A MEETING OF THE FAYETTEVILLE CITY COUNCIL

A meeting of the Fayetteville City Council was held on Tuesday, September 1, 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 Donna Pettus, Kit Williams, Heather Daniel, Cyrus Young, and Trent Trumbo, City Attorney Jerry Rose, City Clerk/Treasurer Heather Woodruff, staff, press, and audience.

ABSENT: Aldermen Stephen Miller and Len Schaper were absent.

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

CONSENT AGENDA

MINUTES: Approval of the minutes from the meeting of August 18, 1998

BID 98-72: A resolution awarding Bid 98-72 to Smith Two Way Radio for seven Panasonic laptop computers plus three docking stations for $23,458.39 and Office Imaging for 16 Rocky II laptop computers, plus three docking stations for $103,231.18 and approval of budget adjustment.

RESOLUTION 114-98 AS RECORDED IN THE CITY CLERK'S OFFICE

AIRFIELD LIGHTING PROJECT: A resolution approving a FAA Airport Improvement Project Grant. The funds will cover Phase 1 of the Airfield Lighting Rehabilitation Project, the Runway Approach Obstruction Location System, and the Pavement Management System.

RESOLUTION 115-98 AS RECORDED IN THE CITY CLERK'S OFFICE

SUBSTATION GRANT: A resolution approving a grant offer from the FAA, which will partially fund the construction of an Aircraft Rescue and Firefighting Station.

RESOLUTION 116-98 AS RECORDED IN THE CITY CLERK'S OFFICE

Alderman Kit Williams moved to approve the Consent Agenda. Alderman Daniel seconded the motion. The motion carried with a vote of 5-0-0.

OLD BUSINESS

RZ-98-14.00: Mayor Hanna introduced an ordinance rezoning 3.07 acres located at 4070 Huntsville Road from A-1, Agricultural, to R-S, Residential Small Lot. The request was submitted by Jack Butte on behalf of Paul and Geraldine Bond. The ordinance had been left on the second reading at the August 18th meeting.

City Attorney Jerry Rose read the ordinance.

No public comments.

Mayor Hanna called for the vote on the rezoning. Upon roll call the ordinance passed 5-0-0.

ORDINANCE 4119 AS RECORDED IN THE CITY CLERK'S OFFICE

LEASE AGREEMENT: Mayor Hanna introduced a resolution approving the lease agreement between the City of Fayetteville and the Advertising and Promotion Commission for the Town Center.

Mr. Ben Mayes, Administrative Services Director, stated copies of the lease agreement were sent out after the joint meeting between the City Council and the A & P Commission.

Alderman Pettus stated some of the Councilmen were concerned with the definition of the word *satisfactory*. She substituted the words *Prudent Man Rule* from the Arkansas Code. Which basically states the A & P Commission would operate the business as any ordinary prudent man would manage his finances.

Alderman Daniel asked the Council to consider the possibility of reserving a certain number of hours for non-profit groups per year.

Mayor Hanna replied he did not think that could be added legally to the language of the lease because of the bond issue.

Mr. Mayes explained a room or specific number of hours could not legally be set back for non-profit groups. In order to reserve a room for the exclusive use of non-profit organizations, the City would have to build or finance the room with City money. Bond Money could not be used for this purpose.

Alderman Daniel expressed her desire to finance a room. She stated most non-profit groups did not usually need a monthly meeting space. They needed space to hold fund raisers, which required more space and planning time.

Mayor Hanna stated the City Council and the A & P Commission were working toward the same goal.

Alderman Williams made a motion to amend Sections 502 and 503, replacing *501C3 non-profit groups* with *local non-profit community groups*. Alderman Young seconded the motion.

Alderman Trumbo replied he thought the amendment would not have enough control over non-profit groups and requested the wording not be changed.

Alderman Pettus argued that the time limits which stated the room could only be reserved thirty days in advance would establish the necessary control.

Alderman Young agreed. He stated the non-profit groups would only use the Town Center for banquets, perhaps once a year.

Mr. Joe Fennel, A & P Commission Chairman, stated he liked the wording, but would like to see more control over the non-profit groups.

Alderman Young stated the lease had a provision which would allow the A & P Commission to change the lease.

Alderman Daniel expressed her concern that thirty days was not enough time for the non-profit groups to organize a banquet.

Alderman Pettus asked how much income the City received from the parking lots where the Town Center would be located.

Mr. Mayes stated there were approximately ninety spaces which rented for approximately twenty dollars each per month.

Alderman Pettus questioned if the parking spaces would be under the control of the A & P Commission after the Town Center was constructed.

Mr. Mayes replied the Town Center & Parking Deck would be constructed on top of the existing parking lot which would be managed by the A & P Commission.

Alderman Pettus asked if there would be any remaining parking spaces or would the Town Center and parking deck cover the entire area.

Mr. Mayes replied yes, it would take up the entire existing parking lot.

Alderman Pettus asked if there would be charges to park on the parking deck and if the income from those charges would go to the A & P Commission. She also asked if the funds would be dedicated to the bonds.

Mr. Mayes replied yes to the first two questions and stated that the funds would first go to the operation of the Town Center and parking deck and if there was any money left, then it would be pledged to the bonds.

Alderman Pettus asked if the A & P could use the money for other projects.

Mr. Mayes replied if the money was pledged to the bonds, then they had to pay on the bonds first. He deferred to City Attorney Rose for further comments.

City Attorney Rose replied he did not know the answer to the question and would find the information and would give it to the Council members.

Alderman Pettus expressed her desire to see the funds go to pay for the bonds and asked if the public would be allowed to use the parking deck.

Mr. Mayes replied the operating revenues of the Center were pledged to the bonds. The City was leasing the Town Center and the parking deck to the A & P Commission. They would operate the deck and the Center.

Alderman Williams stated the need for the public to use the facility and the wording of the lease did not make this issue clear.

Alderman Pettus stated she was concerned about the parking issue and hoped the parking deck would be available to the public. She asked if anyone had spoken with the Bond Council about why the lease had to be done first before the bonds could be voted on.

City Attorney Rose replied that Bond Council stated it was more a matter of common sense than a legal issue. They wanted to ensure that the Center would be used in the manner in which the voters had chosen it to be used.

Mayor Hanna called for the vote on Alderman Williams amendment. Upon roll call the amendment failed 3-2-0. Aldermen Daniel and Trumbo voted nay.

Alderman Williams commented the lease did not set forth any goals. He suggested three goals to be modified in a report which documented how the Town Center had been managed: a)tourism, b) pay debts on time and c)serve the Fayetteville community. If lessee failed to accomplish one of the three goals then the lessee shall be given written notice of such failure and a special review to determine if corrective action needed to be taken.

Alderman Pettus and Alderman Trumbo agreed with this suggestion. Alderman Daniel disagreed.

Alderman Young asked if the resolution was going to be voted on at this meeting.

After discussion on this subject, Alderman Trumbo expressed his desire to vote on the resolution.

Alderman Daniel suggested a special meeting.

Alderman Williams suggested the bonds be placed on the next agenda and be voted on after they voted on the lease.

Mr. Rose replied the A & P Commission had to approve the changes that Council wanted to make.

Alderman Williams remarked he thought the changes went to the A & P Commission before City Council saw them.

Mr. Rose stated if the Council would give his office the proposed changes he would forward them to the A & P Commission.

Mr. Mayes stated there was a thirty day waiting period on the bonds, even if City Council passed the resolution. He further stated this waiting would give the A & P time to act upon the agreement.

Mayor Hanna requested a special meeting to be set on Tuesday, September 8, 1998, for the lease issues. He asked for public comment.

Mr. Fennel stated he and the A & P Commission would like to see a final draft of this agreement.

Mr. Tex Trumbo, area resident, stated he disagreed with the lease agreement. He argued the people did not vote for a convention center. They voted for a Town Center. He remarked it was after the vote that people realized it was a convention center. He reiterated this was not what the voters wanted. Only 10% of the people voted on this issue. He remarked the HMR tax was paid by the restaurants, hotels, and motels of the community. He stated this tax was not a tax on tourists, but on the Fayetteville residents and people who worked in Fayetteville. He commented the people had believed that the Town Center was to be used by the residents of Fayetteville not the tourists. He felt the needs of the public should be addressed before the needs of the tourists.

Mr. Jim Bemis, area resident, stated he had been following this Council closely and admired the Council in terms of how they handled issues without losing their tempers. He handed out and read the Public Forum, the results of the Public Forum and the sub-committee meetings regarding the Town Center. He commented he had not heard any discussion on whether drinks would be allowed on the premises of the Center. He stated he did want to see a Town Center, but disagreed with a Convention Center.

Mr. Jeff Erf, area resident, commented on the 501C3 non-profit status. He was afraid it would restrict the number of groups who would use the facility. This would cause fewer people to come to the square and shop. He requested the Council think about this before their special meeting next Tuesday.

Mr. Mayes disagreed with Mr. Tex Trumbo. The people did know the Town Center was going to be used as a convention center. He stated in all the planning and the meetings it was clearly stated the Town Center could not be used exclusively for a town center.

Mayor Hanna stated that in the ballot the Fayetteville Town Center would be constructed to be a multi-purpose Civic Center for meetings, conventions, etc.

City Attorney Rose read the ballot.

No action was taken on the lease agreement.

NEW BUSINESS

STREET RENAMING: Mayor Hanna introduced a resolution approving the renaming of "Crest Lane" to "Glen Wing Lane." The request was submitted by Gayle O'Donnell to honor the late Glen Wing, Fayetteville real estate attorney.

Mr. Mark Denniston stated he was the only property owner on the street. He urged the Council to consider this resolution for two reasons. The first reason being there were two streets with "Crest" in their names. The second reason was that Glen Wing was a respected citizen and attorney. He felt the Council would be honoring his memory with this street change.

Alderman Williams made the motion to accept the resolution. Alderman Pettus seconded the motion. Mayor Hanna called for the roll. Upon roll call the vote was 4-1-0. Alderman Daniel voted nay. Mayor Hanna was called upon to vote. The resolution passed with a 5-1-0 vote. Alderman Daniel voted nay.

RESOLUTION 117-98 AS RECORDED IN THE CITY CLERK'S OFFICE

ILLEGAL PARKING: Mayor Hanna introduced an ordinance prohibiting illegal parking in Handicap parking areas and proscribing penalties.

Alderman Pettus stated this ordinance tracked the state law. She commented this would give the Police an option of ticketing individuals who parked illegally in Handicap spaces.

City Attorney Jerry Rose read the ordinance.

Alderman Daniel asked how the proposed ordinance differed from current ordinances.

Alderman Pettus stated there was no ordinance on this issue, only the State Law.

Alderman Daniel asked if there were any fines and if this ordinance would apply to business parking lots.

Alderman Pettus replied the fines were set by the State and the ordinance would apply wherever the City of Fayetteville was allowed to give tickets.

Alderman Pettus took the opportunity to bring everyone up to date about the committee. She commented on the good work Ms. Hendricks had done for the committee. One of the duties of the committee is to notify and draw up notices and documents for businesses. The committee along with a group of citizens had purchased audible signals at intersections for people who are sight impaired. The signal sounds a chirping sound when the light changes so they could cross the street. The committee was currently working on a pamphlet entitled *Access Fayetteville* which would spotlight restaurants, hotels, motels and recreational facilities which were accessible to the handicapped.

Alderman Trumbo made a motion to suspend the rules and go to the second reading of the ordinance. Alderman Pettus seconded the motion. Upon roll call with Mayor Hanna's vote the motion passed with a vote of 6-0-0.

City Attorney Jerry Rose read the ordinance.

Alderman Pettus made a motion to suspend the rules and go to the third and final reading of the ordinance. Alderman Daniel second the motion. Upon roll call the motion carried with a vote of 6-0-0.

City Attorney Jerry Rose read the ordinance.

Mr. Randy Zurcher stated the ordinance was a good one, however there was only one apartment complex in the City that was ADA accessible. If the City was going to become ADA accessible, the City needed to require developers to build them to ADA standards. He commented the sidewalks in the downtown section of the City needed to be kept up. He thought this was a good start.

Alderman Trumbo replied most banks required developers to include ADA standards in their building plans. He asked Ms. Little if the City had such a rule.

Alderman Pettus stated the Inspection Department did provide guidelines and notices to all new developers so they know what they have to do to comply with ADA guidelines.

Ms. Little added any apartment complex that has any Federal money associated with it must be ADA accessible. She also stated if any person wanted an ADA accessible apartment, it was the owner's responsibility to make it ADA accessible.

Alderman Williams stated the City was working on improving the downtown sidewalks.

Mr. Zurcher asked if anyone could remember a fine being given out to a developer for not meeting these guidelines.

Mr. Venable commented the ADA guidelines come under the Fair Housing Act from the Department of Justice not the City of Fayetteville.

Upon roll call with Mayor Hanna's vote the ordinance passed with a vote of 6-0-0.

ORDINANCE 4120 AS RECORDED IN THE CITY CLERK'S OFFICE

RAOLS: Mayor Hanna introduced a resolution approving a contract in the amount of $28,000.00 with Garver & Garver for a Runway Approach Obstruction Location System.

Mr. Dale Frederick, Airport Administrator, stated the new equipment would take the Airport out of the dark ages and into the Twentieth Century. He stated this would allow the Airport to identify and locate obstructions surrounding the runway especially during approaches. He introduced Mr. Griffin with Garver & Garver.

Mr. Griffin stated Garver & Garver was primarily an engineering design firm. He introduced Mr. Johnson who demonstrated how the system worked.

Alderman Daniel asked what happened if some of the obstacles were on private property.

Mr. Griffin replied the Airport would work with the property owner, either allowing them to be remunerated for the removal of those obstructions or by obtaining an aviation easement over the land.

Alderman Daniel asked if the $28,000.00 would cover updating the system.

Mr. Griffin replied no, but they would show the Airport personnel how to update RAOLS.

Alderman Trumbo asked Mr. Frederick if this was a requirement of the FAA.

Mr. Frederick replied it was not required, but it would improve the safety of the Airport's runway.

Alderman Williams made the motion to pass the resolution. Alderman Pettus seconded the motion. Upon roll call the resolution passed with a 5-0-0 vote.

RESOLUTION 118-98 AS RECORDED IN THE CITY CLERK'S OFFICE

HANNA'S POTPOURRI SPECIALTIES: Mayor Hanna introduced a resolution certifying local government endorsement of Hanna's Potpourri Specialties, Inc. to participate in the Advantage Arkansas Program (also known as the Arkansas Enterprise Zone Program-ACT 947 of 1993).

Mr. Jim Crider, Fayetteville Chamber of Commerce, stated the Chamber of Commerce sponsored the application of Hanna's Potpourri to participate in this project. He explained Hanna's had outgrown their facilities and wanted to expand and hire an additional two hundred employees.

Alderman Daniel expressed her support for the business.

Alderman Trumbo stated Hanna's was going to add a daycare system plus hire more employees.

Alderman Daniel made a motion to pass the resolution. Alderman Trumbo seconded the motion. Upon roll call the resolution passed with a 5-0-0 vote.

RESOLUTION 119-98 AS RECORDED IN THE CITY CLERK'S OFFICE

DRUG TESTING: Mayor Hanna introduced a resolution amending the City Council's Rules of Order and Procedure by adding Section J, Drug Testing Policy, to provide for random drug testing of the City Council.

Alderman Trumbo stated he introduced the resolution because the Fayetteville schools and several of the City's departments had random drug testing. He had been asked by citizens if the City Council also had random drug testing. He felt if the City was going to ask its employees and school children to be tested, the leaders of the City should fall under the same rule.

Alderman Pettus asked if the Fayetteville School Board volunteered to do mandatory drug testing.

Alderman Trumbo replied no, but if asked they probably would be willing to.

Alderman Williams read a prepared statement voicing opposition to the resolution and stated he hoped every Alderman on the Council would vote against the resolution.

Alderman Trumbo stated he respected Alderman Williams comments. He asked Alderman Williams for "discussion purposes" what was the difference in testing the school students and testing the aldermen.

Alderman Williams replied he was against random drug testing for anyone. However, he was not against drug testing an individual who had reasonable cause to be tested.

Alderman Trumbo asked City Attorney Rose what would be the procedure for the City to stop mandatory random drug testing its employees. He stated random drug testing of employees had not been brought before the Council.

Mr. Rose stated it was a mayoral declaration.

Mr. Mayes explained the recommendation had come from the Safety Committee Volunteer employees. It had been highly recommend by City employees and passed on to the Personnel Department requesting a random drug testing policy. A policy was then put together and was presented to the City's department heads. The Division heads then passed the policy which was signed by Mayor Hanna.

Alderman Pettus stated she agreed with Alderman Williams. She felt insulted. It was an invasion of privacy. She stated she would vote against the resolution.

Alderman Young commented mandatory random drug testing did not really address the problem of drug abuse. He asked who was tested for drugs in the City's government.

Mr. Mayes replied all the Department of Transportation employees are required by Federal Law to be tested. The Safety Committee had recommended that all City employees be tested. Mr. Rose helped with the research and found only employees that were considered "safety sensitive" could be tested. This term is defined in the Drug Policy. He stated there were 443 employees that are randomly tested.

Mr. Kyle Russell, an area resident, stated it was wrong to ask someone to a take a drug test unless there was reasonable cause. He further stated to participate in a random drug test was making an individual prove his or her innocence.

Mr. Zurcher stated he was adamantly against this resolution.

Mr. Mayes stated the City's drug policy was a good policy and that the employees set up the policy themselves. He commented anyone not passing the drug test was referred to a substance abuse professional.

The motion died for a lack of a second.

ADJOURNMENTS AND COMMENTS

The meeting adjourned at 8:20 P.M.