

Aldermen

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith



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
August 03, 2010**

A meeting of the Fayetteville City Council was held on August 03, 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, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

Pedicab

Alderman Ferrell moved to add a Pedicab application to the agenda. Alderman Lewis seconded the motion.

Alderman Thiel: We are hoping to revise the current ordinance to allow Pedicabs to operate. I would rather wait and discuss this at the Ordinance Review Committee meeting tomorrow. I

Alderman Thiel: We are hoping to revise the current ordinance to allow Pedicabs to operate. I would rather wait and discuss this at the Ordinance Review Committee meeting tomorrow. I realize this is an application and a different process. There are previous people that have applied but they were not successful. I think we need to revise our ordinance to allow them to operate. I do not support adding this to the agenda right now because I think we have further discussion tomorrow.

Alderman Petty: The reason I'm bringing it forward is because this is a company that is ready to operate. Our goal with the new ordinance for Pedicabs is to have that ordinance passed before the first football game. Their application is complete. They comply with the existing ordinance and I'd like to go ahead and put them in business.

Alderman Thiel: I'd like to ask City Attorney Kit Williams why this has not gone through the application process.

City Attorney Kit Williams: It's been the position of our office that they didn't fit with any of our current Certificate's of Necessity for taxi-cabs, limousine, or non-motorized transport vehicles. It doesn't seem like it fits the current definitions that we have. There are certain things I don't think this applicant can supply to meet the requirements of the non-motorized passenger transport ordinance as it is written. There must be pre-approved routes that are on file with the Traffic Superintendent.

Mr. Williams read portions of the current ordinance and what this application lacks in order to meet the current ordinance. He stated it would be better to bring this before the Ordinance Review Committee and then back to Council.

Alderman Ferrell: The email I received from the applicant sounds like he is doing the right thing to move forward. If this went to the Ordinance Review Committee and something was agreed upon, when might this be back before the Council to pass?

City Attorney Kit Williams: I think the Ordinance Review Committee can certainly forward it on to the next meeting. One way or another we need to have regulations relating to Pedicabs. We need some kind of definition for them and some regulations for them.

Alderman Petty: What prevents Pedicabs from operating at this point, if they are not regulated by our current City Code?

City Attorney Kit Williams: They are not mentioned anywhere in the State Traffic Code, however, it would be up to the police to determine if there are any traffic issues that might be involved with them. My recommendation to the Pedicab Company's is to go through the process, come before the City Council and state your case to see if you can get a Certificate of Public Convenience and Necessity.

Don Marr, Chief of Staff: All routes need to be approved by the Transportation Manager. We received routes from the applicant for this, but there are several of those that we need to discuss. It would be very difficult, if you add this to the agenda, for us to speak to all the routes that were

submitted. I think there were a total of seven or eight routes submitted, some of them are on trails.

Alderman Petty: I think the existing ordinance and new ordinance are written so that new routes can be approved and existing routes can be altered and temporary routes and zones of operation can be approved for special events like football games and parades. It is my opinion that granting a certificate does not mean that they are allowed to operate.

Mayor Jordan: From an administrative point of view, we have been telling at least two other businesses for the last year that they can not operate within the city limits. I want all the businesses on a level playing field.

Alderman Petty: I'm sensitive to that Mayor. The reason I've chosen to bring this application forward is because it's my understanding that they are the only one of the three applicants that has already bought Pedicabs, hired drivers, and rented a storage facility.

Alderman Thiel: I think we'll be able to get this on the agenda and move this forward. They have already started their application process so they will be way ahead of the game. I think we'll do all we can to expedite the process to where they can operate.

A discussion followed on adding this to the current agenda or wait until the Ordinance Review Committee looks at the ordinance.

Upon roll call the motion failed 5-2. Alderman Ferrell, Lewis, Gray, Petty, and Rhoads voting yes. Alderman Cook and Thiel voting no. The motion to add this item to the agenda failed. (Six affirmative votes were needed to add it to the agenda.)

This item was not added to the agenda for discussion.

A & P Commission Appointment of William Lyle.

Alderman Cook moved to approve the appointment of William Lyle to the A&P Commission. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Approved

Consent:

Third Annual CDBG in the Park Event: A resolution approving a budget adjustment in the amount of \$200.00 to recognize revenue from the third annual CDBG in the Park Event.

Resolution 134-10 as recorded in the office of the City Clerk.

Bid #10-47 King Electrical Services: A resolution awarding Bid #10-47 and authorizing a contract with King Electrical Services for time and materials related to miscellaneous electrician services.

Resolution 135-10 as recorded in the office of the City Clerk.

Bid #10-48 Multi-Craft Contractors, Inc.: A resolution awarding Bid #10-48 and authorizing a contract with Multi-Craft Contractors, Inc. for time and materials related to miscellaneous plumbing services.

Resolution 136-10 as recorded in the office of the City Clerk.

RFP #10-09 GovDeals, Inc.: A resolution awarding RFP #10-09 and authorizing a contract with GovDeals, Inc. of Montgomery, Alabama for the provision of on-line auction services for disposition of surplus or obsolete city property.

Resolution 137-10 as recorded in the office of the City Clerk.

RFP #10-10 Treadwell Institute: A resolution awarding RFP #10-10 and approving a contract in an amount not to exceed \$55,000.00 with Treadwell Institute to provide administrator services for an energy efficiency and conservation block grant community revolving loan fund, and approving a budget adjustment.

Resolution 138-10 as recorded in the office of the City Clerk.

Arkansas Parks and Tourism Outdoor Recreation Grant: A resolution authorizing application for an Arkansas Parks and Tourism Outdoor Recreation Grant in the amount of \$125,000.00 for improvements to the Lake Fayetteville North Shore, the Yvonne Richardson Community Center and Walker Park.

Resolution 139-10 as recorded in the office of the City Clerk.

Arkansas Transportation Enhancement Program Grant: A resolution authorizing application for an Arkansas Transportation Enhancement Program 80/20 matching reimbursement grant for an award of up to \$500,000.00 to be used for construction of the Town Branch Trail.

Resolution 140-10 as recorded in the office of the City Clerk.

Arkansas Transportation Enhancement Program Reimbursement: A resolution authorizing application for an Arkansas Transportation Enhancement Program 80/20 matching reimbursement grant for an award of up to \$500,000.00 to complete rehabilitation of the Historic Lafayette Street and Maple Street Overpasses.

Resolution 141-10 as recorded in the office of the City Clerk.

Stephens, Inc.: A resolution approving the renewal of the contract with Stephens, Inc. as amended, to act as the City of Fayetteville's benefits broker and advisor.

Resolution 142-10 as recorded in the office of the City Clerk.

2011 Employee Benefit Package: A resolution approving a 2011 employee benefits package.

Resolution 143-10 as recorded in the office of the City Clerk.

Edward Byrne Memorial Justice Assistance Grant: A resolution authorizing acceptance of the 2010-2011 Edward Byrne Memorial Justice Assistance Grant in the total amount of \$197,333.59.

Resolution 144-10 as recorded in the office of the City Clerk.

Underage Drinking Laws Grant: A resolution authorizing acceptance of an Arkansas Department of Finance and Administration Grant for enforcement of Underage Drinking Laws in the amount of \$32,000.00 and approving a budget adjustment.

Resolution 145-10 as recorded in the office of the City Clerk.

RFP #10-06 NOVAtime Technology, Inc.: A resolution approving RFP #10-06 and authorizing a contract with NOVAtime Technology, Inc. in the amount of \$119,483.19 plus applicable sales tax and shipping not to exceed \$11,552.20 and a project contingency of 15% for the purchase of an electronic employee time keeping system.

Resolution 146-10 as recorded in the office of the City Clerk.

Alderman Cook moved to approve the Consent Agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Unfinished Business:

Amend Chapters 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control: An ordinance amending Chapter 169: Physical Alteration of Land and Chapter 170: Stormwater Management, Drainage and Erosion Control of Title XV of the Code of Fayetteville (Unified Development Code), to clarify stabilization requirements, require phased construction for sites larger than 20 acres, clarify re-vegetation requirements, clarify requirements for cut and fill slopes and retaining walls, define maintenance responsibility for stormwater management systems, restrict location of dirt and topsoil storage and define stabilization practices for dirt and topsoil storage, define a qualified inspector for erosion and sediment control best management practices, and require site plans for one and two family residences to contain a plan for erosion and sediment control and final on-site drainage. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting. This ordinance was left on the Second Reading at the July 20, 2010 City Council meeting.*

There was no motion and second to suspend the rules. The City Attorney read the ordinance in full.

City Attorney Kit Williams read the ordinance in full.

Chris Brown, City Engineer: Gave a brief history of the ordinance. He also presented recommendations from the Green Infrastructure Committee

Alderman Petty moved to amend Section 169.04 Stabilization Practices of the ordinance. Alderman Lewis seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Lucas was absent.

Alderman Petty: I think staff has done a good job and this is a good ordinance.

Alderman Lewis: The Environmental Action Committee was supportive of it. Does this put expectations on creating rain gardens and requiring more of the natural design low-impact development? Should that type of language go in this or is that something that can be addressed by a policy where staff encourages that through building design.

I spoke with Jeremy Pate about impervious surface which is something they have to show up front. The EAC was supportive of this and liked that there is a plan up front, which enables you to choose to do more of the natural design. This will help a lot with how we manage our water that hits the ground.

Alderman Ferrell: How often do we get calls from citizens where drainage is a real problem? This goes right to the initial stage to stop that. I think it will work.

Alderman Lewis: If you're talking about stabilizing soil, phasing is essential.

Dot Neely, Ward 1 resident commended the City Council, Planning Department, and Street Department for revisiting ordinances and incorporating better management practices and looking forward for Fayetteville. This portion of the ordinance that is up for approval tonight looks at the land in its natural state, vegetation, and the drainage features on that land before a spade is turned to see what can be kept in the plan for the development that is serving a good functional purpose, is that what I understand?

Chris Brown: This ordinance doesn't exactly speak exactly to that. There are some discussions about preservation of natural vegetation. The grading ordinance and the environmental aspects of it are for protection of the water quality during construction. Some of the things Dot mentioned are more low impact development. We have a low impact development ordinance. We are working on a low impact development best management practices manual that will give folks a template and idea of how to develop those best management practices.

Alderman Lewis: It doesn't say you have to do anything, you just have to identify those and that has to be part of your plan. That is part of sharing with staff what's there.

Chris Brown: Identifying what type of soil erosion problems that you may have, and slopes are part of designing your erosion control methods during construction.

Aubrey Shepherd: Ten acres should be the maximum that's allowed to be cleared in this city for any purpose.

Jerry Hall voiced his concern about natural springs and wet lands. He stated you have to look at what is there before you approve a project. I hope you can work out a better system.

Alderman Ferrell: With regards to Mr. Shepherd's comment engineering has already said 20 acres. That could cause a problem with industry that wanted a large site. As far as economic development we would come closer to not having problems with twenty.

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

Ordinance 5336 as Recorded in the office of the City Clerk

Amend Chapter 177: Landscape Regulations: An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 177: Landscape Regulations in order to modify existing requirements and regulations that address perimeter landscaping for development. *This ordinance was left on the First Reading at the July 6, 2010 City Council meeting. This ordinance was left on the Second Reading at the July 20, 2010 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Internal Services and Development Director stated this was presented at the Green Infrastructure meeting.

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

Ordinance 5337 as Recorded in the office of the City Clerk

New Business:

ADM 10-3618 (UDC Amendment Use Unit 2 Construction Facility): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapter 162: Use Units to modify the uses within use Unit 2, City-Wide Uses by Conditional Use.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. This proposal is to remove the construction facility (trailer) and in its place add a commercial facility on a temporary basis. Staff recommends approval and Planning Commission unanimously forwarded it to you.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5338 as Recorded in the office of the City Clerk

ADM 10-3619 (UDC Amendments: Chapters 151, 161, 162, and 164): An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, Chapters 151: Definitions, 161: Zoning Regulations, 162: Use Units, and 164: Supplementary District Regulations for drive-in restaurants and facilities.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5339 as Recorded in the office of the City Clerk

Amend Chapter 72 Parking Regulations: An ordinance amending Chapter 72 Parking Regulations of the Fayetteville City Code by amending Section 72.58(I)(1) to increase the rental rates for parking in certain areas of city parking garages.

City Attorney Kit Williams read the ordinance.

Sharon Waters, Parking and Telecommunications Manager gave a brief description of the ordinance.

Alderman Ferrell: What is the occupancy rate at the Town Center Deck?

Sharon Waters: It varies, they have different events there.

Alderman Ferrell: Monday through Friday average.

Sharon Waters: On average the occupancy is 53%.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5340 as Recorded in the office of the City Clerk

Ozark Asset Management Group, Inc.: A resolution approving a lease agreement with Ozark Asset Management Group, Inc. for the lease of 89 parking spaces on the first level of the Fayetteville Municipal Parking Garage at 25 E. Meadow Street.

Sharon Waters gave a brief description of the resolution.

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

Resolution 147-10 as recorded in the office of the City Clerk.

Watershed Conservation Resource Center (WCRC): An ordinance waiving the requirements of formal competitive bidding and approving a Memorandum of Understanding with the Watershed Conservation Resource Center to establish a general framework of cooperation to seek funding, conduct stream restoration projects and to work together on nonpoint source related issues.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

Mayor Jordan: This is just within the city limits of Fayetteville, correct?

Chris Brown: Correct.

Mayor Jordan: It doesn't involve the county.

Chris Brown: Typically within the city.

Alderman Ferrell: If this passes, as they come up, they will come back to the Mayor and the City Council for authorization.

Chris Brown: That is correct depending on the amount of the task order. In some cases the Mayor has approval of authority.

Alderman Ferrell: To your knowledge none of this is outside the city limits?

Chris Brown: Right.

Alderman Lewis: Is there a periodic review?

Chris Brown: This is a three year contract.

Larry Phipps stated his comments have been addressed.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5341 as Recorded in the office of the City Clerk

Amend Ordinance 5311: An ordinance amending Ordinance No. 5311 to accurately reflect the total contract amount with NEC, Inc. and H2 Engineering, Inc. of \$29,322.13 for sewer improvements at Veterans Memorial Park, and to reduce the project contingency.

City Attorney Kit Williams read the ordinance.

Carole Jones, Park Planner stated this change is necessary to match the actual cost.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent during the vote. Alderman Lucas was absent.

Ordinance 5342 as Recorded in the office of the City Clerk

Street Name Change: A resolution renaming South California Boulevard to South and West Clinton Boulevard.

Marilyn Heifner representing the Advertising and Promotion Commission gave a brief description of the resolution.

Alderman Cook: Can we call this "Drive" instead of "Boulevard"?

John Goddard: "Drive" is fine.

Alderman Cook moved to amend the street name to remove "Boulevard" and add "Drive" as part of the name. Alderman Thiel seconded the motion. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

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

Resolution 148-10 as recorded in the office of the City Clerk.

Rename Sidewalks and Trails Task Force: An ordinance to codify and rename the Sidewalks and Trails Task Force as the Active Transportation Advisory Committee.

City Attorney Kit Williams read the ordinance.

Alderman Cook gave a brief description of the ordinance. He stated this does not change what Sidewalks and Trails Task Force does. This will fall more in line with what they do.

Alderman Lewis: Would the Pedicab discussion relate to this? Is that considered an active form of transportation?

Alderman Cook: It could be but we haven't discussed it.

Alderman Ferrell: Is the composition the same today as it is proposed here.

Alderman Cook: Yes.

Alderman Ferrell: There is no change to the members of the committee.

Alderman Cook: No. It's a council member, representative from the Parks Board, Planning Commission, and some at large positions.

Alderman Ferrell: And some city employees also.

Alderman Cook: Yes, Matt Mihalevich.

Alderman Ferrell: Was there any compelling reason why you wanted to change the name of the committee?

Alderman Cook: Part of it was our push for a bicycle friendly community.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray: Is this the place where the Pedicab ordinance should go?

Kit Williams, City Attorney: I don't think their jurisdiction is defined to say whether they could or could not. They deal with trails and if the issue is whether Pedicabs should be on the trails they could certainly give their advisory opinion. Whether we have Pedicabs on the street that would be beyond their jurisdiction and I don't think they would give advice on that.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5343 as Recorded in the office of the City Clerk

Announcements:

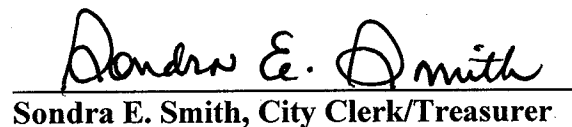
Alderman Thiel announced the upcoming Ordinance Review Committee meeting.

Alderman Lewis announced Thursday is First Thursday.

Don Marr, Chief of Staff reminded the Council and citizen that the next Mayor's Town Hall meeting will be August 16, 2010.

Meeting adjourned at 7:25 p.m.


Lionell Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

City Clerk - Appoitment of A & P Commissioner

From: "Marilyn Heifner" <mheifner@twncenter.com>
To: "City Clerk" <city_clerk@ci.fayetteville.ar.us>
Date: 7/29/2010 8:57 AM
Subject: Appoitment of A & P Commissioner

The Fayetteville A & P Commissioners at their July meeting appointed William Lyle to fill the unexpired term of Tim Freeman (term expires 4/1/12). Lyle is executive chef at Ella's Restaurant. We request ratification by the Fayetteville City Council at their next meeting. His application is attached.

Marilyn Heifner

Executive Director
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