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
October 19, 2010

A meeting of the Fayetteville City Council was held on October 19, 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, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Rhoads and Alderman Lewis

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

<u>Consent:</u>

Approval of the October 5, 2010 City Council meeting minutes.

Approved

Riggs Cat of Springdale: A resolution authorizing purchase of a Caterpillar 236B3 skid steer loader from Riggs Cat of Springdale pursuant to a competitive bid, through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of $36,727.00 for use by the Solid Waste Division, and approving a budget adjustment.

Resolution 176-10 as recorded in the office of the City Clerk.

Williams Tractor of Fayetteville: A resolution authorizing purchase of a Bobcat S330 skid steer loader from Williams Tractor of Fayetteville pursuant to a competitive bid, through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of $42,738.00 for use as part of wastewater treatment plant biosolids solar drying operations.

Resolution 177-10 as recorded in the office of the City Clerk.

Countryside Farm and Lawn of Springdale: A resolution authorizing purchase of a John Deere 7230 110 HP tractor with #741 loader from Countryside Farm and Lawn of Springdale pursuant to a competitive bid, through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of $78,616.20 for use as part of wastewater treatment plant biosolids solar drying operations, and approving a budget adjustment.

This resolution was removed from the Consent Agenda.

Kim Hoadley Construction: A resolution awarding bid and authorizing a contract with Kim Hoadley Construction in the amount of $33,896.00 for purchase and installation of an outdoor cooler/freezer in a public facility building (Fayetteville Senior Center) through the Community Development Block Grant program (CDBG).

Resolution 178-10 as recorded in the office of the City Clerk.

Animal Services Donation: A resolution approving a budget adjustment in the amount of $10,115.00 to recognize donation revenue to Animal Services during the third quarter of 2010.

Resolution 179-10 as recorded in the office of the City Clerk.

Alderman Ferrell asked that Countryside Farm and Lawn of Springdale we removed from the Consent Agenda.

Alderman Gray moved to approve the Consent Agenda with Countryside Farm and Lawn of Springdale removed from the Consent Agenda and Tabled to the November 2, 2010 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Lewis were absent.

The following item was removed from the Consent Agenda and then Tabled to the November 2, 2010 City Council meeting.

Countryside Farm and Lawn of Springdale: A resolution authorizing purchase of a John Deere 7230 110 HP tractor with #741 loader from Countryside Farm and Lawn of Springdale pursuant to a competitive bid, through the National Joint Powers Alliance (NJPA) cooperative purchasing agreement, in the amount of $78,616.20 for use as part of wastewater treatment plant biosolids solar drying operations, and approving a budget adjustment.

Alderman Ferrell moved to table the resolution to the November 2, 2010 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads and Lewis were absent.

Unfinished Business:

2010 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas for the year 2010 Fixing the rate thereof at 1.3 mills for general fund operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. *This ordinance was left on the First Reading at the October 5, 2010 City Council meeting. A motion to increase the millage by .3 mills was Tabled to the October 19, 2010 City Council meeting.*

Alderman Petty 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 Rhoads and Lewis were absent.

City Attorney Kit Williams read the ordinance.

Paul Becker, Finance Director: As presented the millage would be the same as was levied last year. The general fund budget has an estimated revenue of $32.4 million. The expenditure budget was approximately $33.9 million. There is a short fall of approximately $1.5 million. That is keeping the revenues level for next year with what we expect them to end up this year. Over the last two year period we have reduced the General Fund budget by $2.6 million. A net of $2 million because we had to make some increases of about $600,000.

We had a discussion and a presentation on September 23rd. The options were to cut operating expenses, which we already have to the level that we believe we cannot cut any lower, without reducing delivery of services to the public and reducing personnel. Another option would be to use reserves, which was the Mayor's recommendation, to cover the $1.5 million. The other option was to cut the sales tax capital program and make a transfer to the general fund to cover the short fall. The last option is millage and what we do with millage. The Mayor's original proposal is to keep the millage the same as last year and to cover the short fall with reserves.

As we discussed and deliberated with the Council the Mayor got the sense the Council was uncomfortable using all the discretionary reserves to cover this. At the October 12th meeting we looked at the possibility of cutting capital. We identified certain projects we felt could be deferred. Those projects total to about $1 million. That $1 million could be transferred to the general fund which would reduce the amount of reserves that we would have to use. The

Mayor's recommendation is to transfer up to $1 million out of the capital program into the general fund and using the balance of reserves to cover the short fall.

Motion to increase the millage by .3 mills was Tabled to the October 19, 2010 City Council meeting.

City Attorney Kit Williams: What is before the City Council right now is the motion that was made by Alderman Cook to increase the millage by .3 from 1.3 mills to 1.6 mills. It was tabled to this meeting and is automatically off the table now.

Alderman Cook: I didn't want to use up the last of the reserves. My idea was to get a little bit of millage, use a little bit of budget cuts, and use a little bit of reserves. My proposal is .3 mills which is roughly $350,000. We have identified up to $1 million that we can probably change within the budget and then the balance of that would come out of reserves. I am hoping things turn around and we do not have to worry about it next year but you never know. I want to have a little reserve left.

Alderman Thiel: I agree with Kyle about supporting diversifying the City's revenue stream and using increased millage at some point. I have thought about it and feel like this is not a good time to do that. The school millage was just passed and the .3 mill is not going to make a great deal of difference. We've looked at some capital projects that we can use and I feel at this time we should leave it like it is. I don't want to use our reserves but I feel like we have some capital fund projects that can be shifted over into the operational side. I don't believe I will support this at this time.

Alderman Gray: I cannot support an increase in millage at this time. It's a very difficult time for folks making ends meet and I don't feel this is the time for a millage increase. The Council can change the amount we have to keep in reserves. That action was taken by the Council and it can be changed by the Council. I have heard constituents say we have reserves to use in times like these. I would suggest we use reserves and not raise the millage at this time.

Alderman Petty: I gave this serious consideration because while we have cut almost $2.5 million from the operations side of the budget I am still uncomfortable in depleting all of the undesignated reserve funds. I am thankful for your suggestion because it led to us identifying up to $1 million more in capital cuts. If we do that then the remainder of the deficit would only be about $400,000 or $500,000. I'm not going to support it at this time.

Mayor Jordan asked shall the amendment pass. Upon roll call the amendment failed 2-4. Alderman Cook and Lucas voting yes. Alderman Petty, Ferrell, Gray, and Thiel voting no.

The amendment to increase the millage failed.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5360 as Recorded in the office of the City Clerk

New Business:

ADM 10-3672 (Forest Hills R-PZD Modification No. 1): An ordinance amending a Residential Planned Zoning District entitled R-PZD 07-2793 Forest Hills to allow modification to the approved setback criteria for planning area four, as described herein.

City Attorney Kit Williams read the ordinance.

Jesse Fulcher, Current Planning gave a brief description of the amendment. He stated staff is supportive of the request.

Alderman Lucas: This is on the back, this is not on the main road, it is to the allies.

Jesse Fulcher: Exactly, anywhere there is a rear setback. Those rear setbacks only occur along the allies.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5361 as Recorded in the office of the City Clerk

Fayetteville Government Channel Policy: A resolution to adopt a new Mission Statement, Goals Statement and Operating Policies for the Fayetteville Government Channel.

Fritz Gisler, Government Channel Manager: Several months ago the subcommittee for the Government Channel Policy Telecommunication Board began to have meetings regarding the policy of how the Government Channel is programmed and the operational policies of different aspects of the channel. I was asked to research best in class government channel operations and other government channel operations across the country and to look at developing a government channel policy that would help position our Government Channel to be the same. Throughout that process I received input from several different stakeholders including staff members, members of the Telecommunications Board, and members of the public. I put together a Government Channel policies draft document that I distributed to the members of the Telecommunication Board in June. In September the Telecommunication Board, at their regular meeting, considered both that policy document and an additional policy document that had been looked at by the subcommittee. They voted 3-1 in support of the policy that is now before you. The Telecommunication Board endorses and supports the policy that is on your agenda as does staff.

The primary differences are in the areas of programming priority and request for programming. Programming priority in the current policy is somewhat vague as to the priorities of programs. This new policy will help us prioritize programming to be more in conjunction with directives from the City Council. The policy you have before you gives the Government Channel an opportunity to incorporate new technologies and new ways of doing things. It gives us the flexibility to respond to things on a day to day basis so we can be more responsive and accessible.

Alderman Thiel: There was another amended version was that more like the original?

Fritz Gisler: The other one was closely patterned after a policy document that was in effect in 2004.

Alderman Thiel: It went way back.

Fritz Gisler: Yes ma'am.

Alderman Ferrell: This reflects some positive organization that benefits all of the citizens, thank you.

Fritz Gisler: Thank you, sir.

Marvin Hilton, a Fayetteville resident recommended that the proposed policy be sent back to the Telecommunication Board for review by the subcommittee. The Telecom Board subcommittee did not review this policy. It erases several years of refinement in a policy that creates transparency at citizen participation. The policy included citizen request for FOIA meetings and issue forums. This proposed policy does not encourage transparency and it does not include citizen requests. It pretty much lets city staff have total programming content discretion. Why wouldn't you want to televise an FOIA meeting requested by a citizen? Why wouldn't you want to televise an issue forum requested by a citizen about a government issue? The version that the Telecom Board subcommittee worked on for months was a refinement of this policy that creates transparency and citizen participation. The Telecom Board only reviewed the proposed policy superficially.

He reviewed the differences in the two policies.

Alderman Petty: Why was the policy not reviewed by the Telecom Board subcommittee when it was available for them to review for a number of months? You stated the Telecom Board considered this only superficially, is there an explanation for that? You are a member of the Telecommunication Board?

Marvin Hilton: I was a member until the last nomination. I applied but was not nominated. I believe the people on the subcommittee did not take the policy written by the City very seriously. It was so different from the policy they had been working on for months. I believe the plan was to forward the one the subcommittee had been working on. They could be faulted for not making that clear.

Alderman Petty: What makes you think they would take it seriously if we sent it back a second time?

Marvin Hilton: I believe if you looked at both of those policies and compared them phrase by phrase and how that would have an overall effect on transparency and citizen participation I believe it would become clear that the one by the Telecom Board subcommittee would be the preferred policy.

Alderman Petty: Thanks for answering.

Marvin Hilton: We are operating in an atmosphere and environment where most cities operate a government channel where it is considered quite common for the city administration and city staff to determine the programming content. It's a good idea for the citizens to have an input in the process.

Alderman Petty: Thank you for answering my questions.

Alderman Ferrell: The Telecom Board in the last 10 years seems to have a significant turn over more so than other committees. What would you attribute that to?

Marvin Hilton: To really understand the issues is a lot of work. It's a lot easier to not have to review it in great detail. It's too bad the Telecom Board couldn't be paid maybe at least half of what the City Council gets because they have a lot of work to do. It's a very broad and very complex subject.

Alderman Ferrell: Thank you.

Jim Bemis: You have received my notes and you know where I stand on this. I urge the Council to appoint an ad hoc Telecommunications Committee as they did in 2003. My recommendation is to turn it back to the board and its subcommittee and do a detailed discussion. They can bring you a policy that can be worked out that might include both policies. The policy presented by the City is an operational policy. It could serve as a procedures document for city staff.

Alderman Gray: Do you recall that the Council asked for the board to come forward?

Jim Bemis: Yes, it was in 2008 and at that time you were presented a policy. There was discussion about the 2008 policy regarding some procedural issues involved in the development of that policy. You asked the Telecom Board to come back with a revised policy not the city staff.

Alderman Gray: Do you recall at that time how long you all thought it might take?

Jim Bemis: We had no way to know how long it would take.

Aubrey Shepherd, Chairman of the Telecommunication Board: I voted against this document because we had not publicly reviewed the words in the document. The reason we did not have any subcommittee meetings in the past three months is because we were told they would not be recorded and televised.

Alderman Ferrell: Would you say it was accurate that several Telecom Board members that left the Telecom Board said the reason they left was extreme frustration.

Aubrey Shepherd: I won't deny that. I suspect that's true.

Don Marr, Chief of Staff: I think there have been some statements made that imply actions of run around by city staff that are not true. This policy went to the Telecom Board three months prior to a vote taking place. It was at your direction that we reduce overtime and to use resources for the primary meeting policies that you outline. The Telecom Board is the only city committee that meets in Room 219 and has their meetings live. The reason issue forums are not included in this policy is because the City Council has voted on issue forums. Any citizen can be trained to have programs on the Community Access Channel. There is no requirement to film an FOIA meeting.

Alderman Ferrell: On more than one occasion I can remember having dialog about the fact that the Telecom Board was between being an advisory board and a policy setting body. They're not a policy setting body, they're an advisory board. The policy making body sits right here.

Mayor Jordan: There is nobody that has fought for citizen participation or open door government more than I have and will continue to do so. I came into office and we have been waiting on the Telecom Board for over two years to develop a policy. We got absolutely nothing. This may not be a perfect document but I find it somewhat offensive to be accused of a government take over of a channel that I have no intensions of taking over. I want to make it better and promote it for all citizens everywhere. There needs to be some structure and some changes and if you send it back to the Telecom Board you will be waiting another two years to vote on another policy.

Alderman Petty: I couldn't agree more. We gave the Telecom Board three months to take a look at this and we have to trust that at least the members that were willing to attend the meetings did their do diligence. The reason I don't feel comfortable sending it back is because I don't have a lot of confidence in the Telecom Board to conduct their business in a timely or effective manner. Those are my observations during my two years on the Council. The Telecom Board is supposed to produce quarterly reports?

Don Marr: Quarterly and yearly.

Alderman Petty: I haven't seen any of those in my two years. I hope with these comments tonight the Telecom Board can maybe change the way they are doing business and be a little bit more effective in the future.

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

Resolution 180-10 as recorded in the office of the City Clerk.

Support Constitutional Amendment No. 2: A resolution to support the passage of referred Constitutional Amendment No. 2 which would eliminate the limit on the interest rate of 2% above the Federal Reserve Rate for tax supported government bonds and of 5% above Federal Reserve Discount Rate for revenue bonds and for consumer loans subject only to the Constitutional Limit of 17%.

Alderman Ferrell: I handed out a list of the cities across the state that are supportive of the amendments.

Steve Clark, President of the Fayetteville Chamber of Commerce gave a brief description of Constitutional Amendment No. 2 and Amendment No. 3. He stated over 70 cities or counties that have endorsed these amendments. He stated this will help attract capital for city projects. He urged the Council to vote positively and adopt a resolution supporting the passage of issues two and three. Amendment No. 3 will allow Arkansas to give incentives to new industries.

Stephen Smith, President of the Northwest Arkansas Labor Council and resident of Ward 2 spoke in opposition of both amendments. He stated this will send a troubling message to working families in NW Arkansas. It says their will be no limit on the interest that the cities will pay on these bonds. It might make municipal bonds easier to sell it also makes them more difficult to pay off. Proposed Amendment No. 2 would remove all power from the people in voting on the issuance of bonds.

Alderman Cook: I appreciate Mr. Smith's comments. At this point I don't want to support these because I am going to vote on them in November. I don't want to make a stand on these because I am still collecting information. I'm not willing to support this resolution.

Alderman Thiel: I've always been reluctant as a council member to endorse State or National legislation. Both gentlemen have brought out some good points but this is something we are advocating the public to do. The public will vote on this. I feel reluctant to support these resolutions at this time.

Alderman Petty: I don't know where I stand on it because I haven't had the time to investigate to an appropriate depth.

Alderman Ferrell: Professor Smith was talking about the possibility of the interest rates and legislature being the ones where this is going to be decided. The market is going to drive what the interest rates are. In the business environment we are in today it is now and will continue to be critical to be able to attract capital.

Alderman Lucas: This is something that Arkansas has held on to for many years but I think for the City of Fayetteville we need to have the option if we are going to bring business in here. I support this.

Alderman Petty moved to table the resolution indefinitely. Alderman Thiel seconded the motion. Upon roll call the motion passed 4-2. Alderman Cook, Petty, Gray, and Thiel voting yes. Alderman Ferrell and Lucas voting no. Alderman Rhoads and Lewis were absent.

This resolution was tabled indefinitely

Support Constitutional Amendment No. 3: A resolution to support the passage of referred Constitutional Amendment No. 3 to amend Amendment No. 82 of the Arkansas Constitution by removing the Constitutional requirements for an eligible Economic Development Project.

Alderman Petty: I want Alderman Ferrell to know that I don't want to shoot this down and give the public the perception that they shouldn't vote for it. At the same time I'm not confident on giving them a recommendation.

Alderman Petty moved to table the resolution indefinitely. Alderman Thiel seconded the motion. Upon roll call the motion passed 4-2. Alderman Cook, Petty, Gray, and Thiel voting yes. Alderman Ferrell and Lucas voting no. Alderman Rhoads and Lewis were absent.

This resolution was tabled indefinitely

Announcements:

Alderman Lucas announced Ward 4 will not have a meeting on Monday night. She encouraged everyone to attend the Town Hall meeting at the Boys and Girls Club at 7:00 p.m.

Meeting adjourned at 6:45 p.m.

Lioneld Jordan

Lioneld Jordan, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer