

REGULAR MEETING  
BOARD OF MAYOR AND ALDERMEN  
SEPTEMBER 13, 2011

REFERENCE VIDEO DATED SEPTEMBER 13, 2011

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said Board in the Municipal Building of said City at 5:00 p.m. on September 13, 2011. Mayor John Ed Underwood, Jr., was present and presiding. The following named Aldermen were present:

Danny Bryant, Pat Fraley, Marty Pepper, Dorothy Small, Michael Stewart, and Thomas Young, Sr.

Also present were James S. Hereford, Jr., City Attorney, and James H. Lee, City Administrator.

The prayer was lead by Alderman Bryant and the pledge was lead by Alderman Pepper.

**Approval of Minutes:**

1. Motion was made by Pat Fraley, seconded by Michael Stewart, to approve the minutes of the August 2011, Meeting. Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay

None

Mayor Underwood declared the Minutes approved.

2. Motion was made by Pat Fraley, seconded by Michael Stewart, to approve the minutes of the Special Called Meeting on August 18, 2011. Upon roll call, the following voted:

Aye

Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

Nay

None

Mayor Underwood declared the Minutes approved.

**Approval of Bills and Additional Bills:**

Motion was made by Pat Fraley, seconded by Marty Pepper, to approve the bills and additional bills for payment. Upon roll call, the following voted:

Aye

Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.,

Nay  
None

Mayor Underwood declared the bills and additional bills approved.

### **Reports:**

#### **IDB Report:**

Larry Craig, Chairman of the Industrial Development Board, discussed the need of a spec building and possible funding ideas for the City and County Governments. Mr. Craig stated that there would be an Education Seminar with local industry and high schools on the various types of skills students should have to obtain gainful employment at these industries. Mr. Craig reported that several new businesses were coming into the area, which will create various levels of jobs for the citizens.

#### **FPU Report:**

Britt Dye, CEO of Fayetteville Public Utilities, stated that the water/waste water has conducted their copper and lead testing for the year. The gas department will be finished with the work on North Franklin Street within the next week. Mr. Dye discussed the new solar farm being installed south of town on Huntsville Highway for 750 kilowatts of solar energy to be generated. The tree trimmers are currently working in the Park City area.

#### **Fire Report:**

Fire Chief Danny Travis reported that the Fire Department had 62 calls for service with 38 medical calls and 2 motor accidents with injuries.

#### **Police Report:**

Police Chief Doug Carver reported that there were 137 incidents with 63 arrests, 40 crashes and 46 citations for a total of 1,799 events.

#### **Public Works:**

Eddie Plunkett, Public Works Director, reported that they collected 760 tons of brush and debris for the month of August, as well as 225 tons of residential trash. Mr. Plunkett stated that 109 tons of commercial trash was pick-up for the month of August, which is the last month for this service.

#### **Recreation Report:**

Brenda Sharp, Recreation Clerk, stated that Halloween Happening will be on Thursday, October 20, 2011, and the Christmas Parade will be on Sunday, December 4, 2011, with the swim team being the Grand Marshalls.

#### **Planning and Zoning Report:**

Ryan Tyhuis, City Planner, reported that there were sixty-six (66) notices of violation issued, with forty-three (43) subsequently coming into compliance. For the month of August there were a total of thirteen (13) building permits issued for approximately Three Million, Five Hundred Thousand Dollars (\$3,500,000.00) in work to be done, with the fees being Twenty Thousand, Six Hundred Sixteen Dollars and Sixty-Four Cents (\$20,616.64).

#### **Administrator's Report:**

Mr. Lee stated that the City has hired Jim Rhodes as the new mechanic for the City Garage. Mr. Lee reported that the City has advertised for a Clerk I position for the Police Department, and will begin



interviews next week. Mr. Lee discussed the Trail of Tears “Remembrance Ride”, which will take place Saturday, September 17, 2011, between 9:30 a.m. and 12:00p.m.

**School Board Interlocal Agreement:**

Motion was made by Danny Bryant, seconded by Marty Pepper, to adopt the new revised version of the Interlocal Agreement, and to give the Mayor and City Administrator the authority to sign the document. Upon roll call, the following voted:

Aye

Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

**Financial Advisory Agreement:**

Motion was made by Danny Bryant, seconded by Pat Fraley, to approve the Financial Advisory Agreement between the City of Fayetteville and Morgan Keegan & Company Inc., and to give the Mayor the authority to sign the agreement. Upon roll call, the following voted:

Aye

Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay

None

Mayor Underwood declared the motion adopted.

**Approval for Morgan Keegan to bid on the Capital Outlay Note, Series 2011:**

Motion was made by Danny Bryant, seconded by Pat Fraley, to allow Morgan Keegan & Company, Inc., and its affiliates and subsidiaries, to bid on the Capital Outlay Notes, Series 2011, and to give the Mayor the authority to sign the agreement. Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay

None

Mayor Underwood declared the motion approved.

**Ordinance No. 2011-18 – Provide for Specific Times for the use of Fireworks:**

Ordinance 2011-18, an ordinance entitled “An Ordinance Amending the Municipal Code Of The City Of Fayetteville To Provide For Specific Times For The Use Of Fireworks Within The City But Outside The Corporate Fire Limits Of Fayetteville, Tennessee”, was considered. Said Ordinance is as follows:

**CITY OF FAYETTEVILLE**

**ORDINANCE NO. 2011-18**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF  
FAYETTEVILLE, TENNESSEE, TO PROVIDE FOR SPECIFIC TIMES FOR  
THE USE OF FIREWORKS WITHIN THE CITY BUT OUTSIDE THE CORPORATE  
FIRE LIMITS**

WHEREAS, the Fire and Police Committee has determined that the Municipal Code of the City of Fayetteville should be amended to provide for specific times for the use of fireworks within the city but outside the corporate fire limits, and

WHEREAS, the Board of Mayor and Aldermen of the City of Fayetteville find it in the best interest of the City of Fayetteville to provide for such specific times.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee, that a new Section 7-503 be added to Title 7, Chapter 5 of its Municipal Code, to-wit:

**SECTION**

**7-503. Times for the use of fireworks.** It is unlawful to discharge or use fireworks throughout the year, except as follows:

Not earlier than 10:00 a.m. but before 10:00 p.m. during the two (2) weeks before and after the 4<sup>th</sup> of July or Independence Day, and not earlier than 10:00 a.m. but before 10:00 p.m. during the two (2) weeks before and after New Year's Eve; provided, however, the curfew for New Years Eve shall be extended to 1:00 a.m. on New Years Day.

Notwithstanding the times described in this Section 7-503, the Chief of Police may in his sole discretion grant special occasion permits for the discharge or use of fireworks during other times of the year, but such special occasion permits must be approved no later than one week prior to such special occasion.

BE IT FURTHER ORDAINED that this ordinance shall take effect immediately upon passage, the municipal welfare requiring it.

Adopted this the \_\_\_\_\_ of August, 2011.

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James H. Lee, City Clerk

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John Ed Underwood, Jr., Mayor

Motion was made by Michael Stewart, seconded by Pat Fraley, to table Ordinance 2011-18.

Motion was made by Danny Bryant, seconded by Pat Fraley, to amend the main motion by substituting the word "table" with "postpone indefinitely". Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay

None

Mayor Underwood declared the motion adopted.

Upon roll call, the following voted on the main motion:

Aye

Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

Nay

None

Mayor Underwood declared the motion adopted.

**Ordinance No. 2011-19 – To Impose An Event Permit Fee:**

Ordinance 2011-19, an ordinance entitled "An Ordinance Replacing Section 16-108 Of The Municipal Code Of The City Of Fayetteville To Clarify The Imposition Of Event Permit Fees", was considered. Said Ordinance is as follows:



**CITY OF FAYETTEVILLE**

**ORDINANCE NO. 2011-19**

**AN ORDINANCE REPLACING SECTION 16-108 OF THE  
MUNICIPAL CODE OF THE CITY OF FAYETTEVILLE, TENNESSEE,  
TO CLARIFY THE IMPOSITION OF EVENT PERMIT FEES**

**WHEREAS**, the Fire and Police Committee has determined that the Municipal Code of the City of Fayetteville should be amended to provide for the imposition of event permit fees, and

**WHEREAS**, the Board of Mayor and Aldermen of the City of Fayetteville find it in the best interest of the City of Fayetteville to provide for such event permit fees.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee, that Section 16-108 of Title 16, Chapter 1 of the Municipal Code of the City of Fayetteville be deleted in its entirety and replaced with the following, to-wit:

**16-108. Regulation of and fees imposed on fund raising events.** It shall be unlawful for any club, organization, or similar group to hold any fund raising event, which for the purposes of this section is defined to be any meeting, parade, demonstration, fair, walk, run or exhibition conducted for the purpose of raising funds for any organization, on the public streets without some responsible representative first securing an event permit from the chief of police upon the payment of an event permit fee of \$200.00. No event permit shall be issued by the chief of police unless such event will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the event. Furthermore, it shall be unlawful for any person obtaining such an event permit to fail to carry out his agreement to clean up the resulting litter immediately.

It shall be unlawful for any group or assembly of persons whose standing, remaining, or congregating upon any public street or sidewalk in the City of Fayetteville shall obstruct, prevent, or interfere with the free or unobstructed use of said street or sidewalk by other persons, to fail or refuse to move on or to disperse upon being ordered to do so by any police officer of the City of Fayetteville or other peace officer.

Notwithstanding any language to the contrary contained in this section, events conducted for the purpose of recognizing or memorializing historic figures or happenings shall require an event permit but shall not require an event permit fee

**BE IT FURTHER ORDAINED** that this ordinance shall take effect immediately upon passage, the municipal welfare requiring it.

Adopted this the \_\_\_\_\_ of September, 2011.

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James H. Lee, City Clerk

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John Ed Underwood, Jr., Mayor

Motion was made by Michael Stewart, seconded by Dorothy Small, to postpone indefinitely Ordinance 2011-19. Upon roll call, the following voted:

Aye

Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay

None

Mayor Underwood declared the motion approved.

**Ordinance No. 2011-20 – To Delete the Last Sentence Of Section 20-409(2) Of The Municipal Code:**

Ordinance 2011-20, an ordinance entitled “An Ordinance Deleting The Last Sentence Of Section 20-409(2) Of The Municipal Code Of The City Of Fayetteville, TN”, was considered. Said Ordinance is as follows:



**CITY OF FAYETTEVILLE**

**ORDINANCE NO. 2011-20**

**AN ORDINANCE DELETING THE LAST SENTENCE OF SECTION 20-409(2)  
OF THE MUNICIPAL CODE OF THE CITY OF FAYETTEVILLE, TENNESSEE**

**WHEREAS**, the last sentence of current Section 20-409(2) of the Municipal Code of the City of Fayetteville mandates the discontinuance of police or fire response in the event payments coming due to the city by virtue of false alarms are not paid within thirty (30) days from receipt of billing, and

**WHEREAS**, the Board of Mayor and Aldermen of the City of Fayetteville finds it in the best interest of the City of Fayetteville to delete the last sentence of current Section 20-409(2) of the Municipal Code of the City of Fayetteville in its entirety

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee, that the last sentence of current Section 20-409(2) of the Municipal Code of the City of Fayetteville which reads, "Failure to make payments within thirty (30) days from date of receipt shall result in a discontinuance of police or fire response to the alarm." is deleted in its entirety.

**BE IT FURTHER ORDAINED** that this ordinance shall take effect immediately upon passage, the municipal welfare requiring it.

Adopted this the 13th of September, 2011.



James H. Lee, City Clerk



John Ed Underwood, Jr., Mayor

Motion was made by Pat Fraley, seconded by Michael Stewart, to approve Ordinance 2011-20. Upon roll call, the following voted:

Aye

Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

**Amendment of Contract In-Lieu of Performance Bond:**

Motion was made by Dorothy Small, seconded by Marty Pepper, to give the Mayor the authority to sign the contract in-lieu of Performance Bond document. Upon roll call, the following voted:

Aye

Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay

None

Mayor Underwood declared the motion adopted.

**Reimburse Lincoln County for One-Half of the Rewiring of the Recycle Center:**

Motion was made by Danny Bryant, seconded by Michael Stewart, to approve the reimbursement to Lincoln County for one-half (1/2) of the emergency rewiring of the recycling center of Twenty Thousand, Eight Hundred Fifty-Six Dollars (\$20,856.00), which is the remaining amount after the appropriation of Ten Thousand Dollars (\$10,000.00). Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay

None

Mayor Underwood declared the motion approved.

**Jointly Funded Police Officer for Fayetteville Housing Authority:**

Motion was made by Dorothy Small, seconded by Marty Pepper, to approve a jointly funded police officer for the Fayetteville Housing Authority. Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay

None

Mayor Underwood declared the motion adopted.

**Selling "Circle Drive Community Park" Land:**

Motion was made by Danny Bryant, seconded by Marty Pepper, to obtain a qualified appraisal on the property to be auctioned at a later date, and for funds to be allocated to pay for the appraisal. Upon roll call, the following voted

Aye

Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, and Danny Bryant

Nay

None

Mayor Underwood declared the motion adopted.

**Approval for RFQ for Engineer Firm to Develop Hybrid Pool and Seek Grants:**

Motion was made by Danny Bryant, seconded by Tom Young, to approve the request to obtain a "Request For Qualifications" from engineering firms and to seek grants for the swimming pool project. Upon roll call, the following voted:

Aye

Dorothy Small, Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, and Thomas Young, Sr.

Nay

None

Mayor Underwood declared the motion approved.

**Conduct Asbestos Air Sampling of City Building:**

Motion was made by Dorothy Small, seconded by Michael Stewart, to approve the amount of Seven Hundred Seventy-Five Dollars (\$775.00) to conduct asbestos air testing in the police building. Upon roll call, the following voted:

Aye

Pat Fraley, Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., and Dorothy Small

Nay

None

Mayor Underwood declared the motion approved.

**Striping Old Mulberry Road and Eldad Road:**

Motion was made by Dorothy Small, seconded by Michael Stewart, to approve up to Three Thousand, Five Hundred Dollars (\$3,500.00) for striping of Old Mulberry Road and Eldad Road. Upon roll call, the following voted:



Aye

Michael Stewart, Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, and Pat Fraley

Nay

None

Mayor Underwood declared the motion adopted.

**Event Approvals to Use City Streets:**

1. Motion was made by Michael Stewart, seconded by Marty Pepper, to approve the requests for the Trail of Tears "Remembrance Ride". Upon roll call, the following voted:

Aye

Marty Pepper, Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, and Michael Stewart

Nay

None

Mayor Underwood declared the motion approved.

2. Motion was made by Marty Pepper, seconded by Michael Stewart, to approve the requests for the Trail of Tears "Re-enactment". Upon roll call, the following voted:

Aye

Danny Bryant, Thomas Young, Sr., Dorothy Small, Pat Fraley, Michael Stewart, and Marty Pepper

Nay

None

Mayor Underwood declared the motion adopted.

Motion was made, seconded, and unanimously adopted to adjourn.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk