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
Special City Council Meeting Minutes
April 16, 2009

A special meeting of the Fayetteville City Council was held on April 16, 2009 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Gray, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Thiel

Pledge of Allegiance

New Business:

Double Eagle Superfund Site Small Party Settlement Agreement: A resolution approving the Double Eagle Superfund Site Small Party Settlement Agreement with the Union Pacific Railroad in the amount of $27,500.00; and approving a budget adjustment.

Paul Becker, Finance and Internal Services Director: This is a settlement. A superfund was created at a clean-up site in Oklahoma. A Federal superfund is a clean-up site for pollution. They trace it back to the source of where those pollutants came from. During the period of 1986 to 1989 the City used a company called Waste Oil Services Company to dispose of motor oil. They took it to this site and traced it back to the City. We were a very minor user. We can agree to settle this for $27,500 which I think would be in the City of Fayetteville's best interest. That would absolve us of any further liability.

City Attorney Kit Williams: The City was doing the right thing they thought. The oil was supposed to be reprocessed and disposed of properly. The City did not intend to have it turn into a superfund site. We were very relieved about the cost because superfund sites can run millions of dollars. It was lucky that we were a very low contributor to this particular site. This amount

is much less than the litigation cost would be for us to say that we should not pay because we were trying to do the right thing. That is not a defense anyway. I strongly recommend that we pass this resolution and pay as quickly as we can. You have a very limited amount of time to make the payment.

Alderman Lucas moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Ferrell was absent during the vote. Alderman Thiel was absent.

Resolution 82-09 as Recorded in the office of the City Clerk

2009 Ice Storm Debris Clean-Up: A resolution to approve a contract with International Equipment Distributors, Inc. in the amount of $439,500.00 plus a $7,500.00 contingency for disposal of mulch from the ice storm clean-up and to approve a budge adjustment of $447,000.00.

Paul Becker: This firm intends to take the chips to a secondary staging area, regrind them and then they are going to use them for bedding for chickens. If they can not get rid of them in that manner they are going to sell them as mulch. This allows for a sustainable use of the mulch. The cost comes to $2.93 a cubic yard. We estimate that we have roughly 150,000 cubic yards of mulch.

Alderman Petty: Can you detail the FEMA requirements for disposing of the chips to get reimbursed.

Paul Becker: We have to dispose of them by May 27, 2009.

David Jurgens, Utility Department Director: That requirement is an ADEQ requirement for the permits for the three sites that are the temporary holding sites. The deadline from ADEQ is May 27, 2009 because after a certain amount of time you start getting leachate from the chips and the potential for combustion from the chips. We can request to extend that but we would rather not because the potential environmental harm it could cause by the leachate going into the ground water. The deadline we placed on the chip removal was May 20, 2007 which will give us seven days to do the site cleanup and restoration.

Alderman Lewis: We are paying them for the transportation cost?

Paul Becker: That is correct. They are going to remove it from the site and dispose of it in a sustainable way. They are going to take it to a secondary staging area where they will have to regrind it. They can not use them in the present form. Then they will deliver them.

David Jurgens: There are two pieces that have to be approved for them to be able to execute the contract. They have to obtain a storm water permit from ADEQ.

Alderman Petty: Is there something from preventing us from setting up a permanent holding site? It seems like there is a business opportunity in regrinding the chips and there is a market for it. Is this an opportunity that the City could take advantage of?

David Jurgens: We are continuing to get a great deal of debris from all of the other stuff that is being brought in by our residents and staff. We have a continuing quantity of debris to the Solid Waste site which we are chipping and grinding on site. In order to get rid of this huge volume that we have, this is more than we can handle. If it was too lucrative we would have had more than three proposals to get rid of it. I think we have the best balance. We will continue to operate with stuff that comes in and give that to our residents through mulch.

Paul Becker: There is so much there it is very difficult to get any group together to get rid of it in that short period of time. A lot of people could not handle it that quickly.

David Jurgens: Because we have seen that there might be a local market for the chicken houses we are not going to forget that and we might see if we can start selling if we have excess debris or compost. That may be a viable alternative. The question would then be do we want to continue to provide that at no charge for our customers or do want to sell that to commercial entities. We can look at that later. I do not know if the volume would support that.

Terry Gulley: We first started out looking at how to sell this and maybe offset some of our cost. Nothing came about that after contacting many different places. The big problem with that is the hauling. We do not have the ability to haul. We would have to look at hiring someone to haul it anyway. We looked about everywhere we could look to sell.

Alderman Petty: I appreciate all the thought you guys put into it. It has been the topic of conversation around town. It sounds like we have done our due diligence.

Alderman Lucas: Is this going to take care of all of our sites? Does FEMA reimburse us for any of this cost?

Paul Becker: Yes. This should be FEMA reimbursable.

Alderman Lewis: It seems like our City is contributing free capital to this company and they are going to go and sell it. Was there discussion on the percentage of the profit that they make?

David Jurgens: Absolutely. The cost of doing business, transporting it, storing it, and getting permits, just because it is the raw material doesn't mean it is the total cost of the product. We have to pay them to take the raw material because it cost more to process and haul. We tried getting the price as low as possible. This is the best we could get.

There are two things this is contingent on. There is the proposal to store it. They have a proposal with owner at a site on the south end of town very close to the raceway. It would be a temporary storage at that site. In order to do that there would have to be a temporary rezoning at that location so they can store it there before they haul it out. They have the concrete slabs on site and have storm water containment. There would be a Bill of Assurance to rezone it back to R-A, which it is currently zoned as within 120 days of the notice to proceed. That would come forward to the City Council for consideration on Tuesday. This contract would be contingent upon approval of that rezoning and the storm water permit.

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

Resolution 83-09 as Recorded in the office of the City Clerk

Agenda Additions:

Alderman Cook moved to add the following resolutions to the agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent during the vote. Alderman Thiel was absent.

Solid Resources, Inc. Change Order # 4: A resolution to approve Change Order No. 4 to a contract with Solid Resources, Inc. to increase the amount by $43,056.00 and to approve a budget adjustment of $43,056.00.

Paul Becker: Solid Resources, Inc. is the monitor on our debris removal contract. This would be Change Order # 4. This would provide for an extra 52,382 cubic yards of debris over what our final estimate had been. There is more out there than we had originally anticipated. It would also pay for monitors to be on site as we remove the chips in the final chip removal process. This would take the contract amount to $933,609. The problem we have had with this contract is estimating how much debris is out there. It appears that we will have approximately 519,000 cubic yards.

Alderman Lewis: Is it predicted that we will have to adjust it again?

Paul Becker: No. This is our last opportunity to adjust it. After this point in time FEMA will not accept any adjustments. We are in the third phase and 12% of the third phase has been completed.

Alderman Ferrell: Do we have an expected date when we think the work will be complete?

Paul Becker: We think we will be finally complete, as far as the monitors are concerned, after the chip removal is done and that is May 20, 2009.

Terry Gulley, Transportation Services Department Director: In two weeks we will be really close to having the third pass done. It will be longer than that for commercial because we are doing that in house.

Alderman Ferrell: Just from observation there are some small stacks but nothing like it was before.

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

Resolution 84-09 as Recorded in the office of the City Clerk

DRC Emergency Services, LLC Change Order # 4: A resolution approving Change Order No. 4 to the contract with DRC Emergency Services, LLC in the amount of $220,000.00 for additional debris removal associated with the January 2009 ice storm; and approving a budget adjustment in the amount of $220,000.00.

Paul Becker: This is the hauling contract for the people that are doing the tree trimming and the hauling. This is the final adjustment for that contract for the completion of the third pass. The first contract was the monitor who keeps an eye on the hauler and this contract is the hauler.

Alderman Lewis: This is also the final one.

Paul Becker: Yes it is.

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

Resolution 85-09 as Recorded in the office of the City Clerk

Terry Gulley gave a brief update on the removal process. We are at 473,000 cubic yards removed. The biggest thing that changed was hangers in trees. That is one of the biggest things that have driven up the cost. Terry explained the FEMA process.

The meeting adjourned at 6:00 PM

Lioneld Jordan, Mayor **Sondra E. Smith, City Clerk/Treasurer**