

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
November 08, 2012**

This meeting date was changed from November 06, 2012 to November 08, 2012 due to the General election.

A meeting of the Fayetteville City Council was held on November 08, 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, Adams, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Tennant arrived at 6:55 p.m. Alderman Kinion arrived at 7:00 p.m.

ABSENT: Alderman Ferrell.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Town and Gown Advisory Committee Appointment

Alderman Gray moved to approve the appointment of Will Hansen to the Town and Gown Advisory Committee. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 5-0. Alderman Kinion and Tennant were absent during the vote. Alderman Ferrell was absent.

Agenda Additions: None

Consent:

Approval of the October 16, 2012 City Council meeting minutes.

Approved

Amend Resolution No. 81-09, Animal Services Advisory Board: A resolution amending Resolution No. 81-09 to reduce the total number of members of the Animal Services Advisory Board and re-designating certain membership composition of the board.

Resolution 200-12 as recorded in the office of the City Clerk.

Animal Services Donation Revenue: A resolution approving a budget adjustment in the amount of \$10,732.00 representing donation revenue to Animal Services for the third quarter of 2012.

Resolution 201-12 as recorded in the office of the City Clerk.

Fourth Judicial District Drug Task Force Training: A resolution approving a budget adjustment in the amount of \$2,000.00 representing donation revenue from the Washington County Prosecutor's Office Drug Control Fund to the Fayetteville Police Department in support of training of the Fourth Judicial District Drug Task Force's Domestic Highway Enforcement Unit.

Resolution 202-12 as recorded in the office of the City Clerk.

2012 Bulletproof Partnership Grant Award: A resolution authorizing acceptance of a fifty percent (50%) matching grant award from the 2012 Bulletproof Vest Partnership Program in the amount of \$9,100.00 for the replacement of twelve (12) body armor vests for Fayetteville police officers, and approving a budget adjustment.

Resolution 203-12 as recorded in the office of the City Clerk.

Washington County Jail Services Interlocal Agreement: A resolution approving an amendment to the jail services Interlocal agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2013.

Resolution 204-12 as recorded in the office of the City Clerk.

Fayetteville Police Department Policies: A resolution approving Fayetteville Police Department Policies 1.3.1 Use of Force; 84.1.1 Property Management, Acquired & In-Custody; 42.1.1 Criminal Investigations; 83.1 Collection and Preservation of Evidence; 44.1.1 Juvenile

Operations; 41.2.11 Use of Department Vehicles; 1.2.2 Warrantless Detention, Search & Seizure; and 42.1.1 Vice, Drugs and Organized Crime.

Resolution 205-12 as recorded in the office of the City Clerk.

Margot Khavinson Estate Settlement Agreement: A resolution approving a settlement agreement with the Margot Khavinson Estate, concerning condemnation litigation filed as part of the N. Garland Avenue Widening and Improvement Project in the total amount of \$18,000.00.

Resolution 206-12 as recorded in the office of the City Clerk.

Bid #12-72 Pick-It Construction: A resolution awarding Bid #12-72 and authorizing a contract with Pick-It Construction, Inc. in the total amount of \$343,900.00 for the construction of improvements to an aircraft hangar at Drake Field contingent upon a grant award, amending Resolution No. 95-12 to correct a transposition error regarding Task Order No. 9 to the contract with McClelland Consulting Engineers related to this project, approving application for and acceptance of an 80/20 matching grant from the Arkansas Department of Aeronautics to provide funding for this project and approving a budget adjustment authorizing airport fund matching expense and recognizing grant revenue, contingent upon approval of the grant application and receipt of grant funds.

Resolution 207-12 as recorded in the office of the City Clerk.

Drake Field Fuel Sales: A resolution approving a budget adjustment in the amount of \$27,000.00 to recognize revenue and associated expense associated with fuel sales at Drake Field.

Resolution 208-12 as recorded in the office of the City Clerk.

Thrash Development: A resolution approving a budget adjustment in the amount of \$15,000.00 recognizing revenue from Thrash Development for its contribution toward improvements to the East Avenue and Meadow Street sidewalks.

Resolution 209-12 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 5-0. Alderman Kinion and Tennant were absent during the vote. Alderman Ferrell was absent.

Unfinished Business:

RZN 12-4166 (South of Brookbury Crossing & East of Candlewood Developments/Riggins): An ordinance rezoning that property described in rezoning petition RZN 12-4166, for approximately 20.99 acres, located to the south of Skillern Road from R-A, Residential Agricultural to RSF-0.5, One Half Single-Family Units Per Acre. *This ordinance*

was left on the First Reading at the August 21, 2012 City Council meeting and Tabled to the September 18, 2012 City Council meeting. This ordinance was left on the First Reading at the September 18, 2012 City Council meeting and Tabled to the October 16, 2012 City Council meeting. This ordinance was left on the Second Reading at the October 16, 2012 City Council meeting.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Boudreaux seconded the motion. This motion was withdrawn.

Alderman Lewis moved to amend the agenda and move this item to new business on the agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Mayor Jordan voted yes to move the item. Alderman Tennant and Kinion were absent during the vote. Alderman Ferrell was absent.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty were absent during the vote. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Development Services: The applicants, potential purchasers have withdrawn and cancelled their contract. Jeremy gave the Council the options they have for the zoning on this property.

City Attorney Kit Williams read the section of the code about amendments and re-petitions for amendments.

Aubrey Shepherd stated he can see why the neighbors object to this rezoning. He suggested that the neighbors of the property raise the funding and buy at least a portion of the property and protect it.

Steve Petruconis 2939 Brookbury Crossing stated we are very appreciative of the process and the work that everybody did for us as a neighborhood and allowing us to present our issues to you.

Lori Yazinski, Environmental Action Committee said this rezoning was a concern to the committee because it is adjacent to the Flynn creek corridor and the location of 75% to 90% of the land being included in the enduring green network. She stated the recommendations and concerns in order to preserve this land in its natural state as possible.

Mark Rise, listing agent for the property stated this has been a very frustrating process. He suggested that the adjourning neighborhood purchase the property. He stated most of the subdivisions around this property were part of the property. He stated people have a right to sell their property.

A citizen talked about the work that they have done with the developer. She stated as a neighborhood we support the decision that you make.

David Pieper stated Candlewood will support the .5 recommendation. Candlewood will also support the tabling.

Alderman Tennant thanked the neighborhoods around that area. They brought ideas and solutions to the fore front.

Alderman Lewis moved to table the ordinance indefinitely. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Petty** was absent during the vote. **Alderman Ferrell** was absent.

Public Hearing:

Dynasty Taxi: A resolution granting a Certificate of Public Convenience and Necessity to Dynasty Taxi Service, Inc. for the operation of a total of fifteen (15) to thirty (30) taxicabs in the City of Fayetteville. *This resolution was Tabled at the October 16, 2012 City Council meeting and moved to the November 8, 2012 City Council meeting.*

Mayor Jordan opened the Public Hearing

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

Alderman Gray: This is for him to have 30 cabs not a total of 30 in the city.

Police Chief Greg Tabor: That is correct. We currently have a maximum of 54 allowed by certificate. He currently has ten.

Alderman Gray: How do you feel about that number?

Police Chief Greg Tabor: I have mixed feelings. The more taxicabs we have the more work on the staff. I see how long it takes to get a taxi on Saturday night. If the need is there I think we need them.

Alderman Adams asked about the inspection process for the cabs.

Police Chief Greg Tabor explained the inspection process and the insurance requires for the cabs.

Alderman Petty asked about the atmosphere on Dickson Street when more and more people are waiting for cabs.

Police Chief Greg Tabor: I do not recall us having a complaint. I have just seen people waiting for cabs.

Alderman Petty: Have there been any incidents of violence that may have been prevented if people may not had to wait for a cab.

Police Chief Greg Tabor: I don't know that I can answer that. Any time alcohol is involved there is a chance of altercation.

Alderman Petty: I support this.

Brice Curry, applicant stated Dynasty operates in more than one city in Northwest Arkansas. He explained their pick up process and why he is asking to extend his number of cabs.

Stewart Larrabee, Fayetteville Taxi voiced his concern with the increase in cabs that Dynasty is asking for. He also voiced his concern about the color scheme that Dynasty is using for their cabs. He expressed his concern about drivers that may be driving without driver permits. He stated this needs serious review before anything gets done with this.

Police Chief Greg Tabor: Currently out of 54 taxis that are allowed there are 36 permitted. Mr. Curry has a certificate for up to ten taxis and he has 19 taxis permitted. We do not know how many are operating in the City of Fayetteville. The number he is operating may not be the number he is operating in the City of Fayetteville.

Alderman Lewis: Can you talk about the display of driver's permits, the light on top of a taxi, the color, fares and the use of credit cards.

Police Chief Greg Tabor: All of that is spelled out in the ordinance.

Alderman Lewis: I think we need to look at this and increase our standards.

Police Chief Greg Tabor: Dynasty's original certificate says their color scheme will be green and white.

There was a discussion on the color scheme and how to change it.

Alderman Lewis: Does the new application make the old application null and void?

City Attorney Kit Williams: I think it does.

Mayor Jordan closed the Public Hearing

Alderman Lewis moved to amend the resolution to state the taxi must have a green and white color scheme. The motion was withdrawn.

Brice Curry: The Fayetteville City Code says to describe the color scheme or insignias to be used to designate your vehicles. Dynasty has a very distinct insignia.

Alderman Lewis: For Fayetteville you are not using a specific color?

Brice Curry: We try to stay with the green color scheme in Fayetteville.

Alderman Lewis: For Fayetteville is it possible to add green strips used?

City Attorney Kit Williams: He is only required to either have a paint color or insignia. If he has satisfied it by having an insignia we can not demand anything else,

Alderman Petty: We should have a regional taxi authority that can address these issues. I would like for all the taxis to look the same.

David Pieper a patent trademark attorney stated it is appropriate to regulate the cab and say they have to use a consistent insignia. His mark can not be forced to be augmented or changed. Once he establishes his mark he is allowed to use that anywhere in commerce. The exception to that is safety concerns. My recommendation would be you need to stay out of the use of colors.

Alderman Boudreaux moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution passed 5-0. Alderman Kinion and Tennant was absent during the vote. Alderman Ferrell was absent.

Resolution 210-12 as recorded in the office of the City Clerk.

New Business:

Tree Preservation and Protection Variance: A resolution to approve a variance from the Tree Preservation and Protection Chapter of the UDC for LSD 12-4215 to allow off-site tree preservation, on and off-site mitigation tree planting and eliminating any further penalty for the removal of some canopy in 2008.

Megan Dale, Urban Forester gave a brief description of the resolution.

Alderman Lewis: What are the options for the off site mitigation?

Megan Dale: The ordinance states that the preference is to have on site which they have reached their maximum and then the next would be pursued by off site preservation followed by off site mitigation which they have done and then tree escrow. She showed on the map where the off site preservation is proposed.

Alderman Boudreaux: If the applicant waits this out until January 1st and start this process all over as if nothing had happened what would he be required then for tree planting.

Megan Dale: He would be required to do the landscape requirements, street trees and parking lot trees.

Alderman Boudreaux: How would that compare to this?

Megan Dale: 21 trees versus 25 mitigation trees in addition to that.

Alderman Boudreaux: Plus you are asking for the penalty which would be the offsite preservation.

City Attorney Kit Williams: It would be some time in January when the penalty period would expire.

A discussion followed on the five year time frame

Clay Grote, engineer stated we are planting 21 trees of landscaping and 25 trees of on site and off site mitigation. That is 45 trees on a site that is less than an acre and a half after you take a way the right of way, drainage easements and existing drive which means we are completely foresting this site. We are being penalized on a tree that was cut in 2008.

Joe Terminella applicant asked that the penalty for additional trees be waived.

A discussion followed on the tree preservation ordinance.

Alderman Boudreaux moved to amend the resolution to allow 20 on site trees and five off site trees and the remaining penalty is waived. Alderman Adams seconded the motion. Upon roll call the motion passed 5-0. Alderman Kinion abstained. Alderman Petty was absent during the vote. Alderman Ferrell was absent.

Alderman Boudreaux moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Petty was absent during the vote. Alderman Ferrell was absent.

Resolution 211-12 as recorded in the office of the City Clerk.

ADM 12-4254 (R-PZD 12-4079 Project Cleveland): An ordinance amending a Residential Planned Zoning District entitled R-PZD 12-4079, Project Cleveland, located at the Northwest corner of Razorback Road and Hall Avenue, containing approximately 2.71 acres, extending the time frame to obtain all necessary permits to begin construction by December 19, 2014.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

City Attorney Kit Williams: The judge has ordered a trial for December. Because of the litigation the applicant is asking that we give him more time.

Seth Mims, Specialized Real Estate Group: We are just asking for an extension.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 6-1. Alderman Adams, Lewis, Gray, Boudreaux and Tennant voting yes. Mayor Jordan voted yes to suspend the rules. Alderman Kinion voting no. Alderman Petty was absent during the vote. Alderman Ferrell 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 Boudreaux seconded the motion. Upon roll call the motion passed 6-1 Alderman Adams, Lewis, Gray, Boudreaux and Tennant voting yes. Mayor Jordan voted yes to suspend the rules. Alderman Kinion voting no. Alderman Petty was absent during the vote. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the motion passed 5-2. Alderman Lewis, Gray, Boudreaux and Tennant voting yes. Mayor Jordan voted yes to pass the ordinance. Alderman Adams and Kinion voting no. Alderman Petty was absent during the vote. Alderman Ferrell was absent.

Ordinance 5541 as Recorded in the office of the City Clerk

City Council Agenda Session Presentations:

Economic Development Quarterly Report Presentation by Chung Tan and Steve Clark

City Council Tour: None

Announcements:

Adjournment: 7:45 p.m.


Lionfeld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer

Amended
3rd Quarter Nominating Committee Report
Town and Gown Student Representative

Due to the resignation of the student appointee, before the first meeting of the Town and Gown Committee the Nominating Committee recommends the following candidate for appointment:

Town and Gown Advisory Committee

- Will Hansen – One University of Arkansas Student Term Ending 09/30/13