

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  
September 20, 2011**

A meeting of the Fayetteville City Council was held on September 20, 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 Boudreaux, Kinion, Petty, Ferrell, Lewis, Adams, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.**

**ABSENT: Alderman Gray and Tennant**

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions: None**

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

**Nominating Committee Report**

Alderman Ferrell read the Nominating Committee report.

**Alderman Ferrell moved to approve the Nominating Committee report. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Gray were absent.**

**Agenda Additions: None**

**Consent:**

Approval of the September 6, 2011 City Council meeting minutes.

***Approved***

**Repeal Resolution No. 59-11; Bid #11-52:** A resolution repealing Resolution No. 59-11, awarding Bid #11-52 and authorizing a contract with George Nunnally Chevrolet, Inc. in the amount of \$16,960.00 for the purchase of one (1) 2012 Chevrolet Colorado pickup truck, and approving a budget adjustment.

***Resolution 167-11 as recorded in the office of the City Clerk.***

**Repeal Resolution No. 60-11; Bid #11-51:** A resolution repealing Resolution No. 60-11, and awarding Bid #11-51 and authorizing a contract with George Nunnally Chevrolet, Inc. in the amount of \$19,950.00 for the purchase of one (1) 4x4 2012 Chevrolet Colorado pickup truck for use by the Meter Division.

***Resolution 168-11 as recorded in the office of the City Clerk.***

**Repeal Resolution No. 61-11; Bid #11-51:** A resolution repealing Resolution No. 61-11, and awarding Bid #11-51 and authorizing a contract with George Nunnally Chevrolet, Inc. in the amount of \$19,950.00 for the purchase of one (1) 4x4 2012 Chevrolet Colorado pickup truck for use by the Transportation Division.

***Resolution 169-11 as recorded in the office of the City Clerk.***

**Time Striping, Inc.:** A resolution approving a contract and change order no. 1 with Time Striping, Inc. for runway pavement rehabilitation and re-marking at Drake Field, and approving a budget adjustment recognizing FAA and Arkansas Department of Aeronautics grant revenue.

***Resolution 170-11 as recorded in the office of the City Clerk.***

**2011-2012 Selective Traffic Enforcement Program (STEP) Grant:** A resolution to approve and accept the 2011-2012 Selective Traffic Enforcement Program (STEP) Grant in the amount of \$104,200.00 in federal funding and \$13,500.00 in state funding and to approve the attached budget adjustment in the amount of \$117,700.00 to recognize this revenue.

***Resolution 171-11 as recorded in the office of the City Clerk.***

**Alderman Adams moved to approve the Consent Agenda as read. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Gray were absent.**

**Public Hearing:**

A Public Hearing regarding Section § 51.137 Monthly Sewer Rates: Amending Section 51.137 Monthly Sewer Rates of the Code of Fayetteville Table F3, Extra Strength Surcharges, Specifically Changing the Industrial Biological Oxygen Demand (BOD) Surcharge.

**City Attorney Kit Williams** asked David Jurgens to explain the ordinance.

**David Jurgens:** This item changes the industrial strength only of the sewer rates. When we split our flows to two wastewater treatment plants we found that the cost of treatment for biological oxygen demand (BOD) was reduced. Therefore, we recalculated the charges for the BOD wastewater treatment. This ordinance adjusts the surcharge to reflect the actual cost of treatment.

**Alderman Lewis:** This went before the Water and Sewer Committee. It is related to the industries that provide biological components to our wastewater.

**Unfinished Business:**

**Amend § 51.137 Monthly Sewer Rates:** An ordinance amending Section 51.137 Monthly Sewer Rates of the Code of Fayetteville by reducing certain extra strength surcharges to sewer rates, and providing for an effective date. *This ordinance was left on the First Reading at the September 6, 2011 City Council meeting.*

**Alderman Ferrell** 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 Tennant** and **Gray** were 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 6-0. **Alderman Tennant** and **Gray** were absent.

*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan** asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Tennant** and **Gray** were absent.

*Ordinance 5438 as Recorded in the office of the City Clerk*

**Revised Ward Boundaries:** A resolution to approve revised ward boundaries to equalize ward populations after the 2010 Federal Census. *This resolution was tabled at the September 6, 2011 City Council meeting to the September 20, 2011 City Council meeting.*

**City Attorney Kit Williams:** Instead of having a resolution we need to have an ordinance that will amend our code. I would recommend that the City Council indefinitely table this item.

**Alderman Boudreaux moved to table the resolution indefinitely. Alderman Lewis seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Gray were absent.**

**This ordinance was Tabled Indefinitely.**

**New Business:**

**Revised Ward Boundaries:** An ordinance to approve revised Ward Boundaries to equalize ward populations after the 2010 Federal Census and to amend §32.03 of the Fayetteville Code.

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

**Alderman Boudreaux:** When will this go into effect?

**City Attorney Kit Williams:** It will not be in effect until another election occurs based upon wards which will be in 2012.

**Alderman Boudreaux:** Does that mean the representation of the people that have been moved changes?

**City Attorney Kit Williams:** You represent all citizens. The wards will change now. Each one of you will remain in the same ward you were elected to. There will be a slight change with some of the citizens that once were in one ward and now are in another. The main affect will be during the election of 2012 when the voters will vote within the new ward boundaries.

**Alderman Boudreaux:** I have had some questions about the impact of Mt. Sequoyah. As I recall that was in Ward 3 years ago.

**City Attorney Kit Williams:** That is correct. This ward boundary map has been changed many times. These boundaries have been adjusted through the years to make sure that they always have an equal number of people living in each ward.

**Alderman Ferrell:** I was under the impression that it would not be effective until the next election. Are we agreeing on that?

**City Attorney Kit Williams:** It won't have any true legal affect until the next election. It is effective now.

**Alderman Boudreaux:** I feel like we can go ahead with it. I have not heard any controversy about it.

**Alderman Boudreaux 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 Tennant and Gray were absent.**

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

**Alderman Lewis:** Ward 4 has monthly meetings and we base the topics at those meetings on things happening in Ward 4. Could there be language that says it is to be effective in the next election. What is the benefit of legally enacting it now?

**City Attorney Kit Williams:** It would be possible for the Council to put an effective date on this but we can't wait until November because you have to file for election before that. I would say the effective date should not be any later than July 1<sup>st</sup> of next year to make sure that there is no question about how to conduct the election next year.

**Alderman Petty:** Does our constitutional obligation to change the boundaries have any affect on the timeline for making this effective?

**City Attorney Kit Williams:** Probably not because it is the election that counts. Maybe you should leave this ordinance on the second reading. That will give the Election Commission the opportunity to come to the next meeting and explain why they think it should go into effect earlier.

**Alderman Ferrell:** Anybody can go to any public meeting at any time so I wouldn't think that anyone would feel prohibition about attending a public meeting.

**Alderman Lewis:** Making it concrete will help people make the transition and know who their representatives are.

**Mayor Jordan:** We are going to hold it for two weeks then.

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

**AEP/SWEPCO & Ozarks Electric:** An ordinance waiving competitive bidding for this payment and all future payments to or contracts with AEP/SWEPCO and Ozarks Electric Cooperative for the relocation costs for electric utility poles and power lines necessitated by road reconstruction or widening projects within AEP/SWEPCO's or Ozark Electric's area of service, to approve this payment in the amount not to exceed \$142,953.21 and to approve a budget adjustment.

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

**City Attorney Kit Williams** gave a brief description of the ordinance.

**Mayor Jordan:** We can only use these people so there is no sense in putting it out for competitive bidding.

**City Attorney Kit Williams:** The Public Service Commission (PSC) says they will be the companies that will make the electric poles and power lines.

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

**Alderman Boudreaux:** The Street Committee recommended this.

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

**Alderman Ferrell:** Would there be a reason that we would not do the same with the telephone and cable company, if they have to move their facilities?

**City Attorney Kit Williams:** No, when one of those comes through I plan to do the same ordinance and ask you to waive that now and in the future.

**Mayor Jordan** asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Tennant and Gray** were absent.

*Ordinance 5439 as Recorded in the office of the City Clerk*

**Amend Chapter 34:** An ordinance amending section 34.25: Sales of Article II: Purchase and Sale of City Property; contracts of Chapter 34: Finance and Revenue of the Code of Fayetteville to provide authority and procedures for the sale of biosolids.

*City Attorney Kit Williams read the ordinance.*

**David Jurgens,** Utilities Director gave a brief explanation of the ordinance.

**Alderman Petty:** I think this is the best thing we can do with this material. I want to make sure, that when we are designing this program, we are aware of some of the criticisms that other communities have had with their biosolids programs.

**David Jurgens:** We are aware of the criticisms that are out there. We have been following the Environmental Protection Agency (EPA) guidance.

**Alderman Lewis:** It went through the Water and Sewer Committee and we recommend it and support it.

**Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Gray were absent.**

*City Attorney Kit Williams read the ordinance.*

**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 6-0. Alderman Tennant and Gray were absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Lewis:** This is an opportunity to generate funds but it also reduces the cost of transporting the biosolids hundred of miles to a landfill. This is very important technology.

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Gray were absent.**

*Ordinance 5440 as Recorded in the office of the City Clerk*

**RZN 11-3866 (2013 E. Mission Blvd./Ruskin Heights):** An ordinance rezoning that property described in rezoning petition RZN 11-3866, for approximately 28.93 acres located at 2013 East Mission Boulevard from R-PZD, Residential Planned Zoning District (R-PZD 06-2299 Ruskin Heights), to CS, Community Services; NC, Neighborhood Conservation; and RSF-4, Residential Single Family, 4 units/acre, subject to a Bill of Assurance.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief explanation of the ordinance. The Planning Commission recommended approval with a vote of 8-1. Jeremy went over the bill of assurance that runs with the property. Staff is recommending approval of three new zoning districts on this property.

**Mayor Jordan:** How do you amend a bill of assurance?

**City Attorney Kit Williams:** Actually it is not our document so the applicant would have to amend it. I would suggest that on Exhibit B to the bill of assurance that they remove number 3 under Neighborhood Conservation and add that to the RSF-4 section.

**Justin Jorgensen** with Jorgensen's Associates: Yes, that sounds good to us. Thank you Jeremy for catching that and we would be glad to do that.

**City Attorney Kit Williams** asked Justin Jorgensen to go ahead and make the change and submit it to Jeremy.

**Alderman Petty:** Neighborhood Conservation and RSF-4 are very similar zoning designations so I was wondering why, in your negotiations with the surrounding neighborhoods, you chose to put RSF-4 on those two corners rather than Neighborhood Conservation across that entire tract.

**Justin Jorgensen:** The reason for that is to have flexibility in the lot design.

**Alderman Petty:** I think you described why you chose Neighborhood Conservation but I was asking why you chose RSF-4.

**Justin Jorgensen:** In that area it is going to be hard to develop. There is a lot of surrounding property owners that wanted to see that as RSF-4.

**Jeremy Pate:** In the Ruskin Heights project this was the tree house area. This area has a lot of ravines and significant tree canopy. We felt the lower density would be a much better option in this particular portion of the property.

**Alderman Petty:** We received an email in regards to a traffic requirement that existed for Ruskin Heights to make a portion of that a boulevard to direct traffic out of this area onto Highway 45. They stated you guys responded and told them that would be a conversation for the large scale development approval, is that right?

**Jeremy Pate:** That is correct. Generally we look at street improvements or access to streets at the time of the development proposal. With Ruskin Height we were looking at both zoning and development because it was a planned zoning district. When or if a street connects to Greenview we would look at the same factors we looked at originally.

**Joann Kvamme,** a resident near the property thanked the applicant for meeting with the neighbors. I appreciate the bill of assurance. My concern is, with the economic times what they are, if it sells again and the next developer does not want to abide by these rules, they could come back and have this nulled.

**Mayor Jordan:** They could I think.

**City Attorney Kit Williams** explained the options that a new developer would have.

**Mayor Jordan:** There wouldn't be any guarantees that it would stay forever.

**Joann Kvamme:** One of the things that will keep Fayetteville strong is the stability of our neighborhoods. If neighborhoods are in constant question as to what is going to happen around them you are going to deteriorate our neighborhoods. We worked hard with the applicant to get

to what they have. I hope in the future if something like this comes forward you will think long and hard before making changes to that.

**Alderman Lewis:** The bill of assurance stays with the property even if this project doesn't work.

**City Attorney Kit Williams:** It is part of the zoning, which can be changed by a future City Council, whether it is the zoning or if the applicant comes back and requests a change to the bill of assurance.

**Don Conner,** resident of 1686 E. Shadowridge expressed similar concerns for the future regarding the bill of assurance. We spoke with the developers and I was really pleased. We need to consider the fate of the forest that is there. We want to make sure the geological problems are dealt with. This is a lot better than it was.

**Alderman Petty:** In the bill of assurance, where it refers cultural and recreational facilities, that use unit has been removed, I was wondering if that would prevent that area of the property from being preserved through park land dedication.

**Jeremy Pate:** It would not. That refers to the Community Services zoning which is only along the front portion of Mission.

**Alderman Petty** asked Jeremy to list some of the cultural and recreational facilities that are being removed.

**Jeremy Pate** gave examples of cultural and recreational facilities.

**Alderman Petty:** So it seems like the intention is to limit a high amount of traffic.

**Jeremy Pate:** It is and the slope of this project related to the scale of any type of use here it is going to be very difficult to have a large parking lot and a large use. Our intention was to limit the scale of buildings even along Mission to something that was more of neighborhood compatibility. This helps to resolve that concern.

**Alderman Boudreaux:** I am really pleased with this developer. They have really worked with the neighborhood.

**Alderman Boudreaux** moved to suspend the rules and go to the second reading. **Alderman Petty** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Tennant** and **Gray** were absent.

*City Attorney Kit Williams read the ordinance.*

**Alderman Boudreaux:** I think we should leave it on this reading until Adella Gray gets back and we get the bill of assurance corrected.

**Alderman Lewis** asked Justin Jorgensen what the vision is for stormwater management and green infrastructure.

**Justin Jorgensen** stated as far as moving forward we do not have a plan but we anticipate low impact development features. Things like that will be taken care of at the time of preliminary plat construction.

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

**RZN 11-3901 (S. Beechwood Ave./Love Box):** An ordinance rezoning that property described in rezoning petition RZN 11-3901, for approximately 16.24 acres, located at 811 and 833 South Beechwood Avenue from I-1, Heavy Commercial and Light Industrial and I-2, General Industrial, to CS, Community Services.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief description of the ordinance.

**Alderman Petty:** I am curious if there is an easement along the rail line right now or if there is a way to get one.

**Jeremy Pate:** I don't believe that there is. The railroad use to own these properties to provide rail access. The development team that we have spoken with is interested in trail connections.

**Alderman Adams:** I appreciate you stating that you do not believe it will create an increase in traffic danger and congestion. That was one of my concerns. You don't believe that it will be a problem with traffic?

**Jeremy Pate:** We send all of these applications to the Police Department, Fire Department, and the entire zoning development review team and they provide comments back to us. We feel that you have multiple points of access to this site. We would look at improvements along Beechwood and what improvements might need to occur with the development.

**Alderman Ferrell:** If half of this parcel was used under Community Services and some kind of industry did come along, would there be a possibility of that being rezoned back to Industrial? Would that be likely in that area?

**Jeremy Pate:** I think it would be reasonable for all the reasons that we changed the future land use plan. It still has close proximity to rail access, even if the rail is not on the site it is closer than many other sites are that we would like to have rail access to. There certainly would be that opportunity.

**Alderman Ferrell:** Proximity being one or the other.

**Jeremy Pate:** I-2 probably isn't compatible here anyway but I-1 for warehousing or something of that nature would fit right in with the rest of the uses along Beechwood.

**Alderman Petty moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 6-0. Alderman Tennant and Gray were absent.**

*City Attorney Kit Williams read the ordinance.*

**Alderman Lewis:** I really support the form based code and this Community Services. It's a large enough piece that I hope it will act as a turning point for that area in looking at implementing more of the form based code.

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

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate:** It is very rare that staff is recommends against the future land use plan, but this is a site that can make an impact with the Community Services zone, and that certainly played into our recommendation.

**Mayor Jordan:** I was seeing a lot of our industrial areas dwindle away. I had some opinions on that as well. I will take whatever responsibility on this that I need to.

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Gray were absent.**

*Ordinance 5441 as Recorded in the office of the City Clerk*

**ADM 11-3941 (Vantage Center PZD Amendment #2):** An ordinance amending a Residential Planned Zoning District entitled R-PZD 05-1543, Vantage Center located at the end of Shepard Lane adjacent to Frontage Road, containing approximately 4.68 acres, to allow the addition of Use Unit #26, multi-family dwellings, as a permitted use throughout all of the space in the four existing mixed-use buildings on the subject property, as described herein.

*City Attorney Kit Williams read the ordinance.*

**Jeremy Pate** gave a brief description of the ordinance.

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

*City Attorney Kit Williams read the ordinance.*

**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 6-0. Alderman Tennant and Gray were absent.**

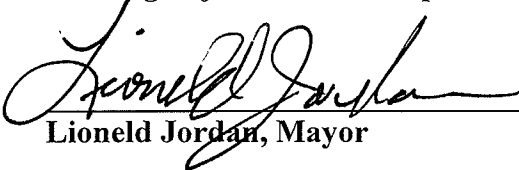
*City Attorney Kit Williams read the ordinance.*

**Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Tennant and Gray were absent.**

*Ordinance 5442 as Recorded in the office of the City Clerk*

**Announcements:**

**Meeting adjourned at 7:15 p.m.**

  
Lioneld Jordan, Mayor

  
Sondra E. Smith, City Clerk/Treasurer

# **Nominating Committee Report**

**Meeting: Wednesday, September 7, 2011**

**City Hall, Room 326, 5:00 p.m.**

**Members Present – Adella Gray, Bobby Ferrell, Rhonda Adams, and Mark Kinion**

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The Committee recommends the following candidates for appointment:

## **Animal Services Advisory Board**

- **Mary Herrington** - One unexpired term ending 06/30/14

## **Board of Adjustments and Appeals**

- **No applications were received**

## **Construction Board of Adjustments and Appeals**

- **David Holland** - One unexpired term ending 03/31/15
- **Anthony Clark** - One unexpired term ending 03/31/15

## **Environmental Action Committee**

- **Meredith Lewis** - One unexpired citizen-at-large term ending 12/31/12

## **Fayetteville Arts Council**

- **Cyd King** - One Arts and Cultural/Citizen-at-large term ending 6/30/14

## **Telecommunications Board**

- **Mitchell Spearman** – One unexpired term ending 06/30/14

**The Mayor recommends the following appointments to the Historic District Commission with the approval of the City Council.**

## **Historic District Commission**

- **Catherine Wallack** - One unexpired term ending 06/30/13