

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
May 19, 2009**

A meeting of the Fayetteville City Council was held on May 19, 2009 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 Gray, Thiel, Cook, Petty, Rhoads, Ferrell, Lucas, Lewis, Mayor Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

Presentations, Reports and Discussion Items: None

Consent:

Approval of the May 5, 2009 City Council meeting minutes.

Approved

Bid # 09-33 Wayest Safety Inc.: A resolution to approve the lowest responsible bid from Wayest Safety, Inc. for the purchase of 44 complete, self-contained breathing apparatus' (SCBA), and extra cylinders for \$261,998.35 plus a contingency of \$28,001.65 to purchase additional masks, amplifiers and clamps.

Resolution 105-09 as Recorded in the office of the City Clerk.

Doc Mashburn Park Grant: A resolution to accept an Arkansas Parks and Tourism matching grant in the amount of \$50,000.00 for development of Doc Mashburn Park and to approve a budget adjustment to recognize this revenue.

Resolution 106-09 as Recorded in the office of the City Clerk.

High Intensity Drug Trafficking Area Grant: A resolution authorizing the Fayetteville Police Department to accept additional funding through the 2007 Gulf Coast High Intensity Drug Trafficking Area Grant in the amount of \$20,000.00 to support investigations; and approving a budget adjustment recognizing the grant revenue.

Resolution 107-09 as Recorded in the office of the City Clerk.

Community Development Block Grant Program: A resolution to approve a budget adjustment to recognize \$28,233 from the Community Development Block Grant Program for the Yvonne Richardson Community Center.

Resolution 108-09 as Recorded in the office of the City Clerk.

Identity Theft Prevention Program: A resolution approving and adopting Policy and Procedure No. BC-04 "Identity Theft Prevention Program" to comply with provisions of the Fair and Accurate Credit Transactions (FACT) Act.

Resolution 109-09 as Recorded in the office of the City Clerk.

Sweetser Construction, Inc.: A resolution to approve a construction contract with Sweetser Construction, Inc. in the amount of \$3,773,418.22 for widening and improvements to Mount Comfort Road and to approve a contingency in the amount of \$377,340.00.

Resolution 110-09 as Recorded in the office of the City Clerk.

2009 Recreational Trails Grant: A resolution expressing the willingness of the City of Fayetteville, Arkansas to utilize Federal-Aid Recreational Funds.

Resolution 111-09 as Recorded in the office of the City Clerk.

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

Unfinished Business:

Social Media Communication: A resolution to include social media in citizen communications. *This resolution was tabled at the April 21, 2009 City Council meeting to the May 19, 2009 City Council meeting.*

Alderman Petty: All this resolution says is the City Council is asking the Administration to come up with a communications plan that includes social media. It does not specify which tools the Administration would use or how that plan would be developed. It would be left to the discretion of the Administration. We would trust them as we move forward that they will develop that plan based on what they find to be practice as they experiment with these tools.

Alderman Thiel: How does the Administration see this being funded or is there a cost to this.

Mayor Jordan: There are three areas we are already working in. We have introduced Facebook, Twitter, and an electronic newsletter. I don't see that we can use much staff time due to the economic times we are facing.

Alderman Thiel: It sounds like the City has already starting doing these things. What do you feel like needs to be done beyond what the City has started?

Alderman Petty: The City has only scratched the surface with these tools. There is a lot of opportunity for doing other things that has not been explored yet. We can experiment all we want but if we do not have a plan, policies, and procedures then there are some issues that could catch us by surprise. I think there is more to be done than what we are doing right now.

Alderman Thiel: This resolution is asking the City to do what it sounds like they are already doing. Do you want them fund this because it is going to take staff time to do some of the things you are talking about.

Alderman Petty: It is going to take a little bit of staff time but I think it is going to take less than most of us think. Notices will be sent to multiple email lists, to a Facebook group and to the website. There is an opportunity to manage that centrally so it doesn't take much time. It seems like the City has already started on this path but we have not seen the expetive commitment to having a plan or revisiting how they are using the tools on a regular basis. I think it is very valuable to have a plan and to continue to develop that. Things are changing quickly and there are opportunities all the time that we could be taking advantage of.

Todd Gill: I am a small business owner. My business depends on me reaching as many people as I can. I have to ask myself which of these tools I should be using, how should I use them, and how much of my business time should I dedicate to use them. One thing I have never asked myself is should I be using these tools. I encourage you to keep experimenting as I am less we miss out on a big opportunity to communicate with a huge portion of the citizens.

Peggy Treiber: Facebook got me here at the right time for the right subjects and the newspapers did not.

Alderman Ferrell: Did you go to the City's website to see if it listed the meeting and what time it started?

Peggy Treiber: After I saw it on Facebook I went to the City's website and double checked.

Fran Alexander: I disagree with Mr. Petty on a couple of points. I have no argument about all the technology we can possibly use for communication. There needs to be a process that the citizens can understand. There are a couple of sentences in the resolution that does not lend themselves to what Mr. Petty is trying to accomplish. Social media reduces time spent on FOIA compliance, how is that going to work? The City will make a good faith effort to include public comment and discussion received via social media in the record, I would like to know the process that is going to have. I think this is a matter of open government and manners. It is very disturbing that technology has now taken us to a level where we really don't know if we are

engaging each other when we talk to each other. Hopefully it will become a policy to determine whether or not we allow this sort of activity to occur during the meetings. The resolution says a good faith effort to include public comment and discussion received via social media, when is it received, and how is it received. How do the people who came here tonight know about it?

Alderman Petty: On the matter of FOIA compliance I can not tell you how it will work but I can tell you how it could work. Memos should appear on the website the moment it is created and given to the person who is intended to receive it. That is an example of social media improving FOIA compliance. Other cities have developed a process for taking live comments during meetings and including those for everyone who is at the meeting to see. What I am thinking about is public comment that is received during the discussion before the meeting happens included in the agenda packets. We are not talking about members up here taking public comment in private.

Leanne Vanwinkle Gisler, a business owner: I think it is important that we be an inclusive community. While this resolution has the best of intentions to be inclusive I think that its very core is probably one of the most exclusionary things I have seen come before this body for a long time. Fayetteville, according to Cities.com, has a 24% poverty rate of people living at or below the poverty line, we need to be incredibly aware of how information is distributed, what its outlets are, and that we are including all people at all social economical levels. I am not anti technology, but I think that as a city we want to send the message that we include all of our citizens. That we make information available in a very broad based and open means. I have fought for first amendment rights for a long time. I am in no way advocating censorship on any level but one of the things a legislative body such as yourself has to undertake, is you are charged with a deliberative process and sometimes the available of something instantly is not in anyone's best interest. We use all types of media to reach people but we also realize that there are people who don't want an email. They want me to sit down and talk to them. I think for you to endorse this type of resolution says we are willing to look at and ignore a huge portion of our population.

Jonathan Cox: I am a college student. I follow the news through the internet. I found out about this meeting through Twitter. If poverty is the issue I think this is a fairer way of getting the word out because I do not pay for the technologies that I get my news through.

Alderman Gray: Would there be communication on Twitter and Facebook that would not be available any place else?

Alderman Petty: It may have a different context but I expect that the information that is core that it references would be available in multiple locations.

Alderman Cook: Is this just going to be at the staff level or are we going to involve the Telecommunications Board? If we are going to try to develop a strategy how will this process go forward?

Mayor Jordan: If it is passed by the Council I will sit down with staff and we will work out some sort of plan and if we have enough money to do what we need to do.

Alderman Cook: I don't see this as limiting public information it just provides another vehicle to get the information out there. I don't feel it's wrong for us to look at and see if we can come up with some options. One of my concerns is we may get different opinions and all the sudden someone says this came from the City and it says two different things.

Alderman Lewis: I am concerned about Section 3 of the resolution. One of the fears from the public is this will take a lot of staff time. I feel the intent is to reduce staff time. The idea is that this would make the processes more efficient and therefore save staff time. I am not seeing where this will stop our current means of communication. The intent is to expand that. The new technology is stimulating the activism in our younger population. Where did the Transition Team leave the communication plan? Did they develop a plan or did they say they would develop a plan?

Don Marr, Chief of Staff: The sub group transition final report talked about the need to explore more options of communication than had typically been done at the City level. It did not address communication at a City Council meeting. It talked about communication as a whole from the Administration. Where it did not cross over was activities within a meeting. Most of the people seem to be accessing the individual versus the organization. The one staff concern that I have is that most of the communication practice with the City has been developing the message and disseminating the message. It has not been a back and forth exchange. The staff time that will be saved in terms of getting information out may require more back and forth communication because it is more of a dialogue taking place must like it takes place in person. I am not saying that is a negative but it is staff planning time we are looking at. The biggest issue that we have is that someone may think I am not communicating things that may come through and that I am putting my own person slant or the Administrations slant on it so that it becomes propaganda oriented or that I pick and choose whose comments I would highlight. The part of this resolution that concerns me is the part about including public comment in discussion. The one part that came up through this discussion has been activity that takes place by the nine of you and me. It would be my recommendation that you consider your own rules and how you are going to do it sitting up there because of the concerns you have heard and some parameters around whoever is Twittering at the meeting. What guidelines we are going to go by. Getting the information out is very different than having this interactive exchange with a computer.

Alderman Lewis: This seems more general.

Mayor Jordan: What I see in the resolution is we are going to develop a future plan for the City.

Alderman Lewis: This resolution seems like it is the City Council giving permission for the staff to investigate and develop a plan in regard to social media tools or new technology.

Don Marr: To me the last sentence speaks to all communication and the one meeting this happens with continually is this meeting. We want to be clear as to the expectation as it relates to this meeting being different than the general communication from City Hall every day. We think they are two different processes.

Alderman Ferrell: I have concerns about the time and money. The only constant we have right now is the change in technology. Matthew, I am glad that you know as much about technology

as you do. I think you serve us in a great way. I think we have a bigger question here because there is going to be technology coming in a bang. I am not opposed to using technology. I think we need to be completely prepared to do that.

Alderman Thiel: I feel there is going to be some cost in this if it results in something more than what we are already doing. This to me sounds like what the Administration is already trying to do. I am concerned that we are reducing what we are doing in the news media. My concern is I don't want us to spend more money on something that to some extent we are already doing.

Alderman Rhoads: I support the resolution because it is a request to look at this. I presume if we do not like the policy we can change the policy after it is in place.

Alderman Gray: We are voting on looking at a plan but the plan will not come back to the City Council. Administration will make that decision.

Alderman Lucas: In general the idea sounds good but everyone has a different idea about what this says. I think it needs to be clearer about what the resolution means. It is already being done. We have a very open government now. I think everyone has a chance to get into the system. If someone comes to the Council meeting they can talk one time but if someone Twitters they will get multiple times to comment. I would like to have more concrete information as to where we are going with this.

Alderman Petty: This does not switch our communication to social media it adds social media to our communication methods. We are not excluding anybody by passing this. We can not communicate perfectly with our citizens. All we can do is make a good faith effort. Different people get their news and get involved in different ways and restricting ourselves to the conventional forms of communication doesn't cut it as a good faith effort any more. We have to do more than what we have been doing. That is what this resolution is intended to do. Staff knows more than anybody what is practical and that is what is going to drive their decisions. That's how cost will stay low with this. We already have an internal committee exploring the redevelopment of the website. We have volunteer teams that are passionate about being involved in this. Plans are valuable and planning is valuable. I think creating a plan, developing it, and keeping it updated is a very important thing to know where we are and to avoid the pitfalls that have been brought up tonight.

Alderman Gray: Rather than the social media being more limiting it seems to me it is just the opposite because we are going to connect with folks who would not read a newspaper and are probably not home to watch the television.

Alderman Lewis moved to amend the resolution to remove Section 1. Alderman Petty seconded the motion. Upon roll call the motion passed unanimously.

Alderman Petty moved to approve the resolution as amended. Alderman Rhoads seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 112-09 as Recorded in the office of the City Clerk.

Runway Safety Area Improvement Project Grants: A resolution authorizing the Fayetteville Executive Airport staff to apply for and accept grants from the Federal Aviation Administration and the Arkansas Department of Aeronautics to fund the Runway 16 Runway Safety Area Improvement Project; and approving a budget adjustment recognizing the grant revenue. *This resolution was tabled at the May 5, 2009 City Council meeting to the May 19, 2009 City Council meeting.*

Alderman Ferrell moved to table the resolution to the June 2, 2009 City Council meeting. Alderman Rhoads seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the June 2, 2009 City Council meeting.

Bid # 09-34 Runway Safety Area Improvement Project: A resolution awarding Bid # 09-34 and approving a contract with Sweetser Construction, Inc. in the amount of \$969,325.65 for construction of the Runway 16 Runway Safety Area Improvement Project. *This resolution was tabled at the May 5, 2009 City Council meeting to the May 19, 2009 City Council meeting.*

Alderman Thiel moved to table the resolution to the June 2, 2009 City Council meeting. Alderman Gray seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the June 2, 2009 City Council meeting.

New Business:

McClelland Consulting Engineers, Inc.: A resolution to approve Task Order No. 1 for engineering services by McClelland Consulting Engineers for Runway 16 Safety Improvements in the amount of \$231,100.00 and to approve a budget adjustment of \$231,096.00.

Alderman Thiel moved to table the resolution to the June 2, 2009 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the June 2, 2009 City Council meeting.

ADM 09-3263 (Abshier Heights Modification): An ordinance amending a Residential Planned Zoning District entitled R-PZD 06-1883, Abshier Heights, located at the northwest corner of Abshier Drive and Hillcrest Avenue, containing approximately 4.11 acres, to reflect revised conditions of approval as described herein.

Jeremy Pate, Development Services Department Director gave a brief summary of the ordinance. Jeremy stated there are four speed tables in the project and that staff is in favor of reducing the number of speed tables.

A discussion followed on the speed tables and where the speed table locations might be.

Alderman Thiel moved to amend the ordinance to remove the requirement to install speed tables and add a stop sign. Alderman Ferrell seconded the motion. Alderman Thiel withdrew her motion and Alderman Ferrell withdrew his second.

Alderman Thiel moved to amend the ordinance to require the applicant to install one speed table if requested by the City Engineer prior to issuance of a certificate of occupancy. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Lewis seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Aubrey Shepherd: There should be some way that there is an annual review of storm water management on the site and a way to review the need for speed tables.

A discussion followed on doing an annual review.

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

Ordinance 5240 as Recorded in the office of the City Clerk.

VAC 09-3255 (Harvey/3570 Jasper Lane): An ordinance approving VAC 09-3255 submitted by Alan Reid for property located at 3570 Jasper Lane, Lot 9 of the Copper Creek Subdivision to vacate a 34 square foot portion of the drainage easement in the rear of the property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated staff is in favor of the vacation and the Planning Commission voted 7-0 in favor of the vacation.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Cook 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 5241 as Recorded in the office of the City Clerk.

R-PZD 09-3253 (Park Hill at Mountain Ranch): An ordinance establishing a Residential Planned Zoning District titled R-PZD 09-3253, 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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated the Planning Commission voted 8-0 in favor of this project. Staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading

RZN 09-3217 (Winkler): An ordinance rezoning that property described in rezoning petition RZN 09-3217, for approximately 0.25 acres, located at 300 South College Avenue and 145 East South Street from NC, Neighborhood Conservation, to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. He also reviewed the Walker Park Master Plan process. The Planning Commission voted 5-4 and staff recommended approval of the application finding that Downtown General in this location was consistent with the four guiding tools that we have with the Walker Park Master Plan to create a balance of uses in housing and to retain and create diversity of housing and uses within this neighborhood. Downtown General is still predominantly residential in nature. It is not a predominant commercial zoning at all. It allows low intensity residential and nonresidential uses. The applicant met with the neighborhood at least once to discuss the potential plans. We felt this was consistent both with City Plan 2025 and with our Walker Park Neighborhood Master Plan within this area.

Alderman Petty: Are there any multifamily uses allowed in the Neighborhood Conservation zoning?

Jeremy Pate: Neighborhood Conservation allows for single family and two family by right. It allows for the three family by conditional use.

Alderman Lewis: How specific was the outcome to the charrette process as far as the zoning?

Karen Minkel, Strategic Planning & Internal Consulting Department Director: When we work these master plans, we always look at what the City can do to help move the vision forward. Most of the vision happens in the private sector because we do not develop anything and so one of the most powerful tools that we have is zoning. We always look at zoning as part of the master plan process and how we can utilize that as a tool to achieve those principles. The first principle which is a balance of mixes and housing types within this neighborhood was critical when we were looking at the zoning. Seventy five percent of the existing area was zoned for multifamily. There was no single family zoning at all within the 390 acres that we were looking at. In the result we proposed a plan that changed that so that 50% of the neighborhood would now be Neighborhood Conservation. That was a significant shift and I think definitely in line with what the participations expressed. One of the strengths the participants talked about and that is also highlighted in the plan is that one of the strengths of the neighborhood is that it is diverse and that you have a mix of housing types and a mix of uses. That is what we were trying to achieve with the zoning recommendation.

Alderman Lucas: In the neighborhood, can you have studios?

Karen Minkel: I do not believe so it is solely residential. Single family and two family are the only uses allowed by right.

Alderman Thiel: The charrette process of the Walker Neighborhood Plan that is what I have heard from more and as I recall in the meetings there was a real buy in on basically the concept. That was their understanding, in fact they spoke at the Planning Commission when this was discussed and at they time they pointed out that they wanted this to remain what had been adopted in the Walker Neighborhood Plan.

Karen Minkel: In the original version when this particular property was shown as Neighborhood Conservation?

Alderman Thiel: When the Walker Neighborhood Plan was adopted that was reconsidered for the Winkler's during that first Planning Commission meeting. It came back to us and we again supported the neighborhood because they felt like when they had participated in the charrette process that was how they wanted it to be and they disagreed with the Planning Commission's ruling on that. That is why the City Council voted with the neighborhood. I will probably vote as I voted the last time simply because I feel like it is the same thing as the Fayette Junction Plan. Then the Planning staff said they felt like we should basically follow the neighborhoods wishes and the charrette process because they had been very involved. The Planning Commission went one way and I supported the Planning staff recommendation based on the fact that there had been a lot of participation in the charrette process. The neighborhood had bought in on something and for the charrette processes to continue to be positive and to get participation for the Planning Commission and the Council to go against a portion of that it kind of flies in the face of what we are trying to establish. My recall of the Walker Neighborhood charrette was that was what they wanted and that is what they bought into.

Karen Minkel: The Walker Park Neighborhood Master Plan came through the process first and then the zoning was one step to achieving that and that is when this issue came up. The Master Plan had already been approved and the Illustrative Plan and zoning was a separate item because it is a step in achieving the vision. There was a discussion about what the neighborhood wanted. The challenge that is here and that we probably see with all of our master plans is that when we talk about the principles that we want for the neighborhood I think that everyone in this room would say they are firmly committed to the principles of this master plan. I think the challenges are there are always going to be gray areas if you are on the border and when you are looking at the surrounding zoning. In those meetings staff said you could go either way on this property. The way we were making the decision was that we looked at the principles and then we looked at the property owner and looked at what their preference would be. I think that is the challenge that there are going to be those gray areas and zoning is not static. A property owner can come forward with a request at any time to change that. I think it would have to be looked at individually especially when it is a very small piece of the total plan I think there is more gray area there.

Alderman Petty: Compared to the previous zoning before the plan was adopted how many units would have been allowed on this parcel?

Jeremy Pate: It was zoned 24 units per acre so a quarter of an acre would be five to six units.

Michele Winkler, co-owner of the property: I want to thank the Mayor and Planning Commission for being here tonight, I know it is part of your job but it can be argues and we appreciate that you are here.

We are here tonight to petition the City Council to grant a rezoning to that property. The background has been thoroughly covered so I don't think I need to go into that. In 1994 we purchased .63 acre of land two blocks south of the Fayetteville Square zoned for multifamily structures. We upgraded the houses there in order to make them inhabitable yet let them remain affordable. It has always been our plan to build apartments there when the current structures reached the end of their usability which is soon. We believe in creating affordable housing. Then we received a postcard informing us that our property was included in the Walker Park Neighborhood Master Plan and would be rezoned Neighborhood Conservation which prohibits multifamily structures and the rest has already been outlined. We appealed twice to the Planning staff and twice to the Planning Commission and both times that was approved. It was declined one time by the City Council. The second part is why we persist and the reasons for submitting this request. It is not that we think it is our land and we should be able to do anything we want to, that is not true, we believe in the process. First and foremost we believe in and we want to adhere to the 2025 Plan set by the City. Our proposal to the Planning Commission addressed the goals of the 2025 Plan including but not limited to its highest priority being appropriate infill and revitalization. That area certainly needs revitalization and we want to be part of it.

The land is located two blocks from the square across from Downtown General on two corners. Urban use is coming from the square. Anything built in our location needs to a flexible design in order to accommodate what we see as an evitable infill from the square. Single family dwellings or duplex residential would be difficult to retrofit in this area when it becomes more dense as

part of the organic growth of Fayetteville. I don't think three family units are allowed. Can we clarify that for sure?

Karen Minkel: It is allowed by conditional use.

Michele Winkler: The second reason is we want to be given the same consideration for another piece of property, 636 South Wood Street. The postcard notification regarding Wood Street was the same as ours, it was designated Neighborhood Conservation. The City Planning staff did not recommend and the Planning Commission did not approve that it be changed to Downtown General. At the same City Council meeting where our request was denied the Wood Street property was approved and that was amended as part of that whole zoning issue. There was no public comment requested, the property never appeared as Downtown General on any public documents. This approach and the decision regarding a similar situation to us seems unfair and inconsistent.

I am now going to address the objections. I know that these objections aren't the objections of everyone but this is what we have heard. There will always be people for and against any zoning request. We acknowledge this is an emotional issue it is an emotional issue for us also but it is also a rational issue for us. The initial objections regarding traffic congestion and density have already been addressed by the Planning staff. I know people will be speaking out against this but we want to remember that this is an issue of appropriate zoning that meets the overriding goal of the 2025 Plan for the City as a whole. What did we hear as the objections? One of the main ones that we heard was that people in the neighborhood don't want renters and particularly don't want apartments. The renter issue is illustrated by the petition that was presented to the City Council in the first place emphasizing that the petition was signed by owner occupied residences. First of all that did not prove to be true, only half of them were but it does illustrate the point that owner occupancy was an important issue. The other issue is that we support renters. Most residents of Fayetteville are renters or have been. There is impairable evidence that renters participate in cities as much as home owners. Renters can be neighbors too. The other issue and probably more importantly, when we meet with the Jennings Neighborhood Association where the apartments. I think it is important to remember at this meeting that we are not addressing apartments. It is not a design issue but it is a matter of the zoning Neighborhood Conservation. We are asking for Downtown General which may include apartments but permits single family dwellings, eating places, etc. Another issue is that some people may feel betrayed if you grant our request to rezone that it was not consistent with what they did at the charrettes. It is very consistent with what the Council agreed to in the 2025 Plan. It is consistent with what the Planning staff recommended for transitional zones and it is consistent with the changing of the Wood Street property. I propose that it is consistent with the Walker Park plan which has as one of its guiding principles a balance of uses and houses. It says that this plan serves as a guide, meaning I presume that elected officials can use the information to make independent study decisions regarding the goals set for the community as a whole. This is the reason Council members are elected I believe. There are many times when considered rational decisions go against some vocal members of their constituency. A closely associated problem is that of creeping. People feel like if they let in this quarter of an acre then it will creep on down. If this follows then nobody could ever change anything in the Walker Plan, if you didn't go to the charrettes and it was not said in there then it wouldn't change. We would agree that it should not change if we were surrounded by housing but we are not surrounded by single family dwellings. Across the street we have Downtown General. Further down the street there is multifamily also.

We did not attend the Walker planning sessions because we did not think our property was really included because we are two blocks from the square. There were postcards sent out as I understand but we do not recall getting them except for the last one which we responded to. Plus the City provides for other avenues or recourse open to shareholders in the City. We are following those avenues.

I would like to talk about a petition that we submitted not because we feel like we need to get as many people speaking to it as we can but because we believe that it illustrates that this is a citywide issue. Of the signers on that petition a third were in the neighborhood, a third was planners and developers and a third are just general people in the City that support our land usage.

Alderman Gray: Ms. Winkler do you have a plan? What are you going to put in? I read here twelve apartments including one on site caretaker unit.

Michele Winkler: Actually we wanted to touch the people in the neighborhood because we had not had a chance to do that. We wanted a tool because we knew there were a lot of negative comments so you want to hang onto something when you go to a meeting so we brought a plan forward for apartments which has always been our vision. Somebody advised us that if we show a picture nothing could be worse than what they imagined but we were wrong. No one liked it. The issue again before the City Council is not what we are going to do with that property but the zoning issue. We are not discussing designs. We are not discussing what we can do. Is it appropriate to be Downtown General?

City Attorney Kit Williams: That is correct. This is not a planned zoning district where we can look at what they are actually going to do. This is just the various different things that would be allowed under this zoning as opposed to its current zoning so we can't ask to look at the project.

Alderman Gray: I understand that I just think it might make a lot of difference to the neighbors if they had an idea of what might be going in there.

Roselyn Cicerone, speaking on behalf of the neighborhood: Ms. Winkler said the main objection of the neighborhood was renters and that is a fairly large misunderstanding. Half of our block is renters. Half of the people that signed this last petition of more than 280 people were renters. These people are enjoying renting houses in Walker Park and we have never had any prejudice against renters. We were presented with a project. We were presented with a three story 12 unit apartment building that represents a density of 48 units per acre. That seemed like an outrageous density compared to what is already there in the neighborhood. The problem with the building we saw is we did not think the infill was appropriate and that it was totally out of character with the neighborhood. It is not only homeowners that are concerned, renters are concerned and others. Walker Park is probably the most diverse neighborhood in Fayetteville on any category. We don't feel this infill is appropriate and we do not feel it will revitalize the neighborhood either.

Alderman Ferrell: You mentioned something about the change in demographics and if I understood you correctly you think that if twelve apartments go in there that would start decay in

that neighborhood. What demographic is it that you fear would start the decay in that neighborhood?

Roselyn Cicerone: It is not the demographic of the people who live there it is when that type of high density housing goes in generally the people most nearly adjacent to the building stop taking care of their buildings. They do not want to live in them, they rent them out.

Richard Russell: I am against the rezoning.

LaVada Walla, 300 South Washington: If this property is rezoned Downtown General, it is not that I am concerned about the apartment, even though I am against that, it is about the fact there are many types of uses that could go on this piece of property. I live next door to this property. A different type of business could go in there that I might be affected by. I am against this property being zoned that. Where do you draw the line?

Joanne Southern, 104 West 5th Street: I want to keep my neighborhood as is. This just takes away from the neighborhood I was raised in. We do not want this in our neighborhood.

Tony Wappel, 11 East South Street: The neighborhood is not against renters. We went through the Walker Park neighborhood and did a petition and over half the people are renters. We are not against apartments. Those of us that participated in the charrette process agreed to the higher density that is planned in the area. We like the plan that was originally submitted last year with South Street being the dividing line between Downtown General and Neighborhood Conservation. Affordable housing does not necessarily mean apartments.

Justin Dickson, 236 East South Street: I think any sort of progress of economic or living in this side of South Street in this side of south Fayetteville is better for the future as to where we are right now. These sort of amendments need to be looked at by the Council in a way that describes specific reasoning to what is actually happening there. In many ways I believe this zoning can be looked at and modified in every aspect.

Audrey Kay: I am a property owner in the area. I am for the continuation of the Neighborhood Conservation.

Alan Ostner, a neighbor to this property, showed the signs that were in the neighborhood during the charrette. He stated a lot of people came to the charrette. In the discussion about zoning, the place was blanketed in RMF-24 zoning two years ago. The discussion did not talk about form. The zoning might have been RMF-24 allowing apartments but the buildings were single family residential detached. That is part of why the Walker Plan was so appropriate, it brought the zoning back to what was actually built. A great deal of the neighborhood has been single family detached for a long time however the zoning was inappropriate. In the 2025 Plan it says appropriate infill and revitalization. I do not think this rezoning is an appropriate use of infill. I think it diminishes the neighborhood character and the lots available for single family detached homes. We are trying to get more affordable homes in Fayetteville. Taking this Neighborhood Conservation lot and making it Downtown General is counter productive. There is an adequate supply of Downtown General and apartments in Fayetteville. I am not against apartments. It is important to Fayetteville and our neighborhood to have apartments. Why not draw the line at the

meeting where hundreds of people got together and the process has been gone through. I would like for you to vote against this rezoning.

Alderman Thiel: In the previous zoning of RMF-24 before we had the charrettes they could have built five to six units in that amount of space?

Jeremy Pate: Looking at the base density of a quarter of an acre, 24 units would get five to six units per acre.

Alderman Thiel: In the Downtown General they would be allowed to build how many with parking?

Jeremy Pate: I am not sure if five to six units would fit with parking with RMF-24. It all depends on how you build those units. The Downtown General does not have a density limitation. It is regulated to the building height.

Alderman Thiel: They could build 12 units?

Jeremy Pate: The density limitation would support it.

Alderman Thiel: What would be the maximum amount of units they could build in the Neighborhood Conservation?

Jeremy Pate: They could build a duplex or two single family units.

Alderman Thiel: With a conditional use they could build a triplex?

Jeremy Pate: The density limitation would probably limit that because there is a density limitation of ten units per acre.

Alderman Lewis: Can you compare the current density of Walker Park and what is being encouraged on the outskirts of town in new development. How do those compare?

Jeremy Pate: If you go back to the base goals we are discouraging fringe development. It is a little hard to compare the overall density however the development pattern in much more compact form is certainly something more related to this development.

Alderman Gray: I have really been torn about this issue. After listening to the neighbors I believe I will have to support the neighbors. I would like to see a couple of craftsman style houses there so we can have some single family detached houses. That is what we do not have enough of.

Alderman Lewis: Because of the charrette process and the people who participated in that process stated these are the types of building designs and zonings that they wanted. They zoned to match the existing neighborhood. It is exciting that there is an area in the central of Fayetteville that is designed in a way that we are trying to promote other areas of Fayetteville to look like. The idea that we would eliminate something that we are trying to promote in other areas doesn't make sense to me.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel 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.

Alderman Petty: Mr. Ostner brought up the point of appropriate infill and to me that is the crux of this decision. I have to side with the neighbors too. I don't think this is an appropriate place for this kind of infill. This is infill we want to see on thoroughfares and busy intersections that we want to be more popular. To me this intersection doesn't appear to be one of those. That is why I am not going to support the rezoning.

Alderman Cook: When we discussed this before I was in favor of Neighborhood Conservation. I think currently there is a good division between the Downtown General and the Neighborhood Conservation as we have it now. The neighbors have spoken, we went through the charrette process, and I see no reason to zone this as Downtown General.

Alderman Lucas: I think it needs to be Neighborhood Conservation. It is more compatible with what is there. I have heard from many people that are not in favor of us changing it. I think there is a safety issue. That is a steep hill and a strange intersection and if you put that density on that corner there may be a safety issue there. I won't support the rezoning.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Ferrell voting yes. Alderman Lewis, Gray, Thiel, Cook, Petty, Rhoads, and Lucas voting no.

The ordinance failed.

Marijuana Policy Review Panel: An ordinance to establish a Marijuana Policy Review Panel

City Attorney Kit Williams read the ordinance.

Alderman Petty: In November voters passed an initiated ordinance to make the enforcement of the misdemeanor adult use of marijuana a low law enforcement priority. It was passed by 66% of the voters. The creation of this panel is to follow up on that. I think the voters deserve some oversight on this. The Mayor, with his jurisdiction being over the Police Department, needs some expert advice on how to follow this ordinance and the voter's wishes to the greatest extent of the law while also complying with State law.

Alderman Petty moved to amend Section D from a written report to the City Council to a written report to the Mayor. Alderman Lewis seconded the motion. Upon roll call the motion passed unanimously.

Alderman Petty: For me this boils down to we live in a democracy, 66% of the people passed this and we owe it to them to follow up on it.

Alderman Lewis: This is to establish a policy review panel. Are those the members that will be set in stone or can that be changed?

Alderman Petty: It is my understanding that unless we amend the ordinance that will be the makeup of it. If there is not a volunteer for any of the positions then we can substitute a citizen at large.

Linda Ralston: I do not remember adult being on that. Is there any other way an overview could be had. It seems like there is a lot of structure, layers, and people involved and monthly reports. Is there another streamline to what we can do to review it?

Greg Tabor, Chief of Police: We are talking about the ordinance the people passed on November 4th. I did not believe it was going to change anything. Our enforcement of misdemeanor marijuana was a low priority then. I don't think it has changed anything other than the fact that we have some discussions about some of our misdemeanor marijuana arrests to make sure we are in compliance with the ordinance. Obviously we are going to try to do everything we can to abide by the law that ordinance included. I think you have to remember this is not about the police's ability to arrest someone. It has nothing to do with that. We make misdemeanor marijuana arrests every day or close to every day and we are going to continue to do that. It is not doing away with our power to arrest someone for it. It is about making it a lower priority. Things that are a higher priority are DWI's, seatbelt enforcement, domestic violence and a lot of others. We have special people dedicated to those activities. We do not have anyone or a unit of people that are out there looking for misdemeanor marijuana arrests. If we encounter someone for whatever reason and they have marijuana are we going to arrest them? Yes, most likely we are. A police officer has a lot of discretion on everything he does whether it is speeding, marijuana or anything else. The misdemeanor marijuana arrests that we have made since this passed are shoplifting, domestic violence, the scene of an accident, and the scene of a disturbance. Most generally, the arrest for someone for misdemeanor marijuana is generally a secondary offense. As far as I know, since this became effective we have not had any complaints from anybody that was arrested that said you made a priority out of me.

On paragraph six of the ordinance that the people passed it states "law enforcement resources would be better spent fighting serious and violent crime". I agree one hundred percent. This committee is going to take our time and resources to do which I think is contrary to paragraph six that the people passed. If the Mayor wants a report from me he does not need a panel, all he has to do is ask.

There was a comment made at the Ward 4 meeting that if I was hauling some marijuana to someone that needed it medically I wouldn't be arrested for that. That is an incorrect statement. When you start delivering marijuana to people that is a huge problem. The comment was made that the purpose of this is to see if this ordinance has had any affect. I don't know how you are going to gauge that other the number of arrest before and the number of arrest after. If that is how you are going to gauge it, it has had no affect. It was a low priority then and it is a low priority now. I do not think you are going to see a significant decrease in the number of

misdemeanor marijuana arrests since this went into affect. Someone said all we are after is to allow the officers to use their discretion when they encounter misdemeanor marijuana offenses. We do not need that panel to do that, officers do that every single day on everything they do. We video tape almost every single thing. We have a video camera in our car.

Alderman Lewis: If someone was arrested for marijuana possession and they have a compliant what is that process?

Greg Tabor: We have a formal compliant process. I doubt that would ever rise to that. Usually, that is reserved for serious things. I would hope that compliant would make it to the administrative cycle at the Police Department and we would pull the report and look at the video tape and see if we agreed.

City Attorney Kit Williams: I have to call your attention to the State statute which you are required to follow. It specifically sets forth the duties of the Chief of Police and the police. It says, "it shall be their duty to apprehend any and all persons in the act of committing any offenses against the laws of the State" and it says, "diligently and faithfully enforce at all times all such laws". As you are aware the State law is against the possession of marijuana. Even though I think it is appropriate for the police not to expend tremendous resources, as this ordinance asks, it is certainly not a defense to any arrest by saying I should not have been arrested because the ordinance says it is a low priority. The officers are following their State law duty to enforce all laws at all times. I can speak for the City Prosecutor who works for me that misdemeanor marijuana arrests have never been a high priority in the Prosecutor's office. His high priorities are very similar to the police. If the police bring him a case and say we arrested this person for marijuana, and the case against him is good, then the Prosecutor very likely is going to prosecute that.

Alderman Lewis: If there is an established protocol if someone would like to use it then I am questioning if this is needed.

Alderman Petty: The State law that requires officers to enforce State statute, is there a similar statute for the City Prosecutor?

City Attorney Kit Williams: I did not find one, if there is one, that gives that kind of requirement to the City Prosecutor.

Alderman Petty: Chief, I appreciate where you are coming from. I sincerely hope that you are exactly right that this already is the lowest priority you have and that this will not make much of an effect for the police force. There is more to this than the police force. We have a City Prosecutor's office which is really where the bulk of this resolution is intended to affect. If this City Prosecutor can spend his time focusing on cases that will have more of an affect then he should do that. This panel would not just review what the Police Department is doing it would also review what the Prosecutor's office is doing and that is something we haven't done yet.

Ryan Denham, campaign director for the Sensible Fayetteville Initiative that was placed on the ballot in the November's General Election. We need a panel to find out if marijuana is indeed a low priority. There are over 400 arrests every year in the City of Fayetteville. It doesn't sound like a low priority to me. This panel would be able to investigate what the situation is and how

the law is working out. We are going to bring in a number of different professionals from a variety of different fields. This is going to be a comprehensive panel that is going to issue a comprehensive report to the Administration. A similar panel in Denver Colorado recommended stopping marijuana arrests for misdemeanor amounts for adult prosecutions. This passed with a two to one margin in the City. We really owe our citizens the investigation and the reporting. We need to find out how many people are arrested for marijuana every year. Right now you have to do a FOIA to find that out. We need to find out what the prosecutions are following those arrests.

Rob Mounce: This past semester at the University of Arkansas I was the campaign director for safer alternative for enjoyable recreation. We had the students come to a vote on making the penalties for marijuana be no greater than that of alcohol. All the evidence points to that marijuana is a safer drug than alcohol. This is not the same kind of vote that occurred this past November but it still had equal amount of support from the student body with 66% passage.

Craig Honchell: We are trying to keep a group that is doing illegal activity abreast of how that illegal activity is being tracked. I have kids and any kind of discussion about marijuana even being potentially legalized or anything like that is sending the wrong message to the kids in our community. There is already something in place that oversees this. Sixty six percent keeps getting mentioned. That almost makes it sound like that 66% of the entire population of Fayetteville is in favor of the low priority of marijuana arrests. That is 66% of the people who voted. That is the number we might want to keep mind.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty: The people that are concerned about the amount of time that will be spent on this I hear you.

Alderman Petty moved to amend the ordinance to allow quarterly reports instead of monthly reports from the Police Department and City Attorney's office. *The motion died for lack of a second.*

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I have panels that advise me on almost any topic that you can think of in the City. I am not necessarily opposed to a panel or an advisory board to advise me on this situation. This may not be the route that we want to go as a Council. If a citizen committee is formed I will meet them. The Police Chief and I will be the ones administrating the laws.

Alderman Thiel: That is not how this panel is set up to be.

Mayor Jordan: I understand that. I am saying if they want to put a citizens committee together I will be glad to sit down and visit with them.

Alderman Ferrell: Are you talking about something different than this?

Mayor Jordan: I am talking about something entirely different.

Alderman Ferrell: I don't disagree with you at all. I think your idea makes sense. I take exception with one thing, Kit's memo about the power of the Council and the power of the Mayor. Kit says the City Council should have power to establish a City Police Department to organize it under general superintendent of the Mayor and to prescribe its duties and define its powers. The City Attorney the way he opines this can have an affect on the balance of power between the legislative body which is us and the executive body which is the Mayor. I think we have the power to do about anything that is legal and that we can delegate power to others. A different interpretation of what he opines can lead to loss of legislative power.

Alderman Petty: I am encouraged that there may be another way to do this but I still think this is the best way. We need to remember we live in a democracy and all these changes to our governing bodies and our laws start at the local level. When the voters vote for something I think we have a duty to show them that we stand behind them. That is why I think this is the best way to go. I think we need to make a statement.

Alderman Rhoads: I think the duty we have to respect the vote is the oversight that we have over the Mayor and the Police Chief. If we feel like they are not doing their job in any regard then we can do something about it. This particular administration has set up a lot of ad hoc committees that seem to be pretty effective. It is less cost to the taxpayer and involves the citizens. I think the Mayor's idea is a great way. I am very supportive of that. Respectively I can not support this panel.

Alderman Lewis: I agree with Alderman Rhoads. It seems this would be one more meeting that people would have to attend and we would be requiring that extra work and staff time. I appreciate that the Mayor is willing to work with some volunteer organizations. I also think it is worth the discussion that we have had.

City Attorney Kit Williams: Mayor, the City Prosecutor and City Attorney's office is involved in this and I would join you in meeting with any group that wants to talk about the enforcement and prosecution of this. Even before I became City Attorney it was a very low priority and remained a low priority in the Prosecutor's office. The Prosecutor takes an oath of office to enforce the laws of the State. That is why when a case is presented to him he is going to prosecute that case.

Alderman Petty: Based on the final comments I still consider this discussion a success as well. Thank you for being open to that.

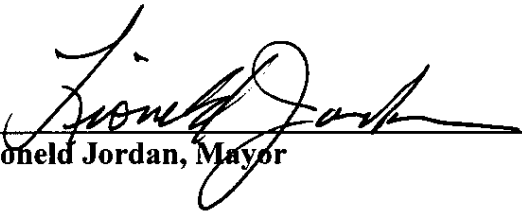
Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 1-7. Alderman Petty voting yes. Alderman Lewis, Gray, Thiel, Cook, Rhoads, Ferrell and Lucas voting no.

The ordinance failed.

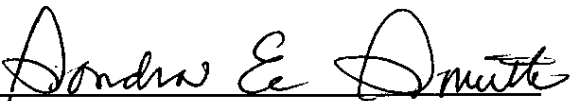
Agenda Additions: None

Announcements: None

The meeting adjourned at 9:35 PM



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer