City Council
Meeting Minutes
August 17, 2004

A meeting of the Fayetteville City Council was held on August 17, 2004 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PRESENT: Alderman Reynolds, Thiel, Cook, Marr, Rhoads, Odom, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Mayor Coody called the meeting to order.

Judge Rudy Moore administered the Oath of Office for Alderman Conrad Odom.

Alderman Odom replaced the seat that was vacated by Alderman Bob Davis who moved out of his Ward in July.

Nominating Committee Report:

Alderman Marr: We interviewed seven applicants for the Public Housing Authority Board; at this point in time based on the time period of prior resignations and the time lapse that is required we would recommend two appointments to the Housing Authority. Betty Turner and Robin Ross are the recommendations.

Alderman Marr moved to accept the Nominating Committee report. Alderman Thiel seconded the motion. Upon roll the motion passed unanimously.

Regional/Community Park:

Gary Dumas, Operations Director gave an overview of the proposed Regional/Community Park.

Peggy Vice, Purchasing discussed the RFP process and the bids that were received on the RFP. She stated two bids were received one from SouthPass Development and one from Tower Enterprises. She reviewed the bids for compliance with the proposal requirement. Tower's bid did not have a signature. She then spoke to the City Attorney Kit Williams about the Tower bid.

City Attorney Kit Williams: The Purchasing Officer, Peggy Vice, brought the bid over to my office and showed me the proposal which I had not seen before. The sixth content proposal requirement says *signature of persons legally authorized to represent the proposal.* There was no signature there, in fact the proposal was by Tower Enterprises, LTD and there was no indication that the individual that sent the proposal had any authority to act for that company. The other problem that was readily apparent in the proposal was the seventh content proposal

requirement that says *the successful proposer must post an irrevocable letter of credit or other comparable financial instrument that demonstrates the proposer has the funds on hand or funds available to close the land transaction.* If you looked at the proposal the proposal was that the city buy the property and then he would be in partnership with the city. I think there were two major reasons why this proposal was not responsive to what the city had requested. I agreed with Peggy. She showed me the regulation in procurement, Regulation R719-11-229B4, which stipulates, *only signed sealed bids delivered prior to date and time of bid opening shall be accepted.* I agreed with Peggy at that point in time that this proposal had not been responsive and could not be properly considered by the city.

Alderman Rhoads: Have there been any other similar situations like that and if so how did we handle them?

Peggy Vice: No, we have never accepted a proposal or an RFP without a signature.

Kit Williams: There was a similar one when the Dickson Enhancement Project was being bid we had several bids from various construction companies. One of the construction companies, which would have had the lowest bid, had not signed a particular form required. There were federal funds involved, therefore we were told by our consultant and I agreed with him that we could not consider that bid. It would have been illegal for the city to do it; therefore we did not consider that bid and awarded the contract to the next lower bidder.

Gary Dumas went through the two proposals and the differences in the proposals.

Mayor Coody: This has been very informative. Thank you very much.

Alderman Jordan: I am curious about the million dollar match. Do we have to come up with one million to get the million dollar match, is that correct?

Gary Dumas: That is correct.

Alderman Jordan: Where is that money coming from?

Gary Dumas: Currently in the existing 2004 CIP there is about $800,000 already identified for community park development. Next year in the amount of $850,000 or $865,000 is also proposed for a community park. So in January there will be a little over $1.6 million already committed to the community park.

Mayor Coody: Actually the match or our portion will be between $1.5 and $2 million dollars. We haven't finalized that. They have asked for $2 million dollars of our money to match their one million. We are in conservations about his right now, if we can cut a deal to where our part of the match is $1.5 million dollars and then they would put their million in, that means we could match it in January or early next year. If our match is $2 million it would just take a little bit longer but we would come up with that over time.

Alderman Jordan: You are saying this is coming out of capital improvements?

Gary Dumas: No HMR, there are HMR funds committed currently in the CIP for the community park.

Alderman Marr: When did that match become a condition because the bids that we received in our box, I don't remember a 2 to 1 or a 1 for 1 match in the document.

Gary Dumas: In the development of the letter of intent the developers are interested; I think they want the park developed to assist in the sale of their property.

Alderman Marr: Was that a requirement of their bid?

Gary Dumas: In the development of the letter of intent they have requested that the match be there just so they can be assured that the million dollars that they provide will go to the community park instead of some other city activity.

Alderman Marr: The bid that responded did not have that requirement in it?

Gary Dumas: No.

Peggy Vice: Normally on RFP's when you do a request for proposal you take proposals and then you take the best proposal that meets your requirements and then you negotiate a contract from there. You often do change what has been submitted.

Alderman Jordan: In the other proposal, if I understand it correctly, the city would have to put up the money and basically become the banker.

Gary Dumas: Yes, the city would have to buy the property out right on the front end.

Alderman Jordan: What would happen if the developer could not deliver on what he said he was going to do?

Mayor Coody: I don't know, Kit what do you think would happen?

Kit Williams: I guess we would have a lot of property.

Gary Dumas: Then we would have to seek another private developer I'm sure.

Mayor Coody: Thank you very much.

CONSENT:

Approval of the Minutes: Approval of the June 30, 2004, July 13 and July 29 Special City Council meetings minutes.

Asphalt Striping, LLC: A resolution awarding Bid #04-55 to Asphalt Striping, LLC in the amount of $27,860.00 for application of approximately 425,000 feet of yellow and white reflectorized paint pavement markings.

Resolution 121-04 as Recorded in the Office of the City Clerk.

Lamar Anderson Parking Space Agreement: A resolution authorizing the Mayor and the City Clerk to execute a lease agreement with Mr. Lamar Anderson of 15 South Block Avenue, Suite 203, for one (1) parking space in Fayetteville Municipal Parking Lot 1, located at 160 West Mountain Street, and bounded by Church Avenue, Mountain Street, and Center Street.

Resolution 122-04 as Recorded in the Office of the City Clerk.

Radisson Hotel Parking Lease: A resolution authorizing the Mayor and the City Clerk to execute a lease amendment with the Radisson Hotel to extend the existing parking lease for a period of one (1) year.

Resolution 123-04 as Recorded in the Office of the City Clerk.

Meyer, Scherer & Rockcastle Contract: A resolution approving contract amendment 16 to the contract with Meyer, Scherer & Rockcastle LTD. In the amount of $9,515.00 for items associated with off-site improvements at the intersection of Mountain Street and School Avenue.

Resolution 124-04 as Recorded in the Office of the City Clerk.

Crossland Construction Library Change Order No. 19 & 19A: A resolution approving Change Order #19 to the contract with Crossland Construction Company, Inc. in an amount not to exceed $180,000.00 for improvements to Rock Street and the intersection of School Avenue and Mountain Street; the installation of pavers in the crosswalk at Archibald Yell Boulevard; and approving a budget adjustment in the amount of $60,000.

Resolution 125-04 as Recorded in the Office of the City Clerk.

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

OLD BUSINESS:

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. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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 unanimously.

Mr. Williams read the ordinance.

Sharon Davidson asked that the City Council to not rezone property immediately after annexation.

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

Ordinance 4602 as Recorded in the Office of the City Clerk.

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. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

Alderman Reynolds moved to suspend the rules and go to the third and final reading. There was no second to suspend the rules and go to the third reading. There was no roll call due to there being no second to the motion.

Mr. Williams read the ordinance.

Alderman Cook: One of the things that I have been struggling with regarding annexations is that it is not the annexations but it is how it is rezoned and how it is developed. I have noticed a lot lately that it is interesting how when we talk about traffic and connectivity, in the older part of town we have a grid system we have a lot of connectivity. It doesn't seem like we have much of a traffic problem in town but you go out to where the newer developments are, where we force all the traffic onto the minor arterials, that is where we have our traffic problems. We only give people so many options of places to go and when we direct them all to one street we are going to have traffic problems, I struggle with that. In my ward, Ward II, I don't see those traffic problems except on Highway 71; it gets clogged up at times, but in downtown where it is fairly dense you don't see those traffic problems. I struggle with the way we are developing the new parts of town. I would hope that we can get more connectivity and that we could do it more than building one minor arterial or one collector, I would hope that we could build more connectivity between all the neighborhoods.

Tim Conklin, Planning: This is something that we have been discussing for a long time. We do have a current policy of connectivity with the subdivisions but it does not go as far as what you see in Washington Willow or Wilson Springs, it is not a traditional grid. What you see is a street system design with functional classification of arterials and collectors. We do have traffic that is planned for and designed to carry that traffic. To require what you are talking about

would mean to do a major re-write of our subdivision regulations and mandate a different type of street system within new development.

Mayor Coody: Are we doing anything to move in the direction of improving our design standards for these new areas of town as it develops?

Tim Conklin: With regard to changing our Master Street Plan and street standards, that is something that is within the BWR Transportation Study that we do intend to bring forward. It shows two types of street systems within that study. The City Council has a policy, that through a public hearing process, they would have to mandate a different type of street design.

Alderman Cook: We are going to update our 2020 Plan next summer, I hope we take a very strong look at what we have in place and seriously consider what we want in the future. While I do advocate the 2020 Plan I think it does lack some legislative teeth in some ways. I would certainly hope that we look at our Land Use Plan and Master Street Plan very closely and discuss it among ourselves and the citizens and come up with something that is a little more agreeable.

Mayor Coody: I think that's exactly what we plan on doing.

Alderman Jordan: We have this parcel of land between Broyles and Persimmon and then on the other side is the city property, is that correct? How long is that piece of land?

Tim Conklin gave to the Council a map of Persimmon Street and went over the numbers for the Aldermen.

Mayor Coody: All of us agree that we shouldn't have two great pieces of road that almost come together except where the city's 300 acre wastewater treatment plant is and then have an inadequate road that should be an up to date road to connect it to make one good thoroughfare. We would have two options at this point; we ourselves could spend tax payer money to develop the street to the city street standards. The other option would be to sell some of the frontage off the northern end of the 300 acres that we have, that would be the entire frontage on Persimmon and if developers bought that property from us, they would then be responsible for doing all the improvements to this street. We have been approached by some developers that are interested in purchasing this land from us if the Council is interested in selling a portion of this land. We would not only make the money on the sale of the land we would also save the cost of having to build the street. The reason that we have 300 acres there isn't because we needed them for the wastewater plant, the location that the wastewater plant needed to be on was far enough out of the city that we needed to annex the wastewater plant land and the land between the wastewater plant and the city limits. If the Council is interested, there is interest in the development community to talk to us about purchasing this piece of land.

A discussion followed on the width of the roads in this area.

Alderman Jordan voiced his concern about the width of the roads and the narrowing of the roads causing a bottle neck.

Alderman Lucas stated it was a concern of hers also.

Alderman Jordan: When are we going to open the selling of this property up for discussion?

Mayor Coody: At the next meeting if you would like.

Alderman Jordan: I would like that.

Alderman Thiel: When we purchased this property I thought there was a requirement about a buffer area.

Kit Williams: Basically we had to buy 300 acres because we had to keep it within the city and we had to buy the adjoining land in order to butt up against the city. There is a buffer area worked into the wastewater treatment plant but I don't think the far northern part which is on Persimmon would actually be part of that buffer zone.

A discussion followed on the property that the city owns and selling some of the city property.

Alderman Marr: I was reading through the minutes of the Planning Commission meeting and there was a comment that struck a chord with me that I thought was very well put from Commissioner Anthes which said *I have a hard time understanding whether this should be the density contrary to what we see R-A or RSF-4 zonings are the only two instruments of zoning that seem to be available to us when we bring annexations through. Without having knowledge of long range plans for commercial centers, population growth, sprawl and smart growth it makes it very difficult to talk about this being the proper zoning.* Where I have difficulty about the zoning issues or that I have learned in my three years of sitting up here is that it all starts with zoning, once it is zoned the ability for us to impact things that I believe are quality of life, which is what I think we tout in Fayetteville. We have this vision of what we talk about with the Downtown Master Plan and I hear two comments about that, one is why are we only talking about that for downtown why doesn't that apply to our citywide issue and the second part of that is what ordinances do we have to help impact that.

Alderman Marr also discussed the fact that we are developing a new section of Fayetteville and he stated that he is concerned about the access to new developments.

A discussion followed on the 2025 Plan and how this can be addressed in that plan.

Alderman Marr states we have to change things to where we will have a better product in the future.

Alderman Thiel: Mayor, we never got a second to place this on the third reading.

Kit Williams: You didn't have to because I went ahead and read it, so we didn't have to suspend the rules to put it on the third reading, I went ahead and read it and it is on the third reading now. It automatically comes to the third reading the reason you suspend the rules is so I don't have to read the whole ordinance.

Alderman Lucas: If we do decide to sell that land can we have any sort of provision that the development will occur within a year or anything like that.

Kit Williams: I think we probably could it might have an effect on the actual cost of the land. It takes several months to come to a price that you can agree to sell the land for. Yes, you can put conditions on a sell of property.

Alderman Jordan: If we did sell the property could we put a condition on there that the road has to be built first.

Kit Williams: You are free to contract about any way you want to, whether or not you would get any takers is a different situation.

Alderman Marr asked the developer what their time frame is.

Mr. Sloan, the developer replied they are ready to start any time. Mr. Sloan also gave a brief description of his project and their time frame for completion of their development.

A discussion followed on the development of the street and who might be responsible for the development of the street. There was also discussion about the property surrounding the street.

Alderman Marr asked the developer why they chose the method that they chose for their development.

Kit Williams: I need to qualify the answer I gave Alderman Jordan. Keep in mind this is wastewater land and not city land and we have requirements to our bond holders and other people, so that when we dispose of assets that belong to them we have duties to them. They don't have any interest in us building a road that is a city idea except for Broyles Road which they are building. Therefore we would have to be very careful that we would not be discounting the land, which would go to the Water and Sewer Fund in order to build something that is a General Fund project such as a street. I would have to get with Steve Davis to make sure that we would not be violating any of the rules or bond requirements that we have. So my initial answer, yes you can put conditions on it, that would be true if it were city land only. You can do what you want with city land as long as you are getting a fair value for the tax payer. This is a little more complicated because it is wastewater land and therefore I'm not certain that we could require the building of a street in order to get the street built if that were going to reduce the amount of money that was coming into the Water and Sewer Fund.

Mayor Coody: If we could get a fair market return on that land and we received some money we could put it toward our bond process and reduce our debt.

Kit Williams: As long as it is going to be fair to that fund, that is correct.

Mr. Sloan asked the Council if they would consider accepting conceptual PZD's from developers and then let the developer come back with an exact drawing.

Mayor Coody: I think we are looking at revisiting the PZD ordinance.

Alderman Jordan: I want that road.

Mayor Coody: I think we all do.

Alderman Marr: Before you call for the vote that is a commitment that we have from Administration to get that road built some how some way?

Mayor Coody: You guys approve the money, there is no way I can approve the funding for something like this.

Alderman Jordan: We didn't say you had to approve it we just want you to support it.

Alderman Marr: We would like to see it in the next year.

Mayor Coody: How about the next meeting.

Alderman Cook: Let's bring it up and debate it.

Mayor Coody: That's fine with me I don't want to see a gap out there.

A discussion followed on selling the property.

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

Ordinance 4603 as Recorded in the Office of the City Clerk.

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. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting***

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 unanimously.

Mr. Williams read the ordinance.

Tim Conklin: There has been discussion with regards to connectivity and a street stub out to the north, there is a piece of property that appears would block that street from ever connecting. I have not been able to verify that legally but it appears that it does exist. If that property does exist staff would recommend to the Planning Commission that the stub out not be made. Keep in mind that the Planning Commission makes the decision whether or not the street would be stubbed out, staff only makes the recommendation. The road to the north is a single lane maybe 8 or 9 feet wide, it would be significantly less in width than the street that would be built to the

south that would be another issue that would need to be considered by the Planning Commission. There is opposition for that connection.

Cleve Branson, representing Leigh Taylor Properties discussed a buffer zone and green space they are proposing to separate the two subdivisions. This would give the existing subdivision some privacy. He also presented a Bill of Assurance.

Art Scott with PDC Engineering the civil engineer for the project gave a report of his meetings with the Arkansas Highway and Transportation Department regarding the traffic around the proposed development and the routing of the traffic.

Ernie Peters, Peters and Associates a traffic engineer and traffic expert spoke about his assessment of the traffic on Highway 112 and the traffic count on this highway. He stated it is a fairly low volume road. He stated the intersection needs to be tightened up. He also stated the present vegetation at the curb area will be cleaned out allowing for better visibility. He spoke about the traffic accidents in this area during the past few years. He stated the points of access to the subdivision are well designed and that the burden of additional traffic would not be beyond the capacity of this two lane road to accommodate.

A discussion followed on the clearing of the area that is right of way.

Charlie Futrall an adjoining property owner stated this has been a learning process for his neighborhood; he thanked the Council and staff for their patience with the property owners in this area. He stated that through this process the developers have listened to the neighborhood. He stated that he is for this development. He said the developers have made an extra effort to try and make this project work. He feels they will get a quality development out of this because of the process and because the developers have been sensitive and made an effort to listen to the neighbors.

John Clark stated he has property on the border of this development and while he has reservations about the density, traffic issues and connectivity he does appreciate the green space the developer is proposing. He would like to know what ensures that in the reasonable future that the green space will stay that way. He thanked the developer for the compromise.

Kit Williams: The developer does not have a right to decide where the tree preservation area will be that is looked at by staff. He can request that this be a tree preservation area. I think his comments are part of the record. His Bill of Assurance states a buffer area will be provided along the north property line 50 feet in width and that no structure shall be built within this buffer strip. The comments about having it remain a green space and preserving the trees in there I think that goes to show what his intent was in writing that would be looked at if there was ever a question about this. I think what he said tonight is enforceable. The tree preservation area is part of the development process.

Tim Conklin: Since these are restrictive covenants in addition to city regulation it is my opinion that we would be able to, if this buffer area is acceptable for a tree preservation area, be included to meet the canopy requirements. Staff does not approve developments the Planning

Commission does and they also approve the tree preservation plans. It is not until the development review process that the Planning Commission would actually make those decisions.

Mr. Conklin also spoke about possible tree removal due to utility connects.

Alderman Thiel: Will this buffer serve as part of the park land dedication?

Cleve Branson: I have not thought about that. It was not intended that way; I don't know what the Parks Department has in mind for our subdivision.

Rick McWhorter stated he appreciates what the developer has brought forth; he appreciates the idea of a buffer zone. He voiced his concerns about connectivity.

A resident asked about the status of the road and a cut through in the neighborhood.

Alderman Cook: I appreciate everyone's work with the neighbors, I appreciate that. I am still struggling with the safety of the road. I don't think it is a very safe spot with those lots there. I wish there was some way to realign Highway 112. The plat I have shows roads coming in on either side of that turn which to me doesn't seem like a very good idea. I really think there should be connectivity. I think connectivity is a key issue. I struggle with the safety issue of putting these houses on those intersections.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-3. Alderman Reynolds, Thiel, Odom and Lucas voted yes. Alderman Cook, Marr and Jordan voted no. Alderman Rhoads recused. Mayor Coody voted yes to pass the ordinance.

Ordinance 4604 as Recorded in the Office of the City Clerk.

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 39.86 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre subject to a Bill of Assurance. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

There was no motion to suspend the rules and go to the third and final reading.

Mr. Williams read the ordinance.

William Meyers a registered professional engineer stated that he is concerned about the addition of nearly 200 automobiles to Highway 112 if this area is zoned R-4. He thinks this will stress an already dangerous highway and that injury to the public will be more likely.

He stated in 2002 based on the average annual traffic counts for Highway 112 conducted by the Arkansas State Highway and Transportation Department the two way volume east of the proposed site was 4300 vehicle per day. During the month of July the Fayetteville police

conducted a survey and indicated that there were 5845 vehicles per day on a week day with an average speed of 49 miles per hour.

He stated the he estimates that by 2006 there will be 8000 vehicles per day and by mid 2007 10,000 vehicles per day on this road. Mr. Meyers presented an accident report for a segment of Highway 112. He stated he feels this development would stress an already dangerous highway.

Tim Conklin: We have heard from the applicant's transportation consultants this evening. This is something that will be reviewed during the development review process with regard to adjacent distance of curb cuts onto this roadway. It is a principal arterial and it is designed for the future to carry a large volume of traffic. At this time I don't consider the addition of the 99 houses to bring it over the amount that can be handled on that roadway.

Mayor Coody: Safely

Tim Conklin: Once again we have heard from their consultant, when we look at the development the improvements that have been recommended will have to be made and installed.

Anna Futrall: I agree the traffic is rather low volume; it was a wonderful suggestion to move the Howard Nickell entrance. It would really make a difference in the configuration. The information that was given to us was the average speed is 49 miles per hour, I believe the speed limit there is 25 miles per hour. I don't see density of another development being the critical issue here as the nature of that road should be addressed. I agree it is dangerous. I think growth is going to come. We are getting traffic that is bypassing other areas. I think there are many factors to consider. I still support the rezoning of this land to R-4.

Cleve Branson: 10 of the 40 acres on the south of our property is zoned multiuse and we certainly have no intention of trying to do any type of commercial development. If this land isn't developed at this time sometime in the future someone may attempt to develop those 10 acres commercially, if that was done and approved that would increase the traffic count greatly, much more so than a RSF-4 zoning. I would ask that you consider that also.

He stated most of the traffic will be turning south and will not impact the Forrest Hills Subdivision greatly.

Charlie Futrall spoke about the traffic issue across town. He said this development is better for the neighborhood and the area around the neighborhood in terms of property values and what kind of usage they will get. He said developments are going to occur in the area so when does the focus get put on that road to be fixed, when there are people on the road.

Tim Conklin asked City Attorney Kit Williams if he was okay with this new Bill of Assurance and the current ordinance.

Kit Williams replied yes, section three did incorporation the Bill of Assurance into the ordinance.

Alderman Lucas: I was pleased that the developer and the neighbors worked together on this and that the density was reduced and that there is a buffer of 50 feet. She voiced her concern about the exit of the subdivision. She also voiced her concern about connectivity.

Alderman Marr: We can't take care of everything; my concern on this area was that it was going further north as opposed to more west. I don't know that we should be committing even more resources when we have areas within our current city limits that can't handle it. It doesn't take away the fact that I think this zoning brings forward issues that could result in additional cost to the city.

Alderman Thiel: I probably will support this based mainly on the fact that I feel this development is going to improve the traffic safety in this area. I wish this was coming to us in a PZD.

Mayor Coody: Tim, when this comes before the Planning Commission the access onto Highway 112 will be discussed.

Tim Conklin: Yes.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 4-3. Alderman Reynolds, Thiel, Odom and Lucas voted yes. Alderman Cook, Marr and Jordan voted no. Alderman Rhoads recused. Mayor Coody voted yes to pass the ordinance.

Ordinance 4605 as Recorded in the Office of the City Clerk.

ANX 04-1090 (Hays): An ordinance confirming the annexation to the City of Fayetteville, Arkansas of certain property owned by Hays Family Development, LLP for property located at west of 54th Avenue adjoining the extension of West Persimmon Street containing approximately 37.30 acres. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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 Thiel was absent during the vote.

Mr. Williams read the ordinance.

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

Ordinance 4606 as Recorded in the Office of the City Clerk.

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, LLP 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. ***This Ordinance was left on the First Reading at the July 20, 2004 City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance.

Alderman Lucas: This would add traffic to 54th Street, is anything going to be done to 54th Street?

Tim Conklin: When we looked at a development farther north of this we did look at off site improvements to 55th. Staff will be looking for off site improvements to 54th as part of this development.

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

Ordinance 4607 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. ***This ordinance was tabled at the July 20, 2004 City Council meeting to the July 29, 2004 City Council meeting. This ordinance was left on the First Reading at the July 29, 2004 Special City Council meeting. This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance.

Alderman Jordan: The only thing that we are passing tonight is the boundaries of the TIF plan?

Kit Williams: We are naming it also.

Alderman Marr: Why is the entire Block Avenue section to Dickson Street not in the boundary?

Rick Alexander: We helped to create the boundary in consultation with city staff. We thought it was appropriate to leave the rest of Block Avenue out so that could possibility be the subject of another TIF District if that's the way the city wanted to go.

Mayor Coody: What I understood was that this area might be used to help fund a new parking deck.

Rick Alexander: Yes.

Mr. Alexander went on to explain why they drew the line at this point for this TIF District.

Alderman Thiel: There are several areas here that might need a little more tweaking but I understood from the City Attorney that once we start discussing the plan that there is still the possibility of changing some of these boundaries.

Mayor Coody: If we approve the map tonight and then we start talking about the plan, is the map still adjustable at that point?

Kit Williams: The statues state the boundaries of the redevelopment district may be modified from time to time by ordinance of the local government. So by ordinance you can modify the boundaries of the plan.

Mayor Coody: It could also happen tonight if the City Council wanted to see this happen is that right?

Kit Williams: Yes they are officially setting the boundaries tonight and they can modify the map if they so choose.

Alderman Thiel: I think our concern with doing too much of that at this late stage was that we felt that it was important that owners were notified and had advance notice. That would be my concern with tweaking it now. I would rather wait until be got into more discussion and the public was aware of what was going on. There is a possibility that we might get $4 million for this corridor and that would make a big difference in the possible expansion of this TIF.

A discussion followed on the boundaries and the possible funding that might be received.

Alderman Marr moved to amend the exhibit to extend the boundary from Block Street to not stop at Spring Street but to stop at Dickson Street. Alderman Reynolds seconded the motion.

Alderman Thiel voiced her concern about the owners not being notified.

A discussion followed on the amendment.

Kit Williams: You want the mid block between Block Street and Church Street is that your amendment?

Alderman Marr: That is what I am proposing.

Kit Williams: Is that proper with the second too?

Alderman Reynolds: That's correct.

Alderman Marr: If we get a lot of opposition from people when we start talking about the plan we can take it out as opposed to not including it at all, since we have funded for it.

Mayor Coody asked shall the amendment pass. Upon roll call the motion to extend the boundary failed 4-4. Alderman Reynolds, Cook, Marr, Odom voted yes. Alderman Thiel, Rhoads, Lucas and Jordan voting no. Mayor Coody chose not to vote on the amendment.

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

Ordinance 4608 as Recorded in the Office of the City Clerk.

RZN 04-1103 (Collins): An ordinance rezoning that property described in rezoning petition RZN 04-1103 as submitted by Jeffery Collins for property located at the 1280 Hendrix Street containing approximately 0.51 acres from RSF-4, Residential Single Family, four units per acre to RT-12, Residential two and three family. ***This Ordinance was left on the Second Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance.

Jeff Collins property owner gave a brief history of the property. He spoke of the possible financial impact that he could encounter if the City Council does not rezone this property. He stated the zoning for this property was changed by the city without his knowledge after he purchased the property.

Joyce Richards: Voiced her concern about the rezoning of this property. She does not want the property rezoned.

J. B. Hayes: I was disappointed that the Planning Commission was not unanimous in approving something that is already there, by an error that was made in the city. This has multiple units and is already there; you are not going to change it you should correct it to what the city had it zoned at when it was built. It appears to be a serious error on the city's part. I think you should do what is right for the owner and bring it into compliance. The city made the error, they should correct it, if you don't want to correct it pay the owner the difference or buy his property.

Sylvia Schlegel stated that she and her husband are the buyers of this property. She said they can't buy this property unless it gets rezoned. She gave a brief explanation of their intentions for the property if they purchase it. She feels they are the best couple for this project and she wants to be a good neighbor to this neighborhood.

Ramsey Ball representing Mr. Collins and the Schlegel's stated the property is there. He stated if the city doesn't allow the rezoning the property will become run down. He said the land use for the property is appropriate, town homes are an acceptable use within a residential area. The

neighborhood has a mix of apartments, commercial and industrial uses and single family. The best solution is to rezone this property to allow its continued use as it is.

Jeff Collins spoke again on the property being incorrectly zoned when he purchased the property.

Alderman Thiel: Is this the last parcel that has been built out that was in this incorrectly shown zoning?

Tim Conklin: Yes. This is the last one that I am aware of that has been issued permits and built.

Mayor Coody asked how many properties that the city has that have been rezoned and the property owners not notified.

Tim Conklin gave a description of the procedure that was followed when this issue came up.

Alderman Marr: Every vote I think I have voted for concerning property on Hendricks Street has been against rezonings. I thought at the time this is a neighborhood that needs to be protected. The real difference that I see in this scenario is in the entire debate the property we are talking about tonight was used as the example of why this may be compatible. This property was already built on and the other properties that I voted against were a green piece of land in which we were talking about a future development. I do think that is different. I don't think this is going to change the integrity of the neighborhood today at all, its there and it can't be built to any more maximum density because it is already on a half acre. I think there is a financial loss, I think the property owner did their research; they went to the place that you go to get information. I am going to support this rezoning because I think it is the right thing to do. I don't think it can have more of an impact. I am not voting for this because Jeff is in my ward, I am voting for this because I believe it to be the last item around this terrible error and the only item that we've had that is built out, already in existence. We are not talking about something new and a new impact.

Alderman Lucas: This was used as leverage for the rezoning on Garland. That's the thing I think the neighborhood is concerned about, is because once it is rezoned it is going to be leveraged for another rezoning. This is a spot zoning, it is in the middle of a single family neighborhood. It is an unfortunate situation. The residents in that area suffered when it was built nonconforming and now if we rezone it they are going to suffer again. I feel we need to protect these neighborhoods.

Alderman Jordan: I was opposed to this when we voted on it last time and I am opposed to it now. I have always stood for the quality of life of the neighborhoods and I believe that this neighborhood feels they have been invaded by apartments. I do feel like this is spot zoning.

Alderman Thiel: I think the point has been made several times that the apartments are already there, I don't know how changing the zoning is going to affect this. I think there are a lot of legal issues here. I do support neighborhoods but in this case I can't do that.

Alderman Reynolds: What is the staff's position on this?

Tim Conklin: Staff recommended denial, the Planning Commission recommended approval 7-2.

Alderman Reynolds: Why did staff recommend denial if the city made the mistake?

Tim Conklin: Staff was concerned about recommending additional RT-12 zoning in the middle of the neighborhood.

Alderman Cook: I have to agree with Don. There have been times when I have voted to put density in neighborhoods and there have been times when I voted against it. Typically it has been an existing condition where I have supported it in the past and when it's a green fill development I voted against it in the past. If this was an empty lot then I would be voting against it. I think we should protect single family neighborhoods. Seeing how it is an existing condition I struggle with that fact, I don't think we are spot zoning it now, I think it was spot zoned in the past.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Thiel, Cook, Marr, Rhoads and Odom voting yes. Alderman Reynolds, Lucas and Jordan voting no.

Ordinance 4609 as Recorded in the Office of the City Clerk.

ANX 04-1071 (Jones): An ordinance annexing that property described in annexation petition ANX 04-1071 annexing to the City of Fayetteville, Arkansas certain property owned by Vera Jones located south of Huntsville Road east of the Stonebridge Addition, and west of Roberts Road containing approximately 5.66 acres. ***This Ordinance was left on the First Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance

Lou Wilson: It's fine as long as they annex it. My concern is the density that they are proposing and the road that is there right now.

Alderman Thiel: We are looking at both of these properties the Jones and the Ames properties.

Tim Conklin: Yes they are within the same vicinity.

Mel Milholland, Milholland Engineering: There are two small tracts side by side that would have connectivity from the west and the new subdivision over to Roberts Road.

Alderman Thiel: There will be a need for connectivity or an outlet onto Roberts Road.

Mel Milholland: That road will go completely through the project, both tracts together. The existing stub out will be extended to Roberts Road.

Alderman Thiel: Will there be improvements to Roberts Road considered in this project?

Mel Milholland: It is common with the city's design regulations that we improve the part that we touch which is about 300 feet long with curb and gutter and storm drainage.

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

Mr. Williams read the ordinance.

Alderman Thiel stated that when this goes through the large scale development plan through the Planning Commission that is a time that concerns can be addressed about how this is being designed and built.

Alderman Reynolds asked the engineer to please work with the neighbors.

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

Ordinance 4610 as Recorded in the Office of the City Clerk.

RZN 04-1072 (Jones): An ordinance rezoning that property described in rezoning petition RZN 04-1072 as submitted by Milholland Company on behalf of Vera Jones for property located south of Huntsville Road, east of the Stonebridge Addition and west of Roberts Road containing approximately 5.66 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. ***This Ordinance was left on the First Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance.

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

Ordinance 4611 as Recorded in the Office of the City Clerk.

ANX 04-1073 (Ames): An ordinance annexing that property described in annexation petition ANX 04-1073 annexing to the City of Fayetteville, Arkansas certain property owned by the Ames Family Trust located south of Huntsville Road west of Roberts Road containing approximately 1.97 acres. ***This Ordinance was left on the First Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance.

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

Ordinance 4612 as Recorded in the Office of the City Clerk.

RZN 04-1074 (Ames): An ordinance rezoning that property described in rezoning petition RZN 04-1074 as submitted by Milholland Company on behalf of the Ames Family Trust for property located on the west side of Roberts Road south of Huntsville Road containing approximately 1.97 acres from R-A, Residential Agricultural to RSF-4, Residential Single Family, four units per acre. ***This Ordinance was left on the First Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance.

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

Ordinance 4613 as Recorded in the Office of the City Clerk.

VAC 04-1119 (Petrino): An ordinance approving VAC 04-1119 to vacate and abandon 7' of the existing 15' utility easements on the west side of Lot 5B and the east side of Lot 5A as depicted on the attached map and legal description. ***This Ordinance was left on the First Reading at the August 3, 2004 City Council meeting.***

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

Mr. Williams read the ordinance

Alderman Jordan: Shirley and I talked to the neighborhood association there and they don't have a problem with this now.

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 unanimously.

Mr. Williams read the ordinance.

Ed Prince gave a brief history of the project.

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

Ordinance 4614 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Cost Recovery for Street Cleaning Activities: An ordinance amending Chapter 98: Streets and Sidewalks, of the Code of Fayetteville, to provide for the recovery of the costs of removing dirt and debris or tracked upon the streets.

Mr. Williams read the ordinance

Mayor Coody: One question that I have is where it says on the third day shall, is that the language you want in there?

Gary Dumas: May.

Alderman Jordan moved to amend the ordinance to change sub-section B to read may instead of shall. Alderman Reynolds seconded the motion. Upon roll call the motion to amend the ordinance passed unanimously.

Alderman Thiel thanked the staff for bringing this forward.

Alderman Cook: Are we going to fine the developers for this violation?

Tim Conklin: With regard to fines we do not have authority as staff to issue fines. We have the authority to write the letter, send it to the prosecutor, have it prosecuted and the Judge has to set the fine. We are currently looking at what other cities are doing in NW Arkansas.

Alderman Cook: Can we make them stop?

Kit Williams: I think this is probably a good way to handle it. We want to look at an amendment in the future. Should we have any trouble collecting this we might put a condition in the ordinance that if anybody wants to get a permit they can't have any debts like this owning to us.

Alderman Cook: There are certainly reputable developers out there that keep their sites clean and that don't let the dirt leak out of their sites but there are others out there that are horrible. That makes all of them look bad.

Alderman Reynolds: Doesn't our code enforcement officers have the capacity to write a citation?

Tim Conklin: Not with regards to grading or storm water ordinances, only with regard to tall grass, unsafe buildings, junk and debris.

Alderman Reynolds: Maybe we need to change that part of it through the City Council and put this in it so they can go out and enforce the rules.

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

Mr. Williams read the ordinance

Alderman Jordan: This has been a long time coming. This is going to be something that is going to be very useful. I strongly support this.

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

Mr. Williams read the ordinance.

Jeff Erf: I strongly urge you to support this ordinance.

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

Ordinance 4615 as Recorded in the Office of the City Clerk.

VAC 04-1134 (Sang/Hollywood Shakes Building, 520): An ordinance approving VAC 04-1134 to vacate a portion of right of way on the north side of property located at 1050 West Sixth Street as depicted on the attached map and legal description.

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance

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

Mr. Williams read the ordinance.

Alderman Cook: Does this change our appraisal of the property?

Tim Conklin: The appraised value of the property did include the .28 acres which does include this right of way, so the right of way was included in the appraised value.

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

Ordinance 4616 as Recorded in the Office of the City Clerk

VAC 04-1136 (U of A Parking Garage, 483): An ordinance approving VAC 04-1136 to vacate and abandon a portion of right of way for William Street, Buchanan Avenue and two fifteen foot alleys located between William Street and Dickson Street as described on the attached map and legal description. Also, accepting the dedication of easements for Southwestern Bell, the City of Fayetteville, and the public in general, described in the attached easement documents labeled as exhibits hereto.

Mr. Williams read the ordinance

Kevin Beaumont an engineer said the general utility easement for Harmon Avenue did not incorporate public access. We have amended that easement to include a public assess section within it. That has been submitted to the University for their approval.

Within the scope of the parking deck project there is a provision for partial reconstruction of Duncan Avenue.

The U of A has recently commissioned an extensive transportation study to examine pedestrian and vehicle traffic movements around the university campus and beyond.

I would like to request that the ordinance addressing the street vacation be tabled for a period of 90 days or otherwise depending upon your views. This would allow for further dialogue between the city and the university regarding the issue of access to the parking deck and improvements within that localized area. It would also allow time for the transportation study that the university has recently commissioned to examine the issues of access and to come forward with a proposal that would meet your satisfaction. I appreciate the time to discuss this project with you.

Mike Johnson associate vice chancellor for facilities at the university gave a brief description of some of the projects the university is planning for the future. He also gave an update on the

university's transportation study. He spoke of projects that the university and the city can partner on in the future.

Mayor Coody: Thank you we look forward to working with you on this project.

Alderman Marr: While you are adding to your list of things that we can partnership on, I would like for you to add neighborhood compatibility and preservation. We get lots of comments about the university buying properties then tearing down homes and making parking lots. We would like to understand more about your acquisition strategies and how that impacts neighborhoods. Also from our ward we get lots of questions about the university's intent on paying impact fees and being a part of the city impact of our infrastructure.

Mike Johnson: It is not an intent; we are going to pay impact fees. Part of our desire is to make sure we set the right foundation on this first. No one is disputing that we are not going to pay; it is setting the right conditions in place so that as we go into the future we have that standard set.

Alderman Marr: That's good to hear. We would be happy to visit with you anytime for those of you on the east of the Garland area that we represent.

Alderman Jordan moved to table this ordinance until the November 16, 2004 City Council meeting. Alderman Marr seconded the motion. Upon roll call the motion to table passed unanimously.

The ordinance was tabled until the November 16, 2004 City Council meeting.

Shake's Building Sale Solicitation of Bids: A resolution to grant approval to solicit sealed bids from the public to purchase the portion of city property (formerly Shake's Frozen Custard) not used for the intersection improvement on Sixth Street.

Kit Williams stated that the ordinance says that upon affirmative vote by the City Council the city shall solicit bids at a minimum price set by the City Council, bids must equal or exceed the minimum price set by the City Council and the appraised value of the property. You can not set a minimum price below what the appraised value is.

Alderman Thiel: But we can set it at any price above.

Kit Williams: Yes. Since there were two, I chose the higher one, you can choose another figure if you would like.

Mayor Coody: I would suspect that $178,000 would be the minimum is that right?

A discussion followed on the price to set for the property. The Council also discussed having to set a price before the bid and how the bids will be handled.

Mayor Coody: We will leave the bidding open for a month and set the minimum bid at $178,000.

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

Resolution 126-04 as Recorded in the Office of the City Clerk.

Arkansas Highway & Transportation Department Highway 265 Improvements: A resolution expressing the intent of the Fayetteville City Council to participate with the Arkansas Highway and Transportation Department on improvements to Highway 265 from Highway 45 to the northern City limits.

Mayor Coody: We sent a letter to the State a while back to ask them to focus on several priorities, they focused on one priority that we have which is Highway 265. I sent a letter, backed up by a majority of the City Council, wishing that to be their priority. They have the letter and they want a resolution from us that we all agree that this will be the priority.

Alderman Cook: Did we completely abandon the eastern bypass idea?

Tim Conklin: It is shown as a corridor on the map. Have we abandoned it, no it is shown as a corridor on the map, it is something the city will have to work with the Highway Department and Washington County and other communities to make it a reality.

Mayor Coody: We do need to start working with the State on that. We will reintroduce that conservation.

Alderman Marr: What we are talking about tonight has nothing to do with the funding required for this or saying that we are going to pull funding from any other city project just to list this as a priority with the State.

Mayor Coody: This does not discuss funding.

Alderman Lucas: It discusses $7.7 million.

Mayor Coody: We will need to match it, yes. We are committing to a match but we aren't committing as to how we are going to come up with the money, the funding.

Alderman Lucas: Where are we going to get the money?

Mayor Coody: Well there are several options and that is a whole different conservation. We can either strip our capital improvements projects money for a few years or we could reinstitute the ¼ cent sales tax when it falls off the county jail, we could do a property tax increase or we could sale some land. I don't know we have several options that we could do all of which need serious vetting from the City Council and the public. Some would require a public vote.

Alderman Marr: Do we have any idea of timing of that discussion? Do we expect the State to come back in a year or six months?

Mayor Coody: If we did a ¼ cent sales tax that would take about 24 to 30 months depending on the income from the tax. That would take a vote of the public of course. They don't plan on starting this project until 2007, so we have a little bit of time to think about it. It is not an emergency to come up with funding this evening but here in the relatively near future we would need to.

Alderman Marr: This would commit the Council to come up with some type of match.

Mayor Coody: Yes, it could even be Amendment 78 money or things like that too. There are several different options that we could use, maybe even a combination of options.

Alderman Lucas: Does this mean we are going to freeze our improvement funds until we decide where we are going to get the money to match this?

Mayor Coody: I certainly hope not.

Alderman Lucas: You hope not?

Mayor Coody: It's up to Council, I don't want to do that and I don't think the Council does either, that is the least of all attractive options.

Alderman Lucas: We talk about this being a bypass; this is not going to be a bypass because it is an access road. A bypass doesn't have all those streets and developments that enter into it.

Mayor Coody: You are right about that. It is basically a north/south corridor for heavy traffic on the east side of town.

Alderman Lucas: It concerns me with so many other needs that we have in the city that we commit ourselves to this project. It just seems like this needs to go to a vote of the public.

Mayor Coody: If it is a sales tax it probably will. You could also put it to a vote of the public for any kind of a millage increase or anything like that.

Alderman Thiel: I agree with what Shirley said. She discussed some options the residents of this area have asked for so they will have safe access onto Crossover. I am concerned that we are committing the next five years of capital improvement projects.

Mayor Coody: No we are not. Not unless the City Council decides to do that.

Kit Williams: Basically you are expressing your intents. Now obviously if the future council does not come up with the money the State is not going to build it. You are expressing your intent so the State Highway Department will look at it seriously and come back with a proposal. It will still be up to the City Council at that point in time to come up with the matching funds or it won't get built.

Alderman Thiel: We are committing that we want them to go forward with this.

Mayor Coody: Yes that is right.

A discussion followed on the project.

Alderman Lucas: It just concerns me that we are committing ourselves to so much and then we are going to take our capital improvement money, which is what we are thinking about now because we haven't got the vote of the people to do this. I can see us committing to this and then when it comes time to do the streets that we so desperately need in our city then we are going to have to put it to a vote of the people that they are going to have to tax themselves to get their streets fixed. That's what concerns me.

Alderman Rhoads: The resolution specifically states that we are expressing intent and though it may be difficult to express a different intent at a later date, I think we could do that. At least we are moving in one direction to get something done.

Alderman Cook: Just for the sake of having one more round of public contact, I would like to make a motion that we table this to next meeting.

Alderman Cook moved to table the resolution until the September 7, 2004 City Council meeting. Alderman Thiel seconded the motion.

Jeff Erf: Perhaps your resolution might include a statement about the true eastern bypass that was proposed several years ago, there was a major investment study; there were lots of public input taken and lots of public meetings. There was a corridor drawn on the City Master Plan and also a corridor drawn on the Regional Transportation Plan, as a member of the public I would like to know if our intent is to still follow through on that or not. You are just going to add to the congestion on Highway 265.

A couple of years ago we spent $200,000 on a transportation study, part of that study they were to propose a draft for a Master Street Plan, I was just wondering where we were on that. Have you all adopted that yet?

Tim Conklin: We haven't adopted that. Tim gave a summary of where the city is on bringing this forward for adoption.

Jeff Erf voiced his concern in adopting this tonight.

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

Executive Session to consider whether to seek the removal of Fayetteville Housing Authority Commissioner Nancy Bolin.

Alderman Rhoads moved to go into Executive Session to discuss whether to seek the removal of Fayetteville Housing Authority Commissioner Nancy Bolin. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

The City Council went into Executive Session at 10:30 pm.

The City Council returned from Executive Session at 10:47 pm.

Alderman Rhoads: Kit if we vote to charge Nancy Bolin, what is the procedure then?

Kit Williams: Then what I would do is notify her of the potential charges and schedule a hearing date that would be in front of this body, at that point I would bring back whatever evidence there might be related to the particular charge that you all felt was warranted. It would be up to you all to decide whether or not the evidence was sufficient to support potential charges. You would make the determination at that point whether the evidence was sufficient to sustain, if it was then the commissioner would be removed.

Alderman Marr: Is that the last part of the process? Is there an appeal process to the decision of the Council?

Kit Williams: The appeal would be to the court.

Alderman Cook moved to charge Fayetteville Housing Commissioner Nancy Bolin with misconduct based on her convictions on FOIA violations. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

Kit Williams: She has to have notice, copies of the charges at least 10 days prior to the hearing and she has to have an opportunity to respond at the hearing. Do you want to handle this at a regular meeting or have a special meeting to do this?

A discussion followed on the date to have the hearing.

Meeting Adjourned at 10:55 pm.

Sondra E Smith

Sondra Smith
CityClerk