tell you that that's enough money. I can tell that's probably all we're going to be able to pay. And we do want to be here. But we do have a limit as to what we can pay for that, strictly because it is going to be used a limited amount of time throughout – just for seasons. We do expect to get some benefit but we also expect to be paying taxes. We expect to be bringing – to change your economy downtown. We expect you're going to have more people coming downtown, that may be good or bad. I think that you're going to see, hopefully, some other businesses come back if there are some more activities downtown. We think that we're going to be good for your downtown and we think we're going to bring you more to your community than what you – than just setting a dollar amount on what you're going to get for that parcel of land. It is certainly important to us to have – it is part of our business plan. And when we were doing this, we probably have made a wrong assumption that it might be somewhere close to the same rental, since it was about two years ago when they went out of business. So we made an assumption there that it might be close. That was a mistake on our part. We probably should have started here first before we started trying to negotiate a lease with Mr. Bumpas. But we want to lease the property and we hope that you all find that this is an equitable amount; with the other things we bring to the table.

Alderman Marr: I have a question on the lease for the City Attorney. I was… in item #8, under music; the lessee agrees that only live, non-amplified music will be permitted on the property. My concern is that we have an outdoor music ordinance for a business that has not been in place for twelve months or not a grandfathered business and I want to make sure that whatever our normal ordinance process that someone would go to is not being waived by the language in this lease. Because, to me, I think that looking at the Square thing, while I understand the value to the citizen is the use of their asset, sort of speak, for the lease, I'm not as concerned about that and I'm glad to have the business done as long as, I think, the protection of what the City Council has as a result of these...this outdoor space coming, is to make sure that the garden spaces and the public spaces surrounding that square are protected for the citizens to use because it is, in essence, in my opinion a public park just like other public parks that we have. And I want to make sure that we're not authorizing something in a lease that, you know, I realize it says non-amplified, but trust me, I've been through a lot of discussions with a lot of people in Ward 2 in the center of town in our non-established entertainment district yet, where we fight about what's amplified, what's not, what's loud, what's not, and I really want to know that it's going to go through that process.

Kit Williams: Well let me assure you that it – that this does not waive any City ordinances. If you read the entire paragraph 7, it ends with talking about the music "which shall not be loud enough to disturb persons enjoying the Square Gardens". I placed that in there to make sure that it would not be a nuisance to anyone that wants to be enjoying themselves at the Square Gardens. And also there's another provision in here, paragraph 12 that says that the enterprise..."OPO Enterprises, Inc. agrees not to violate any law, ordinance, rule or regulation of any governmental authority", so obviously we're not waiving any particular ordinance on this, in this lease. And you couldn't waive an ordinance with a resolution anyway. An ordinance takes priority over a resolution, so … this is something, I'm sure we'll work with them and from what they have suggested, I don't think it's going to be something that would be causing any sort of violation of any of the ordinances. And we'll work with them to make sure they fully comply.

Alderman Marr: So, this lease still would require that they go through conditional…outdoor conditional music hearing?

Kit Williams: I would think that would probably be correct. Even though it's going to be non-amplified, I think that would be…but with these provisions in here, I'm sure that that conditional use would be granted, there's…

Alderman Marr: I'm not saying that I'm against it. I'm for it. I'll probably speak on it, it's in our ward but I want to know it's going to go through that process.

Kit Williams: Oh, yes. It'll go through the process. If they're not disturbing people in the Square Gardens, they're not disturbing the neighbors….

Alderman Marr: Thank you. That'll make all the people who called me happy.

Mr. Fancher: We haven't been able to book the Eagles yet out there….

Mayor Coody: It's KISS we're worried about.

Mr. Fancher: Oh, okay.

Alderman Davis: Mayor, if I may make a comment. I hope this … if this goes through; I hope it brings some commerce back to downtown. Right now, if you walk down Center Street you see the old Greer's Abstract building, currently vacant, Bronson's Abstract is vacant. You go on the other side, on the south side of Center Street, you've got the Hoffbrau, you've got the Café Santa Fe, which is currently vacant, you also have the commercial building between those two restaurants that's probably 40 to 50% vacant at this point of time, the whole second floor is vacant. The E.J. Ball Plaza building is probably 35 to 40% vacant, that's a seven-story building that we have downtown. On the other side of this location, Mountain Street, you've got the Niblock Law Firm, I believe, which is right now vacant because they've moved. Then you've got the old Blue Bird Café … or Red Bird Café, which sits there, and it's vacant. So, hopefully, if this goes and is successful, it will bring other people downtown to the community and it will help this area of town be successful again.

Mr. Fancher: That is certainly our goal.

Mayor Coody: Does anyone from the public have any comment on this item before us tonight?

Gary Dumas: Mayor, I would point out that there are speakers on the OPO building, the Old Post Office building that are operated by the Town Center. And it is amplified music but that is, that has nothing to do with this operator here. The Town Center controls that amplification. It plays various times throughout the year.

Alderman Davis: It's used for Autumnfest and Lights of the Ozarks.

Marilyn Heffner, Town Center: There's both kinds of amplification there. The A&P Commission bought for Lights of the Ozark two speakers on the – to the north side and the south side. There's also speakers on the south side, just for the actual area that you're considering leasing. One.

Mayor Coody: Thank you. Anyone else have any comments on this item? Seeing none, I'll close it to public comment. Is there any other comment or question on this item at the Council?

Alderman Thiel: Can I just say one thing?

Mayor Coody: Yes, please.

Alderman Thiel: After looking at your illustration of what you have in Flippin, I mean, this building is just so perfect for, you know, this sort of thing. It just really fits. It looks like it would be a great thing.

Mayor Coody: I'll entertain a motion to approve the resolution.

Alderman Davis: So moved.

Mayor Coody: Now, we would be amending it from the one in the book, right?

Kit Williams: Yes. I will amend the resolution to conform with the new contract.

Mayor Coody: Okay. So we can just approve this and you'll take care of the rest of it?

Kit Williams: Yes.

Mayor Coody: Okay. Was there a motion and a second?

Alderman Davis moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed 7-0. Alderman Reynolds was absent.

Resolution 112-04 as Recorded in the Office of the City Clerk.

Lake Fayetteville Spillway Bridge and Trail: A resolution awarding a contract to Mobley Contractors, Inc. in the amount of $877,709.20 to construct the Lake Fayetteville Spillway

Bridge and Multi-Use Trail; approving a project contingency in the amount of $43,885.00; and approving a budget adjustment in the amount of $376,340.00 for same.

Steve Hatfield, **Parks & Recreation Division** made a presentation about the project. He stated that it is a pedestrian bridge and also a linear trail that will connect the Veterans' Park on the south to the baseball complex on the north. It is a connection that has been in the Parks recommendation for a long time. This is the second time it has been bid. It is an expensive project. The Parks Division has looked at options, and there are possibly more options they can look at to make it come closer to the City's cost estimate as presented in the packet. The estimate was $662,000 and the low bid was $887,000.

Alderman Thiel asked how this bid compares to the cost of some of the recent trail construction projects, per square foot.

Mr. Hatfield: The Center Prairie Trail, which is currently under construction downtown, running from Center to Prairie Street came in at approximately $180 a linear foot. The West Mud Creek Trail ended up costing approximately $80 a linear foot. Prices for trails jump around quite a bit. Those are the comparisons on the two most recent projects.

Alderman Thiel asked about the cost per linear foot of this project.

Mr. Hatfield: It is about 3200 linear feet. The bid tab in the packet shows the cost of the superstructure of the bridge, 3 spans of 254 foot total, the bid being $247 for that item.

Mayor Coody: After doing some rough calculating, he estimated that the cost would be about $280 to $290 a linear foot, with the bulk of that being the bridge.

Mr. Hatfield stated that the other two projects did not include a structure such as the bridge.

Alderman Thiel: I have followed the process of developing plans for this trail and bridge over the years, and I am concerned that rebidding the project, even with reducing the scope of the work by narrowing the bridge down and eliminating the overlooks, with the fluctuation of steel prices she is concerned that the City could very likely end up with same price, if not more. And if the City continues to send bids out and then decide not to follow through once they are bid, she is concerned contractors who will bid on the jobs will be reduced. This could definitely increase the bid amounts coming in. She is opposed to pulling this bid back to redesign because of the cost associated with that process, as well as the possibility that the grant that has been received toward this might be jeopardized.

Alderman Davis asked if the staff had looked at putting the bridge in any other location.

Steve Hatfield: In the design process, the staff looked at three locations. Two other locations were within the lake area. Costs were not figured specifically for those spans. The location selected is about the same length as the other two locations and the height of the three were approximately the same.

Alderman Davis asked if anyone had done any drilling to establish how deep you would have to go to reach solid rock.

Steve Hatfield: There was a geotechnical report done on the exact boring sites for this bridge. The contractors who bid on the project had that boring report. They are aware of what is under there and what it will take to get where they need to go.

There was some discussion regarding the four observation decks shown on the bridge plan and whether they were necessary.

Alderman Cook said he supports the observation decks and feels they are a positive addition to the bridge. I agree with Alderman Thiel that the decision should now be made and the trail finished.

Alderman Davis: Since the original estimate was lower than the bid amount, the extra dollars have to come from somewhere. He asked Mr. Hatfield what other trail projects would have to be put on the back burner because the dollars would have to go to this project.

Steve Hatfield said that no currently funded trail projects were put on the back burner. The money could be used on any one of the top projects on the newly adopted master plan list.

Alderman Davis: I would like to have a bridge of some sort but is concerned with the price on this one.

Steve Hatfield said there are certainly probably other ways to do this. The staff has looked at several options. Pricing is really hard to estimate.

Alderman Marr agreed that this is a lot of money. I think the City would be investing in a quality of life here and he feels that it is important to finish some of these trails. He liked the connectivity this project would create with existing parks.

Alderman Lucas asked how high off the ground the bridge would be.

Steve Hatfield said he didn't have the exact figure. He estimated somewhere around 25 to 28 feet.

Alderman Lucas expressed concern about the safety issue, such as a child falling off the bridge.

Steve Hatfield said there would be childproof railing along the entire bridge, as well as the retaining wall at the end of the bridge. Unless the child was completely unattended and could climb a 48" railing, there shouldn't be a problem.

Alderman Lucas: I struggle with the cost. I wonder why it was necessary to go to the high area to build the bridge across.

Steve Hatfield said it was all a matter of ADA accessibility. You could lower the bridge but it wouldn't substantially lower the cost because you are still paying for the superstructure. The only thing that would be reduced is the cost of concrete on the columns. Also, lowering it substantially would substantially increase the trail sections because of the multiple switchbacks, which would also create the potential of a lot of tree loss.

Alderman Lucas said she wasn't comfortable with the cost and questioned whether the bump outs are necessary.

Steve Hatfield: As part of the cost estimate in the preliminary stage, staff did look at putting a standard column there instead of what the current plan shows. There was a savings of approximately $35,000 (anticipated costs, not bid costs) to not do the overlooks.

Alderman Thiel again stated that she feels if the project is rebid, the redesign costs, time elements and the fluctuating cost of steel could be a problem. Also, since there were only two bidders this time, there may only be one or none next time. The City is sending a bad message out to contractors in this very competitive market. A bid next time could come in at the same price or more and the City would end up with a lesser product.

Mayor Coody said he has never advocated going out to bid for a third time. He said he thought it would make more sense to look at a completely different design, one that would accomplish pretty much the same goal but not have $932,000 attached to it. He said he would love to have this bridge. It is first class and a quality job. But if we have $900,000 to spend on the trail system in Fayetteville, is this the best place to put it?

Alderman Cook asked when the bid estimates were done.

Steve Hatfield said staff had come up with that figure approximately two weeks before the bids were open.

Mayor Coody opened the floor for public comment.

Jennifer Michaels, Lake Fayetteville Watershed Partnership stated the Partnership normally concerns itself with water quality issues, but felt that the bridge was really important. She lives on the north shore of the lake, so is familiar with the traffic in the area. Trail use has increased a great deal, but they would like to see more families with children and she feels the bridge is critical to that. At this time, the trail is not complete. The spillway is dangerous and a bridge is needed. A bridge would make the trail more useful and make it a top quality park with a five-mile trail that is complete. She also feels ADA accessibility is very important. Although it sounds like a lot of money, she encouraged the Council to invest in the park that is already there and complete the trail.

Wade Caldwell, Chair of Parks & Recreation Advisory Board: He agrees the bridge is very expensive. The Parks & Recreation Division and Board have been saving for quite a while to be able to accomplish this. Other than the bump outs, the bridge design is quite spartan, with no ornamental ironwork, etc. There is nothing else like it in Arkansas; it would be great for

Fayetteville. We have the funds. We have a $51,000 grant and $80,000 in green space fees in the northeast quadrant that must be spent before the end of 2004; $35,000 that must be spent before the end of 2005. This is part of the Parks' long-term plan. He doesn't think it will get any cheaper. He thinks it is something the City should do.

Mayor Coody asked Steve Hatfield how much money is available for Skull Creek Trail construction for next year.

Steve Hatfield: We don't have any money next year specifically set aside for any particular trail project. Money hasn't been identified specifically for Skull Creek.

Mayor Coody: So we wouldn't build any trails next year?

Steve Hatfield: They continue to wait for the federal government to pass the Transportation Bill, which would help the division focus where the next project will be. He stated that the calls he is getting indicated that Skull Creek is in the top priority. It is in the top four of the Parks' priority matrix. If even a portion of the right-of-way is dedicated or donated to the City, it would easily jump to number one in priority.

Alderman Davis: Right now 1% HMR tax, equaling approximately $1.5 million per year, is dedicated to Parks. Are none of those dollars being put toward future trails programs?

Connie Edmonston, Parks Superintendent: The money coming from the HMR taxes were budgeted two or three years ago for this project. The parkland dedication funds have really been what have made this project possible. Almost $236,000 came from the parkland dedication fund from development that occurred in the northeast district.

Alderman Davis again asked if any of the HMR tax revenue directed to the Parks is being put towards the trails programs.

Connie Edmonston: Actually there are two sources of funds to the Parks – the sales tax and the HMR tax. We have been using the sales tax for the trails projects. When Parks & Recreation received the Trails Division into their division, the Trails Division had money from sales tax and they continue to use that. But Parks has supplemented it. In the next couple of years, most of those funds are going towards the Community Park. But that can be reevaluated.

Alderman Marr asked for clarification about whether the $235,000 from parkland dedication was quadrant specific. And is Skull Creek in the same quadrant as Lake Fayetteville.

Connie Edmonston: Yes, it is quadrant specific. No, Skull Creek is not in the same quadrant; it is in the northwest quadrant. There is quite a bit of funding in the northwest quadrant that could be earmarked toward Skull Creek.

Alderman Marr made the point that at least 30% of this money could not be spent on Skull Creek even if this project was not done.

Connie Edmonston: Correct.

Steve Hatfield wanted to clarify that he didn't mean that the City doesn't have any funding for trails. But it is not specifically earmarked for Skull Creek. In response to a question from Mayor Coody, Mr. Hatfield said that $350,000 is budgeted next year for trails.

Alderman Jordan asked if this project was the top of the list for priorities at this time.

Steve Hatfield said that it was the top priority.

Alderman Jordan said he understood the Parks Board unanimously voted for this project. He asked why this project is at the top of the list.

Steve Hatfield: As part of the Parks master planning ten-year process, a focus group, a steering committee, and a mail-out survey all indicated that this project was a top priority. It wasn't evaluated in the Trails Master Plan that was adopted last year. No interior or existing trails were analyzed.

Alderman Davis asked Steve exactly where the funds for this project would be coming from. He understood that $237,000 was coming from parkland dedication; $50,000 from the grant….

Steve Hatfield: $376,340 will be coming from trail development fund.

Alderman Lucas asked if money for the Skull Creek Trail would only be taken from the northwest quadrant, even though it's going down the center?

Steve Hatfield explained that the only parkland dedication funds that could be used for that project would be those coming from the northwest quadrant. He said other trail project funds could hopefully be parlayed into more grant opportunities to be put toward that project.

Alderman Cook moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 6-1. Alderman Rhoads, Davis, Jordan, Thiel, Cook and Marr voting yes. Alderman Lucas voted no. Alderman Reynolds was absent.

Resolution 113-04 as Recorded in the Office of the City Clerk.

ANX 04-01.00 (Greenwood/Sloan): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Jean Greenwood Jowers located southeast of the intersection of 46^{th} Street and Persimmon Street containing approximately 160.00 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Dr. Kathy McGuire Bauman said she is concerned about this and the following annexation, as well as the Marinoni annexation/rezoning. She said she felt the City should have an annexation study before major annexations with the accompanying infrastructure problems occur. She thinks the rush in this case is brought about because of the proposed location of the school, which is located in the next annexation item request. She indicated her concern that planning of school locations could be happening in a closed committee with no press or public input.

Charlie Sloan, Owner and Developer said that he is simply bringing this issue before the Council, as he would normally do. He stated that it has not been rushed; the school issue is of no importance to him. He said he bought the property and closed on it on January 8. The Council has already approved a section across the street from this property and building is already in process there. He said the school approached him well after the property had been purchased. He reviewed some of the plans he and the McBryde family had for the property involved. He denied any conspiracy and said he knows nothing about the school's planning process.

Alderman Thiel asked if Persimmon St. was going to be built out all the way.

Dawn Warrick: Yes.

Alderman Thiel asked about extending it on out to Shiloh Drive.

Dawn Warrick said the piece of Persimmon that will actually make the connection to Shiloh Drive has been built. As development occurs along those corridors, those developers will bear the responsibility of building that portion of the street segment within their development.

Mayor Coody asked Hugh Earnest if the City had any involvement in the determination to move the school out to the west.

Hugh Earnest: Absolutely not.

This Ordinance was left on the First Reading.

ANX 04-02.00 (McBryde/Sloan): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by C. Bryan McBryde located southwest of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 80.00 acres.

Mr. Williams read the ordinance

Dr. Kathy McGuire Bauman said he believes citizens should be involved in the decision making of their cities. Discussed the Capital Investment Planning Committee of the School Board, which she said includes only: Howard Hamilton, School Board and Arvest Bank; Ron Edwards of UA Plant; Hugh Earnest, City; Jeff Koenig of Northwest Arkansas Business Council; Dennis Hunt of the Chamber of Commerce; three school principals; one parent who is the PTO president. She expressed concern that no teachers, parents, neighborhood associations or environmental groups are on the committee. She then expressed concern about other groups she sees coming about that will have no public money involved, therefore will not have to have public involvement in the meetings. She is opposed to these annexations and promoted an ordinance that says no City employee can sit on closed committees without permission from City Council.

J. B. Hayes said he thinks Mr. Sloan has done a great job with this project and is doing some things that will help the Boys & Girls Club. He would like to see this project approved and not held up further.

There being no further public comment, the item was returned to the City Council.

This Ordinance was left on the First Reading.

ANX 04-04.00 (Tipton/Sloan): An ordinance confirming the annexation to the City of Fayetteville, Arkansas, of certain property owned by Robert and Minnie Beth Tipton located east of Double Springs Road adjoining the southeast corner of the Legacy Pointe Subdivision containing approximately 29.31 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Citizen from the audience: This is the fourth phase of Legacy Pointe and Persimmon goes through this property. Water and sewer have already been brought in to this property and they are now trying to work with Dr. Hayes so that Persimmon can be built now, not later.

There being no further public comment, the item was brought back to the Council.

This Ordinance was left on the First Reading.

RZN 04-10.00 (Tipton/Sloan): An ordinance rezoning that property described in rezoning petition RZN 04-10.00 as submitted by Raymond Smith for property located south of Wedington Drive and east of Double Springs Road abutting the Legacy Pointe Subdivision containing approximately 29.31 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

ANX 04-6.00 (Leigh Taylor Properties): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Leigh Taylor Properties, LLC for property located at 2470 Highway 112 containing approximately 29.86 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

RZN 04-12.00 (Leigh Taylor Properties): An ordinance rezoning that property described in rezoning petition RZN 04-12.00 as submitted by Chad White on behalf of Leigh Taylor Properties LLC for property located north of Highway 112/Howard Nickell Road and east of Highway 112 containing approximately 29.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment.

Charlie Futrall said he lives on the north side of this property and his property adjoins the property. He passed out some descriptions of his subdivision. He wanted to express his and his neighbors' concerns about this development. He said the neighborhood is not as dense as it looks on paper because many of the homes are built on double and triple lots. This is an established neighborhood; many residents have been there for over 20 years. The builders of the subject development have been very open and helpful to the neighbors. There have been some things discussed that the neighbors would like to see the Council work with the Planning Commission to make sure happen. These items include density, a 50-foot buffer zone, and not doing the street connectivity. One of the biggest concerns is the traffic that would result within the neighborhood.

Williams Myers also lives to the north of the proposed rezoning. He stated that he is a registered, professional engineer and in his training, safety comes first. He feels the addition of 200 cars to Hwy 112 will stress an already dangerous highway and that injury to the public will likely result. He quoted statistics from the 2002 annual highway counts conducted by the Arkansas State Highway and Transportation Department and numbers from a survey conducted by the Fayetteville Police Department earlier this month. He also quoted accident statistics for this area. He recommended that the item not be approved.

Bill Forbess asked the Council to look at a map at 10 feet of private property between the property line of Taylor and Forrest Hills subdivision. This was put there when the property was platted out in 1964 to keep a cut through from coming through. He discussed density of this project in contrast to the density of Forrest Hills.

Zed Johnson, a resident of the neighborhood adjoining the subject annexation, said he is concerned with safety and would like for planning to include setting aside land at the Howard Nickell intersection to correct a very dangerous situation. More traffic coming from this high-density development will increase the danger. He also asked that the City look at ensuring that a fire station in that area is high priority. He would prefer the item not be approved; but if it is, he asked that these two concerns be addressed.

A citizen from the audience said she lives alone and with the addition of all the new homes and she is concerned about her safety in her home.

There being no further public comment, the discussion was returned to the Council.

This Ordinance was left on the First Reading.

ANX 04-1083 (Marinoni): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

RZN 04-1084 (Marinoni): An ordinance rezoning that property described in rezoning petition RZN 04-1084 as submitted by Bob Estes on behalf of Paul and Suellen Marinoni for property located south of the Fayetteville Boys and Girls Club adjoining the future extensions of Rupple Road and Persimmon Street containing approximately 78.84 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

ANX 04-1090 (Hays): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

RZN 04-1091 (Hays): An ordinance rezoning that property described in rezoning petition RZN 04-1091 as submitted by Jim McCord on behalf of Hays Family Development, LLLP for property located west of 54th Avenue adjoining the extension of Persimmon Street containing approximately 49.40 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Mayor Coody opened the floor for public comment. There was none.

This Ordinance was left on the First Reading.

ANX 04-1100 (Harper/Brandon): An ordinance calling for the simultaneous detachment of about 10 acres owned by Craig and Karyn Harper from the City of Springdale, Arkansas and the annexation of those lands into the City of Fayetteville.

Mr. Williams read the ordinance

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 6-1. Alderman Rhoads, Davis, Lucas, Jordan, Thiel and Marr voting yes. Alderman Cook voting no. Alderman Reynolds was absent.

Ordinance 4591 as Recorded in the Office of the City Clerk.

RZN 04-1101 (Harper/Brandon): An ordinance rezoning that property described in rezoning petition RZN 04-1101 as submitted by Michelle Harrington on behalf of Gary Brandon Enterprises for property located at the south side of Albright Road west of George Anderson Road containing approximately 9.99 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Mr. Williams said he did not think this item should be passed tonight. Said the property cannot be properly annexed until Springdale has a public hearing and passes an ordinance or resolution.

Micki Harrington said she thought there were two choices. The Council can wait on the rezoning or it could be passed subject to the concurrence of the Springdale City Council. She said she is happy to do it either way.

Alderman Davis asked other Council members if anyone has a problem with passing the rezoning subject to action by Springdale.

There was a general agreement to move forward in this way.

Alderman Davis moved to amend the ordinance to be subject to ratification by the City of Springdale. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Alderman Davis moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Ordinance 4592 as Recorded in the Office of the City Clerk.

RZN 04-1099 (Brisiel): An ordinance rezoning that property described in rezoning petition RZN 04-1099 as submitted by Tim Brisiel for property located south of Mount Comfort Road and west of Alpine Avenue containing approximately 2.19 acres from P-1, Institutional to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Marr seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Ordinance 4593 as Recorded in the Office of the City Clerk.

RZN 04-1104 (Goff): An ordinance rezoning that property described in rezoning petition RZN 04-1104 as submitted by Tom Hennelly for property located at north of the Goff Farm Road north of the Stonebridge Meadows Golf Course Club House containing approximately 17.50 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre.

Mr. Williams read the ordinance

Alderman Thiel said she would prefer not to advance on this item since Alderman Reynolds had some concerns and is not present.

Mayor Coody opened the floor to public comment.

Tom Hennelly, Tomlinson Asphalt said there is sufficient city infrastructure in this area to support this project at four units per acre. The only infrastructure that will need to be added is an additional lift station and a force main to carry the wastewater generated from this project to the existing sewer line.

This Ordinance was left on the First Reading.

RZN 04-1111 (The Mill District): An ordinance rezoning that property described in rezoning petition RZN 04-1111 as submitted by Rob Sharp for property located at the northwest corner of South School Avenue and 6th Street containing approximately 1.95 acres from I-1 Heavy Commercial, Light Industrial to C-2, Thoroughfare Commercial.

Mr. Williams read the ordinance

Alderman Marr moved to suspend the rules and go to the second reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Davis seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Mr. Williams read the ordinance.

Mayor Coody opened the floor for public comment. There was none.

Mayor Coody asked shall the ordinance pass. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Ordinance 4594 as Recorded in the Office of the City Clerk.

Amber Drive Drainage: A resolution to approve a budget adjustment of $100,000.00 to finance drainage improvements for Amber Drive.

Gary Dumas, Director of Operations: One property in this neighborhood has had three major floods over the last three months. Amber Drive has also flooded to the depth of about 18", limiting access to this neighborhood. Staff is proposing drainage improvements in this area to accommodate street drainage and for drainage of the flooded property. Action on this resolution would create a project and give staff authority to engineer the improvements and bid the project out.

Alderman Cook said he struggles with this item, primarily about putting this amount of money into one problem when there are similar problems across the city. He thinks it would be more appropriate to look at the drainage problem citywide.

Gary Dumas said the staff had also been faced with these same questions. This subdivision was built back in the 1980's and different standards were in place at that time. An engineering analysis today indicates that the developer probably did not satisfy the design standards in place at the time. The builder of this house not raising up the floor elevation to get positive drainage around the house compounded that problem. But this still would not have solved the street flooding in the area. He said he shares Alderman Cook's concern about not having a comprehensive plan for drainage throughout the City. He stated that he feels this particular problem is unique in that there have been three major floods within the last three months. He said he thinks the standards in place today and the ones being looked at with the storm water management program will address the drainage issues of the future, but there are still 50 to 100 years of problems from the past that will have to be resolved at some point. He does not think that individual problems can be ignored as long as the budget exists, but does feel the larger issue must be addressed also.

Alderman Thiel expressed concern about whether the problem with flooding in this particular house would be solved with this improvement.

Gary Dumas: The property owner will have to address lot drainage around his house. The City's responsibility is in addressing the drainage that was not adequately addressed by the developer. He described what would be accomplished with replacing the drainage pipe in this area.

Alderman Thiel was also concerned about putting this much money toward one house when there are so many other problems.

Alderman Davis said he didn't think it mattered whose house it is, the City has the responsibility to provide adequate infrastructure for all its citizens, whether it is drainage or streets. Said he thought some of the developments in the area have added to this flooding problem. In this particular instance of flooding, the water went around the box culvert and down the drive of this homeowner. That is not adequate city infrastructure and should be addressed.

Gary Dumas said there are drainage issues throughout the City. Most of them still exist because they are expensive to solve and very complex.

Alderman Jordan asked the property owner how long the flooding problem had existed.

The property owner said he had owned the property approximately eight months and had been flooded three times in the past two months. He spoke of the problems he had encountered because of the flooding and his inability to get repairs completed until the drainage issues are addressed. In answer to a question from Alderman Marr, he said that the former owners made no disclosure of flooding problems in the past.

Gary Dumas said that some of the engineering staff is familiar with this property and is aware of flooding in the early to mid-nineties, but that is not documented in the record. The property has had several owners since it was constructed.

Alderman Marr asked if there were any other maintenance methods that might provide a fix for this issue while a more comprehensive study is done throughout the city to avoid spending this amount of money on this one home.

Gary Dumas said the staff analysis indicates that this is the least expensive improvement that could be made to address the problem.

Alderman Marr asked if there was any recourse to go back to the developer for not meeting the requirements of that development.

Mr. Williams said the City would most likely be precluded by the Statute of Limitations, just as the homeowner would be.

Alderman Marr said he feels the Council needs to figure out how they will address this issue of drainage as citizens make complaints. Also, he thought it was another issue to consider when the Council votes to bring more land into the city, the cost involved in maintaining it.

Alderman Jordan questioned how to handle claims from other home and business owners for flood damage.

Gary Dumas clarified that this is not compensating the homeowner. This homeowner has put in a claim for damage that was denied. The City has admitted no liability on any of these flooding issues. But this is an improvement the City can reasonably make to avoid the problem in the future. He asked for direction from the Council as to whether they would like staff to prepare a CIP item for a community-wide drainage study.

There was general agreement from the Council that this was needed.

Alderman Thiel was concerned about the many other homeowners and business owners who were also affected by the flooding. She asked for and received some clarification about this particular problem and how it would be fixed. Felt that if the floods on Amber Street affected traffic, then this became a safety issue.

Mayor Coody opened the floor for public comment. There was none.

Alderman Marr moved to approve the resolution. Alderman Davis seconded the motion. Upon roll call the resolution passed 7-0. Alderman Reynolds was absent.

Resolution 114-04 as Recorded in the Office of the City Clerk.

Highway 71 East Square Redevelopment District #1: An ordinance forming the Highway 71 East Square Redevelopment District Number One pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan.

Alderman Jordan moved to table the ordinance until the July 29, 2004 Special City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

This item was tabled to the July 29, 2004 Special City Council meeting.

Wilson Springs Sale Proceeds: A resolution to express the intent of the City Council to use the proceeds from the sale of Wilson Springs for various projects or purposes.

Alderman Davis wanted to discuss this item. Going back to the Citizen Survey done in 2003, the top concerns were streets, transportation and utilities at 63%. He does not think that 37% of the Wilson Springs proceeds going to street improvement is adequate.

Alderman Thiel said that the figure of $5.2 million is not a true figure since $700,000 has to go back into the property.

Alderman Cook agreed that transportation is a huge concern but he does not want to advocate just putting the money into the street fund. He thinks it should go into individual projects, picked by the Council on the basis of importance. He believes that Skull Creek can fit the transportation needs and discussed its value to the City.

Alderman Davis agreed that the money should go to specific projects that do not currently have money allocated to them. He talked about several needs. Said he believes decisions have to be made to divide the dollars up in a way that takes care of what the citizens say their concerns are. He agreed with Alderman Cook regarding the value of Skull Creek.

Alderman Jordan agreed that the infrastructure of the city has to be built. Thinks a lot of this will take long range planning and they have to start somewhere.

Mayor Coody talked about what is being done currently for street improvements.

Alderman Marr said the difficulty he has with this resolution is in dealing with this issue tonight. He thinks we need to look more fully into how to leverage the money, looking at grants, matches, etc. to see how it can be turned into more money. Said he feels discussion on allocation of the money should be an item discussed through the strategic planning of the Council.

Alderman Rhoads said he would like for staff to put together something that would define, as much as possible, where our funds are coming from and what the expectations are for continuing to receive those funds. He also would like to know where the City is in its reserves at this point, where we want to be and if any of this money should be put toward reserve funds.

Mayor Coody talked about the City's reserves. By cutting waste, the City has managed to keep its reserves at a good level. Spoke of the possibility of going to the citizens and asking them to extend the quarter cent tax currently allocated to the jail construction that should be completed this winter. If that quarter penny is extended for 30 months and is used to match the $7.7 million dollars from the State, the City would have enough money to build the eastern by-pass that is badly needed. These are things that should be discussed by the Council in strategic planning.

Hugh Earnest: In response to a question from the Council, he said that Dr. Sumek has suggested two possible dates to reschedule the Strategic Planning meeting: August 19-21 and August 26-28. He asked the Council to get back with the staff about their preferences.

Mayor Coody opened the floor to public comment. There was none.

Alderman Marr moved to table the resolution indefinitely. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Reynolds was absent.

Meeting Adjourned at 11:10 p.m.

Sondra E. Smith

Sondra Smith
City Clerk