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
December 6, 2011

A meeting of the Fayetteville City Council was held on December 6, 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, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, Deputy City Clerk Lisa Branson, Staff, Press, and Audience.

Alderman Tennant was absent

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan asked Ms. Hopper's History and Government class from Woodland Jr. High to stand and be recognized.

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Financial Report

Paul Becker, Finance Director gave the Quarterly Report for the 3rd Quarter.

Agenda Additions: None

Consent:

Mayor Jordan announced that Premier Lighting Group, Midtown Alley and the Pick-It Construction, Inc. resolutions were all going to be pulled from the Consent Agenda for further discussion.

Approval of the November 15, 2011 City Council meeting minutes.

Approved.

Animal Services Division Donation: A resolution approving a budget adjustment in the amount of $20,000.00 representing donation revenue to the Animal Services Division by the estate of Susannah A. Porter and expressing gratitude for the bequest.

Resolution 204-11 as recorded in the office of the City Clerk.

Premier Lighting Group: A resolution to award a bid for 37 LED light fixtures and poles from Premier Lighting Group in the amount of $70,661.00.

This item was removed from Consent for further discussion.

KME Renegade Pumper Fire Truck: A resolution to approve a budget adjustment to reflect $28,550.00 for revenue received because of the sale of a 1997 KME Renegade Pumper Fire Truck.

Resolution 205-11 as recorded in the office of the City Clerk.

State and Federal Forfeiture Revenue: A resolution approving a budget adjustment to recognize state and federal forfeiture revenue and to approve expenditures there from, in the amount of $372,107.00.

Resolution 206-11 as recorded in the office of the City Clerk.

Fayetteville Police Department Donation Revenue: A resolution approving a budget adjustment in the amount of $235.00 to recognize donation revenue to the Fayetteville Police Department in support of general recognition and officer service awards.

Resolution 207-11 as recorded in the office of the City Clerk.

Mullins Branch Stream Restoration Task Order No. 3: A resolution to approve Task Order No. 3, Mullins Branch Stream Restoration to the August 3, 2010 Memorandum of Understanding between the City and the Watershed Conservation Resource Center and to approve a Memorandum of Understanding between the City, University and Resource Center for the project which will cost the City $25,000.00.

Resolution 208-11 as recorded in the office of the City Clerk.

Richard L. Watson Settlement Agreement: A resolution approving a settlement agreement with Richard L. Watson, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of $9,000.00.

Resolution 209-11 as recorded in the office of the City Clerk.

FEMA Reimbursement: A resolution to approve the attached budget adjustment to reimburse city divisions for expenditures caused by the spring flood and reimbursed by FEMA and/or the State of Arkansas.

Resolution 210-11 as recorded in the office of the City Clerk.

Midtown Alley: A resolution to name the alley that runs from Dickson Street south toward Center Street between School Avenue and Locust Avenue for 911 purposes "Midtown Alley."

This item was removed from Consent for further discussion.

Pick-It Construction, Inc.: A resolution to approve a contract between the City of Fayetteville and Pick-It Construction, Inc. in the amount of not-to-exceed $111,054.00 for construction of dugouts and bleacher covers at Walker Park and to approve a budget adjustment of $16,419.00.

This item was removed from Consent for further discussion.

Alderman Adams moved to approve the Consent Agenda with Premier Lighting Group, Midtown Alley, and Pick-It Construction, Inc. removed for discussion. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

<u>The following item was removed from the Consent Agenda for discussion:</u>

Premier Lighting Group: A resolution to award a bid for 37 LED light fixtures and poles from Premier Lighting Group in the amount of $70,661.00.

City Attorney Kit Williams: There were some technical bidding issues on this resolution. I recommend it be tabled.

Alderman Ferrell moved to table the resolution to the December 20, 2011 City Council Meeting. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

This resolution was tabled to the December 20, 2011 City Council Meeting.

<u>The following item were removed from the Consent Agenda for discussion:</u>

Midtown Alley: A resolution to name the alley that runs from Dickson Street south toward Center Street between School Avenue and Locust Avenue for 911 purposes "Midtown Alley."

City Attorney Kit Williams stated there were questions on whether or not this should be named Diagon Alley. It is possible that we can still use this under a Fair Use Doctrine but that is something that would be decided by a court. He cautioned the Council on using names that are trademarked.

Alderman Petty explained the reasons he wanted to name this alley Diagon Alley.

Alderman Petty moved to amend the name of the alley to "Diagon Alley." Alderman Kinion seconded the motion. No vote was taken.

Alderman Boudreaux asked Alderman Petty how many of the people, that you have listed, actually live on the alley.

Alderman Petty: I am not certain but I spoke with a few businesses and they preferred Diagon Alley over Midtown Alley as well.

Alderman Boudreaux: According to John Goddard the businesses would not change. They would remain on Dickson Street.

John Goddard, GIS Coordinator pointed out on the map the businesses that would be near the alley along with the residents. He stated the reason they are doing this is for 911 purposes.

Alderman Petty: They all knew their addressees would not change. They give directions using that alley and that is why they wanted to have a little influence on the decision.

Alderman Adams asked staff to explain how the name Midtown was reached.

Don Marr gave an explanation of why it was necessary to create a name for the alley and also described how they came up with the name for the alley.

John Goddard stated there are four property owners that have addresses that face the alley but are addressed on adjacent streets. He gave the background on naming streets.

Jason Harris, resident of 213 Locust expressed his concerns with the alley not being a designated street.

Alderman Lewis: What are the reasons behind alley versus street?

City Attorney Kit Williams: A lot of it has to do with right of way and what the actual use of an alley is as opposed to a street. An alley is not the same as a street it is smaller and pretty much for the private use of the people that adjoin it. Generally it does not handle two way traffic. It is not held to the same standards for upkeep and construction that streets are. This alley should not be considered a street, it is not a street, and has never been a street. We should not consider it a street because it will be in violation of many of our street standards.

Jeremy Pate: I concur with that.

Alderman Lewis: Tonight we are talking about the name. That is a much broader discussion about funding.

Mayor Jordan: The main purpose of this is that when we get an emergency call we will know where everyone is. This is about safety.

Alderman Ferrell spoke on his memories of Shipley Bakery that once was on this alley. He stated I think if people heard the name Shipley Lane they would know where it is. Would you consider naming it Shipley?

Alderman Petty: I think that is a fine idea. I just want to do what the people want.

Alderman Ferrell: If the people would have known ahead of time that Shipley was a viable alternative then perhaps we could have had a lot more citizens that liked that also.

Alderman Petty stated it may be sad to say but Harry Potter is probably better known than most Fayetteville history.

Mayor Jordan: John, have you ran Shipley through the committee?

John Goddard: I did and that would not be a problem.

Alderman Petty read comments that were received from citizens.

Alderman Boudreaux: I do not think there is a real emergency on this. I wonder if we could discuss this again with the people that live down there.

City Attorney Kit Williams: A motion to table would be in order.

A discussion followed on the street designation process.

Alderman Petty stated my understanding of the comments we heard tonight was that the name of this alley doesn't matter; it's just the fact that it is overlooked.

Alderman Boudreaux: After it has a name that will be easier.

Alderman Lewis: I would like to hear from the committee. I need to know what it takes to look into that and address the different perspectives.

John Goddard: The committee has approved two names: Midtown and Diagon.

Alderman Boudreaux: But they did not discuss Shipley which has been brought up by a Council member.

Alderman Lewis: It seems a little confusing to call something in this area Midtown. I would appreciate some other ideas.

Alderman Boudreaux moved to table the resolution to the December 20, 2011 City Council Meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 5-2. Aldermen Lewis, Gray, Boudreaux, Ferrell and Adams voting yes. Aldermen Kinion and Petty voting no.

This resolution was tabled to the December 20, 2011 City Council Meeting.

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

Pick-It Construction, Inc.: A resolution to approve a contract between the City of Fayetteville and Pick-It Construction, Inc. in the amount of not-to-exceed $111,054.00 for construction of dugouts and bleacher covers at Walker Park and to approve a budget adjustment of $16,419.00.

City Attorney Kit Williams: There was a slight typo. The revised resolution is before you. Instead of $111,054.00 it is now $112,353.00 and the budget adjustment stays the same.

Alderman Boudreaux moved to amend the resolution to change the dollar amount to $112,353.00. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

Mayor Jordan said shall the resolution pass. Upon roll call the resolution passed 7-0. Alderman Tennant was absent.

Don Marr stated that a vote needed to be taken to approve the resolution.

A discussion followed on whether or not a vote had already been taken.

A second vote was taken to approve the resolution. Upon roll call the resolution passed 7-0. Alderman Tennant was absent.

Resolution 211-11 as recorded in the office of the City Clerk.

Unfinished Business:

2012 Annual Budget and Work Program: A resolution adopting the 2012 Annual Budget and Work Program. ***This resolution was tabled at the November 15, 2011 City Council meeting to the December 6, 2011 City Council meeting.***

Alderman Boudreaux: We have heard plenty of discussion. I have not heard many concerns so I feel like we need to go ahead and pass this.

Alderman Boudreaux moved to approve the resolution. Alderman Gray seconded the motion.

Alderman Ferrell referenced a pervious resolution regarding a balanced budget and stressed its importance.

Alderman Boudreaux stated we are not quite in the same situation we were with the reserves last year. I support this.

Alderman Ferrell: If I were doing it I would take it out of CIP and tell the department heads to bring me a balanced budget.

Paul Becker explained that one of the overriding guidelines was not to cut programs to the citizens. So if we cut anything in the operational fund then we are going to cut back programs. He explained the cuts they have already made.

Don Marr stated we do not take lightly the discussion on the use of reserves. He spoke on the positive things the Mayor has done for the budget thus far.

Mayor Jordan spoke on their efforts regarding the budget. He stated we have so much coming in and going out. We have to keep the service level the same yet balance the finances the best I know how. That is what I have tried to do.

Alderman Lewis asked what is the plus or minus when you take into consideration the fluctuation of fuel cost and other types of revenue that are cut from grants and so on.

Paul Becker: I would say plus or minus 3%. We are saying based on everything it is possible that we may need to go into reserves.

Mayor Jordan compared the 2009 budget to the current proposed budget and stated we are doing more with less.

Alderman Gray commended the Mayor and staff for the way they have been so frugal. She stated this is an excellent budget.

Debbie Beckerdite, resident of 1541 Starr Drive: I think trying to balance the budget is a great idea. It looks like you have done a wonderful job over the number of years. Paul Becker mentioned there would be a sales tax growth of more than one million dollars and then dipping into the reserve of about one half a million dollars, that is what the reserve is for, but if you are projecting an overage why go into the reserve. Employees should be glad to have a job and should be able to live without a raise. Materials for the library, parks, and drainage programs are like gravy things that could be waited on.

Mayor Jordan: So you would want to cut the drainage project.

Debbie Beckerdite: If it is something you have to prioritize yes.

Mayor Jordan: And cut the library.

Debbie Beckerdite: Not the library but materials for it. If there is some overage, we have a very high tax rate here, give it back to the citizens. Do not keep building a reserve, cut taxes.

Mayor Jordan: I want to make sure I am clear on this; you would want to cut materials for the library, cut the drainage programs, possibly cut taxes, and no raises for the workers.

Debbie Beckerdite: Yes, if you had to do that.

Alderman Adams: This shortage we are talking about, is that 1.43%?

Paul Becker: That is correct, plus or minus. Last year we took one million dollars out of CIP and one half million dollars was approved out of reserves. That is why it is one half million dollars this year instead of one and one half million dollars.

Alderman Lewis: Tonight we are voting for moving forward with this budget.

City Attorney Kit Williams: You are appropriating that amount of money. That money can come from sales tax, millage, franchise fees and from reserves.

Alderman Lewis: It won't necessarily come out of reserves.

Mayor Jordan: That is correct.

Paul Becker: You are voting on $34.1 millions in expenditures.

Don Marr, Chief of Staff: You are authorizing the expenditure. We do not have to use it all.

Upon roll call the resolution passed 6-1. Alderman Lewis, Gray, Boudreaux, Kinion, Petty and Adams voting yes. Alderman Ferrell voting no. Alderman Tennant was absent.

Resolution 212-11 as recorded in the office of the City Clerk.

ADM 11-3782 Cottage House Development: An ordinance to enact §164.22 Cottage Housing Development into the Unified Development Code, to amend §162.01 to add (RR) Unit 44 Cottage Housing Development and to amend Chapter 161 Zoning District to authorize Cottage Housing Developments as a right in multi-family residential districts and as a conditional use in single family residential districts. ***This ordinance was left on the Second Reading at the November 15, 2011 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux: I wanted to hold this for another meeting but I have not heard any comments and it seems like a good thing to do, so I certainly support it.

Alderman Adams: This doesn't change anything on the number of unrelated occupants that can live in a home right?

Jeremy Pate: That is correct.

Alderman Ferrell thanked Leif Olson and John Coleman for their work on this and stated this is a good ordinance.

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

Ordinance 5462 as recorded in the office of the City Clerk.

Public Hearing:

Green Cab Company: A resolution to approve a certificate of Public Convenience and Necessity for the Green Cab Company to operate within the City of Fayetteville.

Mayor Jordan opened the Public Hearing to the public.

Mike Reynolds, Deputy Chief of Police gave a brief description of the resolution.

Bryce Curry, Owner of Dynasty Transportation expressed his concerns with adding another cab company to the City of Fayetteville and stated there is not a need for it. He spoke against the resolution.

Alderman Petty referenced a letter that was in the packet given to them by Mr. Curry. He asked Mr. Curry to elaborate on the letter.

Bryce Curry explained the letter from his lawyer and what it meant.

Sarah Sparks Diebold, resident of 2275 Blue Mesa Drive and an investor in Green Cab Company spoke on the good reputation of the company. She stated we want to create an easier means of mobility around the city in an affordable, clean, environmentally friendly, and professional manner.

Alderman Ferrell: Of the existing cab companies, one of them being Pedicabs, it would seem like there would be more competition between all the others than including pedicabs. Aren't the Pedicabs a little different?

Sarah Sparks Diebold: I would not categorize pedicabs within this group. My experience with pedicabs has been that they are very short runs within 3 to 4 blocks of the destination.

Alderman Lewis: You mentioned that you view yourselves as a transportation company. Can you expand on your vision?

Sarah Sparks Diebold explained the vision of the company.

Mayor Jordan closed the Public Hearing to the public.

City Attorney Kit Williams referenced the ordinance that defines the findings that the City Council is supposed to make when considering a cab company.

Alderman Lewis: I have heard that there is still a need for a cab company.

Alderman Lewis moved to approve the resolution. Alderman Boudreaux seconded the motion.

City Attorney Kit Williams stated there are some blanks in the resolution. It is up to the City Council to supply a number of taxi cabs they are allowed to operate.

Sarah Sparks Diebold: We will initially start with four vehicles and our business plan is to expand and not to exceed 10 vehicles in the first three years.

City Attorney Kit Williams: We should say to operate as many as 10 and that would be the limit.

Alderman Adams: Are any of your cabs planned to be wheelchair accessible?

Sarah Sparks Diebold: We are looking into technology for wheelchair accessibility. We have not landed on one but our plan is to have wheelchair accessibility. We are also working on getting bike racks for some of the cabs.

Alderman Petty expressed his initial concerns. I guess I will just see how it all plays out later and vote for it tonight.

Upon roll call the resolution passed 7-0. Alderman Tennant was absent.

Resolution 213-11 as recorded in the office of the City Clerk.

New Business:

Amend §94.05 Use of Fireworks: An ordinance to Amend §94.05 Use of Fireworks of the Fayetteville Code by amending (F) to replace "First Night" with "Last Night".

City Attorney Kit Williams: There has been some discussion that the name needs to be changed from Last Night to Creative Economy Action Group Inc. DBA Last Night Fayetteville.

Alderman Boudreaux moved to amend the ordinance to change the name to "Creative Economy Action Group Inc. DBA Last Night Fayetteville." Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty gave a brief description of the ordinance. He thanked the A&P Commission for funding this and the members of the Creative Economy Action Group for their work on this, especially Lauren Embree for her hard work.

Mayor Jordan: I would agree and I think this is going to be very beneficial to the city

Alderman Gray 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 Ferrell was absent during the vote. Alderman Tennant 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 Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant 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 Tennant was absent.

Ordinance 5463 as recorded in the office of the City Clerk.

RZN 11-3960 (1730 N. Old Wire Road) Appeal: An ordinance rezoning that property described in rezoning petition RZN 11-3960, for approximately 8.60 acres, located at 1730 North Old Wire Road from RSF-4, Residential Single-Family, 4 units per acre to NC, Neighborhood Conservation, subject to a Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: Even if this zoning request is denied, if the developer were to build at RSF-4 would the streets still be required to be connected?

Jeremy Pate: Yes, those are our connectivity policies that are supported by you all as part of our City Plan 2030. We always connect to existing neighborhoods when those opportunities are available.

Mayor Jordan: So are you saying it would become a build by right?

Jeremy Pate: Currently they are allowed to build at a maximum of four units per acre. Its RSF-4 single family and a subdivision would be a build by right in that development.

Alderman Lewis: The design of streets is not a part of that decision right now?

Jeremy Pate: That is correct. Zoning is primarily about compatibility and whether the uses and density are appropriate. In our findings we felt it was.

Alderman Boudreaux: So you are saying if they developed it at the existing zoning of RSF-4 they would not be required to build out the streets.

Jeremy Pate: They would be required whatever development goes into this property.

Alderman Boudreaux: Both of them; Ramsey and Charlee?

Jeremy Pate: And Samantha as well as connection to Old Wire Road.

Alderman Boudreaux: So I guess the developer is looking at the cost of this project and whether or not it will be affordable to build all the streets out at the density of RSF-4. I would tend to support this at this point.

Jeremy Pate pointed out that attainable housing does not always mean affordable housing.

Tim Cooper, representing Jackson Williams and the landowner stated we felt like we worked with staff and followed the City Plan on density and compatibility and we appreciate your consideration.

Alderman Lewis asked Tim to talk about their vision for keeping water from flowing directly into the stream.

Tim Cooper explained their plans for controlling the drainage.

Kevin Sanchez, resident of 1273 East Ash stated I do not feel that the NC zoning is compatible with all three neighborhoods. He spoke against the ordinance.

Blake Jorgensen with Jorgensen and Associates spoke on the density factors and stated it decreases the amount of unknowns because you have a given lot size.

Michelle Hightower, resident of 1645 Charlee Avenue stated we oppose the rezoning because of the flooding in the area. She also voiced her concern about the safety and traffic issues with more homes in this area and the density of the project.

Debbie Keller, resident of 1621 N. Charlee Avenue expressed her concerns with adding more homes to the neighborhood and flooding in the area. She spoke against the ordinance.
Alderman Petty: What direction does the creek flow?

Jeremy Pate: I believe it flows northwest in this location.

Alderman Petty: I think that is in the direction away from Charlee Avenue.

Laura Lindsey, resident of 1616 N. Charlee Avenue expressed her concerns with safety in the neighborhood. She spoke against the ordinance.

Scott Burton, resident of 1702 Charlee Street spoke on the safety and traffic issues in the neighborhood.

Alderman Ferrell: Do you think it would be any safer if a bus picked the kids up somewhere other than the intersection of Mission?

Scott Burton: The biggest issue is Root School. The younger kids are who I would be the most concerned about.

Alderman Ferrell: Even having to cross that, in terms of safety, can you see where it would be any safer to pick them up somewhere as opposed to having them cross the street with the traffic?

Scott Burton: I suppose so. It's really the elementary kids I am concerned about.

Alderman Gray: Jeremy, the plan we have now has how many houses?

Jeremy Pate: There is no design plan but they are limiting the maximum number to 50.

Alderman Gray: The plan that I saw had about 38 far less than 50. As a point of clarification we are going to have four streets leaving it rather than one.

Jeremy Pate: In general we would look at all the stub outs to this property and there are three existing stub outs along with potential access to Old Wire Road, so there would be four access points.

Alderman Gray: It seems like that would help a lot with the traffic on Mission and Charlee.

Jeremy Pate gave the history on Charlee Avenue.

Alderman Gray: Those of us that travel on Mission don't want it any more congested and that is why I was thinking with four exits maybe it would not be so congested.

Jana Burton, resident of Charlee Avenue opposed the rezoning for the same reasons mentioned by her neighbors. She spoke against the ordinance.

Johneese Adams, resident of 1638 Charlee Avenue expressed her concerns with safety and the increased traffic and the speed of traffic on this street. The homes would not be compatible with the neighborhood. She spoke against the ordinance.

Jeremy Pate referenced an aerial map on page 30 of 34 in the agenda packet which shows all the neighborhoods in this area.

Ann Ratcliff, resident of 1750 Charlee Avenue spoke against the ordinance. I agreed with what her neighbors said. Safety is a factor, density, connectivity and property values.

Cathy Vonhatten, resident of 1758 N. Charlee Avenue spoke against the ordinance. She voiced her concern about the Neighborhood Conservation zoning. My question is if you are pouring more concrete for more housing units how do you have open green space?

Alderman Lewis: Jeremy, in looking at Neighborhood Conservation is there any mention of clustering where part of the design of the development is required to be dense but open space.

Jeremy Pate: Clustering is only mentioned, that I am aware of, in our Planned Zoning District Ordinance and it is not even required there it is just an option to utilize. We have park land dedication and tree preservation ordinances which do in some affect accomplish those same goals.

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

City Attorney Kit Williams read the ordinance.

The ordinance was left on the second reading.

Hilton Garden Inn Tree Preservation Area Modification: A resolution to vacate about one-tenth of an acre of a tree preservation easement to be mitigated by the planting of 29 large species trees and developing the lot utilizing low impact development standards.

Allison Jumper, Park Planning Superintendent gave a brief description of the resolution.

City Attorney Kit Williams: There is a further condition in the resolution that they will develop this site in conformity with Chapter 179 of the UDC.

Blake Jorgensen briefly explained the development.

Alderman Lewis: I am very excited about the incorporation of LED designs into the plan up front but I would like you to tell us more about why it's necessary to remove that little bundle of trees that could uptake a lot of water and transpire it.

Blake Jorgensen explained their reasons for the removal.

Alderman Ferrell: I am delighted that you are coming forward with more hotels with conference space because we need it desperately.

Alderman Lewis: I would like to hold this for another meeting to give folks enough time to comment.

City Attorney Kit Williams: It would have to be tabled. He also clarified the resolution.

Alderman Lewis moved to table the resolution to the December 20, 2011 City Council Meeting. Alderman Adams seconded the motion. Upon roll call the motion passed 5-2. Alderman Lewis, Gray, Petty, Ferrell and Adams voting yes. Alderman Boudreaux and Kinion voting no. Alderman Tennant was absent.

The resolution was tabled to the December 20, 2011 City Council Meeting.

Bellafont Gardens Tree Preservation Area Modification: A resolution to approve a modification of the tree preservation area in the Bellafont Gardens development to shift about one-half acre of tree preservation area from Lot 1 to Lot 4.

Jeremy Pate stated we are going to recommend that this item be tabled. There are still some things that we need to address with the applicant.

City Attorney Kit Williams stated before you table it let's put that condition in about the no parking.

Alderman Lewis moved to amend the resolution to insert "and no parking shall be allowed on Lot 1." Alderman Adams seconded the motion.

Alderman Ferrell confirmed that the developer was aware of this change.

Jeremy Pate: Yes. The property owner to the east is a different property owner and we assumed that an agreement had been reached and it doesn't sound like it was reached. It is really important in our recommendation that that's the case. We want to make sure that everyone is on the same page.

Upon roll call the motion passed 7-0. Alderman Tennant was absent.

Alderman Ferrell moved to table the resolution to the December 20, 2011 City Council Meeting. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

The resolution was tabled to the December 20, 2011 City Council Meeting.

ADM 11-3994 (Forest Hills R-PZD Amendment No. 1): An ordinance amending a Residential Planned Zoning District entitled R-PZD 07-2793 Forest Hills to revise the concept plan and zoning criteria for Planning Area Three, reducing the number of dwelling units from 354 units to 240 units.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: When I was campaigning this was one of the few times I actually came before the Council to oppose something. I like this a lot better too and I am happy to see the changes.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.
City Attorney Kit Williams read the ordinance.

Alderman Lewis stated I think there are major improvements here and I am okay with moving forward.

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

Ordinance 5464 as recorded in the office of the City Clerk.

Repeal and Replace §34.27 Sale of Municipally Owned Real Property: An ordinance to repeal §34.27 of the Code of Fayetteville and to enact a replacement §34.27 Sale of Municipally Owned Real Property of the Code of Fayetteville and to enact an emergency clause.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the proposed changes in the ordinance. I was trying to make it more expeditious for you to be able to sell property. One provision that is gone from this ordinance is the absolute requirement that you would have to have two simultaneous independent appraisals in order to sell real property in the City. I trust the City Council to make the right decision without having all the restrictions.

Alderman Lewis: During a development we have vacated a certain part of an easement, what is the difference?

City Attorney Kit Williams: Normally we are vacating a right of way or easement which is something that was dedicated to the City. We did not buy it so the law is that if we do not need it must go back to the property owner.

Fran Alexander, resident of Foxhunter Road expressed her concern with the proposed ordinance. She stated one size does not fit all and this replacement ordinance is an attempt at one size fits all. She gave a brief history of why the current existing ordinance was written.

Alderman Ferrell: Consider a situation where you have an easement for another municipality. If it costs you $4,000 to $5,000 to have this done, aren't the taxpayers better served by having some mechanisms to do this?

Fran Alexander stated yes, I am getting to that. She continued to explain how the original ordinance was created and compared the original ordinance to the proposed ordinance.
I do not think this should be passed without some intense discussion on the goals. By using your Exemption Clause "H" you can accomplish what needs to be done. Emergency clauses exclude public input, public discussion, public knowledge, and public participation. This sale should occur by using the Exemption Clause not by repealing the existing ordinance.

Alderman Lewis: You are suggesting we leave the ordinance as it is and utilize the existing exemptions? Are you saying yes to an emergency clause or that we do not need one?

Fran Alexander: You have the exemption clause. Kit said the exemption clause may not be enough to cover it, but I think exemption clause "H" specially speaks to dealing with other government entities. I don't think you will have any trouble with it.

Alderman Boudreaux: Kit what do you think about the ability to use H.2.?

City Attorney Kit Williams: Certainly you could use H.2. H.2. requires newspaper advertising before the meeting and notification before the meeting. It requires an independent appraisal which we do not have. We would have to pay for an appraisal and then the City could set the minimum amount. It could not happen very quickly.

Alderman Boudreaux: We can't use that for this situation tonight?

City Attorney Kit Williams: No you can't.

David Jurgens, Utility Director: On this particular easement we did not obtain an appraisal. The Highway Department and Springdale did. Depending on who is obtaining the appraisal the numbers that are received from that appraisal can be different by a factor of ten. The appraisal would cost approximately $2,000. There is a timeline issue with the Highway Department.

Alderman Boudreaux: This says it requires a single appraisal.

David Jurgens: I think it references independent appraisals.

City Attorney Kit Williams: An independent appraisal has to be obtained by the City.

Alderman Boudreaux: What is the urgency? Can we table this tonight?

City Attorney Kit Williams gave a brief history of how the ordinance has been used in the past and the current requirements of the ordinance.

Alderman Boudreaux: I think this ordinance needs to be reviewed. Can we amend this tonight with the idea that we will review the ordinance and make changes in the future?

City Attorney Kit Williams: You can attempt to amend the current ordinance and exempt all water and sewer easements that are sold to neighboring cities. The public has not been notified that you are going to make that change.

Alderman Boudreaux: I don't think anyone would be concerned about allowing this sale for the right of way. Changing this ordinance drastically is an issue to some.

Alderman Lewis: I agree with Brenda. I would like to take more time to look at this ordinance.

City Attorney Kit Williams: I am looking at the entire history of the ordinance and repeatly the City Council has had to amend it because it has not worked. I am not aware of any property that we have sold that the City Council later said that wish they had not sold the property.

Fran Alexander: I think the citizens need a rule book. I am trying to maintain a process that this ordinance put forth. I think something needs to exist in an ordinance, for pieces of property like this, so the rules are in place.

Don Marr, Chief of Staff: The one thing that I have heard is this needs to be changed because it does not work from a staff management prospective. The reason it does not work is because offers are generated differently. Sometimes land sales are generated by the administration

wanting to sell a piece of property. We have seen times where land sales have generated from someone contacting the City wanting to buy a piece of property. Those two processes alone are vastly different. As a part of our economic development contract one of the challenges we have is our length of process when we offer a piece of property to an economic development opportunity. This has got to change. We are stuck between a rock and a hard place. We have the State doing an appraisal and a sister city doing an appraisal. We have a piece of land that needs to change, in order to not stop a road project that we are not having to pay for, that we asked them to do. We don't want to lose those opportunities. The current ordinance is trying to make one size fit all and it does not work. You need more flexibility to consider all things.

Alderman Gray: What project is this part of?

David Jurgens: Highway 265 widening in the Springdale portion. We received this easement request about the last week of October. The City of Springdale initiated the easement request to us. We did not know this was coming.

Alderman Ferrell: What time frame do we need to get this done?

David Jurgens: The Highway Department is contacting us about twice per week. These are dollars they are trying to get spent as fast as they can.

Alderman Ferrell: We need to try to come up with something to take care of the immediate situation we have. Once that is done we can take the ordinance to the Ordinance Review Committee.

Cyrus Young: There are two key actions. The City Council has to decide if that property is needed now or in the future. You decide whether or not the sell price is adequate. Send this to Ordinance Review but do not change the entire ordinance today.

City Attorney Kit Williams read a possible amendment to the ordinance: ***Enact a new subsection (H) (5) to exempt the sale of water and sewer utility easements to adjoining cities or water and sewer commissions.***

City Attorney Kit Williams read the proposed new ordinance.

Alderman Boudreaux moved to amend the ordinance to e*nact a new subsection (H) (5) to exempt the sale of water and sewer utility easements to adjoining cities or water and sewer commissions.* Alderman Ferrell seconded the motion. Upon roll call motion passed 7-0. Alderman Tennant was absent.

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

Alderman Ferrell moved to approve an emergency clause. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Tennant was absent.

Ordinance 5465 as recorded in the office of the City Clerk.

Springdale Water and Sewer Commission Easement: A resolution to approve the sale of a permanent water/sewer easement of 0.383 acres and a temporary construction easement adjoining the permanent water/sewer easement along Highway 265 to the Springdale Water and Sewer Commission for $3,000.00.

Alderman Kinion moved to amend the resolution to state that we do not need the property for corporate purposes. Alderman Lewis seconded the motion. Upon roll call the amendment passed 6-0. Alderman Petty was absent during the vote. Alderman Tennant was absent.

Alderman Lewis: What do you mean that it is not for corporate purposes?

City Attorney Kit Williams: We do not need that for corporate purposes at this point in time. We can sell this because we do not need the under ground land for corporate purposes.

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

Resolution 214-11 as recorded in the office of the City Clerk.

Amend Chapter 92: An ordinance amending Section 92.01 Definitions, repealing and replacing Section 92.20 Annual License and Tag, amending Section 92.24 Redemption of Animals, repealing Section 92.33 Animal Hobbyist Permit of Chapter 92: Animals of the Code of Fayetteville to remove animal licensing requirements and enact animal microchipping requirements, and providing for an effective date.

City Attorney Kit Williams read the ordinance.

Justine Middleton, Animal Services Superintendent: These proposed ordinance changes originated with the Animal Services Advisory Board. They have given these changes their full support. The changes were also taken to the Ordinance Review Committee which gave their full support. The changes would provide cost savings to the City and citizens. Citizens would not

have to invest in a yearly pet license instead they would pay a one time cost to have their pet microchipped. This would also eliminate the hobbyist permit.

Alderman Adams: Will the fee be waived for citizens that want their animal microchipped if they have paid the last four years license fee?

Justine Middleton: That is not something we have contemplated.

City Attorney Kit Williams: She is not allowed to waive ordinances.

A discussion followed on how many licenses they issue and if the scanners read all microchips.

Alderman Boudreaux: Has Springdale been successful with microchipping?

Justine Middleton: We talked to their director and he thinks it has helped their return animal rate. He felt it has been a real positive change for their community.

Alderman Ferrell: Will this have a positive economic impact?

Justine Middleton: It is hard to say at this time. We will see a cost savings in not administering the pet license.

Don Marr: There is a revenue item that would go away annually. It would have some offsets. It also has a negative revenue impact that we currently have.

Alderman Lewis asked about the relationship between this, veterinarians, and their businesses.

Justine Middleton: I think most vets look at it favorably.

Alderman Lewis: Veterinarians are not required to do anything because of this. All of this is on the pet owner.

Justine Middleton: Yes.

Alderman Lewis: People are interested in some sort of tag. It is my understanding the rabies tag is still used.

Justine Middleton: That tag number is entered into the computer and linked to that pet owner. When we microchip they will be issued a microchip tag.

A discussion followed on the health affects associated with microchipping.

The Animal Services veterinarian spoke in favor of the microchipping.

Alderman Adams thanked the microchipping supporters for attending the meeting.

Joe Alexander spoke against microchipping because some animals are harmed by the microchips. He stated if this is so great then people will do it on their own free will. He

discussed other tagging programs that are on the market. When technologies are mandated in this way it is done more to serve a special interest than a public need.

Debbie Beckerdite, Starr Drive: I chose to have my dog's microchipped. One took the chip very well but one did not. As a pet owner I feel like my right as a pet owner to choose to have this done is being trampled on if the City mandates that this be done. If you leave it as is, educate the public that this is available, and the cost through animal services then a pet owner can choose to have the microchipping done. That is the way I feel about it. Please let us have a choice.

Ruth Frances: Microchipping is a valid way of identifying an animal and reconnecting it with its owner when it gets lost. It has a lot of disadvantages. Mandatory legislation requiring microchipping of companion animals is adverse partly because it encourages some people to dump their animals. She stated there are several organizations that oppose mandatory licensing which microchipping is. She stated microchipping is not infallible and is a health risk to the animal. She asked the Council to consider a lifetime license if you spade or neuter your pet.

A resident of Fayetteville: I do not think people should be forced into microchipping. There are other ways to identity animals. Microchipping can cause cancer. I do not think the risk is worth it.

Alderman Boudreaux: People that use the smart tag have lost collars. We have a law that requires people to license their pets and we do not have a high compliance rate with that. I do not think people will abandon their animals due to an ordinance requiring microchipping rather than a license fee. My dog is microchipped. The health results for microchipping do not seem to be confirmed.

Alderman Ferrell: I have three dogs that are tattooed and microchipped. I do not like government mandates and often oppose them. My concern is for children that may be bitten by a dog that did not have a collar on. If the animal was chipped it would be on file if that dog was vaccinated.

Alderman Petty: In the past year how many animals have come to the shelter that appeared to be owned?

Justine Middleton: We take in almost 5,000 animals a year about 60% are adopted or returned to the owner. The vast majority are owned or have been owned.

Alderman Petty: It sounds like there are 3,000 animals whose owners did not license their pets or make sure they had a collar. A lot of those get euthanized every year. This may not be the best way but it sure seems like it is worth trying. Can you come back in a year and give us a report.

Justine Middleton: I am really excited about in regards to or cats. We have a fairly good redemption rate on dogs but not on cats.

Alderman Lewis: This is a good opportunity to try to minimize the euthanizing that takes place in our shelter and to increase responsibility for our pets. This is an opportunity to have piece of mind that I have more of a chance of getting my pet back if something were to happen.

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

City Attorney Kit Williams read the ordinance.

Alderman Lewis: This also relates to neighborhood integrity. Dogs running lose in a neighbor affects peoples ability to take a walk in their neighborhood. I want to thank our Animal Shelter for looking for those animals.

Alderman Ferrell: In our household our dogs are family members and any way that could help retrieve them would be very important to us.

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

Ordinance 5466 as recorded in the office of the City Clerk.

Amend §50.40 Rates for Services: An ordinance to amend §50.40 Rates for Services of the Fayetteville Code by enacting a new subsection (B)(6) to charge $.95 per month per multi-family unit for recycling services when offered.

City Attorney Kit Williams read the ordinance.

David Jurgens, Utilities Director: This is a new program which has just come available through a variety of technologies. This is an effort to recoup the cost of this new service. He gave a brief description of the way this was calculated.

Alderman Petty: Were the garbage rates structured in a way that a complex participating in this program could expect a reduction in other costs on their bill?

David Jurgens: At the current time not really unless they have a higher rate of pickup.

Alderman Petty: I would like to hold this on the first reading.

Alderman Ferrell: On the multi-family complexes it says people that do not wish to receive recycling service will not be charged. How does that work?

David Jurgens: We take these boxes to specific complexes, so everyone in that complex is either charged or not. At this point it is a voluntarily program based on the apartment management owners. It is all or nothing within each individual complex.

Alderman Ferrell: Do you know how long it will take to get an accurate look at how much this will cost us?

David Jurgens: I think we can get a better estimate after about one year.

Alderman Ferrell: Can we get a report on this late next year?

Alderman Lewis: They can put that on the website.

Mayor Jordan: We have talked about this for years. It is time to do something.

Alderman Lewis: Can you speak to the issue of clean stream, single stream. One thing Fayetteville has that some communities do not is that it is separated initially. We have been able to maintain our buyers in poor economic times because we sort it up front and that creates a cleaner product to sell.

David Jurgens: It is separated on site. It maintains pretty close to the purity of what we get at our curb side sorting.

This ordinance was left on the first reading.

Northwest Arkansas Economic Development District: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of $53,350.00 to provide public recreation services for the senior citizens of Fayetteville for 2012.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Director of Parks and Recreation: For the past 39 years the City has assisted groups that offer recreational programs for the Senior Adult Center. For the past four years we have partnered with the Arkansas Economic Development District. They have done a great job and we request that we renew a contract with them to offer programs for our senior citizens.

Alderman Gray 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 Petty was absent during the vote. Alderman Tennant 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 Tennant 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 Tennant was absent.

Ordinance 5467 as recorded in the office of the City Clerk.

Fayetteville Youth Center, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of $205,350.00 to provide public recreation services for the youth and citizens of Fayetteville for 2012.

City Attorney Kit Williams read the ordinance.

Connie Edmonston: For the past 44 years our City has partnered with the Fayetteville Youth Center to provide recreational programs for youth, families, and citizens. We have a working agreement which outlines those programs so that we do not become competitive with each other. It has been a very successful partnership with them.

Alderman Adams: Thank you. You do a great job.

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

City Attorney Kit Williams read the ordinance.

Alderman Adams 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 Tennant 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 Tennant was absent.

Ordinance 5468 as recorded in the office of the City Clerk.

Meeting adjourned at 11:01 p.m.

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