Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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
November 1, 2011

A meeting of the Fayetteville City Council was held on November 1, 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, Adams, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lewis

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Award Presentation – National Council for Public-Private Partnerships recognition of the City of Fayetteville, Ark., and CH2M HILL with a Public-Private Partnership Sustainability Awards – Richard Norment NCPPP representative

Richard Norment, NCPPP Representative explained the process of selecting a recipient. He presented the award to Mayor Jordan on behalf of the City of Fayetteville and CH2M Hill.

Mayor Jordan recognized and thanked Billy Ammons, Duyen Tran, and David Jurgens. He also thanked the City Council and citizens of Fayetteville for their hard work.

Agenda Additions: None

Consent:

Approval of the October 18, 2011 City Council meeting minutes.

Approved

2012 Chevrolet Colorado 4X4: A resolution approving a budget adjustment in the amount of $19,950.00 to fund the purchase of a 2012 Chevrolet Colorado 4X4 pickup truck by the Fleet Operations Division.

Resolution 185-11 as recorded in the office of the City Clerk.

Snow Plow and Spreader: A resolution approving a budget adjustment in the amount of $48,000.00 to fund the purchase of snow plow and spreader attachments for existing vehicles by the Fleet Operations Division.

Resolution 186-11 as recorded in the office of the City Clerk.

Mt. Sequoyah Center, Inc.: A resolution amending Resolution No. 140-11 and approving a participation and unsecured loan agreement with Mount Sequoyah Center, Inc. to perform energy retrofit services in the amount of $164,536.68 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

Resolution 187-11 as recorded in the office of the City Clerk.

Bid #11-23 Schefers Roofing Company: A resolution approving an agreement in the amount of $43,536.00 with Schefers Roofing Company, pursuant to Bid #11-23, for the installation of roofing as part of the Mount Sequoyah Center, Inc. Community Revolving Loan Fund for Energy Efficiency Agreement.

Resolution 188-11 as recorded in the office of the City Clerk.

Bid #11-62 Wyatt Contracting, Inc.: A resolution awarding Bid #11-62 and approving a contract with Wyatt Contracting, Inc. in the amount of $59,530.00 for the construction of a Lake Sequoyah boat ramp and courtesy dock, approving a ten percent (10%) project contingency, and approving a budget adjustment.

Resolution 189-11 as recorded in the office of the City Clerk.

Fire Station No. 3: A resolution approving a settlement agreement between the City, Heckathorn Construction Company, Inc., Don Spann AIA Architect, and Batson Bravo Engineering related to mold remediation and repairs completed at Fire Station No. 3, and approving a budget adjustment in the amount of $12,170.00.

Resolution 190-11 as recorded in the office of the City Clerk.

McGoodwin, Williams & Yates: A resolution approving a contract with McGoodwin, Williams & Yates in the amount of $105,000.00 for engineering and design of the Broyles Avenue recycling drop off and education facility, and approving a five percent (5%) contingency.

Resolution 191-11 as recorded in the office of the City Clerk.

Arkansas State Highway and Transportation Department: A resolution approving a budget adjustment in the amount of $596,957.75 recognizing revenue from the Arkansas State Highway and Transportation Department for water and sewer relocations related to the widening of State Highway 265 (Crossover Road) between Mission Boulevard and Joyce Boulevard.

Resolution 192-11 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to approve the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

Public Hearing:

Parking Revenue Improvement Bonds a discussion about the advisability of issuing parking revenue improvement bonds to finance the construction of an Entertainment District parking deck.

Mayor Jordan opened the Public Hearing

Paul Becker, Finance Director gave a brief description of the revenue bonds.

The Pubic Hearing was conducted

Dan Coody, a citizen expressed his concerns with the timing of the bonds and pointed out that it says "issued for 2011" in the ordinance. He questioned if you have that in the ordinance is it still okay to issue them in 2012.

Gordon Wilburn with Kutak Rock: If they are sold next year that representation does not have to be made in an ordinance, you can do it in a closing certificate but we would have to revisit the issue at that point to see if you had that same intent in 2012 and you could make the certification at that point. That section is not necessary if you are not going to sell the bonds this year.

Dan Coody stated one thing we don't want to do is issue bonds and then try to discover where we are going to place it, etc. All these things can add up to a huge amount of money that we are not prepared to spend. He expressed his concerns with the location and the cost.

Alderman Ferrell: Are you suggesting that subterranean excavation and construction is cheaper than going another route?

Dan Coody: I might suggest that but you might ask the Engineer.

Mayor Jordan: What about the trees that we have in the existing parking lot?

Dan Coody explained how the existing trees could be preserved.

Rick Alexander, a citizen expressed his concerns with the affect this would have on the surrounding property.

Terri Trotter with the Walton Arts Center spoke on the parking challenges in the Entertainment District and stated I appreciate you considering this and we look forward to what is in store.

Alderman Kinion: My concern is when we are looking at the current parking situation, if we build on the current Walton Arts Center parking lot, the immediate impact is going to be pretty sizeable. Do you see that as an impact immediately on the programming and would it be expected that if it was an immediate impact on the programming and accessibility that it would follow in the long run?

Terri Trotter: I am not sure that we have the information to answer that question, if it is determined that seems to be the best location, then we are certainly open to discussing how it would work.

Alderman Boudreaux: Has the parking not improved quite a bit since we implemented the paid parking and we don't have the students filling up the main Walton Arts Center lot?

Terri Trotter explained the current parking situation and stated before the show starts we have been filling the lot.

Alderman Boudreaux: If we build it on the Spring Street location, is it a real complaint with people having to walk that far?

Terri Trotter: I don't see it as being an issue from Spring Street. When you start talking about the Washington County deck there are issues there. As close to the Arts Center as it could be would be fantastic.

Alderman Boudreaux: The issue with the shuttle ideas is that everyone wants to leave at the same time.

Randall Russell with Crossland Construction Company spoke on the costs of constructing underground versus above ground.

A discussion followed on the costs per space on this particular location.

Alderman Ferrell: Did we gain any information from the actual excavation that took part for the Walton Arts Center?

Randall Russell stated we do have access. I have reviewed the as built drawings of the existing lot. He continued to discuss his findings.

Alderman Ferrell: How deep do you have to go to be able to tell where your bedrock is for piers if that is going to be involved?

Randall Russell: In that area of town I have excavated a couple of spots and there is a layer of shell there that is thick and I am not sure it would bear a six story parking deck. It would probably classify as rock.

Mayor Jordan clarified what the topic of discussion currently was.

Alderman Adams: If we enter into a bond purchase agreement, is it possible to bail out and if so what are the consequences?

Paul Becker explained that until we actually decide to sell the bonds they do not go into effect. He described the purchasing process.

Deborah Coody, a citizen asked why wouldn't you take a loan out from the reserve funds rather than taking it out of the parking revenue.

Paul Becker explained the reasoning behind taking the money from the parking revenue.

Deborah Coody stated the location is an issue because if you can net more parking places in one spot over another then you have long term more revenue coming in.

Mayor Jordan: I am not settled on a location one way or another which is an issue that we will discuss.

Alderman Boudreaux: It is my understanding that this committee is going to have more meetings and the public is invited. They will come up with recommendations and at that point it would come to the Council.

Mayor Jordan: The committee is an advisory committee but you all make the final call on this.

Alderman Gray: One question I have received is are we absolutely sure that the best way for us to get the money is to sell the bonds. My question is if we vote tonight to authorize the selling of the bonds, if there seems to be a better way to get the money, at that time are we obligated to do the bonds? Have we explored other places to get the money?

Paul Becker: There are no other sources for funding this other than a stream coming from parking. He spoke on the economic condition of our country today.

Alderman Gray: I was just suggesting that we look some place else to get the money like a bank or something.

Paul Becker explained the process on getting a construction loan.

Dennis Hunt with Stephens Inc. explained a bond offering.

Alderman Adams: I think that we need to vote to authorize the issuance of these bonds. This seems to me to be a good idea.

Steve Clark, President of the Chamber of Commerce thanked the Council for all that they have done thus far to address parking issues. He stated we ask you to adopt this and authorize the sale of these bonds. We also ask that you commit to, that once they are sold, that is all you will spend.

Dennis Hunt stated we are trying to set a budget in place but if interest rates start sky rocketing it will have an implication and then you will need to decide if we are far enough along that yes we want to go ahead and issue these bonds and lock in our budget to the maximum extent possible.

Mayor Jordan closed the Public Hearing

Unfinished Business: None

New Business:

Parking Revenue Improvement Bonds: An ordinance authorizing the issuance and sale of not to exceed $6,500,000 of Parking Revenue Improvement Bonds by the City of Fayetteville, Arkansas for the purpose of financing all or a portion of the costs of acquisition, construction and equipping of a parking deck facility, authorizing the execution and delivery of a trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell stated this is the only way that we will have a revenue source where it will not have to come out of another part of our fund because it will generate and pay for itself. I spoke with some business owners and they understood there was a parking problem now and they would support this provided there was a revenue stream to build something. He spoke in favor of the ordinance.

Deborah Coody: asked does this mean that the bonds won't be sold until the City Council approves a location and a design?

Paul Becker: This authorizes the Mayor and Administration to execute and sell the bonds. The Mayor said he intends to bring that to the Council before we move forward with the project.

Mayor Jordan stated I am trying to set a budget for what we have to work with which is $5.5 million. The total authorization of this is basically giving us permission to do this and then we will decide when we activate those bonds. I really wanted to know if the Council is still in support of the bonds and authorizing the sale of the bonds when we get ready to do that.

Deborah Coody: So what you are saying is that you are not going to have the location and the design hammered out before you sell the bonds?

Mayor Jordan: I think that would be a correct statement.

Deborah Coody: I think that is a mistake.

Alderman Petty: I support the idea of a deck. I would prefer that those bonds are not issued until we have established at least a few conclusions from the public input process. I would request that we leave this on the first reading and have the Administration come forward with a plan for that public input process.

Alderman Ferrell: Do you see this as being done in the next couple of readings because we are vulnerable to the market as far as the rates on the bonds.

Alderman Petty: The only thing that keeps me from authorizing these tonight is I want that process to be outlined.

Dan Coody encouraged the Council to take more time to look at other options. He explained various ideas to create a parking deck.

Mayor Jordan: I am very open minded and by the figures you brought in that is very attractive to me so we should be good.

Alderman Adams: Dan, have you been to some of the committee meetings yet?

Dan Coody: No, not yet.

Mayor Jordan: This is our third.

Dan Coody: No, I haven't been to any of them. He continued to describe other parking decks he has seen and stated if we can't hide it with beauty then let's just hide it all together.

A discussion followed on the cost of the projects.

Paul Becker: If we go for a straight bank loan we have to pay it back in five years. We couldn't borrow near as much money as we could in a revenue bond. That is why the revenue bond is the best alternative.

David Orr, resident of 1564 West Cedar Street pointed out the need for aesthetics in this project. He expressed his concerns with the height issue of a parking deck.

Matthew Wright, a resident of Ward 4 asked if it doesn't work out whether its aesthetics or price then you just don't go forward with the bond or what happens?

Paul Becker: That is correct, that is what is anticipated.

Alderman Petty: How did we arrive to the figure of $6.5 million?

Paul Becker explained the process of how that figure was reached.

Dennis Hunt further explained the process.

Alderman Petty: Are there any factors in the decision making process that would affect our capacity to borrow in your methodology?

Dennis Hunt: We have not analyzed what the new deck would generate. There are a lot of variables that could influence the future in terms of the number of spaces that would actually be used. What we have looked at is your historic collections over the last twelve month period.

Alderman Petty: We have to set a total price for this project but we don't have all the information to do so now. I want to make sure that the City has the capacity to borrow as much as we can and that is separate from actually using that money.

Paul Becker: Your decision would be made and if you get to the point and you can't build what you want then you just scale back the project or you don't do the project.

Alderman Petty: In the development of that public input process, I think it is really important that we determine what we are going to know from that process, before the bonds get issued so that we can avoid acquiring more debt before we are certain that we will be able to afford the project.

Alderman Boudreaux: That becomes difficult if you don't bid out the projects. I don't know how fine tuned we can really get there.

Mayor Jordan: I am basing it on the revenue that we have brought in and what we can afford to do. I am trying to keep it to where we can afford to bond what we are doing and pay for it.

Alderman Petty: We can at least know what we are going to ask for in the bids before we go out and establish that process.

Mayor Jordan: I leave a lot of this up to your wisdom too and we will bring you back whatever you want to look at.

Don Marr, Chief of Staff stated the project design goes back to the initial discussion we had with the public in the first 16 meetings. Our bonding capacity doesn't change unless our revenue and interest rate changes. I don't think the capacity of what the revenue will generate will change regardless; the discussion is what will change what you do.

Mayor Jordan: At the end of the day we have $5.5 million.

Alderman Gray: I feel like the place we don't want to be, is going through the borings, looking at the ground, and design and deciding what we really want and then knowing that we can't do it for the money but we have already issued the bonds. Do we have the money to do those preliminary tests and designs?

Paul Becker: You should have the money to be able to do the bonds locally. At that point we would know whether or not the project was feasible.

Alderman Gray: That is what is important for us to know.

Randall Russell: What you have to look at here is our net increase if you want to look at a comparable cost per space. He discussed the design phase and cost.

Steve Clark stated the Chamber of Commerce would never support the increasing of the parking rates. He expressed his concerns regarding increases in the cost.

Alderman Ferrell: Any funds spent up front can be recaptured once it's bought or sold.

Paul Becker: Right, that is in the bond document.

Alderman Ferrell: On a public project like this can we accept funds from philanthropist if someone wanted to donate a large amount of money?

Paul Becker: I certainly don't see why not.

Left on the First Reading

Parking Revenue Fund: An ordinance establishing a Parking Revenue Fund and restricting expenditures there from.

City Attorney Kit Williams read the ordinance.

Paul Becker gave a brief description of the ordinance.

Alderman Petty 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 Lewis was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5455 as Recorded in the office of the City Clerk

Sales Tax Capital Fund: An ordnance to enact §34.09 Sales Tax Capital Fund of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Paul Becker gave a brief description of the ordinance.

Alderman Ferrell: Can you tell me where it touches on operations and maintenance and capital projects? Does it delineate them by name or is it a general fund?

Paul Becker: It is a general explanation of funds and what it takes to create a fund. It doesn't touch on capital and capital projects.

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

City Attorney Kit Williams read the ordinance.

Left on the Second Reading

VAC 11-3944 (3670 N. Lalique Lane/VPR Investments): An ordinance approving VAC 11-3944 submitted by Bates and Associates for property located at 3670 Lalique Lane to vacate a utility easement, a total of 150.15 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Development Services Director gave a brief description of the ordinance.

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 Lewis 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 Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis 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 Lewis was absent.

Ordinance 5456 as Recorded in the office of the City Clerk

Amend Rules of Order and Procedure: A resolution to amend the Rules of Order and Procedure of the Fayetteville City Council to clarify the procedure of presenting agenda items during City Council meetings.

City Attorney Kit Williams gave a brief description of the resolution.

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

Don Marr further explained the resolution and why certain procedures were modified.

Lindsley Smith thanked Alderman Petty and the Council for their comments that helped to create this.

Don Marr discussed the suggestions that were taken into consideration when creating the procedures.

Alderman Ferrell thanked everyone involved in creating the resolution.

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

Resolution 193-11 as recorded in the office of the City Clerk.

AT&T U-verse Agreement: A resolution to approve a five year renewal of the AT&T U-verse Agreement.

Lindsley Smith gave a brief description of the resolution.

Alderman Petty: I was wondering why there wasn't a timeline or date associated with the roll out of U-verse to the Cable Center.

Cathy Foraker representing AT&T stated every year we look at a capital budget and decide where to invest those dollars where they can reach the most homes. The trouble we have with this particular area which encompasses the PEG Center is that you have so many businesses and this is truly a residential product. She stated we have asked them to relook at this area. I can't give you a firm date because I don't know what it is.

Alderman Petty: So they don't have a roll out plan over the city for where they are going to put services?

Cathy Foraker: No, it's done as the capital becomes available.

Alderman Petty: Lindsley, do you see any advantage to making this expire at the same time as our agreement with Cox?

City Attorney Kit Williams explained our current Franchise Agreement with Cox. He stated we agreed to continue an agreement with Cox on a month to month basis because in my opinion we cannot get any better terms than what we currently have. There is no ending date for the Cox Franchise Agreement. He explained the AT&T U-verse agreement and he stated this is the best agreement we can have at this time.

Lindsley Smith stated I am looking to make sure that we don't go the way the other states have gone with state wide franchises. I don't think that would be good for Fayetteville.

Alderman Boudreaux moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-1. Alderman Petty voting no. Alderman Lewis was absent.

Resolution 194-11 as recorded in the office of the City Clerk.

Announcements:

Meeting adjourned at 8:45 p.m.

Lioneld Jordan, Mayor | **Sondra E. Smith, City Clerk/Treasurer**