

MINUTES  
JANUARY 18, 2018

Welcome and Call to Order: Mayor Horton

Invocation: Harry Kamprood

Roll Call: City Clerk

Pledge of Allegiance

Minutes Approved

Financial Report: Jerry McKanaugh  
No questions

Mayor's Report:

Awards

Exceeding Expectations Award: Won by Ethan Hesselbein  
Ethan received a standing ovation.

Max Mathis was nominated to the City Corp Board, he will take Mr. O'Dell's place.

Motion: Wiley

Second: Sims

Passed with one dissenting vote: Mr. Westcott.

Advertising and Promotions department:

Dusty Yarborough re-approved for the position.

Wiley: Motion

Second: Brown

Passed no dissension.

Departments:

Parks and Recreation:

Report by: Terry Thomas for the year of 2017 which was the 50<sup>th</sup> anniversary of the Parks and Recreation Department in the City of Russellville.

Aquatic Center opened and is being used much more.

Classes are overflowing.

Swim teams have been using it nearly every day.

Swim and dive lessons and exercise lessons, also camps and scuba diving lessons.

Soccer field lights had a ribbon cutting.

Parkway connector trail to Bona Dea which keeps people off of Lakeview Trail to Tech behind the Aquatic Center which was a joint effort and leads from there to Tech so all the students that don't have cars can jog over there without having to get on Parkway.

Kids Fest was very successful.

Fourth of July

Christmas Parade was one of the best and biggest.

Trout Day at the Pond.

Applied for grant for upper field lights and were granted \$90,000.

Octagon pavilion is funded.

Bicycle Park for kids and adults being considered.

Also Pickle Ball courts at Shiloh.

I want to thank all the other departments that help us with all the events.

Our guys put up the Christmas lights downtown.

#### FINANCE COMMITTEE:

Chairman: Larry Brown

I would like to combine Items 1-3, the Appropriation for the Aquatic Center, the Appropriation for the Sales Tax, and the replacement of the Air-conditioner at the Aquatic Center and new doors for the Hughes Center.

Motion: Chair.

Second: Westcott.

Passed no dissension.

#### Item 4

Park and Recreation budget--\$34,930 retiree pay out.

Motion: Brown

Westcott: have we seen any figures or any paperwork on this?

McKanaugh: It was 480 sick days rollover and 220 vacation hours, that's the way the personnel manual says to do it.

Westcott: Says to do what?

Jerrold: How to pay these out.

Westcott: That's great, but I would appreciate something in print.

McKanaugh: Ok

Jerrold: But I need to get a motion to pass this so I can cash the check. Or we'll have to have a special called meeting. Mayor Horton: I think there's an issue with APRs if there's any compensation after the 31<sup>st</sup>, or maybe after Friday, after the 26<sup>th</sup>, it'll mess up his APR'S.

Westcott: What is that?

McKanaugh: His retirement fund, I just know that it won't roll over properly, because we have to write the check by a certain date.

Westcott: I'm not opposed to having a special called meeting if that's what we need to do to address this before the deadline, but I'm certainly hesitant to approve \$35,000 without some kind of documentation along with that.

McKanaugh: That's fine.

Wiley: This was passed by the Finance Committee to the full council so the standard is that we have to vote.

Mayor: We will have to vote after the discussion.

Westcott: Yes, but it was passed along to the full Council with virtually no discussion. And certainly no documentation.

Tripp: Mayor, may I have the floor for a second? My concern on this is that during the budget meetings in October-November, we were told that the Director stated that he takes Fridays off and sometimes Thursdays which makes me question, and I think that's what Mr. Westcott is questioning that detail of 220 vacation hours which equates to 27 ½ days.

McKanaugh: Yes.

Tripp: Well, if a person has up to 40 vacation days a year, and they take every Friday off as stated, then how is there 27 ½ days? I'm just doing the math. And so my question is; where is our safeguard of the taxpayer dollars? Because almost \$34,000 as it was stated in a previous personnel meeting that some employees consider this a thank you on their way out the door, as it was stated. So this is more than what police officers make in a year's time, and this is a payout, a retirement payout to one employee.

McKanaugh: It happens to every employee..

Tripp: I understand that, but its \$34,930. That's basically a policeman's salary in a year.

McKanaugh: I can give you the numbers.

Tripp: When we're told, I take Friday's off and sometimes Mondays, or Thursdays, or whatever was stated, then it makes me question that number. I agree with Mr. Westcott that I would like to see some documentation for transparency purposes, and so I would table this, just to get that documentation.

Horton: Well, I think that conversation in October-November...at that point in the year it's not uncommon for a lot of our personnel, not just the department heads, but a lot of our people who've not been taking their vacation days or sick days, then you get down to the end of the year, and you try to use them up. I don't think we signed a vacation or a sick day slip on him. They turn in a form when they are going to be off and he's not been off since he's ...admittedly it's hard to take off when you're having a holiday every time you turn around...

Tripp: And I presume, this 27 ½ days, if he has...if no vacation time has been taken this calendar year...in the past 18 days, then if this particular employee gets 25 days of vacation per year, then that's awarded to him on January 1<sup>st</sup>,

McKanaugh: Yes, that's correct.

Tripp: So he would have 2 ½ days carry-over, which still doesn't do the math for me in 2017. So that means we are paying him basically (the way our policy states) he gets 25 days of vacation for this calendar year, here on January 1<sup>st</sup>, so you are asking us on January 18<sup>th</sup> to pay him for 25 days of vacation when he's retiring. I understand that you are going to say that's what the policy states, but I still would like to see some documentation, so I make that in the form of a motion.

Brown: It has nothing to do with that, it has to do with what the city has already put in writing for the employees. You can't jump in mid-stream in this and change something. If you want to change something you have to do it through the committee (go to the Personnel Committee) then you have to bring the changes to the handbooks.

Tripp: Mr. Brown, I don't disagree with that but when we are told one thing it makes me want to see the documentation.

Brown: Well, this is something we could have looked at last year and we didn't.

Westcott: And I agree with what you are saying, now is not the time to make a change in this. And that's not what I am asking for. All I am asking for is some documentation to go along with this request for almost \$35,000. And so, because of that, I'll second the motion to table this.

Horton: Ok, at this point, we've got a motion to table it, and a second.

Tripp: Mayor, my discussion on this...I think we eventually have to pay this but before we pay this I'd just like to see the documentation, and see what supports it.

McKanaugh: Don't we have to vote on the first motion first?

Horton: No, we have to vote on the second motion.

McKanaugh: Ok

Horton: So, we have a motion to table, all in favor of the motion to table say, "Aye."

Horton: Opposed?

Several said, "No."

Horton: I'm thinking we've got to call the roll.

Roll was called and the motion to table failed.

Horton: If there's no more discussion, back to the committee's motion, which was to pay, all in favor, say, "Aye." Council vote was split. Roll was called again.

Tripp and Westcott voted no, Mr. Wiley voted yes, Brown voted yes, George voted yes, Sims, voted yes. Vote was 4-2.

Horton: In that case I'll break the tie to go along with the committee's recommendation to go along with our handbook, so I vote yes.

Motion passed.

Horton: Motion is passed Mr. Chairman, do you have anything else for us?

Brown: Yes, sir, I have appropriations for Inglewood and Glenwood. \$500,000 is that correct?

McKanaugh: That's correct. It's \$500,000 each.

Brown: I send that to the council for a vote,

Horton: Any discussion?

Westcott: Yes. Again, my concern with these, is not the projects themselves but that we have no documentation

Regarding this whatsoever, it was in the minutes of last month's meeting that we were going to have an update of the five-year plan before we went forward with this. As yet I've received nothing in regard to a five-year-plan, or any documentation about this request.

Tripp: Mayor, my question about this, if I may have the floor for a second is: are we doing aboveground utilities, are we doing in-ground utilities, how many light poles. We know nothing about this at this point in time. And I believe that during the budget process, the reason why we held some of this money back was to...why would we approve the funding until we get the up-dated five-year plan?

Horton: I believe we were already doing the engineering, it started last year, didn't it, Mr. Jones?

Kurt Jones: I submitted the five-year plan last month.

Tripp: I haven't seen it. Has anyone else seen it?

Horton: I know I've got it, I thought it was sent out to the whole council. But back to my question, did you not start the engineering last year?

Kurt Jones: Yes, the engineering has been going on since last year, the contracts were signed and...

Wiley: So we had to have approved that last year?

Kurt Jones: Y'all did approve it last year.

Wiley: So all we are doing is cleaning up the paperwork?

Horton: Well, we are appropriating money to pay the engineers for their work, and then we'll bring approval of the plan for the Council for approval of the project.

Tripp: So the \$500,000 is just for the engineering of each one?

Jones: No, like I mentioned earlier in the Finance Committee, the project is going to cost well over \$500,000 a piece, and the engineering is going to be well under. \$500,000 is just a round number that Jerry and I came up with to keep these things going. They really need a lot more money than that...

Westcott: So if I'm understanding with these two items together, we're expected to vote for these two items together in favor of spending a million dollars.....

Jones: You've already voted!

Wiley: No it's not a million dollars, its \$500,000 apiece.

Westcott: You've got two things on here, one for \$500,000, and one for \$500,000, what does that add up to? And we are expected to do this with no documentation. Is that correct? Or am I missing something here?

Horton: Well, we approved it last year to start the engineering; we didn't get it all done in one year, so we have to start appropriating money to finish paying for that engineering. Are you wanting an exact number? A lower number? We've got to pay the bills (unheard.)

Westcott: I find no fault with the numbers; I've seen no paperwork to support any number whatsoever.

Jones: I don't know why you don't have it.

Horton: It's the same five-year plan as last year and was on the year before, I believe, was it not? So to say you're not familiar with the project is a little bit flying under a false flag. You understood it last year when we voted to do it,

Westcott: That's not what I said.

Horton: And all we're doing now is to pay for the engineering work we're already in the middle of.

Westcott: Ok...that's not what I said.

Horton: We've brought back to you for you to approve the plan and all the details on it. Any other discussion?

Tripp: Mayor, after the engineering is done, we will be presented with a set of plans for these projects?

Horton: Correct.

Tripp: Before they are proceeded on?

McKanaugh: You'll have to have the plans, you'll have to approve them, you'll have to take them to bid, then we'll come back for the rest of the money. If you want to lower the...I just picked a number. \$100,000...we've got to have some money to pay the bills. On the engineering part.

Tripp: How much money is in those accounts Mr. McKanaugh?

McKanaugh: There's nothing in these accounts right now.

Tripp: Ok.

Tripp: You're taking it from accounts that have how much?

McKanaugh: I'm not taking from any account. I'm taking it from the bank. It's in reserve.

Tripp: It's in reserve.

McKanaugh: Sales Tax reserve.

Tripp: And we've got how much in there?

McKanaugh: \$10, 185,000.00.

Tripp: Mr. Mayor, I call the question.

Horton: Ok, we've got a motion to call the question. All in favor say, aye.

Passed with one nay vote by Mr. Westcott.

I don't think you need to call the roll. Those two items are approved, Mr. Chairman.

Brown: There is agreements that I want to put together here, an agreement between the City and Alliance, agreement between the City and Boys and Girls Club, and agreement between the City and Main Street Russellville, and that's all.

Horton: Council, you hear the chair's motion, any discussion? All in favor say, aye.

Passed no dissension.

Horton: It's approved Mr. Chairman.

Brown: We tabled number eight at our committee. Number 9 is the Public Works on ATU property and the update on the Aquatic Center.

I want to give to you for discussion the change in fines for business permit violations, and (unheard)

Westcott: If I'm not mistaken, I'm reading this in last month's minutes where we approved that with the emergency clause...

Brown: I think you are right

Westcott: I don't think we have an ordinance that was approved...

Reads. Penalty section of Ordinance 1811. This ordinance if passed would amend the fees, I made the motion to adopt the new ordinance and that passed with the emergency clause.

Horton: Do you have any other business for us Mr. Chairman?

Brown: Yes, Sir. We had an update on the Weir Road Project and the discussion on the Convention Center and we tabled both of those. There's a Resolution removing Kathy Collins from the bank account and recommending Patricia Taylor.

Horton: That's in the form of a motion. Let's finish 15 and move back to 10.

Council, you heard the chairs motion on item 15, any discussion? All in favor say aye.

Passed with no dissension.

Now do you want to go back to 10?

Brown: Yes, number 10, consideration to pay Arkansas Valley Alliance \$5,041.50.

Horton: Council, you heard the chair's motion, any discussion?

Passed with no dissension.

Brown: Number 16, consideration of new fee structure for the undeveloped portion of Oakland Cemetery.

Horton: Mr. Westcott? Do you have some numbers on that?

Westcott: Yes. In fact I've passed out to everyone on the dais here a printout...currently this will only apply to the undeveloped portion of the cemetery, on the West end.

Horton: Do you want to go into some detail about why?

Westcott: Currently, we have 452 traditional full-sized gravesites available in that undeveloped portion. Under the current fee structure, whatever we sell, the actual plot for (we, as in you and I the tax-payer) will lose 20% of that to the State of Arkansas for perpetual care. That should the City of Russellville cease to exist, there's a fund that would allow them to come and maintain the cemetery. The likelihood of that is nil. Under the current rate schedule, the traditional grave costs \$750, we lose \$150 of that, the actual true income after everything is said and done is \$610. If you factor that out, those 452 plots, you and I, the taxpayers will lose \$80,000, and I don't think we need to do that. Under this new fee structure, instead of losing \$80,000 for those plots we will lose \$16,700. Everything said and done, if all of those 452 plots are sold as traditional gravesites it will save the taxpayers \$159,556. There's also a second page here, if those are put into cremation graves, instead of full-size plots, right now, we will lose \$123,800. Under the new fee structure, we will lose \$28,900. So, it's going to save the taxpayers, if all of those are put into cremation graves, it will save the taxpayers \$242,272. Simple math. It's just a matter of how we divide it.

Horton: Any other discussion? So you are presenting it in a motion, but when we did it we didn't have the breakdown at that time, did we? That exact cost?

Westcott: Well, yes, this was given at the Finance Committee level, and this did pass the Cemetery Commission level. Before it came to Finance.

Horton: Yes. So everybody's comfortable with just doing it off the committee motion?

Smith: Well, it has to be an ordinance before it can be voted on.

Horton: An ordinance?

Smith. Yes

Westcott: So my motion is that we approve it at this level and direct the City Attorney to create an ordinance to this effect.

Horton: Do you think we need to do that, Mr. Smith?

Smith: Yes, I do think, though...has this been submitted to the Arkansas State Cemetery Board?

Westcott: Not if you have not done that.

Smith: You haven't done it?

Westcott: I haven't done it.

Smith: I'd like to hold off until it's reviewed.

Westcott: What I do have is a copy of an email from our City Attorney... a couple of things about it is, we are not allowed to sell the plot for less than what we paid for it. We're not allowed to do that. On the undeveloped portion of the cemetery, and this is dated October 19, 2017, "That makes the cost the city has invested in each adult grave plot \$10.44.

Smith: Right, that was the breakdown of the cost of purchasing the new land like you wanted.

Westcott: Correct.

Smith: However, you've got a State law that talks about gross proceeds from a gravesite that are adjacent or in a similar location. A cemetery... (Unheard) and so I would like to make sure that the State Board doesn't want to compare the new addition to the old addition. It's better to do it on the front end, than to pass it, and find out that they're not going to accept it. Wouldn't you agree?

Westcott: I would agree.

Smith: I'll try to get documentation too so that will take a while

Westcott: Perfect, Thank you.

Horton: So this was just discussion tonight?

Westcott: Yes. I would like to table that.

Horton: Good, so we'll let Mr. Smith make that contact and then, assuming that it goes our way, then...

Smith: I've already sent that email and I'm waiting to hear back.

Horton: Wait til he hears from them, and then if there's no problem, bring back an ordinance at that time?

Smith: Correct.

Horton: Is that ok with everybody? Ok.

Anything else for us Mr. Chairman?

Brown: I'm not quite sure there's an item about discussion regarding forming a committee (this is item 17, about forming a committee to participate with Pope County for the possible purchase of downtown property, clerk's note) does anyone have any information regarding this? Freddie had it on here and she isn't here tonight.

Horton: I had a call today from Mr. John Harris, of Valley Motors fame, he would like to be considered for that, he's got some interest in that area, and he's a long-time member and supporter of Main Street. So it's up to the council, if you want to

appoint a committee, or I'll appoint a committee, it's your instruction on that but if you do it I respectfully ask that you consider Mr. Harris.

Sims: I have discussion on that about how we would want to do that, I think we need to come to an agreement, would the Mayor be part of that group or a couple of the Council member? My preference is the Mayor and one of us to take part in this.

Wiley: Mayor, I've heard that we haven't heard any numbers of any kind, or any timeline or nothing so, we are just out in the dark on this one.

Sims: Mr. Mayor, the timeline and the price of the property, as far as the appraisal value of the property, is what the committee is being formed to discover, here.

That's why we need the committee formed, so they can meet, and then meet with the property owners to discuss what's the potential to purchase, and there hasn't been an appraisal or anything done on the property at this point. Simply just to form a committee...The County Judge has already formed a committee, because that's the way they do that, he has the authority to do it. He appointed himself, a Quorum Court member, a Justice, Doug Skelton, and he appointed the County Treasurer, Larry Coleman. So they've got their committee of three, and they are asking us to form a committee of three, to make a total committee of six.

Wiley: I'd like to ask Jerry, even if we did form up a committee, and we agreed on a price, where does the money come from, Jerry? For our part, if we 50/50 with them...

McKanaugh: It'd have to come out of the general fund.

Wiley: And if it's a...I know it's going to be a high price...

Sims: Well, that's hasn't been determined, because we don't know what the price is. If you remember at the Agenda Meeting, Mr. Skelton presented this to us, and asked us to choose three to form a committee. And in that discussion he gave out a number, but he was talking about it over a 4-5 year period. And if you look at even a large amount of money, over a 4-5 year period, and splitting it in half with the county, you are looking at a whole different thing. But anyway, the Mayor and I discussed this afternoon, and the property is actually across the street from me. I'm very familiar with the discussion from the Quorum Court because I receive funds from them. But I had a feeling that some of the Council members might think that I had a conflict of interest because of the fact that I do receive County funding. But I would be willing to serve on the committee if there's no objections.

Wiley: Why, I would volunteer to be on that committee too.

Sims: In my opinion we don't need two Council members on it, it should be the Mayor and Mr. Harris, and I would yield to Mr. Wiley to serve on that. And he is on our finance committee, so therefore...It's that or Mr. Brown, who is chairman of the Finance Committee.

Brown: I think we need to make a decision and a vote on that, my recommendation is to have Sims and the Mayor, and Mr. Harris there.

Horton: Is that a motion?

Brown: I make that a motion, yeah.

Tripp: I second it.

Horton: We've got a motion from Mr. Brown, and a second from Mr. Tripp that it would be the Mayor, Mr. Sims, and Mr. John Harris. Any discussion?

Passed with no dissension.

Horton: I think you've got one more item?

Brown: Yes, discussion waiving competitive bidding for the grinding of yard waste out at the Animal Shelter.

Wiley: I thought we passed that.

McKanaugh: We passed it in the Finance; we have to take it to the Council and read the ordinance.

Brown: What was the (unheard) on that?

McKanaugh: \$38,150.

Brown: (Unheard).....

Brown: I make a motion.

Horton: Council, you heard the motion, any discussion.

All in favor say aye, opposed?

McKanaugh: We have to read an ordinance, don't we?

Horton: Someone want to make a motion to suspend the reading?

Westcott: I make a motion to suspend the rules, read one time by title only with a short explanation,

George: I second that.

Smith: (Reads the ordinance)

Westcott: Motion to adopt.

Wiley: Second

Roll was called and motion to adopt passed.

Horton: Can I get a motion for an emergency clause?

McKanaugh: We have three other appropriations that were passed through the Finance Committee to the Council, one for the additional \$7,150 for the grinding, one for \$700 for administrative travel and training, and one for \$175 travel and training for the Mayor.

Brown: Motion

Horton: Any discussion?

Passed, no dissension.

Horton: That should be it for the Finance Committed.

Tripp: I'd like to ask a question about an item on the Finance committee that was tabled, just for an update? Item 14 on the Weir Rd. Project.

Horton: There's no updates since last week, we are working on getting some documents for that.

Horton: So that will bring us to Personnel? Do you have a chairman yet?

Tripp: Mayor, I am not the chair, but the Personnel Committee has not met yet, I guess two members are out sick.

Sims: But we met last week and two items came out of that, the Nepotism and (unheard)

Horton: Mr. Sims, you were the chair before, do you mind chairing that?

Sims: Right, as of last week, we did meet last Tuesday before the Finance and Prep meetings. And, I was then the chair and I am no longer on that committee, is what this discussion is about. But the committee did decide last week to bring two items, one of which was not listed; the first item was consideration of an ordinance amending the City ordinance regarding Nepotism. And all its changing is one word in the first paragraph, where it mentions relatives, and relatives working in the department. The current policy is that relatives can work in the same department, they just can't supervise each other. And it has to be by the approval of the Mayor and the Department head, and all we are doing here is adding the word "written approval," by the Mayor and Department heads. So we're just adding the word written...

Wiley: They can work in the same department?

Sims: Yes, that's the current policy. They can't be married and work in the same department, but they can be relatives and work in the same department, but they cannot supervise each other.

Wiley: I think you run into problems whenever you have relatives working in the same department. Whether they are the boss or not.

Sims: Mr. Wiley, we are not changing the current policy the way it is. The current policy says with the approval of the department heads and the Mayor. It was asked and brought out of the committee to change it to, "written approval." So all we are voting on is to add the word, "written." We are not changing anything about the policy, as far as who can work in there or not. That is not what this is addressing.

Wiley: So what's that supposed to do as far as changing...that isn't going to do nothing.

Sims: It was requested to put on the agenda, the committee brought it forth, and it simply...instead of being just 'approval' which would be considered a verbal approval, or a handshake agreement, or whatever...would be examples of approval, but a written approval would have the signature of the Mayor and the Department head on the applicant's position.

Wiley: But it will still let them work in the same department.

Sims: Exactly. We're not changing that part of it. That wasn't brought forth.

Horton: Honestly, in times of question or conflict your best friend is documentation.

Sims: Yes, that's all we are trying to accomplish.

Wiley: So we are not interested in trying to fix it where they have to work in a different department?

Sims: That will be up to the Personnel Committee.

Horton: At this time the recommendation is just to add the word, "written."

Sims: And I send that in the form of a motion.

Horton: Ok. Council, you heard the Chair's motion, any other discussion?

All in favor say aye.

Passed with Mr. Wiley dissenting.

1.02.04

Sims: The next item, which failed to get listed was the new job description for the custodian at the Parks and Rec Department. And that position mirrors the position we approved last year for Police and Public Works. And I would put that in the form of a motion.

Horton: Alright, Council, you heard the Chair's motion. All in favor say aye.

Passed with no dissension.

### OLD BUSINESS:

Horton: Item 1, discussion regarding drainage update. Mr. Jones, you want to tell us what has been going on?

Kurt Jones: So, I assume you guys got the list of drainage projects that we are looking at working on here in the last year....last month? As submitted?

Wiley: We did.

Jones: I've just got a few updates on a few of these. The Vancouver drainage improvements, that contract has been awarded, and construction should start soon on that project. The issue over on S. Independence, just to the north of 12<sup>th</sup> St. I've completed a design on that to enclose a ditch down through there that is causing some issues. And I had a discussion with Junior today, we are actually going to do that work in-house. And then the other one is on the 'O' St. and Highway 7 drainage, we've had some recent discussions with Arkansas Tech, and Mr. Bernadette Hinckle I believe, is still here, yeah. And we are. Our next step is to get some easement language to them, prior to their March board meeting, and hopefully that will.... And if we can come up to an easement agreement, then that will free us up to enter into an agreement with the Highway Department so we can get something moving on that. And I'd be happy to answer any of your questions on any of the other projects as well.

Wiley: Mr. Jones, I'd like to say that I appreciate the light you put on E. 64<sup>th</sup>....I've had a lot of comments about the street lights that's been put up there.

Tripp: Mr. Jones, on the Vancouver project, do you have any estimated finish date on that?

Jones: I don't, we haven't actually issued a notice to proceed, we've just gotten the contracts together. I think it was a 75-day contract. I think it was 60 with ultimate completion of 75 days.

Tripp: And the notices they need to receive will be happening soon, I'm sure.

Jones: Yes, we'll have that issued next week.

Tripp: The drainage projects that you had submitted, we had also discussed in previous months about adding drainage as part of our 5-year plan. Is that in what you presented to the Mayor ...?

Jones: Well, there are drainage projects in the 5-year plan, and this is just the first step to identifying...and the ones that are in the 5-year plan are noted on this. But this includes projects that are not on the 5-year plan that came out of the money that was budgeted each year for drainage....that money that we budget each year is really to target these minor drainage issues that come up, that are smaller issues, like "O" St. Highway 7 caliber. And really...I could project those out for 5 years, but I think that what I was doing for this was trying to give you all something for this next year. And then we'll do something like this every year. But I've actually got a map, with notes and information that I've been collecting, actually for the last 5 or 6 years, that a lot of these are based on, on some of those notes.

Tripp: And then your plan would be to try to compile all of this into some kind of a master list, if you will or something that...

Jones: Well, it's going to continually grow, but yes.

Tripp: Mayor, I'd like to make a motion (and it may change during the meeting, but I'd like to make a motion to table this for next month, just for continued discussion.

Horton: We've got somebody signed up to speak, can we do that? So if you can hold your motion until we do that, and then restate it? Mr. Hutchinson if you want to speak tonight?

Hutchinson: Yes. I created another model, a hydraulic model.....and it shows the same thing that I did when I looked at the area of it. It looks like if we are not diverting any water off of Seattle, that the pipe that's on this new project that you were talking about, will be too small, will not carry all that water. And so it will not relieve the flooding because it doesn't go far enough, because the flooding starts at Seattle, and this doesn't even start until Vancouver. So it's not going to carry any more water....thank you.

Horton: Thank you.

Tripp: Mr. Hutchinson, I have a question for you if you don't mind. Have you shared that information with Mr. Jones, or that model, or is that something you can email?

Hutchinson: (unheard)

Tripp: Mayor, I'd like to make a motion to move to table this for further discussion next month.

Second: (unheard)

Horton: Ok, we've got a motion and a second to table this until next month's agenda, all in favor say aye.

Passed with one dissenting vote (unheard)

Horton: Old business number 2. Ordinance amending Russellville's zoning code. This will be the second reading.

Westcott: Move to suspend the rules, read by title only, with a short explanation.

Horton: Is this the second reading? It's the second reading.

Is that your amendment, for the second reading only?

George: I'd like to amend that to vote, and it will be the final reading.

Horton: Let's get a second to Mr. Westcott's motion first.

Westcott: How about I move to read tonight with a short explanation, and that will be its final reading.

Horton: So now we have a motion to suspend the reading requirements (the second and third reading) read by title only, with a short explanation, and we've

got a motion from Mr. Westcott, second from Mr. George. Do you want to call the roll on the motion to suspend?

Roll was called and all the members voted yes.

Smith: (Reads)

Horton: Motion to adopt, Mr. Wiley, second Mr. Westcott. Discussion?

Roll was called and Motion was approved.

Horton: Old business item 3. Consideration of an ordinance to vacate 5 feet of alley.

Westcott: Is this the second reading tonight?

Horton: Yes it is.

Westcott: Motion to suspend the rules, reading by title only with a short explanation.

Wiley: Second.

Tripp: Can I amend that to have discussion first?

Horton: We have to have a motion and second first and then we have to have a public hearing....ok, we have a motion to suspend the reading requirements for a second and third hearing, read by title only with a short explanation.

Horton: Motion approved to suspend the rules.

Smith: (Reads) 113:52

Wiley: Motion to adopt.

George: Second.

Horton: Ok, this is for a public hearing and we declare the public hearing open. Anybody that wishes to speak, to this issue, please step to the microphone, and please realize we have a five-minute deadline to do commentary.

Ryan Dunaway: Thank, you, my name is Ryan Dunaway, and I am the prospective buyer for this building. We are just needing this passed, because we can't get the financing for the building without it being passed, they won't approve it. And I

think the opposition from last month has been cleared up, because I think there was a different buyer lined up for this property, and they have since found out that that isn't the case, so.....I hope that that is cleared up, and we can get that passed tonight. Thank you!

Horton: Thank you. It's a public hearing, does anyone else wish to speak? Ok, we'll declare the public hearing closed...

Wiley: Motion to adopt.

Westcott: Second.

Horton: Motion to adopt Mr. Wiley, second, Mr. Westcott. Is there any discussion from the Council?

Horton: Alright, please, would you call the roll?

Passed with no dissension:

Horton: When an ordinance is approved, the rules are that it goes into effect in thirty days, unless we pass the emergency clause. Is thirty days good enough, or do you need us to pass...if we invoke the emergency clause it becomes effective tonight.

Dunaway: I would like you to (unheard)

Westcott: Motion

Wiley: Second

Motion passed, no dissension.

Horton: That carries us to old business number 4, resolution to set a public hearing for well it says in your agenda it's for today but we are changing it to February 18.

Wiley: Second.

Westcott: Motion

Passed no dissension.

Horton: Old business 5, approval of a final plat for the Center Subdivision by Sequoia.

Wiley: Motion to adopt.

Smith: That's going to be an ordinance, so we'll have to... (Discussion)

Westcott: Motion to suspend the rules and read the first of three readings by title only with a short explanation.

George: I'll second that.

Roll was called and Westcott voted yes, Wiley, no, Brown, yes, George Yes, Sims, yes, Tripp, yes.

Smith: It takes six to pass.

Horton: It takes six to pass so I'll vote yes.

Smith: (Reads) 11.10

Wiley: Mayor, Mayor! May I ask a question on that? Do we still have an issue with the water problem down there, the drainage issues down there?

Mr. Long.

: No we've made all requested revisions to the plat, and we've put some drainage ditches in there and we haven't heard of any issue that's not been addressed, and we're kind of holding this up. The investor's got a million dollars invested in this and we need to get the final plat approved so he can sell some lots and get some money.

Wiley: Mayor. I make a motion that we suspend the rules and read by title only tonight, second and third reading, so that we can pass this and move it on. Because everything's been met on this. The only thing that was holding this up was the water issue, and he says it's been resolved, so...that's my motion.

Horton: Ok, so now we have a motion for the second and third readings, by title only.

Wiley: I don't know why we wouldn't make....wouldn't pass this tonight.

Sims: Second.

Horton: Ok, we have a second from Mr. Sims, and we are voting on another motion to suspend, can we call the roll please?

Roll was called and Wiley, Sims Brown, George, and Tripp all voted yes. Westcott voted no, so Mayor Horton broke the tie and voted yes.

Smith: (Reads.)

Wiley: Motion to adopt.

Brown: Second.

Smith: Do we need discussion now? There's been a motion to adopt and a second so we need discussion now.

Horton: Yes.

Westcott: Let me ask you this. So there have been some improvements in the way that drains, there at the end of the Cul-De-sac. The East end of the Cul-de sac, there where that little drainage thing was placed in there with the rock ledge, to divert that water. You all are familiar with that. If we approve this tonight, and the homes are built on that end, about 4 homes, and that changes the flow of the water... will we then, as a city, taxpayers, be responsible for the cost of improvements of that drainage? That's my question to you-all, before you decide to pass this tonight.

Wiley: Well, we need to ask the architect if they are going to take care of this.

Westcott: No, I'm asking you, the Council, are we as a city, going to be responsible, financially responsible, for the drainage improvements if we pass this tonight. Once homes are built, the drainage action is going to be completely different when you have homes built in there, versus the way it is right now.

Sims: If I remember the discussion last month, it wasn't any discussion about the homes that were going to be built....it was Sequoia Elementary School, that was concerned about water flowing onto their property, and that was corrected.

Tripp: Mayor, may I have the floor for a second? I think what Mr. Westcott's concern is, there has been ....Mr. Long and the developer, the construction company, they have constructed a rock ditch, ridge, whatever you want to call it, for possibly 30 yards to diverge from where the water is funneled down, north, and then turns it west. My question on this, once we pass the final plat, we take ownership of that structure. So I believe what Mr. Westcott's saying is, what is

our safeguard in that structure that's been put into place? How do we know it's sufficient to catch that water? Because the water that's there now, that's coming there now, with those lots full of vegetation, is NOT the same water, and the people in Ward 2 will tell you this! Is NOT the same water that will be coming once homes and so forth are built on it? There will be more water, it'll be faster water, etc. So, my question to Mr. Long and Mr. Jones, etc. is, what do you know with regards to our safeguard in what you've built so far? Will it handle the different water capacity, once those lots go in?

Long: We haven't changed the drainage pattern. All that water still comes down there, we have cut off a good portion of that water by diverting it in the street, back to the west, into the underground storm drain, and back to the creek. And that's where all the water is going to ultimately go. There's already a drainage swell on the Sequoia school property that carries a lot of that water down to that same ditch. So our diversion is going to carry 90% of that water. Is it going to carry every drop in a hundred year rain event? Probably not, there's probably going to be a little bit that's going to go on to the school's property, but it's going to hit that existing swell that's been there for 30 years, and head down to the ditch. And so we don't have any concerns that it's going to be inadequate. As far as someone building a house and changing that, that was the purpose that I think that...for adding that as a drainage easement along there all the way to the ditch, so that they CAN'T change it, they have to maintain that.

Tripp: Who is they? The City will have to maintain that?

Long: No, anybody that builds on that can't change the drainage pattern, because of that drainage easement.

Tripp: So do you have a water study, drainage study...how did you come up with how thick, how high, and how long to build that rock structure?

Long: We ....I mean, I don't remember the exact number off the top of my head, but we did a drainage report that we submitted to the city....

Tripp: Is that drainage report based off undeveloped lots or veget....

Long: It takes into consideration both....a pre-development and a post-development condition.

Tripp: Ok. Mr. Jones, are you sufficient with that? Taking ownership of that drainage easement?

Jones: Your developer has gone above and beyond what our requirements require, on this project. They have not changed the drainage patterns out there, in fact, they've minimized the area that actually ran onto Sequoia. They reduced this area that ran onto Sequoia, before this diversion ditch was even been constructed. So, yes, I'm absolutely satisfied with what they've done. It will work. They submitted a very complete and thorough drainage study initially, and it was based on developed conditions and I see no reason to hold this plat up.

Tripp: So you are saying on record right now that you feel that what they've constructed will....

Jones: I approved the plans!

Tripp: Is sufficient.

Jones: Yes.

Horton: Any other discussion? Ok, we've got a motion and a second on that? Do you want to call the roll on that?

Roll was called and Wiley, Brown, George, Sims, and Tripp voted, yes. Westcott voted no, motion carried.

Horton: Old business number 6, how to proceed on the Convention Center, was it tabled? Yes, that's not out of Finance yet. Ok, number 7, yeah, we've done that.

Tripp: Eight is a duplicate of 7.

Horton: So that brings us down to new business. Which starts with consideration of an ordinance repealing Ordinance 2264 for the Right of Way.

Westcott: Motion to suspend the rules, read one time by title only with a short explanation.

Horton: Motion to suspend.

George: Second

Horton: To suspend the rules and read by one time, by title only, with a short explanation. Correct, Mr. Westcott?

Westcott: Correct

Horton: Do you want to call the roll on the motion to suspend?

Motion passed no dissension:

Smith: (Reads)

Westcott: Do we need a motion to adopt before we can discuss? Motion to adopt.

Brown: Second

Horton: We've got a motion to adopt. Second from Mr. Brown. And now we can discuss.

Brown: We went to the (unheard) league when this was brought up, and they were waiting on an ordinance. Ok? Mostly it just has to do with the traffic and it's a "freedom of speech" thing that they've got to stand on. So, it's kind of hitting all the cities. So we need to (unheard.)

Westcott: I would like to make a comment. I was the one to promote this originally to change the then current ordinance, to what it is right now. From my perspective, we pass ordinances to limit the risks to the general public. But the burden of common sense must lie with the individual. Whether they are taken advantage of by those who...well, whether they are taken advantage of by the panhandlers, or whether the panhandlers are injured in traffic, the burden of common sense must lie with the individual.

Brown: In comparison you might see a fire officer, or the Girl Scouts, out selling cookies. It's the same thing when you start looking at that, so...

Wiley: I'd like to ask the chief to come to the mike, I'd like to ask him a question... Are you getting any calls on this? On the panhandlers?

Humphreys: Yes, Sir.

Wiley: Is it a problem.

Humphreys: Define problem.

Wiley: Getting out in the street.

Humphreys: Any time you have anybody getting out in the street, into the right-of-way of the street and soliciting, for any purposes, whether it's the Girl Scouts, or anyone else, it causes problems. Because they step out into traffic, they hold up traffic, people roll their windows down and engage in conversations, they reach into cars to get money....And, yes, I think it's a public safety issue. We also have to be cognizant of court rulings and other judicial rulings, opinions of judges and court cases that regulate this. So, as Mr. Smith has said, we're in a transitional phase right not of these laws, and we have to be careful of what we do and don't do in these situations.

Wiley: Ok, thank you.

Sims; Mr. Mayor. In following up what Mr. Smith said, he's correct, that session, they mentioned the different things but they still pointed out that they did not have the right to trespass, and they don't have the right to impede traffic. And so there are other citations or whatever that would cover....

Wiley: Take care of this.

Sims: Take care of that, and so it wouldn't necessarily be to have this solicitation thing, which is considering...I think they are calling it freedom of speech, or something like that. But there are other citations that...if they are endangering other public, if they are trespassing...even reaching into a vehicle...Mr. Brown, you may remember the term they use, they mentioned that reaching into a vehicle is invading someone's privacy.

Brown: That's right.

Horton: I've worked with Mr. Smith long enough to know that he doesn't recommend something like this lightly. Is there something else you'd like to add?

Smith: Well, this....to expound on what the chief said, the law is transitional, being based on the Supreme Court, probably about a year and a half ago, the Reed case. And basically, before Reed, you could regulate all soliciting, as long as you did it even-handed. Now after Reed, which was a sign case that approach in Reed or the ruling in Reed is being applied to solicitation. And now regulating solicitation is now considered not content neutral, but content biased. Meaning; any ordinance that regulates it has to narrowly tailored and provide alternate remedies, and it's exposed to scrutiny, and such warrants as this will likely fail.

Currently, Ft. Smith, Hot Springs, and Rogers are in litigation. And I believe that Municipal League has at least written Hot Springs and Rogers. I'll be interested to see what the Court does on those two ordinances make NO mention of solicitation, it's strictly trying to prohibit the conduct of going out into the street. So til that ruling there is in the Federal Court, that's probably just a wait and see approach....these cities are kind of being the test case for this, and any proposed ordinance on this matter.

Horton: Thank you! And, discussion? Ok, I believe we had a motion and a second?

Passed with no dissension.

Horton: Motion passes. Now for new business number 2. Works commission: Counselor Westcott?

Westcott: Mr. Mayor, in the City Council Rules and Procedures, page 5 of 127 pages, section 3.3b. It says, "A part of the regular agenda meetings of the city council shall include a report from the Director of Public Works, or their designee, to the council on the status of public works projects of the city. I don't know that we've done that, but if we do this every month at the Finance or Agenda Preparation committee level meeting, if we do that then, then this ordinance here tonight may not yet be necessary. And for that reason I move to table this.

Wiley: Second that.

Brown: That 'b' is a proposal from Alderman Tripp for this new set, it hasn't been there before.

Westcott: Well, I'd still like to table that because this proposed change to the rules and procedures that will include that paragraph...so whether we approve that change to that tonight or what, I don't know that there's a rush to do this ordinance here tonight. I still move to table that.

Horton: Ok. Second? Anybody?

Wiley: Yeah, I second it.

Horton: We've got a motion to table this and a second by Mr. Wiley.

Passed no dissension.

Horton: Alright, we'll table number 2. Item 3, consideration of an ordinance to amend ordinance 1847 to regulate electronic cigarettes.

Smith: This is something that was talked about by Mr. Hollis, I think, in November. There's somebody here to speak tonight on the matter. Because of coordinating that speaker...here, I believe he wanted to do this back in December, in December I think we forgot to put it on, and so its here tonight but it just originated back in November. And so its here per Parks and Recs request.

Horton: Ok, we have had no readings on this yet?

Smith: That is correct.

Westcott: Motion to suspend the rules and read the first of three reading by title only, with a short explanation.

Wiley: Second.

Horton: Ok we've got a motion from Mr. Westcott, a second from Mr. Wiley. To suspend the rules for the first reading only, by title and with a short explanation.

Motion passed no dissension:

Smith: (Reads.)

Horton: Ok, we have Scott Manning signed up to speak?

Manning: I'm Scotty Manning, I'm here to educate the public on the fact that the FDA recognizes electronic cigarettes as tobacco. And any time a young person sees an adult use a tobacco product it normalizes it. So it's a good idea to keep it away from areas where children play. If you have any questions I could answer those.

Horton: Any questions for Ms. Manning? Thank you, Ma'am. Alright, that's the first reading, we'll bring it back for the second reading next month. New business 4, consideration of an ordinance granting a liquor permit to Gumbo Zydeco.

Westcott: Motion to suspend the rules and read one time by title only with a short explanation.

Wiley: Second.

Horton: Ok, I've got a motion and a second to suspend the rules for all three readings, read by title only.

Motion passed, no dissension.

144.40

Smith: (Reads)

Westcott: Motion to adopt.

Brown: Second.

Horton: Alright we have motion to adopt Mr. Westcott, second, Mr. Wiley,

Wiley: Brown!

Horton: Brown, ok. Any other discussion?

Roll was called and motion passed with Mr. Wiley dissenting.

Horton: That motion is approved. New business 5, consideration of a resolution regarding the re-organization of the City Council of Russellville, Arkansas.

Tripp: Mayor, is this the policy and procedures?

Horton: Yes.

Tripp: On that, I make a motion to approve what's been presented to us with a revision on page 14, section 5.1, that organizational meeting, just make a change in language in there that that's done in conjunction with the January agenda meeting each year. If that's possible.

Discussion...

Horton: Restate it, Mr. Tripp.

Tripp: Just add language in there that our policy and procedures includes that our committee assignments and selections of liaisons and positions should be done by or before or in conjunction with the January Agenda meeting. So that its done prior to any of the monthly meetings.

Discussion.

Horton: Procedure will be done on or before our January prep meeting.

Tripp: I guess before that because the finance meeting is right before that, in conjunction with that. And also that includes page 5, section 3.3, which deals with the public works updates, and that serves as a public way of discussing, of updating the community, of updating the Council, of upcoming and on-going public work projects.

Horton: Your motion is on both points.

Tripp: Yes.

Horton: Ok, and a second from Mr. Westcott. Alright, we've got a motion and a second, do we have any discussion?

Sims: Clarification, what was that addition on that, now?

Page 14, 5.1, organizational meetings, added to 1, where we, that happens on or before the agenda meeting and no later. Its in what's presented to us, its in section 3.3b.

Wiley: It would be done at the agenda meeting.

Sims: I've got it now, good job.

Horton: Any questions or discussion? Ok, we've got a motion, Mr. Tripp, and a second, Mr. Westcott. All in favor say aye.

Passed no dissension.

Horton: We've got a sixth item that we didn't get on the agenda. It's the item brought by Mr. Garza. Mr. Smith, you made everybody a copy.

Wiley: Is this an ordinance?

Discussion as to whether there should be a public meeting.

Horton: It's a rezone petition by the planning commission.

Sims: Mayor, is this the Dalmos developer in the Joe Phillips property?

Horton: Yes.

Tripp: Mayor, I make a motion to suspend the rules, read by title only with a short explanation, for passage tonight.

Wiley: I second that.

Horton: Ok, so we have a motion to suspend the rules for all three readings, read by title only with a short explanation. And that motion is Mr. Tripp, and the second is Mr. Wiley?

Motion passed, no dissension:

Sims: (Reads) 150.11

Wiley: Motion

Westcott: Second

Horton: OK, we have a motion from Mr. Wiley, a second from Mr. Westcott. Do we have a question from Mr. Brown?

Brown: I just want to comment before we leave...

Horton: On this? Any discussion on this item?

Motion passed no dissension.

Horton: Ok, the motion is approved, and Mr. Garza's shaking his head that he does not need an emergency clause....

Tripp: Mayor, I'd like to bring maybe a late agenda item, if we are to that point? I believe maybe it was supposed to be added as a Finance Committee item earlier for discussion last week, and it got left off. The Downtown Master Plan Committee has presented us with a contract for services, and they would like for this to be addressed. And everybody has gotten a copy of the email a week or so ago. And I would make that in the form of a motion.

Horton: Ok, so your motion is in the form of a late agenda item...

Tripp: Yes.

Wiley: I second that.

Horton: Mr. Wiley makes a second.

Horton: We are voting to add the late agenda item, (discussion) We can do a voice vote I think on motion to add.

Motion Passed, no dissension.

Tripp: Mayor, My motion is to approve this with the clarification, as long as Mr. Smith says it ok, to pay for it out of E-fund 3—Capitol Funds.

Smith: Yes, it should be, based on the language of ED3.

Horton: Ok, thank you. The motion is to adopt, and its specified, paid for out of ED fund 3. Second is Mr. Wiley. Any discussion? Mr. Westcott.

Westcott: The amount that I was given was in phone call was anywhere from \$42-50,000 for this initial study. And I recommended to the person that called me, and I recommend tonight that the \$42-50,000 be paid for the Alliance/Chamber/Mainstreet. And let them fund the preliminary study. I told this gentleman that the taxpayers subsidized these groups already with very little tangible results and certainly limited benefit to them personally. I'm not against this project, but I do think this needs to be on the part of someone besides the taxpayer.

Wiley: Even if you put it over to them it's still taxpayer's money.

Westcott: Yeah, but you're not paying that money twice. Anyway, that's just my perspective.

Tripp: My opinion on this is...and not to dispute what Mr. Westcott says because I share his concern there about how we spend the taxpayer's dollar. However, I do think this is an important step, and the burden is on us, because we know that City Corp has to do the project downtown, they have to tear it up, and this has everything to do with how we put it back.

George: And I believe that there is buy end from downtown and especially from private parties that are interested, so...

Horton: So the amount we are talking about...

Westcott: The contract says \$44,000, so...

Horton: So that's our share? Ok. But there is participation from other groups, and the over-all goal of this, if I'm hearing it right is, we all partner up on something that's got to be done and then split up the work so that we're not all paying for the same thing,

Smith: This will, it's kind of two or three groups pay for this and then what we get out of this is the construction documents, so that actual estimates can be given on the scope of work that we are looking at doing. And then we can identify potential funding grants, tax money, etc. And then at that point decide what we can feasibly do. But this gets us to that point.

Westcott: So, who else is paying and how much are they paying? Has anything like that been in writing at all? Or just conversations?

Tripp: The Master Plan Committee presented this to us and I think that was from Mr. George, I'm not sure. That discussion, those details were done at that committee level.

George: there was no written approval from specific entities, but when it was presented, there was discussion.

Horton: Any discussion? Alright, we had a motion and a discussion.

Motion passed with one dissenting vote, Mr. Westcott.