

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 November 18, 2014

A meeting of the Fayetteville City Council was held on November 18, 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, 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.

ABSENT: Alderman Sarah Marsh

Pledge of Allegiance:

Mayor's Announcements, Proclamations and Recognitions:

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Financial Report - 3rd Quarter 2014, Paul Becker, Finance Director.

Paul Becker, Finance Director gave the 3rd Quarter Financial Report for 2014.

Agenda Additions: None

Consent:

Approval of the November 6, 2014 City Council meeting minutes.

Approved

A resolution to approve the purchase of nine (9) modular desk systems from Norman Company of Fort Smith, Arkansas pursuant to the U.S. Communities Government Purchasing Alliance contract in the amount of \$39,929.73.

Resolution 196-14 as recorded in the office of the City Clerk.

A resolution to approve a budget adjustment recognizing hazmat services revenue received by the Fire Department from Washington County in 2014 in the amount of \$3,310.00.

Resolution 197-14 as recorded in the office of the City Clerk.

A resolution to approve a budget adjustment in the amount of \$800.00 representing donation revenue from Pierce Manufacturing, Inc., Smith Two-Way Radio, Inc., and G&W Diesel Service for the Fayetteville Fire Department's annual employee service award banquet.

Resolution 198-14 as recorded in the office of the City Clerk.

A resolution to authorize acceptance of an Arkansas Firewise Grant in the amount of \$500.00 from the Arkansas Forestry Commission for use by the Fire Department, and to approve a budget adjustment.

Resolution 199-14 as recorded in the office of the City Clerk.

A resolution to approve Change Order No. 2 to the contract with Lose and Associates in the amount of \$3,277.41 for additional geotechnical testing for the design of the Regional Park.

Resolution 200-14 as recorded in the office of the City Clerk.

A resolution to authorize acceptance of a 2014 Arkansas Department of Environmental Quality grant through the Boston Mountain Solid Waste District in the amount of \$10,000.00 for the purchase of public space recycling containers, and to approve a budget adjustment.

Resolution 201-14 as recorded in the office of the City Clerk.

A resolution to authorize acceptance of a 2014 Arkansas Department of Environmental Quality grant through the Boston Mountain Solid Waste District in the amount of \$5,000.00 for an update of the Code Compliance activity book, and to approve a budget adjustment.

Resolution 202-14 as recorded in the office of the City Clerk.

Alderman Petty moved to approve the Consent Agenda as read. Alderman Kinion seconded the motion. Upon roll call the consent agenda passed 7-0. Alderman Marsh was absent.

Unfinished Business:

A resolution amending the Master Street Plan by removing the section of future collector street between Oakland Zion Road and Altus Drive, as described and depicted in the attached map.

Mayor Jordan: Kit, you have a replacement resolution?

City Attorney Kit Williams stated there was one minor change to the proposed resolution and requested Jeremy Pate to give a brief description of the amended resolution.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated the resolution in Section 1 would delete the words, inside of the right-of-way rather than the outside of the right-of-way as shown on street cross section. It would state within a pedestrian access easement. Staff recommends in favor of the request.

Alderman Petty moved to amend the resolution Section 1 to state: within a pedestrian access easement. Alderman Long seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Marsh was absent.

Jeremy Pate: Thank you to the engineer and applicant for meeting together and working through a compromised solution that we are very satisfied with.

City Attorney Kit Williams asked the applicant if the resolution was what he requested.

Jorge Du Quesne, Blew & Associates: We do agree. Thank you to the city. This is the first time the city has contacted us directly to set up a meeting to have everybody present, including the county. It was very impressive.

Alderman Petty moved to approve the resolution. Alderman Adams seconded the motion. Upon roll call the resolution passed 7-0. Alderman Marsh was absent.

Resolution 203-14 as recorded in the office of the City Clerk.

New Business:

An ordinance to waive the requirements of formal competitive bidding and authorize a contract with Voice Print International, Inc. for the purchase of a digital voice recording system in the amount of \$70,706.00, and to approve a budget adjustment.

City Attorney Kit Williams read the ordinance.

Greg Tabor, Chief of Police gave a brief description of the ordinance.

Alderman Petty moved to suspend the rules and go to the second reading. **Alderman Adams** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Marsh** was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5721 as Recorded in the office of the City Clerk

A resolution to authorize and adopt continuing disclosure compliance policies and procedures with respect to city debt issues and to authorize the mayor or designee to self-report and accept settlement terms under the U.S. Securities and Exchange Commission's Municipalities Continuing Disclosure Cooperation Initiative.

Paul Becker, Finance Director gave a brief description of the resolution. He stated in 2009 the Securities and Exchange Commission mandated all information should be posted on the Electronic Municipal Market Access system (EMMA). He stated in 2009 financial statement information was posted to EMMA, but every bond issue was not indexed. He stated there is a requirement to disclose any bond rating changes and that was not done. He stated we issued bonds subsequent to 2009 and followed all the disclosure requirements. He believes this is very minor, but thinks it should be disclosed to the SEC.

Gordon Wilbourn, Kutak Rock: This is a program the Securities and Exchange Commission has proposed nationwide to both underwriters and issuers. Their feeling was that this continuing disclosure among municipal issuers nationwide was deficient. They can't regulate issuers, but they can regulate underwriters. In trying to increase compliance with the continuing disclosure obligations, they initiated this one time, "we aren't going to come after you", if you enter into this program. They have refused to give any guidance as to what is material. You have a real good argument there is nothing material here. There is no monetary penalties associated with entering into this program. I think you could fight the SEC and win if they decided to come after you and it might cost you a \$100,000 to get that victory. Issuers all over the country and in Arkansas are doing this. I know several big issuers in Arkansas bigger than you and of the same size as you are also doing it. We feel it is safer to just enter into the program and we will assist the city in doing

that. December 9, 2014 is the deadline. The purpose of this resolution is to get ready and get things prepared.

Alderman Adams: What does it mean, you will assist?

Gordon Wilbourn: There are forms that have to be electronically filed.

Alderman Adams: Do you do that?

Gordon Wilbourn: The city has to do it. I can suggest verbiage in each section of the form.

Alderman Adams: Can you be denied?

Gordon Wilbourn: Most all of it could. There is one section that will take some thought in filling out. You get to make your argument as to why this isn't material.

Alderman Petty moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Marsh was absent.

Resolution 204-14 as recorded in the office of the City Clerk.

A resolution to adopt the 2015 Annual Budget and Work Program.

Paul Becker, Finance Director gave a brief description of the resolution. He stated the budget is posted on the city website. He discussed minor scrivener error revisions.

Alderman Gray moved to table the resolution to the December 2, 2014 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Marsh was absent.

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

A resolution to express the City Council's intent to amend Chapter 119 Civil Rights Administration of the Fayetteville Code after its passage by Fayetteville voters.

Alderman Petty: There was some common ground that was discovered at the Mayor's Advisory Committee. I want to make clear the Council's acknowledgement of that common ground by passing this resolution and make clear our intention to take action where there is common ground if the ordinance is passed on December 9. In the spirit of cooperation and good faith that we all agree these are two good amendments that we should plan to make.

Mayor Jordan discussed the rules for public comment.

Michael Collins, 1625 North Giles stated Section 7, Paragraph I of the ordinance was awkwardly written and recommended clarification.

Alderman Petty: This is about two specific amendments. I'm not intending to consider anything else today.

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

Alderman Tennant: I am happy to support the resolution. We are admitting publically there are flaws with the ordinance. The Mayor's Committee is an excellent place to start, you can come away from that meeting that there are many flaws in the ordinance. The overall major flaw still exists, imposing criminal as opposed to civil penalties. There are more than clerical errors here. While I do agree we should admit these flaws exist with the ordinance, which is why I would support this resolution, I disagree we should just say we are going to fix them later. I disagree that we should ask the citizens to just trust us. We are asking the citizens to trust us, not only to find all the problems, but to fix them.

If this ordinance has this many flaws and more unknown flaws, I would suggest we repeal it tonight. City Attorney Williams, if we made a motion to repeal it tonight, could we do it and avoid the special election?

City Attorney Kit Williams: There would have to be a motion to suspend the rules to place a new item on the agenda, which would be an ordinance we don't have written yet. An ordinance to repeal the current Civil Rights Administration ordinance. There would have to be three readings of that and you would have to have an emergency clause, which requires extraordinary majority. The City Council has great power and can do that if you can get the appropriate super majority to do that.

Alderman Tennant: I would move to repeal it tonight, because we have identified major flaws with the ordinance. We can do the right thing and start again. I would be willing tonight to start a draft of a new Civil Rights ordinance and include people all over the city, even the people who disagreed with it. That's a novel concept, to actually listen to people who disagree with you.

I was in a budget meeting last night and we don't have any money, but we are going to spend \$40,000. I don't feel comfortable writing that check and would rather save the money and start a new ordinance with everyone involved.

City Attorney Kit Williams: You can make a motion to suspend the rules and add an item to the agenda.

A discussion followed about the procedural process when suspending the rules and adding an item.

Alderman Tennant moved to suspend the rules and add, Repeal Ordinance 5703 to the agenda. Alderman Schoppmeyer seconded the motion.

Alderman Petty: You look at some of the claims that the burden is on the accused or the requirement for probable cause has been removed, those are made up claims. Our attorney has rebutted most of them. The idea that this ordinance, which carries the same penalties as running a red light, the idea that level of enforcement is too burdensome and that our Civil Rights aren't as important as red light enforcement is sad. I hope we vote down this motion.

Alderman Kinion: I agree with Alderman Petty. We are trying to clarify in good faith an opportunity that we can handle, if indeed we are faced with that opportunity, following the election is the appropriate way to manage this. I am not supporting this motion.

Alderman Tennant: People have spoken very loudly over the last couple of weeks. I think people will continue to say they are tired of being told what is best for them. I agree you can't compare Civil Rights to running a red light. If you read this ordinance, you will see it's not anything like running a red light, especially if you have to deal with the ordinance. I respect anyone who doesn't want to vote for this. We are spending a lot of money and I thought it would be best not to do that.

Alderman Adams: Out of respect for the Council, I don't like walk-ons. It would have been nice if you had prepared something for us to look at before we got here tonight. I logged 436 calls to my house, I feel like I listened to a lot of people before I voted.

Alderman Tennant discussed writing an ordinance that is inclusive and not divisive. He stated he felt like the ordinance was rushed.

Alderman Gray: I resent anyone saying that I haven't listened to the public. I had over 600 phone calls and contacts during the passage of Chapter 119. We have a diverse city. I listen to every kind of opinion by residents. I logged the calls on Ordinance 119 and they were not heavy in any direction. In Ward 1 they were in favor of Chapter 119. I am so tired of hearing that everyone in Fayetteville is against Chapter 119. We have an election coming up and we will let the citizens make that decision. I'm ready to make sure we do not have discrimination of any kind in the City of Fayetteville. If there is discrimination, I want there to be a city office where that person can go and know they will be heard. I trust our judicial system to take care of those issues. I said on August 19, 2014 that we possibly will need to amend it. This is what we are doing tonight and will continue to do until we get the kinks worked out of it.

Alderman Long: I think this would be disrespectful to the voters who petitioned to have this put to a public vote.

Upon roll call the motion to suspend the rules and add, Repeal Ordinance 5703 to the agenda failed 2-5. Alderman Tennant and Schoppmeyer voting yes. Alderman Gray, Kinion, Petty, Adams and Long voting no. Alderman Marsh was absent.

This motion failed.

Alderman Petty moved to approve the resolution to express the City Council's intent to amend Chapter 119 Civil Rights Administration of the Fayetteville Code after its passage by

Fayetteville voters. Alderman Tennant seconded the motion. Upon roll call the resolution passed 7-0. Alderman Marsh was absent.

Resolution 205-14 as recorded in the office of the City Clerk.

Announcements:

Alderman Adams: There will be a Ward 4 meeting on Monday, November 24, 2014 at 6:00 p.m.

Don Marr, Chief of Staff: On Friday, November 21, 2014 at 6:00 p.m., The Lights of the Ozarks lighting will take place on the Fayetteville Downtown Square. There will be a parade.

We have a run-off election taking place in Ward 1. Early voting started today and goes through November 24th. The election is Tuesday, November 25, 2014. We encourage all of our Ward 1 citizens to participate in the election.

City offices will be closed on November 27th and November 28th for the Thanksgiving Holiday.

We would like to remind citizens on Solid Waste service that this is one of the holidays that we do not run our trash and recycling services. All services that are on Thursday, November 27th will be collected on Friday, November 28th. The Marion Orton Recycling Center, Trash & Recycling offices and the Compost Facility will be closed on those two days. The Transfer Station for drop off services will be closed on Thursday, November 27th and be open on limited hours on Friday, November 28th from 6 a.m. to noon.

The Mayor's final Town Hall meeting will be on December 15, 2014 at 7:00 p.m. at the Fayetteville Boys & Girl Club.

Alderman Tennant: When do the lights come on at, The Lights of the Ozarks parade?

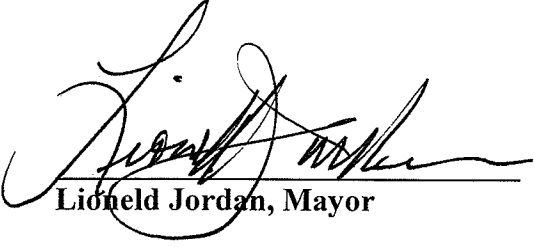
Don Marr: The lights come on when the parade reaches the square.

Alderman Gray encouraged residents to apply for the City of Fayetteville Board and Committee openings.

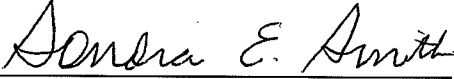
Adjournment: 6:28 p.m.

City Council Agenda Session Presentations: None

City Council Tour: None



Lionel Jordan, Mayor



Sondra E. Smith, City Clerk/Treasurer