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
May 15, 2012

A meeting of the Fayetteville City Council was held on May 15, 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, Petty, Tennant, Ferrell, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Kinion

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan recognized students from Woodland Junior High.

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions: None

Consent:

Approval of the May 1, 2012 City Council meeting minutes.

Approved

Bid #12-33 Center Point Contractors, Inc.: A resolution awarding Bid #12-33 and authorizing a contract with Center Point Contractors, Inc. in the amount of $37,410.00 for the construction of St. Joseph Park, approving a ten percent (10%) project contingency, and approving a budget adjustment of $14,361.00.

Resolution 92-12 as recorded in the office of the City Clerk.

Fayetteville Police Department Donation Revenue: A resolution approving a budget adjustment in the amount of $2,900.00 representing donation revenue to the Fayetteville Police Department in support of officer service awards.

Resolution 93-12 as recorded in the office of the City Clerk.

State and Federal Law Enforcement Forfeiture Revenue: A resolution approving a budget adjustment in the amount of $43,366.00 representing state and federal law enforcement forfeiture revenue received during the first quarter of 2012 and authorizing expenditures therefrom.

Resolution 94-12 as recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Task Order No. 9: A resolution to approve Task Order No. 9 with McClelland Consulting Engineers, Inc. in the amount of $32,504.00 for plans and specifications, construction administration and record drawings of the Executive Hangar Office Addition Project and to approve a budget adjustment of $32,504.00.

Resolution 95-12 as recorded in the office of the City Clerk.

2012 Community Development Block Grant Award: A resolution approving a budget adjustment recognizing the actual amount of the 2012 Community Development Block Grant award from the U.S. Department of Housing and Urban Development.

Resolution 96-12 as recorded in the office of the City Clerk.

The Spirits Shop, Inc.: A resolution approving a settlement agreement with The Spirits Shop, Inc., concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of $16,900.00.

Resolution 97-12 as recorded in the office of the City Clerk.

Bid #12-34 David's Fire Equipment: A resolution to award Bid #12-34 to purchase two thermal imagers from David's Fire Equipment in the amount of $20,400.00 plus sales tax for the Fayetteville Fire Department.

Resolution 98-12 as recorded in the office of the City Clerk.

Bid #12-39 Benchmark Construction of NWA, Inc.: A resolution awarding Bid #12-39 and authorizing a contract with Benchmark Construction of NWA, Inc. in the amount of $407,560.07

for the construction and installation of a concrete pad at the solid waste and recycling facility, approving a ten percent (10%) project contingency, and approving a budget adjustment.

Resolution 99-12 as recorded in the office of the City Clerk.

Water and Sewer Relocation AHTD Utility Agreement: A resolution approving a cost-share agreement with the Arkansas State Highway and Transportation Commission for the construction of water and sewer relocations related to the widening of Crossover Road (Highway 265) from Joyce Boulevard to Albright Road.

Resolution 100-12 as recorded in the office of the City Clerk.

University of Arkansas (Razorback Transit) Contract: A resolution approving a contract with the University of Arkansas (Razorback Transit) in an annual amount of $50,000.00 regarding public transit services within the City of Fayetteville.

Resolution 101-12 as recorded in the office of the City Clerk.

Gallagher Benefits Services, Inc.: A resolution approving a contract with Gallagher Benefits Services, Inc. in an amount not to exceed $79,100.00 for the provision of employee benefits brokerage services, and approving a budget adjustment.

Resolution 102-12 as recorded in the office of the City Clerk.

Windstream Communications, Inc.: A resolution to approve the Telecommunications Franchise application of Windstream Communications, Inc. and to approve the Non-Exclusive Telecommunications Franchise Agreement with Windstream Communications, Inc.

Resolution 103-12 as recorded in the office of the City Clerk.

Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Appointment: A resolution to appoint Jason Taylor and Alan Harrison as successor commissioners for Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke, Phase 1 Subdivision Infrastructure Project.

Resolution 104-12 as recorded in the office of the City Clerk.

Donald and Brenda Johnston Settlement Agreement: A resolution approving a settlement agreement with Donald and Brenda Johnston, trustees of the Don and Brenda Johnston joint revocable trust U/D/T August 12, 2000, concerning condemnation litigation filed as part of the N. Garland Avenue Improvement Project, in the total amount of $13,250.00.

Resolution 105-12 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 7-0. Alderman Kinion was absent.

Unfinished Business: **None**

Public Hearing:

Mayor Jordan opened the public hearing

A to Z Taxi: A resolution granting a Certificate of Public Convenience and Necessity to A to Z Taxi for the operation of up to four (4) taxicabs in the City of Fayetteville.

Police Chief Greg Tabor gave a brief description of the resolution. He also pointed out that the Agenda says up to four taxicabs and the application actually says up to five.

Alderman Ferrell moved to amend the resolution to state up to five (5) taxis. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Jackson Campbell, owner of Down Under Taxi voiced his concerns and spoke against the resolution.

Alderman Petty asked how many taxis do we currently have operating in the City and how many were approved in the last year.

Police Chief Greg Tabor: Unfortunately I do not know the answer to that. He began listing the companies he knew by memory that were currently in operation.

Mayor Jordan closed the public hearing.

Alderman Adams asked Kit for an explanation as to why the Council approves these requests.

City Attorney Kit Williams explained what State Statutes require.

Alderman Ferrell stated at one time we had very little taxi service. I am under the opinion that if they meet the rules and regulations, then I think the market will rule. Our citizens need cabs on the weekends.

Alderman Tennant: I am concerned about restricting businesses from coming in but I am also concerned about having too many. Is the applicant starting out with one car?

William Browning, driver for A to Z Taxi representing the owner: Yes, and we are already licensed in Siloam Springs. He spoke about the current wait times for cabs and explained the need for another company.

Alderman Adams: Do you plan to have wheelchair hangars or bicycle racks on your cars?

William Browning: We plan to. All our vehicles will be vans and we want at least one to be wheelchair accessible with bike racks also.

Jackson Campbell spoke on the current parking problems for the taxis and he gave their current response times.

Alderman Ferrell: I have been told that there is a community that does not allow any other cab companies in their town. If we are willing to let people compete, I would think it would be to the best interest of our operators to allow somebody from a town to come in here and offer a cab service from a town that does not allow any competition for their cab service.

Alderman Lewis: What is the approach for taxi parking?

Don Marr: I am not aware of anything. They can stop and pick up anywhere.

Alderman Boudreaux: That might be something we look into because there aren't very many places that a taxi can pull over and sit and wait.

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

Resolution 106-12 as recorded in the office of the City Clerk.

1609 S. Duncan Avenue Raze and Removal: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Adam P. Dyess, Perry J. Dyess and Carolyn A. Dyess located at 1609 S. Duncan Avenue in the City of Fayetteville, Arkansas, and approving a budget adjustment in the amount of $3,495.00.

Chad Ball, Community Services Coordinator gave a brief description of the resolution.

City Attorney Kit Williams asked for an explanation of some of the problems that this structure is facing.

Chad Ball briefly explained each problem.

Alderman Lewis compared this situation to when your car is totaled in an accident. She stated it would be more efficient to remove it and rebuild it than it is to fix it.

Chad Ball: Part of the Chief Building Officials determination was the cost effectiveness and the public safety aspect of it.

Mayor Jordan opened the public hearing.

There was no public comment.

Mayor Jordan closed the public hearing.

Alderman Tennant: It is a dangerous place and I would really hate for kids to go in there and have something happen that we regret. So this is a good idea.

Alderman Ferrell: This is not out of the ordinary for us to take this action but can you remember how many we have had to tear down?

Chad Ball listed previous examples.

City Attorney Kit Williams: We have had probably three or four in the last decade and almost every time the owners remove it. This time we think the owners are out of state and may not do it so we are probably going to have to demolish it.

Alderman Ferrell: One of the things I have noticed on everyone we have looked at is that the property taxes are current. Property taxes were paid weren't they?

Chad Ball: In 2010, however 2011 has yet to be paid.

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

Resolution 107-12 as recorded in the office of the City Clerk.

<u>**New Business:**</u>

RJN Group: A resolution approving an engineering services agreement with RJN Group in the amount of $499,595.00 to update the wastewater collection system model and master plan.

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

Alderman Lewis: This came through the Water and Sewer Committee and we discussed the value of having the model against what you can compare in using our own system to build the model. David, can you speak on how this model can help us gauge the needs in areas as we have more density.

David Jurgens briefly explained ways this would help in the future.

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

Resolution 108-12 as recorded in the office of the City Clerk.

VAC 12-4064 Rochier St./Park Green: An ordinance approving VAC 12-4064 submitted by Crafton Tull and Associates, Inc. for property located at 1001 West Rochier Street to vacate undeveloped streets and alley ways in the Rochier Heights Subdivision.

City Attorney Kit Williams read the ordinance.

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

Steven Beam with Crafton, Tull & Associates representing the developer stated I am available for any questions that you may have.

Alderman Lewis: Where are you in the process for this whole project?

Steven Beam briefly explained what stage the project was currently in.

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 Kinion 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 Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: Is this a hillside?

Jeremy Pate: It was and they were required to meet the 30% tree canopy and not on preserved land.

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

Ordinance 5499 as Recorded in the office of the City

Amend §33.250 Composition; Membership: An ordinance to amend §33.250 Composition; Membership of the Board of Adjustment to reduce the number of members from seven to five and the term from five to three years.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty: Have members of the board ever been paid in the past?

Jeremy Pate: Not this board that I am aware of.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty 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 Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Lewis: How do people learn about what this board does?

Alderman Gray: They go to our website and all the boards and openings are explained.

Alderman Boudreaux: It's more of a technical board more so than a lot of our committees.

City Attorney Kit Williams stated it is a very important board in the fact that decisions from this board do not come to the City Council and cannot be appealed to the City Council. He went on to explain the importance of the board.

Jeremy Pate: Traditionally the make up of the board has consisted primarily of those in the design profession or those in the realtor profession. He further explained the functions and responsibilities of the board.

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

Ordinance 5500 as Recorded in the office of the City

RZN 12-4077 Halsell Road/Pratt Place Inn Appeal: An ordinance rezoning that property described in rezoning petition RZN 12-4077, for approximately 2.37 acres, located on Halsell Road from C-PZD, Commercial Planned Zoning District, to RSF-4, Residential Single-Family, 4 units per acre, subject to the offered Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the appeal.

Alderman Lewis: What has been discussed regarding Halsell and Sang?

Jeremy Pate stated is hasn't really been discussed other than access. He went on to explain other various discussions that had been made.

Alderman Boudreaux: The Planning staff supports this right?

Jeremy Pate: We did support the request to RSF-4; we felt the density limitation was adequate considering it's completely surrounded by RSF-4. He stated this property seems very separate from anything else.

Alderman Boudreaux: What was the Planning Commissioner's concerns about this, why did they not approve it?

Jeremy Pate: There was some public comment expressing concerns with traffic and increased density. We felt it was consistent and compatible with the neighborhood and that is why we were supportive of it.

Alderman Ferrell: When the applicant came forward they hadn't offered the Bill of Assurance. Usually when someone is coming forward to the Planning Commission would you characterize the Bill of Assurance as a pretty significant factor in consideration?

Jeremy Pate: It can be when comments arise at a meeting and they can hopefully resolve some of those. I don't know if this resolves any of those comments or not to be honest. Sometimes if the applicant seems willing to offer something we will table it and have another discussion. In this particular case it ended up that they voted.

Alderman Adams: Jeremy, back when the PZD was created and approved, the uses that were permitted for that PZD depended on the property being whole. Did anything that we permitted through that PZD depend on property remaining whole?

Jeremy Pate: If I understand your question the answer is no. He went on to explain the PZD process.

Alderman Lewis: The property is heavily wooded. Does it fall in the Hillside Overlay District?

Jeremy Pate: Yes, it looks like everything on this property that is green represents the hillside boundary.

Alderman Lewis: So this is just a zoning request. When we don't know anything about a proposal for the site, I am really concerned about ingress and egress at that site with a very blind corner. We really need to be careful.

Jeremy Pate: Staff recognized that from the very first meeting we had with the applicant and they may be able to speak more to that in terms of what their plans are.

Alderman Tennant: When I drove that I was looking at that exact area and I was thinking that a development there might help because you could build the road out a little bit and clear some of it out.

A discussion followed.

Jeremy Pate explained what the process would be if this zoning were approved.

Mary Bassett, representing the sellers Julian and Jane Archer stated we are here tonight to ask for a downgrade in zoning of the property. She went on to explain their plans for the property.

John Davidson who is looking to develop the property and purchase it from the Archer's addressed previous concerns and explained his future plans for the property.

Mayor Jordan: I would like to ask who the neighbors are along the road that is in complete agreement with what you are doing and how many properties are we talking about?

John Davidson: The two adjoining neighbors. The Hughes and I do not remember the name of the woman that lives on the curve.

Alderman Tennant: Any idea on what size house you are going to build?

John Davidson: About 2800-3500 sq. ft. Somewhere in that range.

Alderman Tennant: So four nice houses in a nice part of town.

John Davidson: The one thing that was said at the Planning Commission meeting was they kept bringing up a buffer. My question is, is a bunch of honeysuckle a better buffer than another single family home, because the only person that is going to be touching this commercial use that everyone keeps talking about would be our units, not a neighborhood that is past us. If anything we are revitalizing the area.

Alderman Lewis: I want you to be clear that when I am saying there is a need to make sure that road is safe, I am talking about pedestrians and sidewalks. I hope that our Hillside Ordinance can protect the trees from being cleared completely back.

John Davidson: When I am talking about clearing back I am talking about underbrush that is growing out into the road, etc. In all fairness they own 145 acres and are putting four units on that. If we can't rezone a little piece like this then what are they suppose to do with this 140 acres.

A discussion followed.

Alderman Adams: Sidewalks have been started so I think it is important that you consider that very strongly. They need to be continued on down around there.

John Davidson: I don't care either way because I have to pay for them either way.

Alderman Adams: We want you to care.

John Davidson explained where the current sidewalks were.

A discussion followed.

Julian Archer, owner of the property pointed out that he sent a memo to the Council explaining the background. He stated I would be pleased to answer any questions.

Hank Broyles, resident of 589 N. Rockcliff stated I am here to support this. He went on to speak in favor of the appeal.

James Butch Coger, a resident briefly gave the history of this property and went on to speak against the appeal.

Alderman Ferrell asked would you prefer a large scale development.

James Butch Coger: I think it needs to be treated as a large scale development.

Alderman Ferrell: Would you prefer to see it as a large scale development or would you prefer it be treated like a large scale development.

James Butch Coger: I would like to see both in the long run.

Alderman Ferrell: You said a Bill of Assurance is not worth anything. Kit can you tell us?

City Attorney Kit Williams explained what a Bill of Assurance is.

Alderman Lewis: Jeremy, can you tell about the difference in expectations? This rezoning as compared to large scale development it seems like a different stage in the process.

Jeremy Pate: It is a different stage. He went on to explain the differences. He stated our requirement to improve infrastructure is based on the impact of the development.

City Attorney Kit Williams: That is a judgment call and it's difficult to make a precise definition now. I would think that with four houses being built near this particular curve, at least a portion of the road near the curve to help alleviate traffic problems and danger, that would probably fall within the rough proportionality of the impact. That would be what my advice would be.

Alderman Lewis: Can that be part of the condition of approval? Can that be hooked to the zoning?

City Attorney Kit Williams: No, it cannot be hooked to the zoning at all. It would be a part of the condition of approval for the development itself.

John Faucette, resident of Loren Circle expressed his concerns with the road. He went on to speak against the appeal. He asked will you require a sidewalk or will you say you can pay cash in lieu of a sidewalk?

City Attorney Kit Williams stated that is not going to be a decision by the City Council. That will be coming to the Planning Commission. He explained the process that is used.

John Faucette went on to express his concerns with the drainage.

Mayor Jordan reminded everyone that the main thing we are looking at is rezoning.

Alderman Boudreaux: If no improvements are made to the property than there won't be any improvements made to the road. I think anything would be beneficial to what is there now. If it is rezoned something will happen.

Mary Bassett: Halsell Road has been mentioned to have accidents and maybe the City needs to pay attention to that road whether or not you rezone this.

Alderman Ferrell: This was an appeal. Do we have to vote on the appeal or do we just vote to approve the ordinance.

City Attorney Kit Williams explained the current policy.

Alderman Ferrell: The Planning staff has recommended this and since then we have received the promise. There have been a couple of good comments made tonight to help improve the safety.

Mike Lieber, resident on Cedarwood expressed his concerns with that corner and stated attention has to be paid to the safety of that road.

Alderman Lewis: Are you generally in favor or opposed to changing the zoning of that property?

Mike Lieber: I consider that inevitable.

Alderman Adams: Some of us are on the Street Committee and I think sometimes a very good outcome of something that comes up like this is attention to another problem.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 6-1. Alderman Lewis voting no. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Boudreaux seconded the motion.

Alderman Lewis: I wondered if we might hold it on this second reading to give people a chance to come and speak up.

Upon roll call the motion failed 5-2. Alderman Petty and Lewis voting no. (It requires six (6) affirmative votes to suspend the rules). Alderman Kinion was absent.

This ordinance was left on the Second Reading

Announcements:

Adjournment: 7:40 p.m.

Lioneld Jordan

Lioneld Jordan, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk/Treasurer