

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
January 20, 2009**

A meeting of the Fayetteville City Council was held on January 20, 2009 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Gray

Pledge of Allegiance.

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items: State of the City Address

Mayor Jordan gave the State of the City Address. A copy of the report is attached.

Agenda Additions: None

Consent:

Approval of the January 6, 2009 City Council meeting minutes.

Approved.

Bid # 09-01, Farmington Gravity Sewer Line: A resolution approving a cost-share with the City of Farmington to contract with Garney Companies, Inc. in the amount of \$328,402.58 for the construction of the Farmington Gravity Sewer Line, WSIP Subproject WL-10a, Bid # 09-01; and approving a 10% contingency in the amount of \$33,000.00.

Resolution 09-09 as Recorded in the office of the City Clerk.

Graffiti Removal Fund: A resolution to approve a budget adjustment in the amount of \$150.00 for a charitable gift from Tom Overbey for graffiti removal fund.

Resolution 10-09 as Recorded in the office of the City Clerk.

Police Officer Service Awards: A resolution to approve a budget adjustment in the amount of \$4,880.00 to reflect the donations of several Fayetteville businesses or citizens in support of police officer service awards.

Resolution 11-09 as Recorded in the office of the City Clerk.

Grooming And Uniform Requirements and Specifications Policy: A resolution approving and adopting Policy No. 41.3.5 "Grooming and Uniform Requirements and Specifications" to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

Resolution 12-09 as Recorded in the office of the City Clerk.

Mutual Aid Police Protection Agreement: A resolution to approve a mutual aid police protection agreement with Fort Smith.

Resolution 13-09 as Recorded in the office of the City Clerk.

Garver Engineers, LLC Contract Amendment No. 2: A resolution approving Amendment No. 2 to the contract with Garver Engineers, LLC in an amount not to exceed \$217,587.00 for construction phase services for Mount Comfort Road Improvements from I-540 to Alpine Avenue.

Resolution 14-09 as Recorded in the office of the City Clerk.

Mount Comfort Road Improvements Project Settlement in the Amount of \$350,000.00 and Conveyance of .64 Acres of City Land: A resolution approving a settlement with Robert D. Nelms and Millie S. Nelms for acquisition of street right-of-way and permanent utility and temporary construction easements in association with the Mount Comfort Road Improvements Project.

Resolution 15-09 as Recorded in the office of the City Clerk.

Cannon USA: A resolution approving the purchase of three (3) replacement copiers from Cannon USA through the state copier contract in the amount of \$53,968.00.

Resolution 16-09 as Recorded in the office of the City Clerk.

Alderman Thiel moved to approve the consent agenda. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business:

Park West, LLC Cost Share: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share agreement with Park West, LLC in the amount of \$2,157,000.00 for the upgrade of the future location of Highway 112 through Phase 1 of the Park West Development from two lanes to a four-lane boulevard.

(This ordinance was left on the First Reading at the December 2, 2008 City Council meeting. This ordinance was left on the Second Reading at the December 16, 2008 City Council meeting.)

This ordinance was left on the Third Reading at the January 6, 2009 City Council meeting and tabled to the January 20, 2009 City Council Meeting.

Ron Petrie, City Engineer gave a brief overview of the project.

Alderman Lucas: Your original proposal for Garland Avenue was a T intersection wasn't it?

Ron Petrie: It was shown on the Transportation Bond Program that way.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: You said that the reason it was rerouted was because the corners were stated as being dangerous. Can you talk to us about how those corners compare accident wise to other corners in Fayetteville?

Ron Petrie: We average five accidents per year at these two intersections which is a very low number compared to others. We have 6,600 vehicles per day through these intersections so there are not a huge number of vehicles. Once we extend the route we will be bringing a lot of traffic to this area. We anticipate those numbers will increase dramatically if we don't address it somehow. You may choose not to address it this way but we have to address it in some fashion.

Alderman Lewis: It looks like to me that we are worried about two corners but we are going to add an intersection close to Clabber Creek. The one in the northwest corner is not going to change very much from what it looks like to me in the long term. Is that a correct observation?

Ron Petrie: I think you are correct, yes.

A discussion followed on the proposed street.

Ron Petrie: There would be an existing section of Garland that would remain because we have businesses on that. It would handle much less traffic but there is an intersection there as well.

Alderman Petty: I have a question for our City Attorney. In our contract it states the developer will donate at least sufficient right of way for half of the boulevard which means 50 feet. I am worried about liability if it turns out that we don't have the funds to develop a boulevard and we choose to develop a two lane street with the possibility of it being converted into a boulevard later. Under this clause will the developer still be required to donate that 50 feet of right of way if we decided we couldn't build a boulevard?

City Attorney Kit Williams: I would think that would under that particular contract. After the Street Committee meeting some Aldermen asked me to require that the developer would instead be required to dedicate an entire width of boulevard all the way from one end of Highway 112 to where it intersects the other end. The current contract did have it where the developer would not be required to dedicate that 50 feet of right of way until he either developed that particular phase of this project or within five years, in talking to some Aldermen that was not satisfactory because they were concerned about the boulevard ending or not having enough right of way for the Boulevard. The City's offer is in your hands for you all to decide what you want to do if you want to go forward with this project.

Alderman Petty: Would an amendment be required then in order to guarantee that we get that 50 feet of right of way for Phase II of this proposal even if we are only going to build two lanes in the next five years?

City Attorney Kit Williams: No I don't think so. The intent is that they must dedicate at least 50 feet and not the whole 110 feet of the boulevard within five years. If you wanted to change that to make it to where they would have to dedicate the entire boulevard area within five years then that could be a change.

Alderman Thiel: So Matthew's question was should we amend that to where it is wider than that and you are saying no.

City Attorney Kit Williams: It is really your decision. In my response to some Aldermen asking me about the 110 feet wide boulevard I have redrafted the contract which I just handed out. It would require the entire boulevard section to be dedicated. This has not been agreed to by the developer and whether or not he will do that I do not know.

Alderman Thiel: So we can't make that amendment without discussing that with him.

City Attorney Kit Williams: You can certainly make that as an offer from the City Council if that is what you determine is necessary to go through with this cost share or you can do any of the other previous contract proposals that are in front of you.

Alderman Thiel: The Street Committee supported the concept of this change in the Master Street Plan. It seems like the real issue here is the cost share. I think it is important to note that at some point in time the City is going to spend \$10 million to extend Highway 112 to Van Asche either way. The distances are roughly the same so it is going to cost roughly the same. With a partnership we are getting a quarter of that cost shared. People's concern is that it won't get done. I would like it to be specified, if we approve this, that we would not cost share if this section did not meet the State Highway Department's approval.

City Attorney Kit Williams: My understanding is that the State Highway Department will not approve it unless it has been built to their standards.

Alderman Thiel: That is in this contract that it would be built to their standards. So I guess that would be a moot point then to have that additional amendment.

City Attorney Kit Williams: We can add that but it is already in there.

Alderman Thiel: I also wanted to point out to people that have talked about the impact on this property. I think when you look at the PZD that has already been approved for this there is already an equivalent street going through the property. This would just be wider because it would be a highway.

City Attorney Kit Williams: It would be built to different specifications too.

Alderman Ferrell: I was thinking that Ron told us that contractually since we will be paying that if it was not to State Highway standards it wouldn't be paid. In previous Street Committee meetings the safety factor was a strong concern with the additional traffic that would come if this was built. The three amendments to the Master Street Plan would not come until this was approved.

Alderman Lewis: The facts are that we are deciding whether or not to go into a cost share for a quarter of a road. The amount of money we are pledging will not pay for a full road. This leads to all kinds of risks. This doesn't have anything to do with the other party involved, it has to do with the whole system and our responsibilities to fulfill our part of the contract and we may not have the funding. If we are in a contract and the developer does develop the property and then it is our turn to do our part of the deal what projects will we have to stop in order to fund the contractual deal that we have entered into?

Ron Petrie: You are mainly referring to future phases?

Alderman Lewis: Yes.

Ron Petrie: Contractually we have no commitment that we have to spend for future phases as the developer builds out. He will dedicate the right of way and he will build his half of the boulevard whether we cost share or not. The same thing can be said about the City. We can build two lanes and leave the other two lanes for the developer to build whenever he is ready.

Contractually I don't think we are obligated for future expenses. Reality is we are because this is the route we have chosen and we have to finish it someday.

Alderman Lewis: Are we liable?

City Attorney Kit Williams: We would certainly be liable for the \$2.1 million in this cost share agreement if it is approved by the City Council and the developer builds his section and then asks for reimbursement. We would be obligated for the \$2.1 million in reimbursement. I think that came from existing funds that were dedicated to Garland Avenue. The problem is how do you finish the road? I don't know what kind of bonding or financial agreements we have made on that. I don't think we would be contractually bound although there would be pressure from the State Highway Department and citizens to get that road finished. The continuation of that road would cost several million dollars and I don't know where that would come from.

Paul Becker, Finance and Internal Services Director: My understanding is that everything east of Garland is committed to what we have now with the bond issue. So we would be looking for future funding.

Alderman Lewis: I am wondering where are we going to lose funding if we put funding toward this.

Ron Petrie: We will look at options like we would any new project. We are either going to take it from projects that have already been identified and there are many other projects coming that we do not know anything about and this would be one of those on that list. We have another Phase II of our bond program, potentially that could be a source. We do have \$8.8 million for cost shares set aside in the bond program but because of the sales tax numbers we decided to hold off using those funds, that is another potential place. There are many different options if you so choose.

Sharon Davidson, a citizen asked the Council to deny this. She stated if you cannot deny it tonight then I hope we have an option to table it indefinitely. She went on to express her concerns regarding the wetlands, the cost, and the contract.

Ralph Hudson, Special Projects Manager for Bio-Tech Pharmacal, Inc. which is located near the project spoke against the project and expressed his concerns with the project. He stated the exhaust fumes and other things tied to high traffic will impact the FDA's approach to Bio-Tech Pharmacal and we will be forced to either relocate or install appropriate environmental controls so the exhausts do not infiltrate our product. That is a huge expense that we are going to be forced to carry and we have been there for 20 years. We want to be a part of the solution but we cannot stand by while this could potentially harm us greatly.

Alderman Rhoads: Mr. Hudson, you said that exhaust and other things would be detrimental to your business. What are those other things?

Ralph Hudson: Well it is not just exhaust fumes, it is noise traffic. The biggest impact for Bio Tech would be the exhaust fumes tied to that being as close to our manufacturing plant as it will

be. Right now it is off of the main drag and we do not have that traffic flow right up against our manufacturing plant.

Alderman Rhoads: So what were the other things?

Ralph Hudson: I'm telling you that the primary concern for us and an added expense for Bio Tech is going to be the potential for exhaust fumes.

Alderman Rhoads: Have you talked to the FDA about this?

Ralph Hudson: No, we just found out about this yesterday.

Alderman Rhoads: Are you sure that the FDA is going to have a problem with the increase in the exhaust fumes?

Ralph Hudson: There is in the Code of Federal Regulations a responsibility for us to ensure that our products and the air control in our manufacturing facility are not adulterated with fumes and a number of things.

Alderman Thiel: Isn't it about as close to Howard Nickell Road as it is to this cut through?

Ralph Hudson: I couldn't speak to that, I am not sure. The traffic is certainly not going to be the same.

Alderman Thiel: My point is that Howard Nickell is going to be extended at some point in the future and will be widened out at some point in the future. So that too would have an adverse affect on your business.

Ralph Hudson: We will take that up when the time comes. Anything that would protect our business interests there and the property values for us.

Alderman Ferrell: Mr. Hudson you said you have worked there for 20 years.

Ralph Hudson: I have not worked there for 20 years but the business has been there for 20 years.

Alderman Ferrell: How long have you been there?

Ralph Hudson: I have been there four months but I have known the family for years.

Alderman Ferrell: When the property changed hands and there were plans to go to a PZD or development there, would it be safe to say that you guys knew the property changed hands?

Ralph Hudson: Yes, of course we were aware of that. That is not what is before us today, it is the highway.

Marlene Dial, a citizen spoke on how dangerous the curves were and complimented the Mayor and the City Council for working together and looking at future growth and how to save the tax payers money.

Marti Benedict, with Bio-Tech Pharmacal, Inc. and a property owner near the project. She stated that she recalled only two accidents on that corner thus far. She went on to express her concerns and stated I think it is much more practical to leave that freeway the way it is.

Jim Bemis, a citizen thanked the Council for their efforts on making the public aware of this project. We made decisions on streets out there that we wanted to come first for funding. We have kept track of that and kept to our word. I see that as true accountability for the City. I admire Mr. Hoskins for his vision but there are many other approaches to the Highway 112 solution. He asked the Council to take a look at some other options.

William Kimbrough, a citizen questioned where the road is actually going to be. No one seems to know exactly where this road is going to be. It is not identified on the Master Street Plan and there are several versions of how this route is going to be identified. He stated he has questions about the contract and how much of the road would be constructed under the current contract.

Ron Petrie replied 41% of the road.

William Kimbrough: Whose cost estimates are those?

Ron Petrie: Mr. Hoskins.

William Kimbrough asked has an engineering study been performed by the City or the State. Has a soil sample test been performed to know what that soil content is and how much money it is going to take to build that road? I know it is going to take a significant amount of money to improve that road. The road as I understand it does not address safety issues. He suggested looking at other alternatives. He stated I am confused as to what is in this contract.

City Attorney Kit Williams: The contract that was presented at the Agenda Session that has been signed by Mr. Hoskins would include the right of way for the first 40% of the road of the cost share provision. Within five years or upon development of Phase II of this project Mr. Hoskins has stated and it is within the contract that there will be sufficient right of way for at least half of the boulevard, pursuant to the Master Street standards, will be dedicated at that time for the remainder of the road.

William Kimbrough: What is 100% of the road?

Ron Petrie: It stops to the north of Highway 112 and the Howard Nickell intersection.

William Kimbrough: Who is going to be responsible for taking it from Highway 112 beyond that point to straighten out this curve?

Mayor Jordan asked that everyone direct their questions to him.

William Kimbrough: I appreciate and understand the issues of not directing highways through existing subdivisions. One of the concerns I have is that we have a 100 lot subdivision that potentially this road is going to go through but we don't have anyone to speak for that subdivision which is Belclaire. Several versions of the plan are directed through that subdivision.

Bob Costrell a resident of 3683 Howard Nickell Road stated I don't think the issues of safety should be minimized because I think they are serious. He expressed his concerns with the 90 degree curve. He also spoke on Cris Hollow Road which is an intersection that cannot be seen from the other side of the hill. I believe this new road would subtract that intersection.

Darrell Knox, an engineer stated that there are so many open issues and I do not feel that enough has been resolved to go forward with this motion. I would suggest that this be put on hold until some of these issues and open items for this contract are closed out so we have a better knowledge of what we are actually looking at.

Terry Martin, a resident of West Salem Road expressed his concerns with the project. He stated it has a lot of implications on the future. If you lock yourself into this it is going to force some changes in the Master Street Plan. My concern is that approving this is going to lock us into some things that we cannot get out of later.

Chris Bell, a resident of 3575 West Salem road stated I have lived in this area for over 30 years. She expressed her concerns with the project and stated you all need to be thinking of what this unknown cost is. I am for safety. I have lived on that road and we have had very few accidents in the 30 years that I have lived there. There are a lot of other ways to change those intersections.

Emily Williams, a citizen: I disagree with Howard Nickell Road being a blind curve. You can see to come on and off at that turn. It is not dangerous if you drive the speed limit and slow down and take the curves the way they are suppose to be taken. To commit this amount of money because these are being called dangerous curves I think is a little bit off the truth of the matter. We have a real problem with Garland Street and you are talking about taking the money that you were going to use to improve Garland to build a road to nowhere. I don't think it makes any sense to take the money committed to that project and put it into another project that we don't even know if it is going to be finished or how much it is going to cost us.

Ron Petrie: I just want to be clear that the portion of Garland to the south between Wedington and the University Farms is a separate project. It has not been affected by this discussion at all. The Garland funds that we are talking about are between I-540 and Van Asche.

Emily Williams: So the funds to do the improvements to Garland between I-540 and the University are still being committed to that project?

Ron Petrie: The scope of the project is between Wedington and the end of University Farms.

Emily Williams: I still think it is a bad project.

Mike Nelson, a resident of 3634 Hayfield Circle stated my property backs up to the new northwest loop and I share the concern about if you lock yourself into this Highway 112 relocation that you are going to lock the back of my property into this new northwest loop. He voiced his concerns about this project, the proposed northwest loop, and about our notification process.

Mayor Jordan: Generally they do advertise it in the newspaper and they do put out signs.

Mike Nelson: Wouldn't it be good to mail something to people's homes?

City Attorney Kit Williams: Normally the notification is for rezonings and development. Since this is neither a rezoning nor a development I don't believe we have anything in our code that would require such notification. It is up to the City Council about if you believe the notification that the City does is adequate or whether different notification standards should apply.

Mike Nelson: It sounds like a common thread tonight that there are several people not represented here tonight that this would be impacting their land. I think we could do a better job of doing that.

Mayor Jordan: So we do not notify them if we are doing road widening?

Ron Petrie: Generally we have public meetings and invite all the adjacent property owners. This being a cost share for a street that is in Mr. Hoskins property primarily there is nothing by ordinance that requires specific notifications.

Mayor Jordan: But you do give public notification?

Ron Petrie: Yes for road widenings in general.

Jeremy Pate: I do want to clarify that there is a difference between Planning Commission meetings and Council meetings. Under the Unified Development Code we have a mandated requirement as part of the Planning Commission, Subdivision Committee, and Board of Adjustment meetings that the applicant and the City have to notify adjacent property owners. The City Council does not operate under the same rules. These meetings are televised and put on the meetings of the week but we are not required and the applicant is not required to notify adjacent property owners like we do for the Planning Commission meetings.

Mike Sandlin, President of Priority Bank: We own property in this area. Why would we be putting \$2.1 million in a development that I am not even certain what it is? There is a lot of empty space up here and it is continuing to get that way. It peaks my interest when I hear of monies being set aside for roadways for a future development.

Alderman Lucas: You said your bank was on hold, where was it going to be built?

Mike Sandlin: We have a bank branch here in Fayetteville at Crossover and Mission. The bank branch site would be the land on the frontage to On the Corner.

Aubrey Shepherd, a citizen stated this project would cause the northwest loop to be changed and is this a new right of way because I thought it was going up further.

Mayor Jordan: That is a different discussion for a different time. That is a proposal but it has not been approved yet.

Aubrey Shepherd: It is related to this on this map. If it were true then there will be several strange curves, and if it is four lanes across there those would be high speeds so it is a little strange. He expressed his concerns with the environmental impact this project would create. He stated if you should choose to approve a cost share it should be paying for a portion of the whole road built as a normal sized two lane road with the right of way dedicated ahead of time for the completion of the four lanes eventually. That way it would be a part of our transportation system.

Alderman Thiel: Tonight we are hearing from the people that live on the corner of Howard Nickell Road that would be affected with this change, where at the Street Committee meetings we have been hearing from the people that would be affected from the existing Master Street Plan who support this change. My question is if in the future, regardless of whether we take this angle through or leave Garland like it is going north and south, if we want to do that change in Howard Nickell Road, we would have to acquire right of way the same way we would if we went with the Master Plan. There wouldn't be a lot of difference there. Do we have the right of way now for the Master Street Plan?

Ron Petrie: No, not completely.

Alderman Thiel: Some of us found that desirable but maybe not after hearing from the people that live here. I supported this through the Master Street Plan process because we heard from people that did want the change particularly in the Howard Nickell Road provision. As far as the impact to Bio Tech that is going to occur if and when we improve Highway 112. It is just too unclear about the cost estimate. There are still a lot of questions about this. The pro is we have a developer willing to cost share with the City but maybe that is not worth it until he can cost share the whole project and we can see the whole thing.

Alderman Ferrell asked Mr. Hoskins to explain why this is an equitable deal for the City to be in this cost share.

Tracy Hoskins, the developer gave a history of the project proposals thus far. He also addressed several comments that were mentioned earlier. He gave a full explanation of all the expenses of the project. I would be contributing 63% of the project and the tax payers would be contributing 37% of the project. He stated if the City proceeds with the current plan going into that plan they will be roughly 50% over budget.

Alderman Lewis: I understand the developer developed these numbers. Does the City usually do this as well and then compare?

Ron Petrie: As a general rule we get the information and we review it and compare it to our costs.

Alderman Lewis: Has that been done?

Ron Petrie: For the \$2.1 million in this cost share we have reviewed those numbers.

Alderman Lewis: But not the other?

Ron Petrie: No we have not.

Alderman Lewis: Would you say we have allocated the \$2.1 million and do we have those funds available now?

Paul Becker: The current plan would be to allocate \$2.1 million from the Garland project that has been discussed.

Alderman Lewis: So you would take it from another project to put it toward this?

Ron Petrie: The Garland project is from I-540 to Van Asche.

• **Alderman Lewis:** Right but that was set aside because of the idea that we might not have those funds originally. We set that project aside is that correct?

Ron Petrie: Yes ma'am.

Alderman Lewis: Before I was on the Council that was set aside because we did not feel like we had the money.

Ron Petrie: That is correct it was placed on hold at the time.

Alderman Lewis: If you don't have \$2.1 million I don't think you have \$4.7 million.

Alderman Thiel: We have a certain portion of money set aside for that section of Highway 112.

Ron Petrie: Our concern is not the money we currently have it is the money we will need in the next three to four years. It's just how we go to our next issuance of bonds is the issue. What we have are issues with a lot of the projects being done by the Highway Department like Highway 265. We have a great deal of money that has been sitting there so we really thought that Highway 265 would be started a couple of years ago. We have a lot of extra money and actually what we are going to be looking at is not being able to spend all the money that we had scheduled fast enough to get to the next bond issuance. From a staff perspective that is why we feel comfortable bringing forward those funds now for an expenditure as opposed to placing it on

hold. Since we have been in this discussion for the last eight months on this one we have never gone back and said lets take a hold off the project because we have been into this discussion.

Alderman Petty: How much money did we appropriate for those Highway 112 improvements?

Ron Petrie: For this portion \$3.66 million.

Alderman Petty: It seems like everybody thinks there are a lot of unknowns. I think a lot of these unknowns have actually been answered. We have to understand that this development has already been approved and this construction is going to happen. At this point we have to talk about what are we going to do to minimize risk to the wetlands and to the spring runs there? The existing Master Street Plan does more damage to the spring heads than these proposals do so we are actually improving the environmental protection plan. We are not locked into changing the Master Street Plan if we approve this cost share, that is a separate discussion and we do not have to approve those changes. Bio Tech is a business that might be impacted but they are going to be impacted whether or not we improve Highway 112 with a reroute or improve Highway 112 on Howard Nickell and Van Asche. The benefits are we are getting 100% of the right of way and half of the money for Phase I and 50% of the right of way to complete the construction. We have virtually none of the right of way necessary to improve the existing Highway 112. That is a significant benefit to the City.

Alderman Lewis: No matter what you do to that property you are going to affect the springs and the wetland. At this point I am really trying to look at the total benefit compared to the true cost. I understand it has been approved and I understand that Paradigm Group has good intentions but there are other factors involved that may be out of everyone's control. That is why I think it is a big error for the City to go into a contract deal and a cost share and to subsidize an individual development that would not necessarily happen. We don't have any guarantee that this will happen. I don't think it is a wise use of tax dollars to promise to get involved when our economy is on hold.

Alderman Ferrell: On the City website there are street projects that we voted on bonds in different phases to move forward and there are approved street projects on there. So if you don't know whether anything is coming in your neighborhood that might be a resource for you to look at. The Street Committee has voted twice in favor of this cost share to forward this to City Council. We do have options and factors to consider. I think our economy is going to recover and this development and this road is not going to be built over night. I would move that we vote on this tonight.

Alderman Lucas: We must remember that this is a cost share and it has nothing to do with Howard Nickell because this property comes down on Van Asche. We would have to change the Master Street Plan to follow Salem and Howard Nickell and that is another issue. This is a cost share to build a boulevard into a developer's property. I thought it was important that the Street Committee bring this to the City Council. We need a boulevard all the way. The developer can go ahead with the development. This is going to make it harder to get to the mall. I think we should go ahead and upgrade Highway 112 as it is now, have it as a "T" intersection and do what

we had proposed. I want to promote economic growth and Highway 112 can be an economic growth area. I am not in favor of this cost share at this time.

Alderman Petty: Are we considering the revised contract submitted by our attorney or are we considering the contract in the agenda?

City Attorney Kit Williams: There was one that I submitted on December 2nd that includes the full right of way dedication for the first phase and 50 feet within five years.

Alderman Lucas: At no cost to the City?

City Attorney Kit Williams: I think dedicate means we don't purchase it from you, is that correct?

Tracy Hoskins: I would agree with that yes.

City Attorney Kit Williams: This is the one that Mr. Hoskins has signed and this is the one before Council at this time. If anyone wants to change it to the later version that would require the dedication of the full boulevard rather than the 50 foot wide boulevard and have that dedicated now instead of within five years, you would have to ask for that change and it would have to be something Mr. Hoskins would agree to.

Alderman Cook: Tracy brought this forward as an opportunity but it has taken the priority away from what we originally discussed and maybe prioritized some other projects. All we have as a guarantee tonight is one third of this. After that we don't know what is going to happen in the future. I don't feel like I would support that the way it is right now either.

Tracy Hoskins: We know what kind of soils are there. As far as the cost of the project for Phase I it doesn't really matter because the City is capped at \$2.157 million anyway so I bare all the extra expense. As far as the wetlands and environmental issues the development is approved and we have our permit from the Corp of Engineers. What you are voting on is do you want to spend \$2.157 million on the revised route that will eventually have to be finished, or do you want to spend \$4.7 million of your \$3.66 million on the current idea which will also have to eventually be finished?

City Attorney Kit Williams: This is the contract that was handed out on December 2, 2008. That is the contract you are voting on.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 3-4. Alderman Ferrell, Petty, Rhoads voting yes. Alderman Lucas, Lewis, Thiel, and Cook voting no. Alderman Gray was absent.

This ordinance failed.

New Business:

Arkansas Democrat-Gazette Agreement: A resolution approving agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

Alderman Cook: I am going to have to recuse from this conversation since my wife works for one of these newspapers.

Mayor Jordan: Is there a representative of the Morning News here?

Alderman Ferrell: I want to point out that the Morning News does official announcements for Rogers, Springdale, Cave Springs, Avoca, Lowell, and other towns, so they must be in compliance with whatever the statute is. I am doing some checking to find out the exacts on it and I would ask that we table this until the next meeting.

Alderman Lucas: Is this going to give you heartburn with your announcements? Are you going to go ahead with that?

City Clerk Sondra Smith: We will have to go ahead and publish with whatever rate they give us until we get a contract signed.

Alderman Ferrell: When is the contract up?

City Clerk Sondra Smith: I think it is up now.

Paul Becker: The contract was up but we have been getting the same rate so I would assume that the Gazzette would continue with that until we resolve it if it's done shortly.

Alderman Ferrell moved to table the resolution to the February 3, 2009 City Council meeting. Alderman Petty seconded the motion. Upon roll call the motion to table passed 6-0. Alderman Cook recused and Alderman Gray was absent.

This resolution was Tabled to the February 3, 2009 City Council meeting.

Amend Chapter 31, Vacation and Sick Leave: An ordinance to Amend Chapter 31 City Officials to codify the policy that a full time elected official shall designate at the beginning of the term of office whether or not to be treated as an ordinary city employee for vacation and sick leave purposes.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This was suggested to me by our Human Resources Director because in the past that election has been made but only orally to the Director of Human Resources. She felt it would be better and I agree to have it specifically required to be done in writing at the beginning of the term of the elected official.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5212 as Recorded in the office of the City Clerk

Amend Chapter 31, Mayor and City Attorney Salary Rollback: An ordinance to roll back the salary of the Mayor and City Attorney to the previous year's level.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: I would like to offer a few amendments. Kit has given us a couple of amendments and I would move that we adopt both of them. The City Council each year when they look at the budget will revisit the \$80,000 on the elected employees. Basically when budget time comes the next year the Council would consider the freeze. Secondly I thought it would be simpler to do it now when we were working on this to make it say the newly elected mayor shall make the choice whether they want to take the \$5,000 per month for a car allowance.

City Attorney Kit Williams: Those are actually for the second ordinance that we are going to be considering tonight on the compensation rather than the rollback.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5213 as Recorded in the office of the City Clerk

Amend Chapter 31, Elected City Officials' Compensation Freeze: An ordinance to amend Chapter 31: City Officials by repealing § 31.17 (D) and enacting a new § 31.46 Freezing Elected City Officials' Compensation if in Excess of \$80,000.

City Attorney Kit Williams: Before I read this you all might want to discuss the amendments that Alderman Ferrell presented and then I will either read it as it is now or as it is amended.

Alderman Ferrell moved to amend the ordinance by reviewing the cap on elected official's salaries during each budget cycle and allowing each new mayor to accept or deny a car allowance. Alderman Cook seconded the motion.

Alderman Lucas: We are changing it to what?

Alderman Ferrell: It would be reviewed every budget cycle by the Council for the cap on the elected officials and then when you get a new mayor, he can decide whether he wants to accept the new car allowance or not.

Upon roll call the motion passed 6-1. Alderman Lucas voting no. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook moved to suspend the rules and go to the third and final reading. There was no second to the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5214 as Recorded in the office of the City Clerk

Amend Chapter 166, Development: An ordinance to amend § 166.03 Required On-Site Improvements-Subdivisions in City Limits and § 166.05 Large Scale Development of the Unified Development Code by adding infrastructure improvements where the need for such improvement is caused by the proposed subdivision.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated this would bring it in line with what we practice with the actual code requirements. It promotes consistency between developers so they don't read something in the code and think it is something different. I whole heartedly recommend this ordinance amendment to you.

Alderman Ferrell moved to suspend the rules and go to the second reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook: Ron is going to be the man of record because it says deemed necessary by the City Engineer?

Jeremy Pate: There is a final decision. Our practice now is that the City Planner and City Engineer get together with all items that come before the Planning Commission and we make a joint recommendation. Other sections of the Code exist where I also make a recommendation and so our office as a staff recommendation all comes together before you or the Commission.

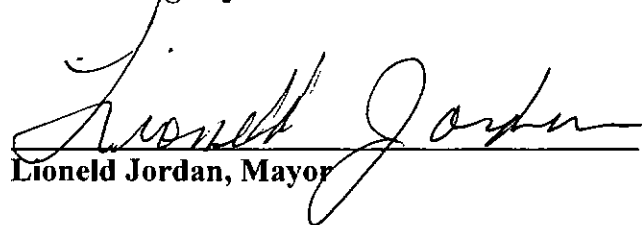
Alderman Cook moved to suspend the rules and go to the third and final reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Gray** was absent.

Ordinance 5215 as Recorded in the office of the City Clerk

The meeting adjourned at 8:35 PM


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer



Partners in Progress

Mayor Lioneld Jordan

January 20, 2009

I am privileged to serve as Mayor of our wonderful city, and I am humbled by the responsibility that the people have entrusted to me. I am honored to be your servant, and I will work every day to make our community better for every citizen. That is my solemn pledge to you.

Thanks to the vision of Mayor Dan Coody, the dedicated effort of our fine Aldermen, the hard work of our outstanding city employees, and the contributions of many individual residents who share our civic concerns, I am pleased to report to the City Council and to my fellow citizens that the State of our City is sound.

We begin the year with a balanced city budget, solid progress on improving our infrastructure, dedicated police officers and fire fighters who

assure our safety, and a commitment to institutional and individual partnerships to nurture and sustain the things we love about this great community.

We also begin the year facing many new challenges and we must be prepared to face those together with resolve. We are not immune from the problems of a faltering national economy, and we must anticipate and be prepared for the consequences of any revenue shortfall. We must be responsible stewards of our tax dollars, and we must maintain essential city services for our citizens. Toward that end, I have already begun to identify potential cost savings and have implemented a more effective management structure to improve efficiency and control costs. Our staff already has offered many good solutions, and we will institute an ongoing, frequent, consistent review of cost/benefit analysis of operations and projects to assure the services and quality of life that our citizens expect and deserve.

I believe in leadership by example, and I have proposed to cut the mayor's salary and roll it back to last year's level. I have signed an affidavit that I will not avail myself of the special lifetime retirement plan funded from general revenues. I have asked to return the \$5,000 annual car allowance formerly paid to the mayor and instead, to use a vehicle from the

city fleet when necessary to travel on city business. We have already achieved some savings in the salaries of top staff, and I will continue to look for savings in all areas of city operations. My staff and I are partners in this effort.

Even in uncertain economic times, we must be bold in our efforts to develop and implement a strategic economic development plan for our city. Not only can this lead to increased revenues without a tax increase, but more importantly, it can help assure green jobs, good jobs that pay a living wage, allowing individuals and working families to have the basic necessities and a better life. We already know that we need greater efficiency in the development approval process, a workforce trained for the jobs of the future, and better methods to accurately measure the results of our efforts. We can draw on the suggestions of recent studies and the work of my outstanding Transition Team to craft a plan that is consistent with Governor Mike Beebe's long-term strategic plan to help achieve economic improvement for our state through collaboration and cooperation.

To that end, know that I am serious, and within six weeks I will host a Community Summit on the Future of Fayetteville that will be open to every citizen and I will consider all views in forging our own economic and

community development strategy. We must have the participation of the business community and advocates for working families, students and retirees, public institutions and private citizens, as partners in our shared progress. We will have, within 90 days, an economic and community development strategy that considers support for existing small businesses as well as nurturing new opportunities, and together we will work to make it a reality. A slow national economy is no excuse for inaction but an opportunity for us to move quickly and prepare now for our shared future.

My first and immediate goal will be to do everything possible to secure and support the establishment of a Satellite Campus of the University of Arkansas Medical School and a Regional Trauma Center in Fayetteville. In the longer view, we should also develop a close relationship with Arkansas Children's Hospital and seek a regional presence for that institution. This commitment clearly illustrates the close connection between economic development and our quality of life.

The University of Arkansas is a priceless resource, and it is one that helps define Fayetteville. We must be active partners in progress with the University, drawing on the vast local resources of knowledge and expertise as we grow together and achieve our mutual goals. From the development of

knowledge-based industry, to community design plans, to solving social service needs, to collaborating on support for a vibrant arts culture, the possibilities are limitless. I will actively reach out and pursue this partnership.

The economic, environmental, and cultural aspects of Fayetteville's advancement are deeply interconnected. For example, any consideration of transportation policy must consider getting to work, moving goods, access to cultural resources, and environmental impact, requiring an integrated and connected system of streets, mass transit, multi-use trails, bike lanes, sidewalks, and parking, along with a revised transportation impact fee to help growth pay for itself. We will pursue the development of each of these elements, and we will urge the Regional Mobility Authority to support a feasibility study and planning for a future light rail system.

As we consider infrastructure development, we must seize the same opportunities. My administration will go beyond the current recycling program to implementation of a comprehensive waste minimization program for our entire community. We are pursuing the idea of solar greenhouses to kill pathogens and reduce the volume of bio-solids now going to landfills. We are investigating an effective Hillside Development Ordinance and a

storm water utility to better control the primary transmitter of pollutants into our water supply, and we will implement and enforce a better plan for the protection of riparian zones. We will be active partners with the "Green Infrastructure" project being developed with the help of the Fayetteville Natural Heritage Association, Arkansas Forestry Commission, the city's Urban Forestry program, the Tree and Landscape Committee, and citizen volunteers. Our ongoing city sustainability efforts can also be expanded and shared to benefit the entire community, evidenced by our new initiative to provide and exchange CFL light bulbs in the apartments at Hillcrest Towers. In each instance, we will be partners in progress.

One major change that will be implemented is a reorganization of our Parks and Recreation Department. While much attention in the past has been focused on sports playing fields, we know that our outdoor public spaces can serve other essential functions. I will propose a new division, to be implemented without additional costs, that emphasizes our community heritage and citizen participation. Examples to be considered will be increasing the number of way-finding signs and local historical markers, planting of native trees and grasses in portions of the parks, establishing a community garden program in appropriate neighborhood parks, opening a convenient dog park, and partnering with the University, the County, the

Fayetteville School District, the Washington County Historical Society, and private citizens to identify, preserve, and promote our historic buildings and other cultural resources. In conjunction with these changes, I will appoint a volunteer citizen task force on Festivals and Community Events to seek a closer partnership with the Convention and Visitors Bureau to identify needs and opportunities, and we will promote the “creative economy” in Fayetteville by developing a comprehensive Cultural Plan, in partnership with the Fayetteville Arts Council, the University, local artists, entertainment businesses, and concerned local citizens.

Finally, I want to reiterate and make clear my unwavering commitment to Open Government. This administration is dedicated to access, transparency, inclusion, timely responses, personal recognition, and exceptional customer service for our citizens, and we will be held accountable to those we serve. From Town Hall Meetings to an improved interactive city website to information on civic literacy to empowered Neighborhood Associations, we are preparing to implement real changes to better provide information to our citizens and, more importantly, to seek and consider ways for citizens to communicate their ideas, arguments, suggestions, and problems to their city government. My Transition Team has listened to your ideas and has made a series of steps we will be

implementing to assure an effective community conversation. We must be partners in the progress of our community, and every citizen must have a voice and be treated with the respect and dignity that they deserve. You have heard my ideas, I now ask our City Council to help me work toward these goals and I look forward to hearing their input and the input of citizens, especially how I can be a better mayor and do a better job for our city.

Thank you for your patience in listening as I share my plans and thank you for the opportunity to serve you and our city.