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
December 04, 2012

A meeting of the Fayetteville City Council was held on December 04, 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 introduced the Spring International Students and Shay Hopper's Woodland Junior High School 9th grade Pre-AP government students who were observing the City Council meeting.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the November 8 and November 20, 2012 City Council meeting minutes.

Approved

University of Arkansas Razorback Road Sidewalk Cost Share: A resolution to approve a budget adjustment in the amount of $51,308.00 to recognize revenue from the University of Arkansas for its cost share for construction of a sidewalk along Razorback Road.

Resolution 223-12 as recorded in the office of the City Clerk.

Hazardous Materials Incident Response Services Interlocal Cooperation Agreement: A resolution providing notice pursuant to Article V of the Interlocal Cooperation Agreement for the Provision of Hazardous Materials Incident Response Services in Benton and Washington Counties of the intention of the City of Fayetteville to withdraw its participation in the agreement effective six (6) months from the date of written notification of the adoption of this resolution to the remaining participants.

Resolution 224-12 as recorded in the office of the City Clerk.

Arkansas Firewise Grant: A resolution authorizing acceptance of an Arkansas Firewise Grant in the amount of $500.00 from the Arkansas Forestry Commission for use by the Fire Department, and approving a budget adjustment.

Resolution 225-12 as recorded in the office of the City Clerk.

Bid #12-75 Insituform Technologies, LLC: A resolution to approve Bid #12-75 for a construction contract with Insituform Technologies, LLC for service lateral and sewer main cured in place lining in the amount of $330,000.00.

Resolution 226-12 as recorded in the office of the City Clerk.

Operations and Management Plan for Razorback Regional Greenway: A resolution to approve the Northwest Arkansas Razorback Greenway Operations and Management Plan for Razorback Greenway Trails within Fayetteville.

Resolution 227-12 as recorded in the office of the City Clerk.

Bid #12-74 Vance Brothers, Inc.: A resolution awarding Bid #12-74 and approving a contract with Vance Brothers, Inc. in the amount of $72,470.00 for asphalt micro-surfacing, and approving a ten percent (10%) project contingency.

Resolution 228-12 as recorded in the office of the City Clerk.

City Depository Board: A resolution designating members of the City Depository Board, as established by Arkansas Code §19-8-106.

Resolution 229-12 as recorded in the office of the City Clerk.

2013 Community Access Television Contract: A resolution approving a contract in the amount of $105,000.00 with Community Access Television, Inc. to provide public access services and operate the Fayetteville Public Access Television Channel throughout the 2013 year.

Resolution 230-12 as recorded in the office of the City Clerk.

Regional Wayfinding Program: A resolution to express the Fayetteville City Council's intent to implement the Regional Wayfinding Program.

Resolution 231-12 as recorded in the office of the City Clerk.

Wayfinding Program Implementation: A resolution to approve the cooperative agreement between the City of Fayetteville and the Northwest Arkansas Regional Planning Commission regarding Wayfinding Program Implementation at a potential cost of approximately $125,000.00.

Resolution 232-12 as recorded in the office of the City Clerk.

Johnson Property Zoning Change: A resolution agreeing to the change in zoning from commercial to residential for property located in Johnson that adjoins parcels in Fayetteville.

Resolution 233-12 as recorded in the office of the City Clerk.

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

Unfinished Business:

2013 Annual Budget and Work Program: A resolution adopting the 2013 Annual Budget and Work Program. *The motion to approve the budget failed. Then a motion to reconsider was approved. Then the resolution to approve the budget was tabled to the December 4, 2012 City Council meeting.*

Paul Becker, Finance Director gave a brief description of the budget. He stated the Mayor is bringing forward a balanced budget. The Mayor intents to bring forward a pay increase in the first quarter of 2013 for employees.

Alderman Lewis thanked the Mayor for holding the budget at the last meeting so they could bring it forward at the Ward 4 meeting.

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

Resolution 234-12 as recorded in the office of the City Clerk.

New Business:

ADM 12-4259 (UDC Amendment Subdivision Regulations in the Planning Area): An ordinance to Amend §166.05 Required Infrastructure Improvements – Development in the Planning Area and to repeal §166.08 (I) of the Unified Development Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Senior Planner Current Planning gave a brief description of the ordinance. He stated they are requesting this code change to mimic what Washington County has instead of being in conflict.

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

City Attorney Kit Williams read the ordinance.

Alderman Tennant 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.

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

Ordinance 5546 as Recorded in the office of the City Clerk

Clear Creek Trail: A resolution approving a request by the City of Fayetteville to modify the geographic extent and location of certain tree preservation areas pursuant to §167.04 (L)(2), Tree Preservation and Protection, Unified Development Code of the Code of Fayetteville, to construct a section of Clear Creek Trail.

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

Alderman Adams: What is something that is three inches or less in caliper? It does not make since to me.

Megan Dale: They are still a tree but the way our code is written we do not classify them.

Alderman Adams: Could we change that at some point to call it something else? So it is not a tree?

City Attorney Kit Williams: They are saplings.

Megan Dale: In terms of tree preservation, when we are assessing trees that are in the ground on existing property, that is how we view it.

Alderman Lewis: The Streamside Protection Ordinance should apply here?

City Attorney Kit Williams: That is one part of the exemptions to it. We try to stay away from the creek as much as possible but many of our trails have to be within the management zone.

Alderman Lewis: I understand that. Part of that was that existing trail would be built using the Best Management Practices Manual.

Matt Mihalevich, Trails Coordinator: One of these sections is farther away from the creek so the Streamside Protection does not apply. The other section we stay out of it as much as possible but we have a bridge crossing. There are stipulations within the ordinance for crossings.

Alderman Lewis: I struggle with vacating tree preservation areas. Can someone speak to that?

Andrew Garner: I think it gets to the intent of the ordinance, when you are looking at vacating a tree preservation area. What are you doing to offset the impact? In this case we feel it is appropriate.

Don Marr, Chief of Staff: Some of the recent agenda items have not been an elimnation of tree preservation but an exchange of tree preservation.

Alderman Lewis: We had a presentation which stated we have lost some of our canopy. There are always trade offs and this trail is an amazing opportunity for our community.

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

Resolution 235-12 as recorded in the office of the City Clerk.

Grant Thornton Annual Audit Services: A resolution to approve a contract with Grant Thornton, LLP in the amount of $82,500.00 to audit the financial statements of the City.

Paul Becker: The City is required to have an audit by a certified public accountant using generally accepted accounting principles. We had the previous auditors since 2000. This year we solicited proposals and this company was selected.

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

Resolution 236-12 as recorded in the office of the City Clerk.

City of West Fork Wastewater Service: A resolution expressing the intent of the City of Fayetteville to provide wholesale wastewater service to the City of West Fork.

David Jurgens, Utilities Director gave a brief description of the resolution. He stated ADEQ told West Fork they had two choices, to build a new wastewater treatment facility or hook up to the City of Fayetteville wastewater system. The City of Fayetteville received a letter from the City of West Fork that requested they be allowed to hook up to our system. There are several things that make that attractive. It will help clean up the environment and the river. Having a city as a wholesale customer is beneficial to us. They will provide good food to our bacteria. From a capacity standpoint we have excess capacity.

Alderman Petty: If the EPA lowers our phosphate limit, like they have been talking about doing, if that were to happen can you reassure us that we are going to be in a position to renegotiate a contract with West Fork?

David Jurgens: West Fork has agreed to pay the rates that are established by the City of Fayetteville rate study. The rate study would have to be performed by a nationally recognized firm.

City Attorney Kit Williams: We do not have a contract now this is just to express your intent so that we can work toward a contract.

Alderman Ferrell: It looks like the revenue side of this is not a down side to us.

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

Resolution 237-12 as recorded in the office of the City Clerk.

Entertainment District Parking Deck Site Selection: A resolution to select the site of the Entertainment District Parking Deck.

David Jurgens gave a brief description of the resolution. This is for site selection only.

Ron Petrie, parking deck consultant gave a brief description of the proposed parking deck sites.

There was a PowerPoint presentation of the proposed sites, entrances and exits of each site, and the number of proposed parking places at each site.

Ron Petrie: The theater lot scored the highest and has 218 parking spaces. It also leaves the current Walton Arts Center parking lot as is which will give additional parking spaces. The parking deck team recommends that you proceed with the theater site.

A discussion followed on the proposed sites.

City Attorney Kit Williams: The administration asked me to prepare a resolution. It states the Mayor's recommendation which is the theater lot. This takes into consideration what the Walton Arts Center Administration has requested. He listed the items that were requested by the Walton Arts Center.

Alderman Boudreaux: I support the theater lot for the reasons that we have seen from the presentation. I have a lot of concerns about the loss revenue and parking spaces if we use the Walton Arts Center parking lot. The Walton Arts Center lot can be utilized for a lot of things. The east lot I think there is too much destruction to the residential and we would have to condemn a business. Alderman Boudreau moved to amend the resolution to the new resolution that was handed out at the City Council meeting to utilize the theater lot.

Paul Becker discussed the construction cost of the proposed sites. He stated the estimates are about $6.3 million. Between the bonds and what is in the parking fund we will have sufficient funds. We did not anticipate paying the moving and rent out of the project fund. We are trying to segregate what we are going to generate from the bonds and what we will pay from city funds. Before you are the conditions and whether or not you choose to replace the 28 spaces or the additional requested spaces.

Alderman Ferrell: What is the estimate on the excavation fee?

Paul Becker: Between the shell and excavation it is roughly $60,000.

Alderman Ferrell: Do you have an estimate of the amount that will come out of the parking fund?

Paul Becker: Probably about $500,000.

Alderman Ferrell: Did these requests come recently?

David Jurgens: These are items that we have been discussing from the beginning. Those were included when we did our public meetings. The only two items that were added was the backup house space and the additional seven parking spaces.

Alderman Gray: My concern is the connection between the parking deck and the Walton Arts Center.

Ron Petrie stated we recognize that and would like to achieve that as well but can not guarantee that at the moment.

David Jurgens: As we proceed with the final design and the Walton Arts Center proceeds with the final design for their expansion that would be one of the factors that would be looked at.

Alderman Gray: I think it is significant enough if the cost seems to be prohibitive we might be able to add some more layers on the top. We can build it in and pay for it later. I think connectivity to the Walton Arts Center is a very significant aspect to the deck.

City Attorney Kit Williams: I don't think you can do that because this is the parking deck resolution. We can not cover the connectivity with this.

Alderman Gray: I certainly would hope that we would look at it very seriously.

Alderman Lewis: I agree with that. Do the 93 spaces, that the theater lot does not provide, affect our ability to pay back the bond? Does it affect our rate?

Paul Becker: That should not impact us as much as the others because it is less. That is an indirect cost because they are not revenue generating at this point in time.

Alderman Adams: What is one space worth 24 hours a day 365 days a year?

Don Marr: Our current maximum rate is $5.00 a day. That would be roughly $14,000 per year. That is not the construction or replacement cost that is the revenue generation.

Alderman Kinion: We are still not using any city funds outside the parking fund so it is all going to be generated without taxpayer's money and without increasing parking fees to cover the additional activity. This all seems reasonable and logical. This is a good plan as long as we have the confidence that the income stream is going to cover this activity associated with this resolution. Do you feel comfortable that it is?

Paul Becker: I would not be coming forward with it if I was not.

Alderman Kinion: It is a change and it seems a little bit generous compared to the original plans that we were presented. I do not mind that if we can guarantee efficiency, an income stream, and that it is not going to increase the parking fee and the cost to the city.

A discussion followed on the proposed resolution.

Alderman Boudreaux: This is the ideal site but not if it is going to totally destroy the Walton Arts Center. It is important that we all work together on this project. I think the administration and the Mayor is trying to do that with these guarantees. I really appreciate that.

Steve Clark, President Chamber of Commerce thanked the City Council and the Mayor for providing a plan for additional parking for our entertainment district. The demand is clear and has to be met and you are taking action to meet that demand. We urge you to adopt the proposal as it is recommended to use the theater lot because it does not displace any existing parking.

As a member of the Walton Arts Center board I do not speak for the board but for myself. I come here to say thank you. Some of the discussion tonight had the two pronouns they and we and I submit to you there is only a we. You own the building so the investment is a we investment.

Terri Trotter, Walton Arts Center: We can make this work and we can get this parking deck built and get the expansion for the Walton Arts Center done on that lot as long as we work together. It can be a real exciting opportunity for downtown.

Alderman Petty: For generations Dickson Street has been the only place in Northwest Arkansas that people go for entertainment. The deck is an important milestone in Fayetteville growth, downtown growth, and Northwest Arkansas growth. I think it is appropriate that city government is participating in this manner. We have many continued investments in downtown to make if we are going to go from the plateau to the next level. I have no qualms in selecting this site. It is the best site for downtown and Fayetteville.

Alderman Lewis: This is a very important decision for our community. I agree that the theater lot is the best option when you make your list of pros and cons.

Alderman Ferrell: I am all for the theater site. This city has been very supportive of the Walton Arts Center. I am sad that at the last minute we received this request for the money. I am for the space.

Alderman Tennant: I agree with us doing everything we can to help the Walton Arts Center. Some of these items in the resolution bother me. I support the theater lot. Some of these concessions that the city is willing to do are asking a tremendous amount more from the city.

Alderman Lewis: It is my understanding that we are deciding on the location. We are not deciding on the design.

David Jurgens: The recommended footprint is the one on the southeast corner of the lot. My assumption is if you determine that the theater lot is the location that you want this built then we would be building based on the footprint that you see in front of you.

Don Marr: Many of the things that are in this outline are things that have been somewhat understood as something we would be doing the entire time. We felt it would be unfair to say we are going to take your office, plan when we do it, and we are not going to give you an allowance to get out when we are the ones initiating that.

He discussed the additional parking spaces, the additional size of the proposed new offices, and temporary housing for the Walton Arts Center staff.

Mayor Jordan: If you want to change the resolution items that would be up to you all. The thing we certainly hope for is a location tonight.

Alderman Adams: I asked for a list of what this would mean if we choose your location. The spirit of this was to avoid the surprises later. I think the surprise was are we going to vote on these things tonight. We do not have the estimates for these costs?

City attorney Kit Williams: This resolution expresses your intent to do to this.

Alderman Boudreaux: I do not see any concessions here. I feel it is important that we move on with this site.

Alderman Petty: I think the $14,000 per space is the wrong way to look at is because we sell annual parking passes for $600 so that is really the true cost to the city per space. Staff has been very clear that this resolution is coming from an attempt to be fair not to grant concessions. The intent is to replace what is being taken away.

Alderman Ferrell: I would like to amend the amendment to the resolution and just vote tonight on the location.

Alderman Petty: I am uncomfortable selecting the theater site without providing some assurances in writing that we are going to work to address these issues that are a function of merely selecting this site where the Walton Arts Center is already located.

Alderman Boudreau moved to amend the resolution to the new resolution that was handed out at the City Council meeting to utilize the Theater Lot. Alderman Gray seconded the motion. Upon roll call the motion passed 7-1. Alderman Ferrell voting no.

Amended Resolution:

Entertainment District Parking Deck Site Selection: A resolution to select the site of the Entertainment District Parking Deck and to express the City Council's intent to replace administrative office and parking spaces lost through this project. They also presented the proposed cost of each lot.

Alderman Ferrell moved to remove Section 2 of the amended resolution. Alderman Tennant seconded the motion. Upon roll call the motion failed 2-6. Alderman Ferrell and Tennant voting yes. Alderman Lewis, Gray, Boudreaux, Kinion, Petty, and Adams voting no. Motion failed.

Alderman Ferrell: In the past we have always supported the Walton Arts Center and I am sure it is our intention to do so this time. I do not like open ended things.

Alderman Kinion: Being a representative of Ward 2, I was taken back when I saw this, but after having a complete discussion this evening I felt confident this is the correct resolution. What we are saying is we are working together to make this efficient, to make it operational, and to select this area of Ward 2 that is the entertainment district with some assurances that it is going to allow operations, allow a clear understanding and vision as we move forward in planning without having further discussion with clouded supposition. I will support because I think it is fair.

Mayor Jordan: I apologize to the Council for any misunderstanding. After we brought this forward last Tuesday I received a call from the Walton Arts Center saying there is nothing in writing about what happens if nothing occurs. We worked with the Walton Arts Center to get something together.

Don Marr: We thought it would be a bigger surprise if we brought these items forward later.

David Jurgens: If we select the theater site it would be very beneficial to the design team to have the guidance regarding a couple of these items.

Alderman Ferrell: Regardless of how this goes I want to thank David and everybody because this has been a huge task. You have done a good job.

Alderman Lewis: I agree that it would have been good to know but any costs associated with these will have to come back to the Council for further discussion.

Alderman Adams: I think the spirit of this is right.

Mayor Jordan: If you pass the location tonight I am going to issue those bonds quickly.

Alderman Tennant: If we are going to vote on this, as long as we are absolutely sure that each of these can be revisited, then I am okay with this.

Mayor Jordan thanked everyone for their work on this.

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

Resolution 238-12 as recorded in the office of the City Clerk.

RZN 12-4252 (Center Street Rezoning for Eco New): An ordinance rezoning that property described in rezoning petition RZN 12-4252, for approximately 2.75 acres, located along West Center Street, near Duncan Avenue and the northwest corner of Hill Avenue and Treadwell Street, from RMF-40, Residential Multi-Family, 40 units per acre to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-1. Alderman Kinion voting no.

City Attorney Kit Williams read the ordinance.

Andrew Garner gave a brief description of the ordinance.

Alderman Lewis: Has any comments been received?

Andrew Garner: We have not received any opposition to the proposal. At the Planning Commission meeting there were several members that spoke in favor of the request.

Seth Mims, developer gave a brief description of the rezoning.

Alex Miller voiced his support of the project.

Charles Brickey voiced his support of the project.

City Attorney Kit Williams: At the Planning Commission meeting there were several other neighbors that spoke in favor of this rezoning,

Alderman Tennant: I think this is a perfect fit for that part of town.

Alderman Lewis: I am very pleased with this rezoning.

Alderman Petty asked for an explanation of the notification process.

Andrew Garner explained the process. We have not received anything in writing from members of the public.

Alderman Kinion: I think this is appropriate but I do not want to rush into this.

Alderman Gray: If we have neighbors and they have been notified and Planning supports this then I do not see a reason not to move to the third and final reading tonight. I support this.

Alderman Ferrell: People that live in that area would be 90% more active in attending the Planning Commission meeting if they had any qualms about this.

Alderman Adams: He has people ready to go to work and jobs that may matter here. I think that is a good reason to go ahead tonight.

Alderman Adams moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-1. Alderman Kinion voting no.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5547 as Recorded in the office of the City Clerk

Repeal §31.46 Freezing Elected City Officials' Compensation: An ordinance to repeal §31.46 Freezing Elected City Officials' Compensation if in Excess of $80,000.00.

City Attorney Kit Williams read the ordinance.

Paul Becker: This affects three positions, the City Attorney, Mayor, and Judge. They have not received a raise since 2008. Employees received a raise this year and I see no reason why elected officials earning over $80,000 should not have the same consideration.

Alderman Ferrell: I think this is good. Right now we are in pretty good shape.

Alderman Lewis: These are professional positions that demand a lot. It is important for our community to compensate these people in their professional positions. They are elected but we want professional people in those roles. Looking forward we need to compensate them comparatively.

Alderman Tennant: We need to be consistent in everything that we do. I think this administration has been consistent.

Alderman Tennant 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 Lewis 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.

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

Ordinance 5548 as Recorded in the office of the City Clerk

<u>City Council Agenda Session Presentations:</u>

Parking Deck Presentation – The Parking Deck Team (including both staff and consultants)

City Council Tour: None

Announcements:

Adjournment: 8:50 p.m.

Lioneld Jordan, Mayor

Lioneld Jordan, Mayor **Sondra E. Smith, City Clerk/Treasurer**