

A MEETING OF THE FAYETTEVILLE CITY COUNCIL

A meeting of the Fayetteville City Council was held on Tuesday, January 6, 1998, at 6:30 p.m., in the Council Room of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

PRESENT: Aldermen Stephen Miller, Kit Williams, Len Schaper, Heather Daniel, Cyrus Young, Randy Zurcher, and Donna Pettus; City Attorney Jerry Rose; City Clerk/Treasurer Traci Smith; staff; press; and audience.

ABSENT: Mayor Fred Hanna, Alderman Trent Trumbo

Alderman Williams, acting as Assistant Mayor, called the meeting to order with seven aldermen present.

CONSENT AGENDA

Alderman Williams introduced consideration of items which may be approved by motion or contracts and leases which can be approved by resolution and which may be grouped together and approved simultaneously under a consent agenda:

- A. Minutes of the December 16 regular City Council meeting.
- B. A resolution approving an engineering contract with Anderson-Green Engineers, Inc., in an estimated amount of \$30,500 for engineering services in conjunction with the proposed HVAC system upgrade project;

RESOLUTION 1-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

- C. COPS MORE Grant; removed from consent agenda; now first item of new business.
- D. Approval of the application for continuation of the Federal grant to support the Fourth Judicial District Drug Task Force and a funding resolution in the amount of \$42,247.00;

RESOLUTION 2-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

- E. A resolution approving the acquisition (\$50,000) plus closing costs for the property and improvements from the estate of Ella Elizabeth Caudle located at 295 North Crossover Road in association with the widening of Highway 265 and approval of a budget adjustment;

RESOLUTION 3-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

Alderman Miller moved the consent agenda. Alderman Schaper seconded. Upon roll call, the motion carried on a vote of 7 to 0.

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OLD BUSINESS

ANNEXATION RZA97-17 & REZONING RZ97-20

Alderman Williams introduced ordinances annexing and rezoning 76.95 acres located north of Mission Blvd. and east of Blue Mesa Drive as submitted by Marc Crandall on behalf of Gary Atha. Request is to annex the property and rezone it from A-1, Agricultural, to R-1, Low Density Residential. These ordinances were left on first reading at the December 16 Council meeting.

City Attorney Rose read RZA97-17 for the second time.

City Attorney Rose read RZ97-20 for the second time.

Alderman Daniel stated her objection remains that there is only one access at this point.

Mike Henry, president of the Savannah Property Owners Association, stated his concerns primarily regard infrastructure. He stated Vandergriff Elementary School is at capacity. He is concerned about what impact the 160 homes proposed for this development will have on the already crowded conditions of that school. He asked what plans the City has to deal with this.

Alderman Daniel responded that the new middle school will ease school crowding.

Alderman Pettus added that a school board member has indicated to her that school district lines will eventually have to be redrawn. She felt this will be done whether the Council approves the annexation or not.

Mr. Henry stated issues concerning the sewer system are still unresolved.

Alderman Williams agreed this is a concern, but the City is taking measures to reduce inflow from storm water.

Alderman Miller stated one of the major problems is accumulation, but this is a straight shot and doesn't go through any pump stations. He stated there is a water pressure problem in this area and construction of a water tank is planned for this year.

Mr. Henry asked if there is a proposed access point off Township.

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Alderman Williams replied there are several possible access points. The developer does not own the land between the end of Township and this property. Township would have to cross one or two creeks, making it extremely expensive. It is not in the City's capital improvement project list. It would almost have to be 100% paid by the developer.

Mr. Henry asked if Township were used, would public funds to build the bridges not be a consideration.

Alderman Williams could not rule anything out, but stated it is not on the five-year plan at this time.

Kevin Crosson, Public Works Director, agreed.

Robert Dunn, president of the Brookbury Woods Property Owners Association, stated the Association has the same concerns as Mr. Henry regarding infrastructure. He stated they are also concerned that the proposed development is inconsistent with Brookbury as far as the size and price of homes. He stated their main concern is the suggestion that Brookbury Crossing would be extended for through traffic to this new development. Adding 200 to 400 more vehicles would be a significant traffic and safety problem, especially to children walking to the school bus.

Alderman Schaper stated the presence of a stubout indicates it is meant to be connected.

Jill Salazar, Brookbury Woods, commented on water runoff. She stated the creek behind her home was recently raging and flooded neighboring back yards and homes. She stated increased high density building will make this worse. She stated the road structure will not accommodate the increased traffic volume, as it is a narrow entryway.

A resident of Brookbury Crossing stated a housing development not of the stature of what Savannah or Brookbury is concerns him from the standpoint of land value. Putting in a housing development of lesser value doesn't help the City or either development.

A member of the board of directors of the Savannah Homeowners Association stated this type of density is not why current residents moved to this area. He stated there has been very little effort to contact the associations and discuss what is being put in. He stated there are four or five subdivisions along Mission Blvd. that are not even close to being built out and asked why the City continues to approve developments. If all these lots are sold in the next year, it would be a problem for the sewer system and infrastructure.

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Alderman Williams reiterated there is no proposal to extend Township by the City.

Glenn Johannsen, Timbercrest, addressed building lower cost housing. He stated he'd lived in a very nice community in southern California where a developer went broke after starting out building high density housing, primarily because the area didn't accommodate that type of family structure. Existing property values began to decline. He shared concerns about existing unsold property.

Marc Crandall, representing Mr. Atha, stated the annexation and rezoning decision is not supposed to have anything to do with what is planned for the property. He stated there are misconceptions of what is planned. He took exception to the suggestion that they have been hiding from adjacent and nearby property owners. He stated they are trying to get beyond this process in order to get to the proper forum for addressing problems and concerns. He stated the smallest lot is planned to be 90' by 130' and the development is patterned after the Brookbury subdivision.

Alderman Zurcher stated the Council cannot ignore the issue of the cost of sprawl on infrastructure. We can't just annex and rezone and hope it is taken care of.

Alderman Williams stated he has concerns regarding access to more than just Mission Blvd. and the fact that we are pushing the upper limits of the sewer system. If land is annexed, there must be a strong reason why it is good for Fayetteville.

David Glasser, University of Arkansas Community Design Center, stated they'd been working with Mr. Crandall and his partners on this project. He stated they are against urban sprawl and are for urban density. The inner-city site should be developed with compactness and as a pedestrian environment. Fayetteville has not developed that way. The vast number of people in the market seem to prefer the detached home in a suburban setting. This project is commendable, as the developers came to the Center with the view to establish a level of quality and land conservation not typical of most new developments. Twenty percent of the land is being saved in perpetuity, and a section is being developed along the lines of the historic district downtown. This project will be a model for a new kind of development.

A resident of Brookbury Crossing, thinking the Council has already decided in favor of this, limited his remarks to a question. He asked the if the Council is prepared to put enough police out there to protect the children on Brookbury Crossing, if it is extended.

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Alderman Williams stated the City always tries to do what is possible with the police department to enforce the law. There are families with children throughout the town. He stated it is a misconception that this is a done deal. The Council has shown that they look at these developments very carefully. The Council does not automatically accept the Planning Commission's recommendation.

Don Cozart stated he has a financial interest in this project. He stated an adequate need for this project could be demonstrated. Nearly half the lots are presold, meaning there are letters of intent from builders if this is annexed and rezoned. He stated there are people pre-committed, at one point in excess of 70 of the 160. He stated this subdivision will blend in well.

A resident of the Timbercrest subdivision stated he has yet to receive a letter from anyone indicating this land will be developed and has learned about it from the newspaper. He is concerned about the traffic at the intersection of Highway 45 and Highway 265 in the mornings. He stated the people of Timbercrest are concerned about drainage issues and problems.

Tamara Greene, Savannah subdivision, stated the major part of this development borders Savannah. The density will create a patchwork effect and not be in line with what is already there.

Alderman Williams closed the public hearing and explained that the third and final reading would be at the next meeting.

COPS MORE GRANT

Alderman Williams introduced a resolution accepting the COPS MORE Grant in the amount of \$80,999 for the purchase of mobile computing equipment, the hiring of a civilian report taker, and approving a budget adjustment.

Rick Hoyt, Assistant Police Chief, stated this was applied for in late 1996. Approval was received in late 1997. This will increase productivity by getting more officers on the streets through hiring civilians and increasing technology. The technology dovetails with a computer project approved earlier. He explained what mobile computing terminals are. This will free up overworked radio channels and speed up the process. The grant will also fund a civilian report taker, which will free up detective time.

Alderman Williams stated this is a good idea and noted civilians do not cost the City as much as uniformed officers.

Alderman Miller stated this would enhance the safety of our officers, especially when approaching cars at night.

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Alderman Daniel hoped this would help prevent high-speed chases.

Officer Hoyt stated other police departments have had their recovered-stolen-vehicle ratio go up tremendously because of having laptops in the police cars.

Alderman Schaper moved the resolution. Alderman Miller seconded. Upon roll call, the motion carried on a vote of 7 to 0.

RESOLUTION 4-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

REZONING RZA97-24

Alderman Williams introduced an ordinance annexing 1.68 acres located at 4015 East Huntsville Road as submitted by William Greenhaw on behalf of Wanda Sims. The Planning Commission voted 8-0-0 to recommend the annexation.

City Attorney Rose read the ordinance for the first time.

There were no comments from the audience.

Alderman Williams noted this is bounded by property recently annexed by the City and by other City property.

Alderman Schaper moved to suspend the rules and go to the second reading. Alderman Miller seconded. Upon roll call, the motion carried on a vote of 7 to 0.

City Attorney Rose read the ordinance for the second time.

This was left on its second reading.

REZONING RZ97-25

Alderman Williams introduced an ordinance rezoning 1.68 acres located at 4015 East Huntsville Rd. from A-1, Agricultural, to R-1, Low Density Residential, as requested by William Greenhaw on behalf of Wanda Sims. The Planning Commission voted 8-0-0 to recommend the rezoning.

City Attorney Rose read the ordinance for the first time.

Alett Little, Planning Director, stated there is a house on the front part of the property, which is already in the city. The part being discussed for annexation/rezoning is vacant. The total acreage is about 3 acres, as a guess. The parcel already in the city is zoned R-1. The petitioner has already applied for and received a lot split to separate this from the piece in the city. The 1.68 acres is not adequate to meet the A-1 lot size. When the

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street is built for a nearby subdivision, the petitioner will likely undertake a small development on this, one or two lots.

Alderman Miller moved to suspend the rules and go to the second reading. Alderman Daniel seconded. Upon roll call, the motion carried on a vote of 7 to 0.

City Attorney Rose read the ordinance for the second time.

This was left on its second reading.

EQUIPMENT PURCHASE

Alderman Williams introduced a resolution awarding Bid 97-60 to the qualified bidder meeting specifications, Shipley Motor Co., for the purchase of a cement truck in the amount of \$130,317 and approving a budget adjustment.

Alderman Miller, chairman of the Equipment Committee, stated this is an unusual situation, as this was the highest bid. There were five bids for this unit. One was rejected for not meeting specifications. He showed a belt chain from a rejected unit and compared it to what they are proposing to buy. He explained how this will save money, be able to mix on demand, and pay for itself quickly. It is rare to take the highest bid, but the Committee all agreed that this is the best purchase from what there was to pick from.

There were no comments from the audience.

Alderman Zurcher moved the resolution. Alderman Schaper seconded. Upon roll call, the motion carried on a vote of 7 to 0.

RESOLUTION 5-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

WATER & SEWER SYSTEM IMPROVEMENTS

Alderman Williams introduced a resolution approving a construction contract with Fayette Tree and Trench in the amount of \$115,489.50 plus a project contingency of \$20,000 for water and sanitary sewer system improvements on Sherman Ave. and Fifth St. and approving a budget adjustment.

Kevin Crosson, Public Works Director, reminded the Council that in November, 1996, it approved a resolution for the participation with Habitat for Humanity in a cost share for water and sewer improvements. This resolution is for the City to manage the contract.

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Jim Beavers, City Engineer, stated Habitat for Humanity is building four or five homes. This will add fire protection to an estimated 15 houses.

Alderman Daniel moved the resolution. Alderman Young second. Upon roll call, the motion carried on a vote of 7 to 0.

RESOLUTION 6-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

ALDERMEN/STAGGERED TERMS

Alderman Williams introduced an ordinance to bring aldermanic elections into compliance with State law requiring staggered terms.

Alderman Williams stated the City Attorney had been asked to prepare an alternative ordinance, which would also comply with State law.

Alderman Schaper stated that now that Fayetteville has more than 50,000 people, we have to do something about our 1998 election. He stated the State law is confusing in that it requires a transition from two-year terms to four-year terms for aldermen. The four-year terms are supposed to be staggered, one from each ward being elected each two years. There is no provision, according to Attorney General opinion, that specifies how that is to happen. There is a precedent for what this ordinance proposes, Act. 707 passed by the State legislature pertaining to mayors. The term length for mayors doesn't change, but the year of election changes to the presidential year. The State legislature extended mayors' terms through 2000. Based on that, one way to do the transition we need to make would be to extend half the aldermen's terms for two years. The philosophy is that people should not have to run for terms less than they are entitled to.

Alderman Schaper stated the Attorney General has said State law is silent on how the aldermanic elections are to be handled and it is left to the City to figure out.

City Attorney Rose agreed with Alderman Schaper's remarks. He added that a similar situation occurred when the City changed from the a city manager government to the aldermanic form. Then, the legislature chose to provide that staggering be determined by lot, providing a two year election for some and a four year election for others. The alternate ordinance provides for the two-year and four-year terms.

City Attorney Rose read Alderman Schaper's ordinance extending some terms until 2000.

Alderman Williams stated he would prefer not to extend terms.

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Alderman Daniel stated voters should have an option.

Alderman Pettus disagreed that applying Act 707 is in the public interest; it is in the public interest for everyone to run the next time.

Alderman Miller stated he would be uncomfortable if his term is extended two years without a vote of the people.

Alderman Zurcher stated it is most undemocratic to automatically extend terms.

Alderman Young opposed the extension of terms to accomplish the staggering and opposed even having four year terms for aldermen. Extending the terms would mean half the Council is unelected. The people would be denied their right to elect their government.

Ben Ross, citizen, stated he treasures his right to vote and is upset about Act 707, which extends the terms of the Mayor and City Clerk. As a voter, he has been cut out of the loop and the electoral process was suspended. He has been researching this act regarding its effects and the reasoning behind it. He has discovered that Act 707 was created to answer two questions. Regarding whether a special census qualifies as a Federal census, the Attorney General's opinion is that it does not. Act 707 serves to include a special Federal census in the term Federal census. That brings in Fayetteville. Regarding how a city is to make the change, Act 707 says the equitable thing to do is to extend the terms rather than elect shorter intermediate terms. Mr. Ross stated he does not understand how it is more equitable to skip an election without consent of the voters.

Mr. Ross asked the Council not to vote for Alderman Schaper's ordinance. He stated City Attorney Rose's ordinance is closer to what we need. It does lack the Council taking a stand on Act 707. He would like the Council to support an ordinance requesting the Mayor and City Clerk to voluntarily submit to a re-election at the expiration of their terms.

Alderman Williams stated this is not the subject of this agenda. He explained that the State legislature is above city government. The Council cannot tell them to do anything or do anything contrary to what we've been told to do.

Mr. Ross stated the State legislature does not meet until 1999. This gives us no recourse through the State legislature, which is a circumvention of democracy. He asked the City Attorney to comment on possible resignations of the Mayor and City Clerk.

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Rose responded there are statutes on what happens when a mayor resigns and for when a city clerk resigns. In most cases, a special election would take place. This does not pertain to what to do with the aldermen.

Alderman Williams stated further comments about the legislative act would be out of order.

Mr. Ross stated he has drafted an ordinance to accomplish what he has suggested.

Alderman Williams advised Mr. Ross to approach an alderman prior to the next agenda session.

Alderman Daniel suggested giving copies to the City Clerk to distribute to the aldermen.

Jeff Erf, citizen, urged the Council to oppose Alderman Schaper's ordinance and wished Mayor Hanna was present to hear the Council's comments regarding Act 707.

Alderman Schaper stated he agrees with the Council that this would be a lousy ordinance. He stated he proposed it in order to bring up the issue. He stated he would be happy to withdraw the ordinance and have City Attorney Rose read the alternate ordinance.

Alderman Pettus moved to table Alderman Schaper's ordinance. Alderman Zurcher seconded. Upon roll call, the motion carried on a vote of 7 to 0.

City Attorney Rose read the alternate ordinance, which provides for one alderman from each ward to be elected to a four year term and one alderman from each ward to be elected to a two year term in 1998, for the first time.

Alderman Miller moved to suspend the rules and go to the second reading. Alderman Zurcher seconded. Upon roll call, the motion carried on a vote 7 to 0.

City Attorney Rose read the ordinance for the second time.

Kinley Johnson, resident of Fayetteville, stated he took offense at Alderman Schaper's taking up time with an ordinance he did not fully support.

A consensus of opinion left this on its second reading.

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HIGHWAY DEPARTMENT

Alderman Williams introduced a resolution concurring in the Arkansas Highway and Transportation Department's proposed design of State Highway 265.

Charles Venable, Assistant to the Public Works Director, stated the State highway department held a public hearing in April, 1996, where they had proposed a five-lane segment from Highway 45 to Highway 16. Most people were opposed to that design. The City received a letter just before Christmas saying the State now proposes to build a four-lane section from Highway 16 north to somewhere in the vicinity of Lovers' Lane and left-turn lanes at major street intersections. They are proposing a five-lane section from just south of Lovers' Lane north, because of the number of intersections. The five lanes will be four lanes with a continual left turn. Venable stated the City is going to ask the State to add a right-turn lane to Highway 16. We will also ask them to widen Highway 45 a little.

Alderman Pettus relayed a constituent's concern regarding turning left out of Highland Park in the morning, going toward Happy Hollow School. There is a blind spot there because of the grade. Venable stated the State should look at this. He stated he would mention this along with other issues that have been discussed, sidewalks being one of them.

Alderman Schaper stated it is very clear the State is not going to build a boulevard. There should at least be a median between the sidewalk and the asphalt and the City should be allowed to plant some trees in that space. He feels this needs to be made clear to the State.

Venable agreed to pass this along to the State.

Alderman Williams stated this will lend itself to a trail away from the road but parallelling it.

Alderman Schaper stated the five lanes the State originally wanted to put in would cost more than four lanes and take the same amount of right of way as the Council is asking to be included in the amenities.

Alderman Williams thanked the State highway department for modifying their plans to make them much more desirable to the City and to citizens.

Alderman Schaper also expressed his appreciation of the State highway department. He stated there is a qualitative difference between a four-lane road and a five-lane road. We have managed,

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with the cooperation of the State highway department, to save the residential character of that corridor.

Alderman Zurcher asked if there has been any negotiations regarding cost share for putting a planting median in the middle and trees on the side, which is what the Council voted for and the majority of the people at the public hearing voted for.

Kevin Crosson, Public Works Director, replied that the City did try to talk to them about the project. The State highway department would not discuss it after the public hearing.

Alderman Zurcher stated it is important to point out we are compromising to the point of doing something completely different from what the people want.

Alderman Williams stated that staff never had authority to ask for a cost share.

Alderman Zurcher recommended not passing this at this time, allowing plenty of time for discussion.

Venable stated he does not know when the contract will be let. The Federal Aid Highway Act has not been passed, but they have indicated they would probably try to go to contract in 1999. It will take a year to get the rights of way and everything worked out.

Alderman Williams stated we have to support this or we would be shooting ourselves in the foot and create terrible transportation problems. Many citizens have said we have to do something about the road. Here, the State highway department is going to do it and we are considering delaying or telling them we don't want to do it. We ought to pass this resolution. He stated he would be in favor of spending City money to build a trail, possibly on only one side, even if the State won't participate. He felt if we maintain good relations with the State highway department, they will work with us.

Jeff Erf, 2711 Woodcliff Road, stated the five-lane road design speed was 40 miles an hour. Planting trees is not a problem, as long as there is a gutter. He stated the City's master bike plan shows a bike lane there.

Alderman Miller agreed about the bike plan and stated this is what the Council is fighting for.

Mr. Erf stated he is not in favor of the State highway department's design. He asked if we should not be protecting the right of way for the eastern bypass.

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Ian Beard, 1365 Vandeventer Ave., stated there has been a history of bad ideas for Highway 265. He stated widening Highway 265 instead of following the 2020 Plan is another bad idea. We need to keep our city from becoming ugly.

Mike Green, chairman of the Fayetteville Chamber of Commerce, urged the Council to move ahead and not miss this opportunity and not alienate the highway department.

Mr. Erf stated speed is associated with noise and hoped the design will be 40 miles an hour.

Venable stated the speed can be determined after the road is opened.

Becky Maxwell, 1125 Crossover, stated that a median would prevent her from turning north coming from her driveway. She realized something needs to be done. She asked who has the authority to decide which side of the street this property is going to be taken from.

Alderman Young replied that each individual parcel is considered by the highway department.

Ms. Maxwell stated a speed limit higher than 40 miles an hour would be a nightmare. She also hopes that mature trees would not be taken down and fears citizens' voices will be lost. She asked how the property is taken and about the utility poles.

Alderman Miller replied they usually try to take property evenly. In this case, one house will have to be removed. The utility poles are pretty far off.

Venable further answered her question regarding the utility poles.

Mike Maxwell, Crossover, stated he inspected the plans for the boulevard when it was first proposed and it seemed there were some inequities on the right of way. There was about 10' of right of way taken on the east. On the west, there was about 75' with a back fill. It takes out 10 or 15 trees. He stated the highway department said it would be the same for four lanes, as far as the rights of way. He asked if a request could be made to ensure fairness.

Alderman Williams assured him those kinds of requests will be made, to make it as equitable as possible.

Alderman Schaper asked if the Council wants to add additional language to the resolution to indicate our wishes, making them stronger than just verbalized.

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Alderman Williams stated we need to work with the highway department, but we can't dictate to them. They have complied to some extent with our desires and concerns. He stated he would rather go forward with the resolution.

Alderman Pettus moved to pass the resolution. Alderman Young seconded. Upon roll call, the motion carried on a vote of 6 to 1, with Alderman Zurcher voting no.

RESOLUTION 7-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

CONDEMNATION

Alderman Williams introduced a resolution authorizing the City Attorney to seek condemnation of certain lands along Gregg Avenue in Fayetteville and Wilkerson Avenue in the City of Johnson, Arkansas, in conjunction with the required right of way and temporary easements for the Mud Creek Bridge improvement and approaches thereto.

Alderman Pettus stated she would be recusing from this issue because of an attorney-client relationship with one of the parties.

Charles Venable, Assistant to the Public Works Director, stated this is the Mud Creek Bridge project. It is a Federal aid bridge-replacement project. The plans are finished. The highway department will let this job in February. There is a one-lane bridge there now with around 7,000 vehicles a day using it. This will provide for four lanes. We have to condemn because of the time frame. There are nine properties and we have acquired five of them. The right of way has to be certified by January 15, 1998. The next letting is in April. Chances of them completing the project this year would be slim if we wait until then.

City Attorney Rose explained that the City goes to the court to get possession of the property. We then deposit the money we think the property is worth into the court. The landowner at that point can collect that money, continue negotiations, or go to court.

Venable stated the highway department has done the appraisals and the negotiations. We have accepted the appraisals, but citizens can get a counter-appraisal.

Alderman Schaper discussed each tract individually. The value of Tract 1 is being greatly increased and we should not be paying anything for it. Tract 2's owner is unknown and it is vacant. The third tract is also vacant. The fourth tract has a brick house 120' from the existing road, a very different case from taking vacant property. In this case, we are taking almost half the front yard. He stated the letter offering \$5,600 for the realty and \$0

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for damage is insulting. They have to relocate their driveway and parking area, and this seriously impacts their quality of life. This offer should be raised.

Venable stated this could be done after the condemnation procedures.

Alderman Williams stated this project needs to be done before the next holiday shopping season, when citizens don't want to have a one-lane bridge, or no bridge, over Mud Creek. The issues brought up are handled either by negotiation or in court.

Alderman Young stated the problem is if it doesn't come back to the Council.

City Attorney Rose stated anyone who has his land condemned has a right to just compensation. He tells juries nobody in city government wants to pay a penny less than what is just; it is Constitutionally required. He also tells juries to balance that against the fact that he is dealing with tax dollars, which have to be spent carefully. He stated he, as an attorney, is ethically obligated to bring to the Council every settlement offer.

Tom Bramlett, tract 4 property owner, stated that over the past two years he has met with City officials and was assured that every one of his concerns would be met. Now that it comes time to do the project, the assurances have been tossed out the window. He stated there has been no negotiation process. He has been offered one price. He stated this price is deceptive as it includes \$1,700 for a concrete turn-around. The actual price of the land is a little over \$3,000.

Alderman Williams asked what kind of assurances Mr. Bramlett had been given and who had given them.

Mr. Bramlett stated some of these people are not with the City any more, people in the engineering department. He stated that when they built Joyce Street, one concern was water runoff. As they were building it, he was flooded several times. He has replaced damaged siding and should have replaced carpet. He had pictures of washed-down gravel that had filled his yard and boards and other debris. He stated the City has built a drain which has helped. People have driven through his yard. There is a concern that in icy weather, cars will slide into his house. He stated he was told that nothing could be done because of possible legal ramifications. He stated since they took the turnout, he wanted it replaced and was told the City would do so. When his wife had a day care business there, they were told a privacy fence would be built.

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Mr. Bramlett stated that when he was originally approached, he had no qualms that the road needed to be built and it looked like the City would make every effort to work with him. Since then, he has been ignored and just told what is going to happen.

Alderman Williams stated that even if the condemnation goes forward, it does not mean there is no negotiation. He stated Mr. Bramlett is free to provide any evidence of damages suffered that the highway department did not take into account.

Mr. Bramlett stated no one has approached him and given him an opportunity to negotiate. He stated he had made a counteroffer. He stated the lady at the highway department said she was authorized to go 10% above the original offer.

Alderman Williams encouraged the Council to go forward and vote. A one-lane bridge is very dangerous and we need to replace it. The traffic on that road seems to be increasing dramatically.

Alderman Young moved the resolution. Alderman Daniel seconded. Upon roll call, the motion carried on a vote of 4-2-1, with Aldermen Schaper and Zurcher voting no and Alderman Pettus abstaining.

RESOLUTION 8-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

NOMINATING COMMITTEE

Alderman Williams introduced a resolution making the Nominating Committee a committee of the whole of the Fayetteville City Council.

Alderman Zurcher stated the Nominating Committee is one of the most important committees the City has. The four-member committee puts forth nominations to the Council as a motion, so there is no discussion at the Council meeting. He is concerned that because there is no discussion, this is not as democratic as it should be and does not represent the full populace of Fayetteville.

Alderman Daniel, chairman of the Nominating Committee, stated having the whole Council be the committee would make it not a committee. She stated her goal is to choose the best qualified applicant and to keep a balance. The process allows an alderman to vote against a nominee or to nominate someone else who has submitted an application.

Alderman Miller stated he has taken any concerns he's had about a nomination to the Committee and made recommendations. He stated he is on six or seven committees now and does not want to be on this one.

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Alderman Zurcher asked what it would hurt to change this to a committee of the whole or to allow any alderman to have a vote on the Committee. It would not be unusual for an important committee.

Alderman Schaper stated paperwork for the applicants gets circulated only to the Nominating Committee. It is the ultimate in a democratic process to have everyone on the Council be on the Committee. He stated part of the problem is that the Mayor has selected the members of the Nominating Committee.

City Clerk/Treasurer Traci Smith stated a list of applicants is given to each Council member every time there is a vacancy. The applications are available for review at any time.

Alderman Daniel stated anyone is welcome to attend the Committee meeting and have input. It is a public meeting.

Alderman Zurcher stated minutes are not kept and it is not on television. There is no way to find out what happened.

Alderman Williams pointed out this is true of most of the committees.

Alderman Zurcher suggested every public meeting should be on television or have minutes. There should be a record.

Alderman Schaper felt having interviews televised might have a chilling effect on applicants.

Alderman Young stated that though technically an alderman could make another nomination, first it is the Nominating Committee's recommendation that is voted on. If it is passed, there are no more nominations. He suggested trying it this way for a year.

There were no comments from the public.

Alderman Daniel suggested waiting until Alderman Trumbo, who is a member of the Nominating Committee, was present.

Alderman Daniel moved to table the motion. Alderman Miller seconded. Upon roll call, the motion failed on a vote of 4 to 3, with Aldermen Schaper, Young, and Zurcher voting no.

Alderman Zurcher moved to pass the resolution. Alderman Schaper seconded. Upon roll call, the motion failed on a vote of 3 to 4, with Aldermen Miller, Williams, Daniel, and Pettus voting no.

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PARKING REOUIREMENTS

Alderman Williams introduced an ordinance repealing Ord. 3962 (parking waivers in C-3 and C-4) and adopting sections of Ord. 3870, repealed by Ord. 3962, thereby returning parking requirements in C-3 and C-4 to the original requirements in Ord. 3870.

Alderman Young explained that a year or two ago, merchants on Dickson Street came to the City concerned about parking requirements. Any time a building was redone, they had to get a variance. There were a lot of meetings, the result of which was an agreement and new ordinance. The agreement was basically that the parking around Dickson at the time was adequate to serve existing buildings and an ordinance would eliminate the requirement for waivers. Any new construction or enlarging of buildings would need new parking.

Alderman Young stated there has now been brought forward a proposal by a developer who doesn't want to build parking places for the development, contrary to the agreement. He suggested eliminating the agreement and going back to the original ordinance. Then each developer could come forward for a request for variance. He stated the developer claims to want to make a partnership with the City to redevelop.

Alett Little, Planning Director, stated the ordinance allows a request for waiver only in C-3 and C-4, with two conditions: either they pay an in-lieu fee of \$1,200 for each parking space waived or they present a document providing for shared parking.

Alderman Schaper stated the interesting issue is in the case of mixed-use development, when there is an inherent shared use.

Little stated this is addressed as well in the Code of Fayetteville.

Alderman Williams stated this development presents a problem not anticipated. That is when parking is built over current parking.

Little stated that in C-3 and C-4 zoning districts, parking requirements are waived for any existing structure with a change of use. Parking will be provided for new construction. This has been interpreted to mean you have to replace the parking spaces you take and provide parking for the space you are adding. She stated there are two ways of figuring it: count the parking that is there and add what needs to be added or look at the entire development and calculate the parking for that. Whichever is less should be adequate.

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Alderman Young stated it was his understanding that the waiver provision does not apply for Dickson Street.

Bootsie Ackerman, Downtown Dickson Enhancement Project, stated the intent of the original ordinance was to stimulate private investment on Dickson Street. It has done this very, very well. There is a process for this developer to go through that he has not been through yet. This may not be a problem at this point in time.

Alderman Young agreed to not having the ordinance read at this time. He may bring it up another time.

ADJOURNMENT

Alderman Williams adjourned the meeting at 10:20.