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
April 17, 2012

A meeting of the Fayetteville City Council was held on April 17, 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, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Arkansas Recreation and Parks Association Awards Presentation

Connie Edmonston, Parks and Recreation Director stated I am proud to announce that at our Annual Arkansas Recreation and Parks Association Conference held in March, the City of Fayetteville was awarded three different awards. The awards were as follows:

Therapeutic Program of the Year: Fayetteville Senior Activity and Wellness Center.

Group Volunteer of the Year: Ozark Off-Road Cyclist. They have built and rebuilt over 2 miles of nature trails at Lake Fayetteville Park and logged in over 800 volunteer hours last year.

Individual Volunteer of the Year: Rollie Friess. He has worked over 375 hours on the habitat restoration project along Clabber Creek Trail.

Connie thanked everyone for the great work they have done in our parks.

Mayor Jordan asked that everyone give the Parks Department a hand.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the April 3, 2012 City Council meeting minutes.

The minutes were removed from the agenda.

Crain Ford of Little Rock: A resolution approving an agreement with the Crain Ford of Little Rock in the total amount of $51,390.00 for the purchase of two (2) Ford Fusion hybrid-electric sedans for use by the Police Department pursuant to the state procurement agreement.

Resolution 69-12 as recorded in the office of the City Clerk.

J.A. Riggs Cat of Springdale: A resolution approving an agreement with J.A. Riggs Cat of Springdale in the total amount of $266,109.00 for the purchase of three (3) backhoe loaders for use by the Water and Sewer Division pursuant to the National Joint Powers Association procurement agreement, and approving a budget adjustment.

Resolution 70-12 as recorded in the office of the City Clerk

Bid #12-23 Prime Contracting, Inc.: A resolution awarding Bid #12-23 and authorizing a contract with Prime Contracting, Inc. in a total amount of $168,772.75 for the repair of flood damage to a section of Frisco Trail, approving a ten percent (10%) project contingency, and approving a budget adjustment.

Resolution 71-12 as recorded in the office of the City Clerk

Bid #12-26 WasteTech, Division of Kusters Zima Corp.: A resolution awarding Bid #12-26 and authorizing a contract with WasteTech, Division of Kusters Zima Corp. in the amount of $197,487.00 for the purchase of a fine band screen with associated controls and accessories for the Noland Wastewater Treatment Facility.

Resolution 72-12 as recorded in the office of the City Clerk

NWA Regional Planning Commission Agreement: A resolution approving an agreement with the Northwest Arkansas Regional Planning Commission for services related to cooperative regional efforts to monitor, evaluate and report likely effects that future proposed changes to stream standards and wastewater discharge requirements may have on Northwest Arkansas in the amount of $40,000.00, and approving a $5,000.00 project contingency.

Resolution 73-12 as recorded in the office of the City Clerk

CDBG Funds Remaining From 2011 Grant: A resolution approving a budget adjustment in the amount of $37,247.00 to the Community Development Block Grant program to accurately reflect funds remaining from the 2011 grant.

Resolution 74-12 as recorded in the office of the City Clerk

CDBG Habitat for Humanity Property Purchase Reimbursement: A resolution approving a budget adjustment in the amount of $92,333.00 to Community Development Block Grant program income related to a housing program lien payoff and a reimbursement from the Habitat for Humanity property purchase.

Resolution 75-12 as recorded in the office of the City Clerk

2012 Interlocal Animal Sheltering Agreements: A resolution approving 2012 interlocal animal sheltering agreements with the cities of Elm Springs, Elkins, Goshen, Tontitown, Winslow, Farmington, Greenland and West Fork.

Resolution 76-12 as recorded in the office of the City Clerk

Southwest Solutions Group: A resolution approving an agreement with Southwest Solutions Group in an amount not to exceed $34,216.00 for the purchase and installation of a Spacesaver High Density Evidence Storage System for use by the Police Department, pursuant to the National Joint Powers Alliance procurement agreement.

Resolution 77-12 as recorded in the office of the City Clerk

Cruse Uniforms and Equipment: A resolution approving a contract amendment with Cruse Uniforms and Equipment as the Police Department's authorized quartermaster to approve requested price increases.

Resolution 78-12 as recorded in the office of the City Clerk

Amend Resolution 183-11 Botanical Garden of the Ozarks: A resolution amending Resolution 183-11 approving a participation and unsecured loan agreement with the Botanical Garden of the Ozarks to install ten (10) LED lights and poles in the amount of $30,519.90 as part of the City of Fayetteville Community Revolving Loan Fund for Energy Efficiency.

Resolution 79-12 as recorded in the office of the City Clerk

Butterfield Overland Mail Stage Route National Trail: A resolution to express the City Council's support of the Butterfield Overland Mail Stage Route National Trail to become a national historic trail.

Resolution 80-12 as recorded in the office of the City Clerk

City Clerk Sondra Smith asked that the minutes be removed from the Consent Agenda so that the Council would have a chance to read them.

Alderman Boudreaux moved to approve the Consent Agenda as read with the minutes removed from the agenda. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

<u>Unfinished Business</u>:

RZN 12-4042 (1700 Old Wire Road/Cooper and Williams): An ordinance rezoning that property described in rezoning petition RZN 12-4042, for approximately 4.90 acres, located at 1700 Old Wire Road from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation, subject to a Bill of Assurance. ***This ordinance was left on the Second Reading at the April 3, 2012 City Council meeting.***

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5494 as Recorded in the office of the City

Amend Chapter 161 (ADM 12-4085 Zoning Regulations/RMF-24 Setbacks): An ordinance to Amend §161.14 District RMF-24 by repealing the separate setbacks for multi-family structures built within the Hillside/Hilltop Overlay District. ***This ordinance was left on the Second Reading at the April 3, 2012 City Council meeting.***

Alderman Ferrell 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.

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

Alderman Lewis: The last time we were asking about the flexibility. In some cases the least impact or the most soil stability may not be close to the road. Can you talk about how that is expressed in here?

Jeremy Pate: The build to zone actually allows you to vary between 10 and 25 feet so there is a 15 foot range along the front. I would certainly think we would take that soil stability, tree preservation; those are the types of things we look at as any consideration for any kind of variance on a lot by lot basis and make a recommendation accordingly.

Alderman Lewis: There is already going to be construction near the road so pushing the footprint and house closer to that as well makes sense.

Alderman Boudreaux: I wanted to make sure that if that was not the best scenario as far as disturbing the soil that there would be a variance.

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

Ordinance 5495 as Recorded in the office of the City

New Business:

APGR Green, Inc.: A resolution to certify the City of Fayetteville's endorsement of APGR Green, Inc., located in Fayetteville, Arkansas, to participate in the Arkansas Equity Investment Tax Credit Program.

Don Marr, Chief of Staff gave a brief description of the resolution.

Alderman Lewis: What we are considering is the endorsement of a business so they can get a tax credit. I want to be supportive of new business. I want the Council to be careful about what we are endorsing. Why would I want to endorse a tax credit for something that is going to cost the community money later to clean up? It is a toxin and pesticide and will runoff and get into the water supply. It is EPA approved but this is a chemical that we need to be aware of.

Chung Tan, Manager for Economic Development of the Chamber of Commerce stated that questions could be addressed to the company and to her.

Alderman Lewis: There is a request to the Arkansas Economic Development Commission to seek approval for income tax credits. I am just wondering is this available to all businesses?

Chung Tan explained this tax credit is available to any company in the State of Arkansas. She explained the criteria that must be met by the company and the process a company must go through to receive the tax credit.

Sam Noto, Vice President of Sales and Marketing, and **David Jones,** President and inventor of the product gave a brief description of their company. David stated this is an incentive to our investors to help us raise capital to get our business going and create jobs.

Alderman Lewis: You created the product that you are going to use. Did you use third product review of the chemical? What was the process for getting EPA approval?

Sam Noto: Two years we have been working with the patent office, EPA and a variety of universities. I understand and appreciate your concerns with poisons and impacts to the water table. We are using a compressed gas and there is no run-off. It is very simple and environmentally safe.

David Jones: Every time someone buys our product it will do away with the runoff that goes into the ground. There is no runoff with our product.

Alderman Lewis: I am so glad you had a chance to tell about it.

Sam Noto: It is really not a chemical based pesticide but in order to sell it as a pesticide you have to have an EPA registration.

Alderman Kinion: So is there licensing and certification associated with the application of the process? Is that how you manage this?

Sam Noto: The actual patent is owned by David.

Alderman Kinion: So you are own the patent not the application in the process.

Sam Noto: It is the application process.

Alderman Kinion: I was also worried about contamination of air and water so it sounds like a great advance.

Alderman Ferrell: My question would be why we would not want to help on a deal like this.

Steve Clark, Chamber of Commerce President explained the State's process. He stated we stand here today to tell you that this is an indication and an example of entrepreneurship. For them to go forward they need your endorsement.

Alderman Ferrell: Knowing this community and establishment of entrepreneurs, I don't think they would be coming forward here if everything wasn't right up front. I hope that the business gets started and continues to grow.

Alderman Lewis explained her current job. She stated products have herbicide and pesticide hot spots we are always looking for innovative ways to minimize those things. We can't keep doing the same things. This is a great opportunity to hear about what the vision is.

Alderman Tennant: I just want to thank you all for your diligence and patience. Thank you for sticking with it and hopefully we can help it in some way.

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

Resolution 81-12 as recorded in the office of the City Clerk.

Bid #12-11 Sweetser Construction: A resolution awarding Bid #12-11 and approving a contract with Sweetser Construction in the amount of $1,759,900.15 for the construction of a roundabout at the Fulbright Expressway and Futrall Drive, approving a project contingency of $90,000.00, and approving a budget adjustment.

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

Alderman Ferrell: There are going to be people that don't like the roundabout but if you study and read up about them, you will see the amount of safety that exists after they are there.

Alderman Ferrell moved to approve the resolution. Alderman Kinion seconded the motion.

Alderman Tennant: If we were going to put one of these anywhere in Fayetteville this is where I would put it.

Alderman Gray: I agree. This is where we need this particular thing.

Alderman Adams: I was asked to pass on to Chris that we need the next one by the Razorback baseball field.

Upon roll call the resolution passed unanimously.

Resolution 82-12 as recorded in the office of the City Clerk.

City Attorney Kit Williams: Can I say before Chris leaves that as you know we have had a record prior to today of never having to go to court and try a condemnation case. This morning Chris and the Assistant City Attorney were in court to try a condemnation case and I am happy to report that after the jury was selected they were able to reach a settlement. I appreciate Chris's help with this.

Mayor Jordan: Thank you Kit.

Amend §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.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I know the Ordinance Review Committee did a fantastic job on this.

Alderman Boudreaux: We recommended it unanimously and it maintains the City's power to ensure that the property is properly zoned and appraised if advisable.

Alderman Ferrell: Part of the last paragraph states: *The City Council through such ordinance may place limits on the uses that will be allowed of such property as part of the exchange of property agreement* wouldn't we probably expect reciprocal prohibitions from the other side when we do this?

City Attorney Kit Williams: Yes, it could very well happen. This is only when we are exchanging between another government.

Alderman Ferrell: If and when that comes about we should be reasonable in our needed prohibitions because there is going to be an expectation that could complicate the trade.

City Attorney Kit Williams: I would think that you all would know exactly what this property is going to be used for if you are trading it or selling it to another city.

Alderman Lewis: This closely aligns with our other notification processes so it is more consistent.

Alderman Petty: What are the plans for tonight? Has Cyrus Young and Fran Alexander had a chance to give input at the Ordinance Review Committee or do we need to hold this tonight?

Alderman Boudreaux: They were not at the Ordinance Review Committee meeting and we can hold this. Although, I think that their concerns had to do with notification and we have left the notification like it was and made it more in line with everything else we do in the City. The other concern was appraisals and this leaves that up to the Council. I have not heard from them.

Aubrey Shepherd asked does this make a distinction between donated property or is it something that is strictly on the border such as already designated commercial industrial zones.

City Attorney Kit Williams: There are restrictions in the State law concerning how we acquired the land and whether we can get rid of it that way. This is land that we have acquired through a purchase that is no longer needed for corporate purposes.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading

AOS, LLC - Cisco IP Telephony System: A resolution approving an agreement with AOS, LLC in the amount of $619,978.90 for the purchase of a Cisco IP Telephony System pursuant to a State procurement contract, approving a project contingency of $25,000.00, and approving a budget adjustment of $248,750.00.

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

Alderman Ferrell: I think this is very consistent because when the Council decided to allocate the funds to look at the Technology and IT assessment and now we have a case where implementation is coming about. I suspect that with the potential this has we are going to see significant savings. I think this is good and I will certainly support it.

Alderman Tennant explained the ways that he looked at this resolution. This will help our productivity, efficiency and management of our City.

Mayor Jordan explained the process in bringing this forward. He stated the long range savings will pay for itself. We are advancing the City to another level by doing this. He thanked the staff that worked on this.

Alderman Gray moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 83-12 as recorded in the office of the City Clerk.

Water and Sewer System Refunding Revenue Bonds, Series 2012: An ordinance authorizing the issuance and sale of not to exceed $3,800,000 of Water and Sewer System Refunding Revenue Bonds, Series 2012, by the City of Fayetteville, Arkansas for the purpose of refunding the City's outstanding Water and Sewer System Refunding Revenue Bonds, Series 2002B; authorizing the execution and delivery of a third supplemental trust indenture pursuant to which the Series 2012 Bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the Series 2012 Bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the Series 2012 Bonds; authorizing the execution and delivery of an escrow deposit agreement providing for the redemption of the Series 2002B Bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Paul Becker gave a brief description of the ordinance. We hope to save the City around $250,000 by doing this.

Alderman Lewis: Is that amount over the six years?

Paul Becker: For the life of the bond.

Alderman Ferrell: Was that expected savings the net amount?

Paul Becker: Yes.

Alderman Ferrell: I think timing is everything and the time is right and we could save some money here.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: Will the savings that comes back be rebudgeted as needed? How is that handled?

Paul Becker: It's just a savings of an expense so for this year you won't pay the same expense that you had budgeted for bond interest. In the future it will be available to be reprogrammed for future use.

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

Ordinance 5496 as Recorded in the office of the City

City Attorney Kit Williams handed out an informational item. He stated we had a typo on September 23, 1998 on a deed where we cited the wrong section and that has been discovered. The Mayor needs to sign a correction deed and he wanted to make sure you were notified and were aware of the situation before he signed it.

Announcements:

Adjournment: 7:20 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer