

**Aldermen**

Mayor Lioneld Jordan  
City Attorney Kit Williams  
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray  
Ward 1 Position 2 – Brenda Thiel  
Ward 2 Position 1 – Kyle B. Cook  
Ward 2 Position 2 – Matthew Petty  
Ward 3 Position 1 – Robert K. Rhoads  
Ward 3 Position 2 – Robert Ferrell  
Ward 4 Position 1 – Shirley Lucas  
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas  
City Council Meeting Minutes  
December 21, 2010**

A meeting of the Fayetteville City Council was held on December 21, 2010 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Mayor Jordan called the meeting to order.**

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

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions:**

**Alderman Kyle Cook  
Alderman Robert Rhoads  
Alderman Shirley Lucas**

**Mayor Jordan** presented Alderman Cook, Alderman Rhoads, and Alderman Lucas with a plaque for their commitment and service to the citizens of the City of Fayetteville. He thanked them for their dedication, loyalty and friendship.

**Alderman Cook** thanked his wife and mom. I pretty much followed what I said I would do. I always did what I thought was right. I loved my time on the City Council.

**Alderman Rhoads:** It has been an enjoyable experience to serve on the Council. I have always tried to look at what is best for the City of Fayetteville.

**Alderman Lucas:** It has been a great eight years. I was blessed with Ward 4. I would like to thank all the people in Ward 4 for electing me twice. It was a joy to serve not only Ward 4 but

the City. I would like to thank the staff and the Mayor. I appreciate the Mayor's leadership. I would also like to thank my husband, Andy.

**City Council Meeting Presentations, Reports and Discussion Items:**

**Nominating Committee Report:**

Alderman Cook read the Nominating Committee Report. A copy of the report is attached.

**Alderman Cook moved to approve the Nominating Committee Report. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

**Agenda Additions:**

**Alderman Rhoads moved to add the following item to the agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.**

**Fayetteville Public Facilities Board Change Underwriting of Bonds:** A resolution to ratify the amended resolution of the Fayetteville Public Facilities Board which changes the underwriting of the bonds from Lancaster Pollard and Company to Stephens, Inc.

**Dennis Hunt**, Stephens, Inc. thanked Alderman Rhoads for introducing the item for consideration and also thanked City Attorney Kit Williams for facilitating the process with Butterfield Trail. On December 7, 2010 the Council approved a resolution that allowed the Fayetteville Facilities Board to issue bonds for the benefit of Butterfield Trail Village. Butterfield Trail Village tried to issue those bonds and the underwriter at that time was unable to achieve interest rates that were acceptable to Butterfield Trail Village. Butterfield Trail Village decided to ask Stephens to market the bonds at a favorable interest rates. Stephens has committed to Butterfield Trail Village to underwrite the bonds at a better interest rate. Therefore a new resolution needs to be approved.

**Alderman Ferrell moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed unanimously.**

***Resolution 218-10 as recorded in the office of the City Clerk***

**Consent:**

Approval of the December 7, 2010 City Council meeting minutes.

***Approved***

**State Forfeiture Revenue:** A resolution approving a budget adjustment to recognize state forfeiture revenue for budget year 2010 and to approve expenditures therefrom in the amount of \$14,369.30.

***Resolution 219-10 as recorded in the office of the City Clerk.***

**Federal Forfeiture Revenue:** A resolution approving a budget adjustment to recognize federal forfeiture revenue for budget year 2010 and to approve expenditures therefrom in the amount of \$16,815.11.

***Resolution 220-10 as recorded in the office of the City Clerk.***

**Pinkley Sales Company:** A resolution approving a contract with Pinkley Sales Company in the amount of \$25,301.93 for the purchase of traffic preemption devices.

***Resolution 221-10 as recorded in the office of the City Clerk.***

**Physio-Control, Inc.:** A resolution authorizing a contract with Physio-Control, Inc. in the amount of \$24,974.17, pursuant to a state procurement contract, for the purchase of eleven (11) automated external defibrillators for the Fayetteville Fire Department.

***Resolution 222-10 as recorded in the office of the City Clerk.***

**Bid #10-61 Williams Tractor, Inc.:** A resolution awarding Bid #10-61 and authorizing a contract with Williams Tractor, Inc. in the amount of \$29,439.00 for the purchase of one 2206 all purpose H&S spreader for use in the wastewater biosolids solar drying project, and approving a budget adjustment.

***Resolution 223-10 as recorded in the office of the City Clerk.***

**Bid #10-67 Aulick Industries:** A resolution awarding Bid #10-67 and authorizing a contract with Aulick Industries in the amount of \$72,784.00 for the purchase of one 2206 forty-two foot belted walking floor trailer for use in the wastewater biosolids solar drying project, and approving a budget adjustment.

***Resolution 224-10 as recorded in the office of the City Clerk.***

**Bid #10-69 Cruise Uniforms & Equipment, Inc.:** A resolution awarding Bid #10-69 and authorizing a contract with Cruise Uniforms & Equipment, Inc. in the amount of \$16,762.50, with four consecutive one year renewal options, for the purchase of uniforms for the Fayetteville Fire Department.

***Resolution 225-10 as recorded in the office of the City Clerk.***

**Overlay/Sidewalk Projects:** A resolution approving the Transportation Division Overlay/Sidewalk Projects list for 2011.

***Resolution 226-10 as recorded in the office of the City Clerk.***

**Lake Sequoyah Bait Shop:** A resolution authorizing a contract with Michael McBride in the amount of \$20,000.00 to provide operation of the Lake Sequoyah Bait Shop.

***Resolution 227-10 as recorded in the office of the City Clerk.***

**City of Farmington Amendment No. 2:** A resolution approving Amendment No. 2 to the wastewater collection and treatment services contract with the City of Farmington.

***Resolution 228-10 as recorded in the office of the City Clerk.***

**Watershed Conservation Resource Center Amendment No. 1:** A resolution approving Amendment No. 1 to the Memorandum of Understanding with the Watershed Conservation Resource Center in the amount of \$119,431.00 for a stream restoration project on a section of the West Fork of the White River adjacent to the Fayetteville Executive Airport, and approving a budget adjustment.

***Resolution 229-10 as recorded in the office of the City Clerk.***

**Jacobs Engineering Group, Inc. Supplemental Agreement No. 3:** A resolution approving Supplemental Agreement No. 3 with Jacobs Engineering Group, Inc. for engineering services for the Fayetteville Expressway Economic Development Corridor Project in the amount of \$370,851.54, and approving a budget adjustment in the amount of \$296,682.00.

***Resolution 230-10 as recorded in the office of the City Clerk.***

**Dickson Street Entertainment District Parking Services:** A resolution approving a contract with the Walton Arts Center Council, Inc. for the provision of parking-related services in the Dickson Street Entertainment District.

***Resolution 231-10 as recorded in the office of the City Clerk.***

**Community Access Television, Inc.:** A resolution approving a contract with Community Access Television, Inc. in the amount of \$93,000.00 to provide public access television channel operation services for calendar year 2011.

**Alderman Petty** asked that the Community Access Television, Inc. item be removed from the consent agenda and placed in New Business # 2.

***This item was removed from the Consent Agenda and placed in New Business #2.***

**Alderman Cook** moved to approve the Consent Agenda with the last item **Community Access Television, Inc.** moved to New Business # 2. **Alderman Lucas** seconded the motion. Upon roll call the motion passed unanimously.

**Unfinished Business: None**

**New Business:**

**Walton Arts Center Council, Inc. New lease Agreement:** A resolution to authorize the City Attorney to negotiate a new lease agreement with the Walton Arts Center Council, Inc.

**Alderman Thiel:** Alderman Gray and I brought this forward. We felt strongly about protecting the interest of the citizens of Fayetteville and the businesses on Dickson Street. I had a lot of constituent's contact me and they feel like we need to do something.

**Alderman Gray:** Everyone knows that I am an avid supporter of the Walton Arts Center. I have somewhat mixed feeling about this but as Brenda said we have so many constituents who are upset about the things that have been happening in the last few weeks. They want some guarantee that the Walton Arts Center is going to be able to serve Fayetteville and its constituents as it has for many years. That's the reason we are seeking a contract so that we can know that what they have said they are going to do they in fact will do.

**Suzie Stephens** resident of 705 North Sunset Drive and Business Owner on Dickson Street: As a business owner on Dickson and one who has a master's degree in theatre from the University of Arkansas and one who has watched this amazing Northwest Arkansas grow, develop and become more of our originality. When I heard about the new 2,200 seat arena in Bentonville I was excited. I know the Walton Arts Center operates as a business and it's silly to think they would do anything less than to try to bring in the greatest of performances of theatre, orchestra and dance and do anything that would effect making it a positive business in Fayetteville.

On the flip side a 2,200 seat arena in Bentonville would allow great shows, things the Baum Walker Auditorium cannot technically handle. There are some venues that don't want to be in a 2,200 seat theatre. We are going to get a new 600 seat theatre so that we can do a lot more things. Why are we going to add theatres if we don't need them. We need them everywhere for the enjoyment.

**Bob Nickel,** Ward 1 resident: Thanked the city staff and the ones who put together the proposal for the Walton Arts Center. I think it was a magnificent proposal, it was only missing one thing a financial guarantee package. As a city we can't give that to them. I feel it would be inappropriate to renegotiate a contract. I believe them when they say they are going to have good programming here and they are not going to let this die on the vine. It would not be to their benefit. I don't think that we need to demand some document that says they are going to commit to us. I don't think we need to try to force an issue. I think it would be inappropriate and it might hurt the funding raise efforts that are going to build both new facilities.

**Terri Trotter,** resident of Fayetteville and with the Walton Arts Center: Our current lease, which is held jointly between the City of Fayetteville and the U of A, is valid through 2017. We don't see a need to take a look at that right now. However, I want to let you know we are very much looking forward to conversations moving forward with the City, the Mayor, and the

Chancellor. We have a lot of exciting things on the horizon. The opportunity to create a new theatre complex in our Entertainment District is something that we can hardly wait to get started on. There is a lot we have to figure out in moving forward with that. We are anxious to start those dialogs about the things that will help us move forward. Things like figuring out where we are going to put this and what are the development opportunities. Creating a new complex gives us the opportunity to begin to look at what goes with that. We have to address the parking issue, that is something you have been fantastic in working on already, the opportunity for additional retail, for a hotel, there are limitless possibilities down there. We have a lot of dialog that needs to happen. We are excited about beginning those conversations. We hope that we can turn our attention to planning for how we grow the entertainment district.

**Alderman Petty:** If you count all the existing theatres and the seats in the stadiums and the planned theatres, how many seats will the Walton Arts Center be managing?

**Terri Trotter:** Roughly 30,000.

**Alderman Petty:** Only 2,200 of those will be in Bentonville?

**Teri Trotter:** Correct.

**Alderman Petty:** Thank you.

**Alderman Thiel:** That is after everything is built out as planned, right?

**Terri Trotter:** Yes. In addition to new bricks and mortar projects, one of the things we have heard from the University and people in Northwest Arkansas, is an area they feel lacking is popular music concerts. We have begun looking at how we might be able to address that need. Two things we have looked at are working on an opportunity to purchase the AMP. We have also been working with the University particularly the athletes department to be their concert management agent.

**Alderman Thiel:** Why do you see a down side or problem with looking at this contract again? We do that with non profits that run facilities for us that offer things to our public.

**Terri Trotter:** When you have a building lease that is the time to talk about content. I understand this is largely about content and that is really not the purpose of a lease. We have committed to maintaining quality arts and entertainment in Fayetteville. That is what we are all about. If we don't do that we have a huge challenge in terms of being able to run our business. We are a non profit organization which means we rely on the sale of our product. People have to want to buy tickets, they have to not only want to buy tickets, they have to want to donate money on top of buying their tickets for us to even do what we do. We are very committed to making sure we maintain quality programming. I can't tell you specifically what programming we are going to have five to ten years from now, nobody can. We don't know what the world will look like five to ten years from now. We can tell you what the vision is for the spaces and how we see that functioning. We see Baum Walker Hall functioning in a very similar way to how it functions now. It is a very multi purpose hall, everything from Broadway to dance, music and

classic entertainment That is how we see that hall function, that is what a 1,200 seat hall does for performing arts centers. We see additional opportunities for both of the two new venues, largely bringing in performances that are not currently in the market place.

**Alderman Gray:** Would you tell me about the 30,000? Are you counting Bud Walton?

**Terri Trotter:** Yes, we were looking at Bud Walton, Barn Hill, The AMP, Baum Walker Hall, a new 600 seat hall, a new 2,200 seat hall, Star Theater and possibility Nadine Baum Studios.

**Alderman Gray:** Thank you.

**Steve Clark,** President of Fayetteville Chamber of Commerce: On behalf of the Fayetteville Chamber of Commerce he thanked Alderman Cook, Alderman Rhoads, and Alderman Lucas for their leadership and the things they have done to make the city a better place.

We at the Chamber of Commerce have had a great deal of discussion about this. We are passionately involved and I compliment this board for being passionately involved as well. Alderman Rhoads spoke correctly when he talked about a sea change that he had noticed in our city and in our region. That sea change is much more visible today then it was five or ten years ago. Almost twenty years ago when the Walton Arts Center was being conceived, planned and operated there was a plea for regionalism. We saw donors from outside of Fayetteville and Washington County make commitments and pledges. They did that on the basis of the dialog that we in the City of Fayetteville shared with them, part of that was negotiating a lease. That lease is in place and it has protected and advanced the interest of all parties, the City of Fayetteville, Washington County, the other cities of Northwest Arkansas, and the County of Benton. That is a document I believe was clearly negotiated in good faith and continues to operate today in good faith.

There are going to be new venues. There is a great deal of dialogue going on about those venues. Having spoken with some of those who negotiated those original documents, I was informed that in those original documents there are provisions for trust for both the operations of the Walton Arts Center as we now know it. There is money set aside to guarantee those operations and the ability for those operations to go forward. Money is also set aside as trust funds for the facility itself. The Chamber has been interested in seeing that the facility itself increases and is improved. Like any facility that is 17 or 18 years old times change, situations change and needs change. It seems to the Chamber of Commerce that our position is we should continue to remain zealous in our efforts to be involved in this process. We ask you as the Council to remain zealous in your efforts to monitor the process. We believe we as the Chamber want to continue to be a partner with you in those efforts but we see no reason to renegotiate an existing lease that has six or seven years remaining. The decisions that are at the forefront today are not about the lease, or the terms that are part of that legal document, the decisions that are in the foreground today are about the development of new venues. There is a great deal of opportunity for a great deal of input. There is no doubt in my mind that this Council and the new members of the Council will have an enormous amount of impact on what is done because of your leadership for our city and because of your personal relationships with the members of the Board of the Walton Arts Center. This is not about employees. That board is comprised of five

appointees from this city. I would urge you to continue to be passionate in your monitoring of this process.

I compliment City Attorney Kit Williams. He has done the best that a lawyer can do in representing his client and these issues by making sure we stay passionate about these concerns. I would urge you to take no action tonight.

**Alderman Lewis:** I have attended the meetings that we have been invited to in order to better understand how the performing arts are managed specifically through the Walton Arts Center. As I understand it there is a model that essentially they have to follow. The performers and shows demand the number of seat that they want. It's really about providing a variety of venues so that you have a variety of types of shows. It seems like there is a model that is being followed that goes beyond us and the Walton Arts Center. It's in the best interest of that business to fill those venues. There is a business model that is really important. I am a huge supporter of every kind of arts. This was a balanced approach in that you have a regional perspective. I think we can maintain the communication just as we have. We have a good relationship, maybe better than we ever have. To me the best way to guarantee rather than a contract or a lease agreement is to support the arts. The more we support the arts the better our shows will be. I really respect the effort and I agree that we need to question it. I will not support this because I feel like this story goes beyond a lease agreement it's a much more complex system.

**Alderman Cook:** I agree with Sarah's comment that the programming we get is what we demand as citizens and users of the arts center. As long as we continue to support that and support the shows they are bringing they will continue to give us the level that we expect. I don't think this is the route that we should go right now. I'm not personally enthused about the decision that was made but I think we gave it our best effort and I'm proud of what the City did with that. The decision was made and we still end up with a 600 seat theatre. I wish we could have it all here but I think that will spell good things for Fayetteville as we go forward in programming. The Walton Arts Center is committed and the lease we currently have is good for the next seven years. At this time I am not supportive of this.

**Alderman Petty:** I appreciate the opportunity to have this discussion. Thank you for bringing it forward and thanks to the City Attorney for advising us of all our options. For me it's a matter of practicality, tickets have to keep selling if the Walton Arts Center is going to maintain its operations. With the majority of the seats for those tickets being in Fayetteville I think practically speaking there is no way the programming could really falter here. We could renegotiate the lease and put in some content requirements that might have some symbolic merit but as a matter of practicality it doesn't really change anything. For those reasons I don't think it would be the right decision for the Council to direct our staff to spend time and energy working on a lease renegotiation. I think the level of discussion around this issue needs to be elevated a little bit. We have talked about regionalism in the past and I think this is the case where we need to really commit to that. In this process we have seen an attitude where Fayetteville wants to be the leading performing arts destination of Northwest Arkansas and I think that is wrong on one level. I think we need to focus on Northwest Arkansas being the performing arts destination of the Midwest and the South. As Fayetteville and as elected leaders I think it is our job to commit to that future and figure out how Fayetteville fits into that vision. For me it comes down to the

bottom line. We look at where Fayetteville is right now and we look at the opportunities we have for the arts in Fayetteville right now and we look at Fayetteville a decade from now and we are going to be a lot better off because of these expansion plans. We need to take a regional approach and regional outlook and commit to that.

**Alderman Ferrell:** The whole Council joins you in your concern for the arts and in this case our entertainment the Walton Arts Center. We have had for some time an agreement with them. It's not as specific, as what I'm hearing we would like to have, but it's worked pretty well. I would hope that if there are questions and we need to do something that the City, University of Arkansas, and the Arts Board could work together to try to iron out whatever is going on. It's healthy for us to continue to visit with each other at the end of the day we are all going to be better off. We are going to have more venues and more seats available. I would not support the action and I would ask you that you reconsider.

**Alderman Lucas:** I know there were a lot of citizens that were disappointed that our proposal for expansion to a 2,200 seat performing arts facility in Fayetteville was not chosen. I was proud of the proposal that was done by the committee which included citizens of Fayetteville, city administration and the Chamber. I appreciate their work but it wasn't to be at this time. We have had great programs at the Walton Arts Center. I'm satisfied that we will continue to have great programs and performances at our Walton Arts Center in Fayetteville. We still have six years on the contract and I don't see any reason to renegotiate it at this time so I won't be supporting it.

**Alderman Rhoads:** I don't know what I can add that hasn't already been said.

**Alderman Thiel:** I appreciate the confidence of the City Council on this that we are going to continue the current level of entertainment that we enjoy in Fayetteville and I certainly hope that is the way it all plays out. The regional aspect is good but I represent the citizens, taxpayers and businesses in Fayetteville and that is why if there is something we can do that might provide us with some kind of assurance we should do it. I understand that there are no guarantees but a lot of citizens would have felt better if there were some kind of assurances in writing. I will make a motion because I want it in the record that I supported taking some kind of action. The City of Fayetteville has lost a major battle. I want it in the record that I supported the citizens, and businesses of Fayetteville.

**Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion.**

**Alderman Gray:** No one seems to talk about the fact that we were told that in this process of making the decision on where the 2,200 seat auditorium would go that we were going to look at the proposals that came in, the committee would pick the final three, then there would be considerable discussion, then a decision would be made in the spring. Everyone seems to have forgotten that was what we were told. That is one reason Brenda and I feel like our citizens need to have some additional assurances that the contract is going to be followed. There are changes. It is not like it was when the contract was written. I think it would be totally appropriate, under those circumstances, and under what we have been through in the last few weeks, that we have some additional assurances that our Arts Center is going to continue to support our arts needs as

well as our City. If there is any explanation about why the decision was made, the way it was made, and when it was made I would like to hear it at this time because that was not a part of the agreement.

**Mayor Jordan:** You might ask Terri Trotter to come back.

**Alderman Gray:** Terri can you come and give us an explanation on that?

**Terri Trotter:** I'm not sure about the agreement you are talking about. We began the site selection process in early 2010 and the goal at that time was that by the end of the year the committee would bring a recommendation to the board. They anticipated it would be one to two sites. As we got in the mist of the proposals we thought that perhaps it might stretch longer than that. As we starting going through them the committee said they wanted to do what was right so we don't feel like we needed to be held to that end of the year deadline, if it stretches into the spring that's fine. As it turned out as we went through them we got some clarity and we finished the process exactly on the timeline and in the way we had set it up. It didn't end up stretching longer like we initially thought.

**Alderman Gray:** Mr. Williams is that the agreement you recall?

**City Attorney Kit Williams:** I don't think there was an agreement. There were public statements by the Walton Arts Center that they were going to reduce the number down to three and then have further input and discussions and then decide in the spring. There wasn't a formal agreement made so their statements were not enforceable. To have a statement be enforceable you have to have a contract and we had no contract.

**Alderman Gray:** Right, but those statements were made.

**Terri Trotter:** It's possible that the goal was to have one to three. I remember two but it might have said one to three sites by the end of the year. By the end of the year was the initial stated goal. Again, it's a process and we are dealing with a committee and it's a dynamic on going process. We actually did complete the process basically like we expected.

**Alderman Rhoads:** I want to echo what Matthew said and that is what a good City Attorney does is he brings forth things that a Council needs to review. I salute that. I remember looking at this issue of where might the Walton Arts Center expansion go. I went back and looked at my file and I starting working on this with three different hats on in January 2008. One hat was a City Council hat, I think I spoke with a lot of vim and vigor about how we should do whatever we possibility can to keep it in Fayetteville, Arkansas. I also had a Fayetteville Economic Development Council hat on which then worked into the Green Valley Development and with that hat on I pushed and worked really hard trying to make sure that we kept the expansion here in Fayetteville, Arkansas. I also worked on an ad hoc committee working behind the scenes and talking to the folks around here in Fayetteville as well as the people in Bentonville. What the City proposed was a good proposal. We gave it our all but at the end of the day when the lead donor says they want it in Benton County and if in your heart of hearts you really believe they also want the full enterprise of the Walton Arts Center to be wildly successful and to bring

culture and bring arts to all of Northwest Arkansas then you have to salute the decision. Just because you have the legal right to make a demand that we renegotiate a contract doesn't mean you always take that legal right. Sometimes you just salute and say we gave it an effort and we trust you and we believe this will all work in our best interest as well as the best interest of the communities north of here. I certainly wouldn't support it.

**Upon roll call the resolution failed 2-6. Alderman Thiel and Gray voting yes. Alderman Lucas, Lewis, Cook, Petty, Rhoads, and Ferrell voting no.**

*This resolution failed.*

**The following item was removed from the Consent Agenda for discussion:**

**Community Access Television, Inc.:** A resolution approving a contract with Community Access Television, Inc. in the amount of \$93,000.00 to provide public access television channel operation services for calendar year 2011.

**Lindsley Smith,** Communications and Marketing Director gave a brief description of the resolution.

**Alderman Petty:** I pulled this off of consent because I would like to offer a minor amendment. One thing that has changed from years previous is now there is a residency requirement. You must be a citizen of Fayetteville in order to use services of the public access channel which I support. However, I would like to grandfather in all those who have received producer certifications in the past. When they received those certifications there was an understanding that as long as they recertified in their skills training each year they would be able to continue to use the facilities. With the residency requirement now I would like to grandfather them in as a matter of fairness.

**Alderman Ferrell:** How many people are we talking about?

**Alderman Petty:** Less than a dozen but I don't know for certain.

**Alderman Ferrell:** If they have moved to other communities have they tried to start community action television in their new community?

**Alderman Petty:** That would be interesting to know. I don't know the answer to that however; I do believe that they continue to produce quality programming. I also think they are an asset at the community access channel for familiarizing new producers, which must be Fayetteville citizens, with the process and operations. I think there is some value to be gained by grandfathering in those who have already earned a producer card even if they have moved out of the city limits.

**Don Marr,** Chief of Staff: There are fourteen individuals that would qualify for that continuation of grandfathering. Five of those are active program producers the remaining

includes the people requesting to import programs. They have to produce one Telecast Quality Programming.

**Alderman Lewis:** How many total producers? There are fourteen that would fall under this amendment.

**Anne Shelley, Executive Director with Community Access Television:** Within the past year, if you look at just certified producers and also import requesters there have been approximately 74 of those that are residents of Fayetteville and approximately 14 of those non Fayetteville residents. There are five very active producers who use the facility and equipment some on a weekly basis that are non Fayetteville residents.

**Alderman Ferrell:** Does staff have an opinion on this?

**Don Marr:** We haven't really talked about any type of grandfathering. We were focused on the fact that we were trying to get our minimum certified producers done under the contract as our first priority. We felt like there should be priority given to the people who actually fund the center which are the Fayetteville citizens. That was our primary focus in the contract renegotiations this year.

**Lindsley Smith:** The services are provided on first come first serve basis. That will continue to exist despite how the Council rules on this. In previous contracts the service area has been all of Washington, Benton, Madison, and Carroll County. This contract does differ in that it focuses on the individuals who are paying for the service, those who live in Fayetteville, to receive training, assistance with productions, city building use, editing bays and equipment camera use.

**Don Marr:** The only area that we expanded the use of the center outside of Fayetteville for paid services was to Washington County. We were looking at the primary viewing area included under our cable franchise. We felt that the world is different today with the use of You Tube and accesses that give people viewer ship worldwide now verses only through public access. It would also create a greater advocacy to get public access channels in other communities. If people had the need and desired to do that they would lobby their Councils to get that service. We believe the people utilizing it, because we are first come first serve, should be the people paying for it.

**Lindsley Smith:** I have been with the city for a year and I have talked to people about the public access service the city provides. Outside those that use the facility now, I have yet to find one person that knew the City of Fayetteville provided services where they can be trained to use equipment, check out equipment and bring your program back and we will put it on cable for you. The people I tell are very excited about it. The contract stated they should train 50 Fayetteville residents per year.

**Alderman Lewis:** What is your perspective on the proposed amendment?

**Anne Shelley:** We certainly don't want to deny access to any of our producers who have been committed. If the contract can be approved with that amendment we are 100% behind it as a

staff to grandfather in the producers that have been active and making quality programming for Public Access Television in Fayetteville. In 2011 we will be increasing our classes offered from 12 hours per month to over 60 hours per month. We agree that it should be Fayetteville focused but not exclusive considering where we are coming from in our history.

**Alderman Lucas:** How many committed producers are there from outside the City?

**Anne Shelley:** There has probably been about five to seven some come on a daily basis and definitely on a weekly basis that are proactively producing shows that are being aired on Fayetteville Public Access Television.

**Alderman Lucas:** Can we limit it to present committed producers?

**City Attorney Kit Williams:** The language I would suggest is "a resident of Fayetteville or an existing acting certified producer who has completed all requirements."

A discussion followed regarding the change in language.

**Alderman Ferrell:** What did you say about including Washington County?

**Don Marr:** We currently provide services to four counties. Because we are providing the training now free of charge we wanted to limit it to the City of Fayetteville citizens. There was a concern that should we allow individuals in the County who may have participated in the past to do it for a fee payment to take the class. We allowed that in the contract and limited it to Washington County rather than the four counties previously listed. I have all the confidence in the world in Anne Shelley as the new director to come in and make the changes we want to see because I have been very impressed with our communications with her. We had an under performance in the contract. That is a problem so we want the emphasis to be on the City of Fayetteville citizens.

**Alderman Petty:** This amendment only deals with producers. Non residents wouldn't be able to request programs. The fee for training for Washington County residents is just for training. Those who are already certified in the past must under go a skills recertification not the entire orientation.

**Alderman Ferrell** asked Alderman Petty if he would accept an amendment to his amendment that the ones that moved out of Fayetteville but still reside in Washington County be grandfathered.

A discussion followed regarding the amendment.

**Alderman Petty:** If this amendment fails by one vote I will offer a second motion but whether they live in Benton, Washington, Madison County as long as they are active certified producers I think we need to stick to the understanding we entered into.

**Alderman Lewis:** Could you add effective existing producers as of the date this takes effect and from then on it is only for Fayetteville residents?

**City Attorney Kit Williams:** Yes, but you are talking about asking Alderman Petty to amend.

**Alderman Petty:** Sarah is right I want to be very clear. Only those who have been certified previously who no longer live in Fayetteville shall be grandfathered in.

**City Attorney Kit Williams** read the amended resolution.

There was no public comment.

**Alderman Petty moved to amend the resolution to state a resident of Fayetteville or an existing active certified producer who as completed all the requirements shall be grandfathered in. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-1. Alderman Ferrell voted no.**

**Alderman Petty moved to approve the resolution. Alderman Thiel seconded the motion. Upon roll call the resolution passed unanimously.**

***Resolution 232-10 as recorded in the office of the City Clerk.***

**Motorola, Inc.:** An ordinance to waive formal competitive bidding and award a contract to Motorola, Inc. for the purchase of equipment and software for Fayetteville Public Safety's Nine Channel Astro 25 IP Simulcast Radio System with Phase I to cost \$5,759,471.00 with a contingency of \$558,529.00 and waive further formal competitive bidding for Phase II and other necessary equipment and upgrades for a period of three years and to approve a budget adjustment of \$4,659,732.00.

***City Attorney Kit Williams read the ordinance.***

**Police Chief Greg Tabor:** This item is for the expansion and replacement of the city radio system. It is not just for police and fire but all city employees that use the radios. The current system we have now is a one site system and was installed in 1985. It was upgraded in 2000. It is reaching the end of its life expectancy and it is becoming harder to get parts. This new proposed system is for a three tower site which will improve the safety of any one that uses the system.

**Kathy Stocker,** Dispatch Manager gave a power point presentation regarding the radio system.

This system will be connected to the Arkansas Wireless Information Network which allows the city to ensure a coordinated approach to preparedness issues and take appropriate steps towards regional interoperability. Our objective is to improve our radio system performance, improve the cities ability to respond to emergency situations and better protect lives and property of the citizens of Fayetteville by expanding coverage. It will also improve and reduce city employee

safety risk. We tried to obtain frequencies for the County system and there were not enough available in the frequency range that they use so we were unable to get onto the County system.

**Alderman Lucas:** Did you say it doesn't jive with the County's.

**Kathy Stocker:** We tried to get on the County's system. We applied for frequencies in the range they operate on but there were not enough to handle the size of the City of Fayetteville.

**Paul Becker,** Finance Director: \$1.7 million of the funding is from Federal grants specifically for this radio program. There is a time table for the use of those grants. We are using \$2.5 million from impact fess which can be used because it is for expansion of the system in newly developed areas of the city. This system is used by Water and Sewer, Solid Waste, Parks and Parking therefore we can allocate those costs based on their use of the radio equipment back to those special revenue and enterprise fund systems. We have allocated it back to those funds and have used cash reserves from those funds to pay for the system. We can not solve any General Fund problem with any of the funds that we are using for that. The General Fund is separate. That is how the funding came together.

**Alderman Ferrell:** I know this is something that has been coming for a long time. I support this.

**Alderman Lucas:** I think this is very important and I appreciate you working on this. Communications between the Police, Fire, and the City, and all emergency services is extremely important. I support this.

**Paul Becker:** Thank you Alderman Lucas. This was a combined effort with many departments. I would like to credit Kathy Stocker for her hard work on this.

**Don Marr:** When this discussion started years ago it was in the \$3 million dollar range. Over this time period the price has went as high as in the mid \$8 million dollar range. It highlights a problem the City often struggles with with major asset items. Your annual budget handles things you can pay for within a single year and the CIP gives you a five year period to be able to accrue money. There are items out there that require funding discussions on a much broader scope. This would not have been possible without multiple administrations and multiple lobbying efforts at a federal level and commitment by Senator Lincoln, Senator Prior, and Congressman Boozman and their allocations of getting that funding in the Federal grants. I also want to thank Paul Becker, Kathy Stocker and David Jurgens for their work. It is a critical expenditure. We are trying to do a good job in the future of identifying those major assets that require something more creative than the CIP schedule.

**Alderman Ferrell:** What is the life expectancy of the system? Will the change that is going occur in the Motorola Corporation have any affect on the availability of replacement?

**Kathy Stocker:** It will not have any effect. When we did the last upgrade they gave us a seven to eight year expectancy and we made it for ten years and we will see this go another ten years probably.

**Dominic Swanfeld**, President of the Fraternal Order of Police and member of the Fayetteville Police Department thanked Aldermen Cook, Lucas, and Rhoads for their service. We support this project. Fayetteville and the employees will be a safer community with this process.

**Chris Lynch**, Assistant Fire Chief spoke in favor of the ordinance.

**Alderman Lucas** moved to suspend the rules and go to the second reading. **Alderman Lewis** seconded the motion. Upon roll call the motion passed unanimously.

*City Attorney Kit Williams read the ordinance.*

**Alderman Lucas** moved to suspend the rules and go to the third reading. **Alderman Lewis** seconded the motion. Upon roll call the motion passed unanimously.

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan** thanked the staff that has worked on this.

**Mayor Jordan** asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

*Ordinance 5373 as Recorded in the office of the City Clerk*

**Smith Communications, LLC:** A resolution to approve two tower space and ground lease agreements with Smith Communications, LLC for a total annual rent of \$36,000.

**Police Chief Greg Tabor** gave a brief description of the resolution.

**Alderman Ferrell** moved to approve the resolution. **Alderman Thiel** seconded the motion. Upon roll call the resolution passed unanimously.

*Resolution 233-10 as recorded in the office of the City Clerk.*

**RZN 10-3608 (Parker):** An ordinance rezoning that property described in rezoning petition RZN 10-3608, approximately 0.74 acre, located at 101 East Alice Street, from RSF-4, Residential Single-Family, 4 units per acre, to C-2, Thoroughfare Commercial, subject to the Bill of Assurance.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate**, Internal Services and Development Director stated the Planning Commission voted 6-2 on November 22<sup>nd</sup> to forward this item to you with the recommendation for approval. He gave a brief description of the ordinance. He stated the applicant has submitted a Bill of

Assurance. Staff did not recommend approval of the rezoning request. We felt a conditional use permit would be more appropriate.

**Alderman Petty:** Does a Bill of Assurance mean if the property was sold in the future, as long as it continued to be Thoroughfare Commercial the Bill of Assurance would continue to apply to the new ownership.

**Jeremy Pate:** That's correct. It runs with the land essentially, it can be changed by approval of City Council.

**Alderman Petty:** That is one of my main concerns with the item combined with the fact that its butted right up against a residential neighborhood on the east and south sides has me wondering if we should do a tour of this property. I think we should discuss with the applicant the merits of a Community Services designation.

**Alderman Thiel:** I agree with Matthew. I would prefer to see this zoned Community Services because of the flexibility that Community Services has. It would also have to be a conditional use permit to do what they want to do with it. I appreciate staffs concerns about screening and engineering.

**Alderman Ferrell:** Alderman Rhoads and I have not had a single comment. Jeremy did you say they want to put electric cars there?

**Jeremy Pate:** At the Planning Commission they discussed that was one of the brands expanding for Nissan therefore they are requiring more space. This was the option for them to purchase that property to expand their dealership.

**Alderman Ferrell:** Thank you. I hope we don't run into a disconnect here. I thought that was the kind of things we really wanted.

**Alderman Lewis:** This is a zoning discussion and there is no way we can tell. If it's C-2 we don't have any say on what they do with it.

**City Attorney Kit Williams:** That's not correct. The Bill of Assurance limits them dramatically on what they can do. They can only do what the Bill of Assurance says which is the automobile expansion and parking lot. If they did not give us a Bill of Assurance you would be correct. Since they have given us a Bill of Assurance they could not do that.

**Alderman Lewis:** Bringing up the idea that it is an environmental thing is ridiculous. If it was really environmental they would build a second story. That is a residential area that needs to be respected and protected and have the integrity of it protected. I would like to go see it.

**Alderman Ferrell:** I would think that if it is going to have the potential to do damage to the residential that Alderman Rhoads and I would have heard a lot. Looks like they are trying to take that into consideration with this Bill of Assurance etc.

**Buckley Blue, Land Surveyor:** My client Ms. Bailey, Superior Nissan, as well as the Parker's which are the current owners of the property have asked me to speak on their behalf. They wanted me to emphasize that if you look at this piece of property it is not that commercial is going to be encroaching into residential. It is more like residential is encroaching into commercial. We are surrounded by commercial on two sides. The lot we are splitting is 1.6 acres. The lots in that subdivision are .25 acre. We are still leaving a lot that is going to be four times the size of the lots in that subdivision.

The other issue Ms. Bailey had was the fact that they are requesting a zoning district that gives them the use by right. They need this to be zoned appropriately so they can purchase the property to expand their dealership. Ms Bailey is not interested in a conditional use with a Community Services zoning.

**Alderman Lucas:** It looks like RO is north of the property and it looks like there is a business south of it.

**Jeremy Pate:** Correct, directly to the north is an RO piece of property.

**Alderman Lucas:** It evens up with that?

**Jeremy Pate:** It runs a little bit west. The back of the commercial building beside it would run generally in line with that on the east side.

**Alderman Lucas:** Thank you.

**Alderman Lewis:** The applicant is willing to go through the process of a Bill of Assurance but not the conditional use?

**City Attorney Kit Williams:** The Bill of Assurance is a voluntary offer by an applicant to try to induce the City Council to grant a rezoning. With a conditional use they would come before the Planning Commission and Planning Staff could make recommendations as to what they would have to do. The Planning Commission would either except the recommendations or make other recommendations.

**Alderman Petty:** I want you to think of this as an opportunity. I am reluctant to support Troughfare Commercial rezoning because we need to make sure there is opportunity to have a transition from commercial to residential. That is something Troughfare Commerical does not do.

**John Malloy, Superior Nissan** stated Ms. Bailey's goal is to square up the existing C-2 property. She has agreed to put a 10 foot buffer on the back side of the property.

**Alderman Lucas** asked the Aldermen if they had heard from the people in the house next to it.

**Alderman Ferrell:** No.

**John Malloy:** We have received letters from several people that own property back there supporting what we are doing.

**Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Rhoads seconded the motion. Upon roll call the motion failed 4-4. Alderman Lucas, Gray, Rhoads and Ferrell voting yes. Alderman Lewis, Thiel, Cook and Petty voting no.**

**This ordinance was left on the First Reading.**

**Amend Chapter 166: Development:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 166: Development, in order to require private street signs.

***City Attorney Kit Williams read the ordinance.***

**Karen Minkel, Director of Strategic Planning and Internal Consulting:** This change would require a developer or property owner to install, maintain, repair and replace all private street name signs. This was forwarded from the Planning Commission with a recommendation for approval with a vote of 8-0. If this ordinance is passed, notification will be sent to the property owners on existing private streets that lack street signage.

**Alderman Ferrell:** Are they grandfathered?

**Karen Minkel:** That's correct they don't have to do anything. We just want to make them aware of the change.

**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 Lucas and Gray were absent during the vote.**

***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 Lucas and Gray were absent during the vote.**

***City Attorney Kit Williams read the ordinance.***

**City Attorney Kit Williams:** We can not require someone that is already living on a private street that does not have signs on it, to put up a sign. If there is development on that street there is a need for a private street sign caused by the development.

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

***Ordinance 5374 as Recorded in the office of the City Clerk***

**Amend Chapter 174:** An ordinance amending Title XV: Unified Development Code of the City of Fayetteville, to amend Chapter 174: Signs to include signage designations for recently adopted zoning districts, to allow for limited wall signage for businesses approved by conditional use permit in the RSF and RT Zoning Districts, and other amendments.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief description of the ordinance. He thanked Kit Williams for his help with the ordinance.

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

*City Attorney Kit Williams read the ordinance.*

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

*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 **Petty** were absent during the vote.

*Ordinance 5375 as Recorded in the office of the City Clerk*

**Fayetteville Youth Center, Inc.:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and Fayetteville Youth Center, Inc. in the amount of \$205,350.00 to provide public recreation services for the youth and citizens of Fayetteville for 2011.

*City Attorney Kit Williams read the ordinance.*

**Connie Edmonston**, Parks and Recreation Director gave a brief description of the ordinance.

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Ferrell** moved to suspend the rules and go to the third reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent during the vote.

***City Attorney Kit Williams read the ordinance.***

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

***Ordinance 5376 as Recorded in the office of the City Clerk***

**Northwest Arkansas Economic Development District:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$53,350.00 to provide public recreation services for the senior citizens of Fayetteville for 2011.

***City Attorney Kit Williams read the ordinance.***

**Connie Edmonston, Parks and Recreation Director gave a brief description of the ordinance**

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

***City Attorney Kit Williams read the ordinance.***

**Alderman Petty moved to suspend the rules and go to the third reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent during the vote.**

***City Attorney Kit Williams read the ordinance.***

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

***Ordinance 5377 as Recorded in the office of the City Clerk***

**New World Systems Corporation:** An ordinance waiving the requirements of formal competitive bidding and approving a three (3) year contract with New World Systems Corporation for public safety software service and maintenance in amounts of \$95,221.00 for year 2011, \$99,982.00 for year 2012, and \$104,981.00 for year 2013, plus applicable sales taxes.

***City Attorney Kit Williams read the ordinance.***

**Chief of Police Greg Tabor gave a brief description of the ordinance.**

**Alderman Cook** moved to suspend the rules and go to the second reading. **Alderman Petty** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent during the vote.

*City Attorney Kit Williams read the ordinance.*

**Alderman Cook** moved to suspend the rules and go to the third reading. **Alderman Lewis** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Gray** was absent during the vote.

*City Attorney Kit Williams read the ordinance.*

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

*Ordinance 5378 as Recorded in the office of the City Clerk*

**Announcements:**

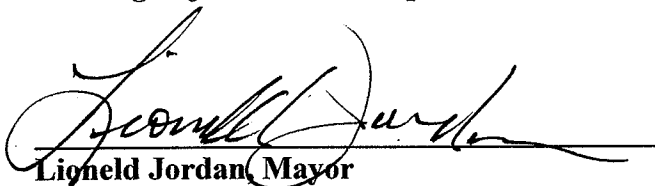
**Alderman Ferrell** stated it has been his pleasure to serve with all of you.

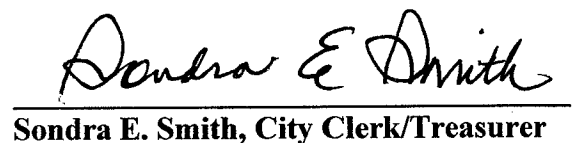
**Alderman Thiel** stated she has really enjoyed working with all three of you. She also stated she is going to miss them all very much and she appreciated all the work they have done for the City and the City appreciates it.

**Alderman Lewis** thanked them for being good models and their professionalism.

**Mayor Jordan** wished all the citizens the happiest of holidays. He stated it has been a great honor and privilege to serve with all of you over the last eight years and wished them well with all their endeavors.

**Meeting adjourned at 8:35 p.m.**

  
**Ligneld Jordan, Mayor**

  
**Sondra E. Smith, City Clerk/Treasurer**

**Nominating Committee Report**  
**Meeting: Wednesday, December 15, 2010**  
**City Hall, Room 326, 4:30 p.m.**

**Members Present – Kyle Cook, Bobby Ferrell, Adella Gray, and Shirley Lucas**

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The Committee recommends the following candidates for appointment:

**Airport Board**

- *Mike Gibbs* – One unexpired pilot term ending 12/31/14.
- *Rick Bailey* – One aeronautical term ending 12/31/15.

**Audit Committee**

- *Tony Uth* – One term ending 12/31/13.

**Environmental Action Committee**

- *Cindi Cope* – One citizen at large term ending 12/31/13.

**Housing Authority Board of Commissioners**

- *Hugh Earnest* – One term ending 12/28/15.
- *Matthew Cabe* – One unexpired term ending 12/28/11.

**Parks and Recreation Advisory Board**

- *Steve Meldrum* – One term ending 12/31/13.
- *Quin Thompson* – One term ending 12/31/13.
- *Riley Mason* – One term ending 12/31/13.

**Telecommunications Board**

- *Russ Davis* – One unexpired term ending 6/30/13.
- *Michael Spencer* – One unexpired term ending 6/30/13.

**Tree and Landscape Advisory Committee**

- *Lacy Nelson* – One forestry, landscaping, or horticulture term ending 12/31/12.
- *Nancy Varvil* † – One environmental term ending 12/31/12.
- *Lois Slusarek* – One unexpired service organization term ending 12/31/11.
- *Cindi Cope* † – One unexpired land development term ending 12/31/11.
- *Emily Kaitz* – One citizen at large term ending 12/31/12.
- *Henry Gaston* – One citizen at large term ending 12/31/12.

† Citizen at Large substituted due to no applicant from the appropriate category applied.