Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

City of Fayetteville Arkansas
City Council Meeting Minutes
February 05, 2013

A meeting of the Fayetteville City Council was held on February 05, 2013 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville,

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Sondra Smith, Staff, Press, and Audience.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Dr. Martin Luther King Jr. Brotherhood Award for 2013 Presentation – Presented by Kit Williams

City Attorney Kit Williams: Since March of 2001 it has been my pleasure to select a City of Fayetteville employee to receive the Dr. Martin Luther King Jr. Brotherhood award. This year's recipient has worked for the City of Fayetteville for ten years. Mr. Williams presented the award to **Sue Butler**, Life Safety Education Specialist with the Fayetteville Fire Department.

Sue Butler, Life Safety Education Specialist with the Fayetteville Fire Department thanked City Attorney Kit Williams and Mayor Lioneld Jordan for the award.

4th Quarter Financial Report 2012

Paul Becker, Finance Director: Things are looking pretty positive. City sales tax was up a little over 6% for the year. County sales tax was up about 4.5% which was very good for us. Building permits are almost double from what they were the year before. The A & P Commission, on an accrual basis, was up about 8.4%.

Agenda Additions: None

Consent:

Approval of the January 15, 2013 City Council meeting minutes.

Approved

CH2M Hill Engineers, Inc.: A resolution approving a revision to an out-of-scope agreement with CH2M Hill Engineers, Inc. in the amount of $154,550.00 to continue work on a Use Attainability Analysis (UAA) for the White River, maintaining the existing $50,000.00 contingency, and approving a budget adjustment.

Resolution 19-13 as recorded in the office of the City Clerk.

Gulf Coast High Intensity Drug Trafficking Area: A resolution approving a budget adjustment in the amount of $115,608.00 recognizing revenue from the office of National Drug Control Policy Gulf Coast High Intensity Drug Trafficking Area.

Resolution 20-13 as recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc. Amendment No. 2: A resolution approving Amendment No. 2 to the contract with McClelland Consulting Engineers, Inc. for Airport Engineering Services.

Resolution 21-13 as recorded in the office of the City Clerk.

T-Hangar Lease Agreements: A resolution to approve T-Hangar lease agreements in 2013 and through 2014 at the current rental rate or as adjusted upward by the Airport Board for all T-Hangars rented at the Fayetteville Executive Airport.

Resolution 22-13 as recorded in the office of the City Clerk.

Animal Shelter Donation Revenue: A resolution approving a budget adjustment in the total amount of $18,626.00 representing donation revenue to the Animal Services Division for the fourth quarter of 2012 and including a grant award from the ASPCA in the amount of $4,500.00 to fund the animal shelter's transport program for 2013.

Resolution 23-13 as recorded in the office of the City Clerk.

Old Square, Inc.: A resolution approving a two-year lease agreement with Old Square, Inc., for the annual rental amount of $9,000.00 to lease approximately 3,500 square feet for document storage.

Resolution 24-13 as recorded in the office of the City Clerk.

Sales Tax Collection Information Support: A resolution stating the support of the City of Fayetteville to state statutory amendments authorizing improvements in the information provided to local governments by the State related to collections of local sales and use taxes.

Resolution 25-13 as recorded in the office of the City Clerk.

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

Unfinished Business:

Kum & Go, L.C.: A resolution to authorize Mayor Jordan to sell about two acres of the Tyson Factory Property on Huntsville Road for $1,115,001.00 to Kum & Go, L.C., to agree to cost share with Kum & Go for roads or driveways within the Tyson Property adjoining this two acre parcel and the demolition of the factory and all other terms of the land sale agreement and its addendum, and to recommend rezoning this parcel to Neighborhood Commercial or other zoning district satisfactory to Kum & Go, L.C. *This item was tabled at the January 15, 2013 City Council meeting to the February 5, 2013 City Council meeting.*

City Attorney Kit Williams: This was tabled at the last meeting in order to give both Kum and Go and Casey's General Store an opportunity to provide a sealed addendum to their land sale agreement proposal that they made. The addendum's were opened and read as follows:

Casey's General Store land sale agreement was revised to $1,156,000 and everything else to remain the same.

Kum and Go's land sale agreement purchase price was revised to $1,115,001 and design, construct, and submit the improvements to meet the requirements of LEED certification.

Joni Dyar representing Casey's General Store gave a brief history of the company. She stated Casey's is a publicly held company with over 1,700 stores in 14 states. She stated they have on

site day care for their employees and they give back to the community. The store will be a 24 hour store. We are doing some new energy initiatives. All of our newly constructed stores use 100% high efficiency LED lighting, high efficiency natural gas heating and cooling units and tankless water heaters. The proposed building will be about 4,600 square feet.

Rob Wadle representing Kum and Go gave a brief history of the company. He stated we are a family owned company. We give 10% of the profits we make back to the community. We build LEED certified stores. We will employee 15 to 20 employees.

Adam Hammes. Manager of Sustainability for Kum and Go gave a brief summary of Kum and Go's sustainability measures.

Alderman Tennant asked about the distribution centers each company has.

Joni Dyar, Casey's General Store: We have one distribution center and we own our own trucks. We sometimes use other people but we are pretty independent.

Rob Wadle, Kum and Go: We use a third party distribution but own our fueling delivery trucks. Our building will be around 5,000 square feet.

Alderman Marsh asked about managed deliveries and night deliveries.

Rob Wadle, Kum and Go: Fuel is delivered when there is 25% left in tank. We can limit that if need be.

Joni Dyar, Casey's General Store: We pretty much control fuel delivery. Garbage depends on the local garbage hauler. We can control when vendors deliver. We can work with the city. I live by a Casey's and they are not noisy or dirty. Landscaping is also a buffer.

Alderman Petty: The offers monetary are within 3% to 4% of each other so that is really not influencing my vote. For me I am looking for commitments that go above and beyond a simple sale.

Rob Wadle, Kum and Go gave a brief overview of their equipment and energy efficiencies. He stated we are willing to work with the city and we are committed to trying to build to LEED certification.

Joni Dyar, Casey's General Store: We can incorporate something special if the city has a request and if we can do it.

Alderman Kinion asked about each store's recognition of social diversity.

Rob Wadle, Kum and Go: As far as awards or reorganization I can not think of any. We have an associate manual and handbook that specifically talks about discrimination that everyone reads and signs.

Joni Dyar, Casey's General Store: We do not have any discrimination problems. We do not allow that.

Alderman Marsh: What percentage of your employees is full time versus part time and therefore are unable to access some of these benefits?

Rob Wadle, Kum and Go: I am not sure of the percentage. They do not have to be full time to access our insurance benefits.

Joni Dyar, Casey's General Store: Sick leave I do not believe they do but health benefits they do. I am not sure about the percentage.

Alderman Marsh: What fresh food offerings do you have through your store?

Rob Wadle, Kum and Go: We have hot and cold food as far as deli options. We have bananas and apples. We do not have the means to get a lot of fresh fruits and vegetables. It is a distribution issue for us.

Joni Dyar, Casey's General Store: We offer salads, fruit and healthy wraps.

City Attorney Kit Williams: The principle consideration should be the amount of money offered by the businesses. If the offers are relatively close then you may consider other public advantages.

Alderman Petty: This is not an easy decision to sell the land. I am not a fan of convenience stores in general. The benefits of this proposal far out weigh the cost to the community that some of the citizens have commented to us about. I think the Kum and Go offer is the best offer. I am encouraged that the 10% commitment to the community is there. They have indicated an understanding of the factors and challenges that all communities face today.

Alderman Gray: I agree with Alderman Petty. I have visited the stores and have looked very carefully at both of these companies. Kum and Go is very environmentally conscience.

Alderman Kinion: I researched both stores and they are commendable in the communities where they are located. Kum Go is recognized socially, environmentally, and as a leader in each of the communities. Both of these stores are to be commended to have happy motivated employees. What tipped the scale for me is the broader range of philanthropies in the arts as well as social and health in the communities where they are.

Alderman Tennant: I think either way here the city wins. The city gets to sell land that we need to sell, get rid of a building that needs to go away, and we are left with additional land and money from the sale. I go to Kum and Go every day and thank them for how well they do business. Thank you to both companies for showing an interest in investing in the City of Fayetteville. I hope you will continue to look at Fayetteville for future expansions. I think we need to be good stewards of the people's money. I think Casey's food selection is a little better. I believe in the community approach that Kum and Go has shown and they have proven they are

a little bit better when it comes to the environmental and community aspects. If Casey's is doing that sort of thing you may not be tooting your own horn.

Alderman Marsh: I can't support the sale of public land for a gas station. I do not think this is consistent with our City Plan 2030. This site sits on a really important node along the box around our city and is a gateway to our commerce district. We do not have a plan for developing this site. We are not enhancing this neighborhood by offering these products.

Alderman Adams: I support Casey's. I read where Casey's is buying 22 stores from Kum and Go. Casey's answered my questions about employment policies and practices. I feel more bound to the higher offer.

Alderman Long: I too was not a fan of selling public land for a gas station on that end of town. The deal was such that the city was going to be able to take down a building that needed to go away for safety. Casey's General store had the best offer as far as money, their benefits package is better, and their selection of fresh foods is better for that area of town.

Mayor Jordan: With me it is a safety issue. Since 2006 we have had 154 police calls to that building. We have looked at selling this property in the past and could not come to an agreement. I want to thank our City Attorney Kit Williams for his work on this. This is not a prefect solution to the problem but my job as the Mayor is to keep the city safe. That building needs to come down.

Alderman Petty moved to amend the resolution to the sealed bid submitted by Kum & Go in the amount of $1,115,001. Alderman Schoppmeyer seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Petty moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed 5-3. Alderman Petty, Tennant, Schoppmeyer, Gray, and Kinion voting yes. Alderman Adams, Long and Marsh voting no.

Resolution 26-13 as recorded in the office of the City Clerk.

New Business:

Amend Section 33.361 Departments, Boards, Commissions, and Authorities: An ordinance amending Section 33.361 Composition of Chapter 33: Departments, Boards, Commissions, and Authorities of the Code of Fayetteville to change the structure of City and University appointments to the Town and Gown Advisory Committee.

City Attorney Kit Williams read the ordinance.

Lindsley Smith, Communication Director gave a brief description of the changes.

Alderman Long thanked Lindsley Smith for keeping the ordinance current.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Adams 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 5564 as Recorded in the office of the City Clerk.

Amend 2013 City Budget: A resolution amending the 2013 city budget by reappropriating up to $48,086,200.00 in bonded or ongoing capital projects, outstanding obligations and grant-funded items previously appropriated in the 2012 city budget but not completed or delivered in 2012.

Paul Becker, Finance Director: This request is to reappropriate funds to continue ongoing projects and grants, etc.

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

Resolution 27-13 as recorded in the office of the City Clerk.

Woolsey Aviation Inc. DBA Million Air of Fayetteville: A resolution approving the termination of the fixed-base airport operations contract with Woolsey Aviation Inc. DBA Million Air of Fayetteville, approving a budget adjustment in the amount of $1,786,452.00 for the implementation and funding of a city-operated fixed-base airport operation, and further approving the addition of 6.6 full-time equivalent employee positions in the Aviation Division for the operation.

Ray Boudreaux, Airport Director: The present company has been unable to meet its obligations under their contract. Staff and the Airport Board have reviewed our options and determined the best option is to terminate the contract with Million Air and for the city to operate the FBO line service contract in house. We are prepared to take over the operation and reasonably expect to be able to meet payment obligations to the airport administration budget and operate the FBO at a profit. We will strive to increase the business and sell more fuel. The action before you terminates the FBO contract with Million Air and takes the FBO operation in house. It includes a budget adjustment to create a budget for the operation of which 75% is for the purchase of fuel

for resale. It also creates 6.6 FTE's and allows for the hiring of employees to fill the jobs required to run the business.

Terry Gulley, Transportation Services Director: During the last three months we have had two different occasions where the FBO ran out of fuel and was unable to fill planes that had landed at our airport. This has affected planes that were delivering players to the U of A for sports. We have been working very hard to get the U of A to use our facility more but we must be able to meet their needs. This is a possible revenue source for the airport. It could also help us with grant opportunities.

Alderman Tennant: When a plane can't refuel there what do they have to do?

Terry Gulley: They have to fly elsewhere to get fuel and come back to get the players or leave and then refuel elsewhere.

Alderman Tennant: We can not have that. That is unbelievable to me. Ray, you are confident that you can hire qualified people with certifications to work on the planes from day one?

Ray Boudreaux: Yes sir.

Don Marr, Chief of Staff thanked Ray Boudreaux for his work on evaluating the options and trying to work out a situation that would have allowed us to maintain our current provider. I would also like to thank our Airport Board. The Mayor and I are bringing to you an item to change a fixed base operator, when we were two Aldermen who voted to out source to a fixed base operator under the premise of increased business and increased fuel sales, which simply did not happen. We do not bring this decision to you lightly. It is an embarrassment to have planes unable to be serviced. We not only addressed the discontinuance of the contract with Million Air but what is the preferred method because we knew others would want an opportunity to do it. This is a timing issue we can not have an entry point to our city and risk a single day of not being able to operate. We have all the confidence in the world in Terry and Ray and their teams to be able to manage this. We fully support the Airport Board's advice and our staff's advice in this situation.

Alderman Tennant: When you and others voted to take this to a fixed base operator I applaud you for that because I think you thought you were doing what was in the best interest of the city. I have no problem with that nor do I have a problem with reevaluating this at some point in the future if this does not work out. I think it will work and that it is in the best interest of the city to make this move.

Aubrey Sheppard: I commend you for doing this airport change.

Taylor Scott, Fly Arkansas, LLC stated our main office is in Mountain Home. He gave a brief history of their operation and the places they serve as a fixed base operator. He asked the Council to consider them as a fixed base operator and enter into an emergency agreement with them or another operator during this process to allow the Airport Board and the Council to complete a request for approval (RFP) to see what is on the table. Our organization has grown

150% to 300% in the last three years every year. We ask the Council to let someone like us come in and run a temporary organization that is going to give you the service and return the service to Fayetteville.

David Powell, Summit Aviation gave a brief summary of his background. I started the aviation business in Bentonville and have expanded Summit Aviation during the past seven year. We were named Airport of the Year in the State of Arkansas in Bentonville. We took on Springdale about two years ago. We want to partner with the city to grow the city funding as well as build our operations and grow aviation. We work to build relationships across everything we do. We offer charters, flight training, and flight rentals in addition to fuel flow at our airports. We have really not had the opportunity to make a proposal to the city. The timing is such that you do not have many options. The FOB's that are run by a city are very small compared to those that are run by private businesses. There are multiple providers that have a long history of doing it right.

Bob Nickle, Airport Board: The Airport Board met in November in a strategic planning meeting. When the commercial flight left in 1998 we were very fortunate, as a city, to have around $4 million in our airport fund. That money came from parking fees. That is what XNA lives on. Our parking fees went away. The Airport Board has tried to look at ways to become self funded. We have spent money on various construction projects that now give us cash flow. We remodeled the terminal and a lot of the money has gone to making improvements. Ray has been fabulous about getting us matching grants over the years. I think either one of these operators that spoke to you tonight, could do a good job. We think we can do an equally good job. I am confident that we can do it and do a good job and keep more funds for the city. If I am wrong we can reevaluate things.

Alderman Petty: I have to trust the Airport Board. We have delegated these items to them because they have the expertise. If they think they have had enough time to do this then I have to trust that process and them.

Mayor Jordan: When I hear reports of running out of fuel and being behind on payments we can not allow that to occur. I trust the Airport Board and Ray. They do a great job. I believe we can do it. If we can't we will get to look at it again.

Alderman Adams: David Powell thank you for coming and speaking you have built a good reputation. I like the way our city treats our employees and we have good benefits. I think we should give it a try and see what we can do.

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

Resolution 28-13 as recorded in the office of the City Clerk.

City Council Agenda Session Presentations: None

City Council Tour: None

Announcements:

Adjournment: 8:09 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer