A MEETING OF THE FAYETTEVILLE CITY COUNCIL
November 17, 1998

A meeting of the Fayetteville City Council was held on November 17, 1998, at 6:30 p.m. in the City Administration Building, 113 West Mountain Street, Room 219, Fayetteville, Arkansas.

PRESENT: Mayor Fred Hanna, Alderman Williams, Alderman Daniel, Alderman Young, Alderman Trumbo, Alderman Pettus, Alderman Schaper, Alderman Russell, LaGayle McCarty (for City Attorney Jerry Rose), City Clerk/Treasurer Heather Woodruff, Staff, Press, Audience

ABSENT: City Attorney Jerry Rose

Mayor Hanna called the meeting to order and introduced Alderman Kyle Russell, who was sworn in at the Agenda Session.

CONSENT AGENDA:

MINUTES: Approval of minutes from November 3, 1998, meeting.

BID 98-82: A resolution approving the construction contract with Tomlinson Asphalt Company, Inc. in the amount of $87,332.74 for Bid No. 98-82, Lake Fayetteville Dam Erosion and Seepage Control, approval of a project contingency of $20,000 and approval of a budget adjustment of $35,520.74 to be taken from "Miscellaneous Drainage Improvement."

RESOLUTION 144-98 AS RECORDED IN THE CITY CLERK'S OFFICE

BID 98-87: A resolution awarding the Walker Park playground bid to John Westin Concrete, Inc. in the amount of $59,859.04. This project is also partially funded by the Arkansas State Parks Outdoor Recreation Grants Program in the amount of $30,000.00 in addition to funds in the Parks' C.P.

RESOLUTION 145-98 AS RECORDED IN THE CITY CLERK'S OFFICE

GIRLS' SOFTBALL COMPLEX: A resolution approving a contract with Perry Butcher and Associates for the design, supervision, and construction of Phase III of the Girls' Softball Complex near Holcomb Elementary School. The architectural costs are $15,750.00 plus an amount not to exceed $3,000.00 for reimbursable expenses for a total of $18,750.00.

RESOLUTION 146-98 AS RECORDED IN THE CITY CLERK'S OFFICE

BID 98-90: A resolution awarding the Wilson Park Castle renovation project to Heckathorn Construction in the amount of $51,226.00 plus a project contingency and budget adjustment.

RESOLUTION 147-98 AS RECORDED IN THE CITY CLERK'S OFFICE

TURNBACK REVENUES: A resolution approving a two-year renewal of an agreement with the State Board of Finance for turnback revenues for the Continuing Education Center under the Tourist Meeting and Entertainment Facilities Assistance Act.

RESOLUTION 148-98 AS RECORDED IN THE CITY CLERK'S OFFICE

DICKSON STREET ENHANCEMENT: A resolution indicating a willingness to utilize federal funding for the Dickson Street and Vicinity Enhancement Project.

RESOLUTION 149-98 AS RECORDED IN THE CITY CLERK'S OFFICE

GREGG STREET IMPROVEMENTS: A resolution authorizing the Mayor to execute an Agreement of Understanding with the Arkansas Highway and Transportation Department relative to the improvement of Gregg Street from Highway 71B to Mud Creek Bridge.

RESOLUTION 150-98 AS RECORDED IN THE CITY CLERK'S OFFICE

ARLINGTON TERRACE: A resolution approving an increase in the budget for the Arlington Terrace Project by $11,500.00, approval of the associated budget adjustment, and an increase in the project contingency by $11,500.00.

RESOLUTION 151-98 AS RECORDED IN THE CITY CLERK'S OFFICE

The motion was made by Alderman Williams and seconded by Alderman Young to approve the Consent Agenda. Upon roll call, the motion carried with a vote of 7-0-0.

OLD BUSINESS:

CAPITAL IMPROVEMENT PROGRAM: Mayor Hanna introduced a resolution approving the 1999-2003 Capital Improvement Program. He noted that some changes had been made - some street projects had been removed from the CIP and some others moved forward. One or two other changes had been made, as requested. Mayor Hanna asked for comments.

Alderman Trumbo asked for an extra $10,000 for the library budget to use for shelving.

Alderman Schaper recalled that shelving was a CIP item which wound up in unfunded projects.

He agreed that the money should be found somewhere to put it back in.

Mayor Hanna commented that they could vote to do that at any time as the CIP is subject to change by the Council at any given time.

Alderman Russell noted that the CIP earmarks the funds, but wondered if the Council would be able to vote on items again, separately, when they come up in the budget.

Mayor Hanna stated that would be true if the cost exceeded $20,000.00.

Alderman Williams reminded the council that it was not the budget they were voting on, just the plan. The budget for next year will come later.

Mayor Hanna asked for other questions or comments on the CIP.

Alderman Schaper wanted to verify that the Street Committee changes attachment was to be made a part of the CIP. Alderman Williams verified that as being correct. Alderman Schaper also inquired about funds allocated for improvements to the Steele property in 1999, and wanted to know what that is earmarked for. Mr. Venable stated that it would create the boulevard from Joyce Street, south to the bridge. It was also stated that money is in the original CIP for completion of the bridge.

Alderman Williams moved that the CIP be accepted as amended. Alderman Pettus seconded the motion. Upon roll call, the motion carried with a vote of 7-0-0.

RESOLUTION 152-98 AS RECORDED IN THE CITY CLERK'S OFFICE

HOUSING CODE: Mayor Hanna introduced an ordinance repealing Chapter 155: Minimum Housing Code, Code of Fayetteville; and adopting the Standard Housing Code, 1997 Edition.

Alderman Trumbo moved to suspend the rules and go to the second reading. The motion was seconded by Alderman Pettus. Upon roll call, the vote was 7-0-0.

LaGayle McCarty read the ordinance.

Alderman Daniel asked for comment as to who the "housing official" is. Mr. Venable clarified that the housing official has always been and will be the head of the Inspections Department.

Mayor Hanna commented that this ordinance is just updating the Code to the 1997 standards. Mr. Venable noted that the Code we've been using is from 1973, and a few changes have been made.

Alderman Trumbo made a motion to suspend the rules and go to the third and final reading. The motion was seconded by Alderman Pettus.

Ms. McCarty read the ordinance for the third and final time.

Mayor Hanna asked if there was audience comment. There was none.

Upon roll call, the motion carried with a vote of 7-0-0.

ORDINANCE 4124 AS RECORDED IN THE CITY CLERK'S OFFICE

NOTIFICATION REQUIREMENT FOR BLASTING: Mayor Hanna introduced an ordinance amending Chapter 157, Notification and Public Hearings, of the Code of Fayetteville, to add Section 157.08, Fire Prevention Code, requiring notification to residential property owners within 200 yards of a blasting site.

Alderman Williams noted that this was left on the first reading. He made a motion to suspend the rules and go to the second reading. The motion was seconded by Alderman Pettus. Upon roll call, the motion carried with a vote of 7-0-0.

Ms. McCarty read the ordinance.

Alderman Pettus reviewed the reason for proposing this ordinance which was presented at the last meeting.

Alderman Schaper asked if the ordinance is requiring verbal or written notice of blasting.

Alderman Pettus said it could be either written or oral - it reads "by personal contact." She stated that she would accept an amendment to just require a written notice if the Council preferred.

Mr. Venable commented that 200 yards in a relatively developed area would cover an awful lot of houses. The Fire Inspector has been concerned about that because he doesn't know how he will ascertain all that if he gets complaints. He continued that it is a pretty big job.

Mayor Hanna asked how often complaints occur. Mr. Venable did not have that information. Mayor Hanna was aware of only one. Alderman Young knew of one instance where not all of the dynamite went off, meaning that all the rock didn't get blasted up. Had to blast again and all the dynamite (from both drillings) went off. The neighbors had to be informed of what had happened before the work could be continued. Alderman Young continued that, when water leaks occur, boil order notices are hand-delivered, so there is an advantage to personal notification.

Alderman Pettus stated that a pretty good list could be fairly easily obtained from the utilities. Mayor Hanna suggested hand delivery or door hanger. He thought 200 yards might be stretching the need a bit. Discussion took place as to how far the blasting sound carries.

Alderman Schaper stated he is reluctant to place unnecessary requirements on developers, and was not sure about this ordinance.

Alderman Daniel asked who is actually responsible for the notification. Alderman Pettus stated it would be the contractor, or the applicant for the blasting permit. The City is not responsible.

Alderman Daniel wondered if the contractor would be required to keep a list of those notified in case the City needed the information. Alderman Pettus stated that the ordinance, as written, does not require that.

Alderman Pettus made a motion to move to the third and final reading. Alderman Daniel seconded the motion. The vote to do so was 7-0-0.

Ms. McCarty read the ordinance the third and final time.

Mayor Hanna asked if anyone in the audience or on the council would like to further address this ordinance. There was no comment. **Upon roll call, the ordinance passed by a vote of 6-1-0. Alderman Schaper voted nay.**

ORDINANCE 4125 AS RECORDED IN THE CITY CLERK'S OFFICE

<u>**NEW BUSINESS:**</u>

BID 98-83: Mayor Hanna introduced a resolution awarding the Veterans Memorial Park project to Heckathorn Construction Company, Inc. in the amount of $149,621.00. The project consists of a year-round restroom building and parking improvements.

Alderman Schaper remarked that he had asked that this item be removed from the Consent Agenda because he was concerned that the public might wonder if we are building $150,000.00 bathrooms. He asked staff from the Parks & Recreation Department to provide a capsule review of why this is necessary. The wording indicates it is a lot more than bathrooms; it includes parking improvements and other things.

Connie Edmonston (Parks & Recreation) provided the review, stating that this is the only large pavilion area, it is by the prettiest lake in our city (Lake Fayetteville), has hiking trails, is used by families and by companies, for reunions, birthday parties, and gatherings. She stated that we need to build restrooms out there to complete that facility. The restrooms will be ADA accessible, stainless steel toilets, with an attractive facade and a sidewalk leading to them. The location is between the volley ball court and the pavilion area, so it is accessible to all active areas of the park. The sidewalk increased the cost, as well as paving 16 parking spots with curbing to accommodate the people who come there. They are retrofitted so they will be open year-round. The park is open at sunrise and closes at sunset. Sewer lines would have been cost-prohibitive, so a decision was made to go with a septic system.

Alderman Daniel stated that she would like the Council to consider adding something to the resolution, to have some kind of alarm or security system on the restroom during closing hours as it does represent a large expenditure.

Richard Alderman stated that vandalism has not been a problem in the park. One reason this project costs more is because there are no utilities in the park. Trying to get a phone line out there would be difficult due to the distance the lines would need to run. Installing phone lines would add a tremendous amount of money to the cost. An alarm system not connected to some outlying station would not be effective because of the size of the park. The alarm could be activated and no one would hear it. Mr. Alderman stated that he could bring some costs on an alarm system, but would like for the Council to consider going ahead and approving this, since the contract is ready.

Alderman Williams commented that he agrees with the proposal as stated. He also agrees that we don't have much of a vandalism problem, especially when the gate is closed and there is only one way in. That will continue to discourage substantial problems. Additionally, one reason for installing stainless steel fixtures is because they are vandal resistant. He would like to see the project go forward as planned.

Alderman Schaper commented he thinks it is a very good project, people will be able to enjoy the park a lot longer into the fall and a lot earlier in the springtime, so he would like to move the resolution. Alderman Pettus seconded the motion.

Mayor Hanna asked if anyone else would like to address the issue.

Becca Gardner inquired as to the origin of maintenance funds.

Ms. Edmonston responded that the funds come from the general budget and the HMR budget.

Upon roll call the motion carried with a vote of 7-0-0.

RESOLUTION 155-98 AS RECORDED IN THE CITY CLERK'S OFFICE

INSURANCE CONTRACT: Mayor Hanna introduced a resolution renewing the Blue Cross Blue Shield Group Medical Contract for policy year 1-1-99 through 12-31-99.

Alderman Trumbo stated there was some discussion at the Agenda Setting Session as to whether the 10% increase should be passed along to the employees or absorbed by the City.

Alderman Daniel proposed that the City cover the raise in insurance premiums as an incentive to keep good employees.

Alderman Schaper acknowledged that we are in line with premiums paid by other cities. He inquired if Alderman Daniel was saying the City should absorb the complete increase.

There was general consensus that the City should absorb the complete increase.

Alderman Daniel made a motion that the City pick up the 10% increase in insurance premiums. The motion was seconded by Alderman Schaper. Upon roll call, the motion carried with a vote of 7-0-0.

There were no comments from the audience.

RESOLUTION 153-98 AS RECORDED IN THE CITY CLERK'S OFFICE

PROPERTY ACQUISITION: Mayor Hanna introduced a resolution authorizing the acquisition of 320 acres of land located between Washington County Roads #648 and #649, south of Highway 16 West and north of Highway 62, for the possible location of a second waste water treatment facility. Properties to be acquired from James McClelland Jr., H.M. and Norma Lee Shipp, Broyles Farm Corp., and Calvin and Wanda Sue Hammond. Approval should include closing costs associated with the purchase of these lands. Budget adjustment approval is required.

Mayor Hanna pointed out that the discussion on the agenda was for property purchase, and not another public hearing on the waste water treatment plant. The land acquisition issue needs to be voted one way or the other. Several public meetings have been held on this and it is pretty obvious that not everyone will be happy with any decision. He preferred to confine the discussions to the purchase of property. People who have objections because of the location of the property can object, but let's not revisit the public hearings on the waste water treatment plant. It has pretty well been decided that we need one, or need an improvement in what we have. This issue, he stated, has been under discussion since 1994 at a cost of nearly $700,000.00 on studies. Now we are deciding whether or not to buy a piece of property.

Alderman Daniel stated that she is concerned about the desires of her constituents, but at the same time, sees it as a city wide issue. She sees two issues - property acquisition and placement of the waste water treatment plant (WWTP).

Alderman Williams commented that he couldn't separate the two issues. The City paid $700,000.00 to learn this site is not the scientist's first choice, but because of state law, it cannot be placed in their recommended location. He suggested that all surrounding cities might go together with Fayetteville to place the WWTP at a scientifically determined location. Due to the massive cost of the facility, all available avenues should be exhausted before purchasing this land. Two possibilities are to work with the state to change the legislation, and to work with our neighbors to find a solution that would benefit all.

Alderman Trumbo stated that Alderman Williams made some good points, but the regional solution has been tried before and did not work. One interim measure would be to place a moratorium on new taps on the existing facility until something can be decided.

Alderman Schaper commented that the property is available now, but will it be at some pre-determined future date? We need this kind of area, and he is wary of foregoing this opportunity at this time. As a safeguard, he felt it would be important to check into a one-year option to purchase the land while alternatives are being investigated. He also felt that a moratorium on new taps might be necessary as the present system is running out of capacity. It will be increasingly difficult to run our plant and keep it in compliance. Provision of basic city services is an obligation to the citizens of Fayetteville. Providing those services at reasonable cost in the way that is in the best long-term interest of all the citizens of Fayetteville is what he felt we need to do. For that reason, he is ready to go ahead with this as presented.

Alderman Pettus noted that everyone had made some good points, but her line of thinking is mostly along that of Alderman Williams. There is a responsibility to the citizens of Fayetteville. Our number 1 responsibility is to do everything in our power to put that plant where it belongs scientifically. That means fighting to eliminate Act 13-36 in the state legislature. She feels that even a regional solution cannot be accomplished until the Act is eliminated. She is not in favor of spending 3 million dollars on this land at this time. She feels that her responsibility is to do whatever is best for everyone concerned.

Alderman Trumbo restated that a second plant is needed somewhere on the west side of town and it gets down to, "where is the best place to put it." The math and the economics say we should have a second plant, get rid of the lift stations and cut our cost and maintenance.

Alderman Young acknowledged that it is a tough decision to make when there are so many competing desires. When an issue becomes so large, it should be taken out of the hands of the Council and placed before the people of Fayetteville. They are the ones who have to vote on the bonds to finance it. If we spend money on land then at the end the people turn down the bonds, they are going to say, "What did you spend all that money for?" That's exactly what they are asking about the incinerator. "Why was all this money spent before first asking us what we wanted to do?" As to all the other things you've been saying, yes, we need a plant to the west because of the gravity flow. You can see the conflicting challenges here. An option to buy might be one possibility. When this was before the committee and the Council authorized them to start negotiations for the price, he thought it would be a few months before it came back to the Council. A few days later, here it is. If it had been a few months the legislature might be in session and we might have a better feeling for what would and what wouldn't go through there.

Alderman Williams shared the concerns. He agreed that another plant is needed, we are going to run out of capacity, we can't stall, we have to make a decision sometime, but the legislature will meet in a few months, and we need to get rid of this Act so the WWTP can go where it should go, where it can serve the most people, not just Fayetteville but the county and the other cities. He was not, however, in favor of moratoriums on new taps at this time. He felt that a self-imposed deadline should be established for a decision on the issue if we are that close to out-of-capacity.

Alderman Russell stated that he is not for a moratorium on sewer taps and he is not so sure that Act 13-36 was a bad law. He cautioned the Council to keep in mind a sense of fairness. He felt that the people next to the sewer plant should have some say in the sewer plant and the fact that it is going up there. It would not be fair to punish the neighboring communities with a moratorium on sewer taps for a problem Fayetteville created by approving a lot of development west of town. He, too, was wary of creating another incinerator situation. He was concerned about investing that kind of taxpayer money on land when there has not been a final decision that the WWTP will be built there.

Alderman Trumbo clarified that his intent was not to punish neighboring cities, but that the moratorium should apply to Fayetteville, too, or maybe in particular, until we come up with additional capacity.

Alderman Young pursued the concept of a regional solution. He suggested that it might be the responsibility of the outlying cities to take the lead in developing a regional solution.

Alderman Schaper pointed out that Fayetteville is the one in need of the plant. He referred to the incinerator situation, saying the problem there was that we issued bonds to build an incinerator and didn't have a site for it. That was a problem that should not be repeated. You need the land first, and then you get bonds to build what you need to build. The land in question was the second most favorable location and the only site that meets the state law that our consultants could find. It's good to pursue these other options, but it is risky and very poor planning if you don't have a back-up plan. If changing the law, or adopting a regional solution doesn't work out, it would be desirable to still have availability of the present land for purchase. He urged the Council to try to get a one-year purchase option on the land in case we need to fall back on it.

Alderman Williams would like to develop a regional plant somewhere near the Illinois River, discharge into the Illinois River, but work with the other entities so it would be a regional plant made up of the County, Fayetteville, and other cities.

Alderman Daniel mentioned that she had visited the plants in Rogers and Springdale. Both have good systems. She suggested that others tour those plants. Springdale just updated their facility a year and a half ago. It will probably be ten more years before they will be looking at any changes. She mentioned that one of her constituents pointed out that we have a regional system already as we serve Johnson, Farmington, Greenland, and Elkins. Fayetteville is, in a sense, a regional center, also as far as water.

Alderman Schaper talked about the scientific basis for the plant being further west, the only scientific basis being that water flows downhill and we need to put the plant as low as possible so it could serve as large a region as possible. That was a regional solution to welcome other communities to tap into that plant. State law has made that impossible.

Alderman Pettus felt that is why we need to go back and try to get the state law changed. She believes that, if we buy this land first, we won't try to change the law. She was not convinced that 3 million dollars should be spent on that particular land right now.

Alderman Williams commented that it is unlikely, especially with the concern these neighbors have because they might be relatively close to a WWTP; they think their land values are going down; it is very unlikely that a new massive development would go in to this particular property, that they could at this point in time sell that property to somebody else until this whole thing is resolved. It is highly unlikely that Fayetteville would lose the opportunity to purchase the land unless we dawdled too long.

Mayor Hanna noted the divisiveness of the Council on this issue and felt that most would be pretty happy with the chance to look at trying to locate the plant at (what we call) the primary location to begin with, or look for another regional type solution. Alderman Schaper's option idea is great. Perhaps someone would like to make a motion to go back to the land owners to see what it would cost the City, if it is even possible, to get a one-year option to let the Council look into the alternate solutions which might be available.

Alderman Trumbo made the motion to authorize the mayor and the staff to go back and negotiate an option price for this 300 acres for a year. The motion was seconded by Alderman Pettus. Upon roll call, the motion carried with a vote of 7-0-0.

Jim Murray stated that he was not anticipating a presentation, but he would be happy to address the questions that were brought up at this meeting. He said the facility plan was completed in February of 1997, so it is approaching two years in the talk phase since the study was done. At that time, out of the previous 7 years, the design flow rate capacity had been exceeded in 3 of those years. The maximum month capacity was exceeded 2 out of the 7 years. The plant is at capacity. It is not a black and white line that one day you are under and the next day you are over, but it is functioning on borrowed time. If we had a real wet year or real dry year that would put the plant under some stress, it would be out of compliance and into some EPA compliance issues. If we had had a real wet year, we could have been out of compliance this year. This risk is one that hasn't been considered in these discussions. You have to balance that.

Alderman Daniel asked if a moratorium would be smart, in his opinion.

Mr. Murray explained when you operate at or beyond capacity, the plant operation has to treat the effluent better than the plant was designed to do. If you have more volume, it has to do a better job of treating. So far, it has been able to do it. There is no finite number, but some day it's going to go over. If there is a wet year and high flows, the plant will not be able to handle it. The more sewer lines you add, the more waste water as well as infiltration and in-flow, to some degree, is going to come to the plant.

Alderman Daniel commented that each time the Council okays a development, they ask the question, "Can we handle this?" and the response has been yes.

Alderman Trumbo wondered if there was some merit to the idea of expanding the existing plant, upgrading what we have, to buy some time, until we do something on the west side of town.

Mr. Murray stated that the issue here is not the plant, it is the collection system. It is the gravity collection system which is going to the White River or the plant right now is at or above its capacity at several locations. If you eventually don't pump over from the west side, then it will relieve all those areas that are now having overflow problems -- you've had some compliance issues with EPA there. That's the time we've already bought with EPA. There was a big flow equalization basin that was required for the City to build. David Jurgens and the City have convinced EPA and ADPC&E -- "Don't make us spend that money because we are not going to need it in the long run." If you stay with the existing system, you've got the overflows and the collection system in town to deal with, and you really don't want to spend money fixing those sewers if eventually the flow is going to go the other way. It is more of a collection system investment and relief of the capacity issue there than it is the treatment plant.

Alderman Young asked for clarification as to whether it is the plant or the collection system which is at capacity. The response was that the plant itself is at capacity as well as the hydraulic capacity of much of the gravity collection system. Both are.

Alderman Pettus stated that all these things sound like good arguments to take to the state legislature.

Alderman Schaper wondered how long we could "mess around" with this before the EPA questions the City's intent to build additional capacity or a new plant. If we don't do anything we have a credibility issue with the EPA.

Jim Murray stated that two years have already passed since we made the initial recommendation. Once something is decided upon and initiated, there is a 4 to 5 year implementation period to design, build, and start up a plant, so we are talking 4 to 6 years from right now. How much growth and flow and development will happen in 4 to 6 years, and how is the plant going to be able to deal with it?

Alderman Pettus again stated that they were told, when they were approving new development, that the plant could handle it. Then to hear at this meeting that we can't really handle it at all is disconcerting. Alderman Daniel wondered if the plan was to stall a decision for a year.

Alderman Young explained that the plan was to stall purchase of the land for a year, and the rest can go forward in the interim. He mentioned that acquisition of the permit from Little Rock is still in process.

Mr. Murray stated that, to actually go through the permitting process, you need to know exactly where the point of discharge would be. With the land under consideration at this meeting, the discharge would be about two miles southwest of the plant - just down from the confluence of Goose and Owl Creeks. If the plant were located at Goose Creek and the Illinois River, the discharge would be there. You can't go to EPA and get a permit for 'either/or'. You must pick one or the other. That is at least a nine month process.

Alderman Young believed that, if the plan is to go to the legislature, by the middle of February people would know whether something is going to pass or not.

Mayor Hanna asked if anyone else would like to speak.

Paula Marinoni, representing the citizens of West Fayetteville, stated that they are proposing a regional solution. The incentive for all concerned is for the environment and ecology. She strongly encourages the City to communicate better with its citizens. She believes that Act 13-36 does not need to be repealed. It stops the City from going 10 miles out and taking people's land for a WWTP. Most affected citizens agree this is a good Act. She feels that the word 'feasible' at the bottom of page l is ambiguous and crippling. What does 'feasible' mean? Ms. Marinoni made a presentation concerning ways and means of establishing a regional WWTP. She had conversed with representatives of several areas (Johnson County, KS, and Lawrence, KS., specifically) to discuss their successful regional WWTP's, had convened a large group of interested local citizens to ascertain their attitudes and concerns, and had identified leaders who were willing to serve on (action) committees. These leaders included, but were not limited to, Judge Jerry Hunton, Steve Parker, Rep. Jan Judy, Rep. Sue Madison, and Rep. Sarah Agee. She stated that Mr. Hunton ran his campaign on the need for a regional waste water treatment solution. He agreed to chair and moderate a regional waste water treatment committee. She stated that there are people who are behind this, she doesn't think it is a matter of getting the Act repealed; it is a matter of possible clarification of that one crippling word. She believes the regional plan is do-able, a way we could set an example for positive growth in the future. She further remarked that the site presently in question could be in the middle of our city in ten years as it is between Hwys. 62 and 16, which run parallel, is a long rectangle and provides a barricade to a positive flow of growth in that area. Ms. Marinoni then responded to questions from the Council.

Citizen from Johnson, AR discussed his concerns about waste water pollution which is dumped into White River, comes down Mudd Creek, Clear Creek, Sandy Creek and back over to the Illinois River. In addition, Mudd Creek is plagued by pollution from other sources. Much of the pollution is deposited directly and does not go through the WWTP. This is evidenced by dead fish, scum, etc. which build up along the banks and on the water. His point being that, when a system is overloaded, the excess has to go somewhere. He also questioned the policy of annexing no more than 5 acre land tracts into the City of Fayetteville. This, he felt, has little meaning when you add 5 acres to 5 acres to 5 acres. It's not long until a lot of land is annexed. Then when you put 4 or 5 houses on an acre, you're asking for problems, when the City can't handle what it has now.

Ed Bright, Administrator for the Oklahoma Scenic Rivers Commission, stated that the State of Oklahoma went forth in good faith after the hearings got underway two years ago. They had a meeting with their governor and with their congressional delegation and other folks in their state legislature to get the wheels in motion to a regionalization concept to waste water treatment in northeast Oklahoma and northwest Arkansas. He stated that there is a good faith effort out there, and encourages our Council to start working from the bottom up. He has full faith in what Murray Fleming has been doing. Mr. Fleming has been very open and discussed with the Commission any questions they have had in Oklahoma. So have the staff, Kevin Crosson, Charles Venable, Don Bunn and others. He has been in the fight over waste water needs of the City of Fayetteville and protection of the Illinois River in Oklahoma for 15 years now. He feels it would not serve anyone, including Oklahoma, to do the short options. We need to start looking at the long haul. With that, he pledged that his agency will roll up their sleeves, given the opportunity to participate, and find solutions. He does not envision going back and fighting, as happened early on, and the Supreme Court finally ruled that you can discharge but Oklahoma's water quality standards can be applied. What he would like to do now is build a win-win situation and try to get away from the mentality that "whisky is for drinkin' and water is for fightin' over". We're neighbors and we need to try to find some long-haul solutions. He requested that the Mayor make sure they are included in any kind of committee meetings so they can fully participate and communicate with their sister agencies in the State of Oklahoma and the stakeholders in the Illinois River Basin. It certainly is evident that the growth that is going on in Fayetteville seems to be in the Illinois River Basin, but the Illinois River Basin also happens to be a special treasure in Oklahoma, so Oklahomans must be considered as well as Arkansans. "We all live downstream."

J.D. Tackett commented that he felt the citizens believed they were voting not to build the WWTP in the location under consideration as well as voting against the purchase of the parcel of land. He implored the Council to take the issue back to the people before putting any money on the land. No small group should decide what is best for the people of Fayetteville.

David Glasser stated that he works for the university and is involved in the study of long-range planning and growth patterns of cities. He urged the Council to study the growth patterns of Fayetteville and make decisions based upon that as well as the technical issues. Future city expansion will likely be to the west, and no one wants a sewer facility as the centerpiece of the city. He further stated that, as he interprets Act 13-36, it does not preclude locating the WWTP in the most desirable location. It requires that you demonstrate the unfeasibility of putting it within the boundaries. If you look at all factors and their impact, you may reasonably conclude that it may not be feasible to keep it in the present boundaries. The law may not need to be revised. It can be interpreted liberally.

Alderman Pettus agreed with the above statements but predicted it would take two years of litigation to figure out whether it is feasible or not.

Mayor Hanna suggested that we would go back to the property owners to find out about a one year option on the land, and bring the information back to the Council in two weeks. If the option is possible, the price of the option will need to be ascertained. There would then have to be a vote on whether or not to pay that price.

Alderman Williams clarified that the property acquisition will not be on the agenda at the next meeting. It will simply be to review the one-year option availability.

John Miller from Amber Lane in Farmington stated that no matter whether where the facility is built, it will affect his property. He recalled that Alderman Daniel mentioned that Springdale's plant was updated to last ten years. He suggested updating Fayetteville's present plant for ten years also, at which time Springdale would be interested in regional considerations. In the meantime, a well-developed plan could be worked out and ready to go.

Dr. Tom Louden asked the Council two things: Has anyone thought seriously about which direction the wind blows? Prevailing winds are southwest to northeast. He then asked if anyone had addressed the idea as to what permitting requirements are for each of the areas. If a legislation were passed that required everyone to renew their permits at the same time, it would put everyone in a region having the same problem at the same time. It might be easier to generate more interest in a regional solution.

Brad Hancock, City Alderman from Farmington, wanted the Council to know that Farmington is not their adversary, but their neighbor. He suggested expanding the current system, improving the collection system as it will be needed eventually anyway, then at such time as several surrounding cities need to upgrade their systems, turn the present and any future plant over to a regional body, relieving a lot of burden from the City of Fayetteville. Farmington doesn't want to get in the sewer business, and perhaps the City of Fayetteville would rather not be if they had a choice. The City of Farmington is very willing to work on a regional solution.

The land acquisition issue was left at this point for future consideration.

LEGAL DESCRIPTION CORRECTION: Mayor Hanna introduced an ordinance correcting the legal description for Vacation 94-2, City Ordinance 3835.

LaGayle McCarty read the ordinance.

Mayor Hanna further described the nature of the ordinance and asked for questions.

Alderman Williams moved to suspend the rules and go to the second reading. The motion was seconded by Alderman Schaper. Upon roll call, the motion passed with a vote of 7-0-0.

Ms. McCarty read the ordinance the second time.

Alderman Schaper moved to suspend the rules and go to the third and final reading. The motion was seconded by Alderman Daniel. Upon roll call, the motion passed with a vote of 7-0-0.

Ms. McCarty read the ordinance the third and final time.

There were no other comments and Mayor Hanna concluded that the ordinance passed. ***Upon roll call, the ordinance was approved by a vote of 7-0-0.***

ORDINANCE 4126 AS RECORDED IN THE CITY CLERK'S OFFICE

OFF STREET PARKING LOT DESIGN: Mayor Hanna introduced an ordinance revising the UDO, Off Street Parking Lot Design requirements, in reference to landscaping.

Ms. McCarty read the ordinance.

Alderman Williams recognized Kim Hesse, landscape administrator, for doing most of the work on this.

Kim Hesse described and contrasted the previous landscape requirements and those currently proposed. The discussion included water systems, size of trees (smaller trees must be placed closer together), type of landscaping material, and replacement of dying landscaping.

Alderman Pettus noted that owners would be given 60 days from date of notice to remove and replace required landscaping. She asked about the penalty if the owner fails to do that. The response was that enforcement would need to be worked out with the city attorney.

Mayor Hanna verified that the issue concerned replacement of dead landscaping, then commented that the City would probably have the same option as that when yards are not mowed - go in and do the work, then charge the owner.

Alderman Williams elaborated, saying that the ordinance would be enforced in a reasonable fashion. People would not be required to replace landscaping in the middle of a drought when survival was questionable.

Alderman Schaper moved to suspend the rules and go to the second reading. The motion was seconded by Alderman Daniel. Upon roll call, the motion carried by a vote of 7-0-0.

Ms. McCarty read the ordinance a second time. The ordinance was left on second reading and will be presented for a third and final reading at the next Council meeting.

OVERLAY DISTRICT: Mayor Hanna introduced an ordinance revising the Overlay District provisions of the zoning ordinance to eliminate sections contained within the Commercial Design Standards.

Ms. McCarty read the ordinance.

Alderman Williams stated that these proposed revisions came up in the Ordinance Review Committee meeting. He reviewed the rationale for the revisions.

Alett Little discussed and described the changes. She assured the Council that the ordinance revision simply extended the best part of the overlay plan to the rest of the city.

Alderman Schaper commented that his one concern has to do with the appearance of building exteriors. He feels that our commercial design standards or ordinance is working as it was intended to work. He gave two examples - an ugly building and an attractive one, which was built under the overlay district requirements. Until that ordinance is working he feels that the Council should not pass this revision which would negate some of the protections of the overlay district. He would be in favor of making these changes if this part were left out. He felt that the commercial design standards need to be revisited.

Ms. Little discussed how the issue of building appearance standards is being addressed, then agreed it would be reasonable to take out Number 9 until there is time to work more on commercial design standards.

Alderman Schaper stated he would like to leave 9 and 10 out of this vote.

Alderman Young made a motion to amend the ordinance to take out numbers 9 and 10. The motion was seconded by Alderman Daniel. Upon roll call, the motion carried by a vote of 7-0-0. The ordinance was left on first reading.

TERM LIMITATIONS: Mayor Hanna introduced a resolution revising the Rules of Order of the Fayetteville Mayor/City Council by repealing Section (H)(2)(d) and thereby allowing a person to serve longer than two consecutive terms on any city commission or board.

Alderman Trumbo discussed the pros and cons of the revision, then opened it up for debate. Considerable debate ensued. Discussion covered qualifications of candidates as well as term limitations.

Alderman Trumbo wanted to make clear that the term limits issue did not apply to elected officials as they were directly accountable to the voters.

No action was taken on this resolution.

RUNWAY RE-STRIPING: Mayor Hanna introduced a resolution approving the contract with Time Striping, Inc. in the amount of $44,631.00 for the re-striping of the runway and taxiways and approval of a $2,500 contingency.

Alderman Schaper remarked that as soon as possible in the planning process, airport items in the CIP should be reviewed and changes made where need be in light of impact made by opening of the regional airport. It was stated, however, that this re-striping is merely a maintenance issue. As long as passenger service is offered at our airport, it needs to be kept in good condition.

Alderman Williams moved that the resolution be passed. Alderman Schaper seconded the motion. Upon roll call, the motion carried by a vote of 7-0-0.

RESOLUTION 154-98 AS RECORDED IN THE CITY CLERK'S OFFICE.

The meeting adjourned.