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
February 21, 2012

A meeting of the Fayetteville City Council was held on February 21, 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, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, Deputy City Clerk Lisa Branson, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan asked the news reporting class from the University of Arkansas to stand and be recognized.

He also recognized Billy Ammons and Boy Scout Troop #430.

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

Consent:

Approval of the February 7, 2012 City Council meeting minutes.

Approved

McClelland Consulting Engineers Amendment #3: A resolution approving Amendment #3 to the engineering services agreement with McClelland Consulting Engineers in the amount of $68,515.00 for construction phase services for the second phase of the Highway 265 Water and Sewer Relocation Project from Joyce Avenue to Albright Road, maintaining a project contingency of $20,000.00 and approving a budget adjustment.

Resolution 33-12 as recorded in the office of the City Clerk.

Insituform Technologies, Inc.: A resolution approving a contract extension with Insituform Technologies, Inc. and approving an authorization of $330,000.00 for scheduled lining services for cured-in-place sanitary sewer linings throughout the system and $185,595.00 for sewer rehabilitation in the vicinity of the Elkins outfall gravity sewer project.

Resolution 34-12 as recorded in the office of the City Clerk.

Bid #12-17 MHC Kenworth of Springdale: A resolution awarding Bid #12-17 and authorizing the purchase of one (1) tandem axle diesel spreader from MHC Kenworth of Springdale in the amount of $156,444.08 for use in the biosolids management wastewater project, and approving a budget adjustment.

Resolution 35-12 as recorded in the office of the City Clerk.

Evans Construction and Remodeling: A resolution approving a contract in the amount of $20,000.00 with Evans Construction and Remodeling for a Community Development Block Grant (CDBG) rehabilitation at 800 E. Pittman.

Resolution 36-12 as recorded in the office of the City Clerk.

Ranger's Pantry Donation Revenue: A resolution approving a budget adjustment in the amount of $4,928.00 representing donation revenue to the Ranger's Pantry Pet Food Bank through the Howliday Donation Drive, matching funds from an anonymous donor, donation revenue to the Senior Giving Tree Event, and expressing gratitude for the donations.

Resolution 37-12 as recorded in the office of the City Clerk.

Animal Services Donation Revenue: A resolution to thank the estate of Julia Hicks for a $25,000.00 donation to the Fayetteville Animal Shelter, to thank the other generous citizens for their additional donations of $23,220.00 to the Fayetteville Animal Shelter in the fourth quarter of 2011 and to approve a budget adjustment in the amount of $48,220.00 to recognize this revenue.

Resolution 38-12 as recorded in the office of the City Clerk.

Watershed Conservation Resource Center (WCRC) Amendment No. 1: A resolution approving Amendment No. 1 to a memorandum of understanding with the Watershed Conservation Resource Center (WCRC) in an amount not to exceed $25,201.00 to repair portions of the Niokaska Creek Riparian Corridor through Sweetbriar Park and surrounding properties damaged in April 2011 floods, and approving a budget adjustment.

Resolution 39-12 as recorded in the office of the City Clerk.

Repeal Resolution No. 117-00: A resolution to repeal Resolution No. 117-00 and to authorize the Administration to forgo requiring customers using a credit or debit card to pay a "convenience fee" for such usage.

Resolution 40-12 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to accept the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amend §176.03 Exemptions: An ordinance to amend §176.03 Exemptions of the Outdoor Lighting chapter of the UDC to allow the lights to remain on a tree on the Square and to allow accent lighting on restaurant and bar patios. ***This ordinance was left on the Second Reading at the February 7, 2012 City Council meeting.***

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Boudreaux moved to amend the ordinance to not allow the lights to remain on a tree on the square. Alderman Lewis seconded the motion.

Alderman Petty stated I will vote for this but what turned me off of this was that the request allowed it to be done year round. I like the amendment because leaving Christmas lights up year round is a little tacky.

Upon roll call the motion passed unanimously.

City Attorney Kit Williams explained the ordinance with the amendment.

Alderman Lewis thanked the Ward 4 members for their communication.

Alderman Ferrell: I think this helps us remain holding our light as a sustainable community also.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5483 as Recorded in the office of the City Clerk

Amend Chapter 151 Definition of "Family": An ordinance to amend the definition of "Family" found in Chapter 151 Definitions of the Unified Development Code to allow the City Council to authorize up to five (5) unrelated persons in some units of a Planned Zoning District. ***This ordinance was left on the First Reading at the February 7, 2012 City Council meeting.***

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

A discussion followed on whether or not to proceed with the third reading.

Don Conner, Vice President of the Fayetteville Council of Neighborhoods stated I am worried that this will set a precedence and create problems. He went on to speak against the ordinance.

Alderman Ferrell: Don, do you realistically see this happening anywhere except clusters that will cater to certain renters?

Don Conner: I don't know but the problem will be that if it is allowed to start they would have a good argument to say you are letting them do it somewhere else in the city.

Alderman Ferrell: So your fear is that if it starts as a PZD....

Don Conner: It will just blossom to the whole City.

Alderman Ferrell: You mean if the legislation will change where it would not have to be a PZD?

Don Conner: Yes.

Alderman Ferrell: I don't see that happening.

Mary Lowe, resident of the Wilson Park neighborhood spoke on those less fortunate who are forced to stay with friends and she pointed out that in this instance they would be in violation of the ordinance. She went on to speak in favor of the ordinance.

Robert Albertson, a resident spoke on his property value and expressed his concerns with infill. He went on to speak against the ordinance.

Alderman Adams clarified that the change being proposed does not affect or change the zoning around you. This is for future development and requests.

Robert Albertson: Yes, I understand what you are saying.

Alderman Adams: Do you think there is a chance that if in the future as we plan, our city and the University grows, that by planning a zoned district where 3-5 bedrooms can be built for students is there a chance that would have a positive impact on your neighborhood?

Robert Albertson: Not a chance. I am in favor of you designating certain areas in your planning to put these facilities.

Lacey Anderson, Liaison for the University of Arkansas Off Campus Students stated this new rule would only affect development and not houses that are already there and it will not have that large of an impact. She went on to speak in favor of the ordinance.

Michael Dodd, President of Associated Student Government at the University of Arkansas stated that by expanding the amount of housing that we have for students will lead to a lower cost of tuition and lower the overall costs at the University. He went on to speak in favor of the ordinance.

Will Simpson, Director of Legislative Affairs for the Associated Student Government at the University of Arkansas asked the Council to cater to the needs of the people who just want the opportunity to pursue the environment best suited for them. He went on to speak in favor of the ordinance.

Bob Estes, resident of 668 N. Mulligan Drive stated this gives the ability to have a say so about what happens and he asked the Council to vote in favor of the ordinance.

Alderman Lewis: So with this written the way it is there were concerns about setting a precedent and I am curious about that as well.

City Attorney Kit Williams: I don't think it sets a legal precedent but it does give every City Council the right to look at a request for a planned zoning district that would include a 5 unrelated person unit within it. It might never be approved or you might approve them all over town. It is up to the City Council and it's discretion to decide when it would be appropriate and when it would not be. He went on to explain why the ordinance was written the way it was.

Alderman Ferrell stated they are not building anymore student housing in Fayetteville and the population and students are going to grow. He pointed out this has to come before us and we are not going to let anything that is going to be out of place occur. He stated please think about the best possible scenario for this before the next meeting.

Alderman Petty stated bad neighbors are bad neighbors whether they are students or not. I can't imagine that we would tell somebody who came forward with an apartment size building with a slightly different room configuration that they were not allowed to ask us for a different room configuration. All we are saying is you are allowed to come and ask us.

Alderman Kinion stated I received a lot of concerns from people in my ward. Most of the concerns we have heard this evening are irrelevant to what this change in our code is managing. We are looking at the future planning and development of our city.

Don Marr, Chief of Staff clarified the dates of the future town hall meetings and pointed out that they would be after the next City Council Meeting.

Alderman Kinion: I will request that we table it until after then.

Don Marr also spoke on future projects being brought forward by developers. I wanted you to have this information as you make your decisions about timing.

Alderman Adams: I do not understand why an alderman would say that this removes a line of the definition of family. I don't believe we are removing anything. The point of this is to add a line and what we are trying to do is to add the opportunity for citizens to ask the City Council for a waive or exception. She went on to address other misconceptions about the ordinance.

Alderman Ferrell asked Jeremy to provide a timeline at the next meeting.

A discussion followed on leaving this on the second reading.

This item was left on the second reading.

New Business:

Honorary Jack Luper Boulevard: A resolution designating Joyce Boulevard from College Avenue to Crossover Road as the honorary Jack Luper Boulevard.

Mayor Jordan read the resolution and went on to speak very highly of the late Jack Luper.

Terry Gulley, Transportation Services Director stated we appreciate you stepping forward and coming up with this to honor Jack. He also stated that Jack's co-workers really appreciate all the efforts in getting this brought forward.

Roxy Luper, wife of the late Jack Luper stated I am very honored and I want to thank you for this dedication and for everything that you have done for us.

Alderman Ferrell moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

Resolution 41-12 as recorded in the office of the City Clerk.

Garver, LLC: A resolution approving a contract with Garver, LLC in an amount not to exceed $235,900.00 for preliminary site evaluation, design and construction administration of a

Downtown/Entertainment District Parking Deck, approving a $20,000.00 project contingency, and approving a budget adjustment.

David Jurgens, Utilities Director gave a brief description of the resolution.

Alderman Ferrell: I am all for this but it states that the rest will be done with bond proceeds. Will we be able to recapture that from the parking fund for the bond?

David Jurgens: That was approved when the original bond ordinance was passed so yes that can be recaptured from the bonds.

Paul Becker, Finance Director stated we will make that determination when we get a cost estimate.

Alderman Lewis: This came to the Water and Sewer Committee, we were supportive but we could not vote on it because we had a couple members missing. Can you mention the grant?

David Jurgens: Actually that is a different project.

Alderman Petty: We did authorize that up front cost to be reimbursable which is prudent. I was on the Selection Committee that chose Garver and we were all happy with the decision. From here forward what we really need to be concerned about is not the parking garage itself but the whole area around it. This is a decision about the whole district.

Alderman Lewis: Where does groundwater come in as far as the geology in that area and when do we talk about that in this project?

David Jurgens stated this contract has much more extensive geotech evaluation in the preliminary design than is normal for any kind of project even in this area. He went on to explain how groundwater was a part of this design.

Alderman Petty: One of the reasons we settled on Garver is because they gave us one of the most thorough answers about how they would do it.

Mayor Jordan stated every month we will get you some type of report in the Agenda Session and you can ask all the questions you want to ask.

Alderman Adams: Is the dispute resolution part of this contract a very typical way to resolve any dispute of the contract?

David Jurgens: This is actually the same language that we have used in all of the recent engineering contracts that I have been involved with.

City Attorney Kit Williams: How this differs from a lot of contracts that are offered by engineering companies prior to me becoming City Attorney, they included mandatory arbitration and mediation. In the end before we have to go into arbitration we have a right to file suit. I insisted that arbitration clauses always be removed because I felt that it tied the City's hands. This dispute resolution passes my test.

Alderman Petty: I would ask that we pass this tonight so that we can get started as soon as possible.

Alderman Petty moved to approve the resolution. Alderman Boudreaux seconded the motion. Upon roll call the motion passed unanimously.

Resolution 42-12 as recorded in the office of the City Clerk.

Amend Ordinance No. 5294: An ordinance amending Ordinance No. 5294 waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and Wayest Safety, Inc. for unit prices indicated to provide replacement bunker gear (coat and pants) to the Fayetteville Fire Department through November 14, 2014.

City Attorney Kit Williams read the ordinance.

Fire Chief David Dayringer gave a brief description of the ordinance.

Alderman Petty: What is the length of the contract?

Fire Chief David Dayringer: It started in 2009 and it's over in November of 2014.

Alderman Petty: I support what you are trying to do but I would be a little bit more comfortable if in 2014 we went out for bid again.

Fire Chief David Dayringer: That is the plan.

Alderman Lewis: I think it is great news if this reduces injury. I am very supportive of it.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Kinion seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5484 as Recorded in the office of the City

Arkansas & Missouri Railroad Reimbursement: An ordinance waiving the requirements of formal competitive bidding and approving an agreement with Arkansas & Missouri Railroad for reimbursement of $297,258.54 for replacement of crossing panels and installation of railroad signal equipment affected by the reconstruction and widening of Cato Springs Road from Razorback Road to S. School Avenue, and approving a budget adjustment.

City Attorney Kit Williams read the ordinance.

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

Mayor Jordan: This certainly needs to be improved.

Alderman Boudreaux: I think it is great that they are doing it that way and I would like to see more of those occur in the City. I support it.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: Have they already purchased materials or how does that work?

Chris Brown: This is the estimate that they provide. It has not been purchased as far as I know. This is just based on the estimate and quote from the signal contractor and the estimate they put together. This is a lump sum amount that will not change.

Alderman Lewis moved to suspend the rules and go to the third and final reading. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5485 as Recorded in the office of the City

City Council Tour:

Announcements:

Adjournment: 7:35 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer