A MEETING OF THE FAYETTEVILLE CITY COUNCIL

A meeting of the Fayetteville City Council was held on Tuesday, February 3, 1998, at 6:30 p.m., in the Council Room of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

PRESENT: **Mayor Fred Hanna; Aldermen Heather Daniel, Cyrus Young, Randy Zurcher (arrived late), Trent Trumbo, Donna Pettus, Stephen Miller and Kit Williams; City Attorney Jerry Rose; Deputy City Clerk Jane Heth; staff; press; and audience.**

ABSENT: **Alderman Len Schaper**

Mayor Hanna called the meeting to order with six aldermen present.

CONSENT AGENDA

Mayor Hanna introduced consideration of items which may be approved by motion and 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 January 20 regular City Council meeting;

B. A resolution approving a contract with Garver & Garver Engineers for conducting a study of the electrical problems with the airfield lighting system. With FAA funding and grant funding, the cost to the City will be $1,635.

RESOLUTION 12-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

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

OLD BUSINESS

PROPERTY ACQUISITION & SALE

Mayor Hanna introduced a resolution approving the sale of 20.6 acres located at the southeast quadrant of the intersection of Cato Springs Road and Razorback Road; approving the acquisition of 14.02 acres of land near the City's Happy Hollow Operations Facility; and approval of a budget adjustment recognizing the sale of the land, the acquisition of land, and a commitment for the replacement of current facilities. This resolution was tabled at the January 20 Council meeting.

Don Hammond, of Austin, Texas, stated this is a partnership of two companies. This partnership has been in existence 25 years and has built 22,000 multi-family units and currently manages about 10,000 in 15 states. He stated their efforts are directed at all facets of multi-family housing. They build conventional housing, affordable housing, student, and retirement housing. He referred to a booklet that showed a rendering of one of the properties being built. He listed several universities where they are now building.

Mr. Hammond stated they are attracted to student housing because there is a need. The housing around major universities has grown old. They try to come into major universities and thriving communities and build a 90s project, to offer a difference to the students. They have looked at a number of sites here and think growth should happen in the south part of the city. They originally did not want to buy all this property. They made an offer on just a portion and were told that the City would not sell just part of the tract.

Mr. Hammond stated they do very sparse projects. Typically, they build 10 to 15 units to the acre. In this situation, they will end up with less than 10 units to the acre. This will probably have 160 to 180 units. There will be a lot of room for a park like setting. They heavily landscape and have all the amenities that students want, from computer rooms to enough telephone lines to a big community room and a big pool. Because they are buying twice the land they really want or need, the amount per unit is one of the highest they have ever paid.

Mr. Hammond stated having people come into the city and seeing this kind of residential property may serve as an example for future development.

Alderman Williams agreed this would be a good entry into Fayetteville. The City wants this land to be residential and not commercial.

Alderman Daniel asked if there has been any response to the notice in the paper about this.

Ben Mayes, Administrative Services Director, stated the City did not receive any calls as a result of the ad. There were two other calls from adjoining property owners. One was concerned that their property would remain commercial. The other supported this sale. Mayes reported he'd had a visit from someone else to point out there is other land in the area. The property across from Campbell's has been considered but is not wanted.

Alderman Pettus asked if this sale is contingent on rezoning to R-2 and are we committing to buying the 14 acres near the Happy Hollow facility.

Mayes replied it is and that we are asking for a budget adjustment and a commitment to allow the City to go ahead and make offers on those pieces of property. We will make offers based on our appraisals.

Kathleen Randall, Children's House, stated they have outgrown the facility and were beginning to make plans for expansion. A major concern is to make a seamless transition.

[Alderman Zurcher arrived.]

Alderman Trumbo asked how the City could be protected should they go forward and the deal fall through.

Mayes stated we would ask for a third-party escrow account from after the end of the feasibility point until the closing and the interest earnings would be to them. The $1.1 million would be the City's once we vacate the property, which is our incentive to move fast.

David Jurgens, Water & Sewer Superintendent, stated they have identified the need for bigger space. The current facility is not adequate for storage. The move will be a challenge, but it can be done. Architect selection might have to be fast-tracked and other things pushed through quickly. There may need to be a budget adjustment to do this project a couple of years before planned, but it is a need that has already been identified.

There were no comments from the audience.

Alderman Williams moved the resolution. Alderman Miller seconded. Upon roll call, the resolution passed on a vote of 5 to 2, with Aldermen Young and Zurcher voting no.

RESOLUTION 13-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

REZONINGS RZ97-22.10 & RZ97-23.10/KHAJEHNAJAFI

Mayor Hanna introduced an ordinance rezoning 5.61 acres located on the north side of Wedington Dr. west of Rupple Rd. from A-1, Agricultural, to R-O, Residential-Office, as requested by Lew Steenken on behalf of Shahryar Khajehnajafi. The Planning Commission voted 5-2-0 to recommend the rezoning.

Mayor Hanna explained this item is basically the same as the next item. It is adjacent property, split by a street.

Mayor Hanna introduced an ordinance rezoning 3.24 acres located on the north side of Wedington Dr. west of Rupple Rd. from A-1, Agricultural, to R-O, Residential-Office, as requested by Lew Steenken on behalf of Shahryar Khajehnajafi. The Planning Commission voted 6-2-0 to recommend the rezoning.

City Attorney Rose read RZ97-22.10 for the first time.

City Attorney Rose read RZ97-23.10 for the first time.

Alderman Daniel stated the petitioners originally asked for C-1 and are willing to settle for R-O. This is an appropriate area for this type of zoning.

Alderman Trumbo asked about the dissenting votes on the Planning Commission.

Alett Little, Planning Director, stated their reason for voting against the proposal was concern about strip major commercial occurring along Wedington Drive. She stated R-O will allow for some commercial development, professional offices, and residential development. The commercial design standards are a good safeguard for the nature of strip commercial.

Alderman Miller stated there will be a four-lane road past this property, not good for residential.

Alderman Young stated R-O is residential-office, about the closest to mixed use. He would rather have other options at this point.

Alderman Williams stated the Planning Commission was wise to not allow commercial. This is a good transition area.

Alderman Zurcher stated R-O is almost the same as commercial.

Little stated R-O is very limited in commercial applications that can apply. There are ways to introduce commercial applications, but they are not a matter of right and would go back to the Planning Commission.

Alderman Zurcher stated R-O might as well be another kind of commercial use. He does not think it is appropriate for Wedington.

Alderman Miller stated he would like to see a small commercial node here, so people don't have to drive all the way into town.

Alderman Zurcher stated the way we are allowing subdivisions to build leaves us with a strip where there is a lot of traffic and then neighborhoods where there is no traffic. If we allow subdivisions, we should make sure there are different ways to disperse the traffic.

Lew Steenken, representing the owner, stated this property lends itself to nodule development because it lies more north and south than it does east and west. It would allow for fewer curbcuts and would lend itself to an area of specialty shops or service-oriented businesses that would benefit the development already in the area. With the highway being expanded, he does not expect there to be any residential development. He stated the owner has a prospective buyer.

RZ97-22.10 and RZ97-23.10 were left on first reading.

REZONING RZ98-1/MAYES

Mayor Hanna introduced an ordinance rezoning .29 of an acre located at 1637 N. Leverett Ave. from R-2, Medium Density Residential, to C-2, Thoroughfare Commercial, and waiving the LSD fee as requested by Jorgensen & Associates on behalf of Richard Mayes. The Planning Commission voted 8-0-0 to recommend the rezoning.

Mayor Hanna explained this is from when the City needed land to straighten out Sycamore Street and Mayes Auto Service was sitting right in the crook of Sycamore. This was bought from Mr. Mayes, who now needs to rebuild his garage to the south. There is a rental house there that will have to be torn down. Mr. Mayes is requesting this so he can move his business to comply with the terms of the land purchase to straighten out the street.

City Attorney Rose read the ordinance for the first time.

Alderman Daniel, in whose ward this is, stated this is barely a third of an acre. It will not be onerous for anyone and should be a smooth transition.

Alderman Miller stated the City is the one who caused the problem and should help out here. He asked about bills of assurance.

Alett Little, Planning Director, replied it has been promised but has not been received. There are three conditions: they would not allow the property to be used as an establishment which distributes or offers for sale alcoholic beverages of any kind; they would not allow the property to be used for the operation of a nightclub, private club or dance hall; and, should they elect to sell the property and the prospective purchasers desire to use this property for the prohibited purposes, such use would require prior approval of the Planning Commission.

Dave Jorgensen, representing Richard Mayes, stated they are looking forward to creating a new building. The original plan was to construct the new building in the present location of the existing building. This would be very expensive. It was decided to remove the house and request this rezoning to move the new building behind the existing building and tear the old building down.

Alderman Williams stated the commercial design standards will apply to the new building and make it a nice facility.

Mr. Jorgensen stated the rezoning would be contingent on getting the bill of assurance in order.

Alderman Zurcher stated he felt this was an agreement made between Mayes and the City. He felt he was being required to keep an agreement he did not make.

Alderman Miller responded that he was a member of the Council which first addressed this and there was not such a deal made.

Kevin Crosson, Public Works Director, agreed. Mr. Mayes had been paid a sizeable amount of money for the property and there was no agreement on a rezoning.

Little added that as late as December, we processed a conditional use before the Planning Commission to use a portion of this R-2 for the parking. It was only at the discovery of the cost of the building that they discovered they needed to scoot over on the lot.

Alderman Williams urged Alderman Zurcher to vote his conscience. There was no agreement, but we did cause the business to relocate. When we force a citizen to move and they need something, the City should try to help keep them in business.

Alderman Zurcher stated it should be the same for everybody.

Alderman Trumbo stated the rezoning makes sense. Waiving the $800 LSD fee also makes sense, because of the move.

There were no comments from the public.

Alderman Williams 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 RZ98-1 for the second time.

Alderman Young moved to suspend the rules and go to the third and final 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 third time.

There being no further comments, Mayor Hanna called for the vote.

Upon roll call, the ordinance passed on a vote of 7 to 0.

City Attorney Rose stated that Mr. Mayes had asked for a waiver of the $800 large scale development fee at the agenda session.

Alderman Miller moved to grant this. Alderman Trumbo seconded. Upon roll call, the motion carried on a vote of 7 to 0.

ORDINANCE 4078 AS RECORDED IN THE CITY CLERK'S OFFICE.

REZONING RZ98-2/ROGERS

Mayor Hanna introduced an ordinance rezoning 5.20 acres located north of Wedington Drive west of Salem Road from R-2, Medium Density Residential, to R-0, Residential-Office, requested by Kurt Jones on behalf of Sam Rogers. The Planning Commission voted 6-2-0 to recommend the rezoning.

City Attorney Rose read the ordinance for the first time.

Alderman Young stated the company he works for is presenting this so he would not participate in the discussion and would abstain on the vote.

Alderman Daniel stated they had started out with 10 acres and could not get the zoning. They have come down to 5.2 acres and are going to R-0 instead of C-2.

Alett Little, Planning Director, stated this is just out of the overlay district. Commercial design standards apply. The Planning Commission discussed for a long time the issue of access and traffic management. They have limited it to one curbcut on Wedington, and the other access is from Salem. This will be discussed more at large scale.

Kurt Jones, Northwest Engineers, represented Sam Rogers. He stated there was a lot of discussion about curbcuts. They'd agreed to let the Planning Commission vote on it with the limitations, with the understanding they would have to come back and discuss this further. He stated he feels strongly the limitation is strict for this property. There is about 700' of frontage on Wedington. To serve that with one curbcut will be difficult. The owner feels once Wedington is widened he will have a hard time selling any kind of residential lots. He is currently negotiating with a bank and they have submitted a lot-split request for the corner at Salem and Wedington. That lot is 315' deep by 220' wide. The owner has no plans for the development of the R-2 property at this time.

There were no comments from the audience.

By consensus this was left on first reading.

EQUIPMENT PURCHASE/OIL TRUCK

Mayor Hanna introduced a resolution awarding Bid 97-76 to the lowest qualified bidder, Midwestern Equipment Company, in the amount of $99,651 for the purchase of an oil distributor truck.

Alderman Miller stated this went through the Equipment Committee and was considered the best bid. This is used so that new pavement doesn't peel off old pavement and is in our ongoing paving program.

Randy Allen, Street Superintendent, stated the old tank is about 15 years old and the truck it is on is about 20 years old. He would like to see the new truck utilized for the thin oil used in the overlay program. The old distributor would be used for heavy oil.

There were no comments from the audience.

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

RESOLUTION 14-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

CONSTRUCTION AT AIRPORT/HECKATHORN

Mayor Hanna introduced a resolution approving a contract with Heckathorn Construction Co., Inc., in the amount of $134,698 plus a $20,000 contingency for the replacement of the automatic terminal doors, renovation of the south end terminal restrooms, and construction of the airport entry sign.

Richard Alderman, architect, stated they have done some major construction over the last five or six years. There have been two or three small things left that have been a problem. The airport has looked at bidding these projects individually and were not able to get many bids. They were then packaged into this bid to get a project big enough to get a general contractor to bid. Six bids came in, all very close. This is the low bid.

Mr. Alderman stated this does three things. They will replace the entry doors. They are the original doors and constantly break down. The original restrooms will be renovated. The entry sign, which blew down, will be replaced.

Alderman Williams stated this has been through the Airport Advisory Board, which approved it. It was budgeted for last year.

Mr. Alderman stated it was originally budgeted at $160,000. Put together, it came in at a good savings.

There were no comments from the audience.

Alderman Williams moved the resolution. Alderman Young seconded. Upon roll call, the resolution carried on a vote of 7 to 0.

RESOLUTION 15-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

OMI CONTRACT

Mayor Hanna introduced a resolution approving an amendment to the City's agreement with Operations Management International for operation, maintenance, and management of the Wastewater Treatment Facility.

Alderman Miller stated that because of past experience with OMI he would abstain on this vote.

Alderman Trumbo stated the Water & Sewer Committee met and reviewed this amendment. The proposed increases are attributed to a labor cost increase of 2.8% and to the increased cost of chemicals. Other added costs pertain to the increased cost of electricity.

Billy Ammons, OMI, stated the original proposed method of operation from the scrubber manufacturer proved to be inadequate for the odor removal. They have come up with a method that does mitigate the odors but costs more. There will be no significant changes. The program that has been found to be effective will be continued.

Alderman Pettus asked if it would cause an increase in rates.

Ben Mayes, Administrative Services Director, replied it will not. It was considered in the last rate study and included in the operations budget.

There were no comments from the audience.

Alderman Young moved to approve the resolution. Alderman Daniel seconded. Upon roll call, the resolution passed on a vote of 6-0-1, with Alderman Miller abstaining.

RESOLUTION 16-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

ATLANTIC COAST AIRLINES

Mayor Hanna introduced a resolution supporting the application of Atlantic Cost Airlines for exemption from the high density slot rule to initiate non-stop service from Chicago O'Hare to Fayetteville Drake Field.

Alderman Williams stated the Airport Board passed this. It is similar to a resolution passed supporting American Eagle. Atlantic Airlines is affiliated with United, the largest airline in the world.

Alderman Miller stated this resolution seems to give a preference to Atlantic Coast Airlines. He stated he was present at the Airport Board meeting when Atlantic made their presentation.

Alderman Williams stated the language is "more favorably supported." The reason is that Atlantic Coast said if they are awarded the flights they would begin services within 60 days. American Eagle has expressed some reservations about whether they would serve here or wait until the Benton County airport opens up and only serve that one. We would be best served by getting the jet aircraft in here as quickly as possible. We are still supporting American Eagle.

Alderman Pettus thought it would be strong enough without the word "more."

Alderman Williams stated that is what the staff recommended. It was the Airport Board who decided they wanted to say "more favorably." He could support the resolution either way.

Alderman Miller moved an amendment to strike the word "more." Alderman Pettus seconded. Upon roll call, the motion carried on a vote of 6 to 1, with Alderman Zurcher voting no.

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

RESOLUTION 17-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

DISCUSSION OF INTERIM CITY CLERK APPOINTMENT

Alderman Daniel, Chairman of the Nominating Committee, explained they'd decided to make this choice by the Council as a whole, not just the Nominating Committee. There are thirteen applicants for the position of interim city clerk. The Council will meet Wednesday, February 11, at 5:00. She asked each alderman to select five, then meet the next Wednesday to make the final decision. She asked City Attorney Rose to comment on this.

City Attorney Rose replied the Council may do it any way they wish.

Ben Mayes, Administrative Services Director, stated he would tally the lists and set up interviews for the five who receive the highest number of votes. After Wednesday, if the Council is not satisfied, they can interview more.

Alderman Miller asked to be informed of the tally.

Two-Year Ward Position

Mayor Hanna introduced the determination by lot of whether Position One in all wards shall be two years or Position Two in all wards shall be two years in the 1998 general election.

City Attorney Rose read the previously passed ordinance concerning this. He asked former mayor Fred Vorsanger to make the drawing. He stated the position number drawn will be for the two-year term.

Mr. Vorsanger drew the Position Two card.

CHANGE TO RULES OF PROCEDURE

Mayor Hanna introduced a resolution changing how the agenda is set.

Alderman Young stated thick packets have been handed out at the agenda sessions to add to the agenda. He wants to encourage various departments in the City to get their information and data in on time so it can be discussed at the agenda session instead of being added then. It can still be put on the agenda by majority vote.

Alderman Miller asked about an issue brought by a citizen that the Council might not vote to add.

Alderman Young responded that this does not apply to aldermen, just to the staff.

City Attorney Rose stated the City started some years ago to give the Council at least a week's preparation time. That is when we started having agenda sessions. Then the tentative agenda was distributed before the agenda session to give even more time. This is an incredibly burdensome procedure for staff, a lengthy process.

Ben Mayes, Administrative Services Director, went through the agenda process. He stated most of the items that come at the last moment are items where the bid opens the week before or a meeting was waited on. He noted there are often only five or six aldermen at the agenda session and the resolution requires a majority of those serving, five votes.

Alderman Williams was against having votes at the agenda session. If something comes that is confusing, the Council can table it.

Alderman Pettus stated she likes to have time to read and understand what she will be voting on and would rather make the decision at the agenda session than take something off the agenda at a Council meeting.

There were no comments from the audience.

Alderman Young moved the resolution. Alderman Pettus seconded. Upon roll call, the resolution passed on a vote of 5 to 2, with Aldermen Trumbo and Williams voting no.

RESOLUTION 19-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

EXTENSION OF TERMS

Mayor Hanna introduced a resolution requesting that any elected official in Fayetteville not accept term extensions.

Alderman Zurcher stated this resolution pointed out the fact that we need a one-time, two-year adjustment. The state legislature thought it was more equitable to tack on two years to the term. Many citizens feel this is undemocratic.

Alderman Zurcher stated the change to the resolution that he proposes is to one of the whereas clauses. He wants to strike the one that mentions officials resigning and to add, "Whereas the decision of how to handle one-time election schedule change should be made locally, not by the Arkansas General Assembly." He stated he would like to strike Sections 1, 2, and 3 and switch it to the originators of this act, the Arkansas General Assembly. He would like to insert:

Section 1	The Fayetteville City Council hereby goes down on record in opposition to Act 707 and its undemocratic effects.
Section 2	The Fayetteville City Council hereby requests that Governor Mike Huckabee call a special session of the General Assembly to reconsider Act 707.
Section 3	The Fayetteville City Council hereby requests that the Arkansas State Legislature reconsider Act 707 and repeal said law.

Bin Ross, Citizens for Fair Government, stated this group endorses this amendment. This situation came from the State and they should be the ones to reconsider it. He stated the group's hesitance in going in this direction previously was that the legislature will not reconvene until after our election. For the Council to request a special session of the legislature would be proper. He stated they would like to request Mayor Hanna to weigh the cost of setting a precedent against democracy.

City Attorney Rose stated the original resolution is not on the table. This is a new resolution put forth by Alderman Zurcher. He asked if Alderman Zurcher moved it.

Alderman Zurcher moved the resolution.

Alderman Daniel stated a special session could cost anywhere from $500,000 to $1 million. With the political situation, the Governor would not likely call a special session now.

Alderman Zurcher did not think this is relevant.

Alderman Trumbo stated he is adamantly against the resolution and any amendment to it. This is why we have a General Assembly. They enacted a law. Act 707 is a state law and we should abide by it. If a special session is called and the law is repealed, that will be the new law to follow. The Council does not supersede state law.

Alderman Miller stated the Council could send a message that they are not happy with the law.

Alderman Williams asked if a whereas clause is supposed to state a fact. The new whereas clause says that the decision of how to handle the one-time election should be made locally, not by the Arkansas General Assembly. He asked if state law gives us the right to make that decision.

City Attorney Rose replied that the City does not have the right to overrule the General Assembly or make their own rules without the General Assembly.

Alderman Pettus stated she would be more in favor of a resolution that expresses our displeasure but does not demand a special session.

Alderman Zurcher stated one of the key points that needs to be made is that the City does not have anybody on staff who is watching legislative acts that affect this city and letting the Council know about them before they are passed. We did not know about this beforehand. We did not have a say in this.

Mayor Hanna stated this is a representative democracy. The state representatives did this to clarify a conflict in existing state laws. He felt the legislature took into consideration the cost and time involved in a campaign when they decided it is more fair to extend a term than to cut it short.

City Attorney Rose stated it is the opinion of the Municipal League that even without Act 707 this would be the correct procedure. This would have been his legal advice. There could be a successful court challenge if terms are not extended. Act 707 is on the books. It is perfectly clear. It is the law.

Alderman Zurcher stated the aldermen had rejected Alderman Schaper's ordinance to add two years to their terms. He could not find a difference.

Alderman Pettus stated Act 707 does not cover aldermen. It just overs the mayor and city clerk.

Alderman Young stated the problem is with the state legislature and he is in favor of Alderman Zurcher's version of the resolution. These townspeople are upset because they have been denied their vote. They know something is wrong, but not how or why. The legislature can do whatever it wants to as long as it is in compliance with state and federal constitutions. Citizens are the supreme or sovereign power in the country. Citizens express their power through their vote. The legislature has usurped the sovereign power of the people of Fayetteville to determine their government by electing their officials. To avoid litigation, the legislature needs to repeal that act. If we pass this resolution and if a special session is called, the Governor could add this to the items to be considered.

Mayor Hanna opened the discussion to the public.

Fred Vorsanger, former mayor of Fayetteville, stated he does not want Mayor Hanna to resign. There is a law and he should abide by it. He stated this city has the most pathetic voting record in this state. Only 4,000 people voted in the town center election. He challenged everyone to expend energy in helping this city be what it can be.

Bin Ross, Citizens for Fair Government, stated if the government is not accountable to the people, how can people feel they have the ability to change their government and change their city. Apathy runs rampant because our government steps on people's constitutional rights. Act 707 is a bad law. He asked the Mayor to consider the cost of bypassing the voters of Fayetteville. He asked the Council to pass the resolution as proposed by Alderman Zurcher and to take any action to have the bad law repealed and have the democratic process restored.

Michael Anderson, representing a students coalition from the University of Arkansas, stated they rely on the accountability of public officials to the people they represent. They view Act 707 as a violation of the trust between the government and the people. He suggested three points of action. First, they would like to see Governor Huckabee call a special session to reconsider Act 707. Second, they would like to see the Council pass a resolution condemning Act 707. Third, they asked if Act 707 is not repealed, that Mayor Hanna consider voluntarily resigning in order to run for another election. This is a chance to take the moral high road and show the people that their voice still is heard in government.

A member of the audience stated Citizens for Fair Government have been out for over a week, an hour each day petitioning, in front of the post office. The petition states that the voters of Fayetteville are expressing their dissatisfaction with the extension of the terms. It also requests that the mayor and city clerk resign their positions.

Alderman Pettus asked if the Mayor couldn't stand for re-election without resigning. Then the courts could decide.

City Attorney Rose did not think this is legally possible. He explained why he thinks this act is constitutional and defensible. Article 12, Section 3, gives the General Assembly the right to provide for the organization of cities. They have broad latitude. He also has the State Attorney General's opinion on the subject, which vouchsafes the fact that it is a constitutional act. He stated he has found four cases that support this.

Kyle Russell, resident of Ward 2, stated he does not believe this resolution defies state law. All we are doing by passing this resolution is telling the legislature we don't like that and we would like them to change it. If the legislature had known what a big deal this is to us, they may not have voted it in. It is our duty to bring this to their attention.

Reed Greenwood, 1601 Elmwood, stated he has seen governments come and go in this community. We have an obligation as citizens to model good behavior. The state legislature from time to time has to pass laws that enable government to proceed in an orderly and efficient fashion. Many times people are appointed to fill out terms, which we don't hear an outcry about. The state legislature acts in a representative fashion. It is not always possible to have an election every time a situation comes up. We have to create a system where we have confidence and trust. When we have a public servant who does an outstanding job, we need to do what we can to respect that individual, abide by the law in an orderly fashion, and treat each other with civility.

Mark Swaney, audience member, was unhappy that some are saying this is just a handful of folks who don't really count. Each one here is probably standing in for a dozen other people who can't be here. We are dealing with a machine. These people are unhappy with the way the mechanism is working out. This is not a personality thing; it is a democracy thing.

Morty Newmark, audience member, appreciated the work done with the petition. He likened this to the effort to change Fayetteville's government from the city manager form. It would be wrong at this time to make the mayoral term a six-year term just because in Little Rock they said it should be done. It is wrong to be concerned about lawsuits. He recommended passing this resolution, that we address the state government to call a session to repeal Act 707, and encouraged Mayor Hanna to stick to a four-year term and run for office, which is what the people of Fayetteville voted for.

Burt Hanna, audience member, stated some people believe the federal income tax is a violation of our constitutional rights, but we still pay it. Our elected representatives voted Act 707 into place. We live in a society where a small group gets attention. This petition was signed by 250 people, less than half a percent of the population. Asking the mayor to resign and go through the effort and hassle of a re-election, plus break the law, is not realistic. We are making a mountain out of a molehill. Our elected officials voted on this law.

Steve Ward, 2199 Wolf Creek Drive, stated we are trying to shut the door after the horse has left the barn. The Chamber of Commerce has employed lobbyists for the very reason mentioned by Alderman Zurcher: laws come fast and furious and it is difficult to keep up. If we are really concerned about what is going on down there, we need to be involved. This has given us the opportunity to have this mayor continue to serve this community for two additional years. He hoped Mayor Hanna would not give any consideration to resigning.

Andy Burns, 851 S. Hill, agreed this law is a done deal; but the state legislature could be asked to deal with it again by calling a special session. Regarding the petition, the 250 signatures were gathered in only 25 man hours over a week and a half.

Merlin Augustine, University of Arkansas, stated this is not about an individual; it is about legislative Act 707, the law in the State of Arkansas. None of us has the right to circumvent or choose the law we will obey. We are not talking about the right to vote. We are talking about whether the law will be followed or not. If we don't want to follow it, there are processes established. We can't compare this to a time when there were no processes to safeguard these things. We need to set an example. The effort against this law is misdirected.

A member of the audience stated he is confused about what is being done. Capable people had been voted in but they are now discussing something illegal. His solution would be to add to the resolution that any elected official in Fayetteville follow Act 707. This discussion is creating confusion. He asked the Council to follow the laws of the state and get rid of the resolution.

David Garcia, 120 N. Block, stated he does not hear anyone asking anybody to break the law. He hears them asking the Council to stand with them and go to the state legislature about a law that is wrong. He stated he remembers some really bad laws when people had to face all kinds of horrible things to change them. Changing a bad law is the heart of democracy.

Gary Head, audience member, stated he represents a number of people who know the Council did not make this law. There are many things in the City that need attention. This is not one of them. He encouraged the Council to get on with business and not change what they cannot change.

Mayor Hanna stated two more people would be heard.

Kirk Elsass, audience member, stated this brought back memories of a divided group. We all have the right to speak to our legislators. He asked why they weren't present. He stated we may need to go in a different direction. We can't change this situation here.

Charles Stewart, State Representative, stated this bill was in the legislature for three weeks and he received no comments about it. He read pertinent parts of the statute explaining the reasoning. It passed without an opposing vote in the senate or house. He stated the petition will be heard but not necessarily answered. The Governor is the one who determines whether there will be a special session. This governor is very opposed to a special session. He stated the Municipal League should be keeping the City abreast of all the laws that affect municipalities.

Alderman Zurcher reiterated that maybe there should be someone on staff doing this. It should not fall on the people to do this.

A member of the audience who is an attorney, judge, and former city councilman stated these things will pass away. He urged the Council not to spend any political capital on this.

Mayor Hanna closed the public comments.

City Attorney Rose stated Alderman Zurcher has proposed a resolution, not an amendment. He established that every alderman had it and understood what it is. He stated it has been moved and needs a second.

Alderman Miller seconded.

Alderman Williams responded to audience comments. He would not have voted for this but does not think it is undemocratic, which is why he could not support that portion of the resolution. The legislature was well within their power and acted under the state constitution. Because of that it, was not undemocratic. We would look almost foolish to think we have the power to tell the Governor to call a special session. This discussion is not a waste of time; democracy does waste time and deserves time.

Alderman Williams said he would support this resolution if the last whereas clause was dropped and every section dropped except for Section 1, which says the Fayetteville City Council hereby goes down on record in opposition to Act 707. He would not support calling for a special session.

Alderman Pettus agreed with having a resolution that just has Section 1, not the whole resolution the way it is worded.

Alderman Daniel stated she does not like Act 707 and would take it on as a personal responsibility to contact the legislatures.

Alderman Zurcher moved to amend the resolution by pulling Section 2 and 3 out of it.

Alderman Williams asked about the last whereas clause. Whereas clauses are normally statements of fact and this whereas clause is not factual.

Alderman Zurcher moved to strike the last whereas and strike Section 2 and Section 3.

Alderman Williams asked about the title now opposing Act 707.

City Attorney Rose stated there will be no changes to the whereas clause because the one proposed to be inserted has been removed, the original ones will remain and we will strike the last one. The remaining five whereas clauses will be as on the original resolution. In addition, Section 2 and Section 3 of Alderman Zurcher's motion have been stricken. The only thing remaining is Section 1, "The Fayetteville City Council hereby goes down on record in opposition to Act 707 and its undemocratic effects."

Alderman Trumbo stated he opposes Act 707 but is adamantly against the resolution because it has been so changed in one night.

City Attorney Rose read the resolution as amended.

Alderman Young seconded the motion to amend.

Upon roll call, the amendment passed on a vote of 6 to 1, with Alderman Trumbo voting no.

Mayor Hanna called for the vote on the resolution.

Upon roll call, the resolution passed on a vote of 6 to 1, with Alderman Trumbo voting no.

RESOLUTION 18-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

ADJOURNMENT

Alderman Williams announced a public hearing on the town center.

Mayor Hanna adjourned the meeting at 9:48 p.m.