Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Sondra Smith

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, J
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

City of Fayetteville Arkansas
City Council Meeting Minutes
July 02, 2013

A meeting of the Fayetteville City Council was held on July 02, 2013 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 Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, &, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Adella Gray

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the June 18, 2013 City Council meeting minutes.

Approved

Bid #13-31 General Construction Solutions, Inc.: A resolution awarding Bid #13-31 and authorizing a contract with General Construction Solutions, Inc. in the amount of $71,980.00 for the construction of Improvements to Mount Sequoyah Gardens, and approving a project contingency of $7,198.00.

Resolution 145-13 as recorded in the office of the City Clerk.

American Society for the Prevention of Cruelty to Animals (ASPCA) Grant: A resolution authorizing acceptance of an American Society for the Prevention of Cruelty to Animals (ASPCA) Grant in the amount of $2,500.00 for the purchase of dog food for the Ranger's Pantry Pet Food Bank, and approving a budget adjustment.

Resolution 146-13 as recorded in the office of the City Clerk.

Ranger's Pantry Pet Food Bank Donation Revenue: A resolution approving a budget adjustment in the total amount of $651.00 representing citizen donation revenue for the Ranger's Pantry Pet Food Bank.

Resolution 147-13 as recorded in the office of the City Clerk.

2013 Curbside Value Partnership Recycling Marketing Grant: A resolution authorizing acceptance of a 2013 Curbside Value Partnership Education Recycling Marketing Grant in the amount of $10,000.00, and approving a budget adjustment.

Resolution 148-13 as recorded in the office of the City Clerk.

2013 Keep America Beautiful/Waste Management Grant: A resolution authorizing application for a 2013 Keep America Beautiful/Waste Management Grant in the amount of $10,000.00.

Resolution 149-13 as recorded in the office of the City Clerk.

Assistance to Firefighters Grant: A resolution authorizing acceptance of an Assistance to Firefighters Grant from the Federal Emergency Management Agency in the amount of $120,736.00, and approving a budget adjustment.

Resolution 150-13 as recorded in the office of the City Clerk.

Meadow Street Municipal Parking Deck Revenue: A resolution approving a budget adjustment in the total amount of $8,000.00 to recognize additional revenue generated through operation of the Meadow Street Municipal Parking Deck.

Resolution 151-13 as recorded in the office of the City Clerk.

Alderman Kinion moved to approve the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Unfinished Business:

Enact §116.02 Door to Door Solicitation at Private Residences: An ordinance to enact §116.02 Door to Door Solicitation Regulations for Private Residences into the Fayetteville Code. ***This ordinance was left on the Second Reading at the June 18, 2013 City Council meeting.***

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 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant: I would like to thank the citizens that contacted me. It has been overwhelmingly positive. The only negative feedback I received was from the newspaper and I understand that it was perceived that we were running into their revenue. I believe the council did a good job avoiding that with the changes that we made. I want to thank staff and City Attorney Williams for making the changes to the age requirement.

City Attorney Kit Williams: I have to change that tonight and I have a proposal.

Alderman Tennant: I believe these changes are good changes and the spirit of the law stays intact. I hope we can discuss this tonight and pass this in the interest of protecting our citizens from people doing this the wrong way.

Mayor Jordan: Do we start with an amendment?

City Attorney Kit Williams: We can. It is basically amending subsection I, permits waived for political and religious free speech and for Fayetteville children through the high school senior status. Council was of the mind set that all youth in Fayetteville through high school should be exempt and not have to go through background checks and get permits and that is what I have endeavored to do with this amendment.

Mayor Jordan: As I understand it, it allows children to go door to door without a permit, correct?

City Attorney Kit Williams: Yes, they can go door to door without a permit.

Alderman Tennant: I do not think the people we are trying to stop are school age children. I believe this fits in the spirit of the law.

Mayor Jordan asked for any public comment on the amendment?

Alderman Tennant moved to waive permit requirements for all Fayetteville children through high school senior status from the ordinance. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

Mayor Jordan: We have the amended ordinance before us. Do we have comments from the council? Do we have public comment on the ordinance?

Brian Smith, representing the Northwest Arkansas Times: I was here two weeks ago and I would like to thank the City Council for being open minded to what we proposed. I believe the changes will help the City of Fayetteville and not hurt existing business.

Mayor Jordan and Alderman Tennant: Thank you.

Mayor Jordan: Does the council have any final comments?

Alderman Adams: Who does a citizen call for enforcement?

Chief Greg Tabor, Fayetteville Police Department: This will be a city ordinance and would be a misdemeanor. If we received a call that someone was violating the ordinance and it was not happening in our presence, then there is not a lot we can do with enforcement at that moment. We would take a report and submit it to the City Prosecutor for a decision to be made. If it was happening in our presence when we arrived, then we would be able to issue the person a citation for violation of the ordinance.

City Attorney Kit Williams: That is correct and if they do submit a report to the City Prosecutor it would be good evidence because they would also get a statement from the homeowners that complained and charges could be filed. One other issue of this is administration and you may want to speak to Jeremy Pate in our Planning Department.

Alderman Adams: When you receive a phone call and the dispatcher sends an officer and people are walking on the street, maybe with a clipboard in their hand, what are the policies of the Police Department in approaching these people?

Chief Tabor: The dispatcher would try to get all the pertinent information relating to race and clothing description. When an officer encountered a person matching the description, then an officer would stop, identify that person and make them aware of what the ordinance says.

City Attorney Kit Williams: This is done for any minor crimes or suspected minor crimes. The police have the right to stop and question someone. If they look like a solicitor, then the permit would be asked for.

Alderman Adams: Thank you very much.

Jeremy Pate, Director of Development Services: We will create an application process for this principal permit and for all the peddlers and solicitors also. We discussed at the last meeting

about the criminal background checks that would have to be submitted to our office and would expect that as part of the application process. We are used to issuing permits and that part will be simple to administer. We will have to monitor the workload in terms of our staffing and how long it takes to turn around a permit like that.

Issuing the stickers, we will have to find out what the cost is and if we have to get those printed or if we will simply buy in bulk. Other ones that we have seen throughout the other cities actually have their logo on it.

Alderman Adams: I did suggest at the last meeting that we make some kind of printable form available on the website. Right now anyone that buys a sign that says no solicitors and puts it on their door; no one is supposed to go to the door, correct?

Jeremy Pate: Correct. This doesn't preclude you from doing that. If it says no soliciting, then it doesn't matter if the city gives it to you or if you buy it on your own, it is still the same.

Alderman Adams: We aren't creating anything we don't already do; we are just causing a license and enforcement. The sticker that people put in their window does not have to conform to any standard from the city or cause us to have a matching no soliciting sign?

Jeremy Pate: I think some individuals like to have the City of Fayetteville behind that and feel like they are more protected if it is a City of Fayetteville no soliciting.

Alderman Tennant: Part of my original point of this is if someone from another city comes to this city, with the intent of saying they are selling something and have no intention of actually providing the product, they now have to take a step that we didn't have them do before when going door to door. This will deter some people because they have to register.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5593 as recorded in the office of the City Clerk.

Public Hearing:

Highway 16 East Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Jay Stanley Baird, Robert N. and Linda J. Clay, McDonald, LLC, and Turn-Key Homes of Northwest Arkansas, LLC, needed for water and sewer improvements along State Highway 16 near the West Fork of the White River Bridge.

Mayor Jordan Opened the Public Hearing

City Attorney Kit Williams: I should note for the record, we have now settled with Turn-Key Homes of Northwest Arkansas, LLC. We are no longer seeking condemnation with them and in fact we have an amended resolution that was provided.

David Jurgens, Utilities Director: The Highway Department is replacing the bridge across the West Fork of the White River on Highway 16. As a result, they are requiring us to move our water line which is hanging off the side of the existing bridge and the sewer line that is on the approaches where the new bridge will be located. This project was accelerated on the Highway Departments schedule and as a result we have to work on an accelerated schedule as well. The Highway Department has been putting significant pressure on us to get our construction under way. We started the easement acquisition process earlier this year and we have been in contact with all the residents. There are three we do not think we will get resolved in the next three months to meet the Highway Departments schedule, but we continue to stay in contact with everyone.

There was no public comment.

Mayor Jordan Closed the Public Hearing

City Attorney Kit Williams: We will continue to negotiate with the land owners and we have been successful in the past and we hope to continue to resolve these things, short of court. This gives us the opportunity to obtain possession so that construction is not slowed down.

Alderman Kinion moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the resolution passed 7-0. Alderman Gray was absent.

Resolution 152-13 as recorded in the office of the City Clerk.

New Business:

Bid #13-33 ARCO Excavation and Paving, Inc.: A resolution awarding Bid #13-33 and authorizing a contract with ARCO Excavation and Paving, Inc. in the amount of $434,945.00 for the demolition of the foundation and concrete slab at the former Tyson Building on Huntsville Road, approving a project contingency of $43,000.00, and approving a budget adjustment.

David Jurgens: The building is gone and the next step is to remove the concrete slab and the foundation. We need to remove the concrete and masonry material and any remaining debris from the sight. This is in preparation for Kum & Go to be able to commence their specific design work and plans for their development on the sight and to restore the rest of the sight to where it can be more attractive and be a functional piece of land. David Jurgens then continued to discuss the bids for this project.

Alderman Petty: What happens to material? Would we be able to potentially use it for sub base and road construction, or is the contractor taking the material for their use as part of the bid?

David Jurgens: The contractor specs require that the material be left on site. We are expecting to use it for construction of the roads and other facilities on site. I am not sure if that is where all of it will be used.

Alderman Kinion moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed 7-0. Alderman Gray was absent.

Resolution 153-13 as recorded in the office of the City Clerk.

RZN 13-4384 (1315 N. Rupple Rd./Leisure Homes): An ordinance rezoning the property described in rezoning petition RZN 13-4384, for approximately 6.89 acres, located at 1315 North Rupple Road from RSF-7, Residential Single-Family, 7 units per acre, to RSF-8, Residential Single-Family, 8 units per acre and RMF-12, Residential Multi-Family, 12 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Ferdinand Fourie with Civil Design Engineers, representing Leisure Homes: I believe Jeremy has covered everything. If there are any questions, I will be happy to answer.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Petty: I had a meeting with somebody who talks to a lot of developers in Northwest Arkansas. The meeting was about his perception that Fayetteville isn't business friendly with developers. We hear that a lot. When a proposal comes forward that jives with our master plans, and with our 2030 plan, we typically get things approved pretty quickly. If you are bringing forward a conventional development that looks like the same stuff we have seen over the last 30 years and it doesn't jive with those plans, then it's true we aren't going to be very friendly to that. For everyone that is watching, and maybe the paper can pick up on this in the future, when something comes forward that does jive with those plans, we tend to get it done pretty quickly. Hopefully the development community can notice that over time.

Alderman Adams: I have not heard a negative word about this or heard from any citizen saying they were opposed or for it.

Alderman Long: I'll echo that.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5594 as recorded in the office of the City Clerk.

VAC 13-4385 (867 N. College Ave./Pine Tree/Beacon Flats: An ordinance approving VAC 13-4385 submitted by Civil Design Engineering for property located at 867 North College Avenue to vacate two utility easements, a total of 2,489 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5595 as recorded in the office of the City Clerk.

Amend §97.070 Recreational Activities: An ordinance to amend §97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson of the Fayetteville Code to allow extended hours, reduced fees for Veterans and other changes.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Director of Fayetteville Parks and Recreation gave a brief description of the ordinance.

Alderman Long: I want to say thank you to Connie for working on this. I think it is important to make it affordable for everyone in Fayetteville to enjoy.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant: I really appreciate the reduced fees for Veterans.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5596 as recorded in the office of the City Clerk.

U of A West Lease Agreement: A resolution approving a lease agreement with the University of Arkansas for City operation of the University's West Annex parking lot as a revenue producing off-street parking lot upon adoption and inclusion of the lot within the Dickson Street Entertainment District.

Sharon Waters, Parking and Communications Manager gave a brief description of the ordinance. We do not do booting or towing. The equipment will be converted to the same equipment that we currently use.

Kit Williams: This is still the University lot. During their normal hours, they still have possession of it. You have to have a University permit to park there. I do not guarantee you that the University does not tow.

Sharon Waters: During the daytime they will write a ticket. At that point in time, the citation amount would be the University amount. All other times would fall under our ordinances.

Alderman Tennant: Just to confirm, the parking machine will be reconfigured so there will be no differences for the parking person from parking there?

Sharon Waters: Correct. It looks exactly like ours.

Don Marr: Part of our selection process was to have a system that was the same as the University parking system for ease of operation.

Alderman Marsh: Could you tell us a little bit about the signage that will be in place to clarify this? Some people may see that it is a city lot and assume they can park there for free.

Sharon Waters: We have signs everywhere. We will have adequate signage to differentiate the times of that lot. The University has their signs that show it is a University owned lot, but is publically operated by the city after 5 p.m. during the week days.

Don Marr: There are a very limited amount of times that someone may be towed by the City of Fayetteville Police Department. One is if a car parks and blocks a private driveway.

Kit Williams: Certainly the police have to tow during accidents, we reserve the right. But when it comes to our paid parking lots, I don't think we have ever exercised it even though there might be an occasion when we have to.

Mayor Jordan: I do know that if you park in somebody's driveway when you aren't supposed to be there, you will probably get towed.

Alderman Long moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed 7-0. Alderman Gray was absent.

Resolution 154-13 as recorded in the office of the City Clerk.

Amend §72.58 Off-Street Parking Facilities; Rules and Rates: An ordinance to amend §72.58 Off-Street Parking Facilities; Rules and Rates (H) City parking lots and paid on-street parking spaces within the Entertainment District Parking Zone of the Fayetteville code to add the West Annex Parking Lot 53 located at 346 West Avenue leased from the University of Arkansas and to approve a budget adjustment.

City Attorney Kit Williams read the ordinance.

Sharon Waters gave a brief description of the ordinance.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5597 as recorded in the office of the City Clerk.

Amend Chapter 72: An ordinance to amend several sections of Chapter 72 Parking Regulations of the Code of Fayetteville to clarify parking districts, enforcement times and fines.

City Attorney Kit Williams read the ordinance.

Sharon Waters gave a brief description of the ordinance.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tenant moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Gray was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant: I actually had a citizen compliment Sharon and her staff. They had gotten a ticket; it was an oversight on their part. They were able to call the city and get that first one waived. I appreciate you using discretion in those situations and helping a citizen out when an honest mistake is made.

Don Marr: We are about to start our third year of our paid parking program. We have not had a lot of opportunities publically to thank Sharon and her team. They have done a phenomenal job considering the amount of implementation challenges. You have an excellent parking staff.

Mayor Jordan: When the council voted this in, we had to make sure the plan worked for us. Sharon has made that plan work for us. The reason we have had a successful parking plan is because of the efforts of Sharon Waters and staff.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Gray was absent.

Ordinance 5598 as recorded in the office of the City Clerk.

City Council Agenda Session Presentations: None

City Council Tour: None

Announcements:

Don Marr: We want to pass along our condolences to the Robert "Swifty" Reynolds Family. Former Alderman Reynolds funeral will be on Friday at 11:00 a.m. at Beard's Funeral Home. Visitation is tomorrow between 4:00-6:00 p.m.

We have several road projects that are going on. We want to remind citizens no cell phone usage in construction zones (texting, things of that nature.) On I-540 and Wedington, we have received notification that the commission will actually hear it at the July 24th meeting, the approval of the lane expansions from Wedington through Mount Comfort. The North College Avenue fly over we are in construction during day time hours. We are in a lane shift and will soon be down to reduced lanes. We encourage people to be safe. Leverette Avenue, which is an improvement street reconstruction project that begins Monday July 8th, the road will be closed between Maple and Cleveland at various blocks for approximately an eight week period during the daytime hours. It will reopen in the evening. The detour for that section will be on Storer and Whitham Drive.

We want to congratulate our own City Clerk, Sondra Smith, who was elected as President of the Arkansas City Clerk's Recorders and Treasures Association. We are very proud of her.

We are proud of the City of Fayetteville's leadership because the US Conference of Mayors has awarded the City of Fayetteville, as one of five cities to receive, the city livability award for 2013. There were over 200 city applicants for that award.

I want to remind the council that the city will be closed in observation of Independence Day on Thursday July 4th. We will re-open of Friday July 5th. For folks looking to spend their money and see fireworks in Fayetteville, you have a couple of options. You can fire them yourselves between now and July 3rd between 10 am and 10 pm, on July 4th between 10 am and 11 pm. There are no sky rockets or fireworks attached to a stick as a part of our code, or you can go to the mall. The Uptown Fayetteville Freedom Fireworks Display will take place on Thursday. This is a big day for the mall, things start inside the mall at 2 pm. There is an ice cream eating contest, a fashion show and a band called Boom Kinetic at 7 pm outside. The fireworks display will begin around 9:25 pm. We hope everyone has a safe July 4th.

Alderman Marsh: Ward 1 will be having a ward meeting Thursday, July 25th at 6 pm at the Yvonne Richardson Community Center.

Mayor Jordan: Before we leave tonight I would certainly like to send my condolences to "Swifty" Reynolds' family. He served on this council for eight years. I served on this council for eight years and for six of those eight years I served with him. I served with him on three

committees. He was a lot of fun. All you had to do was ask him and he gave you a very direct answer and I appreciated that very much. He was honest. He loved the ward that he represented, Ward 1. Many times he took food to people. He made sure their road ditches were cleaned and their grass was taken care of. Even as a Mayor, he would call me at least once or twice a month and we would talk about issues that were still in that ward. He was a true public servant. He loved the ward he represented, he loved the downtown Dickson Street area, he loved this city and most importantly he loved his family. He will be missed. I certainly send on behalf of myself and the City Council and the citizens our condolences. I want to thank Alderman "Swifty" Reynolds for his service to the city.

Adjournment: 7:10 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith, City Clerk/Treasurer