

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 John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
January 20, 2015**

A meeting of the Fayetteville City Council was held on January 20, 2015 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Matthew Petty, Mark Kinion, Justin Tennant, Martin Schoppmeyer, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Mark Kinion arrived at 5:35 p.m.

Pledge of Allegiance:

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Election of Vice Mayor

Alderman Marsh moved to nominate Alderman Mark Kinion as Vice Mayor. Upon roll call Alderman Mark Kinion was elected as Vice Mayor with a vote of 7-0. Alderman Kinion was absent during the vote.

Alderman Mark Kinion was elected as Vice Mayor

Presentation of the City of Fayetteville Martin Luther King Brotherhood Award – Kit Williams:

City Attorney Kit Williams: I have been privileged to select a City of Fayetteville employee to receive the Dr. Martin Luther King Jr. Brotherhood Award. This award is given annually in recognition to a city employee whose service to our city and our community best exemplifies Dr. King's dream of equality, justice and brotherhood. This year's honoree exemplifies Dr. Martin Luther King's spirit of equality and legacy of service. She has managed one of our most important city departments and worked diligently and creatively to expand its services to our city staff and citizens. Always down to earth and humble, she works diligently every day to help Fayetteville citizens who have questions about our government. She helps citizens and staff to locate important city documents, ordinances and historic records. She ensures all important city documents are safely stored and indexed. She accurately reports and maintains the records for every City Council meeting. She led the effort to put our City Council meetings on the internet live.

City Clerk Sondra Smith has served our city and citizens as City Clerk Treasurer since February of 2003. I have worked closely with Sondra and can attest to her servant leadership, integrity and kindness to all who visit the City Clerk office. Sondra has served with distinction and dedication, not only here in Fayetteville, but as a state wide leader for the Arkansas Municipal League and the Arkansas City Clerk Association. Sondra has worked to become an International and Arkansas Certified Municipal Clerk. Sondra serves our community. For many years she has worked at the Senior Center. She is active in her church and its community outreach efforts. Sondra is a glowing example of how the Golden Rule should not just be preached, but lived.

Mr. Williams presented the Dr. Martin Luther King Jr. Brotherhood award to Sondra Smith, City Clerk Treasurer.

City Clerk Sondra Smith: It has been an honor and privilege to serve the citizens of the City of Fayetteville. I look forward to doing it as many more years as the city will have me. Thank you.

State of the City Address - Mayor Lioneld Jordan

Mayor Lioneld Jordan read the State of the City Address.

A copy is attached.

Agenda Additions: None

Consent:

Approval of the January 6, 2015 City Council meeting minutes.

Approved

RJN Group, Inc. Sanitary Sewer Evaluation Study: A resolution to approve a contract with RJN Group, Inc. in the amount of \$891,251.00 for a Sanitary Sewer Evaluation Study for Basins SFM-05 and SFM-18/19, and an amount not to exceed \$225,000.00 for the design of recommended improvements identified by the study.

Resolution 06-15 as recorded in the office of the City Clerk

Garver, LLC Professional Engineering Services Agreement: A resolution to approve a Professional Engineering Services Agreement with Garver, LLC in an amount not to exceed \$149,900.00 for engineering design and construction observation for the painting of the exterior and interior of the 5 million gallon Baxter Water Tank and the Mount Sequoyah Water Tank, and for the demolition and sale of the 1 million gallon Baxter Water Tank.

Resolution 07 -15 as recorded in the office of the City Clerk

Bid #15-01 Asphalt Striping Service, LLC: A resolution to award Bid #15-01 and authorize the purchase of reflectorized paint markings from Asphalt Striping Service, LLC in variable amounts for the Transportation Division as needed through the end of 2015.

Resolution 08 -15 as recorded in the office of the City Clerk

Bid #15-02 Curb and Gutter Construction Purchase: A resolution to award Bid #15-02 and authorize the purchase of curb and gutter construction from Fochtman Enterprises, Inc. as a primary supplier and Tomlinson Asphalt as secondary supplier in variable amounts as needed through the end of calendar year 2015, and to authorize the use of other bidders based on price and availability.

Resolution 09 -15 as recorded in the office of the City Clerk

Bid #15-03 Hillside Gravel Purchase: A resolution to award Bid #15-03 and authorize the purchase of hillside gravel from Les Rogers, Inc as primary supplier and Sweetser Construction as secondary supplier for materials picked up, and from Sweetser Construction as primary supplier and Les Rogers, Inc. as secondary supplier for materials delivered for variable unit prices as needed through the end of calendar year 2015.

Resolution 10 -15 as recorded in the office of the City Clerk

Bid #15-04 S&R Trucking Truck Hauling Services: A resolution to award Bid #15-04 and authorize the purchase of truck hauling services from S&R Trucking for variable unit prices and to authorize the use of other bidders based on price and availability as needed through the end of calendar year 2015.

Resolution 11 -15 as recorded in the office of the City Clerk

Bid #15-05 Concrete Purchase: A resolution to award Bid #15-05 and authorize the purchase of concrete from Tune Concrete Company as primary supplier and APAC-Central as secondary

supplier in variable amounts and to authorize the use of other bidders based on price and availability as needed through the end of calendar year 2015.

Resolution 12 -15 as recorded in the office of the City Clerk

Bid #15-06 Aggregate Materials Purchase: A resolution to award Bid #15-06 and authorize the purchase of aggregate materials for varying unit prices from various vendors, as needed through the end of calendar year 2015.

Resolution 13 -15 as recorded in the office of the City Clerk

Bid #15-08 Plastic Drainage Pipe Purchase: A resolution to award Bid #15-08 and authorize the purchase of Plastic Drainage Pipe for varying unit prices from various vendors, as needed through the end of calendar year 2015.

Resolution 14 -15 as recorded in the office of the City Clerk

Bid #15-09 Concrete Drainage Pipe Purchase: A resolution to award Bid #15-09 and authorize the purchase of Concrete Drainage Pipe from Scurlock Industries as primary supplier and Hanson Pipe as secondary supplier for varying unit prices as needed through the end of calendar year 2015.

Resolution 15 -15 as recorded in the office of the City Clerk

Bid #15-10 Topsoil Purchase: A resolution to award Bid #15-10 and authorize the purchase of topsoil from Les Rogers, Inc. in the amount of \$12.40 per cubic yard in variable amounts as needed through the end of calendar year 2015.

Resolution 16 -15 as recorded in the office of the City Clerk

Bid #15-11 Flint Trading, Inc.: A resolution to award Bid #15-11 and authorize the purchase of preformed thermoplastic pavement markings from Flint Trading, Inc. for varying unit prices as needed through the end of calendar year 2015.

Resolution 17 -15 as recorded in the office of the City Clerk

Bid #15-12 Retaining Wall Blocks Purchase: A resolution to award Bid #15-12 and authorize the purchase of retaining wall blocks from Arrowhead Precast, LLC as primary supplier and Industrial Precast, Inc. as secondary supplier in variable amounts as needed through the end of calendar year 2015.

Resolution 18 -15 as recorded in the office of the City Clerk

Bid #15-14 Waste Disposal Services for Construction Debris: A resolution to award Bid #15-14 and authorize the purchase of waste disposal services for construction debris from S&R Trucking Winslow, LLC and Holtzclaw Excavating, Inc. In the amount of \$10.00 per load as needed through the end of calendar year 2015.

Resolution 19 -15 as recorded in the office of the City Clerk

Environmental Consulting Operations, Inc., Amendment No. 1 and One Year Renewal: A resolution to approve Amendment No. 1 to the contract with Environmental Consulting Operations, Inc. for wetlands mitigation site monitoring and management and to authorize an extension of the amended contract through 2015 in the amount of \$50,766.00.

Resolution 20 -15 as recorded in the office of the City Clerk

Plante and Moran, PLLC: A resolution to approve an extension to the contract with Plante and Moran, PLLC for information technology services through June 5, 2015 in the amount of \$90,090.00, and to approve a budget adjustment.

Resolution 21 -15 as recorded in the office of the City Clerk

Gordon Long Park Trailhead - Tap Revenue: A resolution to express the willingness of the City of Fayetteville to utilize federal-aid funds for construction of restrooms and expanded parking at Gordon Long Park, and to approve a budget adjustment in the amount of \$260,000.00.

Resolution 22 -15 as recorded in the office of the City Clerk

Amend the 2015 Adopted Budget: A resolution to amend the 2015 Adopted Budget by reappropriating \$86,181,388.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

Resolution 23 -15 as recorded in the office of the City Clerk

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

Unfinished Business:

RZN 14-4864 Koutroumbis Appeal: An ordinance rezoning that property described in Rezoning Petition RZN 14-4864, for approximately 0.26 acres, located at 232 West Ash Street from RSF-4, Residential Single Family, 4 units per acre, to RMF-24, Residential Multi-Family, 24 units per acre. ***This Ordinance was left on the first reading at the January 6, 2015 City Council Meeting.***

City Attorney Kit Williams: The applicant requested this to not be heard tonight. We could go to the second reading.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

Amend Chapters 151, 161, 162 and 166 (ADM 14-4896 UDC Amendment Small-Scale Production): An ordinance amending Title IV: Unified Development Code of the City of Fayetteville, to Amend Chapters 151, 161, 162 and 166 to create a new use unit for small scale production including boutique and specialty manufacturing and to place this new use unit in appropriate zoning designations. *This ordinance was left on the first reading at the January 6, 2015 City Council meeting.*

Alderman Long 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.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance.

Alderman Petty 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 5735 as Recorded in the office of the City Clerk

New Business:

Asphalt Materials Purchase: An ordinance to waive the requirements of formal competitive bidding during calendar year 2015 for the purchase of asphalt materials for use by the Transportation Division, but to require informal quarterly bids or quotes.

City Attorney Kit Williams read the ordinance.

Terry Gulley, Transportation Director gave a brief description of the ordinance.

Alderman La Tour: Do you think doing it on a quarterly basis would protect us from paying too much for asphalt?

Terry Gulley: We started this several years ago because we were wanting to lock it in for the year. We would bid it competitively once a year. There is not a lot of fluctuation. This is the best way for us to be able to manage it, instead of being locked in on one particular year.

Alderman Tennant 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 Gray 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 5736 as Recorded in the office of the City Clerk

ESRI, Inc. Enterprise License Agreement: An ordinance to waive the requirements of formal competitive bidding and approve a three year enterprise license agreement with ESRI, Inc. in the amount of \$150,000.00 payable in installments of \$50,000.00 per year for Geographic Information System software.

City Attorney Kit Williams read the ordinance.

Greg Mitchell, GIS Coordinator gave a brief description of the ordinance.

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 Gray 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 5737 as Recorded in the office of the City Clerk

Repeal and Replace Title V Public Works and Amend Chapter 51 and Chapter 10: An ordinance to repeal and replace Title V Public Works, Article III Discharge and Pretreatment Regulations; to Amend § 51.137 Monthly Sewer Rates; to Amend § 51.138 Definitions Pertaining to Water and Sewer Rates; to Amend § 51.999 Penalty; and to Amend § 10.99 General Penalty of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

Denise Georgiou, Pretreatment Coordinator gave a brief description of the ordinance.

Alderman Kinion: This has been through the Water, Sewer & Solid Waste Committee. Thank you Denise for meeting the expectations of the ADEQ. The committee brought this forward with the committee's approval.

Alderman Marsh: Do we have to do the holding period for public comment on this?

City Attorney Kit Williams: We do need to do that. There is only a few items that might be a raise in sewer fees. It would be safer to wait the 30 days to make sure we do not violate state law.

This ordinance was left on the First Reading

Enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections: An ordinance to enact Article III Procedure to Exercise Initiative and Referendum Rights of Chapter 36: Elections into the Fayetteville Code to clarify the proper procedure for the citizens' right of the initiative and referendum.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams briefly explained why he brought this ordinance forward.

Mr. Williams stated the reason he placed responsibility to review and certify or correct a proposed referendum petition upon the City Attorney, is to hopefully prevent a legally improper petition from being circulated and later being either rejected by the court or having to be recirculated because of some mistake.

I would hope that you would leave this particular ordinance on the first reading and also leave it on the second reading to see if what I believe will happen in the state legislature will actually happen which is an Act that will prohibit us from addressing Civil Rights in the future.

Alderman Tennant: There was mention of taking this to Ordinance Review at some point and Kit, you said you were not in any particular hurry. We have Ordinance Review coming up, but we have a full agenda. I had planned on suggesting this go to a future Ordinance Review anyway. Kit, you are suggesting we wait until the legislature session?

City Attorney Kit Williams: If we can wait until the second meeting in February, I think by then we will probably know if the Act has been passed or we will hear about the Act.

A discussion followed about the timeline for discussing the proposed ordinance at the Ordinance Review Committee meeting.

Alderman Long: The way this is written, it impacts all future initiatives and referendum elections. Why are we waiting on what happens with the Civil Rights at the state level?

City Attorney Kit Williams: The reason I waited and didn't propose this any earlier is because I did not want to get this involved with any other kind of issue. This does affect all future referendums and initiatives and should be viewed as that and not as a part of some other issue. I felt that the other issue probably is not going to be possible anyway. It would have been potentially possible if we had taken it up almost immediately. That did not happen and so it's probably too late to even move in that direction. I think the legislature will be quicker than we would be. That is why I thought we should leave it on the first reading. It's really going to affect only other future ordinances and issues.

Mayor Jordan: As the sponsor of the ordinance, you recommend we at least go through all three readings?

City Attorney Kit Williams: Yes.

Alderman Marsh: This isn't about the Civil Rights ordinance. This is about any referendum so I am not sure why we need to wait. What you have drafted is a clear cut and expedient process for handling this. It's consistent with existing precedent of state and county laws. It has this great system of allowing the Circuit Court to provide appropriate checks and balances. I don't understand why we are waiting on the legislature. We need this clarity before any other issue arises.

Alderman Long: Was this written because of the Civil Rights referendum petition? If it is, then we shouldn't even be talking about it.

City Attorney Kit Williams: It was written because of the confusion that became apparent during the Civil Rights referendum process and the litigation we suffered. That is what brought it to my attention. In response to Alderman Marsh, it's very rare we have a referendum. I don't see anything right now that looks very controversial. There is no real reason to try to move it along real fast. I would rather we take our time.

Alderman La Tour: I appreciate the City Attorney's consideration of the people of our city and wanting to help in the petition process by assisting in drafting a more appropriate title. Political winds change. Mr. Williams gave his assurance he would be fair, but we don't know about the person after him. This ordinance places the City Attorney in a strong position to delay the acquiring of signatures. Having gone through the Chapter 119 petition process, timing is very important. When the City Council enacts an Act that makes people upset, that level of emotion dissipates with the passage of time. If we were to wait six weeks to three months before we start the petition process, circulating for signatures, most people would have gotten on with their lives and would not be interested as much as in that initial staff when enacted by the City Council.

We are giving the City Attorney's office the authority to change the wording of the title of the petition itself. If we want to pattern after the state petition process, why don't we give that authority to the Attorney General who would not necessarily be biased? We could make the City Attorney's

proposed changes, merely proposals, leaving the initiative with the people who are bringing the petition process.

Alderman Marsh: Our City Attorney is elected by our people. They are directly accountable to the people. They don't work for the administration. The time to do this is when we don't see any controversial legislature on the horizon and that would be now.

Alderman La Tour: I agree the City Attorney is elected. A lot of damage can be done in three or four years before the next election cycle. Recall petitions are very rare and rarely successful. I would like to keep the movement with the people and not bring it to a public official before it goes to the people. Timing is very important for a successful petition campaign. The proposal is a two day delay, but if the people don't like the changes, we have to go to Circuit Court. As a practicing attorney, I can file motion upon motion. I can make it last in court six months.

City Attorney Kit Williams: If you practice in Arkansas, you would realize an election contest is always handled very quickly. As you can see from the last case we had, we got to Judge Lindsey very quickly with the decision. It did not last for months or even weeks. This is what would happen in this particular case. We can't order the Attorney General to review one of our referendum petitions. He doesn't work for us. He is a state officer and he reviews state initiated acts and referendums and determines if they are acceptable. The reason I placed any duties on the City Attorney is because the City Attorney should have some familiarity with this law, where many other people would not. The City Attorney is in a fine position to help the citizens of Fayetteville, who he does work for, in order to get their referendums done correctly.

A discussion followed about the appropriate person to review municipal referendums.

Alderman Kinion: We are trying to prevent litigation against the city by clarifying a procedure. We know from recent activity, we were exposed to litigation because of unclear codification regarding the situation we were faced with. I'm not in a hurry to do this. I want to do it the right way. We are looking at the opportunity in the future to prevent any confusion. The urgency is to look at this fairly, without bias towards any single issue and to be certain that the forward movement of any repeal has a fair and well outlined path to take.

Alderman La Tour continued to reiterate that he would like the City Attorney to have the role of making suggestions, instead of taking an authoritative role.

City Attorney Kit Williams advised that the proposed ordinance needed to go to the Ordinance Review Committee.

A discussion followed about the procedural process of the Ordinance Review Committee.

Alderman Gray: No matter what happens about the Civil Rights issue, it's not going to change this?

City Attorney Kit Williams: It would not change my recommendation.

Alderman Tennant discussed the timeline for the Ordinance Review Committee's agenda.

Mayor Jordan explained the rules of public comment.

Loraine O'Neal, 3001 West Wedington stated she felt it needed to be addressed and should go to the Ordinance Review Committee. She believes it is a good thing to allow time to pass so citizens can read and understand what is being proposed.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion failed 3-5. Alderman Gray, Marsh and Kinion voting yes. Alderman Tennant, Schoppmeyer, La Tour, Long, and Petty voting no.

This ordinance was left on the First Reading

Announcements:

Don Marr, Chief of Staff: There will be an Ordinance Review Committee meeting on January 21, 2015 at 2:00 p.m. at City Hall in Room 326 to review the Scooter Insurance ordinance.

The Christmas tree pickup is continuing through January 31, 2015.

The Compost Facility winter hours are Tuesday and Thursday from 8:00 a.m. to 3:00 p.m. and the first Saturday of each month.

Mr. Marr explained the process for virtual stickers in regards to garbage bags.

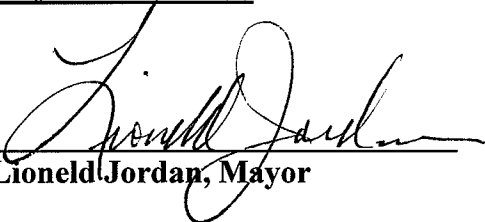
Mayor Jordan announced he would be attending the United States Conference of Mayors meeting.

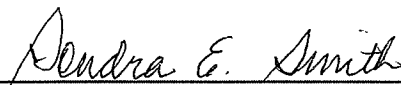
Alderman Long: There will be a Ward 4 meeting on January 26, 2015 at 6:00 p.m. at City Hall in Room 111.

Adjournment: 7:32 p.m.

City Council Agenda Session Presentations: None

City Council Tour: None


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer