

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
May 1, 2012**

A meeting of the Fayetteville City Council was held on May 1, 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:

Mayor Jordan recognized Alannah Massey and the Spring International Students from the University of Arkansas.

Municipal Clerk's Week Proclamation

Mayor Jordan read the proclamation and presented it to City Clerk Sondra Smith.

Alderman Ferrell stated anyone that has ever had anything to do with the City or if you have ran for public office that is when you will realize how important the City Clerk and their staff is. He thanked Sondra Smith and her staff.

City Council Meeting Presentations, Reports and Discussion Items:

1st Quarter Financial Report 2012

Paul Becker, Finance Director gave the report to the Council.

Agenda Additions: None

Consent:

Approval of the April 3, 2012 and April 17, 2012 City Council meeting minutes.

Approved

McClelland Consulting Engineers, Inc. Task Order No. 8: A resolution to approve Task Order No. 8 with McClelland Consulting Engineers, Inc. in the amount of \$18,000.00 for plans, bidding service, and construction administration of the Airfield Pavement Rehabilitation and Striping Phase II Project and to approve a budget adjustment of \$18,000.00.

Resolution 84-12 as recorded in the office of the City Clerk.

David and Susan Druding Settlement Agreement: A resolution approving a settlement agreement with David and Susan Druding, concerning condemnation litigation filed as part of the Cato Springs Road Improvement Project, in the total amount of \$15,000.00.

Resolution 85-12 as recorded in the office of the City Clerk.

Bid #12-25 Goodwin & Goodwin, Inc.: A resolution to approve a contract for relocation of water and sewer mains along Garland Avenue with the low bidder, Goodwin & Goodwin, Inc. in the amount of \$1,575,497.00 with a project contingency of \$78,775.00 and to approve a budget adjustment.

Resolution 86-12 as recorded in the office of the City Clerk.

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

Unfinished Business:

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. ***This ordinance was left on the Second Reading at the April 17, 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 stated this has been through Ordinance Review and we made some changes to the original proposal. We felt like it made it more consistent with our other ordinances regarding notification time periods.

Fran Alexander, resident of Fox Hunter Road pointed out differences in the new ordinance from the original. She stated if you pass this tonight you are passing something that says there is no appraisals necessary.

Alderman Boudreaux: It says we can request an appraisal.

Fran Alexander: Yes I know but I should point out that you all are not who is always going to sit here. This was written originally because of problems that happened. I think appraisals on both sides are pretty important. She continued to express her concerns.

Alderman Lewis: This allows more flexibility. What we changed in Ordinance Review is that the Council can still request an appraisal if it seemed appropriate. I would like an explanation of the difference in the city may sell or the city may offer to sell.

City Attorney Kit Williams clarified what it meant for the City to sell and gave past examples. He stated that the changes the Ordinance Review Committee made have covered any kind of issues that were presented in the first place, but made it much more workable. It has also made it where the City Council has the authority to consider something besides just dollars when it comes to selling property.

Alderman Lewis: So can you clarify for me, what the difference is in the decision points between the words offer for sale and sell. The Council would have to give approval for the Mayor to sign and offers would have already been made before it comes to the Council.

City Attorney Kit Williams: It could very well be and then you could decide if you want to accept that offer. This allows you to not have to have two separate Council meetings: one to offer to sell and one to approve the sale.

Alderman Ferrell: Kit what would you say we are talking about in time if the scenario came where we wanted to sell a piece of property if it says may offer as opposed to may sell?

City Attorney Kit Williams briefly explained the sale process.

Alderman Ferrell: There really wasn't a lot of difference between it if it looked like it was going to go forward.

Alderman Lewis: It seems like the community should have a chance to decide if it should even go up for sale and then we could go from there.

Alderman Petty: I think appraisals are an important tool for keeping things fair and it makes me wonder if this ordinance wouldn't be stronger if we required appraisals for transaction amounts of \$20,000 or more.

Alderman Petty moved to amend the ordinance to get appraisals for any property sale over \$20,000. Alderman Adams seconded the motion.

City Attorney Kit Williams: There are different bidding rules for items under \$20,000. It doesn't mean that if there is a contract, that comes before you for \$19,000, that it doesn't come to the City Council. You still have to authorize the Mayor to sign it. There are different bidding rules under the State Law.

Alderman Petty: We would expect the Council to normally require an appraisal during a real estate agreement but this is just putting it in stone.

Alderman Boudreaux: In response to the motion as far as setting a value on it you have to know what it is worth, you are going to have to have an appraisal to know if it's worth \$20,000.

Alderman Petty: I think in this scenario someone would be coming to us with a request and the Council would be considering the sale.

Alderman Boudreaux: In that case we would probably ask for an appraisal. I won't support that because the Council can determine whether or not an appraisal needs to be made. I think this still gives us that safety net.

Alderman Tennant: Matthew's motion adds consistency to what happens but my question is ten years from now if you are not the Mayor, and another Mayor is here and sees a small valued property and wants to push it through quickly without anybody really dealing with it, what is the safety net that you are saying that would keep that from happening?

City Attorney Kit Williams: Obviously there is no safety net because the City Council can change the ordinances anytime they want to. State law says that the City Council can sell the property. There are duties of the City Council to be good conservators of the City property and finances. Kit gave past examples and pointed out the disadvantages of requiring an appraisal.

Alderman Tennant: So if there is a patch of dirt in East Fayetteville that we know is not worth very much money but whoever owns it says it's worth \$30,000, his motion would then kick in and we would have to get an appraisal on it.

City Attorney Kit Williams: Yes, if you wanted to sell it.

Mayor Jordan: But you would still have that option with or without this motion.

Alderman Ferrell: I would not be in support of mandating that we have to do the appraisal as opposed to letting it be an elective process by the Council.

Fran Alexander stated I don't understand why you do not see the value in the situation being different, than when you are sitting here and you are the Council that is going to decide whether it is appraised or not. She continued to express her concerns.

Alderman Petty: I think it is a good idea to have something that kicks in at a certain amount and \$20,000 is a good threshold.

Upon roll call the motion failed 3-5. Alderman Kinion, Petty and Adams voting yes. Alderman Boudreaux, Tennant, Ferrell, Lewis and Gray voting no.

Alderman Lewis stated we should be a part of the discussion of whether or not it should even be available. There should be a chance for us to approve that it is sold for whatever the final offer is.

City Attorney Kit Williams: Do you mean that you want to have two City Council meetings before you make any sale?

Alderman Lewis: Yes.

Alderman Ferrell: Couldn't we accomplish that by just changing that from may sell to may offer? If you change it to may offer I will second your amendment.

Alderman Lewis moved to amend the ordinance to the language that says may sell to may offer for sale. Alderman Ferrell seconded the motion. Alderman Ferrell later withdrew his second and the motion was amended.

City Attorney Kit Williams: If the City Council passes a resolution to offer to sell a piece of property for a set amount of money, if it's accepted it's a contract and you have to sell.

Alderman Lewis: I am envisioning this situation that if we have a piece of property and we want to open it up for sale then this Council should decide that, even if there is no one else who has made an offer to us.

City Attorney Kit Williams: Yes, the City Council has complete authority when it comes to the real property. He continued to explain how it would be done.

A discussion followed on what the original ordinance said and what the proposed ordinance means as well as how an offer would be handled.

Alderman Boudreaux: How is that different that using Section A of the current ordinance. Why not just go back to the way it is originally worded rather than trying to come up with a new one?

Alderman Lewis: It makes me nervous that the City would decide that a surplus land is for sale without having a Council meeting.

A discussion followed on proposed changes to the ordinance.

Alderman Ferrell: The more I think about it, one of the things that was throwing us off was when Kit said a set price. The way I was initially thinking about it was there wouldn't be a set price, we would just offer it. When we go back and think about what Kit said, we don't have to act on the resolution, we can wait. I am going to withdraw my second. I think we can live with that first part without amending that.

Alderman Lewis: It's important for this Council to discuss at a public forum whether or not to consider to sell surplus city property.

Alderman Adams: That is what it says in the original and that is what you are saying.

Alderman Lewis: I move to leave the old section A in the proposed ordinance.

Alderman Lewis moved to amend her amendment to add Section A of the current ordinance to the proposed ordinance. There was no second to the motion. The motion failed for lack of a second.

Alderman Boudreaux: I do not think the situation we were in at one time would ever happen again because of the way this ordinance is written. We did not have this in place when that happened. I will support this.

Alderman Ferrell: In reference to what Sarah said about public disclosure, I think everybody is all for it. On the other side the public elects us and has confidence in us to try and make the best decisions we can for the City. You have to weigh both of those things when you think about this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Lewis voting no.

Ordinance 5497 as Recorded in the office of the City

Public Hearing:

Dryve, Inc.: A resolution to approve the application of Dryve, Inc. for a certificate of public convenience and necessity to operate a limousine service.

Mayor Jordan opened the Public Hearing.

Police Chief Greg Tabor gave a brief description of the resolution.

Thomas Censullo, resident of 1134 S. Washington and President of Dryve, Inc. gave a brief description of his company.

Alderman Ferrell asked what kind of limo are you starting with.

Thomas Censullo gave a description of the limo's they would be driving.

City Attorney Kit Williams: I would like to suggest an amendment at the very end of section 1 for up to four limousines.

Thomas Censullo: Our long term plan is for up to four.

Mayor Jordan closed the public hearing.

Alderman Ferrell moved to amend the resolution to state up to four (4) limousines. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

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

Resolution 87-12 as recorded in the office of the City Clerk.

New Business:

Sourcegas Arkansas Inc.: A resolution authorizing transfer of a natural gas easement on city property adjacent to Highway 16 to Sourcegas Arkansas Inc. as part of the Highway 16 Improvement Project.

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

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

Resolution 88-12 as recorded in the office of the City Clerk.

Mayor Jordan: We were going to move the street name changes up one or two.

City Attorney Kit Williams: We could suspend the rules and move the street names up if you want to.

Alderman Kinion moved to amend the agenda and move D.4. Street Name Change - Bulldog Boulevard to D.2. and have D.3. Street Name Change – Stadium Drive immediately following it on the agenda. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Street Name Change – Bulldog Boulevard: A resolution to change the name of portions of Stone Street and Clinton Drive to Bulldog Boulevard.

Greg Mitchell, GIS Coordinator gave a brief description of the resolution.

Nancy Allen, Ward 2 resident spoke in favor of the resolution and stated it would be a nice thing to do.

Susan Hyell, representing Fayetteville Public Schools spoke in favor of the resolution and stated I appreciate everything you do for the school system.

Alderman Tennant: I think this is a good idea and this will add to the presence that the purple dogs have.

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

Mayor Jordan stated this is a wonderful thing and we have a good partnership with Fayetteville Public Schools. I want to thank you all for the friendship that you have given me.

Upon roll call the resolution passed unanimously.

Resolution 91-12 as recorded in the office of the City Clerk.

Street Name Change – Stadium Drive: A resolution to change the name of a portion of South Garland Avenue and all of Paris Avenue to Stadium Drive.

Greg Mitchell gave a brief description of the resolution.

Mike Johnson, representing the University of Arkansas stated I think this name change is going to make that whole area a lot nicer and easier for people to find their way. He spoke in favor of the resolution.

Alderman Tennant: I think this will make it easier for people and it makes sense.

Mayor Jordan thanked the University of Arkansas for their great partnership.

Alderman Adams complimented Greg Mitchell on the great job he did explaining the resolutions.

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

Resolution 90-12 as recorded in the office of the City Clerk.

Fayetteville Police Department Policies: A resolution approving Fayetteville Police Department Policies 1.2.1 Limits of Authority, 1.3.1 Use of Force, 12.1.1 Direction, 12.2.1 Policies, Procedures and Rules Development and Review Procedures, 26.1.2 Harassment and Discrimination in the Workplace, 41.1.1 Patrol, 42.1.1 Criminal Investigations, 41.2.11 Use of Department Vehicles, 44.1.1 Juvenile Operations, 61.1 Traffic Enforcement, 6.1.11 DWI, DUI, and 61.3 Traffic Direction and Control.

Police Chief Greg Tabor gave a brief description of the resolution.

Alderman Lewis: What is your goal for the certification?

Police Chief Greg Tabor: We have a mock assessment set up for July 8 and 9. That is where people from CALEA come in and run through the accreditation, it is a trial and they point out what you still need to do. The real thing is scheduled for November of this year where you either become accredited or you do not.

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

Resolution 89-12 as recorded in the office of the City Clerk.

Repeal & Replace §178.04 Outdoor Mobile Vendors: An ordinance repealing and replacing §178.04 Outdoor Mobile Vendors Located on Private Property of the Code of Fayetteville to provide for a variance procedure.

City Attorney Kit Williams read the ordinance.

Alderman Kinion stated it is evident that we have some vendors, that add to the character of our City, that are in need of some help in order to keep their mobile merchant establishments in an area more than the restricted days that we have currently. He listed various locations this would apply to.

Alderman Boudreaux: I think this is a good opportunity for something different and unique.

Alderman Lewis: I would like to thank Mark for thinking of it.

Alderman Ferrell: I would too.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion.

Cynthia Morris, the landlord of the Yacht Club on College briefly explained improvements that will be done to the area. She stated we want this to be top quality.

Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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.

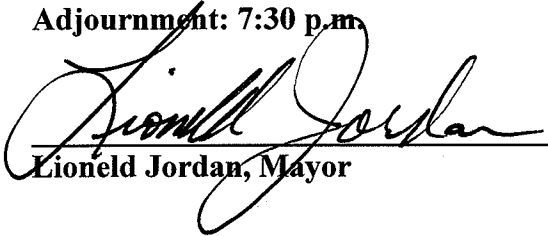
Alderman Petty: There is more to do to increase the food vendor economy in Fayetteville right now because they have to rely on an extension with a conditional use permit. It's really not the kind of guarantee that a potential vendor needs in order to get into the business so we are working on a more comprehensive ordinance that addresses the issues that come up whenever you start to issue permits with a longer time frame.

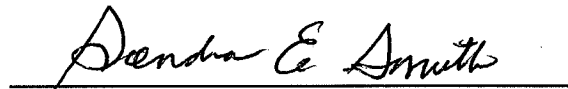
Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5498 as Recorded in the office of the City

Announcements:

Adjournment: 7:30 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer