

**MINUTES OF THE REGULAR MEETING  
FORREST CITY CITY COUNCIL  
FORREST CITY, ARKANSAS  
April 2, 2019**

The City Council of Forrest City, Arkansas met in regular session on April 2, 2019. Mayor Williams called the meeting to order at 6:00 p.m. Alderman Williams offered prayer after which the Pledge of Allegiance was recited. The following answered roll call: Mayor Williams, Records Clerk Manning, Attorney Wright and City Council members: Williams, Metcalf, Evansingston, Fields, Reeves, Capps, Poteat and Oswalt. Clerk Cochran was absent.

Alderman Williams made a motion to approve the minutes of March 19, 2019 regular meeting. Alderman Metcalf second the motion. Roll Call: Alderman Williams, Metcalf, Evansingston, Fields, Reeves and Oswalt —All Ayes. Alderman Capps and Poteat—Abstained.

**CITY COUNCIL REPORTS**

None

**PUBLIC COMMENTS**

None

**UNFINISHED BUSINESS**

**To abolish or Rescind the Ordinance Permitting Alderman Evansingston to Hold Employment with City of Forrest City**

Alderman Oswalt asked Attorney Wright did the ordinance pass, because he thought that the ordinance needed five votes to pass. Attorney Wright stated that four votes were the majority of the quorum; therefore, it passed.

Alderman Metcalf stated when the council first met on the issue it was already clarified by our Municipal League that Alderman Evansingston could run for office and he was legal by the State, he had met all the criteria. Alderman Metcalf asked the City Attorney if he had the Arkansas Code that was read.

Mayor Williams stated the council had already voted, and an ordinance has been passed. Mayor Williams stated that he had visited with the Municipal League and the City Attorney has also visited with the Municipal League. They have given them information that this does apply to Councilman Evansingston and it is something that is needed.

Attorney Wright stated that it puts the city in huge jeopardy. It puts Mr. Evansingston in jeopardy for an illegal exaction lawsuit, which he believes the Municipal League would not defend him and leave him on his own. The statute has been interpreted by the Supreme Court of the State that says in this circumstance you must pass this statute.

Alderman Metcalf stated he would like to see that in writing. Mayor Williams asked Alderman Metcalf what specifically he wanted to see in writing. Alderman Metcalf stated that he wanted to see exactly what Attorney Wright said is in writing.

Alderman Evansingston stated what occurred on March 5, 2019, regarding the ordinance 1928 as it was written was simply a bad law. It was based on what he viewed as an anti-corruption law that was passed in the 1800s to prevent council members and other elected officials from going after municipal jobs and/or contracts they did not have prior to taking office.

He stated that it should not have been entertained for the following reasons:

Arkansas Code 21-1-207 is finite in affording public employees the right to run for public office with protection and without stipulation of having to resign if elected to public office and without mention of having to have an ordinance passed to hold both positions.

Alderman Evansingston continued by saying, "As explained in the previous council meeting, Arkansas Code 14-42-107, is open for interpretation and has nothing to do with my positions as a department head and as a councilman, because my employment as a department head pre-dated me being elected to office, therefore it is my interpretation under the circumstances that Arkansas Code 14-42-107 does not apply to me.

We are lawmakers and should not be in the business of enacting bad law. Ordinance Number: 1928 as it is written does not protect me, it opens me up to be deprived of employment as a public employee.

We as lawmakers should not be afraid of someone challenging our activities especially when there are codes in place that address those activities, as does Code 21-1-207 address the matter of public employees and public offices.

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This is not verbatim, but the question was posed to me during the council meeting on March 5<sup>th</sup>, if it would be a problem if Ordinance Number: 1928 were passed.

I responded by saying that I would not have a problem going along with what the council decides. At the time of that statement, I had confidence that the Council would carefully read the ordinance as it was written and consider all codes put before them and make an informed decision.

I do not believe that occurred, because Section 2, the emergency clause alone is loaded with misinformation. In addition, I was already a public employee prior to becoming a public official. This makes Code 14-42-107, invalid as it relates to me because I did not use my position as councilman to secure the job as a department head.

Also, much of the language in the ordinance is unsettling; As it is written, it affords absolutely no protection to me or any other public employee who will hold a municipal office in the future. It almost feels like I am being penalized for being a public employee who is also a public official. Ordinance Number: 1928, as written may be in violation of Arkansas Code 21-1-207, the phrasing of the emergency clause may discourage others in the future from running for office if they are public employees.

Keep this in mind a threat to one can eventually turn into a threat to all.

From my understanding, Arkansas Code 14-42-107 was used in Ordinance Number: 1928, in part based on hypotheticals and challenges waged in smaller towns.

If there are challenges or scrutiny, the challengers should be referred to the existing laws that address the matter with consideration of how my employment predates me becoming a council member.

In addition, we did not know enough about what was going on in those smaller towns to make a decision and claim protection from something I consider a non-issue as it relates to the facts surrounding my circumstances.

Also, we as lawmakers should not use our vote as an "I'll show you" because someone offends us or directs a statement towards us that is off-putting.

I along with others witnessed that during the March 5<sup>th</sup> council meeting.

Behavior, like I just mentioned, does not take into account that we are enacting legislation that is or will impact the lives and livelihoods of many others and it is dangerous to have such a cavalier attitude when voting.

Last, I was approached after the March 5<sup>th</sup> Council meeting and was told by a fellow Council member that "we have to go with the lawyer".

That statement was not only incorrect; it was a deviation from what we as lawmakers are supposed to do. As Aldermen, we should consult with the City Attorney regarding proposed laws, questions regarding laws, and other legal matters, in order to weigh all options and make the best decision possible, not have him or her make decisions for us.

With all that being said, it is my position that we abolish Ordinance Number: 1928."

Alderman Williams said that he previously stated that all this was prior known through the election commission and the election was approved. His main question was if it went through the election commission and it passed, and he was elected then why anything was needed.

Attorney Wright stated that the election commission just qualifies you saying you have the qualification to run. After that, in the statute the Supreme Court said, after election happened. It has nothing to do with whether what must happen in the relation to the interpretation of that statute afterwards. No question that he was qualified to run, but what the statute means and what Supreme Court has clearly stated is that this statute must be passed, or it puts the city in jeopardy of an illegal exaction clause, because it's a contract with somebody doing business with city.

Alderman Fields stated that in the past the city had council members who were also business owners and that the ordinances made then was there to protect those council members when they did business with the city. Alderman Fields continued by stating that Alderman Evansingston does not have a business and his job is with the City of Forrest City.

Alderman Oswald asked Attorney Wight if an ordinance was passed, do they need an ordinance to undo that ordinance. Attorney Wright stated yes. Oswald stated that Alderman Metcalf has requested some documentation could that be giving to the entire council. An ordinance be drawn up by the next council meeting and everybody can look at the information and make a decision.

Attorney Wright addressed Alderman Fields by stating that the Supreme Court says that working for the City is a contract with the City.

After further discussion, Mayor Williams stated they would get the information that was provided by the Municipal League and he requested that Alderman Evansingston provide the information that he would like to be reviewed by the Municipal League.

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**NEW BUSINESS**

**Curtis Stout Powered by Sparkfund – Preliminary Lighting Proposal**

A packet was provided for the council to review.

Mayor Williams recognized Chad Thornton to give a presentation and answer any questions that the council might have.

Chad Thornton stated the he was with Curtis Stout out of Little Rock and they do energy solutions for the State of Arkansas schools and other entities other than residential. Mr. Thornton stated that they had previously did a proposal for the city’s gymnasium and the Mayor asked them to do a proposal for other city properties as well. The project cost are as follows including annual savings and payback years:

Fire Department		Gym	
Project Cost	\$6,771	Project Cost	\$44,778
Annual Savings	\$2,895	Annual Savings	\$ 8,105
Payback Years	1	Payback Years	4.40
Gym Offices		Police Station	
Project Cost	\$35,413	Project Cost	\$ 8,088
Annual Savings	\$ 8,816	Annual Savings	\$ 3,734
Payback Years	3.90	Payback Years	1.90
Sanitation		Senior Center	
Project Cost	\$4,154	Project Cost	\$10,594
Annual Savings	\$1,109	Annual Savings	\$ 2,286
Payback Years	2.70	Payback Years	3.90
Water			
Project Cost	\$5,035		
Annual Savings	\$1,660		
Payback Years	1.90		
Total Project Cost	\$114,833		

Mr. Thornton also presented a preliminary money proposal by Sparkfund. He explained that Sparkfund was a finance option. A company that they partnered with two and a half years ago. Sparkfund is based out of Washington D.C. They finance these types of projects. It would be written up as a service contract. Sparkfund can finance up to 120 months. The contract can be ended at any time. The contract requires zero money down. It would take care of labor and material failure for the life of the contract.

Alderman Capps asked Mr. Thornton how much data they had to establish the cost savings. Mr. Thornton stated that they did an energy audit.

Alderman Williams asked Mr. Thornton how many cities they have done. Mr. Thornton stated that this would be the first city.

After discussion, Alderman Oswalt asked Attorney Wright would it have to be bid out or is this a unique company that is the only one that does this. Attorney Wright stated that it has to be bid out for a big project like this.

**Ordinance to Adopt 2012 Electrical Codes**

Mayor Williams stated that the ordinance needed to be tabled until the next meeting because of a typo in the ordinance.

**Recreation Uniform Bid Opening**

Mayor Williams asked if there were any additional bid in the audience. Mayor Williams opened one bid. The bid was from Wynne Sportworld. Wynne Sportworld bid was as follows:

<u>Type of Jersey</u>	<u>Cost per Jersey &amp; Hat including all applicable charges</u>
50/50 Heavy Weight solid color t-shirt	Adult Sizes \$5.75 Youth Sizes \$5.75
Two or More button shirt	Adult Sizes \$9.45 Youth Sizes \$9.25
Hats	Adult Sizes \$2.75 Youth Sizes \$2.75

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**GENERAL FUND BILLS**

Alderman Oswalt made a motion to approve and pay the General Fund bills totaling \$15,216.34. Alderman Fields second the motion. Roll Call: All Ayes.

**STREET FUND BILLS**

Alderman Metcalf made a motion to approve and pay the Street Fund bills totaling \$4,073.10. Alderman Evansingston second the motion. Roll Call: All Ayes.

**SOLID WASTE FUND BILLS**

Alderman Evansingston made a motion to approve and pay the Solid Waste fund bills totaling \$16,542.42. Alderman Fields second the motion. Roll Call: All Ayes.

**FORREST CITY WATER UTILITY**

Alderman Fields made a motion to approve and pay the Forrest City Water Utility bills totaling \$30,482.07. Second by Alderman Williams. Roll Call: All Ayes.

**ANNOUNCEMENTS**

**Mayor's Update**

Mayor Williams stated on a prior agenda there was an ordinance addressing former Mayor Larry Bryant's retirement it is not on the agenda. The ordinance was pulled because they are waiting on additional information that has been requested regarding his retirement. Once the additional information is received, it will be put back on the agenda for discussion.

Mayor Williams stated that there is a lot of railroad work going on around town and there would be some detours coming up on Thursday, April 4<sup>th</sup>. Also, they have committed to help cleaning up their staging areas around Forrest City. They have also giving us a commitment in written allowing us to clean up some areas on the south entrance coming in Broadway.

Mayor Williams stated that the City Hall Project is approximately 60 percent complete. The estimated completion date is June 25, 2019. The Aquatic Center is approximately 80 percent complete. The completion of the Aquatic Center is either late May or early June.

Mayor Williams thanked Entergy and the Police Department. There were approximately 55 streetlights that was reported out in Forrest City. Currently 35 of those have been replaced.

Alderman Fields made a motion to adjourn at 6:50 p.m. Second by Alderman Evansingston.

For additional context, reference the April 2, 2019 tape.

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Cedric Williams, Mayor

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Donna Manning, Records Clerk