Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
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
July 19, 2011

A meeting of the Fayetteville City Council was held on July 19, 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, Boudreaux, Kinion, Petty, Tennant, Ferrell, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Adams

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

<u>Consent:</u>

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

Approved

Stephens, Inc.: A resolution approving the renewal of the contract with Stephens, Inc., as amended, to act as the City of Fayetteville's benefits broker and advisor.

Resolution 120-11 as recorded in the office of the City Clerk.

ADM 11-3864 Fayetteville Sculpture Show: A resolution to express the City Council's agreement that the City should create an Art Fair within the City park system and/or along city trails to generate funds to purchase sculptures or other art for the city trails.

Alderman Petty requested that this item be pulled from the Consent Agenda for further discussion.

A discussion followed on where to place this item on the agenda.

This item was removed from the Consent Agenda for discussion.

Garver, LLC: A resolution to approve an agreement for engineering services with Garver, LLC in a not to exceed amount of $20,000.00 related to the replacement of the current ten inch Elkins sewer main with an eighteen inch sewer main.

Resolution 122-11 as recorded in the office of the City Clerk.

Verizon Third Amendment: A resolution to approve the Third Amendment of the water tower attachment communication site agreement of December 2009 to allow new and additional cell phone antennas to be placed upon the Gulley Road Water Tower by Verizon.

Resolution 123-11 as recorded in the office of the City Clerk.

Arkansas State Highway Commission Agreement: A resolution to approve a utility construction/relocation agreement with the Arkansas State Highway Commission related to the Highway 16 East Widening and Improvement Project.

Hugh Jarrett with Lindsey & Associates requested this item be pulled from the Consent Agenda and tabled to the next meeting to give the landowner two more weeks.

Alderman Ferrell requested to remove this item from the Consent Agenda for further discussion.

A discussion followed on the procedures for moving things on the agenda.

This item was removed from the Consent Agenda for discussion.

Arkansas Highway and Transportation Department: A resolution to dedicate the highway right-of-way to the Arkansas Highway and Transportation Department for the realigned Highway 71.

Resolution 125-11 as recorded in the office of the City Clerk.

McClelland Engineering, Inc. Task Order No. 6: A resolution to approve Task Order No. 6 for engineering work by McClelland Engineering, Inc. related to the airfield pavement rehabilitation and re-striping project in the approximate amount of $22,830.00, and approving a budget adjustment.

Resolution 126-11 as recorded in the office of the City Clerk.

Bid #11-41 Donnie Sams: A resolution awarding Bid #11-41 and approving a five (5) year airport hay field lease with Donnie Sams of West Fork, Arkansas in the total rental amount of $12,805.00.

Resolution 127-11 as recorded in the office of the City Clerk.

RFP #11-07 Soccer Uniforms: A resolution to awarding RFP #11-07 and authorizing a contract with Challenger Teamwear in the amount of $12.15 each for youth soccer uniforms for the Fall 2011 and Spring 2012 seasons, with an auto-renewal option for the Fall 2012 and Spring 2013 seasons.

Resolution 128-11 as recorded in the office of the City Clerk.

Alderman Gray moved to approve the Consent Agenda with ADM 11-3864 Fayetteville Sculpture Show and Arkansas State Highway Commission Agreement removed for discussion. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

The following items were removed from the Consent Agenda for discussion:

ADM 11-3864 Fayetteville Sculpture Show: A resolution to express the City Council's agreement that the City should create an Art Fair within the city park system and/or along city trails to generate funds to purchase sculptures or other art for the city trails.

Alderman Petty explained that he pulled this item from the Consent Agenda because he wanted the artists and administration to have the opportunity to discuss this item. He stated he would like to look at having art on the trails for an extended period of time rather than just the two days of an art fair.

Mayor Jordan: Do you have a recommendation on the amount of time?

Alderman Petty stated two days is an appropriate amount of time for an art fair but there may be times that we should allow art for other events, gallery showings, or kid's events.

Alderman Boudreaux: Where is the time you are referring to? I don't see a set time.

Alderman Petty: The resolution itself does not talk about a time. It just states that once it passes, staff will start developing an RFP to do an art fair. The examples they cite last two days.

Alderman Boudreaux: I think passing this resolution opens the opportunity for discussing it with the staff. I don't want to set anything in this resolution.

Alderman Petty: I don't want to change the resolution at all.

Alderman Boudreaux: The resolution is just allowing this discussion to go forward. I am in favor of this and move that we pass it.

Alderman Lewis: The City should prepare to do these things. There may be other things that come up because of the preparations to create that would come back to the Council because of existing ordinances. Is that what you are trying do?

Alderman Petty: I suspect that both the artist community and the administration would like to know just how deep the level of support for arts on the trails goes with the Council. That is why I pulled this item from the Consent Agenda.

Alderman Boudreaux: The resolution is just showing support for this going forward and then there will be time for discussions with Parks.

Mayor Jordan: I sit on the Arts Committee for the U.S. Conference of Mayor's and most of these are never done in less than a week. I just need to know what you all want to do and if you want me to take public comment.

Don Marr: The reason staff brought this to the Council was because whatever we bring back will require an ordinance revision to allow commercial sales in the parks.

An Unknown Citizen stated the fair needs to be longer than a weekend or a week.

Alderman Lewis stated the resolution does not say that.

City Attorney Kit Williams: The resolution is wide open. City staff is probably going to look at how art fairs are done nationwide and in other cities.

Caleb Clark, a citizen stated the proposal states something about being limited to an annual event. I want to make sure that someone who is working on a project does not have to compete with the Walton Arts Center itself.

Mayor Jordan: I don't think we are setting a time limit.

Caleb Clark thanked the Council for their support of arts on the trails.

Alderman Gray: I support art on the trails.

Alderman Petty moved to approve the resolution. Alderman Lewis seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 121-11 as recorded in the office of the City Clerk.

Arkansas State Highway Commission Agreement: A resolution to approve a utility construction/relocation agreement with the Arkansas State Highway Commission related to the Highway 16 East Widening and Improvement Project.

Hugh Jarrett expressed his apologies for misreading the item and having it pulled from the Consent Agenda and asked the Council to approve it.

Alderman Ferrell moved to approve the resolution. Alderman Boudreaux seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 124-11 as recorded in the office of the City Clerk.

Unfinished Business:

RZN 11-3806 (South of Zion Road and East of Taliesin Lane/Woodbury): An ordinance revoking R-PZD 06-2190 (Woodbury) rezoning that property described in rezoning petition RZN 11-3806, for approximately 9.26 acres, located south of Zion Road and east of Taliesin Lane, from R-PZD, Residential Planned Zoning District 06-2190, to NC, Neighborhood Conservation. *This ordinance was left on the Second Reading at the June 21, 2011 City Council meeting. This ordinance was left on the Third Reading at the July 5, 2011 City Council meeting and Tabled to the July 19, City Council meeting.*

Alderman Ferrell: I agree with staff's recommendations. I did some checking and am satisfied.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5419 as Recorded in the office of the City Clerk

Appeal RZN 11-3831 (209 W. Martin Luther King Blvd.): An ordinance rezoning that property described in rezoning petition RZN 11-3831, for approximately 2.64 acres located at 209 West Martin Luther King Boulevard from RMF-24, Residential Multi-Family, 24 units per acre to C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the June 21, 2011 City Council meeting. This ordinance was left on the Second Reading at the July 5, 2011 City Council meeting.*

Alderman Boudreaux moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance and clarified form based codes. He also stated staff's recommendation was a Community Services zoning.

Alderman Boudreaux discussed the canopy on a project going in on the corner of Township and North College and questioned the setback differences between C-1 and Community Services.

Jeremy Pate explained the setback differences between both zonings.

Alderman Boudreaux: So that is a large part of the difference since you are allowing the canopy.

Jeremy Pate: It is. He explained various zonings and their similarities. He pointed out that the Council as policy makers make the decision based on City Plan 2030 and a lot of other factors as well.

Alderman Petty moved to amend the appeal to Community Services. Alderman Lewis seconded the motion.

Dennis Blind with CEI Engineering requested the Council approve his appeal to C-1. He explained why a Community Services zoning would not work for that area.

Rob Wiley with Kum & Go stated we just want to build a Kum & Go at that location. He also explained why they needed it to be zoned C-1.

Alderman Lewis asked Jeremy Pate if Community Services would allow for this type of use.

Jeremy Pate confirmed that fuel stations and convenient stores are allowed in either one of the zoning districts.

Alderman Boudreaux questioned the canopy height.

Rob Wiley: The fascia would have to be six foot tall.

Alderman Boudreaux: Staff is not saying that is the case.

Jeremy Pate: I am not sure about that or not. I am assuming that what they are talking about is the façade would be 6 feet in height as opposed to a normal 3 feet.

Rob Wiley: I believe College and Township is 3 feet.

Alderman Ferrell asked what kind of investment is going in at Martin Luther King (MLK) and the City.

Rob Wiley explained the investment for that location.

Alderman Ferrell: So you have $2.5 million at MLK?

Rob Wiley: Actually the canopy would cost close to a half a million dollars which is four times the cost at College and Township.

Gretchen Slimp, homeowner near the discussed location voiced her concerns on the increased impervious surface in that area.

Aubrey Shepherd, a citizen voiced his concerns with the canopy area being so close to traffic and the dangers involved with having gas pumps so close to the road. He asked if the convenient store would be seeking a liquor license.

City Attorney Kit Williams: We have probably already gone beyond what we should be talking about in a rezoning. That would be one step too far at this point in time.

Aubrey Shepherd asked to leave the trees on there if they can and leave every bit of natural soil, that is currently in place, during construction.

Alderman Boudreaux: It would be nice if we could just rezone part of the property to C-1 and do Community Services on the rest of it.

Jeremy Pate: That is certainly an option and if they are willing to go with that you could do that as well.

City Attorney Kit Williams: It is a legislative decision by the City Council on what to zone the property.

Alderman Boudreaux: So I can split this property in half?

City Attorney Kit Williams: The difficulty would be to try to determine the proper amount. You might ask the Kum & Go individuals how much they will actually need.

Rob Wiley: We would like to keep the trees as well so for us to say that we want to divide this property at a certain spot, we can't really say that.

Mayor Jordan confirmed the previous motion to amend.

Alderman Petty stated they can meet the requirements of Community Services and explained why he felt this was the proper zoning for this property. He asked Jeremy to explain the differences in the enforcement options we have when it comes to drainage regulations and tree preservation regarding the different zonings.

Jeremy Pate gave a brief explanation of the regulations in various zonings.

Alderman Ferrell: This is a significant investment and I won't support Community Services. I support form based zoning and I think form based zoning has its place. I would vote for their application to proceed.

Alderman Lewis: I have to keep reminding myself this is a zoning request. This project could work there with Community Services. What do we expect from people that do projects here and how do we protect the quality of life in the future also. I want to enable them and for them to have their project. We have to think about what zoning would be good there. I support Community Services.

Alderman Gray asked Jeremy to explain the differences of this project and how it would look under Community Services versus a C-1 zoning.

Jeremy Pate: With Community Services the building would be located closer to the street and parking would be located farther back into the property. With C-1 or C-2 generally the building would be located in the middle of the property with parking and drives next to the street.

Alderman Boudreaux: Having gas pumps next to the street is not necessarily a good idea. I am not going to support the amendment. I am going to support the C-1 zoning.

Alderman Kinion: We can't look at the project, we have to look at the zoning and I will support C-1 based on the fact that there is C-1 and C-2 around it.

Upon roll call the motion to amend the ordinance to Community Services failed 2-5. Alderman Lewis and Petty voting yes. Alderman Gray, Boudreaux, Kinion, Tennant and Ferrell voting no. Alderman Adams was absent.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. Alderman Gray, Boudreaux, Kinion, Tennant and Ferrell voting yes. Alderman Lewis and Petty voting no. Alderman Adams was absent.

This ordinance approved the C-1 zoning for this location.

Ordinance 5420 as Recorded in the office of the City Clerk

<u>New Business:</u>

Rebuilding Together, Inc.: A resolution to waive all development permit fees for Rebuilding Together, Inc. for the remainder of 2011 and throughout all of 2012.

Alderman Boudreaux: I think it is important to help these nonprofits. We have done this for other nonprofits.

Jan Skopecek, Executive Director for Rebuilding Together: We do rehabilitation for low income homeowners throughout Benton and Washington counties. Our goal is to make homes safe, warm, and dry. We have been blessed to have a relationship with the Community Development Block Grant Department. The staff is exceptional.

Mayor Jordan: You do a wonderful job.

Alderman Boudreaux moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

Resolution 129-11 as recorded in the office of the City Clerk.

RZN 11-3857 (510 West 11th Street/989 South School Avenue/Sale Barn): An ordinance rezoning that property described in rezoning petition RZN 11-3857, for approximately 12 acres, located at 510 West 11th Street and 989 South School Avenue (The Sale Barn) from RMF-24, Residential Multi-Family, 24 units/acre, I-1, Heavy Commercial/Light Industrial, and DG, Downtown General to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. There are a few new things that have occurred since the previous zoning application. They have acquired a new parcel along South School that accesses directly to South School Avenue. We now have a streamside protection ordinance in place and the Community Services District is now an option. Planning Commission voted 6-1 in favor and staff recommends it.

Justin Eichmann, Attorney representing the applicant gave a brief history of the sale barn. He stated we are asking you to uphold the staff and Planning Commission's recommendation.

Kathy Kisida, a resident that lives near the sale barn property stated I am against the Community Services zoning for this area because it is not a conditional use. It will allow by right to build a gas station and large apartment complex with no density restrictions. That zoning is not compatible with our neighborhood. She also voiced her concern about the traffic and noise this would create.

Leonard Schulte, resident near the sale barn property voiced his concerns. He pointed out that if this were to be developed the City will have to upgrade the lane that connects Government Street to Hill Street.

Lauren Hawkins, a citizen passed out pictures to the Council and stated this is not a compatible situation in our neighborhood. She asked the Council to amend the ordinance to Neighborhood Conservation.

Alderman Lewis asked how the picture was generated.

Lauren Hawkins explained where the picture came from.

Aubrey Shepherd voiced his concerns about the project being next to the National Cemetery. He also voiced his concern about the neighbors that will be affected and the watershed.

Alderman Ferrell: I am a veteran but it is time that we move forward with this.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 6-1. Alderman Petty voting no. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: Jeremy, how many blocks wide east to west would you say this neighborhood is if you were to measure from School to Town Branch?

Jeremy Pate: It's probably a block and a half east to west.

Alderman Petty: How many streets are there running north to south from School to the Town Branch.

Jeremy Pate: Three, except if you count the extension out to South School it would be four.

Alderman Petty: I support this request. I think we need to try to create an appropriate transition from the heavy commercial activity and traffic of School and MLK into the neighborhood core that already exists there. I think Community Services is the right zoning and a portion of the traffic will be alleviated with the connection to School.

Alderman Boudreaux: The last time there was a lot of concern about traffic. This is a different zoning. It is form based and a good transition zoning. I will support it.

Alderman Lewis asked where the additional purchased property was.

Jeremy Pate: It is by the old bus depot.

Alderman Lewis: In the past we wanted something that was more transitional and this seems like it satisfies that. Traffic was a major part of the discussion and this provides a third exit. I think this is an ideal location for a low impact development design. I hope that will be a consideration in the development of this before moving forward.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-1. Alderman Petty voting no. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant: In Mr. Bartholomew's case I think he has done his responsibilities. I am confident in city staff to look at what is being built on this area. I am in support of this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Alderman Ferrell complimented the Bartholomew's on their previous café and sale barn business.

Ordinance 5421 as Recorded in the office of the City Clerk

Mayor Jordan asked students that were in the audience to stand and be recognized.

Gwen Sullivan, teacher of Spring International Language Center at the University of Arkansas introduced 24 students that were attending the City Council meeting. They are part of Iraqi young leaders exchange program.

VAC 11-3861 (1528 North Garland Avenue): An ordinance approving VAC 11-3861 submitted by H2 Engineering for property located at 1528 North Garland Avenue to vacate two portions of a utility easement, a total of 190 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. Planning Commission voted 6-0 in favor and staff is recommending in favor.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty was absent during the vote. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5422 as Recorded in the office of the City Clerk

Amend §163.13 Wireless Communications Facilities: An ordinance to amend §163.13 Wireless Communications Facilities of the Unified Development Code to add an exemption necessary for adequate emergency service communications.

City Attorney Kit Williams read the ordinance.

Police Chief Greg Tabor: We need to make this change for the new radio system we are installing.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5423 as Recorded in the office of the City Clerk

Smith Two Way Radio, Inc.: An ordinance to waive competitive bidding and to approve a purchase of a Motorola radio fire station alerting system in the amount of $40,240.66 which includes all labor and sales tax.

City Attorney Kit Williams read the ordinance.

Chris Lynch, Assistant Fire Chief: This is addressing how our fire stations will receive emergency calls. We checked with several companies before making a decision.

Alderman Lewis thanked Assistant Fire Chief Lynch for getting a second opinion.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5424 as Recorded in the office of the City Clerk

Coves Subdivision Appeal: A resolution granting the appeal of Rausch Coleman Homes of the decision of the Urban Forester concerning landscape and tree preservation and protection requirements for the Coves, Phase One, FPL 10-3574.

Don Marr, Chief of Staff: At the request of the applicant staff is requesting this be tabled indefinitely.

Alderman Boudreaux moved to table the resolution indefinitely. Alderman Lewis seconded the motion. Upon roll call the resolution passed 7-0. Alderman Adams was absent.

This resolution was tabled indefinitely.

Meeting adjourned at 8:00 p.m.

Lioneld Jordan

Lioneld Jordan, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer