

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



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

**City of Fayetteville Arkansas
City Council Meeting Minutes
May 4, 2010**

A meeting of the Fayetteville City Council was held on May 4, 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 announced it was Public Service Recognition Week and he thanked City employees for their hard work.

Mayor Jordan recognized Julie McQuade, Neighborhood Coordinator, as the 2010 Volunteer Coordinator of the Year in the State of Arkansas.

Mayor Jordan recognized the Spring International Language students.

Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Re-approval of the March 16, 2010 City Council meeting minutes.
Approval of the April 20, 2010 City Council meeting minutes.

Approved

Dean Crowder Construction, Inc.: A resolution awarding Bid #10-23 and approving a contract with Dean Crowder Construction, Inc. in the amount of \$4,963,386.00 for construction of biosolids management solar dryers, WSIP Subproject Bio-1, and approval of a \$150,000.00 contingency.

Resolution 75-10 as recorded in the office of the City Clerk.

Williams Tractor, Inc. Bid #10-22: A resolution awarding Bid #10-22 and approving the purchase of one (1) four-wheel drive New Holland T6050 Plus diesel tractor from Williams Tractor, Inc. in the net amount of \$39,191.00 after trade-in, for use by the Fayetteville Executive Airport-Drake Field.

Resolution 76-10 as recorded in the office of the City Clerk.

Alderman Thiel moved to approve the Consent Agenda. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Unfinished Business:

Capital Improvement Plan: A resolution adopting the 2010-2014 five year Capital Improvement Plan. *This resolution was tabled at the April 20, 2010 City Council meeting to the May 4, 2010 City Council meeting.*

Paul Becker, Finance & Internal Services Director: This is a Capital Improvement Plan for the City for the next five years. The 2010 portion of the plan was approved or adopted as part of the annual 2010 budget process. The total of this plan is \$90 million. This is a plan that is subject to change due to economic conditions and changes in priority. It is a plan not an appropriation. It does not authorize the City to spend any thing.

Alderman Lucas: The Parks Department has allocated money for the development for Gulley and Wilson Park almost every year. Walker Park only had one year where there was going to be improvements and Bryce Davis Park didn't have any. What is the thinking was behind that? If those things aren't in the plan they are not looked at later on.

Paul Becker: That was the recommendations of the Parks Director and it went through the Parks Board. That's what they felt the priority was. This is something we can bring up and addresses each year with the annual budget discussions.

Alderman Lucas: There is an opportunity.

Paul Becker: Sure, absolutely.

Alderman Lucas: Is there any mention of a new fire station maybe in the northwest?

Paul Becker: There's nothing at this point for an expansion of a fire station. I do not see the funding available at this point in time.

Alderman Lucas: That is something that needs to be looked at. How many unmarked police cars do we have?

Greg Tabor, Chief of Police: The unmarked cars are the ones the detectives, administrative staff and other divisions use outside of the marked patrol cars. Twenty three is the number we have and they are on a five year replacement.

Alderman Lucas: They're driven that much?

Greg Tabor: Driven a lot. In 2009 we had money to replace them but we didn't feel they had enough miles on them yet so we rolled that money forward to 2010. We will continue to do that until a car needs to be replaced.

Alderman Lucas: Thank you. One of the unfunded items was the fire traffic preemptions signal. I feel that is very important for the safety of the citizens, our City, and Firemen.

Paul Becker: I believe the preemption is partially funded.

Alderman Lucas: This is very important for our fire trucks not only for them to get to a fire faster but also for safety at intersections.

I hope that Salem to Holcomb Elementary and Lewis Avenue sidewalk will be completed in the next four years.

Paul Becker: That is determined by the Street Committee.

Alderman Lucas: I'm just putting it on the radar. Why have extensions been required for the Wilson spillway?

Paul Becker: I understand it had to do with the engineering study. The federal funding is still in place. It has been extended through this period.

Alderman Lucas: How long will the federal funding be for?

Paul Becker: I thought it was another year.

Chris Brown, City Engineer: We have an extension on the project through November of this year. We will be putting that project out for bid very soon. We are trying to get additional funding because the project is going to cost more than was originally anticipated.

Alderman Lucas: Thanks Chris.

Alderman Lewis: I would like to second the parks part. I hope that Ward 4 parks get a little more weight. She voiced her concerns about page 10 of the plan (Transportation Services).

Paul Becker: The best place to address that would be during the annual budget process.

Alderman Lewis: It would help when we are presented with the proposed budget if the Council could see those things when we are reviewing the budget.

Alderman Gray: Paul, have you had a chance to compile the list I asked for?

Paul Becker: I am reviewing it and should get it to you tomorrow morning.

Alderman Gray: I asked for a list of CIP for the year of 2010 that did not have employee salaries connected to it, in hopes that we could make some adjustments and push some projects forward to later years, and leave some money for operations so we do not have to have our employees taking furloughs.

Paul Becker: I have prepared a list and I will forward that as soon as I am done reviewing it.

Don Marr, Chief of Staff: We will need a new agenda item if we are going to do a transfer from Capital to Operations outside of this CIP plan.

Alderman Gray: If we vote to accept this plan we can still change it later?

Don Marr: You can. In this plan the 2010 items are already adopted within the budget plan. It would require a budget adjustment for you to move capital to Operations outside of this plan.

Alderman Gray: Thank you.

Alderman Ferrell: We have \$5,000,000 budgeted for trails but if you look at how much we have budgeted for drainage I think we need to re-slice that pie. This is one of the problems I have heard from citizens.

Mayor Jordan: Bobby, you can come back later even if we pass this plan.

Paul Becker: Depending on the wishes of the Council we will go in the direction we are pointed at that point in time.

Alderman Ferrell: If you compare the amount of money budgeted for drainage as opposed to what it is for trails it's like \$190,000 a year for drainage and around a million for trails.

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

Resolution 77-10 as recorded in the office of the City Clerk.

New Business:

VAC 10-3539 (Laura McKinnon): An ordinance approving VAC 10-3539 submitted by Jorgensen and Associates for property located along the eastern property line of 740 Lollar Lane to vacate a portion of a 15-foot alley that runs from College Avenue to the subject property, a total of 1,875 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director: Planning Commission and staff are recommending approval of this ordinance. He gave a brief description of the ordinance.

Alderman Lucas: Is it still connected to College on the north side?

Jeremy Pate: On the north side where it was connected to Prospect that portion has been vacated. The south side right of way connects to College.

Alderman Lucas: It still connects to College.

Jeremy Pate: Yes, that part is not being vacated.

Alderman Lucas: The easement divides the two property owner's property.

Alderman Petty: Is that connected to Prospect on the north side?

Jeremy Pate: The right of way was connected there. I understood there was never an alley. It was vacated.

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

City Attorney Kit Williams read the ordinance.

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.

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

Ordinance 5318 as Recorded in the office of the City Clerk

VAC 10-3540 (First State Bank of NWA): An ordinance approving VAC 10-3540 submitted by First State Bank of Northwest Arkansas for property located at 2292 North Covington Park Boulevard to vacate utility easement, a total of 33 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. We recommend approval of this vacation.

Alderman Lewis: Did they survey the property when they were going to sell it or buy it?

Jeremy Pate: That's correct.

Alderman Ferrell: We've had no input from the ward on this.

Alderman Cook moved to suspend the rules and go to the second reading. **Alderman Ferrell** 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 5319 as Recorded in the office of the City Clerk

Amend Chapter 72 (Nonconsensual Towing): An ordinance to amend Chapter 72 Parking Regulations of the Fayetteville Code to enact regulations for nonconsensual towing of vehicles within the Entertainment District Parking Zone.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I was asked to draft an ordinance in relation to the law that was changed by Senator Sue Madison and Representative Lindsley Smith to protect our citizens and customers in the Dickson Street area where we have had complaints about towing.

Alderman Thiel thanked the staff, City Attorney Kit Williams, Representative Lindsley Smith and Senator Sue Madison for helping make this something we can do. She stated she supports this and is glad that the City is moving forward with it.

Jim Erwin, Erwin's Wrecker Service: Spoke in opposition of the ordinance. He voiced his concern about the Police Departments contract with some wrecker companies and the rates in those contracts.

Mayor Jordan: Is the Police Departments towing rate different from this rate?

City Attorney Kit Williams: The state statutes gave the local police departments throughout the state the right to set rates for police initiated nonconsensual tows. The City Council does not have the rights to do that or any authority regarding those rates.

Greg Tabor, Chief of Police: Two years ago we went from a rotation wrecker system to a single wrecker service. We sent out an RFP or RFQ and Greenland Wrecker was selected as our primary wrecker provider. We also picked two alternates, A & B Towing and Hog Country. We met with the three companies and established rates for every service they provided. In years past this Dickson Street towing was a disaster. I think this is a good thing to do and it will solve a lot of problems and complaints.

Alderman Rhoads: Chief, what does it cost to tow a car out of Dickson Street if it has been sited for something or if there is an accident?

Greg Tabor: I do not have the list in front of me. I recall \$100.

Jim Erwin voiced his concern again about the rates that are being charged by the towing companies that have contracts with the Police Department. He stated I believe it would be unjust to regulate that and it's unjust for what the citizens and out of town people are being told if their car gets towed.

Alderman Petty: You mentioned a charge per day for impoundment, could you read that again?

Jim Erwin: They charge \$30 for outside storage per day and Kit Williams says \$10 per day. Inside storage climate controlled is \$100 per day and I only charge \$50.

Alderman Petty: Thank you. I know what he is talking about is a completely different set of ordinances. I like what Kit has drafted on the paid parking plan side of things. As far as the Police Department nonconsensual tows I think the gentleman had some good points. Mayor I would appreciate it if you would look into the storage fees and things like that.

Mayor Jordan: We will.

Alderman Ferrell: Kit, how long ago was it that the state changed the law and removed any decision making from the Council and gave it to the Police Departments?

City Attorney Kit Williams: For the Police initiated tows?

Alderman Ferrell: Yes.

City Attorney Kit Williams: When I first looked at it that was the way it was. I don't know how long it has been in existence.

Alderman Ferrell: Thank you.

Alderman Lewis: The Police Department contracts with Greenland Towing but if Greenland tows somebody as a non police requested tow they have to charge these rates?

City Attorney Kit Williams: No, they charge the owner, whose car has been towed, the rates that are posted by the Greenland Auto Company.

Alderman Lewis: Don't they have to follow this ordinance if it is not a police requested tow?

City Attorney Kit Williams: If it is not police requested then yes this ordinance would control throughout Fayetteville. It has special rates for the Dickson Street area but outside of the Dickson Street entertainment area it is different.

Alderman Lucas: If the Police Department instigates a tow for someone that is parking illegally in the Dickson Street area, which one will apply?

City Attorney Kit Williams: If the police initiate a tow they will use their current agreement.

Greg Tabor: There would be very rare occasions that we would tow someone out of a private parking lot.

We have been using Greenland as part of the contract for two years, if I remember correctly, prior to that we were having wrecker complaints regularly. Since June 2008 I am not aware of a single complaint from a citizen about their car being towed with Greenland towing. I think that speaks highly of them and the system that we put in place and how well it works.

Alderman Ferrell: Does Greenland take credit cards?

Greg Tabor: I do not know the answer to that.

City Attorney Kit Williams: In the contract they had to accept various forms of payment and have change available. We put a lot of requirements on their storage yard that no other towing company has to meet.

Alderman Ferrell: I haven't heard any complaints lately but one of the complaints I use to hear were you had to have cash money.

Greg Tabor: There use to be a wrecker business that made you pay cash money. As far as I know they are no longer in business.

Kelly Thomas, Towing Plus, 1418 South School Avenue: When you considered the prices that you are going to require for the Dickson Street area did you consider the cost the wrecker companies incur? This might put a lot of people out of business.

Mayor Jordan: I can't tell you the amount of phone calls that I have received. Folks have come to a play at the Walton Arts Center and they park in a private lot and then their vehicle is gone. They have to go outside of town to get their vehicle and then find out they have to pay by cash. They then have to return to get cash. Kit do you remember some of the charges?

City Attorney Kit Williams: Well over \$100 and if they complained it would be more than that plus they were charged for the towing distance and storage.

Mayor Jordan: There are folks that have gone through a lot of grief because of nonconsensual towing.

City Attorney Kit Williams: I have on occasion used towers myself consensually and I have not had to pay \$60. There are additional problems with nonconsensual towing. In talking with the Mayor about this we determined \$60 was a fair fee.

Lee Dancer, A & B Towing: The pricing is not fair because the average for a wholesale tow across the United States is \$64. The price for a police call for nonconsensual is \$123 or \$124. He spoke on the problems towers have with nonconsensual towing.

Alderman Thiel: After hearing some of these concerns they are valid concerns. I support the concept because we have had a lot of issues. Could staff check into some of the issues mentioned and visit a little further with the Police Department.

City Attorney Kit Williams: I certainly have no problem with that. As stated in my memo occasionally a difficult towing situation could occur in which a larger nonconsensual towing fee would be justified. The property owner could call the police in this rare circumstance and if the police officer agrees he can initiate a nonconsensual tow.

Alderman Thiel: Who calls the police officer?

City Attorney Kit Williams: The property owner where the car is parked illegally.

Alderman Thiel: The towers that come down are not called by the owners every time these cars are towed.

City Attorney Kit Williams: That would be in the rare circumstance where there would be a significant problem with a tow so a larger fee would be justified.

Alderman Petty: I concur with Alderwoman Thiel. In addition I would like to see the national averages.

Alderman Thiel: What about just the state averages?

Alderman Petty: It might be good to get both.

Left on the First Reading

Amend Chapter 72 (§72.18 Residential Parking Permit): An ordinance to amend Chapter 72 Parking Regulations by enacting §72.18 Residential Parking Permit Program for Entertainment District Parking Zone.

City Attorney Kit Williams read the ordinance.

Sharon Crosson, Parking and Telecommunications Manager gave a brief description of the ordinance. She stated if this is passed by the Council, staff will bring this back to the Council in November to look at again and address any issues that have come up. We will make any changes that need be made at that time.

Alderman Thiel: We have visited with residents that still have concerns. Matthew mentioned he wanted to hold this on this reading so we would have plenty of discussion.

Don Marr: It is the staff's recommendation to make sure it goes through all three readings as we continue to get information.

Alderman Lucas: What is the zoning on Locust Street?

Don Marr: Downtown General.

Alderman Lucas: That's business mix.

Don Marr: It is a mixed use.

Alderman Lucas: If there are businesses on that street, and it is for residents only, where do they park?

Sharon Crosson: Businesses would have to park in the driveways or parking lots that the businesses have provided, or the green and mixed use areas and pay for parking.

Alderman Lucas: There is no mixed use on Locust.

Sharon Crosson: No, not directly on Locust.

Alderman Lucas: Isn't that a conflict?

Don Marr: The primary properties, that are business related, have parking lots. The remaining properties are either rental or owner occupied properties that are residential. The property could change to function as an office business or something of that nature.

Sharon Crosson: We considered making more than three blocks mixed use but we felt the residents would not be protected during times of special events or high peak times.

Don Marr: Long Ago Antiques is within the stretch you are talking about and they have pull in parking.

Alderman Lewis: There is a different land use happening in that area because it is Downtown General and by right you can have any sort of mixed used business or residential in that area. I feel strongly that the Downtown General zoning, because of the nature of it, deserves to have a different mechanism in place that would address the business and residential use so that if you have a business you have a permit so you are allowed to park there.

Sharon Crosson: We have to be careful with all the other businesses on Dickson Street. The entire Entertainment District might have that same argument that they are a business and they want a hang tag for their customers. I would think it would have to be uniform for businesses.

Alderman Lewis: The fact is it is a different type zoning. It maybe a zoning issue more than a parking issue.

Don Marr: Is your direction that you believe the street should be a mixed use parking area which allows both paid and residential parking like Spring Street? Or is it that it should remain residential with allowances for free costumer parking for those locations that are zoned as business?

Alderman Lewis: I'm not saying free parking, may be those businesses have a permit and they get stickers.

Don Marr: Which zone is it? Is it still a residential or mixed use parking zone?

Alderman Lewis: You have to protect those residents. We have designated that we are allowing businesses within that residential and they need to be allowed to park in those areas.

Sharon Crosson: That would probably be the same as a mixed use area.

Juli Dorrough: Chair of the Dickson Street Neighborhood Association: Shared the concerns they have with the ordinance.

City Attorney Kit Williams encouraged the City Council to closely read his memo. He stated this is new area of the law and I can not give you absolute assurance this is within your legal power to do.

Alderman Petty: If we change that to mixed use parking would that do anything to alleviate your concerns?

City Attorney Kit Williams: No, the big concern would be that we would be taking what is public parking spaces as they exist now and we would be designating them as private parking

spaces for people that live in that area. It would be taking a public asset and making it a private asset.

Sharon Crosson: Addressed the concerns made by the Neighborhood Association.

Alderman Petty: For the people that rent or have a lease couldn't we set an expiration date when the lease ended?

Sharon Crosson: Yes, and that was mentioned to the City Attorney.

City Attorney Kit Williams: This is an administrative decision. However you want to administer it you can.

Sharon Crosson: A lot of renters are from out of town and their vehicles will be registered to another state.

Alderman Petty: This clears up the problem. As they move out their tags expire. I tend to agree with the neighborhood that residents should have a pass or two on hand for guests.

Don Marr: We believe we are going to address the visitor's ability to hand this. There is a difference between people who come in town to visit for a length of time and people who live here and drop by. We will try to make a recommendation in light of your comments and the neighborhoods comments. Staff had discussions with the Mayor about the residential parking program. Every time this has come up, one of the things that we hear is the fear that when we go to paid parking it will drive parking to residential neighborhoods. We think that the value to protect our residential neighborhoods in our Downtown core area is important and has a purpose.

Left on the First Reading

Amend Chapter 72 (Electronic Payment Station Program): An ordinance to amend Article III Parking Meters of Chapter 72 Parking Regulations by changing its name and adding provisions for an electronic payment station program for paid parking lots and paid on-street parking and for other reasons.

City Attorney Kit Williams read the ordinance.

Don Marr, Chief of Staff: What prompted this was one of our largest economic drivers in the Dickson Street area is the Walton Arts Center. Their number one customer service satisfaction survey issue was parking. We wanted to address towing to improve the customer service. We wanted to provide a revenue stream. There would be less opposition in consideration for this financial support if the City was also addressing at the same time future funding to establish a parking deck or parking available with closer proximity to the entertainment areas on Dickson Street. We are looking at this funding stream to be able to address each of those issues. We want to continue to support the Walton Arts Center as well as our other merchants that are economic drivers on Dickson Street. Hopefully through this process we will continue to educate

the public on the free parking that remains throughout the City of Fayetteville's entertainment area.

We are one of the only cities of this size, in a University town, that doesn't have paid parking already so it gives us a new revenue stream to adjust some of those things that will particularly help this area grow.

Sharon Crosson, Parking and Telecommunications Manager gave a brief description of the three main public lots that are directly surrounding the Walton Arts Center and what the proposals are for those lots. She stated these lots will be pay as you stay lots and we have offered with this system a visitor reservation system.

Don Marr: I want to make a few points on the reservation system. We plan to start this with a smaller number to break it in. There will be a higher charge on the reservation system because you are not taking the chance of coming and there not be a space available on the lot. You are paying for the convenience of a space being there.

Sharon Crosson continued explaining the reservation program, the lot proposals and the payment methods. She stated we will offer monthly parking from 10:00 a.m. until 4:00 p.m. and a validation program.

Alderman Petty: What happens if the network goes down?

Chris Pecoraro, Parking Consultant: There are two components, the on-street component which is the pay by space product. They aren't connected on a hard wired network. They connect using the cellular network.

Alderman Petty: So during an event where we are getting a lot of people downtown with many people on their cellular phones and the networks run into problems because it is over capacity. Do we anticipate problems with that here?

Chris Pecoraro: There is a couple of instances where you are going to go out on the cellular network, one is if someone is trying to add space to a meter from a different meter or when we are going out for a credit card authorization.

Alderman Petty: So if it fails a connection will it hold them and batch process as soon as it gets one?

Chris Pecoraro: Yes. That is an option you have when you configure the system to batch process if you are off the air or can not accept the transaction but obviously you want to accept the transaction. He explained how the rate program is designed for the City.

Alderman Lewis: On those where you get a ticket, what if you lose your ticket?

Chris Pecoraro: You pay the max.

Alderman Lewis: How do you tell it that you lost your ticket?

Chris Pecoraro: It is an option on these products to have a lost ticket feature so you could hit a lost ticket button on the machine and it will process you at the maximum rate.

Alderman Lewis: We have handicap spots that are already designated. Are the pay stations close to those or how is that being addressed?

Sharon Crosson stated the handicapped spaces are in the parking lots. She explained where the pay stations would be and how far they would be from the handicap parking spaces.

Chris Pecoraro further explained the reservation system for the Walton Arts Center.

Alderman Lewis: You can buy a proximity card from the City and be able to park from 10:00 a.m. to 4:00 p.m.?

Sharon Crosson: You can actually get there before 10:00 a.m. We have free parking before 10:00 a.m.

Alderman Lewis: Do other cities have proximity access cards if you want to come frequently to the downtown area?

Chris Pecoraro: The proximity cards are for monthly parkers. If it is a monthly application you sell them a monthly pass and we have restricted rules on those passes.

Jodie Beznoska, Vice President of Communications, Walton Arts Center thanked the Council and everyone that has worked hard on this project. She expressed her concern with the current parking around the Walton Arts Center. She stated we are very excited about this plan and what it could mean for Dickson Street. We are in support of it and we hope you will support it.

Mayor Jordan: Have you had frequent complaints about the parking as far as towing?

Jodie Beznoska: People are so frustrated with the parking. We have situations where patrons have parked in the wrong place and been towed. They tell us how much they disliked what happened to them and that they are never coming back to the Walton Arts Center.

Mike Bellmont, resident of 4360 W. New Bridge Road volunteer at the Walton Arts Center spoke on the complaints that he has heard about the parking. It is a public relations issue. He spoke in favor of the proposal.

Virginia Bellmont, volunteer at the Walton Arts Center also spoke in favor of the proposal.

Hershey Garner, Board Member at the Walton Arts Center: We appreciate what the Arts Center does in their educational programming as much as anything else. Parking is critical. We appreciate the work that has been done and ask you to support it.

Frank Sharp, resident of Ward 4 spoke in favor of the proposal.

Stuart Walker, Owner of Club House Fitness on Dickson Street: I strongly support this.

Steve Clark, President of the Chamber of Commerce thanked the Mayor and Council for their participation in addressing this complex but very important issue for the businesses in our City. He spoke in favor of the proposal and stated I hope you will be supportive of this.

Ted Belden, resident on the Square and also involved in the Underwood Project stated we are fully behind what is being presented tonight and look forward to it happening and working with the City in helping us provide parking for our patrons.

Tina Hodne, board member of the Walton Arts Center Council expressed her appreciation to the Council and staff for having a broad, open, cooperative conversation, with merchants, the Walton Arts Center, business owners, residents and private lot owners. She stated parking is an issue. She spoke in favor of the proposal and asked the Council to support the plan.

Alderman Rhoads: Mr. Sharp indicated there was a commitment by the City Board 30 years ago to do 1% or 1 penny of a tax on an ongoing basis toward the arts. Kit do you have any recollection of that?

City Attorney Kit Williams: I do not have a direct recollection of that but I do remember when Frank Sharp was leading the City Board at that point in time in the direction to try and support the arts and make this a reality. We certainly owe him and that Board a great debt of gratitude. They pulled it off in conjunction with the University to be able to build this. There is really nothing in my opinion that is a legal requirement for the City to do anything like that. The tax that was passed back then was probably a County sales tax which did not have any restrictions on how we could use it. The operating penny that we are paying right now was last authorized in 2002 for another 10 years and it has no restrictions on how it is suppose to be used. There was a resolution that was passed prior to that saying that it would be split between Capital and Operations. The City Council has complied with that even though that was in the resolution and not on the ballot. The ballot controls as we know from the HMR tax situation. There is nothing legally required to do that so that is up to the City Council and the Mayor when they do the budgeting program.

Alderman Lucas: Ann Henry was on the board and I believe at that time they committed a certain amount to build the Walton Arts Center.

City Attorney Kit Williams: We split the cost with the University to acquire the property and build the Arts Center. That was eventually paid off.

Alderman Rhoads: With the help of the Walton's.

City Attorney Kit Williams: The Walton's donated the money to the University. That is the money the University used. We used taxpayer money to match it and appropriately named it the Walton Arts Center.

Left on the First Reading

Amend Chapter 72 (§72.99 Penalties): An ordinance to amend Article III Parking Meters and Electronic Payment Stations of Chapter 72 Parking Regulations by amending §72.99 Penalties.

City Attorney Kit Williams read the ordinance.

Sharon Crosson gave a brief description of the ordinance. She stated the citation rate has not increased since 2002. She gave a summary of the proposed new rates.

Alderman Ferrell: A couple of us had a concern about the calendar year, year to date section.

Don Marr: We are expecting one of you to make an amendment on that at some point.

City Attorney Kit Williams: I would appreciate if an alderman wants to make an amendment to get with me so I can get the proper language drafted up.

Don Marr: The information that Alderman Ferrell is talking about is the third ticket violation is during your life time. There was no time frame on it. Once you got the third ticket your tickets would be \$25 from then on. The Council has asked the staff to look at a rolling 12 month time period. We are expecting an Alderman to make an amendment on that.

Alderman Gray: I agree with raising the amounts charged.

Left on the First Reading

The Parking Consultants, Inc.: A resolution to authorize negotiations with Amano McGann for the lease/purchase of up to 19 electronic pay stations and 3 gated parking lot systems with digital pay stations and other equipment needed if the City Council approves paid parking lots and on-street parking spaces in the Entertainment District Parking Zone.

Paul Becker gave a brief description of the resolution.

Alderman Ferrell: I understand this is going to be a five year lease with option to purchase?

Paul Becker: We would be purchasing it directly from the vendor. We would pay full purchase price and pay back the Replacement Disaster Fund as though it were the loaning agency. The reason we can do that is because the Replacement Disaster Fund money came from the General Fund.

Alderman Ferrell: Once the purchase is made it is made.

Don Marr: Our plan was to pay this back within a 24 month period. We originally looked at the total cost of this equipment and said what would it cost if we do it and do we have enough money in the parking fund to be able to pay for it all directly out of that fund at this time and we did not. We also were trying to get an allocation of dollars to the Walton Arts Center and to the parking deck. We felt the best way to do that in year one is that we would be looking at a lease to purchase. We based out calculations off of what we anticipated to be an estimated lease for that first year. Our other rational was the money that we used to buy the deck would give us an asset that we believe would increase in value. We also thought it was appropriate to take the dollars that were going to be generated by the parking revenues and have it pay for the equipment rather than using the revenues that had been collected by meters and citations where we already had paid parking, which was primarily the downtown area. So it matched use of revenues to land purchase.

Alderman Lewis: I like the idea of going into debt to ourselves rather than someone else. I think it is a really good tool.

Alderman Thiel: Did you say there will not be interest charged or the City will charge interest to the fund?

Paul Becker: The City will charge interest to the fund. At our cost to capital which is currently about 2%.

Alderman Rhoads: That is a fund that we would have used a couple years ago with the storm?

Paul Becker: In fact we did.

Alderman Rhoads: How much did we use during that?

Paul Becker: The total cost was roughly \$5,000,000 but we cash flowed it because we kept getting reimbursements from FEMA. If we were to have a disaster of that magnitude I would assume it would be FEMA eligible and we could cash flow it partially. We would still have \$2,000,000 in there to work with.

Alderman Rhoads: Do you foresee any emergency that is not covered by insurance, FEMA, or some other governmental program that would rise greater than \$2,000,000?

Paul Becker: I don't but of course you never know.

Mayor Jordan: I'm not saying there's not a little bit of risk. There is risk but I think it is minimal. I would rather be paying our self back than someone else.

Alderman Rhoads: Is it possible if the revenues are great enough to pay it off faster than 24 months?

Mayor Jordan: Yes.

Paul Becker: I think that would give sufficient time because we don't know what the revenue stream is going to be.

Alderman Rhoads: It would seem this resolution should be tabled.

Paul Becker: We need to start negotiating for the price.

Alderman Rhoads: The negotiating could get to the point where we are ready to sign a contract and we wouldn't have to sign the contract until the rest of these ordinances are passed.

City Attorney Kit Williams: I worded the resolution so that City Council shall make the final decision on any proposed legal contract. They can only negotiate it so far.

Mayor Jordan: I want the public to understand it is not like we are already passing something to where it looks like we are going to pass everything else.

Don Marr: The resolution is only allowing us to negotiate the rate. The contract will have to come back and be approved by you.

Alderman Lucas: You were going to negotiate and then we were going to decide whether we were going to put it out for bids?

Paul Becker: No. It was going to be a negotiation with the vendor because this is similar to all the other equipment we have in the City. It was a single source with that particular vendor.

Alderman Lucas: That is the reason we didn't put it out for bid?

Paul Becker: That's correct.

City Attorney Kit Williams: It will have to be an ordinance waiving competitive bidding when they bring it back to you with strong reasons why this amount of money should not be put out for bid.

Alderman Lucas: It said they will carefully consider whether sufficient grounds exist to waive competitive bidding.

City Attorney Kit Williams: Yes, I put that in because I wanted to see some good grounds presented to the City Council if you are going to waive competitive bidding for something that could be well over a half million dollars.

Alderman Rhoads moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 78-10 as recorded in the office of the City Clerk.

Parking Program Personnel: A resolution approving a budget adjustment in the amount of \$498,542.00 for the implementation and funding of the parking program in the Entertainment District Parking Zone and approving the addition of 2.5 full-time equivalent positions in the Parking Management Division for the 2010 budget.

Sharon Crosson: This agenda item is contingent upon everything else we have done tonight. She gave a brief description of the ordinance.

Don Marr: We have no intention of adding 2.5 employees if you don't pass the paid parking ordinances.

Tim Vogt, Director of Finance, Walton Arts Center, stated he wanted to commend the Mayor on his leadership for bringing a comprehensive solution to the parking issues in the Dickson Street area. He stated it has been his pleasure to work with Sharon, Terry and Chris and he appreciates them listening to their concerns, suggestions and feedback. He stated he supports the proposal.

Eric Ward, Parking Systems of America: Spoke in favor of the resolution.

Curt Rom, Walton Arts Center Council spoke in support of the resolution. This resolution will provide a look into securing the future of a vibrant community in Fayetteville.

Terry Trotter, Ward 2 resident and Chief Operating Officer at the Walton Arts Center spoke in support of the resolution.

Don Marr: The City Attorney provided you with a memo that spoke on the Attorney General's opinion and the cities ability to pay revenues from the paid parking program and invest into the Walton Arts Center. The requirement being that the City receives sufficient adequate consideration for that contribution just as you do today with the Boys and Girls Club through programming and the Botanical Gardens.

Alderman Thiel: I appreciate that. We need to look at comparable services.

Don Marr: We are trying to make sure that we are able to substantiate that and minimize potential risk associated with that contribution.

Alderman Rhoads: The resolution indicates it has a budget adjustment for \$498,000 for the implementation of funding for the parking program and the addition of 2.5 full time positions. I am not sure it is clear to the public what that \$498,000 includes. If we could indicate at the next meeting what amount goes for the personnel, the Walton Arts Center, the equipment, and the lease?

Don Marr: We will prepare that for you.

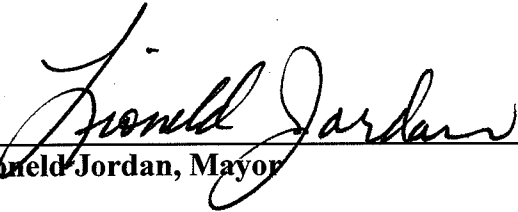
Alderman Ferrell moved to table the resolution to the May 18, 2010 City Council meeting. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

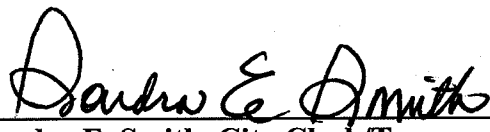
This resolution was tabled to the May 18, 2010 City Council meeting.

Announcements:

Alderman Lucas announced Thursday is First Thursday.

Meeting adjourned at 9:50 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer