

**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  
April 6, 2010**

A meeting of the Fayetteville City Council was held on April 6, 2010 at 6:00 p.m. 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, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions:**

**Mayor Jordan** pointed out a typo on Item A. 7 Amend Police Department Policies, (*Secondary Employment A.2. - Any employment where the dispensing or consumption of alcoholic beverages is a **regular** function of the business*). The request is where it says alcohol beverages is a **regular** function to change the word **regular** to **primary**. If you want to place it on New Business you can.

**Alderman Thiel:** We can just make an amendment.

**City Attorney Kit Williams:** We actually don't even need an amendment because the resolution does not have to be changed. This is just part of the Police Policies. They meant to put this in and they just forgot to change that word.

The City Council nodded their agreement.

**Presentations, Reports and Discussion Items:**

**Agenda Additions: None**

**Consent:**

Approval of the March 16, 2010 City Council meeting minutes.

***Approved***

**Amend Resolution No. 138-06 Comprehensive Market Survey:** A resolution amending Resolution No. 138-06 to delay the requirement to perform a Comprehensive Market Survey from 2010 to 2012.

***Resolution 48-10 as recorded in the office of the City Clerk.***

**Pressure Point Control Tactics Training Class:** A resolution amending the 2010 City Budget by approving a budget adjustment to authorize expenditures and recognize revenue in a total amount of \$640.00 related to a Fayetteville Police Department Pressure Point Control Tactics Training Class.

***Resolution 49-10 as recorded in the office of the City Clerk.***

**Wildlife Hazard Assessment Grants:** A resolution authorizing application and approving acceptance of grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics in the total amount of \$58,109.00 to fund a Wildlife Hazard Assessment at Fayetteville Executive Airport-Drake Field, and approving a budget adjustment recognizing the grant revenue.

***Resolution 50-10 as recorded in the office of the City Clerk.***

**Loomacres Wildlife Management:** A resolution approving a contract with Loomacres Wildlife Management in the amount of \$58,109.00 for the provision of a Wildlife Hazard Assessment at the Fayetteville Executive Airport-Drake Field, contingent on the award of grant funds for the project.

***Resolution 51-10 as recorded in the office of the City Clerk.***

**Kearney-National Inc. and/or Cooper Power Systems Condemnation and Possession:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Kearney-National Inc. and/or Cooper Power Systems needed for the Runway 16 Safety Area Improvement Project at the Fayetteville Executive Airport.

***Resolution 52-10 as recorded in the office of the City Clerk.***

**Amend Police Department Policies:** A resolution approving amendments to Fayetteville Police Department Policies 12.2.1, Policies Procedures & Rules Development and Review; 22.3

Secondary Employment; 52.1.1, Office of Professional Standards; 61.2 Collision Investigation and 71.1.1, Detainee Transport.

***Resolution 53-10 as recorded in the office of the City Clerk.***

**Fayetteville Forward Event:** A resolution to approve the attached budget adjustment of \$6,600.00 for the April, 2010 Fayetteville Forward Event.

***Resolution 54-10 as recorded in the office of the City Clerk.***

**Alderman Cook moved to approve the Consent Agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

**Unfinished Business:**

**Amend Chapter §114.02 Farmers Market:** An ordinance to amend §114.02 Farmers Market by allowing an extra hour of operation (until 2:00 p.m.) on Saturdays and to allow operation from 4:00 p.m. until dark during First Thursday Events. *This ordinance was left on the First Reading at the March 16, 2010 City Council meeting.*

**Alderman Gray moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

***City Attorney Kit Williams read the ordinance.***

**Don Marr, Chief of Staff:** The Farmers Market originally requested all Thursdays. The discussion was to begin at 4:00 on Thursday evenings. There was a concern, from some of the businesses that, that might create parking problems if we did that every Thursday. We had a public input session to try to get feedback from the public. We had one restaurant that was against every Thursday. The Mayor then talked to the Farmers Market about offering a start time of 5 p.m. to avoid parking issues with office businesses. The three or four hour gap would create an opportunity for people to park and they were concerned about having to tow to reopen the spaces or ticket people who had parked in those spaces. They were not interested in having a gap. They wanted to look at the entire time. It also created a challenge for their vendors who come in from other locations for them to leave and come back. At the public input session most people were in support of an every Thursday option. The people who had called did not attend that session. We asked staff to look at an every Thursday option and evaluate it for 30 days or 60 days. If we had a problem then we could change it in the middle of the season, or we could do it for the entire season. Our recommendation to you is their original request for a trial period be evaluated and if we see parking problems or numerous complaints about parking then we'll bring it back for a change in the ordinance.

**Mayor Jordan:** I will be bringing forward a couple of amendments to the ordinance due to some issues that have occurred. We were told by the Farmers Market that we could no longer walk the Animal Shelter dogs around the interior of the square.

**Don Marr:** The ordinance that we passed gives the Market management authority just as we give the Town Center A & P staff authority for Lights of the Ozarks. Within the policies the Market had adopted was a policy of no display or sale of animals at the market. Animal Service is displaying animals at the Market. Alderman Thiel had introduced an ordinance a while back about the sale of animals but it exempted Animal Services so that we would have the opportunity to have our animals adopted. The Market is the place where we have the highest adoption rates of those animals. That obviously created a concern for our Animal Services Committee as well as Animal Services staff. In a way to try to accommodate the market I think they have some patrons who may not be as animal oriented or concerned about pedestrian safety, animal aggression, etc. We wanted to address the practice that had always been there which had allowed the animal services to be at the market.

**Alderman Thiel:** We need to look at that if the Farmers Market feels like they can dictate City services and that doesn't just include the Animal Services it is my understanding that they said Community Services can't be down there.

**Don Marr:** That's correct.

**Alderman Thiel:** I feel like that's City property. I didn't realize that we had allowed them that much power. If we have I think we need to readdress that.

**Mayor Jordan:** Our City Attorney can give us a better explanation.

**City Attorney Kit Williams:** In the original ordinance that allowed and established the Farmers Market we allowed them to use the parking spaces and the sidewalk around the Square. For years everything was fine and there was no problem allowing the animals to be there. It did give them management right for not only the parking spaces but also the sidewalk to some extent. Under new management they have now decided that they are going to assert total control of the sidewalk and that we can't even have government programs showing our citizens things that need to be communicated to them in Community Code Compliance and not allow our Animal Shelter dogs to be there. The Mayor asked me to draft a proposed amendment to this current ordinance that would make the status quo as we have had for years. The only way to do that is to remove the power of management of the Farmers Market over at least the inner two thirds area of the sidewalk. It would still allow the vendors to use up to a third of the width of the sidewalk in front of where they have their stalls. We want the government and free speech to be there.

**Mayor Jordan:** Keep in mind that 65% of the animals from the shelter get adopted on the Square.

**Alderman Thiel:** The City does not generate any revenue or sales tax from the Farmers Market and we need to bare that in mind in this discussion.

**Alderman Cook moved to amend the current ordinance to add the whereas clauses in Section 2, amending Subsection A. Alderman Thiel seconded the motion. This amendment was voted on after much discussion.**

**Alderman Lucas:** Do they also have the power to shut the street down on the south side of the Square?

**City Attorney Kit Williams:** That is not part of that ordinance.

**Alderman Lucas:** Who does that?

**City Attorney Kit Williams:** The only person that is empowered to shut down a street is the Chief of Police for safety reasons. They are empowered to shut down East Street on Saturdays.

**Alderman Ferrell:** The Farmers Market management is that one person or a board that made this decision. Is there a spokesman here?

**Mayor Jordan:** I will get to the public in just a minute.

**Don Marr, Chief of Staff:** Mountain Street was closed for safety and pedestrian access across the Town Center and the markets most southern side. I am not sure if it went through any formal process. That has been a multiple year activity also.

**Alderman Rhoads:** Are we saying that we are changing it to return back to City control over geographical areas in the market?

**City Attorney Kit Williams:** It will be returning the interior two thirds width of the sidewalk all the way around the square back to the citizens.

**Alderman Rhoads:** Wouldn't it make it more flexible to indicate that the City and the Farmers Market management will co-manage, however if there is ever a dispute then the city will trump?

**City Attorney Kit Williams:** What I would be concerned about with that is, for example they did not allow someone to collect candidate petitions on the sidewalk that is not a constitutional action that they took. I would rather not have them in the business of trying to control the sidewalk.

**Alderman Rhoads:** If we indicate that we are going to co-manage but we will always have the deciding vote we still can do that.

**City Attorney Kit Williams:** I just see that as a logistics and administrative problem myself. If you co-manage we would have to get with them any time something comes up. I think that would be a problem.

**Alderman Rhoads:** Down the road instead of having administration get with them, if a problem arises, we will have to come back to the Council and refigure this ordinance.

**Alderman Ferrell:** Who is the primary staff person that deals with the management of the Farmers Market?

**Don Marr:** We do not have a dedicated staff member. We really didn't have awareness that this might be an issue until we started seeing the communication between our staff and the management staff of the Farmers Market. My only concern is you might have a particular Saturday when something happens where you don't have, whoever is that designated staff person at the Market to handle it.

**Alderman Rhoads:** I don't see us having to manage it. It seems that we just need to let the Farmers Market management know who owns the square and who is going to control it ultimately.

**Alderman Lewis:** I think it would be difficult to enforce. How much mediation has taken place between the people involved?

**Don Marr:** There has been a perception that the Market Board and Market Management have the authority to manage the market just like the A & P has done with the Lights of the Ozarks. We have not had a conflict on a particular policy in the past. This is to try to give the City some say in representation at the market.

**City Attorney Kit Williams read the amended ordinance.**

**City Attorney Kit Williams:** The only major change is that the sidewalks are public property and not under the control or management of the Farmers Market. It does not mean they are under the management of the City any more than any other City sidewalk in town.

**Alderman Lucas:** So you are saying the sidewalk still remains with the City?

**City Attorney Kit Williams:** Yes, but they may put their tables on the sidewalk and if the sidewalk is not occupied by a vendor then another group or the City can use that as a display area as long as they are not impeding the traffic.

**Alderman Thiel:** Now the other part of this discussion is this ordinance would allow them to have events only during First Thursday.

**City Attorney Kit Williams:** That is the original part of the amendment.

**Richard Clehouse,** resident of 1680 River Meadows Drive, Volunteer Coordinator for the Fayetteville Animal Shelter: For the past three years I have been in charge of bringing volunteers and dogs to the Farmers Market. Last week I was told that we could not be there. It is also a revenue stream for the Animal Shelter because we receive donations. We would like to work with the Farmers Market.

**Eva Madison,** Chair of the Animal Services Advisory Board: We love the Farmers Market. The ability to adopt animals at the Farmers Market is vital to the Animal Shelter. I don't think the problem is with the shelter dogs, citizens bring their dogs also. I would encourage the City to take back the sidewalks for the dogs.

**Emily Williams**, a citizen: It makes sense to make things clear in the beginning and to designate who has the say so so that it does not continue to come back. It makes sense to get this issue resolved now. The Animal Shelter being on the square far out weighs any of the problems. We just need to be more vigilant about some of the problems.

**Elizabeth Matthews**, Animal Services Advisory Board spoke in favor of keeping the Animal Shelter dogs on the Square and also spoke in favor of the amendment.

**Liz Forsbach**, Animal Services Advisory Board also spoke in favor of the amendment.

**Alderman Ferrell**: I am going to propose an amendment that states should there be a disagreement that can't be resolved between the City and the Farmers Market Board over policy the City of Fayetteville and its laws and ordinances shall prevail.

**City Attorney Kit Williams**: That would be something that would actually go at the end of the entire section because obviously city law and state law is always going to control over private policy. The reason it did not in this case is because we gave them management control over the sidewalk so they could control who was there during the period of time they had it.

**Alderman Ferrell**: This would just make it extra clear so there wouldn't be any doubt at all.

**City Attorney Kit Williams**: That would probably be a new section.

**Alderman Rhoads**: I am pretty sure that everyone on the Council wants the dogs to be where they normally were. I believe we should not pass this amendment but instead pass an amendment that states we will co-manage but we will have the final say so. Otherwise I see problems coming up again.

**Alderman Lewis**: I was worried about that too. I think this is okay because it takes the City out of it and the Farmers Market because it says all public sidewalks around the Square shall remain freely available to the public. That means the whole sidewalk is freely available to the public.

**Alderman Thiel**: I think both ways are acceptable. We already have a draft here that takes care of this.

**Alderman Rhoads** voiced his concerns on the way the current amendment is worded.

**City Attorney Kit Williams**: The only reason the Farmers Market had any right to control any part of the sidewalk is because in the original ordinance said where the Farmers Market should be located on the downtown square and on the sidewalks adjoining those spaces. I removed and the sidewalks adjoining those spaces. That removed all management rights for the Farmers Market regarding the sidewalks. However in order to preserve the status quo we allowed the individual vendors the right to use up to one third of the sidewalk. We are still totally in control so there is nothing that they would be doing on the outside one third of the sidewalk that we could be in disagreement with because it would not be their policy decision to make.

**Alderman Rhoads:** Could they not, in their management of the Farmers Market specifically in the parking areas, potentially do something that we do not want them to do or not do something that we are prohibiting?

**City Attorney Kit Williams:** The City Council has always set the policy decisions for the basic items for the Farmers Market. The only thing this does is remove the regulations of the Farmers Market Board from the sidewalk so that there won't be the kind of over regulation that we saw last weekend.

**Alderman Petty:** I like Robert's solution. I am going to withdraw my second on this particular amendment and support Robert's if it gets on the table.

**City Clerk Sondra Smith:** I had Cook and Thiel as the motion and second. I think we had several seconds.

**Mayor Jordan:** We have had those dogs on the square for years. The Market Manager wanted us to remove all the dogs and I said I am not going to do that. I really feel that the sidewalks of the City of Fayetteville should be free. That people should be allowed to have petitions, political tables, and walk dogs.

**Alderman Rhoads:** I am just trying to make sure that we have in place a way that is smooth as silk going down the road. What I would ask my fellow Council members to do is either let me amend this now or vote against it and vote for an amendment that would merely say that all the rules and regulations of the Farmers Market are subject to the final approval of the City.

**Alderman Lucas:** This is a good amendment and I think the citizens expect the sidewalks to be the citizen's property. Bobby has an amendment to the ordinance that will clarify what Robert is saying also that the City has the final say. I think we can vote on the amendment to take the sidewalks back into the City government and then let Bobby put his amendment on the ordinance.

**Alderman Cook moved to amend the current ordinance to add the whereas clauses in Section 2, amending Subsection A. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-2. Alderman Gray and Rhoads voting no.**

**Alderman Rhoads moved to amend the ordinance to strike out the previous amendment and amend the ordinance that was in place to state that the City shall be ultimately the decision maker on any rules and regulations of the Farmers Market. The motion died due to lack of second.**

**Alderman Lewis:** I think the intent is good but I don't agree with it. I like the idea that the sidewalks are available to the public. I am not comfortable with the City having a say over what the public can do on the sidewalk. It seems redundant to say that the City has the authority over it. She asked Bobby to read his amendment.

**Alderman Ferrell** moved to amend the ordinance to state should there be a disagreement between the City Administration and the Farmers Market Board on Farmers Market policy the Mayor can revoke the objectionable policy to be in line with City policy subject to reversal by City Council resolution. **Alderman Rhoads** seconded the motion.

**Alderman Gray:** I agree with Robert. I would like to see something in place so that we don't have to keep revisiting this. I would like to see it settled.

**City Attorney Kit Williams** read the amended ordinance.

**Gerald Klingaman**, Operations Director at the Botanical Garden: We are on City property and there is a continual tension about who has the authority to do this or that whenever things come up. My concern is oversight authority and how you go about your day to day operations. To give authority to one person and then issues arise is a concern. This seems to be a major change without a lot of deliberation. Everything that you have been doing in the past can suddenly be trumped by one person.

**Emily Williams:** Is the Botanical Garden under the same type of rules as the Farmers Market on the Downtown Square even through this amendment? Aren't they a different sort of entity?

**City Attorney Kit Williams:** We have a specific contract with the Botanical Gardens Society where we have leased a portion of Lake Fayetteville to them over a long term basis. They have agreed to do certain things in consideration so they're really not controlled by the ordinances very much. We do not have a contract with the Farmers Market we just granted them the right to use our Square for particular times and days of the week, basically what the State has set forth in the Farmers Market statute. One is contractual and one is by ordinance only.

**Alderman Ferrell:** There is no absolute power in this situation. If there was something that was wrong there is an appellant process for scrutiny by the City Council.

**Upon roll call the motion passed unanimously.**

**City Attorney Kit Williams:** We should now look at Section 1, the days and hours.

**Don Marr:** The point the Council needs to consider is whether it leaves Subsection 1 as First Thursday only or whether someone amends it to allow every Thursday. The other part of this is the extension of hours from 1 p.m. to 2 p.m. on Saturday.

**Alderman Thiel:** I heard from Tiny Tim's and I feel like that is a very strong voice because they have been in business on the square for a long time. It really concerns them about every Thursday. They pay a sizable HMR tax and sales tax. You have to look at who has been there a long time and who pays HMR taxes which are additional boosts to our City. The way this ordinance reads now it would be during the First Thursday events. I think I could support that because it gives them a trial period. I don't know if I support until 2 p.m. on Saturday. I think the consensus was pretty mixed. I will not support every Thursday.

**Don Marr:** We didn't have an overwhelming one side or the other on this. At the public input session, we did not have opposition. We did take phone calls in the Mayor's office, that tended to weigh a little more on the opposition side, but in the public meeting it was more on the support side. We haven't really seen an overwhelming response negatively or positively. The original item we brought forward is what you have today in section one which is just the First Thursday. The reason we offered to amend it is because there didn't appear to be a huge overwhelming item one way or the other. We thought we could give it a trial period. We certainly defer to your judgment on that. If you leave it on First Thursday and the Farmers Market Management stays with their original position then they wouldn't be requesting only the First Thursday. Now obviously you can pass it and they can decide not to use it.

**Alderman Ferrell:** I'm alright with the 2 p.m. and the once a month on the First Thursday. I visited with the owner of the Old Post Office and he said the parking will have a negative affect on keeping a client in a restaurant. He asked me to convey that his preference is not every Thursday.

**Alderman Lucas:** Is that part of the Farmers Market in front of the Town Center?

**Don Marr:** I believe so.

**Alderman Lucas:** So, that's part of Farmers Market?

**City Attorney Kit Williams:** I don't think so. That's part of the Town Center Plaza which is not specifically given to the management of the Farmers Market. I think that's one reason why you've got some vendors over there that would not be served in the Farmers Market. I think that's controlled by the Town Center.

**Alderman Lucas:** One of the things that I've heard is that the street is blocked when there is the Farmers Market and vendors in the Town Center area. That makes it difficult for people to come up there. It concerns me that if we have it every night they will block both the east and south side of the square. Even though I like to see activity down there I think I would go with just the First Thursday.

**Don Marr:** Per Sharon Crosson, Mountain Street's closure is a decision that was not done by the market but by the Chief of Police for pedestrian safety reasons.

**Alderman Gray:** Is there anything in here that talks about a trial period?

**Don Marr:** The current ordinance in front of you is the very original application which was just First Thursday only.

**Alderman Petty:** I really like the idea of the trial period. I haven't seen one side coming out really strongly, especially having a public input session where we saw no opposition. My feeling is that the public would really appreciate this kind of activity. If there is no other place in town for this activity it's got to be the Square. That's what the Square is supposed to be reserved for. I am really interested in the trial period that gives the public and the merchants a chance to

experience it. We can get feed back from both the public and the merchants. It'll be feed back based on what actually happened and not just speculation.

**Mayor Jordan:** You are saying every Thursday?

**Alderman Petty:** Every Thursday for 30 days and then we will reexamine it.

**Alderman Lewis:** I heard opposition not from the public meetings but by email and phone. Some of the comments were "I'm afraid to speak up against it because everyone loves the Farmers Market and it would make me look bad." They wanted to contact me if they were in opposition because it was difficult for them to say they love it but it would be difficult to have it every Thursday.

**Alderman Petty:** I had the same comments. I had several emails and Facebook comments in support. Whenever I hear that from people to me it says I would love to speak up against it but I know I am in the minority.

**Amy Robinson,** business owner at the Mill District: I am here representing the Mill District retail and tenants. We are opposed to the proposition of it being every Thursday night. We support the First Thursday amendment. First Thursday is a wonderful event. As retailers and tenants in the Mill District we are here to support, provide ideas and help the Farmers Market so that it will stay at the Mill District.

**Alderman Ferrell:** Thank you for your positive and organized message that has consideration for many of the parties here.

**Amy Robinson:** You are very welcome. Thank you.

**Alderman Cook moved to suspend the rules and go to the third reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.**

***City Attorney Kit Williams read the ordinance.***

**Alderman Petty:** I was hoping we would hear from a Farmers Market representative. I guess since we haven't they don't really care which outcome happens tonight?

**Chuck Rutherford,** Board of Directors of the Farmers Market: We just basically want to get along with everyone on the Square on Farmers Market days and that is what the Farmers Market management is trying to do. The complaints the market has to sort out is why this person gets that corner, etc. and that is one of the reasons for the decision for all of them being put in one area so everyone would be equal. As far as the dogs on the market Don read the bylaws of the market and the manager was just trying to enforce the rules and bylaws of the Farmers Market.

**Alderman Petty:** Specifically on the relocation why did the board want to move from the Mill District to the Square?

**Chuck Rutherford:** They felt that the success that was happening with the Thursday events could create a bigger audience of customers on the Square with the Farmers Market there. They have been at the Mill District for a few years and vendor participation has gone down every year because of the sales. The craft members do not attend the Mill District market and they felt they might have an opportunity like they do on Saturday's at the Square.

**Alderman Petty:** So there is just not good business down there so far?

**Chuck Rutherford:** I think last year on an average there was probably 4 to 6 vendors there on a Thursday evening.

**Don Marr:** If they do decide to utilize the First Thursday event we will need notification with the time period so that Parking Management can take care of the parking clearance for that time period. We would like you to either consider that it's all day Thursday as opposed to the break between 1 p.m. and 4 p.m.

**Alderman Lewis:** The source of it is because a lot of people like it. That is an okay problem to have to deal with.

**Mayor Jordan:** I received comments from one business owner that was extremely opposed to the Farmers Market being every Thursday evening. I received between 15 or so emails and phone calls in opposition but today I received 20 and 18 was in favor and 2 were against.

**Alderman Gray:** The 18 were for every Thursday?

**Mayor Jordan:** Every Thursday.

**Don Marr:** My only request is to make sure that you are okay leaving it at 4 p.m. and if we do that I want to make the Farmers Market management aware that the City will need to be notified to clear Center Street and Block Street or I would like you to amend this to say all day Thursday of First Thursday.

**Alderman Thiel:** I think it makes sense, based on what you said that we amend it.

**Don Marr:** We would basically be making a change including the three hour gap from 1:00 p.m. to 4:00 p.m.

**Chuck Rutherford:** On Saturday's the Farmers Market takes up all four streets on the inside and both sides of the square on East Street. The City asked last year for Mountain Street to be closed for pedestrian safety. On Tuesday's and Thursday's the Farmers Market has been given permission to use all the inside square and none of the streets are closed.

**Alderman Ferrell:** Don brought up the idea if Farmers Market elects to do First Thursday, do you see a problem with them notifying the City that they are going to do that?

**Chuck Rutherford:** Just with the part about the time span. The Farmers Market discussed, just like you did for a long period of time, all day (*Thursday*) for the reason of simplifying everything so that cars do have to be moved or towed away. Farmers Market didn't want to be involved in any of that.

**Alderman Ferrell:** I understand that but you also have to consider the merchants down there too.

**Chuck Rutherford:** The Farmers Market Board has already made a decision that if it is not allowed every Thursday the Farmers Market will go to the Mill District.

**City Attorney Kit Williams:** Should we amend this and remove that to where it says during First Thursday events Farmers Market shall be allowed to be open and operated from 4 p.m. until dark to the interior spaces?

**Mayor Jordan:** If they are not interested they don't have to take up the option.

**City Attorney Kit Williams:** I want to make sure our parking is not ever put in a spot.

**Alderman Thiel:** We just heard that they don't close that side on Thursday's, so I'm confused now regarding Thursday's.

**Don Marr:** We would recommend that you strike the First Thursday totally if they are not going to use it. The reason we were asking about the parking was because it's towing the parking spaces not the street closures.

**Alderman Thiel moved to amend Subsection 1 of the ordinance to extend the hours to 2:00 p.m. on Saturday's only and strike the language relating to First Thursday. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-1. Alderman Petty voting no.**

**Alderman Ferrell:** Privately owned dogs are only allowed there on a leash legally, right?

**Mayor Jordan:** Right.

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

***Ordinance 5309 as Recorded in the office of the City Clerk***

**New Business:**

**Rock Street Parking, LLC:** A resolution approving a contract for the purchase of a sixty-four space parking lot located on the southeast corner of Block Avenue and Rock Street from Rock Street Parking, LLC in the amount of \$342,000.00 plus applicable closing costs, and approving a budget adjustment of \$343,000.00.

**Sharon Crosson** gave a brief description of the resolution. Staff recommends the purchase of this property. The offer that we made is below the appraised value.

**Don Marr, Chief of Staff:** A call was received from the property owners that they received another offer on the property. The City had tried previously to purchase the property but couldn't come to a price agreement. That is what began the discussion about whether or not we wanted to look at it. There are 57 cars in the Police Department, 25 of those are marked patrol cars, and 29 are unmarked vehicles and then there are additional cars that also use these spaces that may be at remote locations of the Department. There are 10 spaces behind the Police Department currently and 10 spaces in front, one of each which is handicapped. There are an additional eight spots in the perimeter of the District Court building which currently have a sign on them that say "for law enforcement only." We have 16 spaces that we rent in the Town Center, nine cars parked on the south side that would become available to the public, we use the Community Access Television lot and we have had calls from District Court seeking spaces close to District Court. The 16 spaces that we pay for the Police Department and the 27 spaces that we pay for in the bottom part of the lot we are spending \$15,480 annually on parking that if we purchase this lot will go away.

There has been a lot of dialog about a future Police station and where that would be, we don't see in this economic climate the opportunity to build a new Police station anytime soon. This would give us some longer term parking growth as we stay in the current Police facility.

The Off Street Parking Fund can only fund parking items. We replenish that fund at about \$100,000 a year which comes from parking revenue. This will give back some public parking spaces closer to the Courts building.

**Alderman Thiel:** I opposed locating the courts downtown because of parking. At that time we were told that the parking lot we owned to the west would probably be considered a parking deck at some point, which makes more sense to me to build something up rather than to continue to buy up land around the square for flat square parking lots. Weren't there some numbers calculated back then as far as a multi level deck?

**Sharon Crosson:** The numbers that Gary ran were on the parking deck on Lot 7. I don't recall getting numbers on the Mountain Street lot. We talked about making it a deck which we still can. We had hoped that when the revenue starts rolling in again we can still do that. We would own this piece of property that we can develop later.

**Alderman Thiel:** I thought maybe you might still have some of those rough numbers and wondered if this money couldn't be applied toward building a deck rather than buying the land. I agree any opportunity to buy property this close in proximity is not a bad idea, particularly if we could utilize the back part and sell the front part later for commercial or something.

**Sharon Crosson:** I will look for that, I don't recall ever seeing those.

**Don Marr:** I'm not aware of those at all. I have the files from Gary's office and haven't seen anything of that nature.

**Alderman Thiel:** There were just estimates thrown out and a lot of it didn't play out like they planned anyway.

**Alderman Lewis:** I like the idea that it would save current cost as far as paying leases to park the cars and there is a return with the potential and opportunity to pay off what we spend for this. It's a buyers market and we are getting a price on that property that is lower than it would have been at another time. It is designated funding that is from parking payments.

**Alderman Ferrell** thanked Don for doing the research that he asked about. There have been some good points brought up and if this was a different economic time I would feel differently. I think we have a wants and a needs list and I look at this as a wants list. I would reconsider supporting it if we sold a piece of property and we got some revenue in realizing that the dedicated revenue in that account is for parking.

**Alderman Cook:** My initial reaction was why. This is a parking fund and we can't use the revenue for any other items. I talked to staff and they looked at our parking needs and the revenue and they comfortable with buying this lot. If we were buying this out of general revenue I would not support it.

**Alderman Petty:** In the conversations we've had about building a downtown parking deck what's the ball park cost for one of those?

**Sharon Crosson:** \$12,000 a space.

**Alderman Petty:** Several million. We would have to float a bond for more than a decade probably?

**Sharon Crosson:** Yes.

**Alderman Petty:** Looking at fund balance and the savings we were getting over the appraisal, \$350,000 is not going to make a dent in paying for a parking deck in the future. We are probably never going to have this opportunity again.

**Alderman Lucas:** When we talk about buying it and selling it later I don't think the City needs to be in the real estate business. When we are trying to work to find a way to build a parking facility for the Walton Arts Center to improve the economics in this City I have a struggle. I know this money is for parking but with all the other things and our employees I have a time spending money like this. We don't have to have a parking spot right in front of the building. We can walk a few blocks. I don't think this is the right time.

**Alderman Thiel:** You said there is \$600,000 in the parking fund?

**Don Marr:** \$500,000 something.

**Alderman Thiel:** That could be used toward parking at the Walton Arts Center or in another location?

**Sharon Crosson:** Yes, it could.

**Alderman Thiel:** Normally we float bonds for something like that if it is a major thing?

**Sharon Crosson:** Right. We want to provide public parking. That is something that we need to provide for the District Court and yes there is parking a couple blocks away. As the Chief of Staff mentioned we've had lots of calls from people that go to District Court often and staff feels like we need to provide that service because we don't have a parking lot anywhere near District Court. It is all on street and the majority of the on street parking is being used by law enforcement vehicles. If we change this back to public parking that is more revenue we will generate to put back into the parking fund.

**Alderman Rhoads:** If 18 months from now we wanted to put together a package, which included a parking deck in order to expand the Walton Arts Center, wouldn't we be \$344,000 short of what we would have had if we not spent the money.

**Sharon Crosson:** The \$344,000 could go toward that pot of money.

**Paul Becker:** If we were going to do something as large as a parking deck we are going to have to generate a lot more than a half million dollars. We are going to have to look at a paid parking concept and using that revenue stream to float a bond issue to build something like a parking deck. We would need some seed money to get some equipment and things of that nature which we feel we can do with the remaining balance left. We still should have enough seed money to get the program started if in fact the Council approves it. We would have to generate revenues and a revenue stream to pass a revenue bond issue and float it for something as large as a parking deck. We would be talking about a 20 year bond issue.

**Alderman Rhoads:** We would still have \$344,000 or \$500,000 or whatever the fund comes up to 18 months from now that we could apply.

**Paul Becker:** That is correct.

**Alderman Rhoads:** When we float a bond would the bond just be for parking or would it be for other things as well and therefore there would be less of a draw on general revenues if we saved this money now.

**Paul Becker:** I would anticipate that it would be paid by a stream that was generated by paid parking.

**Alderman Rhoads:** Purely parking.

**Paul Becker:** Right, not another stream at this point in time. Therefore it would not require a General Fund commitment.

**Alderman Rhoads:** I'm comfortable with that now Paul, thank you.

**Don Marr:** Our initial discussions with Dennis Hunt with Stephen's were talking about specifically the Walton Arts Center parking deck. We would be looking at 12 months of parking receipts to establish a base line to have bond discussions. Currently the revenue collected is being collected by our meters. What goes into this fund are the parking revenues that are coming more from the areas that we are talking about because we don't have parking meters at the Walton Arts Center parking lot or behind Jose's. Those are lots that we don't charge for and part of the revenue stream that would help us with the long term plans of the Walton Arts Center would come from the revenue generated by the area where the deck would be built. It was our feeling that these revenues that we've accumulated over the last five years, which are about \$100,000 a year, are coming from the very area we are talking about addressing parking in which is closer to our Courts, City Hall and the downtown area.

**Mayor Jordan:** When we built that building we just didn't think far enough ahead on parking.

**Alderman Gray:** When we choose to build buildings where we are land locked this is the kind of situation we get into. We better take advantage of buying property we can buy and maybe put a deck on it later.

**Mayor Jordan:** You're right, I don't disagree with you.

**City Attorney Kit Williams:** There was one minor amendment to the resolution. The closing costs were going to be more than \$1,000. A new resolution and budget adjustment has been handed out that makes it \$344,000 instead of \$343,000. We need to amend the resolution.

**Alderman Thiel moved to amend the resolution to change the dollar amount to \$344,000. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.**

**Alderman Petty moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 6-2. Alderman Ferrell and Lucas voting no.**

***Resolution 55-10 as Recorded in the office of the City Clerk***

**Amend Chapter §97.086 Vending and Peddling:** An ordinance to amend §97.086 Vending and Peddling of Chapter 97 Parks and Recreation of the Fayetteville Code to allow the Farmers Market to operate in Lake Fayetteville Park.

***City Attorney Kit Williams read the ordinance.***

**Connie Edmonston,** Parks and Recreation Director gave a brief description of the ordinance.

**Alderman Lucas:** It goes up beyond the building and all the way over into the park, is it intended to be that way?

**Connie Edmonston:** On the northern side?

**Alderman Lucas:** Yes.

**Connie Edmonston:** Yes.

**Alderman Lucas:** They could set up inside the Botanical Garden itself?

**Connie Edmonston:** Yes. That was agreed on by their board.

**Gerald Klingaman:** In the park that represents the arts and craft sale that they have the first week of December. The regular Farmers Market will not be in the interior part of the garden just that craft event.

**Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.**

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

***Ordinance 5310 as Recorded in the office of the City Clerk***

**C B & I, Inc. Bid #10-17:** A resolution awarding Bid #10-17 and approving a contract with C B & I, Inc. in the amount of \$1,551,000.00 for construction of a 500,000 gallon elevated water storage tank, approval of a \$49,000.00 contingency, and approval of a budget adjustment in the amount of \$1,600,000.00.

**David Jurgens, Utilities Director** gave a brief description of the resolution.

**Mayor Jordan:** Good job David.

**David Jurgens:** Thank you sir.

**Alderman Cook:** I appreciate staff's work on that and the Water and Sewer Committee members both present and past. I think it worked out pretty good in the long run. It is good for all citizens that are within that water service area.

**Alderman Lucas** thanked Kyle Cook, Chairman of the Water and Sewer Committee and Mayor Jordan for all their work.

**Alderman Cook moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed 7-0. Alderman Petty was absent during the vote.**

***Resolution 56-10 as Recorded in the office of the City Clerk***

**Form-Based Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville to modify existing and create new use units and Form-Based Zoning Districts that permit administrative development approval and to create design standards for said districts.

***City Attorney Kit Williams read the ordinance.***

**Jeremy Pate, Development Services Director:** I am requesting that the ordinance stay on the First Reading so we can get as much public comment about this particular ordinance amendment as we can. We are trying to create alternative mixed use zoning districts and additional use units. There is still a public process that is built in. This creates predictability but it is also flexible enough for the developer to utilize the ordinances in place. Jeremy gave a brief description of the ordinance.

**Alderman Lucas:** The property on the corner of North Street and Mission, the public notification of property adjacent to, it would it just be the north and west since they are streets or would it be across the street?

**Jeremy Pate:** It goes across the street as well.

**Alderman Lucas:** Thank you.

**Jeremy Pate:** Yes Ma'am.

**Alderman Lewis:** In regard to the process, if there is a piece of property across the street for sale and it is zoned C-2 if the citizens around there wanted to request that that property owner consider one of these zoning types what does that look like? Is that something that they have to come to the public process and request it or is it something you can petition?

**Jeremy Pate:** To zone someone else's property?

**Alderman Lewis:** You can't zone someone else's property but is that something that you would have to work with the property owners on?

**Jeremy Pate:** Sure. In a lot of ways the administrative approval process is not a make or break on the ordinance but it is critical. Someone who has residential, agricultural property that wants to zone to C-2 may never get C-2 but we can certainly guide them in a way to get Urban Thoroughfare for instance. But, someone that has C-2 property already, there is no incentive if there is not an administrative process built in, to go to one of these other zoning districts that we have. Someone may be willing to rezone their property because it saves them time and money with consultants and meetings in order to get administrative approval. It would be working with that property owner and explaining to them what that project could look like. The fact that the uses are primarily still the same you could still utilize the property almost in the same manner it's the form, the buildings, and how they are placed on the property, where the parking is located, those types of things that will be dictated by this code.

**Alderman Lewis:** If something is already zoned that property owner would have to come to you and work with the City on reshaping that?

**City Attorney Kit Williams:** A zoning decision is a legislative decision that this body makes. They can make it on their own, they can make it if the owner comes in, or they can make it as a result of the master plan.

**Alderman Ferrell:** The people around there that wanted to change the use could buy the property.

**Alderman Lewis:** Thank you.

**This ordinance was left on the First Reading.**

**NEC, Inc. and H2 Engineering, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving contracts with NEC, Inc. and H2 Engineering, Inc. in the total amount of \$30,690.63 for sewer improvements at Veterans Memorial Park, approving a project contingency of \$4,404.00, and approving a budget adjustment.

**City Attorney Kit Williams read the ordinance.**

**Connie Edmonston,** Parks and Recreation Director gave a brief description of the ordinance.

**Alderman Cook:** Is NEC, Inc. the contractor that is already on site for the development?

**Connie Edmonston:** Yes, it will save staging costs.

**Mayor Jordan:** That is why you didn't open it up for bid?

**Connie Edmonston:** Yes. H2 Engineers are very familiar with the site. We believe we would save money on both the engineering and construction.

**Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.**

***City Attorney Kit Williams read the ordinance.***

**Alderman Lucas thanked Connie. It's great when we recognize we can improve the City facilities by tagging onto a construction site that is being developed.**

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

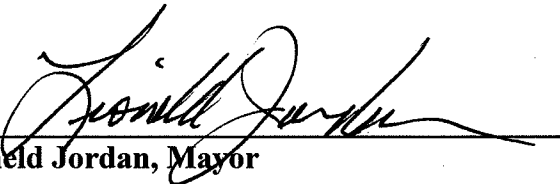
***City Attorney Kit Williams read the ordinance.***

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.**

***Ordinance 5311 as Recorded in the office of the City Clerk***

**Announcements:**

**Meeting adjourned at 8:58 p.m.**

  
Lioneld Jordan, Mayor

  
Sondra E. Smith, City Clerk/Treasurer