

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
January 3, 2012**

A meeting of the Fayetteville City Council was held on January 3, 2012 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Gray, Boudreaux, Kinion, Petty, Tennant, Ferrell, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Adams

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Election of Vice Mayor

Alderman Boudreaux moved to elect Alderman Ferrell as Vice Mayor. Alderman Tennant seconded the motion.

Alderman Boudreaux: Bobby has served for a long time and has a lot of knowledge and experience. I think he will do a good job.

Alderman Gray: I think he is a very serious Alderman. He does lots of homework and I appreciate him. I think he will do an excellent job.

Upon roll call the motion passed 6-0. Alderman Ferrell abstained. Alderman Adams was absent.

Report on the Condition of the Pension Funds

Mayor Jordan gave a report on the condition of the Firemen's Pension and Policemen's Pension Fund.

A copy of the report is attached.

Alderman Petty: Is anything we can do legally to resolve the question about whether or not they are able to reduce benefits.

City Attorney Kit Williams: I don't think we can. The City, I don't believe, has standing to bring any kind of case for declaratory judgment. The City has no control over the Pension Boards. The Pension Board is controlled primarily by the pensioners themselves. The Mayor and City Clerk are members of the Firemen's Pension Board automatically but there are four other members. The four other members have not been willing to make any changes. The Attorney General says they can't reduce benefits. My interpretation is that they could but it has not been tested in court. It really can only be tested in court, to my knowledge feasibly, if they actually tried to reduce the benefits and then a pensioner might sue and say you can't. Then there would be a case in controversy that the judges could decide. As long as the Pension Board makes no moves, I don't know how it can get to court.

Alderman Ferrell thanked the Mayor and City Clerk for taking their fiduciary duties on that board seriously. If they elected to lower the pension that would open an avenue for finder of facts if someone objected. What if they lowered the pension to be able to get a longer in the future snap shot to see how long it is going to last and no one objected? That would be legal wouldn't it?

City Attorney Kit Williams: I believe it would be legal, if someone thought it was not legal and believed the Attorney General's analysis, that they had no right to do it, and then any of the pensioners that were receiving less money could sue and say I am entitled to more. It would be up to the judges to determine who is right.

Alderman Lewis: At what point does the pension run out if they don't reduce it?

Paul Becker, Finance Director stated we cannot predict that for certain but they have said its risk of ruin is between five and ten years. The actuarial study is using a 5% discount rate which means you would have to incur increases on your investments of 5%. The chances of obtaining 5% are nil in the near future. I would say the risk of ruin is closer to the five years than ten years.

City Attorney Kit Williams: There is some danger for the City in this. There have been some attempts to have the law changed to require, that if a pension plan no longer has active members

or if it falls below a certain amount, that it must be consolidated with LOPFI. This would cost the taxpayers millions of dollars if that happens. That could happen and that is something we are concerned about.

Alderman Ferrell: When we had a meeting to discuss the pension there was one guy from Little Rock that was advocating that.

City Attorney Kit Williams: The previous attempts have come from the State Board. One of them was carried by a legislator out of Springdale who did not understand what the affect was going to be on us. When we explained to him what the effect would be on Fayetteville he withdrew his support.

Re-approval of Nominating Committee Report

Alderman Gray stated there was a mistake in the Nominating Committee Report previously in relation to Airport Board. She read the corrected Nominating Committee Report.

Alderman Gray moved to reapprove the Nominating Committee Report. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

A copy of the revised Nominating Committee Report is attached.

Agenda Additions: None

Consent:

Approval of the December 6, 2011 and the December 20, 2011 City Council meeting minutes.

Approved

Police Department Policy: A resolution to approve Police Department Policy 33.1.1 Physical Fitness and 53.1 Inspections.

Resolution 01-12 as recorded in the office of the City Clerk.

Trail Naming: A resolution naming Oak Ridge Trail and Meadow Valley Trail.

Resolution 02-12 as recorded in the office of the City Clerk.

Bid #11-71 Keeling Company: A resolution awarding Bid #11-71 and approving a contract with Keeling Company in the amount of \$77,333.34 for the purchase of two (2) irrigation wheels for effluent irrigation to hay fields.

Resolution 03-12 as recorded in the office of the City Clerk.

Community Services Division Budget Adjustment: A resolution to approve a budget adjustment to recognize \$1,929.00 in donation revenue for the Ranger's Pet Food Bank and \$568.00 in donation revenue from the Fayetteville Fraternal Order of Police and citizens for the Senior Giving Tree.

Resolution 04-12 as recorded in the office of the City Clerk.

2012 Community Development Block Grant (CDBG): A resolution authorizing the Mayor to execute the Community Development Block Grant (CDBG) agreement for 2012 when received in the estimated amount of \$589,066.00.

Resolution 05-12 as recorded in the office of the City Clerk.

2012 Washington County Inter-Local Agreement: A resolution approving a month-to-month animal sheltering contract with Washington County, Arkansas beginning in 2012.

Resolution 06-12 as recorded in the office of the City Clerk.

Southwestern Electric Power Company (SWEPCO): A resolution approving an agreement with Southwestern Electric Power Company (SWEPCO) to participate in an energy efficiency rebate program in the amount of \$13,569.32, and approving a budget adjustment.

Resolution 07-12 as recorded in the office of the City Clerk.

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

Unfinished Business:

Kum & Go Appeal: Appeal of the Planning Commission's determination to limit access for a proposed Kum and Go Large Scale Development at Martin Luther King, Jr. Blvd and Hill Avenue. *This appeal was tabled at the December 20, 2011 City Council meeting to the January 3, 2012 City Council meeting.*

Jeremy Pate, Development Services Director stated staff received a request to have this item tabled for two weeks.

Alderman Lewis moved to table the appeal to the January 17, 2012 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

This appeal was tabled to the January 17, 2012 City Council meeting.

New Business:

2012 Budget Reappropriation Request: A resolution amending the 2012 city budget by reappropriating up to \$57,649,568.00 in bonded or ongoing capital projects, outstanding obligations and grant-funded items previously appropriated in the 2011 city budget but not completed or delivered in 2011.

Paul Becker gave a brief description of the resolution.

Alderman Ferrell: There was a story in the newspaper that handled the description of this very well. It was a good story and explanation.

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

Resolution 08-12 as recorded in the office of the City Clerk.

VAC 11-3970 (862 & 846 Hoddle Place/Slavens): An ordinance approving VAC 11-3970 submitted by Jorgensen & Associates for property located at 862 & 846 Hoddle Place in Addison Acres Subdivision to vacate a utility easement, a total of 0.57 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. Jeremy pointed out a typo in the ordinance that needed to be corrected.

Alderman Ferrell moved to amend the ordinance to read 1,500 square feet. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Adams was absent.

Alderman Lewis 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 Adams was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5474 as Recorded in the office of the City Clerk

Freeze City Clerk Salary: An ordinance to suspend the normal pay adjustment of the City Clerk/Treasurer for 2012.

City Attorney Kit Williams read the ordinance.

Various Aldermen thanked City Clerk Sondra Smith for doing this.

Alderman Boudreaux 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 Adams was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant 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 Adams was absent.

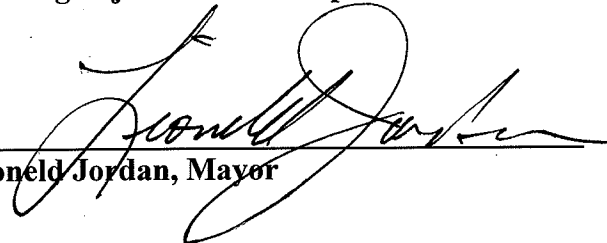
City Attorney Kit Williams read the ordinance.

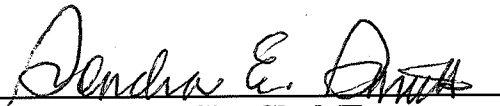
Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Adams was absent.

Ordinance 5475 as Recorded in the office of the City Clerk

Announcements:

Meeting adjourned at 6:30 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

LOCAL PENSION FUND REPORT 2011

In keeping with statutory requirements, I am presenting this report for 2011 on the local Police and Fire Retirement and Relief Funds for the City of Fayetteville. Both of these plans were closed, by law, in 1983 and there are no longer any active working members remaining. There are currently 44 police and 57 fire retirees and beneficiaries in the system.

At December 2011 projected expenses from the fire pension fund were approximately \$1.5 million as compared to fund revenues of \$900,000. Projected police pension fund expenses were approximately \$1.6 million as compared to fund revenues in excess of \$1.2 million. This is before adjusting investments to market value. However, on a cash flow basis, contributions are not covering expenses.

Actuarial evaluations are the responsibility of the State of Arkansas Fire and Police Pension Review Board. The last evaluations completed were as of July, 2011 for the year ending December 31, 2010. Based on those evaluations the unfunded pension obligations of the Police and Fire Funds were \$6.1 million and \$8.3 million respectively and have grown considerably from prior years. The unfunded actuarially accrued liabilities for these funds were approximately \$13.2 million for police and \$15 million for fire. In the annual reports issued by the Arkansas Pension Review Board neither the fire nor police pension fund were found to be actuarially sound pursuant to established financial tests. Again, this actuarial valuation is for the 2010 fiscal year not 2011.

As many of you may remember on October 18, 2010 representatives of the Pension Review Board came to Fayetteville to present a special report on the Fire Pension Fund. Both Fire Pension Board members and City Council members attended the meeting when this report was presented. During that presentation, the PRB Board Actuary indicated that the fund runs a 90% risk of ruin within the next 5 to 10 years. The Fire Pension Board was, therefore, told of the current status of the fund in 2011. The Fire Pension Board has been aware of the unstable state of the fund and has been discussing the situation and possible options for almost two years but has not decided on a plan of action by the majority of the pension board. The primary option which has been discussed is the possible reduction of current benefits. The City Clerk and I have moved and had numerous votes to reduce benefits but all votes to do so up to this point and time have failed. However, the pension board has been advised that there is no specific enabling legislation to reduce benefits and legal issues might prevent that option. All other options presented would require substantial financial contributions by the City. However, the City Attorney has advised the Pension Board that the City has no direct obligation to fund the pension plan; other than a .4 mill dedicated levy for each, plus state insurance turn back.

In 2011 operating conditions of the Fire Pension Fund have been relatively the same so no improvement has been made. However the asset value of the fund has fallen to

under \$5,000,000 which makes it subject to further investment restrictions. These restrictions no longer allow investments in individual securities. Investments will be limited to cash, cash equivalents, government bonds and no load mutual funds. This means overall returns in the future are likely to be less than previously experienced which could bring about depletion of the fund even earlier unless the pension board does something.

As recently as December the PRB has continued to classify the Fire Pension Fund as "projected insolvent".

The Police Pension Fund is also considered actuarially unsound but not in immediate danger of becoming insolvent. The Police Pension Board is also aware of the Police Pension Fund status and has been considering options that would guarantee long term solvency.

I will continue to closely monitor these funds in the future and keep you apprised of any new developments.

Revised Nominating Committee Report

Meeting: Wednesday, December 14, 2011

City Hall, Room 326, 4:00 p.m.

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

The Committee recommends the following candidates for appointment:

Active Transportation Advisory Committee

- Quin Thompson – One Term Ending 12/31/13
- Gale Wingate – One Term Ending 12/31/13
- Jared Hintergardt – One Term Ending 12/31/13
- Nick Jones – One Term Ending 12/31/13
- Aaron Thomas – One Term Ending 12/31/13

Airport Board

- Bill Corley – One Aeronautical Term Ending 12/31/16
- Ken Haxel – One University of Arkansas Term Ending 12/31/16

Animal Services Advisory Board

- No applications were received

Audit Committee

- Judy Jacobs – One Term Ending 12/31/14

Board of Adjustments

- Tim Stein – One Unexpired Term Ending 03/31/15

Construction Board of Adjustments and Appeals

- Brian Hogue – One Unexpired Alternate Member Term Ending 03/31/12

Environmental Action Committee

- Dana Smith – One Citizen-at-Large Term Ending 12/31/14
- Lori Yazwinski – One Citizen-at-Large Term Ending 12/31/14

Housing Authority Board of Commissioners

- Matthew Cabe – One Term Ending 12/28/16

Parks and Recreation Advisory Board

- Phillip McKnight – One Term Ending 12/31/14
- Grant Hodges – One Term Ending 12/31/14
- John M. Paul – One Term Ending 12/31/14

Telecommunications Board

- Greg Goggans – One unexpired Term Ending 06/30/13

Urban Forestry Advisory Board

- Betty Martin – One University Representative Term Ending 12/31/13
- Donald Steinkraus – One Community Citizen-at-Large Term Ending 12/31/13