Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
April 21, 2009

A meeting of the Fayetteville City Council was held on April 21, 2009 at 6:00 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 Thiel, Cook, Petty, Rhoads, Ferrell, Lewis, Mayor Jordan, Assistant City Attorney David Whitaker, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Gray and Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Consent:

Approval of the April 7, 2009 City Council meeting minutes.

The minutes were removed from the agenda.

Bid # 09-27 Landers McLarty Ford: A resolution to award a bid to Landers McLarty Ford in the amount of $18,150.75 for the purchase of one 2009 Ford Ranger 4x4 Super Cab pickup truck.

Resolution 86-09 as Recorded in the office of the City Clerk.

Bid # 09-28 Landers McLarty Ford: A resolution to award a bid to Landers McLarty Ford in the amount of $15,041.75 for the purchase of one Ford Ranger pickup.

Resolution 87-09 as Recorded in the office of the City Clerk.

Bid # 09-29 Lewis Ford Sales: A resolution to approve the purchase of two cab and chassis utility body trucks from low bidder Lewis Ford Sales in a total amount of $91,962.00.

Resolution 88-09as Recorded in the office of the City Clerk.

Ground Zero Construction, Inc.: A resolution to award to the low bidder, Ground Zero Construction, Inc. a contract for construction of drainage improvements and sidewalks for Missouri Creek and Rolling Hills Drive in the amount of $135,018.00 plus a contingency in the amount of $20,252.00.

Resolution 89-09 as Recorded in the office of the City Clerk.

Kid's ID Print Program: A resolution to thank Sam's Club for its $1,000.00 contribution to fund the Kid's ID Print Program, to accept this grant and to approve a budget adjustment to recognize this revenue.

Resolution 90-09 as Recorded in the office of the City Clerk.

State Forfeiture Revenue: A resolution to approve a budget adjustment in the amount of $21,118.00 to recognize state forfeiture revenue derived primarily from the Fourth Judicial Task Force and DEA.

Resolution 91-09 as Recorded in the office of the City Clerk.

Federal Forfeiture Revenue: A resolution to approve a budget adjustment to recognize $812.00 in revenue as the result of federal forfeitures by the Fourth Judicial Task Force and DEA.

Resolution 92-09 as Recorded in the office of the City Clerk.

Bronze Sculpture Manhole Cover Donation: A resolution to thank Hershey and Denise Garner and to accept their donated sculptured bronze manhole cover for a storm sewer at the Blair Library.

Resolution 93-09 as Recorded in the office of the City Clerk.

EPA Wetlands Program Development Grant: A resolution authorizing the Mayor to apply for an EPA Region 6 Wetland Program Development Grant in the amount of $250,000.00 for a stream restoration project through Sweetbriar Park and surrounding areas.

Resolution 94-09 as Recorded in the office of the City Clerk.

Sondra Smith, City Clerk requested that the minutes be removed from the Consent Agenda because they were not finished.

Alderman Ferrell moved to remove the minutes from the agenda. Alderman Lewis seconded the motion. Upon roll call the motion passed 5-0. Alderman Gray and Lucas were absent. Alderman Rhoads was absent during the vote.

Alderman Cook moved to approve the Consent Agenda with the minutes removed from the agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Unfinished Business:

RZN 08-3084 (Candlelight Place): An ordinance rezoning that property described in rezoning petition RZN 08-3084, for approximately 0.94 acres, located at the southeast corner of Gregg Avenue and Ash Street from RSF-4, Residential Single-Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. *This ordinance was left on the First Reading at the October 21, 2008 City Council meeting and Tabled to the November 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the November 6, 2008 City Council meeting and Tabled Indefinitely.* **This ordinance was left on the Third Reading at the March 3, 2009 City Council meeting and Tabled to the April 21, 2009 City Council meeting.**

Jeremy Pate, Development Services Department Director: I would recommend this item be tabled indefinitely and that the property owners are notified when the applicant is ready for this to be reconsidered. That way the property owners will understand when this item is coming back before you as a Council for consideration. It has been going on for several months now and I want to make sure they are aware when this item comes back.

Alderman Cook moved to table the ordinance indefinitely. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

This ordinance was tabled indefinitely.

Fayette Junction Master Plan: A resolution to adopt the Fayette Junction Master Plan vision document and Illustrative Master Plan. **This resolution was Tabled at the April 7, 2009 City Council meeting to the April 21, 2009 City Council meeting.**

Karen Minkel, Strategic Planning & Internal Consulting Department Director: I handed out Exhibit A and Exhibit I to all the members. Exhibit A is what the Council amended the illustrative plan to at the last Council meeting. I believe the intent was to include the change that you see in Exhibit I. That was a recommendation that staff made based on some public comment about showing single family in that area which was the original intent. I think the Council intended to make that change but because it was a last minute change it was not on Exhibit A. So if the Council would like to make that amendment it would need to be made tonight before this is considered for adoption.

I passed out additional public comment that we received from Robert Sharp who was a participant in the Fayette Junction Master Plan Charrette. He wanted to say that he was encouraged by the design solutions that emerged and was particularly excited by the proposed form-based revisions along Razorback Road and the increased conductivity that this neighborhood will enjoy due to the new and extended streets.

I wanted to clarify the rezoning proposal that is included in the vision document for Fayette Junction Master Plan. This is not a rezoning that is being considered tonight. There was a proposal to rezone the Razorback Road corridor. That proposal is intended to change the form not the uses that are currently allowed on Razorback Road.

Mayor Jordan: So if someone wanted to develop the land contrary to what this master plan shows they could still bring that plan forward.

Karen Minkel: Yes.

Alderman Cook: Did you have some people contact you about the urban zoning?

Karen Minkel: One property owner contacted me and I believe we clarified what the distension was, that it wasn't taking away uses or changing uses, it was a matter of form.

Alderman Ferrell: Previously you said in reality there are really more uses allowed with this. This plan is a tool.

Karen Minkel: Yes that is correct. It is a planning tool. When we have these master plans in place and a request comes forward whether it is for development or rezoning staff uses that master plan as one of the findings as they see whether it is compatible or appropriate.

Alderman Ferrell: I think there is a lot of good in it. I think sometimes there is some confusion that it is law and it is really not, it is a guiding tool.

Alderman Lewis: What actions would change as a result of this in the City process?

Karen Minkel: It is used when staff goes through the review process in that it becomes one of the findings. It can affect City policy actions down the line. It also becomes a tool that is used when any proposal is brought forward.

Jeremy Pate: If there is a PZD or a rezoning that comes before the Council for a decision those are items that we would actually discuss what was in that plan. We would look at a rezoning or a PZD with those goals in mind, the vision of that document in mind with the recommendation that we bring forward to you.

Alderman Thiel moved to add Exhibit I to the plan. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Alderman Cook: It was something we intended to do but it just slipped through the cracks. I appreciate staff's work and the citizens that partook in this. It is a good plan I think. Staff does a great job and citizens are fairly consistent on what they want to see as far as our City development.

Alderman Lewis: I would like to thank you for taking the time to meet with the public to help clarify.

Alderman Lewis moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Resolution 95-09 as Recorded in the office of the City Clerk.

ADM 09-3219 Amend Chapter 166: An ordinance amending the Unified Development Code subsection 166.12: Structures Not Allowed Over Public Easements, to clarify what types of structures are permitted in easements, and to establish consistent guidelines for the installation of structures in easements. **This ordinance was left on the Second Reading at the April 7, 2009 City Council meeting.**

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate: The City Attorney has issued two memos for amendments and Alderman Lucas proposed an amendment as well. If you agree to that I have passed out the language that was proposed in both of those amendments. You would need to make an amendment to adopt the new exhibit.

Alderman Thiel moved to amend the ordinance as proposed. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Alderman Thiel: Is this retroactive?

Jeremy Pate: It could be. It is not going to retroactively approve all of those that are already in place.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Gray and Lucas were absent.

Ordinance 5233 as Recorded in the office of the City Clerk.

Public Hearing:

Mayor Jordan opened the Public Hearing

Ozark Theatre Limited Partnership Condemnation: A resolution to authorize the City Attorney to seek condemnation of property at 70 North College Avenue owned by Ozark Theatre Limited Partnership.

There was no public comment.

Alderman Lewis: Can you explain what this means?

Assistant City Attorney David Whitaker: This means you will be granting us the authority to file suit in the name of the City of Fayetteville. It will give us the authority to expedite negotiations with the idea that we can be in court over this.

Alderman Lewis: I understand a lot of time it is resolved.

Assistant City Attorney David Whitaker: Most of the time.

Jeremy Pate: The condemnation that was approved by the Council at the last meeting has recently been resolved. We need this one piece of property. The difference between what we have offered and the request is quite significant.

Mayor Jordan closed the Public Hearing

Alderman Cook moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Resolution 96-09 as Recorded in the office of the City Clerk.

New Business:

Child Abuse Prevention Month: A resolution declaring April to be "Child Abuse Prevention Month" in the City of Fayetteville.

Mayor Jordan: This is something I asked staff to bring forward. Adella Gray has cosigned with me on this. It is to bring awareness of child abuse to the City of Fayetteville.

Mayor Jordan read the entire resolution for the public.

Alderman Lewis: Was there any particular reason for April or how did this come about?

Mayor Jordan: Little Rock contacted us and it was something they passed and they wanted other cities around Arkansas to get involved.

Sondra Smith, City Clerk: It is statewide. The North Little Rock City Clerk contacted just about all the City Clerks across the State and asked if we could get our Council and Mayor on board with this resolution. I thought it was a very worthwhile resolution. The Mayor and Alderman Gray offered to sponsor it.

Alderman Petty: If April is going to be recognized in this way is there anything that we plan to do as a City to promote that next April and on going?

Mayor Jordan: I think that is a good idea, we can do that.

Alderman Petty: I think if we don't do something like that we are going to pass a resolution and nobody will really remember.

Alderman Lewis moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Resolution 97-09 as Recorded in the office of the City Clerk.

Arkansas Western Gas Company: A resolution to approve and certify the participation of Arkansas Western Gas Company in the Arkansas tax back program and to agree to authorize DF&A to refund city sales tax back to Arkansas Western Gas Company.

Ray Boudreaux, Director of Aviation: This is an Arkansas Economic Development Commission program which allows a company to spin up with the purchase of machinery and equipment for a new operation in the State based on the number of jobs they get. Arkansas Western Gas is moving into the former P&G building and will employ more than 80 new jobs. They have requested to be part of the tax back program. The tax back program allows the cities to refund their sales tax on a certain amount of money they are using to purchase equipment. It also gives them an incentive to keep the business in town. It is a small price to pay for 80 new jobs.

Alderman Lewis: Where is the sales tax coming from?

Paul Becker: This would affect the one penny that comes from operations and capital.

Alderman Cook: They are creating 80 new jobs and putting more disposal income in the community and we will collect sales tax from that so that it the idea behind this.

Mayor Jordan: It's a great idea. Good job.

Alderman Lewis: It also maintains current jobs. They employee quite a few people already.

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

Resolution 98-09 as Recorded in the office of the City Clerk.

Tennant/Samples De-annexation: An ordinance concurring with Farmington ordinance No. 2009-05, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate: On March 9th the City Council of Farmington passed an ordinance to accept this property into the City of Farmington. Pursuant to State law the City of Fayetteville had a public hearing for that request and this is the official action, should you approve it today, to detach this property and allow it to go into the City of Farmington. The request is from the City Attorney of the City of Farmington. This property was annexed into the City by election in 2006. The City Attorney has been the Farmington City Attorney since 1998 and wishes to continue in that capacity and without this action he would have to move or Farmington would have to find another City Attorney. Staff is recommending approval. Staff has not heard any public comment in opposition of this request.

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 Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Steve Davis thanked the Council on behalf of the applicant and the City of Farmington.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Gray and Lucas were absent.

Ordinance 5234 as Recorded in the office of the City Clerk.

James Lee Witt Associates Contract: A resolution approving a contract with James Lee Witt Associates, a part of Global Options, Inc. in the amount of $78,000.00 to provide Federal Legislation Consulting Services to the City of Fayetteville.

Don Marr, Chief of Staff: There was a RFP selection committee formed on behalf of the Mayor. In 2003 the City went out to bid for services for a lobbyist firm to represent the City of Fayetteville in Washington, D.C. That contract expired January 31, 2009. We received three bids. The committee selected James Lee Witt

Don presented the Council with basis information about the firm that was selected and some of the dialogue that took place in the selection process.

Mayor Jordan: The Chief of Staff has touched on all the points. I met with those folks and feel very comfortable with them. They are Arkansas based, they understand Arkansas, and I think they will be a benefit to us in that regard. I do not like no bid contracts. We had not put this out to bid since 2003. I thought we needed to look and see what else is available for us.

Alderman Lewis: I received a question as to why we need to hire a lobbyist. I am going to respond to that question. I have done my share of lobbying and recently went to Little Rock and was reminded about the importance of having a presence all the time. Our City staff can't possibly be in Washington, D.C. and Little Rock and still run the City and complete tasks. This has the potential to gain all kinds of funding and relationships and it is a really good return on our investment because of the connections. I am really glad that you took the time to do the bidding process and find somebody that according to what you described is impressive.

Alderman Ferrell: I think when you bid things your cost tends to be a little better. This company will communicate with us every month and keep us abreast of congressional and bureaucratic changes in law and procedure. I think communication is a very big thing here.

He read a statement from Mayor Hayes of North Little Rock about James Lee Witt Associates.

Alderman Rhoads: I think there are times when it is great to have Arkansas folks doing things for Arkansans. There are also times when you want to see what else is out there. Six years ago I thought the time was right to use Van Scoyoc, the combination with University made a lot of sense. Things have changed in Washington and I think the change to this organization is very timely. I am very familiar with Witt and I think we are making a very good choice.

Alderman Petty: I think the Arkansas connections are the trump card in my consideration. Van Scoyoc only represented one City per State and funding is very competitive and I am curious how the firm would handle a situation where they have two Arkansas cities competing for the same funding. Where would priorities be placed and how would they handle that and make sure we are getting the best deal.

Don Marr: That is a very good question and part of the discussion that we had. Many times our City was being grouped in during committee discussions with a larger group. Projects are tended to be looked at based on delegation and districts and we did not see a competing issue between something being requested in Central Arkansas or Eastern Arkansas in one representatives district and yet Congressman Boozman's efforts for District 3. They tend to make the allocations based on the delegation item.

Don explained some of the things the committee looked at during the selection process.

Alderman Petty: It is up to us to identify opportunities and to work with our lobbyist to pursue those.

Don Marr: It is the preparation and the constant networking.

Alderman Cook: I agree with Bobby's comment about the communications and I felt like with our previous provider that it was rare that we actually saw them. It is kind of a perfect storm right now because James Lee Witt was in the Clinton administration and was certainly well respected in that. I think he is obviously well connected.

Don Marr: We looked at the ability to have State impact.

Alderman Lewis: There is the human component within the firm. You have a team and we are their goal and focus. You can talk to our team and get them fired up about Fayetteville.

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

Resolution 99-09 as Recorded in the office of the City Clerk.

Social Media Communication: A resolution to include social media in citizen communications.

Alderman Petty: I would like to propose an amendment. In sections 1, 2, and 3 change the language to say *the City Council requests the City of Fayetteville, Arkansas.*

Alderman Petty moved to amend the resolution as stated. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Alderman Petty: We are trying to save money in the City and communicate with the citizens in more effective ways and reduce staff time by automating existing processes and things like that. I think there are a lot of tools out there available for us to use that we haven't been taking advantage of up to this point, tools like Facebook and Twitter. These things provide for an opportunity for that automation that we are pursing. Our City Attorney raised a concern that since the resolution doesn't include a budget adjustment, it may not be complete because this may require more staff resources. I think in actuality once we get things figured out it will require fewer staff resources and will actually be a boom to us in that respect.

In Fayetteville we have around 30,000 people using Facebook, the newspapers combined have about 22,000 subscribers in our area. I think that government has a duty to try and communicate with all of the citizens and take input from all of the citizens. I don't think we should restrict ourselves only to conventional sources of media like the government channel and the newspaper. The newspaper really constitutes a good faith effort on our part to communicate with the citizens. That's what this resolution is to address. I think there are a lot of benefits to using Social Media. It has a public nature, which means any comment that takes place is available for the record, it is searchable, and archived automatically. There is a lot less logistical hassle with Social Media than there is with some of the other forms of communication that we use.

What this resolution would do is request that the City would provide notices in summary using Social Media and that we would include that comment in the record. More than that it asks that we create a communications strategy for using these tools so that we know what we are doing and the citizens know how we are using the tools and that we would update that strategy annually.

Alderman Lewis: I think it is a good idea. It seems like the strategy in Section 2 needs to happen before we can ask them to do Section 1. I like the idea of requesting how we are going to do that before we request the staff to do that. Section 1 does not bind the staff to do something?

Alderman Petty: No. City staff has already started experimenting with some of these things. I think a communication strategy will emerge out of some of the practices on a trial and error way as we move forward. We could request a communications strategy before doing that but I am not sure it is really necessary since we are already using the tools and we are getting better at it as we go.

Alderman Lewis: What are we doing in regard to this?

Don Marr: I want to thank Council member Petty because he gave me a great lesson this past week on Twitter. We are evaluating and using his expertise to help us look at options available both from an IT capabilities perspective and a comprehensive communications plan. We are not scared by this that it is going to turn into some major item. There have been some things that have been brought up in the last week that I will want to talk to him about. Our plan is that the Director of Communications and Marketing would be responsible for developing a comprehensive nontraditional social networking communications plan. At some point depending on the load we may talk about different staffing allocations but we have not seen anything yet that is going to require it. I just want that to be on the radar screen so that when you get into the budget process if times are tight and it ends up being a large volume that we talk about how to do it. A staff member is maintaining our Facebook page and Mayor Jordan maintains his own page. It is amazing the amount of questions that we are getting through that avenue and we are reaching constituents that we have not heard from traditionally in the past. I think there is value in his resolution.

Alderman Ferrell: I think you might be right Matt and I will likely support this. I would like to hold off on this until the next meeting. I would like to see a summary of what our expectations are.

Alderman Petty: Sure I will do that. I will be absent at the next Council meeting.

Alderman Cook: I think all the Council members should be here to vote on this.

Alderman Petty moved to table the resolution to the May 19, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

This resolution was tabled to May 19, 2009.

2009 Water and Sewer Revenue Bonds: An ordinance authorizing the issuance and sale of not to exceed $8,500,000 of Water and Sewer System Revenue Bonds, Series 2009, by the City of Fayetteville, Arkansas for the purpose of financing improvements to the City's Water and Sewer System; authorizing the execution and delivery of a second supplemental trust indenture pursuant to which the Series 2009 Bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the Series 2009 Bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the Series 2009 Bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

Assistant City Attorney David Whitaker read the ordinance.

Paul Becker: We are asking the Council to authorize $8.5 million worth of bonds to finance relocation, installation, and redevelopment of water distribution and sewer collection systems, primarily those that are related to road projects. The revenue bonds will be paid by sewer and water receipts. They were anticipated in the rates that we adopted in April of 2008. They have been approved by the Water & Sewer Committee.

Alderman Ferrell: Enterprise funds can be used for utility relocation can't they?

Paul Becker: Yes

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Alderman Lewis: This is going to be used for Highway 265. Did the Highway Department contribute any?

David Jurgens: There will be a cost share contribution from the Highway Department at this point we are not able to determine that. Part of this project is to increase the existing pipeline from a 12 inch pipeline to a 36 inch pipeline and we have to bear all of the cost of the increase in size of the pipe. A large portion of the expense will be borne by the City.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Gray and Lucas were absent.

Ordinance 5235 as Recorded in the office of the City Clerk.

<u>Agenda Additions:</u>

Willoughby Road Rezoning: An ordinance rezoning that property identified as Parcels 765-15560-000 and 765-15560-001, for approximately 15.2 acres, located south of Willoughby Road and 0.8 miles east of Highway 71B from R-A, Residential Agricultural to I-2, General Industrial.

Alderman Thiel moved to suspend the rules and add the ordinance to the agenda. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate: At a Special City Council meeting the city Council approved Resolution 83-09 awarding a contract the International Equipment Distributors (IED) to dispose of the mulch remaining from the ice storm debris. In the bids submitted, contractors selected sites that would meet their needs for that disposal. They would remove it from the existing sites, remulch it, and then remove it from the site and ship it to the end users. The site to be utilized by the contractor is this site. In our research of looking at the actual use of the property I-2 General Industrial Zoning District was really the only zoning district that would fit this particular use.

The petitioner agrees that the zoning of the property is solely requested to fulfill the term of the contract for this. I would like the Council to amend the ordinance and add a section that states ***the rezoning of the subject property is subject to a Bill of Assurance offered by the applicant.***

Jeremy read the Bill of Assurance.

Alderman Thiel moved to amend the ordinance to add Section 2 a Bill of Assurance. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Alderman Thiel: This site is very controversial in Ward 1. I am not sure that the citizens are aware that we are discussing the rezoning.

Mayor Jordan: We made the announcement last week that this would be coming forward.

Alderman Thiel: I understand they will be finished by May 20th. It says the contractor may work seven days per week all daylight hours.

David Jurgens: The intent to be finished by May 20th is to remove the debris from our current three sites. They will move it to this temporary site and have 120 days from the issuance of the notice to proceed to be completed at that location off Willoughby Road.

Alderman Thiel: Three months through the spring and summer?

David Jurgens: Possibly.

Alderman Thiel: They would be grinding on this site, seven days a week?

David Jurgens: That would be possible because of the density of the material that they have to haul out.

Alderman Thiel: They can work more than 10 hours per day if approved.

David Jurgens: We do not have to approve that. It would be a City administration decision to approve it or not.

Alderman Thiel: They can work 12 hours per day seven days a week grinding in this area that is not currently industrially zoned that is surrounded by neighborhood?

David Jurgens: If that is approved by the City administration.

Alderman Thiel: What was the process with this?

David Jurgens: We requested proposals from whoever wished to submit a proposal on how they would reduce the debris. We did not anticipate they would be doing the reduction here in town. In the discussions with the lowest proposer we offered staying at the current locations and that was not acceptable to do the reduction and mulching on those sites and then haul it after they grind. In the three proposals that we received the lowest two proposals had the same site selected which is this location. The third proposal had a site to dispose of it in Johnson but ADEQ would not approve that request. We really only have two viable alternatives, both of them in their proposals had this same location.

Alderman Thiel: I am very surprised that they got ADEQ approval to be able to contain this site. All of that is in a floodway. A large part of the floodway runs into the airport branch of the West Fork White River.

David Jurgens: They are actually in the process of soliciting ADEQ approval. They have submitted their request. One of the reasons we want to move the material from where it is now is because of the potential for environmental damage and pollution from runoff. In the proposal and in our discussions with them they said their intent was to have storm water containment. Any storm water would be contained and then could be pumped out and hauled away so that it would not go to the environment. That is one of the advantages of the site is that they could do that.

Alderman Thiel: I understand the urgency in this but there is no way I can support rezoning this based on the amount of destruction of that neighborhood for three months in the spring and summer. That is in a valley and that noise reverberates on either side of that hill.

Alderman Lewis: How was that site determined?

David Jurgens: It was entirely the choice of the proposer. They proposed the method by which they were going to dispose of the material in the end disposal as well as the process by which they were going to get it to the point of delivery. It was part of the bid proposal they submitted. There was no guidance or direction from the City on how their process would be. The two lowest proposals had a more beneficial reuse.

Alderman Lewis: We are paying them to haul it to a site they chose. How did they pick that site?

David Jurgens: They probably tried to find a site where they felt they could get the tractor trailers in and out without bogging down, where they could sit the chipper, and have the truck beside the grinding machine.

Alderman Lewis: They are going to do their processing from that site and then sell it from there?

David Jurgens: They will haul it away from there to wherever the final location is.

Alderman Lewis: Is there an option of exploring other places or does saying no to this site nullify the contract we have with them or are they open to more options or do they own that property?

David Jurgens: Sam Mathais signed the Bill of Assurance as the owner. We looked at the possibility of other alternatives but there are not a lot of sites that meet the requirements.

Don Marr: The contractor is here tonight. Some of the questions that you are asking are questions more appropriately answered by the contractor. The City did not make any requirement one way or the other in terms of location. This contract is contingent on the rezoning. If we do not get the rezoning we will not have a disposal contract. We need to think about our timing of the May 27th expiration of removing them and the potential cost to the City if we do not have an alternative which would be us not being reimbursed and having to do this disposal ourselves. Where we really got into this situation is there was a decision based on a lot of public comment and a lot of comments by those of you that are elected for us not to burn debris and to find reuses for it. We are now in a situation that we have to deal with the disposal aspect of the end product. I heard from people on the committee that they had some alternatives that did not pan out.

Gary Easterling, Contractor: We looked at several places and to have the volume and a place that we could get in with tractor and trailers is very difficult in this area. I covered most of the industrial park, places in Greenland, and Springdale. We looked at probably ten different places. We had people call that had fields but that will not work because you can't get in if it gets wet.

Alderman Thiel: This site is in a floodplain.

Gary Easterling: From what I understand the part that we are going to use is in the City and it is not in the floodplain.

Alderman Thiel: You are not going to use the race track area?

Gary Easterling: No.

Alderman Thiel: The City side is a hillside that flows straight down. ADEQ understands you are looking at the upper level?

Gary Easterling: Yes. We have a plan but they have not approved it.

A discussion followed on the hours of operation and why this site was chosen.

Alderman Thiel: I understand the dilemma but I can not support it.

Alderman Ferrell: I am sympathetic. It will be a lot of traffic. We are in a situation where we have to do it and we are in mandate and it is contingent on ADEQ.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Alderman Lewis: I am very glad we are not burning it. This is difficult. My question is related to storm water because of where it is located. I have seen lots of people say they are going to protect things from running in the rivers and it just doesn't happen. There are new technologies that are being implemented and I wonder if you would be willing to talk to me about some of those.

Gary Easterling: Definitely.

Alderman Thiel: I feel like this is something that has to happen but I can not express enough how disappointed I am that the public has not had any opportunity to weigh in on this because of the whole issue we went through to change the use of that property

Mayor Jordan: Last Thursday we made a public announcement that this meeting would be coming up and we would be discussing this. Has there been any public comment?

Don Marr: It was in the newspaper on Friday in addition to your announcement of the meeting on Thursday. Don explained the process and restrictions.

Mayor Jordan: I want the Council to understand something here even with this contract we are going to pay around $700,000 out of the coffers of the City. Probably the easiest thing for me to have done several months ago would have been to burn it. I felt we were more of an environmentally friendly City so I opted to grind it into much. Maybe that was a mistake but I thought it was the right thing to do at the time. Now we are in a situation where we are being strapped for time or we may have to add $200,000 to the bid to move it somewhere else. That is a lot of money.

Alderman Petty: I think you made the right decision not to burn it.

Alderman Cook: This ice storm has been a pain. The only consolation is that it is temporary.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Lucas were absent.

Assistant City Attorney David Whitaker read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Thiel voting no. Alderman Gray and Lucas were absent.

Ordinance 5236 as Recorded in the office of the City Clerk.

The meeting adjourned at 8:05 PM

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer