

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 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
May 17, 2011**

A meeting of the Fayetteville City Council was held on May 17, 2011 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, Kinion, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, Assistant City Attorney Jason Kelley, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Quarterly Financial Report

Paul Becker, Finance Director presented the Quarterly Financial Report to the City Council.

Alderman Adams: I would like you to explain the item on Building and Permits?

Paul Becker: That is the money that we receive for approving building permits.

Alderman Adams: There was one very large increase in that, I understand that was the school.

Paul Becker: Yes it was. That has come through for the construction and some of the permitting there has been done. That is why we are showing that over budget. We are about \$60,000 over where I would expect to be at this point in time. He gave an update on building permit collections.

Mayor Jordan thanked the staff and the City Council for making this budget as good as it is.

Agenda Additions: None

Consent:

Approval of the May 5, 2011 City Council meeting minutes.

Due to a scrivener's error the date of the minutes approved should read May 3, 2011 City Council meeting.

Approved

City of West Fork Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of West Fork, Arkansas to provide animal sheltering services to West Fork through 2011.

Resolution 76-11 as recorded in the office of the City Clerk

Ranger's Pantry Pet Food Bank Donation Revenue: A resolution approving a budget adjustment in the amount of \$1,619.00 representing citizen donation revenue to the Animal Services Division Ranger's Pantry Pet Food Bank during the first quarter of 2011.

Resolution 77-11 as recorded in the office of the City Clerk

Police Department Policies: A resolution approving Fayetteville Police Department policies 15.1 Planning and Research, 15.3 Criminal Analysis, 41.2.13 Seatbelt Usage, and 45.1.1 Community Oriented Policing.

Resolution 78-11 as recorded in the office of the City Clerk

Education Access Television Contract: A resolution to approve an agreement with the Fayetteville School District to operate the City's Educational Access Channel.

Resolution 79-11 as recorded in the office of the City Clerk

Highway 16 East Widening Project: A resolution to approve two donation warranty deeds, three donation warranty permanent easement deeds and one temporary construction easement for the City of Fayetteville to convey to the Arkansas State Highway Commission for the Highway 16 East Widening Project.

Resolution 80-11 as recorded in the office of the City Clerk

Emergency Operations Plan “EOP”: A resolution approving an emergency operations plan for the City of Fayetteville as the method for handling all emergencies occurring within the City.

Resolution 81-11 as recorded in the office of the City Clerk

2011 COPS Hiring Grant: A resolution authorizing application for a 2011 Community Oriented Policing Services hiring grant through the U.S. Department of Justice.

Resolution 82-11 as recorded in the office of the City Clerk

Alderman Gray moved to approve the Consent Agenda. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amend §95.05 Regulation of Smoking in Most Public Places and Places of Employment: An ordinance to amend §95.05 Regulation of Smoking in Most Public Places and Places of Employment of the Fayetteville Code by removing the exemption for bars. *This ordinance was left on the First Reading at the May 3, 2011 City Council meeting.*

Alderman Petty moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Gray: We would like to amend this ordinance so that the effective date is January 2, 2012. We feel this would give owners a chance to make some adjustments and would give them a chance to make plans if they want to change their facility.

Assistant City Attorney Jason Kelley read the amended Section 3 of the ordinance.

Alderman Gray moved to amend the effective date of the ordinance to January 2, 2012. Alderman Lewis seconded the motion.

Scott Ringwood, a citizen questioned the amendment.

Assistant City Attorney Jason Kelley clarified the amendment.

Don Marr also clarified the effective date should the amendment pass.

Alderman Ferrell: If the ordinance should fail to be amended then it's a moot point to amend it to January 2nd.

Upon roll call the motion passed unanimously.

Alderman Gray: I think what we are talking about is purely a health and safety issue and that is the reason this ordinance is being brought forward.

Scott Phipps, a Fayetteville resident stated this is a matter of choice and adults need to be allowed to make those choices. He spoke against the ordinance.

Jonie Harrell, a Fayetteville resident stated I have always had the choice of where I can work and I don't think we should accommodate anyone else. She spoke against the ordinance.

Janet Gladner, a Fayetteville resident who currently works in a bar stated I believe it is my choice where I work. I am opposed to the ban.

Corey McCain, a Fayetteville resident who currently works on Dickson Street stated I really believe it is up to the business owners and the people that attend those bars. He spoke against the ordinance.

Matt Marshall, a bartender and Fayetteville resident stated there has been a lot of discussion with a lot of people that work at smoking bars and the consensus is that it is our choice. He presented the Council with 66 signed statements from workers that work in smoking bars saying that it is their choice to work in a second hand environment. There are 35 places in the entertainment district where you can drink alcohol in a nonsmoking environment. There are 18 smoking establishments in the entertainment district. He spoke against the ordinance.

Alderman Ferrell: The numbers you gave about the establishments, did you say there were 36 nonsmoking? Do you have an idea in town what it is?

Matt Marshall: I can only imagine. I was wrong there are 39 nonsmoking establishments in the entertainment district and 15 smoking establishments in the entertainment district.

Lyell Thompson, a Fayetteville citizen spoke against the ordinance. He shared stories of his family members who smoked and still lived long lives.

Stacy Raven, a Fayetteville resident stated we all know that smoking is bad. I think deciding that businesses should not have smoking is unfair to those people who want to smoke in bars. I think we can all agree that we want businesses to be able to run their business the way they want to and people should be able to do what they want as long as it's legal. We all want the City to be fair.

Cone Turner, resident of 225 Thompson stated I am against the ordinance. He stated you can not approve of something and still let others go with it. If you do not want to be around a smoker ask the person smoking if they will not smoke around you.

Andrew Nelson, bartender at Jose's stated the Entertainment District doesn't need another hit and there are plenty of choices to go to a bar that has nonsmoking. He spoke against the ordinance.

Tyler Clark, Project Coordinator for the Tobacco Free Coalition spoke about the air quality survey that was conducted that compared the levels of secondhand smoke in bars that allowed smoking and bars that did not allow smoking. He presented several statistics from the survey. He stated the survey showed that employees and patrons are exposed to pollutions that are dangerous to their health and above the EPA standards.

Alderman Lewis: How much time were they in each spot?

Tyler Lewis: On average from 30 to 45 minutes, so a very small period of time.

Alderman Ferrell: How did the proprietors react to this?

Tyler Lewis: It was a blind test, no one knew but if they asked the couple was instructed to tell them, but no one ever asked.

Alderman Ferrell: Understanding that most of the funding comes from smoking cessation there was a question asked tonight by one of the citizens about ideas for going to abolition of tobacco. Have you guys thought about moving on to abolition of tobacco since there has been a proven correlation between all tobacco usages?

Tyler Lewis: No sir that would not be a priority for the Tobacco Free Coalition.

Alderman Ferrell: Do you plan to go statewide with this?

Tyler Lewis: I think as mentioned before in the previous meetings Fayetteville is usually looked at as a barometer change for the community. This ordinance started in 1992 and then in 2004 we came back and took care of the restaurants and now the bars. Between 2004 and 2005 the State went pretty much smoke free as well with an exception of those few venues. Arkansas could very well go next which would be a benefit to the state as a whole. We want to protect people now from second hand smoke.

Alderman Ferrell: Will you be pursuing that change and trying to drive policy change for the state? My understanding is that if you are 21 years old and it's a bar you can go in and smoke.

Tyler Lewis: Our priority would be Northwest Arkansas and our efforts are for educational purposes.

There was a discussion about smoking outside and the outside air quality.

Angela Lightner, owner of the Beer Keg stated the smoking ban is not just about smoking in bars but the right to have the choice. This is about the right to have a choice. I choose not to smoke but several of our customers have made the choice to smoke. We do not need someone to protect us from smoke. You should have the choice to visit a smoking or a nonsmoking establishment. We want the choice to keep the Beer Keg and any other bar that wants the same choice as a smoking establishment. She spoke against the ordinance.

Alderman Gray: Do you have any idea how much money the Veteran's hospital spends on tobacco related illness?

Angela Lightner: I am sure they use a whole lot but we do not need to be protected from people. Everybody knows the hazards of smoking but it is our business. Anybody that does not want to be around second hand smoke has a choice.

Alderman Lewis: As a business owner do you consider your business open to anyone over 21?

Angela Lightner: Exactly.

Alderman Adams: Do you have music?

Angela Lightner: No, we have a small jukebox.

Alderman Adams: Do you have a panic bar on your door in case of a fire?

Angela Lightner: We have a front and back door and the place is less than 400 square feet.

Alderman Kinion: If this passes do you think a lot of your visitors will quit smoking?

Angela Lightner: No sir. I seriously doubt it will cause any of them to quit smoking. It will cause us to have to spend a lot of money if we want to keep the revenue of our customers. A lot of them have said they would probably just stay home because they want to smoke when they drink a beer or it will cause us to spend a lot of money to make a place outside that they would be able to go and smoke. We don't make that much money.

Alderman Thiel: Do you have any room to build an outside patio?

Angela Lightner: We have a little fenced in area in the back. I like the idea of being able to choose to do that on my own versus being forced to do that.

Alderman Lewis: You indicated anyone over 21 can come to your business and so what about the choices of everyone over 21? If your business is open to anyone over 21, is it really if smoking is permitted because there are individuals who cannot function in an environment where there is an air quality situation.

Angela Lightner: You have to be 21 to drink. We are one of the few places left where people can smoke and have a drink if they would like and we would like to keep that choice.

Tami Clinkingbeard, a Ward 4 resident spoke on the right to breathe fresh air. I believe I have the right to breathe fresh air and be protected from air that is being contaminated by smoke. Who has the right to endanger my life or create health problems that have become a financial draw for all of us. She asked the City Council to protect all citizens of Fayetteville from the dangers of second hand smoke. She spoke in favor of the ordinance.

Scott Greenwood, a previous bar owner spoke on the smoking businesses in Fayetteville and the income that they bring in and pointed out that if those businesses close that will be a loss to the City. I do not know the City can afford to lose any more money. You should have machines that reduce the smoke in your bars. What I do on my private time is my business. I think we are looking at this incorrectly. We need to use business sense when running the city. This will affect hundreds of people. He spoke against the ordinance.

Alderman Adams: You said you opened three bars; did you hire bouncers at those bars?

Scott Greenwood: No, we did not need them. At those places I was there and we did not allow people like that.

Alderman Adams: So you protected your patrons from danger.

Scott Greenwood: Absolutely, when people came in to my place of business it was a gathering place.

Alderman Adams: So you provided protection, that's good.

Alderman Gray: Which bar do you own in Fayetteville?

Scott Greenwood: I do not own a bar in Fayetteville at this time. I am a previous bar owner. I would not open one in Fayetteville at this time because this ordinance would scare me because I would not be able to open it as I wish. We are going to force our tax dollars to another city. We need to keep our dollars here.

Charles Lloyd, a Fayetteville resident: We are all adults, we have freedom of choice and let capitalism sort it out.

Tyler Sours, a Fayetteville resident: You have heard a lot about smokers rights. No one is trying to take away the right to smoke. This ordinance is not banning smoking in general. By smoking in public places and bars the entire community's right to clean air is denied. Two other rights are also impaired, the right to work and the right to patronize. There is a vast difference between choosing to take the risk and having that risk involuntarily imposed upon you. Business owners have the right to do business as they see fit but when they invite the public into their establishment they have the responsibility to make it safe for all their customers. She spoke in favor of the ordinance.

Alderman Ferrell: Have you been in business establishments that have signs that say we reserve the right to refuse your business?

Tyler Sours: Yes sir.

Alderman Ferrell: Do you believe they have the right to put that sign up?

Tyler Sours: I believe so.

Alderman Ferrell: You said they don't have the right to preclude someone from coming in. They don't have the right to fog the air up for all of us that may want to go in there. So it seems rather inconsistent.

Alderman Lewis: If a business has a right to refuse service except if it's race, sex, disability, national origin or religion and if it's a disability and her friend cannot breathe in that public establishment, I think that is what she is saying. That becomes a non choice when a person with a disability cannot function in that public space.

Tyler Sours gave her findings on some research on the American's with Disabilities Act. I don't know that saying you have a choice to go somewhere else is really that valid of an argument.

Jordan McDaniel, a Fayetteville resident: Big tobacco targets college age students. The younger the person is when they start smoking the longer the use of the product or the more addictive they become. She spoke in favor of the ordinance.

Page Daniel, a Fayetteville resident: I view the public debate for smoke free bars as a sign for social norm change. She spoke about the organization called Mothers Against Drunk Driving and the positive changes that have occurred due to the start of the organization. She spoke in favor of this ordinance.

Casey Sheeler, a Fayetteville resident spoke on the risks of smoking. She spoke in favor of the ordinance.

Ryan Abshire, a bar patron stated this is a matter of choice and bars are not providing essential services. He spoke against the ordinance.

David Allen, a Fayetteville resident stated this is purely an issue of choice and adults can make their own decisions. There are more nonsmoking businesses in Fayetteville than smoking allowing for plenty of options for everyone. He asked the Council to leave the ability to choose in the peoples hands.

Zach Wooden; owner of three bars, two smoking and one nonsmoking stated I am completely against it. Why do you allow smoking in a smoke shop? What constitutes a smoke shop?

Assistant City Attorney Jason Kelley gave the definition of a smoke shop.

Zach Wooden: On that same line can a retail smoke shop sell beer if that is not their primary product?

Assistant City Attorney Jason Kelly: I can't advise him as to what to do but I can read the definition.

Zach Wooden: That is kind of a slippery slope there. I can see it being abused either way. I have no space to provide a patio. He also suggested the idea of smoke rooms.

Alderman Ferrell: Did the original smoking ordinance exempt smoke tobacco shops?

Assistant City Attorney Jason Kelley: Smoking was prohibited in all public places and places of employment and City vehicles unless they were specifically exempted. There were two exemptions bars and retail tobacco stores.

Alderman Ferrell: I have never seen anybody smoke in a retail tobacco store.

Sandy Prince with Hope Cancer Resources gave a list of cancers directly attributed to tobacco use.

Alderman Lewis: Do all the patients you deal with have health insurance?

Sandy Prince: No, we primarily serve the under served patients who have cancer with prescription assistance, smoking cessation, transportation and cycle social counseling. Most of the people that we deal with are underinsured.

Kathy Grisham, a Fayetteville resident stated this would ensure that every public business has free, clear, clean air for anyone in that business to breathe. She spoke on health care costs to the entire community due to people not acting in a responsible way with tobacco. The cost to Fayetteville is \$20 million per year.

Alderman Lewis: How did the \$20 million come about?

Kathy Grisham: In Arkansas the annual healthcare costs are \$812 million and then taking the percentage per capita is how that was derived.

Wade Ogle, Owner of two local bars, one which is smoking and one that is nonsmoking stated my partner and I are against this ordinance and we feel like in a strictly 21 environment, that offers no essential public services, that we should be allowed to sort this out between our staff, customers and ourselves.

Alderman Gray: Do you provide health insurance for your workers?

Wade Ogle: No they are all part time.

Alderman Gray: How many workers do you have in your two bars?

Wade Ogle: About fifteen.

Alderman Gray: Do you know what happens when they get sick enough to go to the doctor?

Wade Ogle: They have to take care of themselves.

Alderman Tennant: The Crown Pub recently went to nonsmoking.

Wade Ogle: Yes, in November.

Alderman Tennant: And you did that why?

Wade Ogle: I felt the general tenure of the clientele, the nonsmokers out weighed the smokers.

Alderman Tennant: So would it be fair to say that you let the market decide your decision?

Wade Ogle: Yes.

Lori Ray, resident of Ward 4 stated I very strongly support moving Fayetteville forward to be a 100% smoke free community. She spoke in favor of the ordinance.

Keith Vire, a Fayetteville resident spoke on the effects smoking has on the musicians who play at the bars. He stated it would be a great thing for them to be able to play in a smoke free environment.

James Pitman who works on Dickson Street pointed out that the people who have spoken against this ordinance have first hand experience with the people on Dickson as opposed to the speakers in favor who do not regularly visit these facilities. He spoke against the ordinance.

Eleanor Hughes, a Fayetteville resident spoke on business requirements and stated that having a comprehensive smoke free policy for places of business is not regulating morality and it's a logical next step for our community. She spoke in favor of the ordinance.

Sarah Varga, Owner of two bars on Dickson one being smoke free and the other a smoking establishment stated I am against the amendment. Your decision will affect people and I would like business owners to have a choice.

Alderman Gray: When you opened Sideway's it was nonsmoking, why did you decide to do that?

Sarah Varga: It was my personal choice to have a nonsmoking environment.

Alderman Kinion: So basically what you have done is look at the market and hit both elements of the market so you could broaden your reach and have a more successful model for your business.

Sarah Varga: I can't say yes or no to that; we just made the decision based on our own personal choice.

Alderman Kinion: You were undecided last time we talked. It was very relevant.

Sarah Varga: The reason that scares me so much is because I have been doing a lot of research on the internet as far as what has happened to bars and restaurants after cities and states have passed ordinances.

Alderman Kinion: Thank you for coming back because we had talked and that's relevant.

Alderman Ferrell: Sarah you said, despite the idea you came to, you would like to be able to have the option should you decide to open another bar in Fayetteville

Sarah Varga: Correct.

Alderman Ferrell: What would be your consideration on that?

Sarah Varga: I guess the people that are prepared to pay more for a drink is the type of place I would like to open.

Mark Risk, a resident of 660 Lyle Lane spoke against the ordinance and stated it is a property right issue. We are being forced to do something other than what a free society should allow.

Alderman Tennant: You still own residential rental property?

Mark Risk: Yes.

Alderman Tennant: In the residential rental property that you own are you seeing any trends with people renting that are more smoking or nonsmoking? Are you seeing a difference in more people smoking or less people smoking?

Mark Risk: I would say probably less because that is the overall trend in society and fewer people are smoking. We don't make it a condition to rent that you can't smoke. We leave it up to their choice.

Alderman Petty: I am always sensitive when someone is critical of the science that we have been looking at. I was wondering if you would read the conclusion again from the study you brought up.

Mark Risk: We find no evidence that legislated U.S. smoking bans were associated with short term reductions in hospital admissions for acute myocardial infarction or other diseases in the elderly, children or working aged adults. He gave a reference to the website where this could be found.

Alderman Petty: I want to explain to the Council more clearly what I intended in cosponsoring this. I have no interest in whether or not there are short term affects from this ordinance when it comes to public health. I have always been concerned with long term benefits of this ordinance and that is what we are working for. I would be very interested if any members of the public have any information on the long term affects of what this might do.

He asked everyone to raise their hand if they were here as a member, supporter, volunteer or employee of the Tobacco Free Coalition and if they are paid. He also asked members of the audience to raise their hand if they had a business interest, real estate interest or are employed by a smoking establishment.

Alderman Lewis: Mr. Risk, in regards to your comments of property rights my question is mostly about the idea that 51% of the population of Fayetteville does not own property and are renting so in saying protecting property rights do you feel that people who own property have more rights than people who don't?

Mark Risk: I think as a property owner we are taxpayers and we have put roots down in the City. I feel that myself or someone who has been here for years and has invested in this town should be given a little more consideration than someone who is just in and out.

Alderman Ferrell: How many of the owners or employees of bars receive public money to fight this?

Alderman Adams: Mr. Risk does your business have pool tables and a large open space?

Mark Risk: I do not own On the Mark. We are the landlord and rent it to On the Mark.

Alderman Adams: You were expressing concern about your business shutting down. I spend my days working with a very large group of students over 21 who I believe would come to that business if smoking were banned there. I think it could be very lucrative for your business.

Mark Risk: It might be and that is our decision to make. I appreciate your comments.

Alderman Adams: There are groups of students who won't come because of that.

Alison Tussey who works in two different bars stated I am against the smoking ban completely and I believe adults have the right to choose themselves. I don't believe this is a health issue at all and I believe it is completely a choice issue.

Alderman Gray: Do you work in one of the bars that have health insurance?

Alison Tussey: No I do not.

Alderman Gray: If you got too sick to pay your bills who would pay your bills?

Alison Tussey: I would pay my bills just like everyone else.

Alderman Gray: Do you realize that many times people get so sick that they can't pay their bills.

Alison Tussey: I am an intelligent enough adult to understand that.

Alderman Gray: I think that is a very serious issue to consider and that is one of the reasons we are bringing this forward.

Ashlee Reed who has worked on Dickson Street for six years stated I do not agree with the smoking ban. The bar that I work at installed a smoke ventilation system that had such a negative air pressure that we had to cut a hole in the ceiling. We really don't have a problem with it.

Geary Warlick who currently works at several establishments stated I think it is hypocritical that we are debating smoking being a health issue at bars in comparison to cirrhosis of the liver or drunk driving related accidents that kill. It's just a matter of choice.

Cambre Horne Brooks, a Fayetteville resident quoted some important guidance offered by Philip Morris regarding second hand smoke. In this information they state smoking should be regulated indoors. There are other studies from health organizations regarding the public effects of smoking and their opinion on whether the government should have the right to intervene on this public health issue.

Alderman Thiel: Are there any studies that have been done in Fayetteville or any other cities, that have banned smoking in public places, in regard to whether there has been a reduction in smoking?

Cambre Horne Brooks briefly explained a study conducted in Montana. There is a 20 percent measured outcome that is generally seen in reduction of smoking in your community after passing an ordinance.

Alderman Thiel: Could you get some of that information to us?

Cambre Horne Brooks: Absolutely. Regarding Mr. Ferrell's piece about the postcard, the cost was \$326 and it came from private donations.

Alderman Ferrell: What about all the ads in the newspapers?

Cambre Horne Brooks: Those are coming from the NWA Tobacco Free Coalition and they don't include any called action, they are simply educating the public on second hand smoke.

Alderman Ferrell: Can you give me an idea on how much has been spent of the tobacco settlement money?

Cambre Horne Brooks: I am going to guess about \$5,000.

Cody McChristian stated I support smoke free bars and public health.

Joe McDermott, a bartender: I am opposed to the smoking ban. We have all pretty much agreed that we know the risks of smoking. It is an option to go to a smoking bar or a nonsmoking bar. I don't understand why there is a need to ban smoking from every bar.

Alderman Lewis: How did you hear about this topic?

Joe McDermott: Word of mouth and the people I work with.

Cheryl Wahl, Owner of Zooloos on Dickson Street, a smoking establishment: We try to keep the bar ventilated. I know I have choices but I have the right to make a decision. Our customer's should have the right to make that choice. She spoke against the ordinance.

David Farmer, a bartender stated it is a health issue. We have health warnings on the doors and it is their option to come in or go to a nonsmoking establishment. I feel like this is a choice and a freedom. That is why I am opposed to the ban.

Brian Holt with Hope Cancer Resources stated this is a matter of public health and that falls under your purview as far as being able to help improve the health of Northwest Arkansas. When the original ordinance was passed I think it paved the way for the state to adopt the laws and regulations that they have. He spoke in favor of the ordinance.

Alderman Lewis: The illnesses that you treat are any of them categorized as a disability or are they ongoing and long-term?

Brian Holt: I do not believe they are categorized as a disability but they can be long term.

Jamie Thornton, resident of Ward 3 stated this policy is about public health. Health is health; it has nothing to do with business decisions and pocket books. He spoke in favor of the ordinance.

Rachel Goodrey, resident of Ward 4 stated I support smoke free bars and public health.

Andrew Shealer a patron of bars in Fayetteville and a resident of Northwest Arkansas stated the precedence is already in place for these types of regulations to be viewed as acceptable. Public health and safety trumps personal decision. I am anti big government and pro business owner's choice. He spoke in favor of the ordinance.

David Williams, a Fayetteville resident spoke in support of the ordinance. He shared his perspective from his 40 years of experience in health care administration and education. I am a member of the Fayetteville Forward Economic Development Health Committee. The goal of that committee is, in 20 years Fayetteville and the Northwest Arkansas area would be the healthiest population in mid America at the lowest per capital cost. I think this ordinance is an important piece of work in attaining that goal. This is a public health issue.

Alderman Lewis: Can you talk more about the FFEAC participation because I don't know that everyone was involved in that.

David Williams: Several hundred citizens participated in Fayetteville Forward Economic Development Summits. We shared long term visions and dreams that were related to economic development in a very forward thinking context so people could help improve the quality of life and economy over the long term.

Mark Wright, a bar owner questioned one of the whereas clauses that was read at the beginning of the meeting by Assistant City Attorney Jason Kelley.

Assistant City Attorney Jason Kelley read the second whereas clause of the ordinance.

Mark Wright: I love Fayetteville. He referenced a similar situation in Kansas City where a lot of bars had to close due to a smoking ban. He spoke against the ordinance.

Alderman Gray: There have been a lot of comments about Springdale bars and I would like to call up Tyler Clark to speak on that issue.

Tyler Clark stated there are only five bars in Springdale that allow smoking.

Alderman Ferrell: Are you planning to go to Springdale after this and try them?

Tyler Clark: I don't know sir.

Alderman Lewis: As I was looking through the material on different websites there is data that suggests that there are significant increases in the market value in businesses as a result of smoking being eliminated from public spaces.

Tyler Clark: You have to keep in consideration that 85% of Washington County is nonsmoking so you have to think that bars are opening themselves up to more potential customers. Across the nation in the smoke free venues I can see an increase in value. He gave examples in other communities where they saw changes in sales tax revenue.

Mark Wright: I have been open nine years and my average length of employment per employee is 5.27 years. He listed the positive things that his bar has to offer citizens and employees.

Alderman Lewis: Do you have an estimated cost for the ventilation system that you put in?

Mark Wright: It can be anywhere from \$800 to \$25,000, it depends on the square footage.

Alderman Adams: Have you ever thought about going nonsmoking in your place?

Mark Wright: Yes.

Alderman Adams: Do you understand there is a possibility that more people would come in if you did go that way?

Mark Wright: Yes, but I have to remember the people that got me to where I am today. Until I have a place for them to go I wouldn't feel right.

Nancy Allen, resident of Ward 2 stated this is a concern to me that you might be taking away too many privileges and rights. She spoke against the ordinance.

Jessica Beil, a Fayetteville resident who currently works in the entertainment district pointed out that there are other places of employment that have nonsmoking that she can work at. It should be her choice. She spoke against the ordinance.

Alderman Lewis: So what about the other people that do not have as many options and have not been doing it as long? Should they have to consider working in fewer places?

Jessica Beil: I started working with the chains and it is harder to get a job in the entertainment district than with a chain.

Spencer Hastings who currently works in the entertainment district stated I am opposed to the smoking ban and pointed out that to regulate something that does not need to be regulated seems inefficient. He spoke against the ordinance.

Susie Shinn, resident of Ward 1 argued that the government does have a place in business owners operation. We know the affects of second hand smoke. She spoke against the ordinance.

Alderman Ferrell: I don't think there is any question that we believe there are health risks associated with smoking. The other side of the question seems to be is it a person's choice to be able to do something.

Alderman Petty: I recognize a lot of people that have made comments here and I feel like I have given a clear answer on my position. This is not a choice between smoking and nonsmoking; this is about smoking inside or outside of public. He spoke on the dangers and health affects of second hand smoke. I think the long term benefits of this are very important.

Alderman Lewis stated we all have choices until our choices negatively impact someone else's choices. I have to think about the businesses and the patrons. She spoke on the affects this would have on the community as a whole.

This ordinance was left on the Second Reading

New Business:

Arkansas Western Gas: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Arkansas Western Gas Company in the amount of \$74,594.00 plus a contingency of \$15,710.00 for the relocation of gas mains and facilities necessary for the Cato Springs Road widening project.

Assistant City Attorney Jason Kelley read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance.

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

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

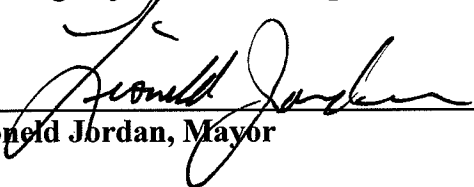
Assistant City Attorney Jason Kelley read the ordinance.

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

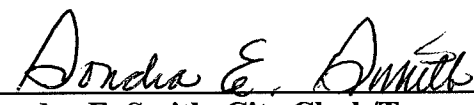
Ordinance 5411 as Recorded in the office of the City Clerk

Announcements:

Meeting adjourned at 8:50 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer

