Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

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
October 6, 2009

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

Alderman Rhoads arrived at 6:25 p.m.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan welcomed Troop 116 from Sequoyah United Methodist Church. He stated it is wonderful to have you all here tonight.

Methamphetamine Awareness Month Proclamation.

Mayor Jordan read the proclamation.

Presentations, Reports and Discussion Items:

Newspaper Publishing Discussion: Resolution 77-09 was passed on April 7, 2009 to be revisited in 6 months.

Alderman Cook: We passed this and chose to revisit this in six months to discuss it. I was given some numbers from staff and we had seen some savings from advertising so at this point I am just asking that we continue with the policy unless anyone else has other comments.

Mayor Jordan: What is the wish from the Council, to just continue on?

A discussion followed on if a motion to continue was required.

City Attorney Kit Williams stated to continue on we do not need a motion.

The City Council decided to continue on as is.

Nominating Committee Report:

Alderman Cook stated the Housing Authority has selected Brittany Kendrick to represent them.

Alderman Cook moved to approve the appointment to the Housing Authority Board. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Consent:

Approval of the September 1, 2009 and September 15, 2009 City Council meeting minutes.

Approved

Bid # 09-54 Frost Oil Company: A resolution awarding Bid # 09-54 and approving a contract with Frost Oil Company in the estimated annual amount of $58,363.06 to supply engine oil and lubricants to the Fleet Operations Division.

Resolution 204-09 as recorded in the office of the City Clerk.

Bid # 09-55 Electronic Video Systems: A resolution awarding Bid # 09-55 and approving the purchase of a video production system and related equipment from Electronic Video Systems in the amount of $23,183.00 for use in the City Council Chamber.

Resolution 205-09 as recorded in the office of the City Clerk.

Bid # 09-57 Danny Robinson Construction, LLC: A resolution awarding Bid # 09-57 and approving a contract with Danny Robinson Construction, LLC in the amount of $91,044.00 for the complete installation of two (2) trail bridges for the third phase of Lake Fayetteville Trail; and approving a 15% project contingency in the amount of $13,656.60.

Resolution 206-09 as recorded in the office of the City Clerk.

Bid # 09-58 Chevy of Fayetteville: A resolution rescinding resolution # 117-09, awarding Bid # 09-58 and approving the purchase of one (1) compact 4 x 4 pickup truck from Chevy of Fayetteville in the amount of $19,800.00 for use by the Fayetteville Executive Airport.

Resolution 207-09 as recorded in the office of the City Clerk.

Bid # 09-59 Chevy of Fayetteville: A resolution rescinding resolutions # 118-09 and # 122-09 and awarding Bid # 09-59, approving the purchase of two (2) 2 x 4 pickup trucks from Chevy of Fayetteville in the amount of $33,994.00 for use by the Inspections and Meter Operations Divisions.

Resolution 208-09 as recorded in the office of the City Clerk.

State and Tribal Assistance Grant (STAG): A resolution authorizing the Mayor to accept a State and Tribal Assistance Grant (STAG) in the amount of $291,000.00 from the U.S. Environmental Protection Agency for sanitary sewer system improvements; and approving a budget adjustment recognizing the grant revenue.

Resolution 209-09 as recorded in the office of the City Clerk.

Insituform Technologies, Inc.: A resolution approving a task order to the contract with Insituform Technologies, Inc. in the amount of $300,000.00 for cured in-place sanitary sewer main line linings; and approving a contingency in the amount of $30,000.00.

Resolution 210-09 as recorded in the office of the City Clerk.

Runway 16 Safety Area Improvement Project: A resolution approving offer and acceptance contracts between the City of Fayetteville and the Standard Register Company and Coulson Properties Limited Partnership for the purchase of land needed for the Runway 16 Safety Area Improvement Project; and authorizing the Mayor and City Clerk to execute said agreements.

Resolution 211-09 as recorded in the office of the City Clerk.

2009-2010 Selective Enforcement Program Grant: A resolution accepting the 2009-2010 Selective Traffic Enforcement Program (STEP) grant in the amount of $108,000.00 for the purpose of paying overtime to officers engaged in the enforcement of DWI/DUI and seatbelt laws and other purposes; and approving a budget adjustment recognizing the grant revenue.

Resolution 212-09 as recorded in the office of the City Clerk.

Amend Police Department's Policies, Procedures & Rules Manual: A resolution approving and adopting amendments to the Fayetteville Police Department's Policies, Procedures & Rules Manual.

Mayor Jordan: The Police Chief asked that Item #11 on the Consent Agenda be tabled.

City Attorney Kit Williams: It will need to be pulled from the Consent Agenda and then tabled to the next meeting.

Alderman Petty moved to remove Item # 11 Amend Police Department's Policies, Procedures & Rules Manual from the Consent Agenda and table it to The October 20, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

This resolution was removed from the Consent Agenda.

Alderman Cook moved to approve the Consent Agenda as read with Item # 11 Amend Police Department's Policies, Procedures & Rules Manual removed from the Consent Agenda. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Agenda Additions: None

Unfinished Business:

Rock Quarries Facilities: An ordinance to prevent injury or annoyance within the corporate limits of Fayetteville by regulating rock quarrying facilities so that these facilities will not be nuisances. *This ordinance was left on the First Reading at the September 1, 2009 City Council meeting. This ordinance was left on the Second Reading at the September 15, 2009 City Council meeting.*

Mayor Jordan: This was left on the second reading at the last meeting. There was discussion about sending this to Ordinance Review.

City Attorney Kit Williams handed out the current ordinance that was amended at the last meeting. He stated if you choose to table it tonight that will be what will be considered at Ordinance Review unless you make other changes tonight. I would like to get some input from you on the suggested changes that the Rogers Group submitted to you.

A discussion followed on what steps should be taken in regards to tabling and taking public comment.

City Attorney Kit Williams recommended that it not be read tonight and that it be tabled.

Alderman Thiel: It is going to Ordinance Review Committee meeting tomorrow afternoon at 4:30 PM in Room 326.

Mayor Jordan: So there will be public comment at the Ordinance Review Committee.

Alderman Petty moved to table this ordinance to the October 20, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

This ordinance was left on the Second Reading and Tabled to the October 20, 2009 City Council meeting.

Red Dirt Mining Facilities: An ordinance to prevent injury or annoyance within the corporate limits of Fayetteville by regulating red dirt mining facilities so that these facilities will not be nuisances. *This ordinance was left on the First Reading at the September 1, 2009 City Council meeting. This ordinance was left on the Second Reading at the September 15, 2009 City Council meeting.*

Mayor Jordan: Do you all want to do the same thing with this one?

Alderman Lewis: I do want to mention for both of these at the Ordinance Review Committee I would like it to be done in an orderly way that can be addressed on each part of it.

Alderman Thiel: I will certainly try to do that as Chair.

Alderman Lewis: It is a lot of information and to hop around it can be confusing.

Alderman Thiel: Right and have Kit explain it.

City Attorney Kit Williams: Also if any Aldermen want to call me tomorrow and make any suggestions I would be happy to talk with you. Otherwise we will try to do redrafting if any at the Ordinance Review Committee meeting.

Alderman Petty moved to table this ordinance to the October 20, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

This ordinance was left on the Second Reading and Tabled to the October 20, 2009 City Council meeting.

New Business:

2009 Sales and Use Tax Bond Ordinance: An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2009, for the purpose of financing a portion of the costs of certain street and trail system improvements; authorizing the execution and delivery of a second supplemental trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Paul Becker, Finance Director gave a brief description of the ordinance.

Alderman Petty: Will this issuance of bonds to the trails program affect capital funds that we had allocated in previous years to the trails program?

Paul Becker: We will still allocate additional money to the trails program but this will help supplement it.

Alderman Petty: I just wanted to make sure that it's supplemental as we intended originally.

Alderman Ferrell: As we move forward, with the economy changing, is that going to have a positive impact on our ability to go for more down the road?

Paul Becker: If the sales tax picks up we will be able to pay off the old bonds earlier therefore giving us the capacity to issue new bonds faster. Right now it looks like 2013 or 2014 before we can issue new bonds. However if the economy picks up then we can pay those bonds off earlier and issue the third phase quicker.

Alderman Petty: During the 2008 campaign season we heard a lot about our bond rating. What is our bond rating now and could you explain what that indicator is?

Paul Becker stated these bonds were rated at A+ which in these times is pretty good because that is stable. That indicates how the rating agency perceives the liability or stability of the bond payments. He went on to describe the ratings.

Alderman Petty: How does our bond rating on these bonds compare to ratings on other bonds in your portfolio in this State and maybe in the four state regions?

Dennis Hunt with Stephens Inc. stated keep in mind that these bonds are subordinate from any having a secondary security to the three quarters of pennies that secures the 2005 bonds that the voters originally approved. Those bonds have an AA- rating so it is very typical to see a slight drop if it is a subordinate bond to those. An AA rating in Northwest Arkansas is about as high as any that I have seen associated with issues in the State. This one is slightly below that because it is taking a second position on the three quarters of a penny until those three quarters of a penny pays off all of the 2005 bonds.

Alderman Lewis: I noticed in the memo it says that three out of every four sales tax dollars collected and paid on these bonds will be used to pay off the principal and one is to pay the interest. Can you talk more about that?

City Attorney Kit Williams: We initially start off just paying interest on these bonds but once the earlier bonds are paid off there is an amount of money that comes into these bonds and they are paid off very quickly. Not only because we have low interest rates because they are

municipal bonds that are tax exempt but also because they can be paid off pretty quickly that is why we do not have to pay so much interest compared to the principal payments.

Alderman Cook 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 Ferrell: This did not just happen, there was an election passed for sales tax for us to build streets, infrastructure, and trails in the city and it took everyone working together to put this forward to the people for a vote. It has worked out good and is continuing to work good.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Before you ask for the vote I would like to recognize the Accounting Department who did a lot of work on this. He also thanked Gordon Wilburn of Kutak Rock and Dennis Hunt. They have provided excellent service over the last eight or nine years so I just wanted to recognize them as well as our own Accounting staff.

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

Ordinance 5277 as Recorded in the office of the City Clerk.

2009 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2009 fixing the rate thereof at 1.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Paul Becker gave a brief description of the ordinance.

Alderman Petty: I am looking at this diagram you placed in our boxes. I wanted to check in on what may be a typo. In the County column for Fayetteville it says 5.5 mills and for Springdale it says 6.5 mills. Can you explain what the difference is or if it is just a mistake? Is that because a portion of Springdale is in Benton County?

Paul Becker: That would be my explanation. I'll have to check it out for sure. Part of Springdale is in fact in Benton County and the taxes there may very well be higher.

Alderman Petty: I am just trying to make sense of all this especially in these economic times. Where I am coming from on the millage is I am not sure that we should raise it but at the same time I want to keep it on the table for us to talk about and think about between now and the end of the month. I am really trying to brainstorm investments in our economy that don't have ongoing costs, that are one time costs, and that will give us a return and will make 2010 more of a rebound year and 2011 an even more rebound year. What I am trying to do and what I would hope the rest of the Council members would join me in doing over the next two weeks is try and brainstorm those types of investments that are low cost and one time investments that we can make that are going to have a benefit to our economy. I was hoping we could leave this on the second reading to think about things and be open minded.

Mayor Jordan: So are you saying that you might want to take some of this money and invest it somewhere else?

Alderman Petty: I don't know what the appropriate action to take is yet but I want it to be on the table for raising the millage for a year for altering the current ordinance. Let's just take the time to think about it and see if there is something there that makes sense.

Alderman Thiel: You are looking at this table that we got tonight which shows the total millage for the cities in the surrounding area including the school district millage which we did not have on the report at the agenda meeting. We are not the highest in the region now but I assume you are talking about considering a half mill or a mill for something specific like economic development.

Alderman Petty: Yes, specifically for economic development and if there is something appropriate it has to be over in a year so we restore our capacity to address an emergency with the millage. It has to be something for economic development so it's not just an investment that is going to add more costs that aren't sustainable right now.

Alderman Ferrell: If you want to wait a couple of weeks that is fine but at this particular time I don't think that is constructive from an economic development point of view. If we don't listen to other people's ideas then we won't learn.

Alderman Petty: I am nervous about it too and I feel like I am going out on a limb here even suggesting that we keep it on the table. We did just have the school millage fail but at the same time it seems that the community is ready to make a certain kind of investment in itself.

Alderman Lucas: I don't have a problem with waiting two weeks either but it is going to have to be a pretty good project because once you get it on there it is very hard to take off. Hopefully you will come up with a good one. We have all been working on it and coming up with strategies so two weeks is fine with me.

Alderman Lewis: I am okay with waiting as well. I do like the idea of putting a whole group of people towards trying to find ways to invest in things that might have a return.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Amend Chapter 50: An ordinance waiving the automatic annual price increase for residential trash service for Fiscal Year 2010; and amending a portion of Chapter 50: Garbage and Trash of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

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

Alderman Ferrell 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 Cook moved to suspend the rules and go to the third and final reading. Alderman Ferrell 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 5278 as Recorded in the office of the City Clerk.

Old Wire Annexation Appeal: An ordinance annexing that property described in annexation petition ANX 09-3409 (CC2009-4), for property located at 3231 North Old Wire Road, the northwest corner of Old Wire Road and Rom Orchard Road, containing approximately 39 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Development Services Director: The applicant requested that this item be left on the first reading and not be discussed tonight. I don't believe they are present and they also notified the four members that spoke in opposition at the Planning Commission. I want to say thank you for doing that and for letting the property owners know.

This ordinance was left on the First Reading.

Amend Chapter 166 ADM 09-3435 (1121 N. Mission Boulevard ROW Variance): A resolution approving a variance of §166.18 Master Street Plan setbacks of the Unified Development Code to allow the existing structure located at 1121 N. Mission Boulevard to remain within the Master Street Plan right-of-way setback and to be improved greater than the 10% replacement cost allowed by code.

Jeremy Pate gave a brief description of the resolution. He stated the applicant went before the Board of Adjustments and received a variance and went before the Planning Commission and received a recommendation in favor of this proposal. Staff is also recommending approval.

Alderman Lucas: You said this is a little over half an acre?

Jeremy Pate: I believe that is correct.

Alderman Lucas: So if the porch was taken off then they could work on the house, is that correct?

Jeremy Pate: Yes.

Alderman Lucas: After this is approved that building can actually be torn down and other structures could be put on this lot is that not right? There is no reason why if we grant this variance that house has to be used.

Jeremy Pate: That is correct. If the applicant chose not to utilize this and they redevelop the property then none of these variances would apply because this only applies to this structure.

Alderman Lucas: Thank you.

Alderman Petty: It is really encouraging to me when you see homeowners with rock houses from the 1920's pursuing variances to remodel instead of just tearing it down and building a new structure. We need more of that kind of attitude in Fayetteville.

Alderman Thiel moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution passed 7-1. Alderman Lucas voting no.

Resolution 213-09 as recorded in the office of the City Clerk.

Meeting adjourned at 7:10 p.m.

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