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
City Council Meeting Minutes
November 2, 2010

A meeting of the Fayetteville City Council was held on November 2, 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 Thiel, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Gray and Cook

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 19, 2010 City Council meeting minutes.

Approved

Fayetteville MSA Limited Partnership D/B/A Verizon Wireless Lease Agreement: A resolution approving a lease agreement extension with Fayetteville MSA Limited Partnership D/B/A Verizon Wireless for cell antenna space on the Township water tower.

Resolution 181-10 as recorded in the office of the City Clerk.

Sprint/Nextel Property Services LLP Lease Agreement: A resolution approving a lease agreement extension with Sprint/Nextel Property Services LLP for cell antenna space on the Mount Sequoyah water tower.

Resolution 182-10 as recorded in the office of the City Clerk.

City of Tontitown Inter-Local Agreement (Animal Sheltering): A resolution approving an inter-local agreement between the City of Fayetteville, Arkansas and the City of Tontitown, Arkansas to provide animal sheltering services to the City of Tontitown through the end of 2011.

Resolution 183-10 as recorded in the office of the City Clerk.

Bid #10-59 Carrier Corporation: A resolution awarding Bid #10-59 and authorizing a contract with Carrier Corporation in the amount of $58,620.00 for the purchase and installation of heating and air conditioning improvements for the Police Department building.

Resolution 184-10 as recorded in the office of the City Clerk.

Bid #10-63 King Electrical Contractors, Inc.: A resolution awarding Bid #10-63 and authorizing a contract with King Electrical Contractors, Inc. in the amount of $45,140.00 for the purchase and installation of lighting improvements for the Police Department building.

Resolution 185-10 as recorded in the office of the City Clerk.

Sweetser Construction, Inc. Change Order #3: Bryce Davis Park: A resolution approving Change Order #3 to a contract with Sweetser Construction, Inc. in the amount of $66,668.00 for the construction of phase three of Bryce Davis Park.

Resolution 186-10 as recorded in the office of the City Clerk.

2010-2011 Internet Crimes Against Children (ICAC) Task Force Program Grant: A resolution authorizing acceptance of a 2010-2011 Internet Crimes Against Children (ICAC) Task Force Program continuation non-matching grant in the amount of $10,000.00 for the purchase of a forensic recovery of evidence device for the Fayetteville Police Department Special Investigations Unit.

Resolution 187-10 as recorded in the office of the City Clerk.

2010 Bulletproof Vest Partnership Program Grant: A resolution authorizing acceptance of a fifty percent (50%) matching grant award from the 2010 Bulletproof Vest Partnership Program in the amount of $9,100.00 for the replacement of twenty-five (25) body armor vests, and approving a budget adjustment.

Resolution 188-10 as recorded in the office of the City Clerk.

Joe Perme Construction, Inc. Change Order: A resolution approving a change order to a contract with Joe Perme Construction, Inc. for improvements to a public facility building in the amount of $3,300.00 as part of the Community Development Block Grant Subrecipient Program.

Resolution 189-10 as recorded in the office of the City Clerk.

Delta Group Electronics, Inc.: A resolution to approve and certify the participation of Delta Group Electronics, Inc. in the Arkansas Tax Back Program and to agree to authorize DF&A to refund city sales tax back to Delta Group Electronics, Inc.

Resolution 190-10 as recorded in the office of the City Clerk.

Sweetser Construction Change Order No. 2: Drake Field Runway Safety Area Project: A resolution approving Change Order No. 2 to the contract with Sweetser Construction Co., Inc. for the Drake Field Runway Safety Area Project, approving a request for a grant amendment to the Federal Aviation Administration to authorize an increase in the approved grant request from the Arkansas Department of Aeronautics to an amount equal to ninety-five percent (95%) and five percent (5%) respectively of final project costs, and approving a budget adjustment.

Resolution 191-10 as recorded in the office of the City Clerk.

Alderman Thiel moved to approve the Consent Agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Cook were absent.

Unfinished Business:

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 at the October 19, 2010 City Council meeting and Tabled to the November 2, 2010 City Council meeting.*

Don Marr, Chief of Staff stated Dennis Pratt asked that the resolution be tabled indefinitely. The item will be sent back to the Equipment Committee for further discussion.

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

This resolution was tabled indefinitely.

New Business:

Cato Springs Road Widening Project Condemnation and Possession: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by David and Susan Druding, Northwest Property Management, Richard Lee Watson, Ronald L. Troutman, Funland R.B.S., Inc., and Earl F. and Murlene G. Webb needed for the Cato Springs Road Widening Project.

City Attorney Kit Williams: Engineering has been able to settle some cases and some that they thought were going to be settled were not therefore I have prepared an amended resolution.

Chris Brown, City Engineer: We originally had six properties that were on the original resolution. We were able to settle with Northwest Property Management and Ronald L. Troutman. We thought we had settled with the Sparks Property, Ross Property, and Stoppel Property but we were not able to.

A discussion followed regarding an amendment.

Alderman Ferrell moved to amend the property owners as requested. Alderman Petty seconded the motion.

Mayor Jordan read the amended resolution.

Upon roll call the motion passed 6-0. Alderman Gray and Cook were absent.

City Attorney Kit Williams: Page three is an email from Jill Goddard that lists the price evaluations that have been offered to each one of the land owners but so far they have rejected that. Even if this condemnation authorization goes forward and even if we file a condemnation it does not mean we will not keep working with the land owners to see if we can arrive at some amiable solution.

David Druding: I gave each of you a copy of a letter I emailed to Holly Jones, who is the Land Acquisition Officer, that I have been negotiating with. A week ago I sent her a letter and stated I felt from the research I've done that the property values of $3.30 a square foot for my property on the corner of Vale and Cato Springs Road and the $.82 per square foot for the large section of land that is going to be taken as a permit easement was considerably below what I've been told the market value is for my property. I have not yet done a dual purpose appraisal for eminent domain purposes and if you precede with the condemnation proceedings as I have stated in an email I feel like this is beyond my ability as a lay person to negotiate any further. I've made it obvious that I was willing to continue to attempt to negotiate but if this goes into a condemnation I will feel like I need to step back and I will have legal counsel do that.

Alderman Ferrell: We have dates and times we have to have construction completed by.

David Drudging: I understand that.

Alderman Ferrell: You feel certain you don't see any daylight. I hate to see people have to hire a lawyer.

David Druding: I hate to do that too. If I feel like we are done with the negotiations between me and the City and it's going to become an issue of it being taken by the City through court actions, I feel like I have to defend myself.

Alderman Ferrell: I take it this is an authorization to start that.

David Druding: That authorization will then be followed through by the city attorney.

Alderman Thiel questioned City Attorney Kit Williams about the land value of the property and what the city is required to give.

City Attorney Kit Williams: We are required under the law to pay just damages for any property we take. We are taking an easement which is a portion of the land that we need for the utility easement. We might be taking some of the land for right-of-way.

Chris Brown: Each property has a separate appraisal. Reed & Associates was hired to develop a before and after value. The difference between those two values is the amount we offer as compensation. The appraisals were prepared and reviewed by the Highway Department because they are involved with the federal funded in the project. They came back and we made offers based on the appraisals. We did in some cases adjust those based on landscaping, things that weren't reflected clearly in the appraisal. Mr. Druding is requesting $12 per square foot. The highest number we had on the entire project was about $4 per square foot at School and Cato Springs where the property values are typically going to be higher.

Alderman Thiel: Thank you.

City Attorney Kit Williams: It's rare we have to go to court for an appraisal or condemnation. We have in the past and we have been able to settle virtually all of them. We have a duty to the tax payers not to pay more than what's fair market value for the land that we must obtain for our tax payers to use to enlarge and widen that street.

Don Marr: This is a time sensitive project tied to federal funding dollars. Because of the delay of this project through the federal funding and the State we are at a very tight time frame which is why we are trying to do this now. We have a time period of which we have to begin to utilize the funds otherwise this project will be in jeopardy.

City Attorney Kit Williams: City staff can continue to work with Mr. Druding. If he hires a lawyer that's fine and I will work with his lawyer but even when we start the condemnation process City staff can contact and work with Mr. Druding to see if they can arrive at a settlement.

Alderman Lewis: To clarify there are four other properties that are not yet settled?

Chris Brown: There are a total of seven.

City Attorney Kit Williams: Each one is on the resolution.

Alderman Lewis: You said not settled on some of them.

Chris Brown: At Agenda Session the previous resolution included six properties. We settled two of those but then we had three properties that we thought had settled so they were not on the original resolution that we have had to add. Now we have a total of seven.

Alderman Lewis: Okay, it's my understanding that the Council at this point is saying yes or no to moving ahead with this process.

Chris Brown: Yes.

Alderman Lewis: That's what the Council's roll is in this.

Chris Brown: This authorization is for the City Attorney to begin the process.

Alderman Lucas: You're still open to negation.

Chris Brown: Yes, we have one we think we will settle tomorrow. We will avoid condemnation in all cases that we feel like we have a settlement that is fair to the tax payers both for the property owner and the City.

Mayor Jordan asked Alderman Ferrell if this has been discussed at the Street Committee.

Alderman Ferrell: Yes, we did.

Alderman Lewis: I'm appreciative of you working with the property owners. That's really important, thank you.

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

Resolution 192-10 as recorded in the office of the City Clerk.

Highway 265 Water and Sewer Relocation Condemnation and Possession: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by

The Salmon Family Trust, John A. and Linda L. Dominick, J. Andrew and Rebecca Baxter, Murphy R. and Betty N. Taylor, John David Brown, Doug W. and Melonie Ramsey, Corey E. and Amanda Osborne, Daniel J. and Deborah Jo Wright and John R. and Rebecca Ann Rutledge needed for water and sewer improvements along Crossover Road (State Highway 265).

City Attorney Kit Williams: Engineering has changed the number of properties that we need to file a condemnation on so that we can have an order of possession and construction can go forward.

David Jurgens, Utilities Director: We originally started with nine easements that we did not have resolved as of last week. We received one from Baxter. I spoke to Mr. Ramsey he has signed his documents and put his in the mail and we have an agreement with Osborne. We have others we are negotiating with and we feel we will be able to come to an agreement. The request is to remove Baxter, Ramsey, and Osborne.

City Attorney Kit Williams: I was informed by Jill Goddard to leave Ramsey on.

David Jurgens: He told me he sent the signed documents in the mail. We simply have not seen them yet.

Mayor Jordan read the amended resolution.

Alderman Thiel moved to amend the property owners as requested. Alderman Lewis seconded the motion. Upon roll call the motion passed 5-0. Alderman Petty was absent during the vote. Alderman Gray and Cook were absent.

Alderman Thiel moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed 5-0. Alderman Petty was absent during the vote. Alderman Gray and Cook were absent.

Resolution 193-10 as recorded in the office of the City Clerk.

Residential Trash Rates: An ordinance waiving the requirement of Fayetteville Code of Ordinances Section 50.40(A) (4) for an automatic annual price adjustment of residential trash rates for fiscal year 2011.

City Attorney Kit Williams read the ordinance.

Alderman Petty: I support this but I do so cautiously. Recycling has always been a big deal for Fayetteville and even for critics of the system we have. All of us can agree that we want the system to be more efficient and effective than it is. No matter which side of that you fall on that means some sufficient capital improvements in order to accomplish those goals. We can't fund those improvements without rate increases in the future.

Alderman Ferrell: I would disagree with Matthew. When you sit through rate studies you realize when they figure the studies they figure in capital improvements, etc. when they set the rates. I'm not saying we are not going to need them, I'm saying they're looking ahead and seeing what the needs are going to be.

Alderman Thiel: I understand a study has been made for the recycling.

David Jurgens: Yes, RW Beck completed a study last year. We are implementing the first phases now and we are bringing the later phases in for north central recycling drop off facility. We have been doing surveys with apartments and our recycling drop off center on how to improve and expand our recycling to add in apartments. It has not been successful anywhere in the country. We think we have some things that can make ours better.

Alderman Thiel 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 Gray and Cook were absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5362 as Recorded in the office of the City Clerk

Commercial Trash Container Parts: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of commercial trash container parts through a competitive quote process.

City Attorney Kit Williams read the ordinance.

David Jurgens gave a brief description of the ordinance.

Alderman Lucas 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 Cook were absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel 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 Gray and Cook 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 Gray and Cook were absent.

Ordinance 5363 as Recorded in the office of the City Clerk

Washington County Animal Shelter Partnership: A resolution to express the City Council's willingness to explore the possibility and feasibility of partnering with Washington County to build and operate a county animal shelter for the use of all county residents including Fayetteville citizens.

Don Marr gave a brief description of the resolution.

Alderman Thiel: It was my understanding the County committee is going to do their study on the 4th or 5th and present it to the County on the 9th. That's based on, at this point, just a shelter to house the county animals. Based on that information and after a lot of thought about this I believe this action is premature. The City staff is short handed and probably does not need the extra work load to do this study. I'm not sure what they are studying since the County hasn't offered a proposal. As Shirley pointed out and I agree the city residents are happy with the shelter we have. We've spent money on our shelter over the past few years in making improvements. I don't want to rule out partnering with the County in the future but I have some reservations.

Alderman Lewis: Don, are we going to meet with them and talk to them about this? What are we talking about?

Don Marr: I don't have a lot of detail. As I understand it from what we are being asked to do is we currently have three budgeted items in Animal Services with the City, the shelter operations, animal control services, and veterinarian services. Animal control service is something the City would be required to retain, if it operates like any other part of the incorporated or rural areas. They either contract with Washington County for that service or they provide it on their own. I don't know if the veterinary and sheltering part of the budget would be included and retained based on what the plans are for the counties operating.

My understanding is the committee was put together to look at providing the same services that the City of Fayetteville currently provides to those communities that we have given notification to.

Alderman Lewis: Part of the issue is we need another shelter. There are too many animals for the space we have to shelter. Staff is asking the Council to give them permission to communicate with the County.

Don Marr: They've asked us if there is an interest from the City in looking at building a shelter and changing from a City function of Animal Services to a County function and are there economies of scale and efficiencies and operations to have a county run shelter.

Alderman Rhoads: Based on the resolution I believe it is a good idea to explore the feasibility and the possibility. If it appears to be taking an ungodly amount of city time, then scale it back.

Alderman Lucas: I am concerned about several things Brenda brought out. We have a good shelter right now and possibly in the future we may want to join with the County but I don't see why we need to spend more right now for staff, time, and resources to study whether we want to join them down the road.

Alderman Lewis: What is the status of the Fayetteville City shelter taking County animals?

Don Marr: We currently have yearly contracts with many of the incorporated areas of the county and the County itself. Our intention is to continue to do that through 2011. We are firm on the fact that the current shelter will meet the space needed for Fayetteville at this time.

Alderman Thiel: What did you just say?

Don Marr: We are confident about not renewing contracts outside the City of Fayetteville after 2011. We would not be able to accommodate those and meet the needs of Fayetteville after 2011.

Alderman Lewis: It's a difficult situation. To me the idea that it's premature is the reason you need to look into something. The shelter and financial staff would be the ones looking at the numbers.

Don Marr: I see the team at the City being Justine at the Animal Shelter, Yolanda Fields, Jeremy Pate, and myself. We can get information from the County and then it becomes an evaluation factor.

Mayor Jordan: We have the Chair of the County committee here if you would like to hear from her.

Alderman Rhoads: Mayor what is your position?

Mayor Jordan: I think we need to open dialogue with the County and see what is available out there. All we are saying is we want to explore the possibility of if we want to partner with them. If there are four votes here I will vote for it.

Alderman Lucas: You are saying our shelter is out of date, we don't need our shelter and we need to close our shelter and join with the county.

Mayor Jordan: I am not saying that at all. I am just saying I want to see what is available, study it and open up dialogue between us and the County.

Alderman Thiel: If we pass this we are not going to do any studying until after the committee has made their proposal to the County. Until we have some information I don't know why we are doing this.

Mayor Jordan: I don't know why we wouldn't do it. Why don't we ask the County Chair?

Teddy Cardwell, Chair of the Washington County Animal Advisory Board. We have been studying building a County shelter. The resolution you have before you is to involve the City in talking to us about what we have been studying. There is no obligation on your part.

She described the past relationship between the County and the City and stated all we are asking is to be involved in the conversation.

Mayor Jordan: It was my understanding we would open up dialogue and see what is available.

Teddy Cardwell: It's much easier, as we see it if the City of Fayetteville is interested in this becoming a County service, to build a shelter on the front end that is large enough to accommodate everybody. We are just saying that maybe together we can make it better for everybody.

Alderman Rhoads: It's a no lose situation. There is a lot to gain. If you don't do it you lose a neighborliness that local entities should have and you lose an opportunity to be part of it on the front end.

Alderman Thiel: I don't think we want to be unneighborly but what this says to me is that we will definitely consider this now. What Springdale said is we may consider it in the future. That is where I am at. I want us to have a conversation with the County but I don't want them to feel like we are obligating ourselves until I see how things are going to work at the County shelter. At this point I am concerned about what we are getting into with this resolution.

Alderman Petty: I think the conversation we had at Agenda Session made it very clear to the County that even if this passes we are only interested in research to help a decision in the future and we are not interested in obligating ourselves at all. I am going to vote for it. I am still interested in exploring all potential improvements and evaluating them on their own merits. All we are doing is asking staff to do the research for us and bring it back to us so that we can make an informed decision.

Alderman Ferrell: What I want to do is expressly have a statement. I would like to amend this resolution.

Alderman Ferrell moved to amend the resolution to state that nothing expressed by this resolution commits the City to expend any funds. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Gray and Cook were absent.

Alderman Lewis: I would like to get rid of Section 2. I like the idea of exploring possibilities and feasibility but I don't like the idea of suggesting that we would replace the Fayetteville Animal Shelter.

Alderman Lewis moved to remove Section 2 of the resolution. Alderman Thiel seconded the motion. Upon roll call the motion passed 5-1. Alderman Petty voting no. Alderman Gray and Cook were absent.

Alderman Thiel moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed 5-1. Alderman Lucas voting no. Alderman Gray and Cook were absent.

Resolution 194-10 as recorded in the office of the City Clerk.

Meeting adjourned at 7:15 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer