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
April 16, 2013

A meeting of the Fayetteville City Council was held on April 16, 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, Assistant City Attorney Jason Kelley, City Clerk Treasurer Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Arkansas Recreation & Parks Association Individual Volunteer of the Year Award – Connie Edmonston Parks and Recreation Director:

Connie Edmonston, Parks and Recreation Director presented the Arkansas Recreation & Parks Association Individual Volunteer of the Year Award to Dave Bowman a community volunteer for his participation in the Trail Trekkers program.

Dave Bowman: If you have not been on the trail lately come on out. People come here because they enjoy it. Continuous improvement on that trail is big.

Arkansas Recreation & Parks Association Group Volunteer of the Year Award – Connie Edmonston Parks and Recreation Director

Connie Edmonston presented the Arkansas Recreation & Parks Association Group Volunteer of the Year Award to Nancy Allen, President of the Southeast Fayetteville Community Center. The

Southeast Fayetteville Community Center Board has a unique partnership with the Yvonne Richardson Community Center (YRCC). The Board serves as an advisory board for the YRCC and also serves as a primary source of funding for the free program at the YRCC.

Nancy Allen: I am honored to be a part of the Yvonne Richardson Community Center. It is with great pleasure that I accept this award.

City Council Meeting Presentations, Reports and Discussion Items:

Nominating Committee Report – Advertising and Promotion Commission appointment

Alderman Gray presented the Nominating Committee Report: A copy of the report is attached.

Recommend approval of the following:
Bobby Ferrell – One Public-at-Large Term Ending 03/31/17
Hannah Withers – One Tourism Industry Term Ending 03/31/17

Alderman Gray moved to approve the Nominating Committee Report. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Agenda Additions:

Mayor Jordan: We had a situation occur on Rogers Drive that we need to repair. We need funding to fix that road.

Alderman Petty moved to add the following ordinance to the agenda. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

Rogers Drive Repair: An ordinance waiving the requirements of formal competitive bidding and authorizing the Mayor to sign a contract with a contractor providing the lowest price quote for repair to a slope failure on Rogers Drive, and approving a budget adjustment.

Assistant City Attorney Jason Kelley read the ordinance.

Chris Brown, City Engineer: This item is for a repair on Rogers Drive. This was repaired a couple of years ago but with the recent large rains that we have had the slope has failed again. We have an engineer doing a design for a retaining wall system that will repair this. We propose that as soon as the design is complete, we would like to get three quotes from contractors, and take the lowest bid. This ordinance would allow staff to proceed with that.

Don Marr, Chief of Staff: Our Transportation Department has added materials to make the road level. Since then we have had another three foot movement of this slide. One of our concerns is

this is not sliding at the road level it is sliding all the way to the tower water tank location. This road is a one way in and a one way out. It does not have any other form of connectivity.

Alderman Gray: It seems like it is something that we have to do. We have no choice.

Paul Becker, Finance Director: The funding for this will have to come from Sales Tax Capital reserves. This is an emergency situation and we do not have anything in the budget to address it.

Alderman Petty: Do we maintain an emergency funding level in the Street Fund for things like this?

Paul Becker: We do not. We retain some money in a Replacement and Disaster Fund which is set aside for large scale disasters such as the ice storm.

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

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Kinion 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.

Assistant City Attorney Jason Kelley read the ordinance.

Mayor Jordan: I apologize for having to walk this on but we do not have a lot of options.

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

Ordinance 5578 as Recorded in the office of the City Clerk.

Alderman Long moved to add the following resolution to the agenda. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

Fayetteville District Judge Rudy Moore Courtroom: A resolution to thank Fayetteville District Judge Rudy Moore for his long and distinguished service to our city and our citizens and to honor Judge Moore by naming the Fayetteville District Courtroom the Fayetteville District Judge Rudy Moore Courtroom.

Alderman Tennant: Judge Moore was a great judge and a long term family friend. It is an honor for me to vote for this.

Mayor Jordan: I knew Judge Moore for close to 50 years. He was a great judge, family man and person.

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

Resolution 73-13 as recorded in the office of the City Clerk.

Consent:

Approval of the April 02, 2013 City Council meeting minutes.

Approved

Bid #10-47 King Electrical Contractors: A resolution authorizing a contract with King Electrical Contractors in the amount of $44,000.00, pursuant to Bid #10-47 for the installation of electrical services for the computer server room at Fayetteville Executive Airport-Drake Field, and approving a project contingency of ten percent (10%).

Resolution 74-13 as recorded in the office of the City Clerk.

Police Department Donation Revenue: A resolution approving a budget adjustment in the total amount of $2,100.00 representing donation revenue to the Police Department during the first quarter of 2013 in support of officer service awards and general recognition.

Resolution 75-13 as recorded in the office of the City Clerk.

Federal and State Law Enforcement Forfeiture Revenue: A resolution approving a budget adjustment in the amount of $31,783.00 representing federal and state law enforcement forfeiture revenue received through March 2013 and authorizing associated expenses.

Resolution 76-13 as recorded in the office of the City Clerk.

Fire Department Polaris Ranger Utility Vehicles: A resolution approving a budget adjustment in the total amount of $7,004.00 to fund Fleet Division purchases of accessory packages for two (2) Fire Department Polaris Ranger utility vehicles.

Resolution 77-13 as recorded in the office of the City Clerk.

Fayetteville Executive Airport-Drake Field FBO Lease Agreement: A resolution approving a fixed-based operations hangar lease agreement form at the current rental rate or as adjusted upward by the Airport Board for fixed-based operations hangar space rented at the Fayetteville Executive Airport-Drake Field.

Resolution 78-13 as recorded in the office of the City Clerk.

Airport Hay Field Lease Agreement: A resolution approving a two (2) year extension to the airport hay lease with Donnie Sams of West Fork, Arkansas to facilitate participation in a USDA Natural Resource Conservation Service Environmental Quality Incentive Program.

Resolution 79-13 as recorded in the office of the City Clerk.

Amend Resolution 54-13: A resolution amending Resolution No. 54-13 concerning the purchase of one (1) Chevrolet Tahoe, pursuant to a state procurement contract, for use by the Transportation Division.

Resolution 80-13 as recorded in the office of the City Clerk.

Amend Resolution 55-13: A resolution amending Resolution No. 55-13 concerning the purchase of one (1) Chevrolet Tahoe, pursuant to a state procurement contract, for use by the Solid Waste Division.

Resolution 81-13 as recorded in the office of the City Clerk.

Bid #12-38 MHC Kenworth of Springdale: A resolution authorizing the purchase of one (1) Kenworth T800 semi truck tractor pursuant to Bid #12-38 from MHC Kenworth of Springdale in the amount of $114,715.00, and approving a budget adjustment.

Resolution 82-13 as recorded in the office of the City Clerk.

Williams Tractor of Fayetteville S590 Skid Steer Loader: A resolution authorizing the purchase of one (1) Bobcat S590 skid steer loader from Williams Tractor of Fayetteville, pursuant to a National Joint Powers Alliance Cooperative purchasing contract in the amount of $37,505.00.

Resolution 83-13 as recorded in the office of the City Clerk.

Williams Tractor of Fayetteville T590 Skid Steer Track Loader: A resolution authorizing the purchase of one (1) Bobcat T590 skid steer loader from Williams Tractor of Fayetteville, pursuant to a National Joint Powers Alliance Cooperative purchasing contract in the amount of $47,226.00.

Resolution 84-13as recorded in the office of the City Clerk.

Stribling Equipment of Springdale John Deere 750K Dozer: A resolution authorizing the purchase of one (1) 2013 John Deere 750K dozer from Stribling Equipment of Springdale, pursuant to a state procurement contract, in the amount of $230,750.00, and approving a budget adjustment.

Resolution 85-13 as recorded in the office of the City Clerk.

Bid #13-15 Littlefield Oil Company: A resolution awarding Bid #13-15 and approving a contract with Littlefield Oil Company in an estimated annual amount of $1,764,000.00 to provide gasoline, diesel fuel and bio fuel for vehicles and equipment.

Resolution 86-13 as recorded in the office of the City Clerk.

Baldwin & Shell Construction Company: A resolution authorizing a contract with Baldwin & Shell Construction Company in the amount of $40,000.00 for construction management services, approving a $10,000.00 contingency, and approving a contractor's fee of five and one-half percent (5.5%) for construction phased services all related to construction of the Dickson Street Entertainment District parking facility.

Resolution 87-13 as recorded in the office of the City Clerk.

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

Unfinished Business:

Amend §114.02 Farmers' Market: An ordinance to amend §114.02 **Farmers' Market** to transfer the current free use of the south parking spaces on Mountain Street to the control of the Rural Mountain Producers Exchange Board, to close Mountain Street to traffic, to permit sound amplification during Farmers' Market and to make other changes. ***This ordinance was left on the First Reading at the March 19, 2013 City Council meeting. This ordinance was left on the Second Reading at the April 2, 2013 City Council meeting and sent to the Ordinance Review Committee.***

Alderman Petty 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.

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Petty: We received a lot of good feedback at the Ordinance Review Committee meeting. I have drafted a new ordinance that has been handed out tonight.

Mayor Jordan: My question would be to the Ordinance Review Committee Chairman, have you reviewed these changes?

Alderman Long: The Ordinance Review Committee has not met to discuss any changes since the meeting.

Alderman Petty: If anyone wants to take this back to the Ordinance Review Committee or needs time to think about these changes I submit to the will of the Council.

Alderman Petty moved to amend the ordinance to the revision handed out at the City Council meeting. Alderman Adams seconded the motion. This motion was amended.

Assistant City Attorney Jason Kelley read the proposed amendment

Alderman Kinion: We received this at 4:45 p.m. today therefore I would like to table this.

Alderman Kinion moved to table the amendment and consideration of the ordinance until the next City Council meeting. The motion also referred the ordinance to the Ordinance Review Committee. Alderman Gray seconded the motion. Upon roll call the motion to table passed unanimously.

This ordinance was left on the Third Reading, Tabled to the May 7, 2013 City Council meeting and sent to the Ordinance Review Committee for review.

R-PZD 12-4284 (Park Hill at Mountain Ranch): An ordinance establishing a Residential Planned Zoning District titled R-PZD 12-4284, Park Hill at Mountain Ranch, located at the southwest corner of Persimmon Street and Mountain Ranch Boulevard; containing approximately 2.23 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. **This ordinance was left on the First Reading at the April 2, 2013 City Council meeting.**

Assistant City Attorney Jason Kelley read the entire ordinance.

Jeremy Pate: I ask that this ordinance be left on the second reading tonight. The applicant can not be present.

This ordinance was left on the Second Reading

Public Hearing:

Raze and Removal – 320 W. Skelton Street: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Celia Cazort Barton located at 320 W. Skelton Street in the City of Fayetteville, Arkansas, and approving a budget adjustment.

Mayor Jordan opened the Pubic Hearing

Chad Ball, Code Compliance Administrator: The Chief Building Inspector has inspected the property and stated the house is beyond being repaired. The property owner has been sent an unsafe building notice of violation and a notice of the public hearing. Both notices were sent by certified mail and were received. If the property does not comply with this raze and removal order we will use the budget adjustment funds to contract the raze and removal and a lien will be placed on the parcel for the incurred cost. Staff is recommending approval of the resolution and the budget adjustment.

There was no public comment

Mayor Jordan closed the Public Hearing.

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

Resolution 88-13 as recorded in the office of the City Clerk.

New Business:

Transportation Bond Program – New Project Recommendations: A resolution approving a list of additional projects to be funded by the City's Transportation Bond Program.

Chris Brown gave a brief description of the transportation bond program projects. Chris went through a list of projects the Street Committee would like the Council to consider using transportation bond program funds to complete.

Alderman Marsh: My concern is there are not bike lanes planned for Razorback Road.

Chris Brown: We had multiple meetings and the Highway Department did a cross section study of that project, we worked with the University and came up with a cross section that fit. The cross section that was developed was a ten foot wide sidewalk and multi-use path on one side and a typical sidewalk on the other side. We have been talking to the Highway Department about a bicycle priority lane.

Alderman Marsh: I have heard complaints that people have been told they can not ride their bikes on Razorback Road on game days. Will people have the right to ride their bicycles on Razorback Road on game days?

Chris Brown: I can not speak to that.

Alderman Long: We talked about this issue in the Active Transportation Advisory Board meeting and the committee made a recommendation and a letter will be drafted to the Arkansas Highway and Transportation Department for the bicycle lanes. I am excited about the connection of Rupple Road to Mount Comfort.

Mayor Jordan Thanked everyone that was involved in this.

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

Resolution 89-13 as recorded in the office of the City Clerk.

Protection of Buffalo National River: A resolution to oppose the permitting and operation of the concentrated hog farm along a major tributary to the Buffalo National River.

Sarah Marsh voiced her concern about this hog farm being on the tributary to the Buffalo National River and the process that was used to permit it. My hope in putting this forward is by passing it we can amplify the citizen's voices and help get their concerns heard. This hog farm is made with a Federal Loan Guarantee so that affects all of us and it was with state regulations which involve all of us. The Buffalo National River is a national river so it belongs to all of us. This is not my resolution this came from the citizens.

Mayor Jordan: I heard from many citizens on this very same issue.

Allen Moore: I am here on behalf of the Arkansas Farm Bureau Federation and Farm Credit Services is also involved. We oppose this resolution against this hog farm or any other hog farm or dairy farm. Farms are very strong in Arkansas. The leading industry in Arkansas is agricultural. The ADEQ and EPA have regulated this. They went through the proper permitting. We can't keep choking back the farmers or we are not going to have any food that we can afford to buy. We have to be firm and support the farms.

Joe Neal: More than 3,000 people live in urban areas of Northwest Arkansas and for most of us the chance to visit a national park involves the Buffalo River. This is our park and our river. What happens to the Buffalo matters to us. The single most important ecological and recreational resource in Northwest Arkansas is placed at risk.

Beau Bishop, Arkansas Farm Bureau: I represent the 2,915 farms of Washington County and the 636 farms of Newton County. This hog farm, these are real people. This is an eighth generation Newton County family. These people are Native Americans in their heritage. They have taken care of this river. All they are guilty of is following the letter of the law. If there is a problem with the process let's address that with ADEQ and with the EPA. They set the guideline and regulations. This is not a factory farm they are family farmers who have a livelihood. The Arkansas swine industry does not have a catastrophic failure or violations.

Helen Mitchell, a realtor in Fayetteville: I think we are all aware of the pollution aspect of this. I have people that choose to relocate here because of job transfers but I have even more people that choose to relocate here because of our environment. They come here because of the trees, rivers, lakes, and how clean it is here. No one is against the family farmer with a reasonable size farm. I think you for doing this.

Cassie Davis: We have criticized the permitting system. Just to change the name on a permit takes a long time and several hundred dollars. To criticize the process of the permits you really need to look at what the process is and understand that it is a lot of work and money. The permitting process has to be done before funding or building. This hog farm is more than a mile from the Buffalo.

Greg Kinion: Thank you for hearing us this evening. Farmers and agriculturalists are the number one stewards of their land and their neighbors land. We take good care of our property because that is our livelihood. We do not want to have some type of a pollution contaminating a river because that means it has contaminated our land too. That is not going to serve our production and is going to affect our bottom line if we do not do things right. The EPA and ADEQ restrictions that are in place now work. I truly believe that agricultural is restricted as much as any other business nationwide. The typical person has no idea what we have to do to provide food to you. I think we need to have restrictions on the people that are actually using the river.

Dan Coody: This is very important. It is important that Fayetteville step up to the plate and show that we are an environmentally conscience community. All these farmers here are very important to all of us. This is not a family farm we are talking about. This is a much larger farm and a different farm than anything we have in Arkansas at this point. If we have one accidental over flow into the creek or river we will have massive fish kills and the reputation of the Buffalo River will change to the point we will lose a segment of the tourist population in this state.

Aubrey Shepherd voiced his concern about the lagoons leaking and getting into the streams. He stated the pollutions will get into the stream. The Buffalo River preservation honors the way the America Native people lived.

Alderman Marsh: I would like to address the concern that we are anti farm and that this is a family farmer. I grew up on a family farm. I know what a family farm looks like and a confined animal feeding operation is not that. The pregnant sows are often confined in pens and the waste is hosed off into these big lagoons. Ultimately this comes down to keeping our Buffalo River pristine.

Alderman Adams: When we passed the streamside protection ordinance we looked at what we could do in Fayetteville to protect our streams and our water supply. I am proud to have voted for that. I welcome all of you from the Prairie Grove and Lincoln area where I grew up. I have a love in my heart for farmers. I appreciate what you do. I am proud to be on the City Council where we support and protect our water supply.

Alderman Tennant: I feel like if I vote for this I am saying that ADEQ does not know what they are doing. If this thing is obviously this bad and yet they got permitted I think there is a much bigger problem. It sounds like this may get built any way. Where was the failure here? I have not seen the ADEQ report on this farm. I would like to know their justification. I would like to see more information on the North Carolina situation. I have a problem voting against the farmer. I know this is bigger than the family farm but the more farms I talk to the bigger things they have to do to stay alive and make money. The small farms are going away. The numbers

prove that. Having a farm outside of Lincoln we go to an immense amount of trouble to keep pollutions from the ponds and streams that are there. We do water tests all the time and the well works just as well as it ever did and the stream feeds just as clean as it ever did. An eighth generation farm family has a lot to lose if their farm fails and a lot to lose if the river gets polluted. I would love to see the results of the state action before I vote against any size farmer and before I vote saying ADEQ does not know what they are doing. That is my issue with this, not that I want to pollute rivers.

Mayor Jordan: My family has also lived in Arkansas for six generations and I was raised on a farm. Now we can see the erosion that has been caused because we do not have any trees any more. You can also see the pollutants that have gone into the ponds and streams. There has got to be a better way. I have seen a lot of our streams polluted.

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

Resolution 90-13 as recorded in the office of the City Clerk.

Repeal Ordinance No. 5576 - CI² Aviation, Inc: An ordinance waiving the requirements of formal competitive bidding and approving a contract in the amount of $20,342.00 per month, plus upfront insurance costs, with CI² Aviation, Inc. for the provision of Air Traffic Control Tower Services for Drake Field upon the date of tower closure by the FAA, should such occur; and to repeal Ordinance No. 5576 that approved this contract to begin April 8, 2013.

Assistant City Attorney Jason Kelley read the ordinance.

Ray Boudreaux: We passed the original ordinance in an emergency situation at the last meeting. The FAA decided to stay the closing of the tower until June 15th. The contractor returned the check that we sent to him. We request that you approve this which gives us the opportunity, should the air traffic control tower close, to use this contractor.

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

Assistant City Attorney Jason Kelley read the ordinance.

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

Assistant City Attorney Jason Kelley read the ordinance.

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

Ordinance 5579 as Recorded in the office of the City Clerk.

City Council Agenda Session Presentations:

"Recycling Economics Update" Presentation: A presentation by Honor students from the University of Arkansas Environmental Economics class.

City Council Tour:

May 6, 2013 5:00 PM
Woolsey Wet Prairie Wetlands

Announcements:

Adjournment: 7:58 p.m.

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

Nominating Committee Report

Meeting: Wednesday, April 3, 2013
City Hall, Room 326, 5:00 p.m.
Members Present – Adella Gray, Justin Tennant, Rhonda Adams, and Mark Kinion

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ADVERTISING AND PROMOTION COMMISSION

The Advertising and Promotion Commissioners recommend the following appointments to the Advertising and Promotion Commission with the approval of the City Council.

- Bobby Ferrell - One Public-at-Large Term Ending 03/31/17
- Hannah Withers - One Tourism Industry Term Ending 03/31/17