

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Boudreaux
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Sarah E. Lewis

**City of Fayetteville Arkansas
City Council Meeting Minutes
February 7, 2012**

A meeting of the Fayetteville City Council was held on February 7, 2012 at 6:00 p.m. 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, Boudreaux, Kinion, Petty, Tennant, Ferrell, Adams, Mayor Jordan, City Attorney Kit Williams, Deputy City Clerk Lisa Branson, Staff, Press, and Audience.

Absent: Alderman Lewis.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan recognized the Boy Scout Troop #116.

City Council Meeting Presentations, Reports and Discussion Items:

Agenda Additions:

Mayor Jordan stated I have something to add to the agenda. He went on to explain the ordinance.

Alderman Ferrell moved to add "Amend Chapter 161.03 (B) (2) Outdoor Music Establishments" to the agenda. **Alderman Tennant** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lewis** was absent.

Amend Chapter 161.03 (B) (2) Outdoor Music Establishments: An ordinance to amend Ch. 161.03 (B) (2) of the Unified Development Code, to allow outdoor music establishments to be considered as a conditional use in R-A zones.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the ordinance.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Boudreaux seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Alderman Kinion moved to approve the emergency clause. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

Ordinance 5479 as Recorded in the office of the City Clerk

Consent:

Approval of the January 17, 2012 City Council meeting minutes.

Approved

Airport Minimum Standards: A resolution approving the revised minimum standards for the Fayetteville Executive Airport Drake Field as approved and recommended by the Airport Advisory Board.

Resolution 27-12 as recorded in the office of the City Clerk.

Garver, LLC: A resolution approving an agreement for professional engineering services with Garver, LLC in an amount not to exceed \$94,200.00 for engineering design related to Town Branch Trail.

Resolution 28-12 as recorded in the office of the City Clerk.

AOS, LLC: A resolution authorizing the purchase of a high performance server chassis and network switch with storage in the amount of \$192,704.43 from AOS, LLC pursuant to a state procurement contract, and approving a budget adjustment.

Resolution 29-12 as recorded in the office of the City Clerk.

Public Access Television Fee Revenue: A resolution approving a budget adjustment in the amount of \$2,610.00 recognizing public access television fee revenue for 2011.

Resolution 30-12 as recorded in the office of the City Clerk.

L-3 Mobile-Vision, Inc.: A resolution authorizing the purchase of thirty-one (31) digital video systems for the Police Department from L-3 Mobile-Vision, Inc. in the total amount of \$181,547.55 pursuant to a bid waiver authorized by Ordinance No. 4551.

Resolution 31-12 as recorded in the office of the City Clerk.

Alderman Boudreaux moved to accept the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

Unfinished Business: None

New Business:

RZN 11-3999 (2514 W. Lori Dr./Razorback Park Golf Course): An ordinance rezoning that property described in rezoning petition RZN 11-3999, for approximately 32 acres, located at 2514 West Lori Drive from RSF-1, Residential Single-Family, 1 unit per acre to R-A, Residential Agricultural.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lewis was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: It says this was submitted by Ron Caviness, is that the owner?

Jeremy Pate: I believe so, that is the contact we have had.

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

Ordinance 5480 as Recorded in the office of the City Clerk

Amend Chapter 163 Use Conditions: An ordinance to enact §163.17 Wrecking, Demolition and Scrap Metal Processing into the Unified Development Code and to adopt an emergency clause.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Petty questioned the emergency clause and asked why it was included.

City Attorney Kit Williams explained why the emergency clause was necessary.

Alderman Boudreaux stated I wasn't sure we could go back on an existing facility and require that they do these things.

City Attorney Kit Williams stated I think we can provide reasonable regulations that are necessary for the health and protection of our citizens within our City limits.

Alderman Boudreaux: I am really glad we are going to move forward with that.

Jeremy Pate: As of today none of these operations are occurring in Fayetteville. They have in the past and I would assume that some of these will in the future and this will simply give guidance to those individuals on how to do it.

Alderman Ferrell: Let's say there is a parcel of land that the City is thinking about annexing and there is a working business there. Are they going to be grandfathered in?

City Attorney Kit Williams explained that normally they will be allowed to continue to operate but that doesn't mean that we could not place some regulations upon it.

Alderman Petty spoke to the Boy Scout troop and encouraged them to consider the leave no trace principals and how they can be applied when preparing their merit badge report.

Wesley Stites asked would this ordinance prevent someone from coming in and operating for a month or so to get rid of junk cars.

City Attorney Kit Williams explained the regulations of car crushing.

A discussion followed.

Alderman Ferrell: It would have to be an industrial area before they could even apply for it through the Planning Commission.

Wesley Stites: My point is if I were in that neighborhood I would want to pay someone to clean it up.

City Attorney Kit Williams: It would probably be better for someone to pick those vehicles up and take them somewhere else and have them crushed in an Industrial Zone.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Alderman Kinion moved to approve the emergency clause. **Alderman Boudreaux** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lewis** was absent.

Ordinance 5481 as Recorded in the office of the City Clerk

Repeal §172.10 Bicycle Parking Rack Requirements: An ordinance to repeal §172.10 Bicycle Parking Rack Requirements of the Unified Development Code and to enact a replacement §172.10.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Alderman Ferrell: This is all for new people that build and develop correct?

Jeremy Pate: That is correct.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5482 as Recorded in the office of the City Clerk

Amend §176.03 Exemptions: An ordinance to amend §176.03 Exemptions of the Outdoor Lighting chapter of the UDC to allow the lights to remain on a tree on the Square and to allow accent lighting on restaurant and bar patios.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance.

Don Marr, Chief of Staff stated this originally came as a request from Marilyn Heifner, Executive Director of the Advertising and Promotion Commission.

Alderman Tennant: Those lights are still on the tree from the Christmas Season and we have never taken them off right?

Jeremy Pate: That's correct.

Alderman Ferrell: I am all in favor of businesses having accent lighting and to be able to do as they want with their buildings. Here we have a city dedicated to energy efficiency so it would seem rather inconsistent if the City passed this ordinance.

Alderman Boudreaux: This just gives them the ability to do so. Would the City have to pay for the electricity?

Don Marr: We have not had that discussion.

Alderman Boudreaux: Since they did recommend this there is a possibility.

Don Marr: The A & P does manage certain events for the City's behalf and it is minuscule in the scheme of the actual cost for that single lighted tree.

Alderman Petty: Can we clarify if this came from Marilyn Heifner or the A & P Commission itself?

Don Marr: The request to City staff was a telephone call from Marilyn Heifner. I don't know if they took a vote.

Alderman Tennant: No, it was something that was discussed. I would like more clarification on this and I would prefer not to vote until we understand more of the ideas around it.

Alderman Ferrell: Would it be appropriate to ask the A & P Commission to amend this to say if they are willing to pay that bill and that be made a part of this ordinance?

Mayor Jordan: We have a meeting on Monday and we can discuss that before we ever get back to the Council.

Alderman Adams: Does the lighting of the tree add to the light on the sidewalks? Is there a public safety benefit?

Jeremy Pate: We can certainly take a look at that and see what that does in terms of the lights.

A discussion followed.

Alderman Boudreaux moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-1. Aldermen Tennant, Ferrell, Adams, Gray, Boudreaux and Kinion voting yes. Alderman Petty voting no. Alderman Lewis was absent.

City Attorney Kit Williams read the ordinance.

THIS ITEM WAS LEFT ON THE SECOND READING.

ADM 11-4019 (North Side MLK Between Block and East Ave./Jacobs) Appeal: A resolution to grant the appeal of Jacobs + Newell Company and to grant the curb cut variance on Martin Luther King, Jr. Boulevard between Block and East Avenues.

Jeremy Pate gave a brief description of the resolution.

Todd Jacobs with Jacobs + Newell Company gave a brief slide presentation on the proposed project should the curb cut variance be approved.

Alderman Ferrell: Could you give me the approximate size and cost of the single family dwellings?

Todd Jacobs: We go anywhere from 1,100 sq. ft. to about 2,400 sq. ft. On price range I would go from \$175,000 to \$215,000.

Alderman Ferrell: When you look from School St. to MLK towards Block and South St. how long do you think this will have an affect to move on southeast?

Todd Jacobs: You need another proven two years track record on the financial side for banks or investors to go outside. It has to be a bigger project to anchor that community to get it going.

Alderman Tennant: Having that two years getting started quicker accelerates that whole thing.

Todd Jacobs continued with his slide presentation.

Alderman Adams: How wide are those houses?

Todd Jacobs: These are 28 ft. wide and 70 feet deep.

Hugh Earnest, Planning Commission member expressed his concerns with the project and he went on to speak against the resolution.

Aubrey Shepherd, a South Fayetteville resident stated I would personally allow that one curb cut in the middle of the block since it is already there because it protects the big oak trees. He went on to express his concerns with the water flow on this property.

City Attorney Kit Williams stated I have a replacement resolution which requires that they have a shared access easement before they get building permits, but they do not have to build their driveway until they receive a certificate of occupancy. He went on to explain the appeal process and what the votes would mean.

City Attorney Kit Williams read the conditions of approval for the developer.

Alderman Ferrell: With all do respect to Hugh, it would be inconsistent for me to not support this and secondly this is a start of a rejuvenation of that area. I think this will be good for everyone involved.

Alderman Petty stated I have looked at Jacobs + Newell property around town during the heaviest rain and truthfully they handle rain water better than any other development in town. He stated I am going to support this and he went on to point out the positives to this development.

Alderman Boudreaux moved to approve the resolution. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lewis** was absent.

Resolution 32-12 as recorded in the office of the City Clerk.

Amend Chapter 151 Definition of "Family": An ordinance to amend the definition of "Family" found in Chapter 151 Definitions of the Unified Development Code to allow the City Council to authorize up to five (5) unrelated persons in some units of a Planned Zoning District.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams stated the only major change on this was to allow in fairly rare circumstances the definition of family to include up to five unrelated purposes if specifically authorized and allowed by the City Council in a planned zoning district with appropriate safeguards.

Alderman Petty gave a brief description of the ordinance.

Alderman Adams further explained the ordinance and explained why she supported it.

Alderman Ferrell asked if in-laws were considered relatives.

City Attorney Kit Williams: They are.

Alderman Ferrell: Does staff have a position on this?

Jeremy Pate explained their efforts to draft the ordinance.

Alderman Ferrell: Do you see any downsides to it?

Jeremy Pate: The downside is it's going to take a level of detail for the applicant to present something to make sure those safeguards are in place.

Alderman Ferrell: It's heavily scrutinized.

Jeremy Pate: I believe you are correct.

Don Marr further explained the process in drafting the ordinance.

Alderman Kinion stated you are getting a pyramid of growth on unrelated individuals. That is my concern whenever you are looking at enforcement of this in the long run.

Alderman Petty asked for further clarification on the pyramid of growth.

City Attorney Kit Williams clarified what would be allowable under this ordinance.

Alderman Petty: We have existing zoning ordinances for these kinds of developments and yet still we have PZD's come forward for similar uses. This would only be a request and the Council would have to have a full discussion for approval.

Alderman Tennant: I don't want us to set up something that would create an enforcement issue.

Alderman Kinion: Another issue that we have to talk about is if there are five individuals living in an area that is classified as Institutional there are additional safety requirements that would not be involved in a residential situation. That is important when you are looking at high capacity and high density dwellings.

Jennifer Corbin, a law school student spoke on behalf of the other students. She stated that the more money that the students can save on housing means the more money they get to invest in local businesses. She went on to speak in favor of the ordinance.

Tracy Hoskins, a citizen asked Jeremy Pate what the height limitations are in a single family residential zone.

Jeremy Pate: Most single family zones are 45 feet.

Tracy Hoskins: I think this is a great ordinance and if it is passed what you are going to see is new developments of student and cottage housing. He spoke on the height limitations and stated the limitation of the two floors is anti-productive of the ordinance itself and what we are after which would be more density, infill and projects. He went on to speak in favor of the ordinance.

Alderman Adams: I hope when we drafted this that the two story part is in the "such as" part. The ordinance is meant to not limit us to those sorts of things.

City Attorney Kit Williams stated that's correct. With proper safeguards for surrounding neighborhoods "such as" required that each person be in a free standing unit of not more than two stories. He went on to explain that the sponsoring Aldermen expressed that the need was for a "home" type of atmosphere as opposed to an apartment building type of atmosphere.

Alderman Adams: That is supposed to be in the such as part and I would assume that when the Council looked at anything like that we would be reminded that it is "such as."

Tracy Hoskins: One of the things I would call your attention to is down around the Wilson Park area and Lafayette we are seeing a lot of old structures torn down and new structures being built. A lot of those are three story structures and they are some of the nicest structures in town as far as I am concerned.

Alderman Petty: I think the point is that unless a proposal is within an overlay district when you bring forward a PZD all the rules are written from scratch. It is very reasonable to expect the Council with a request like we are talking about to impose things like height restrictions. Each project is going to be different and that is what we need to remember.

Alderman Ferrell: It is something we can consider and these things when and if they start, you will probably see them locate in proximity to each other in a PZD to cut down on opposition.

Aubrey Shepherd stated this is not regulated in most neighborhoods and I do not have an opinion on this.

Alderman Petty: I would like to leave this on the first reading and let this get out in the public and see who wants to comment.

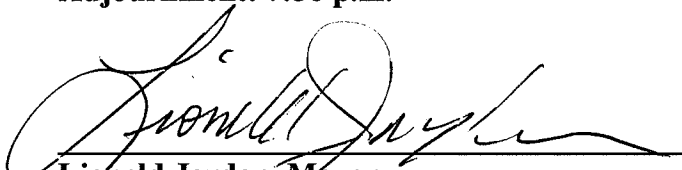
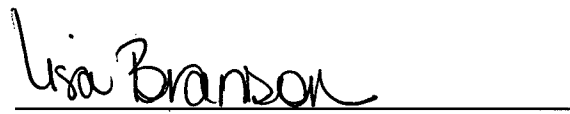
Alderman Adams: I couldn't agree more.

THIS ITEM WAS LEFT ON THE FIRST READING.

City Council Tour:

Announcements:

Adjournment: 7:56 p.m.


Lionel Jordan, Mayor
Lisa Branson, Deputy City Clerk

