

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
September 21, 2010**

A meeting of the Fayetteville City Council was held on September 21, 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, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, Assistant City Attorney Jason Kelley, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhoads

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Nominating Committee Report:

Alderman Cook read the Nominating Committee Report.

Alderman Ferrell moved to approve the Nominating Committee Report. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Agenda Additions:

Mayor Jordan stated he would like to walk on an item for discussion regarding the paid parking situation on Dickson Street.

Alderman Ferrell moved to add a Discussion on Parking to the agenda. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent. This discussion was held after New Business.

Consent:

Ranger's Pantry Pet Food Bank: A resolution approving a budget adjustment in the amount of \$340.00 to recognize revenue from citizen donations to the Ranger's Pantry Pet Food Bank Project.

Resolution 163-10 as recorded in the office of the City Clerk.

Kim Hoadley Construction: A resolution awarding bid and authorizing a contract with Kim Hoadley Construction in the amount of \$40,884.00 for improvements to the 1932 S. Garland CDBG Public Facility.

Resolution 164-10 as recorded in the office of the City Clerk.

Parks and Tourism Outdoor Recreation Grant (Repeal Resolution 139-10): 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, and repealing Resolution 139-10.

Resolution 165-10 as recorded in the office of the City Clerk.

City Council Representative for Mandatory Settlement Conference: A resolution to appoint City Council Member Shirley Lucas to represent the City Council during any settlement conference required by the Federal District Court or Magistrate.

Resolution 166-10 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 Rhoads was absent.

Unfinished Business: None

New Business:

North Ball Avenue & West Van Asche Drive Street Name Change: A resolution renaming a section of North Ball Avenue to Roosevelt Avenue and a section of West Van Asche Drive to Jupiter Drive.

John Goddard, GIS Coordinator gave a brief description of the resolution.

Alderman Petty asked if street name change resolutions need to come before Council.

Assistant City Attorney Jason Kelley: Yes.

Alderman Petty moved to approve the resolution. **Alderman Ferrell** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Rhoads** was absent.

Resolution 167-10 as recorded in the office of the City Clerk.

RZN 10-3613 (Watson): An ordinance rezoning that property described in rezoning petition RZN 10-3613, for approximately 3.0 acres, located at 5989 East Huntsville Road from Residential Single-Family, 4 units per acre, to R-A, Residential Agricultural.

Assistant City Attorney Jason Kelley read the ordinance.

Jeremy Pate, Internal Services and Development Director gave a brief description of the ordinance. He stated staff and the Planning Commission recommend in favor of the application to rezone the property.

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

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Ferrell 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 Rhoads** was absent.

Assistant City Attorney Jason Kelley read the ordinance.

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

Ordinance 5355 as Recorded in the office of the City Clerk

Chambers Bank Donation: A resolution to thank Chambers Bank for its donation of 210 acres to the City of Fayetteville.

Assistant City Attorney Jason Kelley read the resolution.

Mayor Jordan thanked Chambers Bank, City Attorney Kit Williams, Don Marr, and the City Council for their patience and work on this. He stated it's a real good acquisition for the City.

Alderman Petty moved to approve the resolution. **Alderman Cook** seconded the motion.

Alderman Ferrell stated he was in favor of the resolution. He asked Assistant City Attorney Jason Kelley if the City is losing any chance of any right by passing the resolution.

Assistant City Attorney Jason Kelley: No, it is an expression of thanks. It doesn't limit us in any way to any action in the future.

Alderman Lewis: The notes that we received were referring more to the where as statements. This is just a thanks for the relatively simple process.

Mayor Jordan: That is all it was intended to be.

Alderman Lewis: Chambers Bank still holds the rest of that property?

Assistant City Attorney Jason Kelley: All I know is we have what we received a deed to.

Don Marr, Chief of Staff: It is our understanding that the property was returned in lieu of foreclosure and the bank is the primary and only holder of the property at this time. That is what has been communicated to us by the Chambers Bank representative.

Alderman Lewis: Okay, thank you.

Upon roll call the resolution passed 7-0. Alderman Rhoads was absent.

Resolution 168-10 as recorded in the office of the City Clerk.

The following discussion item was added to the agenda at the beginning of the City Council meeting.

Parking Discussion:

Amend Chapter 72: An ordinance amending Chapter 72 Parking Regulations of the Fayetteville Code by repealing subsections 72.58(H)(1) through 72.58(H)(3) and enacting replacement subsections 72.58(H)(1-3) to change the time of allowable free parking in the Entertainment District Parking Zone.

Mayor Jordan gave a brief history of the parking discussion. He proposed that the paid parking not start until 2:00 p.m., which would be a 10% cut, do it through 90 days, and reevaluate it again.

Paul Becker, Finance Director passed out preliminary data collected in the last six weeks. To charge for paid parking only on Thursday, Friday and Saturday nights would be a reduction of \$437,000 in revenue or roughly 49% of the total revenue. This would not allow us to allocate money towards a parking deck for five years, if we begin paid parking at 5:00 p.m. that would reduce revenue a total of \$185,621 or 20.7% and beginning paid parking at 2:00 p.m. would reduce the revenue by \$86,483 that is roughly 10%.

Alderman Gray: Over what period of time?

Paul Becker: This is a full year projection.

Don Marr: The original projections for revenue fees were lower than what we would be showing this annualized at. We have months when we expect lower revenues. These numbers show higher and we are using them because it is the only real data that we have. You could see fluctuation in that. The second assumption is that our citation revenue would reduce at the same percentage that the revenue would reduce, however we had nothing to gage that number on.

Mayor Jordan: At one meeting the owners said if we did not adhere to what they wanted they would put together a voter initiative petition to vote on the ordinances that were passed.

Assistant City Attorney Jason Kelley: The citizens of Arkansas have two different ways to contribute in this field. One is initiative the other referendum. To initiate a referendum petition that would be an up or down vote by the citizens, after a petition, as to a previously enacted ordinance of the Council. It has to be filed within 31 days of passage. An initiative is when the people come up with their own law to repeal or change a City Council action. State law requires that initiative elections be conducted at regular municipal elections. The time period to file an initiative is 60 days before the election.

Alderman Thiel: How many signatures does it take to get a citizen initiative?

Assistant City Attorney Jason Kelley: I believe its 15% of the total that voted in the last mayor's election.

Alderman Thiel: Approximately how many Sondra?

Sondra Smith, City Clerk: I can look that up. I have already calculated it.

Alderman Petty: Approximately 3,000.

Mayor Jordan: The time frame has passed for that.

Alderman Thiel: Right, but if they want to work on it for the next one it takes that many.

Alderman Lewis: Is this a discussion item? Are we voting on something?

Mayor Jordan: I would like to see us pass something that will give the businesses some relief. I would submit just until the 90 days is up, paid parking not start until 2:00 p.m.

Assistant City Attorney Jason Kelley: We would have to pass an ordinance.

Mayor Jordan: Yes, and then an emergency clause.

Assistant City Attorney Jason Kelley: There would have to be an emergency clause on the ordinance. It would become effective upon publication.

Mayor Jordan: I don't have HMR taxes back to give you facts on how much is being lost.

Alderman Lucas: When do you think the HMR taxes will be back?

Paul Becker: We will have that by October 2nd or 3rd. That will only reflect a certain portion of August because it was not a complete month for paid parking.

Don Marr: The parking program was implemented mid month in August. In September when the numbers are complete you will see the full impact. If you make a proposed change tonight and you make it effective through an emergency clause and implemented in October, by the time we get through the 90 day review in November you will have the third month of seeing if this change had any result for what ever change you make for a full month.

Mayor Jordan: You have to understand I was asked by the owners to do this Thursday. Keep in mind we have spent eight months putting this together and in four days I have to flip flop the whole paid parking plan.

Alderman Ferrell: Will you be able to capture the impact on the entertainment district.

Paul Becker: The sales tax comes from the state and they don't divide it. HMR taxes are by an individual business so in fact we could do some consolidation.

Branton Moore, representative for Highroller Cyclerly stated as a retail business they are feeling the effects of the paid parking.

Japser Mendoza, Dickson Street Book Shop spoke in opposition of the parking ordinance.

Julie Sill owner of Common Grounds and Hog Haus thanked the Mayor for coming to the meeting and bringing the issue to the attention of the Council so quickly. I was supportive of the paid parking program however I had no idea it would have this type of impact to my customers and my business. I have been on Dickson Street for 14 years and it is the greatest loss we have ever seen. We are down 40%. We ask that you take action immediately.

Alderman Lucas: There were parking meters on Dickson in the past.

Julie Sill: Yes, ma'am.

Alderman Lucas: Do you think the problem is that they have to go to a corner to put money in the meter?

Julie Sill: It is the inconvenience of it. I think the meters on the street would help. It would be less frustrating and more convenient.

Alderman Lucas: At least on the streets.

Julie Sill: Yes, ma'am.

Alderman Lucas: Thank you.

Don Choffel: Dickson Street Bookshop: There are 10 people on our payroll and business is down far enough that we are going to have to lay someone off or reduce hours for everyone. Our customers understand it but resent the parking.

Alderman Ferrell: Are your complaints coming mainly from your customers or employees?

Don Choffel: Our customers, our employees don't have to pay that much but they have been getting tickets.

Shawn Garles a citizen spoke in opposition of the parking. He stated he does not go to the businesses anymore because of the parking.

Neil Crawford with Jose's stated in his 22 years on Dickson Street he has never seen something have such a negative impact. He spoke in opposition of the parking.

Mayor Jordan: If this is passed by the Council it is just temporary for the 90 days and after the 90 days we may revisit it and do something else.

Alderman Ferrell: Would it have some impact on your lunch business if it were extended to 2:00 p.m. before the parking started?

Neil Crawford: 2:00 p.m. would help Common Grounds a lot better than it would help Hog Haus or Jose's.

Alderman Ferrell: I meant the majority.

Neil Crawford: It has a little bit different effect on some of us than others 2:00 p.m. would have some positive to it. I'm still concerned if it would be enough.

Alderman Lucas: Do the machines make change?

Terry Gulley, Transportation Services Director: The machines for the lots make change. The machines on the street do not have that capability.

Alderman Lucas: The lot behind Jose's and Common Grounds?

Terry Gulley: No, the gated lots. The three around the Walton Arts Center will make change. The other 18 machines that are out on the street do not have that capability.

Alderman Lucas: If they park in a spot and there is time left on their spot is that figured in when the next person parks in that spot.

Terry Gulley: When the next person goes up they are paying for how long they expect to be there. It does not recognize it again once you enter in the number.

Alderman Lucas: It's not like a meter where you see how much time is left.

Terry Gulley: No, it's not set that way.

Don Marr: The time credit issued to the second customer is an item that can be programmed. It would require some additional software.

Travis Feltner, Feltner Brothers: It doesn't matter what merchant stands up here the fact of the matter is we are all in the same boat. Our future and livelihood is in the Entertainment District and Dickson Street. Our employees can go elsewhere to work. August was the first month that we did not turn a profit.

Jennifer James, a citizen of Fayetteville: I understand that a lot of money has been invested in this. Business is suffering and 90 days is too long. If it is not the paid parking that is causing these businesses to suffer, is there any other explanation as to what could be causing these problems?

Alderman Petty: If one of the restaurant or bars that you frequent offered you a validation for the money you would have to pay for your parking spot, would you still be going there? That is an option for the businesses. It is up to the businesses if they want to participate in that program.

Jennifer James: I definitely think it can help. I think we could all be in agreement that any kind of incentive like that would help the businesses.

Alderman Lewis: What is your feeling on the pricing?

Jennifer James: Five dollars in one hand is not a lot of money, but \$5 if you just want to go get two beers for happy hour before you go home it's not worth it.

Mike Rohrbach, Flying Burrito and King Fish asked the Council members if they ever go to Dickson Street to eat and did you go to lunch before, after, and during this parking program? Have you noticed the change in the parking?

Mayor Jordan stated he has noticed a difference.

Mike Rohrbach: It used to be half full during the day now there might be 10-15 cars.

Mayor Jordan: I would agree that I saw a difference in the lunch hour.

Mike Rohrbach: If it keeps going that way then there will not be a need for a deck.

Mayor Jordan: That is why we are trying to institute a spot gap measure to get us through 90 days. I need those HMR taxes to come in where I can fully evaluate everything.

Steve Clark, President of the Fayetteville Chamber of Commerce: This parking ordinance represents more than just parking vehicles. It represents a commitment the City made about its future. I urge the Council to create some relief that would allow the suspension of the parking payments until 2:00 p.m.

Teri Trotter, Walton Arts Center: We started this conservation a long time ago and it is important to look at the fact that the problem doesn't go away. We need to create a way to find more parking solutions in the Dickson Street area.

Jeff Dickey, Ward 4 Candidate: I would like to see paid parking on Dickson Street Friday, Saturday, and Sunday. If we have to compromise lets make it 6:00 p.m. and after during the week paid parking. That way it allows for lunch time and hour happy where these businesses are suffering. If we lose local business we will loss a lot of the economy.

Caleb Heath, Dickson Street Book Shop: In the parking plan, as we have it now, we have allotted only 16 days out of the entire year using the lots for festivals. I wonder if that is enough. It is the hassle not the money. I wonder if in time it will be possible to get more specific numbers on parking citations. Retailers would be best served by a plan that does not begin paid parking until 5:00 p.m. or 6:00 p.m. I support the middle ground.

Sammie Stephenson, Smoke and Barrel Tavern: My understanding is if the Dickson Street Merchants proposal is accepted essentially the City would just make enough money to make payments on the equipment until it was paid off.

Mayor Jordan: That's correct.

Sammie Stephenson: After those five years would there not be income that could then be put toward the parking deck? Why is it a problem for that savings to not begin to be stored up until the five years is up and the equipment is paid off?

Mayor Jordan: Because we have made commitments towards a parking deck. If we manage to do the revenue by this time next year it is still going to be two to three years before it's built anyway.

Alderman Thiel: Everyone seems to have forgotten that we had paid parking in the past.

Mayor Jordan: There were gates in the very lot that you pull in now. That was paid parking.

Don Marr: I want to correct my earlier statement. We not only don't have money for the deck it actually would be operating at a small loss of about \$15,000 projected. Not taking into account the revenue differences for lower time periods. That difference is a loss it's not just putting anything to it. It doesn't fully recoop the cost of that proposal.

Mayor Jordan: So that proposal is actually a loss.

Don Marr: Based on that parameter.

Storm Carr, French Quarter Antiques stated his concerns with parking on Block Street. We have had paid parking on Block Street for years. The City engineers were told to design the street and squeeze as many parking places as possible onto Block. Mr. Carr voiced his concern about what the money was being used for that is collected from the parking meters on Block Street.

Mayor Jordan: I don't know.

Terry Gulley: Based on our meetings we had when we were in the design phase the overwhelming consensus seemed to be to get as much parking as possible and that is how they designed it.

Storm Carr: That is why the design looks so squirrely to people.

Mayor Jordan: We are discussing Dickson Street tonight. We will discuss Block Street later.

Storm Carr: My apologies to the Council for bringing this up at an inopportune time. We have been told a lot of different things. The money that has been collected should be in an account somewhere drawing interest.

Alderman Gray: Seems like the biggest concern is the machine. Are there directions on the machine that if you put in a \$5 bill you won't get any money back?

Terry Gulley: It says no change given.

Alderman Gray: It seems we need better instructions. The ticket says fifty cents an hour but its one dollar hour. Are you aware of that?

Terry Gulley: We will have to look at it.

Alderman Gray: Anything we can do to make the machines more user friendly will change people's attitude about the whole paid parking issue.

Don Marr: When we started this program our goal was to get the program implemented prior to the start of the university year. He addressed issues associated with implementing the paid parking. We are still working on issues that have come up. That is why we implemented a 90 day review. There is an education and promotion problem.

Alderman Lewis: Are there are any estimates based on the pricing.

Don Marr: We are cheaper than the private lots. We didn't feel like at this point there was any need to look at the rate itself. We're not hearing people talk about the rate. We are hearing them talk about if it is paid or not and what times. We can run those scenarios if that is something you would like to look at. We feel the rates are appropriately set at this point based on private lots and other cities that have parking fees.

Alderman Thiel: Not that many years ago we had paid parking on Dickson. The City has done a lot to improve that district and make it better for the merchants that have businesses there. Most merchants have to pay for parking. I am not ready to go to what the merchants are asking for. I think it is too soon to do that. It needs to be looked at in 90 days and we need to look at the HMR tax revenue from the individual businesses that say they are affected.

City Attorney Kit Williams: I have a draft ordinance I can read.

City Attorney Kit Williams read the ordinance.

A discussion followed on the date the City Council would look at the ordinance again.

City Attorney Kit Williams: It would require another ordinance to extend this. This doesn't have an emergency clause because State law says that if an ordinance is general and permanent then it takes effect within 31 days unless there is an emergency clause. If it is specific and temporary, like this one is, then it is immediately effective like a resolution.

Don Marr: The HMR numbers for October would be payable November 30th. If we use November 21st as the day we will not have the October numbers to look at which would evaluate this free period adjustment.

City Attorney Kit Williams: I would recommend it terminate on the first City Council meeting in December which would be December 7, 2010.

Alderman Ferrell moved to suspend the rules to add the ordinance to the agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent.

Alderman Lucas: How is this going to affect the shows at the Walton Arts Center?

Peter Lane: It depends on whether or not a ticket is issued upon entering the parking lot. The matinee begins at 2:00 and patrons began to arrive anywhere from before noon up until 2:00 p.m.

Don Marr: If someone gets a ticket early in the day in a non paid period it will only calculate the time in which the program begins to charge for time.

Peter Lane: Will pre pay be a possibility on those kinds of tickets.

Don Marr: I do not know the answer but I will find out for you.

Alderman Lewis: The gated lots will be able to do that but can the street meters do the same thing?

Don Marr: There are very big differences between on street pay by space equipment and pay by exit lots. That is an item I will have to research.

Alderman Lucas: That is why I was wondering if we should leave the time on Saturdays and Sundays at 1:00 p.m.

City Attorney Kit Williams: Sunday was 1:00 and Saturday was 10:00 a.m.

Alderman Lucas: Rather than having to reprogram all the ones on the streets.

Alderman Petty: These are problems we have already had to deal with by not starting things until 10:00 a.m.

Alderman Thiel 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 Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty 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 Rhoads was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell asked Don when he addresses some of the issues that have come up to include double dipping, if someone gets charged twice, and where the overage went.

Don Marr: If I understand what you mean by that, if someone pays for a space for two hours and they leave after an hour whether the next customer gets credit for that second hour that has already been paid. That will require reprogramming, it is something we can do and we plan to bring that forward. We have not been refunding overages. It just goes towards the parking revenue. We will get the cost of changing out and reprogramming the machines to give change in those circumstances so that you will know whether or not you want to invest to address that issue. It will also increase staff time.

Alderman Ferrell: I voted for this and we obligated the City to buy this equipment so we are responsible for this. We are going to try to do the best we can to help.

Alderman Petty: I know this might not be the solution everybody wanted tonight but I think it is what we feel is a responsible decision for the data we have right now. There are still changes to be made. We are committed to making those changes. I hope all of us step up the education of this.

Mayor Jordan: As the Mayor of this City the easy thing for me to have done was to have done nothing. We could have let the parking problem go on. I was determined that we address the issues with Walton Arts Center and get a parking deck for the businesses down there and the people. The people that make the money off of private parking keep that money for themselves. The money that we make from public parking goes into a deck that we all share. At the end of the day we are going to make this work and it is going to be a benefit to everybody. I do not want to see any businesses leave Dickson Street.

Alderman Lewis: I really appreciate that the businesses in the Downtown area are working together. There is such a value in that.

Alderman Lucas: Change is difficult and I think a lot of it is education.

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

Ordinance 5356 as Recorded in the office of the City Clerk

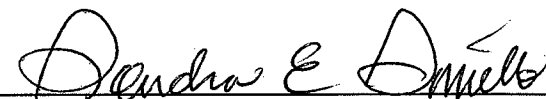
Announcements:

Alderman Lucas announced the next Ward 4 meeting.

Mayor Jordan thanked the Council for their hard work on the paid parking issue.

Meeting adjourned at 8:35 p.m.


Lionel Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

Nominating Committee Report

Meeting Date: Wednesday, September 15, 2010

Meeting Location: Rm. 326, City Hall

Members Present: Kyle Cook, Bobby Ferrell, Adela Gray, and Shirley Lucas

The committee recommends the following applicants for City Council approval:

Board of Adjustments

- Nancy Firmin – One unexpired term ending 03/31/11.

Environmental Action Committee

- Aubrey Shepherd – One term ending 12/31/12.

Tree and Landscape Advisory Committee

- Nancy Varvil – One unexpired Citizen-at-large term ending 12/31/10.