

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
February 17, 2009**

A meeting of the Fayetteville City Council was held on February 17, 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 Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, Assistant City Attorney David Whitaker, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan asked for a report on the Ice Storm and the clean-up efforts.

David Jurgens, Water and Wastewater Director gave a brief report on the RFP process and the clean-up efforts.

Don Marr, Chief of Staff gave a report of the amount of debris that has been picked up thus far and the approximate amount left to pick up.

Alderman Lewis: There has been a lot of extra staff time and I am wondering does FEMA include that in their calculations?

Don Marr: There are very detailed guidelines about staff reimbursement in terms of administrative costs. It is not all covered but some of it will be.

Alderman Ferrell: In my four years of service I have worked on several RFP's and this one we have had more response to than any one we have ever had. Because of our need to move on this so that we do everything right for FEMA I was asked to mention that if we are successful tomorrow we might ask to call a Special City Council meeting tomorrow evening or Thursday morning. He thanked the City staff for all their hard work.

Alderman Cook: What is the status on the cash flow situation?

Paul Becker, Finance and Internal Services Director: We don't know how long it is going to take for Federal money to turn around. We feel it will be three weeks to a month. As far as the State FEMA, they could have a longer time period. We will have to ask you to appropriate the funds for the project and then I will ask for a method to handle the cash flow. I anticipate that we could come up with funds of about \$5 million if we needed to.

Alderman Cook: So if we hit that \$15 million mark we are going to have the cash.

Paul Becker: I would have to go back to the drawing board and possibly ask for more cash to be advanced from the General Fund but I feel that \$5 million should be able to accommodate us.

Presentations, Reports and Discussion Items:

Alderman Cook read the listing of all the current Board and Committee vacancies.

Quarterly Report of Financial Condition of the City

Sondra Smith, City Clerk/Treasurer presented the City Council with the quarterly financial report of the City. A copy of the report was placed in the City Council's mailboxes.

Paul Becker: We will have a surplus of over \$500,000 in the General Fund this year. \$200,000 of that is because of excess revenue and we will lapse approximately \$300,000 worth of expenditures. He listed the details within the report.

Mayor Jordan: Give us the report on the sales tax.

Paul Becker: The City's one penny is down .8% compared to last year. The County is down .5%. That puts us about 2.8% under budget. This is the first month against this budget which is about \$70,000 below what expectations were.

Alderman Cook: So in the two county areas was the sales tax revenue down if you combine the two counties?

Paul Becker: The combined two county areas the sales tax revenue was down compared to last year.

Alderman Ferrell: I just wanted to comment and say that despite the down side in January, I was happy that we started with the \$500,000 extra in the General Fund.

Agenda Additions: None

Consent:

Approval of the February 3, 2009 City Council meeting minutes.

Approved

Bid # 08-16 Kinco Constructors, LLC: A resolution approving Change Order # 10 under Bid # 08-16 with Kinco Constructors, LLC in the amount of \$123,051.00 for the construction of Wilson Park Bridge and Trail Connection; and approving a 10% project contingency in the amount of \$12,305.00.

Resolution 36-09 as Recorded in the office of the City Clerk.

Fire Department Donations: A resolution approving a budget adjustment for the Fayetteville Fire Department in the amount of \$950.00 to recognize donation revenues from local businesses to fund fire employee service awards.

Resolution 37-09 as Recorded in the office of the City Clerk.

McGoodwin, Williams & Yates, Inc. Amendment No. 1: A resolution approving Amendment No. 1 to the contract with McGoodwin, Williams & Yates, Inc. in the amount of \$63,800.00 to update the Water Transmission and Distribution System Model and Master Plan; approving a contingency in the amount of \$5,347.00; and approving a budget adjustment in the amount of \$50,000.00.

Resolution 38-09 as Recorded in the office of the City Clerk.

McGoodwin, Williams & Yates, Inc. Amendment No. 3: A resolution approving Amendment No. 3 to the contract with McGoodwin, Williams & Yates, Inc. reducing the contract amount by \$947,298.00 for design and construction phase services of the West Side Wastewater Treatment Plant, Broyles Road and the Mitigation Wetlands of the Wastewater System Improvement Project (WSIP).

Resolution 39-09 as Recorded in the office of the City Clerk.

RJN Group Amendment No. 5: A resolution approving Amendment No. 5 to the engineering contract with RJN Group in the amount of \$597,704.00 for WSIP West Side Collection System design and construction phase services.

Resolution 40-09 as Recorded in the office of the City Clerk.

Amend City Council Rules of Order and Procedure: A resolution to amend the City Council Rules of Order and Procedure to add a new section concerning orientation of new alderman.

Resolution 41-09 as Recorded in the office of the City Clerk.

Alderman Gray moved to approve the consent agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Villas at Stonebridge Appeal: An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2170, Villas at Stonebridge, located south of Highway 16 East and east of Goff Farm Road; containing approximately 53.03 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *(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 Second Reading at the January 6, 2009 City Council meeting and then tabled to the February 3, 2009 City Council Meeting.)*

This ordinance was left on the Second Reading at the February 3, 2009 City Council meeting and then tabled to the February 17, 2009 City Council Meeting.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description and update on the item.

Alderman Thiel: I think it was you that mentioned the possibility of another condition of approval would be that the developer would do improvements on Dead Horse Mountain Road a little farther south. Is that something that staff has discussed with the applicants?

Jeremy Pate: Not any further than what the conditions are currently. Right now the conditions state that for Dead Horse Mountain Road, prior to the final plat of Phase III, the applicant shall overlay and widen Dead Horse Mountain road from the north property line to the south property line which does include some intervening property.

Alderman Thiel: Phase I would have the least impact on traffic and that is their plan to do the single family lots first?

Jeremy Pate: Yes, the initial phase would actually provide two points of access to Dead Horse Mountain Road but it would be the northern access and the southern access. It would be a full street that would be constructed all the way through the project to provide those accesses.

Alderman Thiel: I would like to ask the applicant a question. One of our concerns was some of these other projects surrounding this that haven't been built out yet. I guess I just want some assurances that at least the beginning of this project will get started. Do you feel confident that that is going to happen?

Todd Jacobs, Architect for the Project: It's a large project by City of Fayetteville standards; it's a traditional neighborhood project so it has a lot more infrastructure than your typical subdivision. We have five phases over seven years. This is the last undeveloped piece of land in that area to be on a golf course. We feel confident that this is a good area so it is not going to happen over night and we are looking at a year before dirt can be turned.

Alderman Thiel: I do like the project and the fact that it does have such a diverse amount of housing for a golf course which you don't always see.

Alderman Lewis: I am wondering about the impact on the water system. Do we have lift stations out there?

David Jurgens: Yes, on the piece mil basis with each development that is going in the improvements have gone into meet the water supply. The one development that is up high on the hilltop will require an elevated tank if and when that would come in the future but otherwise we have adequate water supply there.

Alderman Lewis: Tell me more about the situation with the bridge. I am excited about the design of this but I am really concerned about the connectivity. If there is a problem with the bridge that seems like it would be a real issue.

Jeremy Pate: The Council approved the bridge construction in the last couple of months. It is a cost share and is anticipated to be constructed with construction hopefully beginning in the next few months. This bridge would simply replace at the same elevation as the bridge is currently. Your point about the access to the project is exactly what staff had a concern about. The concern was the location and access. There was very little available for connectivity with this project. As for the bridge there are conditions of approval related to fees to be paid by the developer for the bridge and those would likely never be paid because the bridge will be constructed before they ever get to this point.

Alderman Lewis: What are the plans for road improvement?

Jeremy Pate: The applicant would be required to put a turn lane at the main entrance and then by Phase III they would overlay and widen to a certain section the frontage between their two entrances. North of that there are no planned improvements at this time.

Alderman Thiel: You do understand there is another way out to Highway 16? Whenever that bridge is out people have to go out Goff Farm Road. There are actually three ways into this.

Alderman Ferrell: I think the availability of an affordable place on a golf course lends itself to the lifestyle of Fayetteville and it's wonderful. In reading through the Planning Commission notes the vote on it was 3-4 and there were two commissioners absent at the meeting. Although I understand other peoples concerns I think this will definitely be an asset.

Alderman Lewis confirmed that area that was going to be the golf course on the map.

Todd Jacobs pointed out where the golf course was in fact located. He stated our houses about the golf course. He pointed out where the single family lots were located.

Alderman Lewis: Can you tell me about your stormwater plans?

Todd Jacobs: This is mostly public infrastructure going in. Most of our stormwater would be along the golf course mostly on the homeowners in forms of rain gardens and cisterns because we don't have a lot of area to work with. We will be making the ponds larger and looking at LID features within the actual homeowner's property for our LID stormwater for this project.

Alderman Petty: I think this is a little ahead of it's time. This would be a great thing to bring forward and to approve when the area and infrastructure around there has been more developed. I don't think I can support it for those reasons.

Todd Jacobs spoke on the design and stated the design itself is really good and is what the City of Fayetteville is looking for. He went on to speak on the policy issues and the infrastructure. He also referenced various slides in his presentation which explained the project in more detail.

Alderman Lucas: The trail goes up to Town Bridge Creek.

Todd Jacobs: It actually goes a little farther now.

Alderman Lucas: Will it go up to Highway 16?

Todd Jacobs pointed out on the map where the trail will go.

Alderman Lucas: It's like they could almost go to the commercial area there.

Todd Jacobs: Right, eventually this will get you to Walker Park and that will be the main connection. Between what is completed and what we will build that will be a pretty good section of filling in the pieces.

He continued with his slide presentation which explained the project.

I think staff and I agree that this is a good development and with that we looked at doing the phasing and the infrastructure to allow the project and infrastructure to work side by side which

would allow the infrastructure to catch up and the phasing to come versus trying to do this project all at once.

Alderman Petty: Maybe I have underestimated how quickly that area is changing. Can you explain some of the research you have done on how the population is expanding in that area of town?

Todd Jacobs: We looked at Stonebridge Villa Golf Course and house sales have been in the average of 30-40 per year. This has been one of the strongest housing areas selling in Fayetteville because people like the area. Elkins is starting to do its own retail within its own city and we feel that it will hopefully move to this project because it will be closer to town. We also looked at the traffic numbers and I am sure they are probably looking for property for a Neighborhood Market in this area.

Alderman Lewis: Are there bus routes or other options to ensure that a bus route would reach out to this development?

Todd Jacobs: I think that is a little optimistic. There will probably never be a bus service out there if we continue to build RSF-4 subdivisions. There is just not enough density to support it. There might be a bus stop at Highway 16 and Dead Horse Mountain Road but that would be the most likely spot for a bus service.

Hank Broyles, a developer for this project stated after the vote by the Planning Commission I spoke to Sean Trumbo who said that if he would have been there he would have voted for it. He went on to list the price ranges of the housing within the project.

Alderman Gray: I do feel like it is time for us to build this development. I like it a lot and I think that we have not approved anything similar to this in this part of town nor have we approved any that have the wide variety of cost of the living situations that Hank was just talking about. We need to look at the property that is left and keep in mind that something is going in on that property. I would much rather have a beautifully planned development like this that offers the golf course to folks who want that and they don't have to buy a half million dollar house in order to be on the golf course. I feel that it is time for Fayetteville to approve this development and I will be supporting it.

Alderman Thiel: I think it is important to note that bond money has been approved to go out to this intersection on Huntsville and in the next phase of our bonding we are going to be looking at going farther out each time. There is a lot of development out there already and we have not had any objections from anyone that lives out there. I support this project. It just makes sense.

Alderman Rhoads: I agree with Alderman Gray and Thiel but the thing that has the most impact upon my thought process is that we keep looking for and asking people to bring forward affordable housing and there is a lot of affordable homes in here and it's a very nice place to live. That just weighs heavily on my decision.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-3. Alderman Gray, Thiel, Rhoads, Ferrell and Lucas voting yes. Alderman Lewis, Cook and Petty voting no.

Ordinance 5220 as Recorded in the office of the City Clerk

New Business:

CUP 08-3158 Wilkins Appeal: An appeal of Conditional Use Permit 08-3158 (Wilkins) which was granted at the January 12, 2009 Planning Commission meeting.

Jeremy Pate gave a brief description of the appeal. The Planning Commission voted to approve this with a vote of 7-1 and staff also recommended approval of this conditional use permit for a tattoo business. We felt this would be a use that is compatible with this neighborhood. I want to mention that the name of the business should not be considered as part of your consideration for this application because it is protected by free speech rights.

Alderman Lucas: The original reason you looked at this was because of the sign?

Jeremy Pate: We got a call on the sign.

Alderman Lucas: What was decided about the sign?

Jeremy Pate: There was not a permit issued for the sign.

Alderman Lucas: What was the sign?

Jeremy Pate: The original complaint was a small sign that they would sit out on the property. We investigated and informed the applicant and then went through our normal research process.

Alderman Lucas: Would the sign on the side of the building be approved?

Jeremy Pate: It would likely. Subject to the conditional use permit process we will not issue a Certificate of Zoning Compliance unless that sign is permitted and approved by our office.

Alderman Rhoads: What is the procedure that this appeal comes before us?

Jeremy Pate explained the appeal process.

Alderman Rhoads: Does that mean the Alderman want the appeal to go one way or another or does it mean they have appealed because someone has asked them and they just want to bring it forward?

Jeremy Pate: Most Aldermen are simply appealing to get it before the full Council for discussion. It does not mean they support or do not support the Planning Commission decision.

Alderman Lucas: I was called about that and I felt like the two Aldermen that are in the ward thought it was worth while to bring forward and I had calls from people concerned about it and I thought it should be brought forward to discuss at the Council level.

Alderman Thiel: I want you to explain to me again why tattoo parlors weren't included in the Downtown General and only included as a conditional use.

Jeremy Pate: When we did the Downtown Master Plan we did not go down to the detail of looking at each and every use within each use unit. We have 42 use units that are identified in our Unified Development Code. We looked at our established use units and if we felt that the use unit was a fit in Downtown General we would include it as a use by right. If there were potentially objectionable uses within that use unit we might include it as a conditional use.

Alderman Thiel: So you didn't include anything in Use Unit 17 then.

Jeremy Pate: It's all a conditional use permit, anything in Use Unit 17 is a conditional use.

Alderman Thiel: To respond to Robert, what really struck me in the minutes was there is actually a new owner of the property that was being used which is a separate building aside from this that is being rented. They objected to this and they felt like it would not compliment what they are doing to their new business. That made it incompatible with improvements and the neighborhood as to what they wanted. That really factored in to whether or not this was something we should automatically approve at this time.

Alderman Lewis: I am wondering about some comments about the landscaping and code compliance with the building itself. Is the business responsible for that and are those two connected? Can the City ask the business to be responsible for those things or is that a separate issue?

Jeremy Pate: The City can require that as long as it meets the threshold. In this particular case though there is no expansion and the improvements are well below our threshold so the City doesn't have the right to require any of those improvements.

Alderman Lewis: That is what I am struggling with the most. The whole look of the place needs help. Can that be a part of the conditions of this?

Jeremy Pate: It really cannot be a part of the conditions of this but what I would recommend is that we attack the ordinance. If the ordinance is not meeting what we as a city feel is proper then that is where we look at it.

Alderman Ferrell: I think that until that ordinance is amended that would be a different situation. It would be inconsistent to me not to support this regardless of my personal feelings against the establishment.

Alan Ostner, resident of 312 South Block spoke against the business. He stated to say this is an art issue completely misses the point. This puts us to the side that live nearby it and so I would ask to make it a neighborhood issue. He went on to speak on use units. He stated this is incompatible for our neighborhood. He expressed his personal issues with the compatibility.

Alderman Ferrell: You have not spoken with this business person?

Alan Ostner: We have spoken a little bit.

Alderman Ferrell: Have you asked about changing the conditions with the owner?

Alan Ostner: Yes. I said it here and he came and acknowledged that he heard it so yes.

Joanne Southern, a resident of 104 West 5th Street and the Vice President of the Jennings Plus Neighborhood Association spoke in favor of the business. She asked where all the controversy was when "Extreme Novelty Shop" was in this location. She spoke on the fact that this does not affect property values. She stated this needs more thought and more information presented.

J.R. Ball, owner of the property adjacent to the property stated I am here to appeal the decision of allowing Low Life Tattoo Shop to operate in its current location. He stated the key to all of this is public perception. Our neighborhood perceives Low Life Tattoos as not compatible with our neighborhood and I hope you find it not compatible with your vision of this valuable part of our city.

Alderman Ferrell: Was the tattoo parlor there before you bought your property?

J.R. Ball: Yes it was.

Collin Wilkins, Owner of Low Life Tattoo addressed some of the concerns that had been mentioned. He explained how he obtained the signatures for his petition. He gave a description of his business and stated to say that I am not compatible with this area is very wrong.

Alderman Thiel: How long is your lease with the owner of this property?

Collin Wilkins: Five years.

Alderman Thiel: That is if you can operate as a tattoo parlor or can you get out of that if you can't?

Collin Wilkins: I am probably going to be in a bind if you all shut me down because I am not sure I can get out of the lease.

Alderman Thiel: Were you under the impression whenever you went into that lease that you could have a tattoo parlor there?

Collin Wilkins: Yes ma'am. I specifically asked her what it was zoned and she said it was C-2 and that is what I went with. I did not know about the new zoning. I have complied fully with everything that has been asked of me.

Alderman Thiel: What kind of issue would that get us into? Would he have recourse if we voted this down because he rented this on a premise that he could use it for this?

Assistant City Attorney David Whitaker: I won't characterize it as odds of success but of course he has recourse no matter what occurs. I am not going to comment on his relationship with his landlord.

Alderman Thiel: That is a very long lease.

Collin Wilkins: That was to help me with the rent. I am very fortunate at this location to have a low overhead where I can make it though this year pretty easy.

Alderman Thiel: If you are successful do you see yourself making improvements to the building and the parking lot of your business?

Collin Wilkins: I am not opposed to it but right now I do not have the funds to do that.

Alderman Gray: What kind of hours do you have now? I read something about your hours being cut. Is that right?

Collin Wilkins: No ma'am. I lost my other artist who was running it during the day time. Basically I get off work at the restaurant and get there around 5:30 p.m. I will be opening at noon until 9:00 p.m.

Alderman Gray: Then until 11:00 p.m. on the weekends.

Collin Wilkins: Yes ma'am. That is basically the standard in all the shops around here.

Alderman Lewis: Are you willing to work with the Neighborhood Association?

Collin Wilkins: Yes I am very willing to work with them. No one has ever come to my shop and talked to me. I have went out and talked to everybody. I think that shows a part of my willingness to get out there and talk to the people one on one and educate them on some of the issues. I hope you all look at this with an open mind and let me continue to run my business.

Rebecca Latourette, property owner at 205 West South Street stated I will be a good neighbor if this goes his way but I would like the City Council to know that people are putting a tremendous amount of money into the neighborhood in a downed economic time. In two years you are going to see a huge difference. She went on to speak on the property values of that area.

Alderman Ferrell: She just said that she would like to be a good neighbor and I think that is the best policy.

Alderman Rhoads: What is the Council supposed to be evaluating in this appeal?

Assistant City Attorney David Whitaker: You have to use your own best judgment of what this word means to you, compatibility not only with adjacent properties but overall with the zoning district in which the conditional use is sought.

Alderman Rhoads: In some of the minutes of the prior Planning Commission meetings one of the Fayetteville Citizens stated to grant a new conditional use permit there needs to be a compelling reason for the business.

Assistant City Attorney David Whitaker: That is overstating the standard. That term compelling in the law has real meaning and there is no such standard in a conditional use.

Alderman Thiel: It's not so much the business as it is the lack of improvements to the building. I think it is more of the cosmetics and the fact that someone is improving a building next to this one. If we do this conditional use it is not just with this applicant right?

Assistant City Attorney David Whitaker: It is just this person.

Alderman Thiel: So that will not automatically remain a tattoo parlor.

Jeremy Pate: A conditional use permit is very specific to the application that has been submitted.

Alderman Cook: We can't hold Mr. Wilkins to that standard; it is the owner of the building. If there is not enough improvement on this building based on this business to warrant that then if we want to change that we need a new ordinance. I am supportive of the neighborhood but I feel that this business, as low impact as it is, it is not going to affect the neighborhood in the long run. If it is the building and the improvements I think that is another issue we should tackle in a different way.

Alderman Gray: We don't have any assurance that the building is going to look any better if we move the tattoo shop out. It sounds like to me that the three things that Mr. Ostner has asked, Mr. Wilkins is perfectly willing to try to make that happen. I will be supporting allowing Mr. Wilkins to continue his shop.

Alderman Petty: I don't think this will affect the neighborhood either. We have seen no data to back up the claim that property values would be affected negatively and I don't think we should make our decisions based on theory but instead on data. The fact that the parlor was operating prior to the purchase of the adjacent building and the decision to make an investment in that building nullifies any claim of incompatibility between those two businesses. I will also be rejecting the appeal.

Alderman Lucas: I am not opposed to a tattoo parlor but we did have a Charrette and we did change all these zonings. It is Downtown General and these people have invested in this area

with confidence that this is the Downtown General. I feel we need to support these people in their efforts. It seems to me if this was compatible then it would be in the zoning by right instead of having to be a conditional use. Maybe this shows that we need a business license so we can track these things. I am going to support the neighborhood because this is what we voted on.

Alderman Ferrell: If we need to change our ordinances then let's change them.

Alderman Lewis: I am supportive of the neighborhoods efforts and I think they deserve attention. He is willing to improve it in his capacity. I don't believe we have a place to deny their business because I think it is compatible.

Alderman Rhoads: I am going to vote against the appeal because I do think it is compatible.

Alderman Thiel: I don't think I have really heard an overwhelming response from the neighborhood one way or the other.

Alderman Gray: I think if the neighborhood was strongly against it they would be here.

Upon roll call the appeal was denied 7-1. Alderman Lucas voting no.

Resolution 42-09 as Recorded in the office of the City Clerk

Bid # 09-12 LaRue Contractor, Inc.: A resolution awarding Bid # 09-12 and approving a contract with LaRue Contractor, Inc. in the amount of \$947,628.99 for construction of Mount Sequoyah water and sewer improvements; and approving a project contingency in the amount of \$50,000.00.

David Jurgens gave a brief description of the contract. He stated they were not recommending going with the lowest bidder. He stated the lower bidders had no prior work experience similar to this project. He stated we feel it is in our constituent's best interest that we insure the contractor has adequate experience to be able to execute this project.

Alderman Cook: I agree with staff's assessment on that. We are all familiar with Mount Sequoyah and it is going to take a talented person to pull this off. I agree that we should be looking for a contractor that has some experience on that and it is still well below the engineering estimate and we should move on it.

Alderman Cook moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 43-09 as Recorded in the office of the City Clerk.

Pending State Legislation: A resolution to express the City Council's opposition to any proposed state law that would constitute an unfunded mandate upon city taxpayers or would remove discretionary power of the City Council to control its budgetary expenses.

Mayor Jordan: This is something I had staff to draw up. We had some concerns about some legislation which is what we call a shell bill and we don't exactly know what all is in it. We met with pensioners on Wednesday for about five hours and at the end of the day they had some concerns about cutting their benefits. There is talk that they would like to merge with LOPFI and if that occurs it would cost the City \$1.7 million per year to fund that for fifteen years.

Paul Becker: This is a resolution of intent to the General Assembly requesting that they do not add any unfunded mandates to the City and to prevent them from taking away the Council's discretionary power to determine whether or not to send the old pension plans down state.

Mayor Jordan: So basically what I am asking the Council to do is support this resolution that we can contact legislators with our opposition to that.

Alderman Lucas: The pensioners then did not agree to reduce.

Mayor Jordan: They are looking into merging the plan and they did talk about reducing but have not decided to do that.

Alderman Lucas: They are getting 100% or better?

Mayor Jordan: 90% is the lowest and it goes up from there.

City Clerk Sondra Smith: On the Firemen's Pension the percentage is 90% but they enacted a 3% COLA for three years which puts them at a higher level or close to 100% of the ending benefit.

Alderman Lucas: That was done this week?

City Clerk Sondra Smith: No, that was done previously. The 3% temporary COLA is over with. They wanted to reapply for that and continue the COLA. There was a study done and the actuary said they could not even sustain a 1% temporary COLA at this time because of the plans shape.

Alderman Lucas: Does this go to all the legislators?

Paul Becker: Normally just to our legislators. The Municipal League is aware of the shell bills but this would just go to our legislators I believe.

Mayor Jordan: You might tell the Council the losses that they have incurred over the last year in retirements.

Paul Becker: Last year alone they have lost in excess of \$2 million in each plan. The investment losses alone in the Police Pension Plan were \$2.1 million and \$1.6 million in the Fire Pension Plan.

Alderman Lewis: Can you remind me of the timeline on this? If this passes what is the next step? When does it go to our legislators and then what happens.

Paul Becker: I would assume it would go to the legislators and alert them to this particular legislation and what the City's official position on it is.

Alderman Lewis: Because of that is the City sending a representative to lobby this topic or act in that role?

Paul Becker: At this time no.

Alderman Cook: If it doesn't roll into LOPFI what happens? If they continue to lose money and can't even maintain their benefits what happens?

Mayor Jordan: They go down. From the graph that we saw given to us by the actuary it just shows the pension plan nose diving.

Alderman Cook: Is there any governing body that could force that action where it doesn't go down?

Paul Becker: The Council would have to intervene and that would be your decision. The graphs that we did see said that the Fire Pension even under the best of circumstances was going to be in trouble within a nine year period. The Police Pension could possibly squeak by but the Fire Pension would have a problem within 10 years.

Don Marr: I just want to remind the Council that the reason that this is the approach is that when we are having dialogue as staff with legislators that represent us we are asked is this the official position of the City Council. You are the only body who can make that policy decision. So even though we might be advocating on your behalf it requires a resolution from you. This is being done so that we can give guiding principals and philosophies about your positions as it relates to this specific area.

Alderman Lucas moved to approve the resolution. Alderman Thiel seconded the motion.

Mayor Jordan: We will keep you posted on how this is going because this is a serious situation for the pensioners and the City, if one of those state laws are passed then it will become our issue.

Alderman Cook: Another thing that concerns me is that if we do get to the point where we do see failure and it does fall back on us that is going to be a difficult situation.

Mayor Jordan: To me it is a no win situation but my job is to protect the citizens.

Assistant City Attorney David Whitaker: The gist of this resolution is saying yes we know those issues are out there but we think the best legislative model is that this City Council decide what is the best way to handle that.

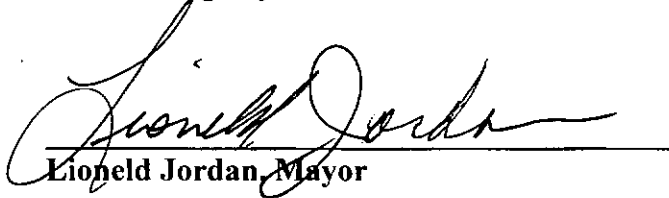
Mayor Jordan: Another thing that is in this resolution is if they do pass something like that they are to provide the funding for us to be able to do that. We are trying to protect everyone, the pensioners and the City all at the same time.

City Clerk Sondra Smith: At the meeting last week there was some strong feelings to do a benefit decrease but one of the problems was we had the actuary there and the Executive Director of PRB there and he said we are in new ground charting new waters and he did not feel like we could do a benefit decrease. He recommended that we get with our legal counsel and get an opinion before we did something like that. Otherwise there would have been a motion last week to decrease benefits. I do not feel like it needs to go to LOPFI at the current benefit level.

Upon roll call the resolution passed unanimously.

Resolution 44-09 as Recorded in the office of the City Clerk.

The meeting adjourned at 8:50 PM


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer