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 Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

City of Fayetteville Arkansas
City Council Meeting Minutes
August 18, 2009

A meeting of the Fayetteville City Council was held on August 18, 2009 at 6:00 PM 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 Lucas, Lewis, Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Fire Chief Tony Johnson announced his notice of retirement effective October 10, 2009. He stated it has been an honor to have served the people of Fayetteville and to have worked with the brave and dedicated members of the department.

Alderman Thiel: I have enjoyed working with you and we are going to miss you.

Fire Chief Tony Johnson complimented the 2010 budget and encouraged the Council to look at the various things that the Department Directors have put together. Each and every division director has worked hard at putting the budget together.

Alderman Ferrell thanked him for his service to the City. He stated I have worked with you on several committees and the professionalism that you have displayed is outstanding and you have led us the right way.

Mayor Jordan: On behalf of this administration it has been a privilege working with you and I wish you well in whatever your endeavors might be.

Presentations, Reports and Discussion Items:

Second Quarter 2009 Report of Financial Condition of the City – City Clerk

City Clerk Sondra Smith presented the Second Quarter 2009 Report of the Financial Condition of the City.

Confirmation of the Advertising and Promotion Commission appointment.

Alderman Cook: The A & P Commission selected Brandon Karn as the new member.

Alderman Cook moved to approve Brandon Karn as the new member of the A & P Commission. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Consent:

Approval of the August 4, 2009 City Council meeting minutes.

Approved.

Bid # 09-47 Williams Tractor: A resolution awarding Bid # 09-47 and approving the purchase of one (1) long-arm compact track excavator from Williams Tractor in the amount of $51,425.91 for use by Trails; and approving a budget adjustment.

Resolution 173-09 as Recorded in the office of the City Clerk.

Bid # 09-50 Alpha Building Corporation: A resolution awarding Bid # 09-50 and approving a contract with Alpha Building Corporation in the amount of $173,076.00 for construction of restrooms at Bryce Davis Park; and approving a 10% project contingency in the amount of $17,307.00.

Resolution 174-09 as Recorded in the office of the City Clerk.

Reed and Associates, Inc.: A resolution approving an agreement with Reed & Associates, Inc. in the amount of $45,250.00 for appraisal services associated with the Cato Springs Road Project.

Resolution 175-09 as Recorded in the office of the City Clerk.

Arkansas Highway & Transportation Department (AHTD): A resolution approving a payment in the amount of $5,000,000.00 to the Arkansas Highway & Transportation Department (AHTD) for the City's portion of the project costs associated with widening Crossover Road from Mission Boulevard to Joyce Street.

Resolution 176-09 as Recorded in the office of the City Clerk.

State Forfeiture Revenue: A resolution approving a budget adjustment to recognize state forfeiture revenue for Q2/2009 in the amount of $10,717.00 for use by the Fayetteville Police Department.

Resolution 177-09 as Recorded in the office of the City Clerk.

Federal Forfeiture Revenue: A resolution approving a budget adjustment to recognize federal forfeiture revenue for Q2/2009 in the amount of approximately $1,392.00 for the Fayetteville Police Department.

Resolution 178-09 as Recorded in the office of the City Clerk.

Vehicle Repair Expenses: A resolution approving a budget adjustment recognizing the receipt of insurance reimbursement in the amount of $2,839.00 and appropriating a like amount for vehicle repair expenses for Unit # 1144.

Resolution 179-09 as Recorded in the office of the City Clerk.

AT&T District Court/Prosecutor Facility: A resolution approving the purchase through the state contract of a Nortel SRG System and Voice Over Internet Phone (VOIP) sets in the amount of $28,017.00 for the new District Court/City Prosecutor facility.

Resolution 180-09 as Recorded in the office of the City Clerk.

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

Unfinished Business:

RZN 09-3271 (Sale Barn/Campus Crest LLC, 562): An ordinance rezoning that property described in rezoning petition RZN 09-3271, for approximately 8.87 acres, located at the old Washington County Sale Barn, north and east of 11th Avenue and Government Avenue from I-1, Heavy Commercial/Light Industrial, to DG, Downtown General. *This ordinance was left on the First Reading at the June 16, 2009 City Council meeting. This ordinance was left on the Second Reading at the July 7, 2009 City Council meeting. This ordinance was left on the Third Reading at the July 21, 2009 City Council meeting and tabled to the August 18, 2009 City Council meeting.*

Andrew Garner, Senior Planner stated the applicant has requested this item to be tabled.

Alderman Thiel moved to table the ordinance to the September 1, 2009 City Council meeting. Alderman Ferrell seconded the motion.

Ves Lawbaugh, State Commander for the Military Purple Heart wanted to address some of the remarks that were made July 7, 2009 regarding this item.

Mayor Jordan informed him that he was only taking comments regarding the motion to table.

Marian Kunetka, a resident of Ward 1: I am worried that the entire Council will not be here due to the Labor Day weekend. I would like it to be two weeks after that.

Kathy Kisida stated my concern is that all the City Council members will not be here. She stated a Bill of Assurance is not going to make a difference in density so I really don't see why it should be tabled.

Aubrey Shepherd, a citizen stated I would appreciate it if you would vote on it tonight or wait until you all are here to vote on it.

Jim Buckner, Senior Vice Commander with the Military Purple Heart Department of Arkansas asked how was the time extension approved.

Mayor Jordan: Tabling is always approved by the City Council. We are discussing the tabling.

Jim Buckner: Let me speak in favor of not tabling it. We have had sufficient time to ponder this and make plans and I think you should vote tonight.

Alex Eyssen with Campus Crest asked to have an additional couple of weeks. This is our request and we are trying to make some good faith efforts to discuss all the issues that have developed because of this project.

James Logler, retired Special Forces with the US Army stated you should move forward with your vote tonight. If you do decide to table it you need to put a deadline on this issue.

Commander Sampsom, United States Navy retired and President of the Military Officers Association of the Fayetteville Chapter stated it is time that this issue be voted on and move forward.

City Clerk Sondra Smith notified the Council that the Labor Day holiday was not until September 7th and our Council meeting is the week before on September 1st.

Alderman Thiel: I am going to be here.

Alderman Lucas: I really do not want to table it myself. We have batted this back and forth and it bothers me that the people that are asking for the extension are not the ones that own the property. If we do table it I would like to table it for four weeks to the second meeting in September.

Alderman Lewis: At what point is the there another process of public notification?

City Attorney Kit Williams: I don't think we are there yet but points have been made that are proper. The citizens have been here many times to respond and it would be appropriate to say this is going to be the date and we are not going to table it again.

Andrew Garner: The ordinance doesn't require us to renotify for this. With talk of tabling for two weeks we would typically just recommend not to notify again.

Alderman Thiel: I will change the motion to four weeks.

Alderman Thiel moved to amend her motion to table the ordinance from September 1, 2009 to September 15, 2009 City Council meeting. Alderman Ferrell seconded the motion.

Alderman Ferrell: Do we have to vote before we hear from their representative?

Alex Eyssen: We do not have any objections or concerns with that. Two weeks would be sufficient but in light of the concerns if that is the Council's desire then I will come back four weeks from now and present then.

A discussion followed on if everyone would be able to attend the Council Meeting on September 15, 2009.

Upon roll call the motion passed 7-1. Alderman Lucas, Lewis, Gray, Thiel, Cook, Petty, Ferrell voting yes. Alderman Rhoads voting no.

This Ordinance was left on the Third Reading and Tabled to the September 15, 2009 City Council meeting.

New Business:

City Prosecutor's Office Furniture: A resolution to approve the purchase of $24,551.00 in new equipment and furniture for the City Prosecutor's office from the Norman Company, plus freight, delivery and installation charges and applicable sales tax.

City Attorney Kit Williams gave a brief description of the item. He stated this is the amount that is absolutely necessary to properly furnish the new Court and Prosecutor's building.

Mayor Jordan thanked City Attorney Kit Williams for his efforts on this.

Alderman Petty: What happens to the old furniture that we are not using? Do we sell it off to local businesses or do we do something else with it?

City Attorney Kit Williams: My understanding is that we do have a place that we store some surplus. There are a few items that have other possible uses within the City.

Alderman Ferrell complimented the City Attorney and City Prosecutor on taking a good look at this to bring the amount from what it was to what it is.

Alderman Lewis: You stated the company from which they purchased it is decided at the State level? Is there a bid process for that?

City Attorney Kit Williams: Yes, my understanding is that there are companies that are bid and considered by the State. The State does that because they think they can get a better price because they know there is going to be a large quantity of furniture purchased. So the large companies can bid and the State selects one.

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

Resolution 181-09 as recorded in the office of the City Clerk.

District Court Office Furniture: A resolution approving the purchase of furniture for the new District Court offices from the Norman Company through U.S. Communities in the amount of $79,268.36; and approving a contingency in the amount of $5,000.00.

Alderman Thiel: At the Agenda meeting the Judge was there and you might comment for him since he is not here.

Mayor Jordan: Don didn't you have a conversation today?

Don Marr, Chief of Staff: The Judge feels that this project has come within the project budget that allowed for the new furniture. They have not had new furniture in about 25 years. The furniture they did get as they grew came from the surplus warehouse. They ask that you approve the request.

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

Resolution 182-09 as recorded in the office of the City Clerk.

RZN 09-3344 (Madewell): An ordinance rezoning that property described in rezoning petition RZN 09-3344, for approximately 0.60 acres, located at 3695 East Huntsville Road from RSF-4, Residential Single-Family, 4 units per acre, to NC, Neighborhood Conservation.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the item.

Alderman Thiel: Were there any comments from the neighborhood at the Planning Commission meeting?

Andrew Garner: There were no public comments.

Alderman Lewis: Was it staff initiated or did the applicant think up the Neighborhood Conservation?

Andrew Garner: I think it was a question from the Planning Commission and staff responded that Neighborhood Conservation would be an option.

Alderman Lewis: I am glad that the form based planning is coming forth.

Alderman Ferrell: After this is changed will we expect to see a conditional use permit?

Andrew Garner: Yes, at that time we will be able to look at some of the details such as access, size of the building and things like that.

Eric Keller, representing the applicant: It was an agreement between the Planning Commission and the applicant. The conservation just gives Planning a lot more control over the proposed building. It was unanimous approval and we are just looking for approval tonight.

Alderman Thiel 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.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Lucas 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 5266 as Recorded in the office of the City Clerk.

R-PZD 07-2452 Links at Fayetteville: An ordinance amending a Residential Planned Zoning District entitled R-PZD 07-2452 Links at Fayetteville to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use in Planning Area III, as described herein.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the item. He stated we are recommending in favor.

Alderman Lewis: Have you heard anything from the neighbors?

Andrew Garner: On this particular type of amendment to the PZD we are not required to notify them. We did get comment at the initial time of the PZD application.

Hugh Jarrett, representing Lindsey Management Company: We became aware earlier this year that technically the executive short term stays were not allowed in the zoning that we were in. As soon as we found that we were not in compliance we attempted to address this. He gave a description of their facilities along with their uses.

Alderman Lucas: At extended stay on Sixth Street we do collect a hotel and motel sales tax on those rooms.

Hugh Jarrett: Yes Ma'am, the same thing would apply here.

Alderman Lewis: Are you saying that this is temporary?

Hugh Jarrett: A majority are going to be monthly and weekly. Weekly stays are already permitted by ordinance here in Fayetteville and monthly stays are also. There is not a history of intensive use of these.

Alderman Thiel: I don't have a problem with this. I think it is probably a good project.

James Lobler, a citizen of Ward 4 questioned where it says amusement facilities. He stated is this just the golfing, nothing else is going to go in there?

Andrew Garner: Right.

James Lobler: I didn't hear clearly, you asked the question how many units will they be allowed to use.

Alderman Lewis: I asked if this was the permanent use of those units or if they were a temporary use but it is a permanent use. The number of units I don't remember.

Andrew Garner: Fifty units.

James Lobler: I think this is a better use of rental property in Ward 4 however my neighborhood is turning into a college rental neighborhood with cars all over the place. Since you are making space for rental for grown ups I wish you would consider balancing this by slowing down or minimizing the amount of rental property in established housing neighborhoods.

Andrew Garner: We would recommend an amendment to the ordinance to clarify that the applicant shall be required to pay HMR Tax for the use of these 50 units for short term rentals. We could add that under Section 2 as one of the conditions.

Hugh Jarrett: That was our intent the entire time.

Alderman Thiel moved to amend the ordinance to add "the applicant shall be required to pay HMR Taxes" for the 50 short term rentals to the ordinance. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas 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 Petty: I would like to point out, what it says about our region as a whole, at how blessed we are in times like this in this economy, that a business still finds it worth while to change their use units to take advantage of visitors to this area. That is really great for us.

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

Ordinance 5267 as Recorded in the office of the City Clerk.

Agenda Additions: None.

Announcements: City Attorney Kit Williams gave an update on a court case that he represented the City on.

Meeting adjourned at 6:52 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer