

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
August 19-20, 2014**

A meeting of the Fayetteville City Council was held on August 19-20, 2014 at 5:30 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 Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Financial Report – 2nd Quarter 2014, Paul Becker, Finance Director

Paul Becker, Finance Director gave the 2nd Quarter Financial Report for 2014.

Agenda Additions: None

Consent:

Approval of the August 05, 2014 City Council meeting minutes.

Approved

Evans Construction and Remodeling, LLC (898 S. Hill Avenue): A resolution to authorize a contract with Evans Construction and Remodeling, LLC in the amount of \$39,765.00 for Community Development Block Grant Rehabilitation of an eligible residence located at 898 S. Hill Avenue.

Resolution 148-14 as recorded in the office of the City Clerk.

Justice Assistance and State Drug Crime Enforcement Grant: A resolution accepting the 2014-2015 Justice Assistance and State Drug Crime Enforcement Grant for Federal and State funding in the amounts of \$73,705.16 and \$111,529.83 respectively, as a portion of the funding for the 4th Judicial District Drug Task Force.

Resolution 149-14 as recorded in the office of the City Clerk.

B & H Photo Video: A resolution to award Bid #14-44 and authorize the purchase of components for a Location Production System from B&H Photo-Video Corp. in the amount of \$26,971.13 for use by the Media Services Division.

Resolution 150-14 as recorded in the office of the City Clerk.

McClelland Consulting Engineers (Zion Road): A resolution to authorize an amendment to the contract with McClelland Consulting Engineers, Inc. in an amount not to exceed \$90,610.00 to provide for design and related services for sanitary sewer relocation and improvements along a portion of Zion Road, and to approve a Budget Adjustment.

Resolution 151-14 as recorded in the office of the City Clerk.

John Stalling Studio (Art Sculpture at the Marion Orton Recycling Drop Off Center): A resolution to authorize a contract with John Stalling Studio in the amount of \$9,400.00 for an art sculpture to be installed at the Marion Orton Recycling Drop Off Center, and to approve a budget adjustment.

Resolution 152-14 as recorded in the office of the City Clerk.

CivicPlus (Website Redesign): A resolution to authorize a contract with Icon Enterprises, Inc. doing business as Civicplus in the amount of \$65,714.00 plus applicable taxes for City website and intranet redesign and hosting, and to approve a project contingency in the amount of \$6,571.00.

Resolution 153-14 as recorded in the office of the City Clerk.

New World Systems (Data Sharing Software Module): A resolution to authorize an amendment to the contract with New World Systems in the amount of \$23,980.00 plus applicable sales tax for the addition of a data sharing software module to the existing Police Department records management system, and to authorize the mayor to sign memoranda of understanding with the cities of Rogers and Bentonville regarding the sharing of police records.

Resolution 154-14 as recorded in the office of the City Clerk.

Bid #14-43 Benchmark Construction: A resolution to award Bid #14-43 and authorize the mayor to sign a contract with Benchmark Construction of NWA, Inc. in the amount of \$42,879.48 for replacement of the driveway at Fire Station No. 1, and to approve a project contingency of \$8,575.90.

Resolution 155-14 as recorded in the office of the City Clerk.

Master Street Plan Amendment: A resolution amending the Master Street Plan by removing the internal collector streets that were planned in the Southpass R-PZD 08-2898 and downgrading Finger Road from a collector to a local street from the intersection of Plumerosa Road South to the Mount Kessler area, as described and depicted in the attached map.

Resolution 156-14 as recorded in the office of the City Clerk.

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

Unfinished Business:

Enact Chapter 119 Civil Rights Administration: An ordinance to amend the Fayetteville Code by enacting Chapter 119 Civil Rights Administration to protect the Civil Rights of Fayetteville citizens and visitors and to create the position of Civil Rights Administrator for the City of Fayetteville. *This ordinance was left on the First Reading at the July 15, 2014 City Council meeting. This ordinance was amended and left on the Second Reading at the August 5, 2014 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I want to put all the amendments together and everybody speak on the amendments only. We will then take public comments on the ordinance in its entirety.

Alderman Petty: Thank you to everyone for showing up tonight. I want to ask everybody on behalf of our community to please remember we are all human and we all wonder about the same things. No matter what our personal opinions are, the most important thing for this meeting is that

people don't point fingers or question each other's integrity. There is a way to speak in a civil manner that allows us to maintain our togetherness as a community.

I would like to offer two amendments. We have heard a lot of concerns and I believe some of them have been raised in good faith. There are some misconceptions about the ordinance that pastors or churches may be required to provide services that are against their religious beliefs or open their church buildings to groups with practices against their religious beliefs. I want to make this ordinance absolutely clear that will not be required.

We have heard a lot of claims this ordinance will be used as a defense for sexual crimes and that is not true. The City Attorney wrote a memo to this effect about what the current language says. Could you explain that this ordinance couldn't be used as that sort of defense?

City Attorney Kit Williams: On August 15, 2014 I wrote the Mayor and City Council a memo to explain about some misconceptions. State law is always more important and will trump and control any city ordinance. There are two state laws that might have some application if someone who was inappropriate and attempting to go in to a bathroom, locker room or dressing room for the wrong gender. Indecent exposure and disorderly conduct are the two state statutes. I cited them in my memo to you and talked about what would be required to prove them and especially under disorderly conduct it can occur if a person "recklessly creates a risk of public inconvenience, annoyance or alarm, if he or she in a public place, exposes his or her private parts." We've spoken to the Police Chief and he had no doubt that if someone of the incorrect gender tried to go into a bathroom they would be arrested.

Greg Tabor, Chief of Police: I agree with what Kit said. I do believe depending on the exact circumstances of the particular incident, that person would be subject to be arrested for disorderly conduct and possibly indecent exposure.

City Attorney Kit Williams: This is my interpretation also and I think it would be the interpretation of the City Prosecutor who works in my department. I don't actually see this as likely to occur very often. Disorderly conduct and indecent exposure is one of the most commonly charged crimes in the United States. It will continue to occur whether or not we pass this ordinance. This ordinance would not be a shield for someone who tries to say you can't arrest me because of the ordinance. State law is not affected by our ordinance. In my memo I suggested that even though that is correct, it might be better for the City Council to adopt an amendment to make it clear this ordinance has no intent to allow that kind of behavior.

Alderman Petty explained the second amendment he was proposing is what City Attorney Williams just stated. Alderman Petty read each amendment verbatim.

Alderman Petty Amendment 1

Alderman Petty moved to amend the ordinance as follows: 119.07 Exemptions: Strike (I) and replace as follows:

- (I) Nothing in this Chapter shall be construed to require any religious or denominational institution or association to open its tax exempt property or place of worship to any individual or group for any ceremony or meeting, except for any activity or service that is supported in whole or part by public funds.

Alderman Long seconded the motion.

Alderman Petty Amendment 2

Alderman Petty moved to amend the ordinance as follows: 119.07 Exemptions: Adopt a new (J) as follows:

- (J) Designating a facility as a gender-segregated space shall not be a violation of this chapter. Nothing in this chapter shall be construed as allowing any person to enter any gender-segregated space for any unlawful purpose.

Alderman Marsh seconded the motion.

Alderman Tennant: I have an amendment to send this to the public for a vote. I believe by adding this to the ordinance itself, whatever final ordinance we come up with after amendments, moving it to the public and the general election is the right thing to do.

Alderman Tennant Amendment 3

Alderman Tennant moved to amend the ordinance to send the final ordinance to a vote of the people. Alderman Schoppmeyer seconded the motion.

City Attorney Kit Williams: This would be substituting for the current enacting ordinance which would enact the code section into the Fayetteville code and change it instead into a referral ordinance.

Mayor Jordan: How would you replace one for the other?

City Attorney Kit Williams: You would amend the first one and it would be replaced by this one if that passes, then this would be the ordinance that would be the operative ordinance.

City Attorney Kit Williams read Alderman Tennant's proposed amended ordinance.

Alderman Tennant: There are three reasons I came to this decision to try to put this amendment together. The first one is the overwhelming response I have received for this ordinance on both sides. It has been a huge vision into the people of this city when I saw most of them don't want to discriminate. They don't want the negativity that comes with that. They really like some of the parts of this ordinance, but some of them have problems with other parts of the ordinance. With the thousands of emails and hundreds of phone calls I've gotten, I think the people have spoken, at least to me, from both sides that want their voices heard. I have seen polls conducted showing support for this and polls showing no support for this. The best thing about tonight is we will

amend this to whatever final ordinance we have and we hand that to the people in the general election.

What is our responsibility as a City Council? Isn't this our responsibility? The majority of the times it is. I've never had anything happen on this Council where our decision wasn't justified. In this particular case, you've got a massive amount of people who wish their voices to be heard on both sides. Another reason we should do this is because it would give people several months to look at the final ordinance and have discussions and debate. At the end of the day we don't own the democratic process that belongs to you. You can take your right to vote no matter what we do tonight. I know there is a movement already to get a citizen petition together if we pass this and don't send it to the voters to get this on an election at a separate time.

Alderman Tennant explained the process of getting the ordinance on the general election. He explained the process of a special election and the cost associated to taxpayers for a special election. He stated he believes in the City of Fayetteville more than ever. He stated Mayor Jordan has said many times that this is a partnership between the people and the government. He stated he knows no better partnership than as elected officials to listen to their constituents, have hours of meetings and put together a document they believe the public should vote on.

City Attorney Kit Williams: We can get it to the County Clerk in time to meet the general election if it is passed tonight.

Alderman Long: If this position were to pass tonight or if it were to pass in the general election, what department would this fit under? Do you know?

Mayor Jordan: I do not. Tomorrow I am going to Jonesboro and when I get back I will meet with staff to make a determination where it goes, depending on what happens here tonight.

Alderman Long: This is more of a legal position. A lot of times this is under the City Attorney's office and currently we have it under the Mayor's office. I wanted some clarification on why this would be under the executive branch instead of the judicial branch.

City Attorney Kit Williams: The reason for that primarily is I have a very small department. The City Prosecutor is in my department, so there might be a perceived conflict of interest if my department was initially investigating it and then sending items to the City Prosecutor. People might feel like he would not be able to use his full discretion. The Mayor has all the other employees except for some that work for the City Clerk and the Judge, both are elected. It is appropriate for this to be done by the administration. It is an administrative duty. There are no legal duties and no analysis of whether or not someone has a cause of action.

Mayor Jordan explained the rules regarding public comment. He requested all Fayetteville citizens speak first. He stated all amendments will be discussed first and then after the amendments, the ordinance as a whole will be discussed.

Anne Shelley, 774 South Cherry Lane stated she is in favor of amendment 2. She spoke in opposition of amendment 3.

Alderman Tennant stated if we gave people a chance over the next two months to educate themselves it would clear up misconceptions and create a better community.

Anne Shelley stated she appreciated Alderman Tennant's words and would welcome any educational forum.

Joshua Crawford, 1705 North Sang stated he doesn't believe amendment 1 goes far enough. He spoke in opposition of amendment 3.

Laura Hampton, 920 North Leverett Avenue stated amendment 1 and 2 clears up a tremendous amount of misinformation. She spoke in opposition of amendment 3.

Jim Newberry, 1658 North Willowbrook Drive stated he liked the comments about taking this to a public vote.

A discussion followed clarifying amendment 3.

John Burnett, 4597 East Davis is in favor of amendment 3.

Joseph Collins, 1434 North Lunsford stated he believes amendments 1 and 2 are good and clear up any misconceptions. He spoke in opposition of amendment 3.

Jay Phillips, 2055 South Cline Avenue stated he appreciated Alderman Tennant's conviction in taking it to a vote. His concern is historically the nation does not have a very good track record with putting the rights of the minority up to a vote of the majority. He stated amendment 1 was fair.

Peter Tonnessen, 3500 Hearthstone Drive stated he had concerns about who gets to determine what is taxable, the standard should be broader and protect individuals on amendment 1. He stated amendment 2 concerned him because he thought the purpose of the ordinance was to make it lawful for certain people with gender issues to use whatever bathroom they chose. He spoke in favor of amendment 3.

Alderman Tennant: The reason I want to push this forward tonight is because if we don't, we will miss the election schedule.

Nathan Sutherland Kordsmeier, 833 South Curtis stated it is sad the clarification that indecent exposure would be a crime is necessary. He spoke in opposition of amendment 3.

Alex Hickman, 4300 West Chaparral Lane requested clarification about tax exempt properties on amendment 1.

City Attorney Kit Williams: A tax exempt property is exempted by the County Assessor's office. They determine whether or not a piece of real property is tax exempt. They have various test they

look at. Some of the city's property is tax exempt, but not all of it. This is probably true for churches and other institutions. Most church property is tax exempt.

A discussion followed about the definition of public funds.

Alex Hickman believes amendment 1 and 2 are a good first step. He stated he agrees with Amendment 3.

Jay Parker, 432 North Washington stated he appreciated the clarifications of amendments 1 and 2 even though he doesn't agree with them. In regards to amendment 3, he believes it is important to move forward on the decision and if there is enough outcry against this, let the people bring it to a special election.

John LaTour, 410 North Oliver stated he supported all three amendments.

Gladys Tiffany, 105 North Willow stated she is speaking in support of the vote on amendment 3.

Kaylen, Ward 3 resident spoke in support of amendments 1 and 2. She spoke in opposition of amendment 3.

Jeremy Flannigan, 1736 North Cannondale stated amendment 1 bothers him that it started with the knowledge and intent to take away some of our First Amendment rights. He stated when you take away certain First Amendment rights to just get some of them back, it doesn't instill a lot of confidence. He feels that if the intent was to exempt churches it could have been done with a blanket exemption as has been done with others in this ordinance. On amendment 2 he believes people will use any loop hole and law to do what is not right. He cited a report where a man is transgender who changes in a woman's locker room and is exposed to young children.

Mayor Jordan: That would be illegal even if this passes. Isn't that correct Kit?

City Attorney Kit Williams: In Arkansas it would be illegal.

Jeremy Flannigan: It would be illegal for a transgender person protected under gender identity. He's not exposing himself with the intent to gain a rise out of it. He is a biological man who is transgender, who is now protected by gender identity which is a protected class and he goes into that locker room and unrobes.

Mayor Jordan: The City Attorney has sent us a memo on the laws.

City Attorney Kit Williams: I think he would probably be guilty of disorderly conduct, which can occur if a person recklessly creates a risk of public inconvenience, annoyance or alarm, he or she in a public place exposes his or her private parts. Regardless of why he is doing it, if he recklessly causes this risk of public inconvenience and alarm, then he can be guilty of disorderly contact. Police Chief Tabor agreed under that type of circumstance he would be arrested.

Jeremy Flannigan: If we give him gender identity protected status and he disrobes in a woman's locker room, how is that reckless when he is simply living underneath the protected status we have given him?

City Attorney Kit Williams: State law is much superior than the ordinance we are looking at right now. State law can ignore any city ordinance because it is above us. We can't pass any ordinance that would affect the state law. He could not use a city ordinance in order to do a defense to a state law claim.

Jeremy Flannigan stated he is torn on amendment 3 because as a whole he thinks we should have started from a different base on creating an anti-discrimination legislation.

Lance Reed, 1238 51st Avenue spoke in opposition of amendment 3.

Laurent Sacharoff, 420 East Rebecca Street stated he is in favor of the underlying ordinance, but against amendment 3.

David Garcia, 252 Thompson spoke in opposition of amendment 3.

Janis Walters, West 24th Street: If you go into the wrong restroom with criminal intent that is against the law and it should be. If I go into the restroom, according to this amendment, I would not be breaking the law, is that correct?

City Attorney Kit Williams: If there is no disorderly conduct, then that is correct.

Janis Walters spoke in favor of amendments 1 and 2. She spoke in opposition of amendment 3. She requested to know if there was a question on the wording of definitions 119.02, could that be addressed by the public or does she need to bring that to her Council members first.

City Attorney Kit Williams: The amendments to be proposed must be proposed by the City Council or the Mayor. The public can't propose amendments.

Houston Hughes, 888 West Lawson Street spoke in opposition of amendments 1 and 3. In regards to amendment 2 he stated he does not believe there are any statistics that would indicate there have been more cases of indecent exposure or serial assault in communities that have passed equality ordinances.

Josh McFadden, Ward 4 resident stated amendment 1 is a good step in the right direction, but is so broad and vague and doesn't fix the entire problem. He spoke in favor of amendment 3.

Amanda Kucharski, 650 West Center Street spoke in support of amendment 2.

Fernando Garcia, Adams Street spoke in opposition of amendment 3. He spoke in favor of the ordinance.

Allison Williams, 134 South Locust spoke in opposition of amendment 3.

Anne Hanna Newell spoke in favor of amendment 3.

Reverend Abigail Letsinger, Corner of Maple and Highland spoke in favor of amendment 1. She spoke in opposition of amendment of 3.

Teresa Turk, 1408 West Cleveland spoke in opposition of amendment 3. She spoke in favor of the ordinance.

Alderman Long: On amendment 1 and 2, how do you feel about those?

Teresa Turk: I feel like those are fine amendments to include.

Michael Collins, Giles Road spoke in opposition of amendments 1 and 2. He requested the word fear monger to be eliminated from being used. He spoke in favor of amendment 3.

Mayor Jordan: I don't like name calling. I will eliminate the word fear monger from being used.

Justin Fletcher, 193 West 29th Court stated amendments 1 and 2 are not necessary, but he has no objections to them. He spoke in opposition of amendment 3.

Charlie Collins, 3225 Piper Glen spoke in favor of amendment 3.

John Miller, 1462 North Dawn Drive spoke in opposition of amendment 2.

Natasha Miller, 1462 North Dawn Drive spoke in opposition of amendment 2 and is in favor of amendment 3.

Anthony McKaskle, 730 West Van Gogh Place spoke in opposition of amendment 3.

Jerry Patton, 524 North Shady Avenue spoke in opposition of amendment 1 and 2. He spoke in favor of amendment 3.

David Embree, 1910 North Juneway Terrace stated he has heard the argument of not passing amendment 3 because it would be expensive. He believes ethical actions should not be avoided because of expense. In regards to amendment 2, he stated bathrooms are low security areas and unless security personnel is in position outside of bathrooms and changing rooms there is no reasonable expectation this will be monitored seriously.

Donna Daniels, Ward 4 spoke in opposition of amendment 3.

John Treat, 700 West Cleveland Street spoke in opposition of amendment 3.

Olivia Trimble, 2311 South Cameron Circle stated in regards to amendment 2 we should have more faith in our citizens to do what is right and not be entering bathrooms to molest children.

JoAnn Kvamme, 1982 Greenview Drive spoke in opposition to amendment 3.

Robyn Riggins, 888 West Lawson Street spoke in opposition to amendment 3.

Chris Haas, 2786 Boardwalk Court spoke in favor of amendment 3.

Justine Turnage, resident stated she is transgender and is happy for the existence of bathroom stalls and privacy curtains. She believes she would raise alarm if she was to go into a men's restroom rather than the women's restroom. She spoke in favor of amendment 1. She spoke in opposition of amendment 3.

Lance Brewer, 3054 East Stone Mountain Drive spoke in favor of amendment 3.

Lacount Reber, 3140 North Malinda Drive is concerned for amendments 1, 2 and 3. He doesn't believe things have been handled well. He believes amendment 1 is flawed. He believes amendment 2 will be abused and violated.

Clay Morton, 2919 Dorothy Jeanne Lane spoke in favor of amendment 3.

Anita Shanay, lives east of the Ward 3 boundary spoke in opposition of amendment 3.

Olivia Suzanne Demille, Nonresident of Fayetteville spoke in opposition of amendment 3. She spoke in favor of amendment 1. She stated she opposed the need for amendment 2, but understands people's desire to have it.

Mason Hayes, 4043 North Cadillac Drive spoke in favor of amendment 3.

Joe Fries, 2518 North Sheffield Place spoke in favor of amendment 3.

Doug Paschal, 18518 Duncan Road stated he does not think amendment 1 goes far enough. When speaking on amendment 2, he stated men are men and women are women. He stated how you feel and look at yourself is a personal choice. He spoke in favor of amendment 3.

Kathryn Osborne, 16902 Bethlehem Road, Winslow: On amendment 1, if people do not belong to the church and use the property for various things, does that make us non-exempt?

City Attorney Kit Williams: No, I do not think that would affect your meeting space. The only thing that could affect the churches meeting space would be if you were receiving state, federal or local funds in order to do an event. If you were to do an outreach and you received tax dollars, then at that point for that particular event you would not be able to discriminate. But a part from that I think you all would remain exempt. Alderman Petty, is this correct in your understanding?

Alderman Petty: I think the City Attorney did a fine job of explaining. We have the same understanding of the law.

Kathryn Osborne: Our church has a Christian school and we are accredited by the state. We have lunch programs and so I am assuming we get government money. Does that open our whole school up to a non-exempt status?

City Attorney Kit Williams: I would think if you were receiving state money for that particular school part of your church, and you want to accept state money, then you would not be exempt from this ordinance.

Kathryn Osborne: Could that be exempted because we do pay taxes as Christians and we educate our kids just like everybody else. Our taxes go the public school and I find it unfair and discriminative against me as a Christian. I can't go out into the community in my job according to amendment 1. I'm not understanding why certain people should have every right, everywhere and ours so limited.

Alderman Long: Your question was specifically about the lunch program. Taking that as an example wouldn't that fall under, except for any activity or service that is supported in whole or part by public funds? In that case if it were just a lunch program, would that not mean just the lunch program would not be exempted?

City Attorney Kit Williams: If they restricted who could attend their school and participate in the lunch program, then I think that would probably not be allowed under this. They would be taking taxpayer funds and saying that if you don't pass their religious test, then you could not participate in the lunch program because you could not be at their school.

Alderman Long: Maybe that is a bad example, but say it is the safe driving classes that some private schools may offer. Would that be an example of the one section that the private school would have to follow?

City Attorney Kit Williams: It is only the activity that is supported by tax funds.

Kathryn Osborne believes amendment 1 needs to be addressed further.

Bob Ballinger, State Representative for Eastern Washington County stated if your intent on amendment 1 is to exempt churches, then why didn't you put churches under the exempt status. He stated amendment 2 doesn't really do anything because it is a matter of perception.

A discussion followed about taking classes at private schools under Arkansas law.

Steve Fowler, 4746 Maple Grove Drive stated to try to take the constitutional right and define it into a property description is not right. He spoke in favor of amendment 3.

Keema Wright, 17259 Lake Sequoyah Road spoke in favor of amendment 3.

Randy Alexander, State Representative spoke in favor of amendment 3. He does not believe amendment 1 and 2 solves the problem. He stated just because we perceive something, doesn't mean it is true.

Kerry Fayland Maxwell, Fayetteville resident spoke in favor of amendment 3.

Mike Clark, 1732 North Applebury Place spoke in opposition of amendment 3.

Sasha Canan, 2020 North Levertt Avenue spoke in opposition of amendment 3.

Lexly, 150 South Hill Avenue spoke on opposition of amendment 3.

Rachael Jenson, 281 North Platinum Drive stated it is misogynistic to assume a transgender male to female is going to molest women and children in a women's restroom. She spoke in opposition of amendment 3.

Haley Zega, 1532 East Columbus Boulevard spoke in opposition of amendment 3.

Jennifer Chadbourne, 701 Sycamore Street spoke in opposition of amendment 3.

Laura Phillips, 2055 South Cline spoke in opposition of amendment 3. She spoke in favor of amendment 2.

Emily Williams spoke in opposition of amendment 3.

Sydney Pickle, 1174 West Cato Springs Road spoke in opposition of amendment 3.

Maria Biaz DeHicks, Ward 4 resident stated she was in bewilderment for the need of amendment 2. She spoke in opposition of amendment 3.

Bob Winkelman, 2216 North Old Wire Road spoke in favor of amendment 3.

Unnamed Citizen, spoke in favor of amendment 3.

Emile Phaneuf, 5558 East Ray Payne Drive spoke in favor of amendment 3.

Mayor Jordan closed public comment.

City Attorney Kit Williams read amendment 1.

Alderman Petty's amendment: 119.07 Exemptions: Strike (I) and replace as follows:

Alderman Petty Amendment 1

- (II) Nothing in this Chapter shall be construed to require any religious or denominational institution or association to open its tax exempt property or place of worship to any individual or group for any ceremony or meeting, except for any activity or service that is supported in whole or part by public funds.

This amendment was seconded by Alderman Long. Upon roll call the motion passed unanimously.

Mayor Jordan read amendment 2.

Alderman Petty Amendment 2

Alderman Petty's amendment: 119.07 Exemptions: Adopt a new (J) as follows:

- (J) Designating a facility as a gender-segregated space shall not be a violation of this chapter. Nothing in this chapter shall be construed as allowing any person to enter any gender-segregated space for any unlawful purpose.**

This amendment was seconded by Alderman Marsh. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read amendment 3.

Alderman Tennant: There are a lot of assumptions that are made, some people have said the majority won't support this. I struggle with that a little bit because if we don't let you vote, then it is saying to me that 51% of you, we think, will vote for discrimination. My problems aren't about anything to do with discrimination. It is more of how we enforce it and how we are going to deal with it as a city. It's not the discrimination pieces. People are assuming if we don't send this to the voter's, opposition will rise up and there will be more hate towards those that were discriminated. A lot of people may come up later and oppose this, not because of the discrimination pieces, but other things. I think we will hear that from business people and from a lot of people in the majority that have seen discrimination. To assume nobody in the majority knows anything about discrimination is quite a leap. If you are doing something for all people, you can't make assumptions like that.

Alderman Kinion: I am trying to be open minded about this because I initially had concerns about parts of it. The amendment we are talking about right now would make it very easy for me to pass the buck. I am not that kind of person. Fear will win out truth. Public safety for all is not optional and we need to move forward with this. The rights of the minority, up to the vote of majority is not always fair. The architects of misinformation are often better funded than those that are a disenfranchised minority. The young lawyer that said, "Democracy isn't perfect and fails when the rights of the minorities are an issue", speaks the truth. I am not going to support amendment 3.

Alderman Long: I had considered sending this to the ballot as the best option. If I've ever heard from Fayetteville constituents before, especially in Ward 4, this has been it. I have never had this much public input. Fayetteville and the people who live here have been educating for years and I don't know what two and a half months is going to do for that process. The major point is we have an opportunity to do what we were elected to do, vote on this.

Alderman Petty: It's not always easy to be elected because it is your job to make decisions. I'm voting against amendment 3. I'm not threatened at all about a general or special election because I have faith in the community of Fayetteville. People who have never participated in politics before, register to vote.

Mayor Jordan: In 2003 I was a City Council member from Ward 4. We had a smoking ordinance before us. I heard we could send it to a vote of the people and we had months of debate. It was a very difficult time. The vote was about 50/50 and I couldn't take the easy way out. I was elected to make a decision. I believed in it then. I believe in it now. If I have to vote, I will not vote to send it to the people.

Alderman Tennant Amendment 3

Alderman Tennant's amendment to the ordinance to send it to a vote of the people was seconded by Alderman Schoppmeyer. Upon roll call the motion failed 2-6. Alderman Tennant and Schoppmeyer voting yes. Alderman Kinion, Petty, Adams, Long, Gray, and Marsh voting no.

Mayor Jordan explained the rules regarding public comment on the ordinance as a whole. He requested all Fayetteville citizens speak first.

Peter Tonnessen, 3500 Hearthstone Drive spoke in opposition of the ordinance.

Evan McDonald, Ward 1, Washington Avenue spoke in favor of the ordinance.

Terri Phelan, 1171 North Maxwell spoke in opposition of the ordinance.

Terry Turpin, 7441 White River Ridge spoke in opposition of the ordinance. He spoke of state law pertaining to employment discrimination and quoted section 14-43-601 of the Arkansas code. He stated cities can't make laws on state affairs that conflict with state laws.

City Attorney Kit Williams: In 14-43-601 it addresses a whole lot of things, but it does not list anything about Civil Rights.

Terry Turpin: They do list in the letter (G). Hours, vacations, holidays, and other fringe benefits of employees.

City Attorney Williams: That is not Civil Rights. We are not setting hours, vacations, holidays or other fringe benefits of employees. We are looking at passing a Civil Rights ordinance. A Civil Rights ordinance does not absolutely match a Civil Rights statute in Arkansas and it does not have too because it is not a state affair. When you said they could legislate on those state affairs, if it is not directly contrary too, we don't even have to follow that because it is not listed as a state affair.

The town of Oak Grove case said you have the right to legislate even if there's a mere possibility of harm. There is another thing that was read and it talked about how it had to be something absolutely necessary and vital to the affairs of the government to be able to do it. That was called

Dillon's Rule, but a few years ago the legislature overturned the Dillon's Rule and they said in 14-43-602 the rule of the decision known as Dillon's Rule is inapplicable to the municipal affairs of municipalities. So that case is even stronger now than it was when decided. Now it's not only what's absolutely necessary, but what you and your judgment believe is proper. I'm not going to speak to whether or not you should pass the Civil Rights ordinance. That is not for me to say, but I will say you have authority under the state law to do that. I did not draft all of this ordinance. A lot of this ordinance came from outside the city. I did look at it and in my opinion you do have the power to enact this ordinance.

Terry Turpin: Mr. Williams, I do not even to pretend to be a better attorney than what you are. I would suggest getting an opinion of the Attorney General of the State of Arkansas on this. I do think there are some significant conflicts.

Stephanie Nichols, Jonesboro Attorney: I'm speaking not in my personal capacity. I would like to speak in the portion reserved for Fayetteville citizens because they relied on me to speak on their behalf tonight.

Mayor Jordan: We have not been allowing that tonight.

City Attorney Kit Williams: I specifically asked Mayor Jordan for another attorney who is representing Fayetteville citizens if he could do that and we didn't feel like it was fair. I'm sorry.

Stephanie Nichols: I respect that. I do ask when Council considers the testimony I offer on their behalf, I want you to know they are Fayetteville citizens. I would like it regarded as that.

Paul Phaneuf, 95 North Aqua Crossing spoke in opposition of the ordinance.

Wendy Campbell, Ward 1 spoke in opposition of the ordinance.

City Attorney Williams: There are hundreds of people that want to talk tonight. It is not fair to have people come up and speak for a very long time so that other people might not even be able to speak at all. I would suggest City Council to have some kind of reasonable time limit for speakers.

Alderman Long moved to limit each speaker to three (3) minutes. Alderman Marsh seconded the motion. Upon roll call the motion passed 5-3. Alderman Kinion, Petty, Adams, Long, and Marsh voting yes. Alderman Tennant, Schoppmeyer, and Gray voting no.

Mayor Jordan stated he will watch the clock and let speakers know when they have one minute left.

Margaret Konert, Fayetteville resident spoke in favor of the ordinance.

Mary V. Cochran, 101 West 4th Street spoke in favor of the ordinance.

Laura Hampton, 920 North Leverett Avenue spoke in favor of the ordinance.

Janis Walters, Ward 1 spoke in favor of the ordinance.

Duncan Campbell, Ward 1 spoke in opposition of the ordinance.

Alex Hickman, 4300 West Chaparral Lane: The issue with private schools receiving funding, is that my tax dollars from my property tax or a multitude of different sources?

City Attorney Kit Williams: It would be any tax revenue source. It could be federal, state or local.

Alex Hickman: I can't put my tithe dollars where I want them, because this is basically saying we don't want any of our money to go to somebody who doesn't support this. When we have to hire non-secular individuals in non-secular roles, who pays for that? It's not the tax dollars, it's my tithe dollars that go to that church. No state funds go to the hiring of that individual.

Penelope Starr-O'Berski, 320 Barton Avenue spoke in favor of the ordinance.

Michael Collins, Giles Road spoke in opposition of the ordinance.

Phyllis Rengier, 464 Buchanan spoke in favor of the ordinance.

Gene Fulcher, 8540 West Forest Hills Drive spoke in opposition of the ordinance.

Charlie Watson, 11 East Davidson Street spoke in favor of the ordinance.

Betty Martin, 2825 East Weston Place spoke in favor of the ordinance.

Jon Gheen, 685 North Wilson Avenue spoke in favor of the ordinance.

Jessica Stuckey, 1909 East Overcrest Street spoke in favor of the ordinance.

David Whitaker, 717 North Lewis Avenue spoke in favor of the ordinance.

Keema Wright, 17259 Lake Sequoyah Road spoke in opposition of the ordinance.

Patty Mitchell, 307 East Sutton Street spoke in favor of the ordinance.

Linda Burnett, 805 Sunset Drive spoke in opposition of the ordinance.

John Burnett, 4597 East Davis: I have a garage apartment and I have a tenant renting the space. How does this ordinance affect me?

City Attorney Kit Williams: If you don't discriminate against your tenant it won't affect you at all.

John Burnett: This is my house and on my property. I have three young kids and I have decided not to rent to men. If I am going to do that can I be placed under criminal charges?

City Attorney Kit Williams: It is difficult to tell. It's not the Civil Rights Administrator that makes any kind of final decision. The final decision would be from the elected District Judge.

John Burnett: This is so broad. I am going to face criminal prosecution if I choose to not rent my guesthouse to a man. Is that the case? This is my own personal freedom to do what I want with my own property and this is why I am so opposed to this.

Alderman Petty: There is a general exception for renting rooms out of your home when you are living there.

John Burnett: We don't share a kitchen. It is a separate structure.

Alderman Petty: The answer is yes. You would have to abide by the non-discrimination ordinance if you aren't sharing a kitchen or bathroom.

Justine Turnage, 2130 North Chestnut spoke in favor of the ordinance.

Mayor Jordan: If people ask questions and the City Attorney or a Council member responded to a question, do they get extra time? Do you want me to keep that in the three minute time limit?

Alderman Gray: I would like for you to allow them to have that time.

Alderman Long: I would say yes.

Mayor Jordan called John Burnett back to the podium to answer his additional questions.

City Attorney Kit Williams: It can't be unlimited questions.

John Burnett requested clarification about his rights when renting his guest house on his property.

City Attorney Kit Williams: This is going to be a complaint driven ordinance. If you have somebody that says they want to rent from you and he said I'm not renting to you because you are a man, then that complaint seems valid. If you are not renting to him for no other reason except for gender, then you might be prosecuted.

Alderman Petty: According to current fair housing law for the protected classes that exist under fair housing law you would be subject to the same sorts of protections we are recommending in this ordinance. We are merely extending those to some new protected classes. It is absolutely the case today you could not say to somebody that I will not rent a room to you because you are black, a man or Muslim.

John Burnett: Would I face criminal prosecution under the current ordinance? My understanding is that I would not.

Alderman Petty: This is a criminal ordinance subject to a maximum fine.

John Burnett: This current ordinance. You are saying as the law stands right now it would be subject. I'm asking you as the law stands right now is it a criminal offense?

Alderman Petty: No

John Burnett requested clarification if a man is transgender came into the shower room at the University of Arkansas would it be legal under this ordinance?

City Attorney Kit Williams: The University is not covered at all by this ordinance.

Dwight Gonzalez, Ward 1, Skelton Street: So if private schools get public funds, are they now exempt as all other public schools are?

City Attorney Kit Williams: No. The public schools are exempt because we simply do not have jurisdiction to regulate them. They are regulated by their own school board and by the state. This ordinance as originally presented would have had us regulate them and my opinion was we did not have the power to regulate them. Private schools are still in the power to be regulated and were not removed.

Dwight Gonzalez spoke in opposition of the ordinance.

Aly Kirkpatrick, 3577 East Madison Drive spoke in opposition of the ordinance.

Lisa Stuart, Fayetteville resident spoke in favor of the ordinance.

Kyle Smith, 2801 Dove Drive spoke in favor of the ordinance.

John LaTour, 112 West Center Street spoke in opposition of the ordinance.

Lowell Grisham, 310 North Washington Avenue spoke in favor of the ordinance.

Josh Waters, Ward 4 Rockford Drive spoke in opposition of the ordinance.

Mireya Reith, 1819 North Hunters Ridge spoke in favor of the ordinance.

Noah Meeks, Skyline Drive spoke in favor of the ordinance.

Greg Jones, Wedington Drive spoke in opposition of the ordinance.

Jeremy Flannigan, 1736 North Cannondale spoke in opposition of the ordinance.

Dale Manning, North Valencia spoke in favor of the ordinance.

Leslie Belden, 504 East Lafayette Street spoke in favor of the ordinance.

Caitlin Draper, 2902 East Sterling Court spoke in favor of the ordinance.

Lynn Loyd, 106 North Palmer spoke in opposition of the ordinance.

Houston Hughes, 888 West Lawson Street spoke in favor of the ordinance.

Eulalia Griffith, North Chestnut spoke in favor of the ordinance.

Jordan Ivy, 2501 West Megan spoke in favor of the ordinance.

Cathy Campbell, 1744 North Walnut spoke in favor of the ordinance.

Fernando Garcia, 650 Adams Street spoke in favor of the ordinance.

Jim Parrish, 2899 Hay Meadows Road spoke in favor of the ordinance.

Nick Crump, 578 North Scottsdale Drive spoke in favor of the ordinance.

Will Watson, Ward 1 spoke in favor of the ordinance.

Mike Emery, 2884 Wildwood spoke in favor of the ordinance.

Eugene Kovac, Fayetteville resident spoke in opposition of the ordinance.

Sonia Davis Gutierrez, 127 East Conner Street spoke in favor of the ordinance.

Katelyn, Ward 3 spoke in favor of the ordinance.

Joshua Crawford, 1705 North Sang spoke in opposition of the ordinance.

Olivia Trimble, 2311 South Cameron Circle spoke in favor of the ordinance.

Josh Irwin, Ward 1: If this ordinance is passed, will the city government be subject to its policies?

Mayor Jordan: Yes.

Josh Irwin: If this ordinance is about fairness, then there is nothing wrong with taking some time to be fair. Mature leadership is not rash leadership. It is a leadership that considers every option.

Alexander Ross, 1622 North Garland spoke in favor of the ordinance.

Michael Andrews, Ward 4 resident spoke in favor of the ordinance.

Keith Cooper, Ward 1 spoke in opposition of the ordinance.

Laverne Cooper, Fayetteville resident spoke in opposition of the ordinance.
David Williams, 547 Gray spoke in favor of the ordinance.

Pattie Williams, 547 Gray spoke in favor of the ordinance.

Kaleb Allee, 4548 West Lofty Wood Drive spoke in favor of the ordinance.

Lacount Reber, 3140 North Malinda Drive: Has this ordinance gone through the full and normal review that all other ordinances go through?

Mayor Jordan: Yes. This has gone through three readings like any other ordinance.

Lacount Reber: In reading through the first section I'm confused when it talks about real or perceived race. What does that mean?

Alderman Petty: When you look through federal law the real perceived language is used over and over again. It has been relied on for a number of decades. There are dozens if not hundreds of cases in the case law that rely upon that language. A careful reading of the ordinance shows that language is included to actually catch discrimination based on true perceptions and discrimination based on mere perceptions.

For instance, right now it is legal in Fayetteville for an employer to fire somebody for simply being gay. With this ordinance it would be illegal to fire somebody for being gay. It would also be illegal to fire somebody who is straight that an employer merely thought was gay.

Lacount Reber: I asked about race.

Alderman Petty: The same thing applies for race.

Lacount Reber: I can perceive what race I want to be?

City Attorney Williams: If somebody perceived you as a race they wanted to discriminate against, even though you weren't that race, it would protect you.

Alderman Kinion: When I have to fill out an application for a home mortgage, a person does not have to tell me what their race is. It is a law I have to put what I think their race is. It is my perception. It is a federal law because they want to make sure we aren't discriminating against any ethnicity.

Lacount Reber: I can perceive what race I want to be?

City Attorney Williams: It is in the eyes of the beholder, not you. It is how somebody would perceive you. It's not what you would perceive yourself to be.

Lacount Reber: Do you think it is fair for private schools to be singled out when public schools are exempted from this law?

Mayor Jordan: That will be a determination of the City Council.

Lacount Reber: Will my freedom of speech be protected to preach outside the four walls or outside the church property?

City Attorney Kit Williams: This ordinance would not in any way limit your freedom of speech or expression of religion. Political and religious speech are protected.

James Rector, Ward 2, North School Avenue spoke in favor of the ordinance.

Jeff Patrick, 1200 South Duncan Avenue spoke in favor of the ordinance.

Mayor Jordan: That is all the residents of Fayetteville and now we will take comments from outside the city.

Terry Forsythe, Combs resident spoke in opposition of the ordinance.

Travis Story, Fayetteville business owner spoke in opposition of the ordinance. He requested to know the penalty, if submitted to the prosecutor, someone would be charged with.

City Attorney Kit Williams: It would be like any other zoning violation. A maximum fine up to \$500.00. It is up to the judge to determine, if guilty is found. The burden would be on the City Prosecutor proved beyond a reasonable doubt that the ordinance was violated.

Travis Story: There would be no chance of jail time?

City Attorney Williams: No.

Stephanie Nichols, Jonesboro Attorney representing 12 Fayetteville churches with a total membership of over 10,000 members, many local citizens and a group of veterans spoke in opposition of the ordinance. She requested to know what the criminal record would look like for somebody convicted under this ordinance.

City Attorney Kit Williams: It is not a misdemeanor. We are a low level of government, it is only a violation. To have a misdemeanor it has to be a violation of a state statute.

Stephanie Nichols: If someone did a background check what would it look like?

City Attorney Kit Williams: I'm not sure, but I think it might be part of their criminal record. It is a criminal violation all though the lowest in the law.

Paul Caldwell, Lowell resident spoke in opposition of the ordinance. He requested to know if there was a penalty if he chose to not pay the fine.

City Attorney Kit Williams: If you refuse to pay the fine and the judge determines you had the capacity to pay the fine, then you can be jailed for that.

Paul Caldwell: Can I ask for a gender orientation roll call of the Council?

Mayor Jordan: No, you may not.

Paul Caldwell: In order to not offend anyone as I addressed them, I would as a pastor before I preached anything outside my church property ask the gender identity of each individual to not violate the ordinance.

City Attorney Kit Williams: I believe this ordinance has no effect on someone's freedom of speech or religion. If they could preach before this ordinance on the street corner, then you can do that also after this. Freedom of speech and religion is the First Amendment of the constitution. We all have to comply with that too.

Paul Caldwell stated there is a lot of confusion about perceived perception. He requested to know if he preached homosexuality and transgender were wrong and someone got offended, would he be in violation of the ordinance.

City Attorney Kit Williams: No, you would not.

Paul Caldwell: How soon will this take effect once you vote it in?

Mayor Jordan: 31 days.

Marshall Ney, Rogers lawyer stated he was there on behalf of credit providers, builders and landlords who operate in the City of Fayetteville. He requested if the ordinance passed to remove the term socio-economic status from the definition of discrimination or give City Attorney Williams the authority to negotiate with him or someone else to tighten it up.

City Attorney Kit Williams: In the definition of discriminate it does not say socio-economic status. It says socio-economic background, which means where someone came from as opposed to where they are right now. It is obvious banks are not going to be required to loan to people who do not have the ability to repay. That is not the intent of this. They don't want banks to discriminate because of someone's background, but not their current status which is quite relevant and necessary to be taken into account by financial institutions. I would be happy to talk you about this on Thursday.

Marshall Ney: A credit report by nature is background. It is credit history. I do believe there is some tightening of the language we could do to avoid the dynamic of the fact that a credit report today is based upon my history. How I have performed in the past will determine my score for today. This law would preclude me from using that background in making a decision of whether to rent or loan.

City Attorney Kit Williams: I did address that issue with the attorneys for the Campaign for Human Rights. The way they explained it had nothing to do with the current status of the individual, but just their basic history in the past. On Thursday we might resolve this by some clear definitions and how we are going to follow this as a policy.

Marshall Ney: Do you see in the law where they add things like bona fide occupational qualifications to give specific exceptions and maybe there would be a way to add an exception or explain that further. I don't expect a Circuit Judge in Washington County would rely too heavily upon the drafters of this as opposed to the four corners of the language.

City Attorney Kit Williams: I think they certainly would be able to rely upon the legislative intent of the City Council and how I've explained what the legislative intent behind this is. It is not to hamstring the banks to be able to check someone's current socio-economic status, but rather looking at their history.

Vincent Xavier, Decatur, AR spoke in opposition of the ordinance.

Anita Shay, Lives 300 yards away from Ward 3 spoke in favor of the ordinance.

Tim Stalts, Fayetteville business and land owner spoke in opposition of the ordinance.

Rebecca Hopkins, Springdale resident spoke in opposition of the ordinance.

Dale Hopkins, Springdale resident spoke in opposition of the ordinance.

Floyd Reed, 1941 North Pine Valley Drive spoke in opposition of the ordinance.

Anne Shelley, 774 South Cherry Lane spoke in favor of the ordinance.

Logan Reber, Fayetteville resident spoke in opposition of the ordinance. He requested to know if he is having a conversation with someone and something is overheard, but not excessively hateful, would he be subject to prosecution.

City Attorney Kit Williams: No. This does not affect your freedom of speech.

Aaron Gibson, Ward 3 resident spoke in favor of the ordinance.

David Garcia, Ward 2 resident stated he is concerned how we move forward as a community because painful words had been spoken at the meeting. He believes it is easy for people on both sides of the issue to become angry and hurt and hold bitterness in their heart.

Tim Dahms, 1787 Chestnut Avenue spoke in favor of the ordinance.

Steve Curtis, 16092 Pin Oak Road spoke in opposition of the ordinance.

Mark Nichols, Jonesboro, AR spoke in opposition of the ordinance. He requested to know how the ordinance would deal with a wedding singer who was approached to sing at a wedding that violates their conscious.

City Attorney Kit Williams: There is provision in the general exceptions that says if a party asserts that an otherwise unlawful practice is justified as a permissible bona fide religious or denominational preference, that party shall have the burden of proving the discrimination is in fact a necessary result of such a bona fide condition. This was put in for the situation like you just discussed. This would potentially be available to a photographer as well as a singer. When you get farther away, such as a baker, you might have a little bit more difficulty asserting their religion will not allow them to bake a wedding cake.

Mark Nichols: There are cases in the country where citizens are losing their ability to provide for their family such as a photographer or a wedding cake maker. They are being fined thousands of dollars and losing their business over this.

Aubrey Bachman, Fayetteville resident stated you can't legislate love and the Fayetteville community needs to communicate.

Alderman Petty: I want to talk about the origin of this. I was elected in 2008 and in 2009 was the first time I talked to city staff about bringing something like this forward. In 2011 I did that again. In 2013 we had a new organization in town called the Northwest Arkansas Center for Equality, which I thought would be a strong ally for doing something like this. I reached out to them and they indicated the timing wasn't quite right. I reached out to them again this year and they were ready. I asked if they had resources to help us look at what other cities had done and they did and that's how the Human Rights Campaign came in. This is a very typical process. Any kind of ordinance we do we almost always try to seek out what other cities have done so we don't have to reinvent the wheel.

I was shocked when I was running for office the first time that discrimination was still legal. I don't think until we had this conversation that most people in this city realized it was legal to fire somebody for being gay. It is important to close that loop. This is what we are trying to do with this ordinance. Every part of this ordinance is well researched. The City Attorney office poured over it and we changed a lot about the model ordinance before it ever came to the Council. We took almost four weeks to do that. Words like socio-economic background are well researched and the case law supporting the language of this ordinance is extensive. I believe it is quite defensible. More than 200 hundred cities and counties have policies similar to this where they protect against sexual orientation, discrimination on the basis of that or on gender identity. I understand there may be some fundamental disagreement with both sides of this issue about whether or not identity issues are even issues at all. I believe they are and that is one of the reasons I brought this forward.

The stories we have heard tonight, which have been courageous in their telling are self-evident those are issues. It's not just cities and counties, it is 18 states in the District of Columbia, 49 of the top 50 American companies have a similar policy. In Arkansas, Dillard's, Walmart and the University have similar policies. The argument that it might be bad for business makes me wonder when people are going to start predicting the economic crash of San Francisco. As a Council

member we need to think bigger and more fundamentally in terms of economic development. We still complain about Cracker Barrel. I don't understand why we aren't thinking about big tech next generation companies that require political infrastructure.

I started this night by reminding everybody we all have something in common, especially these questions like why I am here and how can I be a good person. Today for the first time in my six years I brought a picture of my family to remind me why I was doing this. We have heard this should be the purview of the state or the feds and it is wrong for the city to take up an issue like this, but I know as elected officials we have a responsibility to protect our citizens. The fact is a lot of discrimination that is out there is still legal. I ask myself the question, how can I be a good person to the next generation and I think this is one of those ways. For that reason and the stories we have heard tonight is why I brought this forward.

Alderman Tennant: This ordinance has created a lot of conversations for all of us. It has shown me a great vision into this city. I have shared with many people my beliefs. I have talked to a lot of people who thought I had certain beliefs as we were talking and the conversation shifted mid gear. I surprised some people when I told them some of my best friends are gay. I was a little kid and moved to a small town in New Mexico where I was a part of probably 2% that were not Hispanic, they hated me, it was horrible and I felt the pain. This is not about Civil Rights to me and it's certainly not about discrimination. I don't think people in this town for the most part discriminate against very many people. I know it exists and I do not pretend to think I have been through something better, worse or equal too. I respect you for who you are and you respect me for who I am.

My issue with the ordinance is not about the Civil Rights part. It is about the process that will be involved. The first thing I thought when I read this was this ordinance expects us to hope for the best, that this administration will find someone qualified and adequate for its citizens to be this Civil Rights Administrator. It bothered me from the first moment I read it and it bothers me even worse now. I asked Mayor Jordan last week who this person would be and their qualifications. I was told we haven't gotten that far yet. Alderman Petty said a Division Manager with the city might have a higher level of influence than that of the Civil Rights Administrator. That bothered me greatly.

If I was a small business owner with five employees and somebody come in and wanted a job and I didn't have a job that day, then they could run to the City Administrator. The City Administrator is going to have a full time job in the city, but we are going to dump an entire full time work load on them. It is easy to say now we don't think it is going to be very bad. I don't believe that. We have frozen positions we don't want to fill and we have firemen that are not being paid what they are worth. If we are going to do this right we have to create head count. If I am a small business owner and on their whim they decide to prosecute me and those guys at that desk get the FOIA document and the next day I am in the paper being investigated. Not that I was found guilty or innocent of anything, but that I am being investigated. Social media then says don't go to that guys sandwich shop because he discriminates. I don't want to do that to our businesses. I can't do that.

I am being asked to trust the administration to figure this all out and all of you are being asked. This is not a personal attack on the administration. I think it is difficult for anybody. I'm not

capable of doing it and I don't know if there is anyone under this roof capable of doing this. I have a disability and I do not want this law. I think true leadership is not about slogans and titles. It's about actually knowing how you are going to do something and then following up at the end and doing it successfully by planning for it. I don't see a plan and you don't act until you have a plan in place.

The research I saw showed some cities to have governing commissions and staff with investigators that do similar things. Each of the cities have less coverage than this ordinance. We would have one of the broadest ordinances in the country and we think this is a good idea to burden an existing employee with this responsibility. I would rather vote this down and build a Civil Rights Commission, not with a criminal proceeding, but an idea of partnership, communication and open and honest government helping people. Not an open and honest government that puts their foot on somebody that may or may not have ever done anything wrong. I don't think this will help us regionally. It will drive a wedge between us and our neighbors to the north. I believe in the spirit of this, but this is an overreach. I agree with Alderman Petty that Fayetteville can think big and I believe we already do. This way of thinking big will harm a lot of people and businesses.

Alderman Kinion: I am unafraid to go and take the first step. I think we are prepared in our city. I have full confidence in our administration that we can get this taken care of. I have been quoted before by saying, if you think there isn't a problem in this city, then there's not going to be a big problem with the work load in the city. I really do believe that. I do think there will be instances where we will have to look into some discrimination. There is evidence of discrimination as we have seen with the courageous outpouring of individuals that have come and revealed some of their most intimate fears.

As an elected official in our city we must look out for the safety of all individuals. That is why we must take this step forward bravely and do it with immediacy. It would be wrong if we didn't find a way to fund this if someone's safety was in question. I see that someone's safety is in question. We must admit there is the possibility of an unsafe environment for individuals that must be protected. If you say there is not a process that is wrong. There are already protected classes and processes for these protected classes. All we are doing is expanding the class of protection for individuals that came here one after the next saying, please protect me, I am a minority. You can't depend on the majority to look out for the minority. It is our responsibility as an elected official to look out for the minority and the people that are disenfranchised and disengaged, that do not have the economic opportunity to come out and fight for themselves.

It is with a great deal of passion I support this. It is a brave move for Alderman Petty to bring this forward. I was approached by the Human Rights Campaign and I am on the Advisory Board of the Northwest Arkansans Center for Equality. I was too chicken to do it and I am a gay man. I knew it was going to be divisive and polarizing in the community. I had seen this happen before and I was not brave enough at that point to step forward and say this is the right thing to do right now. I don't want to wait anymore. I will be supporting this and I encourage my other City Council members to support it.

Alderman Gray: It is the right thing for us to do and this is the starting place. We aren't saying this ordinance is perfect. Many times we pass ordinances we have to modify. We may need to do

that. It is time and we don't need to prolong it any longer. I am so embarrassed we are one of two states in the nation that does not have a Human Rights Commission. I'm hoping our movement will make our state realize we have a need for this. I want folks who feel mistreated in our city to have someone to report it to in our City Hall.

I agree with Alderman Kinion that we can handle this. I have been amazed at the amount of support in emails, phone calls and text messages on this issue. I am very proud of the people of Fayetteville for the way they have raised their heads and shown their strength for this situation. I have no problem with not having all the answers at this very moment. We have a fine administration and a hard working City Council. We will make this work because we see the need for it. I will support this.

Alderman Marsh: Our administration has a really good track record of hiring professional, well qualified staff supporting them in the execution of their duties and holding them accountable to the standards this city sets forth. When we have passed ordinances that were not as effective as we wanted or saw opportunities for improvement, we have gone back and revised them. We have a really good starting point here. If we do have unintended consequences, I have good faith in this Council we will go back and address them.

I want to address professionals that may have religious objections to performing certain services. In my career I have done a lot of architectural design for communities of faith, chapels in particular. I have designed religious furniture for denominations that preached things I found offensive. My job was to design the sanctuary, not sanction the teachings within. This is a professional service I provided with integrity. Baking a wedding cake does not equal sanctioning a marriage. It is a professional service.

I grew up in a sundown town in Arkansas. I remember the first time I saw an African American person. We went to Little Rock to be in a parade. Someone very dear to me said, "Hey look at that guy, he fell into a mud puddle." This is the environment I was raised in. It wasn't until I went to 4-H camp and had to share a room with African American girls that I learned they were just like me and discrimination was wrong. Being put into that position I could relate to the humanity of a person who is different from me. I was able to evolve and be a better person. I lived here during the Human Dignity resolution debate. I was just out of high school and marched in support of human dignity. When it was defeated it was a signal to me to go somewhere else and that this wasn't a town I wanted to stay in. I left and went to a much more liberal place where people were more accepting. I don't want the failure of this ordinance to drive other young people away.

I hear a lot of arguments that we should think about the family. My step brother is a gay man and an accomplished Broadway actor. He could perform at the Walton Arts Center, but be denied a hotel room or meal at a restaurant and have no legal recourse. This bothers me. If there is one message I want to send tonight to the children of Fayetteville is that you are all valued and you are all equal. I want you to grow up in a community where you feel safe and loved to be exactly who you are. I support this ordinance because I want to live in an inclusive community where all are valued and all have equal rights.

Mayor Jordan: For my qualifications in handling this is in the next 31 days. We had a six million dollar ice storm and there wasn't anybody who told me how to handle that. I figured it out and did it within about 3 months and had it all cleaned up. We had 22 months of a recession where this city averaged almost 3% to 4% down. I did not raise anybody's taxes and I handled the job. As for the business license, we did not put on any extra staff and we figured it out. The no soliciting ordinance, we figured it out. Myself, staff and Council will figure this out in 31 days.

In 2010 I did a proclamation for the gay and lesbian community. I received 1,800 emails from a lot of outside entities that did not want me to deliver the proclamation, but I did. I believe everybody should have the same rights as everybody else. I have received 1,200 emails in the last week, not counting phone calls. To those of you who have been in opposition of this, I want to commend you because about 95% of those were not mean emails. I want to thank my staff. I have secretaries who have taken about 400 phone calls in the last 3 days. Pam, Bonnie and Lana have done a fantastic job. I want to thank our City Attorney for the advice he has given. Thank you to Sondra Smith, her staff and all the phone calls they have handled. They have done a fantastic job. Thank you to the people for weighing in on this situation.

We have three classes of people that are not protected by the 1964 Civil Rights law and I think it is wrong. We know 18 states in 200 cities have passed legislation. I believe we need to be one of those cities too. I heard 18 stories of discrimination tonight. People say we don't have any issues with discrimination, but I hear about discrimination. In the present day we live in I see a lot of turmoil, anger and fear, but I see a better day. I see a day of love, peace and hope. I see a day where we don't put labels on people and we are all citizens under the same umbrella of the constitution of the United States. I see a day where everyone is judged by their character. We see many of our citizens who have been excluded from the table of equality. I believe it is time for everyone to have a place at that table no matter where they come from, what they believe or who they love. When we accomplish that, then we can truly hold hands and sing, Land of the Free and Home of the Brave and actually mean it. I have spent most of my life fighting for equality, diversity and inclusion. Without equality, diversity and inclusion there is no freedom for anyone. I am going to stand for that freedom as the Mayor of this city.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Kinion, Petty, Adams, Long, Gray, and Marsh voting yes. Alderman Tennant and Schoppmeyer voting no.

Ordinance 5703 as Recorded in the office of the City Clerk

2015-2019 Capital Improvements Plan (CIP): A resolution to adopt the 2015-2019 five-year Capital Improvement Plan. ***This resolution was tabled at the August 5, 2014 City Council meeting to the August 19, 2014 City Council meeting.***

Alderman Adams invited City Finance Director Paul Becker to a Ward 4 meeting to talk about the budget.

Alderman Long moved to table the ordinance to the September 2, 2014 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the September 2, 2014 City Council meeting.

New Business:

VAC 14-4780 (1414 S. Happy Hollow Road): An ordinance approving VAC 14-4780 submitted by Blew & Associates for property located at 1414 S. Happy Hollow Road to vacate existing street right-of-way.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services: Mayor, rather than present this tonight I ask you to leave it on the first reading and we will present it in two weeks.

This ordinance was left on the First Reading

VAC 14-4777 (McConnell and Drake): An ordinance approving VAC 14-4777 submitted by Jorgensen & Associates for property located at the northeast corner of McConnell and Drake to vacate an existing street right-of-way and portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services: This applicant is not under a time constraint so we would prefer to present it at the next meeting and leave it on the first reading.

This ordinance was left on the First Reading

VAC 14-4768 (Arlis Herriman 2622 East Golden Oaks Road): An ordinance approving VAC 14-4768 submitted by Arlis Herriman for property located at 2622 East Golden Oaks Road to vacate a portion of an existing utility easement, a total of 275 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He stated the applicant is awaiting a building permit and would request consideration of all three readings tonight. Planning Commission recommended unanimously as did staff to vacate this portion of utility easement.

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

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh 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 5704 as Recorded in the office of the City Clerk.

VAC 14-4776 (3535 North College Avenue): An ordinance approving VAC 14-4776 submitted by Jorgensen & Associates for property located at 3535 North College Avenue to vacate an existing utility easement, a total of 6,300 square feet.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He stated this is the development site of the future Whole Foods so we would request this item be considered tonight in order to continue our construction plan review. Planning Commission recommended unanimously and staff is in support of the vacation request.

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

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh 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 5705 as Recorded in the office of the City Clerk.

Gulley Land Purchase: A resolution to approve the attached Offer and Acceptance Contract in which the City agrees to purchase about 11 acres of land including two houses and any outbuildings from Mary L. Dunn for the amount of One Million One Hundred Thousand Dollars (\$1,100,000.00), to authorize Mayor Jordan to sign all necessary documents for this purchase and to approve the attached budget adjustment.

Alderman Gray moved to amend the agenda and move the Gulley Land Purchase to before Unfinished Business. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

The following item was moved to before Unfinished Business for discussion.

Alison Jumper, Park Planning Superintendent gave a brief description of the resolution.

Alderman Tennant: Can you give the public the appraised value of the houses?

Alison Jumper: About \$330,000.00.

Alderman Tennant: We are hoping to use that money to go back into what we have spent on it. The family has been very generous in taking their time to let us get our situation together to make this happen. There were a lot of people that wanted this land and the family thought it was best to go the city and I couldn't agree more. Gulley Park is a treasure. The fact we have this opportunity and the family was nice enough to work with us is important to pass this tonight so they can move on. They have done their part and we need to do ours. I hope the Council will agree with me on that.

I have talked to a few people over there, that were part of a couple of groups to get attention to this, when we didn't know where the land was going to go. They have said they will participate in these planning sessions after the land is purchased and possibly see the community come together and do some of the work that was slated to be paid for.

Ben Putman, 353 Rolston Avenue stated he helped to form Friends of Gulley Park to advocate the purchase of this land by the city. He stated he grew up near Gulley Park and it means a lot to him. He stated the number one guiding principle of Fayetteville's vision for 2020 is a naturally beautiful city. He stated financial contributions have been made by private citizens.

Max Mahler, 2408 North Robin Road stated he loves Gulley Park and it has been incredible to see the support from everyone.

Wade Caldwell, Fayetteville Citizen stated he received a \$35,000.00 matching grant from two citizens.

Bob Caulk, Fayetteville Natural Heritage Association stated Gulley Park is on an Enduring Green Network Corridor that is very important. He stated the Fayetteville Natural Heritage Association has made a pledge of \$130,000.00 to make up the difference between the \$970,000.00 and the \$1.1 million.

David Mix, Broker stated there have been four offers on the property and Mrs. Dunn has tabled all four because she wants the City of Fayetteville to have it.

Alderman Gray: This feels like one of those wonderful Mt. Kessler moments. The absolute high of my seven and a half years of serving on this fabulous Council. When Wade Caldwell and Bob

Caulk started talking to me about this, I thought where is that money going to come from. It happened and I am so happy to be a part of Fayetteville where we see that we have to seize opportunities when they are there. I will be supporting the purchase of this acreage.

Alderman Marsh: This is a great opportunity. I feel we are rushing into it a little quickly. I understand there is a tight time frame on the part of the owners of the property. I've received a lot of emails wanting to expand the park, citizens who are asking for splash pads and would like to see more infill development in that area. If we do move forward with this, I know we plan to sell the two houses. Is there anything that would keep us from being able to sell a slightly larger portion of it in order to generate the funds to build the splash pad or offset some of the other maintenance cost? I don't know if that is something we need to do, but is it an option that would exist?

The process we are using on the Tyson site where we did a lot of community input sessions and identified what the neighborhood wanted to see there and we are going to be sending out Request for Proposals and looking for development that fits that public benefit. I want to make sure we aren't ruling out possibilities in our rush to take advantage of this opportunity.

Alderman Tennant: To the park staff, you don't have a definite plan for this land. It is mainly get it first and then come up with a plan?

Alison Jumper: Correct.

Alderman Tennant: Couldn't her idea be a part of that process and we will have input sessions?

Alison Jumper: Yes. It will be open to the public and that can be a part of the discussion.

Alderman Marsh: I want to make sure by accepting the money from all these groups that are pledging to help, that we aren't tying our hands and keeping open the possibilities.

Alderman Tennant: I don't think the money they are giving you is earmarked for a certain thing. We get the land first.

Alison Jumper: Yes and then through the approval of the five year CIP that you will be discussing later.

Mayor Jordan: We have been working on this for several months and we made an offer. I am bringing it to you and leaving it up to you all. I think we need to move it along, but if you all want to wait we can.

Alderman Marsh: I would like to move it along, just as long as we aren't tying our hands by doing that. I think this is a good opportunity, but we should keep an open mind to the possibilities for this land.

Alderman Tennant moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 157-14 as recorded in the office of the City Clerk.

City Council Agenda Session Presentations:

Economic Development Quarterly Presentation –Chung Tan, Chamber of Commerce

City Council Tour: None

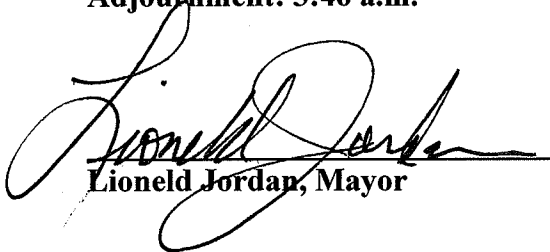
Announcements:

Don Marr, Chief of Staff: Monday, August 25, 2014 at 1:00 p.m. there will be a groundbreaking for our Entertainment District Parking Deck. We would like to invite all the Council. We will meet at the building just off Center which is the old Walton Arts Center Administrative Offices.

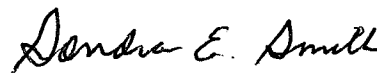
City Attorney Kit Williams thanked the Fire Chief, Police Chief, Fire Department and Police Department for doing a great job in handling the giant crowd. He stated we had no problems.

Mayor Jordan stated Sondra and I are going to a Municipal League meeting at 7:00 a.m. in Jonesboro.

Adjournment: 3:46 a.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer