

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
June 16, 2015**

A meeting of the Fayetteville City Council was held on June 16, 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, Mark Kinion, Matthew Petty, Justin Tennant, Martin Schoppmeyer, John La Tour, 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:

Nominating Committee Report

Alderman Kinion presented the Nominating Committee report and recommended the appointments as submitted.

A copy of the report is attached.

Alderman Kinion moved to approve the Nominating Committee report. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

Agenda Additions: None

Consent:

Approval of the June 2, 2015 City Council meeting minutes.

Approved

Bid #15-32 Peterbilt of Fort Smith: A resolution to award Bid #15-32 and authorize the purchase of two (2) Peterbilt 348 trucks with Labrie Rear Loaders from Peterbilt of Fort Smith in the total amount of \$369,180.00 for use by the Recycling and Trash Collection Division.

Resolution 106 -15 as recorded in the office of the City Clerk

Bid #15-33 T&T Green, LLC: A resolution to award Bid #15-33 and authorize a contract with T&T Green, LLC of Fayetteville, Arkansas for the replacement of insulation at the City Recycling Center in the amount of \$38,000.00.

Resolution 107-15 as recorded in the office of the City Clerk

Bid #15-34 Leigh Earthworks, LLC: A resolution to award Bid #15-34 and authorize a contract with Leigh Earthworks, LLC of Winslow, Arkansas for the Fayetteville Senior Activity and Wellness Center Parking Lot Expansion Project in the amount of \$35,063.00, and to approve a project contingency in the amount of \$3,506.00.

Resolution 108 -15 as recorded in the office of the City Clerk

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

Public Hearing:

Jerome Lopez & Elizabeth Young and the Randall J. Wright Trust Condemnation and Possession: A resolution to authorize the City Attorney to seek condemnation and possession of certain lands owned by Jerome Lopez & Elizabeth Young and the Randall J. Wright Trust needed for the Highway 45 and Old Wire Road Intersection Improvement Project. ***At the June 2, 2015 City Council meeting, this resolution was tabled to the June 16, 2015 City Council meeting.***

City Attorney Kit Williams stated everything was resolved and the condemnations do not need to go forward. He stated a public hearing is not needed.

Alderman Marsh moved to table the resolution indefinitely. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled Indefinitely.

Unfinished Business:

Amendment of the Master Street Plan: A resolution to amend the Master Street Plan by removing a bridge connection on Raven Lane over Clabber Creek south of Crystal Springs Phase III. *At the May 19, 2015 City Council meeting, this resolution was tabled to the June 16, 2015 City Council meeting.*

Jeremy Pate, Director of Development Services stated the applicant requested this item to be tabled indefinitely. He stated they will be working on different options and meeting with staff and neighbors to bring back the item for consideration. He recommended the item to be tabled indefinitely.

Alderman Kinion moved to table the resolution indefinitely. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled Indefinitely.

RZN 15-5044 (4065 E. HUNTSVILLE RD./THE PLAZA): An ordinance rezoning that property described in Rezoning Petition RZN 15-5044, for approximately 16.02 acres, located at 4065 E. Huntsville Road from R-PZD 08-3071, Residential Planned Zoning District Bridgedale Plaza to RSF-7, Residential Single Family, 7 Units Per Acre, NS, Neighborhood Services, and CS, Community Services. *At the June 2, 2015 City Council meeting, this ordinance was left on the first reading*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He stated staff is comfortable with recommending approval of the rezoning.

Pat Hoskins, 1128 St. Andrews Circle voiced his concerns about traffic and requested a traffic study to be done. He stated he is worried about drainage. He spoke in opposition of the ordinance.

Jeremy Pate: The details of those types of review are done at development review, not a zoning review. Traffic conditions and concerns can be considered as part of a rezoning request. We would look at the traffic. We don't know what access points because we aren't reviewing a development plan now, but we would look at what access points are necessary for development. A development of that size would require multiple access points, not just one. Once a proposal is presented to staff and the Planning Commission, we look at the details of where the drainage goes, where detention ponds are located, and what flow is within the neighborhood.

Glenda Patterson, 1106 St. Andrews Circle stated her concerns about drainage, density of the housing project, and traffic. She spoke in opposition of ordinance.

This ordinance was left on the Second Reading.

Amend §97.088 (B)(2)(b) and §97.088 (d): An ordinance to Amend Fayetteville Code §97.088 (B)(2)(b) and its Exhibit "A", Donor Recognition Signs and to Amend §97.088 (d) Facility Naming and its Exhibit "B", Naming Park Facilities to clarify that the City Council has final authority to name park and trail facilities. *At the June 2, 2015 City Council meeting, this ordinance was left on the first reading.*

City Attorney Kit Williams: This is an amended ordinance because at the last meeting City Council asked us to make sure that they had ultimate final authority on naming. I worked with Connie Edmonston, Parks & Recreation Director and we came up with a proposed amendment. I will read the part of the ordinance that has been changed.

City Attorney Kit Williams read the proposed amended ordinance.

Alderman Kinion moved to amend the ordinance as presented by the City Attorney. **Alderman Marsh** seconded the motion.

Connie Edmonston, Parks & Recreation Director expressed her appreciation. She stated it will help the city to receive and recognize more donors for their charitable gifts.

Alderman Long thanked Connie and her department for all their hard work.

Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks & Recreation Director gave a brief description of the ordinance.

Alderman La Tour: How is fundraising going?

Connie Edmonston: We are working on it. The more publicity we get on it, the more people will step forward.

A discussion followed about the process of a benefactor making a contribution.

Alderman Tennant 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 5778 as Recorded in the office of the City Clerk

New Business:

Amend 34.27 Sale of Municipally Owned Real Property: An ordinance to amend 34.27 Sale of Municipally Owned Real Property to authorize the use of a realtor for the sale of the two houses at Gulley Park.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: There was an attempt to sell the properties under the old Sale of Municipally Owned Property ordinance. Unfortunately, that was not successful. Connie Edmonston and I decided we needed to use a realtor. This is not allowed under the old code and we have to change the code to authorize that. I wrote a limited exception for these two houses only.

Connie Edmonston, Parks & Recreation Director: On the first try we had it in the provision that you must bid at least the minimum appraised value of the homes. This made people not as interested. It is a great location and will be a great buy for someone who wants to live next to Gulley Park.

Alderman Tennant stated it is a unique spot in town. He believes a real estate agent is needed.

Alderman Long: How would we go about picking the realtor?

City Attorney Kit Williams: We would use our standard selection process. We send it out for a Request for Proposal.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5779 as Recorded in the office of the City Clerk

RZN 15-5053 (West of 4195 W. Persimmon St./McBride) An ordinance rezoning that property described in Rezoning Petition RZN 15-5053, for approximately 2.16 acres, located west of 4195 W. Persimmon Street from RSF-4, Residential Single Family, 4 Units Per Acre to R-O, Residential-Office.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted 9-0 in favor of the request. Staff is supporting the rezoning request.

Scott Blacksher, Blew & Associates representative for the applicant stated he was available for questions.

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.

Alderman Marsh moved to suspend the rules and go to the third and final reading. **Alderman Tennant** 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 5780 as Recorded in the office of the City Clerk

Place Holder: Maple Street & Lafayette Street Bridge Rehab: A resolution to award a contract in the amount of \$X,XXX,XXX.XX to Contractor, Inc. for the construction of the Maple Street & Lafayette Street Bridge Rehab, approve a project contingency of \$XXX,XXX.X (5%), and approve a budget adjustment.

Jeremy Pate, Director of Development Services stated several bidders had difficulty finding subcontractors and suppliers for some of the specialty items. He stated the bid deadline was extended to June 26, 2015 at 2: 00 p.m. He requested the item to be tabled to the July 7, 2015 City Council meeting.

Alderman Kinion moved to table the resolution to the July 7, 2015 City Council meeting. **Alderman Marsh** seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled to the July 7, 2015 City Council meeting.

Uniform Civil Rights Protection: An ordinance to ensure uniform nondiscrimination protections within the City of Fayetteville for groups already protected to varying degrees throughout state law.

City Attorney Kit Williams read the ordinance.

Alderman Gray: Since the adoption and repeal of our original Civil Rights ordinance, I've been thinking, as have many citizens, how can we come together to make sure that Fayetteville is a city that protects the rights of everyone and that we do not believe in nor support any form of discrimination. I have gathered together a group of local lawyers who expressed their interest in helping to write the ordinance. After many months we have an ordinance that we can be proud of. We listened to the concerns. We tried to answer as best we could those concerns while still keeping our focus that no individual fears discrimination in the City of Fayetteville.

Alderman La Tour: If I am a member of the LGBTQ community and I choose to live out what I believe, I am protected under the ordinance. If I am member of the community that believes in traditional marriage and I choose to live out what I believe, I'm subject to prosecution. I can hardly see how this ordinance protects everyone. It protects one group at the expense of another group. As long as that is the case I can't support it.

Mayor Jordan stated the rules for speaking at the City Council meeting.

Alderman La Tour: I have 14 amendments I would like to offer to this ordinance. Do I do it now or later?

Mayor Jordan: You can give all your amendments right now and we can address those amendments. If the public has questions, we will write the questions down and answer them in the final statements.

Amendment 1:

Alderman La Tour moved to amend Section (C) of Definitions to replace the last sentence thereof as follows: Gender identity corresponds to the readily observable biological and scientifically determinable fact of a person being either male or female at birth. The motion died for lack of a second.

Amendment 2:

Alderman La Tour moved to amend Section 1 to provide that the entire ordinance be printed on the ballot. Further the City of Fayetteville shall provide no summary statement or shortened description of the ordinance to the Washington County Clerk for printing on the ballot.

Alderman Long: Can we do that?

City Attorney Kit Williams: I don't think that would be feasible by the Election Commission. I've been told by the Election Officers that they would not be able to do all that. I would like to see it all on, but they say it would either be impossible or extremely expensive for them to do that.

The motion died for lack of a second.

Amendment 3:

Alderman La Tour moved to amend Section I to provide that no City of Fayetteville resources shall, directly or indirectly, be used to promote the approval of the ordinance by the Fayetteville voters.

Alderman Tennant: What do you mean by indirectly?

Alderman La Tour: Using city resources to ask someone to support the ordinance. Promotion of the ordinance is illegal under our Arkansas Code. I want to make it clear that as a city we are going to remain a neutral party as a City Council and let the people decide it, not us.

Mayor Jordan: I thought the elected officials could campaign one way or the other.

City Attorney Kit Williams: I think that is correct. This should be a separate ordinance if you want to try and bring that forward. Whatever state law says I'm sure that the City Council and city will obey. This is not a proper amendment to this particular ordinance.

Alderman La Tour: I would suspect that the majority of the City Council is going to vote for this ordinance and will promote others to vote for this ordinance. I want it to be a fair contest.

The motion died for lack of a second.

Amendment 4:

Alderman La Tour moved to amend Section 1 to provide that the scheduling of an election shall be held in abeyance until the Attorney General of the State of Arkansas has rendered an opinion as to whether the proposed ordinance violates A.C.A. §14-1-401. If the Attorney General determines that the proposed ordinance is in violation of the foregoing statute, then the ordinance shall be considered void ab initio and no election shall be held.

Alderman La Tour: Our Attorney General is working on an opinion on our proposal right now. It would be a waste of resources and time to move ahead with this before that opinion is issued.

Alderman Tennant: Do you have any idea when that might be determined?

Alderman La Tour: It is usually a month long process. One of our state representatives is asking for expedited treatment. It could be ready before our next City Council meeting.

City Attorney Kit Williams: This is an issue that will probably be decided by the courts rather than an opinion from the Attorney General.

A discussion followed about the Attorney General issuing an opinion and City Attorney Williams being able to render his opinions on city ordinances.

The motion died for lack of a second.

Amendment 5:

Alderman La Tour moved to amend Section 2 to provide that if the ordinance is rejected by the voters of the City of Fayetteville, the City of Fayetteville shall not enact another ordinance concerning discrimination on the basis of sexual orientation and gender identity for a minimum of two (2) years from the date of the election which rejected the ordinance. This provision alone shall survive the rejection of the ordinance by the voters.

City Attorney Kit Williams: I don't think that is legal. You can't tie the hands of a future City Council. Amendment 7 talks about the right to bring ordinances forward.

Alderman La Tour: If we enact this ordinance as I propose to amend it, future City Councils can change the ordinance or revoke the ordinance. Their hands are not tied.

The motion died for lack of a second.

Amendment 6:

Alderman La Tour moved to amend Section (A) of the Discrimination Offense to provide that the observance or practice of gender identity or sexual orientation shall be subject to the same limitation as set forth in A.C.A. §16- 123-103(b) for religious observance or practice. The motion died for lack of a second.

Amendment 7:

Alderman La Tour moved to amend Section 1 that the ordinance shall be put to a vote at the next regular general election in November 2016. The motion died for lack of a second.

Amendment 8:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (D) to provide that notice of the complaint be provided to the Respondent with notice in a similar manner as the service of a summons in a civil suit. Respondent shall have 30 days after service to respond in writing to the complaint. Any hearing shall be set not earlier than 60 days after receipt by Civil Rights Commission of the written response by Respondent.

Alderman Petty: The requirement for notice could be a good thing if we have an Ordinance Review Committee meeting and discuss this amendment specifically.

The motion died for lack of a second.

Amendment 9:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (E) to provide that the Arkansas rules of evidence, including but not limited to the exclusion of hearsay evidence, shall apply to the conduct of the hearing before the Civil Rights Commission. The motion died for lack of a second.

Amendment 10:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (E) to provide that the Respondent shall be presumed innocent of a violation until determined guilty beyond a reasonable doubt by the Civil Rights Commission. The motion died for lack of a second.

Amendment 11:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (E) to provide that the Respondent shall have the right afforded in the U.S. Constitution, Amendment 6, to confront each witness against her at the hearing. The motion died for lack of a second.

Amendment 12:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (E) to provide that the Respondent shall have the right to appeal any adverse decision against him to the State Circuit Court.

City Attorney Kit Williams: I don't think we could give them that right. It's a recommendation they can make. If the City Prosecutor accepts the case and decides to prosecute and they are convicted, then they would have a right to appeal that to the Circuit Court. There is nothing to appeal out of the Civil Rights Administration. It is an advisory decision.

Alderman La Tour: If I go before the Civil Rights Commission and I'm judged as a discriminator and the prosecutor declines to take the prosecution, I'm left with the label of discriminator. What does that do my business and reputation in the community? We have to have a place to redress a grievance.

A discussion followed about the State Circuit Court appeal process.

The motion died for lack of a second.

Amendment 13:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (E) to provide that it shall be a defense to any alleged discrimination that the Respondent holds a good faith belief in traditional marriage and that her allegedly discriminatory acts were a reasonable expression of her belief in the sanctity of traditional marriage. For these purposes, "traditional marriage" is to be defined as a marriage of one man to one woman. The motion died for lack of a second.

Amendment 14:

Alderman La Tour moved to amend Complaint Procedures and Enforcement Section (F) to provide that Fayetteville City Code §10.99 General Penalty shall not apply to impose imprisonment on anyone cited and fined under this ordinance. The motion died for lack of a second.

Danielle Weatherby, 564 South Pierremont Drive spoke in favor of the ordinance.

Alderman La Tour: In the ordinance it refers to evidence that the commission will use evidence to determine if it should be turned over to a prosecutor. Nowhere in the ordinance does it find what rules of evidence will be used.

Danielle Weatherby: There are certain rules of procedure that govern judicial proceedings. The informal proceeding at the first step of the enforcement mechanism is a conciliation. The next phase would be similarly informal before the commission.

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

Justine Turnage, citizen spoke in favor of the ordinance.

Dwight Gonzales, 455 West Skelton Street stated his concerns about repairs that are needed on his street. He stated his concerns about the amount of money being spent for the Special Elections. He would like the issue to be put on the November ballot.

Dr. Lisa Corrigan, U of A Director of Gender Studies spoke in favor of the ordinance.

Alderman La Tour: If I am a member of the LGBTQ community, I am protected. If I'm a member of a community that believes in traditional marriage and I live out what I believe, I'm subject to prosecution. How do you explain that difference?

Dr. Lisa Corrigan: There are incentives to promote your status as a heterosexual that do not apply to everyone. You get tax breaks, hired, promoted, and higher pay.

A discussion followed about the amount of time given to each speaker when questions are asked by Aldermen.

Lisa Faith Stewart, 2130 North Chestnut Avenue spoke in favor of the ordinance.

Paul Sagan, 2112 East Gentle Oaks Lane spoke in opposition of the ordinance.

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

Linda Burnett, 805 Sunset Drive stated she is grieved that neither side understands each other's perspective. She stated she should have the right to not violate her conscience.

Michael Collins, 1625 North Giles Road spoke in opposition of the ordinance.

Margaret (Peggy) Connor, 102 East Elm spoke in favor of the ordinance.

Quinn Montana, 602 Whitham Avenue spoke in favor of the ordinance.

Hunter Hansen, citizen spoke in favor of the ordinance.

Jeff Hansen, 920 North Leverett Avenue spoke in favor of the ordinance.

Danielle Stoddard, 122 North Aqua Crossing spoke in favor of the ordinance.

Jennifer Chadbourne, 701 Sycamore Street spoke in favor of the ordinance.

Jerry Patton, 524 North Shady Avenue spoke in opposition of the ordinance.

Valerie Biendara, Fieldstone, Ward 4 spoke in opposition of the ordinance.

Josh Waters, 3156 Rockford Drive spoke in favor of the ordinance. He stated that there will be a clear process of how claims of discrimination will be handled with a confidential and informal mediation, not a single administrator.

Alderman La Tour: Can you please explain to us how a person becomes a member of the council that will be appointed?

Josh Waters: It goes through the nominating and appointment process like others.

Alderman La Tour: Can you explain the process of someone getting on the Nominating Committee?

Josh Waters: I don't know that process.

Alderman Kinion: There was a one question rule.

Alderman La Tour: Alright, thank you.

Donna Wonsower, 2149 South Emma Avenue spoke in favor of the ordinance.

Jake Warlow, 954 West Peachtree spoke in favor of the ordinance.

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

Raymond Sweet, Joyce Boulevard spoke in favor of the ordinance.

Dale Manning, Fayetteville resident spoke in favor of the ordinance.

Noah Meeks, 2736 North Valencia Avenue spoke in favor of the ordinance.

Jeanne Champagne, 4219 Black Canyon spoke in opposition of the ordinance.

April Raffety spoke in opposition of the ordinance.

Citizen, 605 Betty Jo Drive spoke in favor of the ordinance.

Laura Phillips, 2055 South Cline spoke in favor of the ordinance.

William Collins, 1736 Buckley Drive spoke in opposition of the ordinance.

Nathan Sutherland Kordsmeier, 833 South Curtis spoke in favor of the ordinance.

David Garcia, 252 Thompson Avenue spoke in favor of the ordinance.

Alderman Tennant: Mr. Garcia, where do you write your blog, I've forgotten?

David Garcia: Fayetteville Free Zone.

Alderman Tennant: I very much enjoy reading it. I wanted to make sure I knew where to go and read it next time.

David Garcia: fayettevillefreezone.com or Fayetteville Free Zone on Facebook.

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

Laverne Cooper, Fayetteville resident spoke in opposition of the ordinance.

Ben Kovoch, 2195 Lisa Lane questioned if the meetings were open to the public when the ordinance was drafted.

Mayor Jordan stated he would find out.

Laura Hightower, 193 West 29th Court spoke in favor of the ordinance.

Justin Fletcher, 193 West 29th Court spoke in favor of the ordinance.

Alderman La Tour: Mr. Fletcher, I'm a business owner. I'd be glad to help you in any way I can. I don't hate anyone. Question is, if I have a job opening and three applicants come and apply for that job. I choose one of them. I had to discriminate on some basis. If one of those I didn't choose happened to be LGBTQ, do you think I should be subject to prosecution?

Justin Fletcher: If you discriminated on the basis of them being LGBTQ, then yes. Selection is not discrimination.

Alderman La Tour: If I selected based on job experience, interview skills, personal attire, those things I look for in a professional office, don't you think I would be subject to prosecution or at least an accusation against discrimination even though I wasn't discriminating on the basis of sexual orientation?

Justin Fletcher: Certainly anyone can be the sufferer of a false claim. That also seems to assume that the LGBTQ community is waiting to pounce and use these as ways to abuse the system, which I don't think is true.

Mayor Jordan stated there was a one question rule.

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

John Burnett, 4597 East Davis stated he would like to see an amendment that deals specifically with the event of homosexual weddings only for members of faith.

Mayor Jordan: I don't think if it's of your faith you have to do same sex marriages.

John Burnett: No, if you are a business and you provide a service to a wedding; a baker, a florist, that sort of thing. I'm talking about one specific event, not a service to the public at large and being able to discriminate in that sense.

If this law is about the Civil Rights of those who don't have a voice as far as minority, why does it specifically look at, when you're appointing the members to the committee, the LGBTQ community versus someone just from one of the unrepresentative minority groups as a whole?

Mayor Jordan: You'd like to see the committee more diverse?

John Burnett: Why not have one of the citizens be from a minority group, because you're elevating the LGBTQ community versus someone from the black community, which actually has a higher percentage in our population.

Alderman Marsh: You mentioned your amendment which would exempt participation in same sex marriages. Would you also like to see that amendment that would exclude remarriage of divorced people or a widow marrying someone other than the deceased's brother?

John Burnett: He stated absolutely if there is a religious objection. He stated his amendment is event specific and doesn't believe you should have to provide services that go against a person's conscience.

Bob Winkleman, 2216 North Old Wire Road spoke in opposition of the ordinance.

Cindy Nance, 1653 Applebury Drive spoke in favor of the ordinance.

Mayor Jordan: Is it true that a LGBT citizen can be thrown out of their home for being LGBT?

Cindy Nance: That is not protected under the Federal Housing Act.

Mayor Jordan: Can they be fired from work for being LGBT?

Cindy Nance: Yes sir, they can.

Mayor Jordan: Thank you.

David Williams, 547 North Gray spoke in favor of the ordinance.

Duncan Campbell, Fayetteville resident spoke in opposition of the ordinance.

Alderman La Tour: Mr. Campbell, as a leader of the Repeal 119 coalition, how much input did you have into the rewriting of this law? Did Mrs. Gray invite you to participate in that process?

Duncan Campbell: No, I was not contacted. None of the leaders from Repeal 119 was contacted. If I had been asked I would have said people of faith should have an exemption from the right of conscience.

Alderman Long: You said if the last ordinance had been put to a vote then you would have been completely fine with that because the citizens would get a chance to vote on it. We have to look at this as a different law. If it goes to a vote, are you not okay with it again?

Duncan Campbell: Here's the problem, there's no reason to go through a vote again, especially when our Attorneys, Travis Story and Stephanie Nichols weren't included. Only people from the other side, with a couple of exceptions, but not anybody from Repeal 119 was included. It's improper to even go forward with this, especially when I believe that the Council knows and the City Attorney knows this is a direct violation of Act 137.

Carol Christoffel, 1510 East Overcrest spoke in favor of the ordinance.

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

Mayor Jordan opened up the podium to non-Fayetteville residents.

Olivia DeMille, Springdale resident and Fayetteville business owner spoke in favor of the ordinance.

Mayor Jordan: When was the ADA passed?

Olivia DeMille: I have it listed as 1990.

Rustin Cunningham, Springdale resident and Fayetteville Pastor spoke against the ordinance.

Leah Knight, Centerton resident spoke against the ordinance.

Ron Brandts, Little Flock resident spoke against the ordinance.

Alderman Kinion: You said there was no evidence of discrimination here in our city. Have ever heard of Alan Walker?

Ron Brandts: I was referencing, has there been any study provided to the citizens?

Alderman Kinion: Alan Walker might have had an opinion on this.

Ron Brandts: Has there been any study provided to the citizens? No, I don't know who Alan Walker is.

Alderman La Tour: Do you know of any specific instances of persecution of Christians at the hands of ordinances similar to this one? Maybe business people that have been put out of business.

Ron Brandts: I think there have been substantial ones that have been brought up nationally where Christians have been persecuted. I especially think of the one pizza company in Indiana when they made a statement, a conscious statement, and the harassment that they got persecuted on. They had to close their doors for two weeks.

Robert Stafford, San Francisco resident spoke in favor of the ordinance.

Alderman La Tour: You spoke about the bible verse when Jesus said "Love thy neighbor as thyself." Would that include the baker that doesn't want to bake a cake for the LGBTQ community?

Robert Stafford: Love everybody, yes, equally.

Madison Beiler, Bentonville resident spoke in favor of the ordinance.

Evelyn Rios, San Francisco resident spoke in favor of the ordinance.

Chaz Allen, Bentonville resident spoke in favor of the ordinance.

Jordan Garcia, Bentonville resident spoke in favor of the ordinance.

Bobby Ballinger, Ozark resident spoke in opposition of the ordinance.

Caitlyn, West Wedington spoke in favor of the ordinance.

Alderman La Tour: We've been discussing tonight two very personal aspects of life: human sexuality and theology. In Fayetteville we have liberals and conservatives, we have republicans and democrats, and we have homosexuals and heterosexuals, and all kinds of diversity. There are five things we agree on. I would fire a fireman who runs up to a burning building, knocks on the door and says lady are you republican or democrat. In that setting, it doesn't matter what she believes. It doesn't matter how wrong you think she is. Rescue human life, that's your job in that setting. We all agree on police protection, city streets, city services, and the city library. Why don't we limit our discussion on those things where we all agree instead taking up something so personal as human sexuality and theology and trying to get a consensus? If we pass this law, half of the city is going to love us and half the city is going to hate us. It's a very divisive issue. Why don't we limit our discussions on the City Council to those things we all have some degree of agreement on. I would rather be talking about the pot holes in the streets instead of who's going to sleep with who and their right to do so. Those things should be left to another forum, like the State or Federal Legislature or civic clubs or families. I could vote for an ordinance that says if you are going to contract with the City of Fayetteville or you are going to be an employee of the City of Fayetteville, this is going to be our policy of non-discrimination. Let's lead by example that way instead of forcing something on half our population that disagrees with it. It's freedom of conscious.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Kinion seconded the motion. Upon roll call the motion passed 7-1. Alderman La Tour voting no.

City Attorney Kit Williams read the ordinance.

Kit Williams: There was a question that shouldn't the entire ordinance be on the ballot. I sure wish it was. I've been informed by the Washington County Election Commission representatives that it cannot be because of their electronic ballot. They did assure me that they would have copies of the ordinance available at every polling place. Another thing I need to respond to was a remark by Mr. Campbell that I said this would be a direct violation of the Interstate Commerce Improvement Act. That's not correct. I sent you all a memo on June 5th where I cited the Little Rock City Attorney's opinion, that the proposed ordinance in Little Rock, which went beyond what state law would restrict, doesn't create any protected class, nor does it list any prohibited discrimination not already protected by state law. Reasonable arguments can be advanced by opponents of such ordinances, but I believe Tom Carpenter has a better argument that ordinances such as Little Rock's and the one offered by Alderman Gray and Alderman Petty are legal and not prohibited by the state law. I would be prepared to defend the legality of that. I expect we will be sued when the state law goes into effect late in July. I do not think this will generate hundreds of thousands of dollars in attorney's fees to defend the ordinance as mentioned by Mr. La Tour. I've defended the city many times when we've been challenged and I don't charge any extra. I just get my one pay.

Mayor Jordan: There was a citizen that asked for amendments that LGBT people have to file.

Kit Williams: If citizens want to present amendments, they need to talk to their Aldermen.

Mayor Jordan: She asked that we look at that. I didn't know if a Councilman wanted to look at that.

Alderman Marsh: She requested that LGBTQ people get special papers from the Police Department in order to display, showing which bathroom they had the right to use.

Mayor Jordan: A question was asked, Adella, if the meetings of the draft ordinance had been open to the public.

Alderman Gray: Kyle Davis, with the Center for Equality, did a great deal of leg work on this ordinance. I got involved with it three or four months after it had already been in the making. I had two attorneys that I wanted to be involved in the drafting of the ordinance because I wanted a new set of eyes on it. No, that was not open to the public. Three or four months down the road from that, when we starting looking at what Matthew Petty had worked on with the City Attorney, at that time the City Attorney took charge of those meetings making sure that Matthew Petty and I were not in any meetings together. That's how we handled that.

Alderman Petty: Within a week after the election last time, I bumped into Duncan Campbell of Repeal 119. I shook his hand and told him I appreciated the respect he had shown and asked him if he would be part of our discussions for a redo. He said he wasn't interested unless it was just a resolution. That's why they weren't re-invited to be at the table in my discussions. That divide right there goes to the heart of the issue. Either you believe that it should remain legal to fire or evict somebody for being gay or transgendered or you don't.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-3. Alderman Long, Gray, Marsh, Kinion, and Petty voting yes. Alderman La Tour, Tennant and Schoppmeyer voting no. Mayor Jordan voted yes to suspend the rules.

City Attorney Kit Williams read the ordinance.

Alderman Kinion: We spent 30 hours on this previously. This evening we heard the same arguments, basically, some on human sexuality, some on theology, and some on business practices. What we have before us tonight is the opportunity to take this directly to the people. There has been a concern of utilizing a lot of time in this chamber on something that is most likely going to be discussed many hours and many places across our community on a very important issue. I think it is okay for the discussion to begin in the community. It is a divisive, polarizing, uncomfortable issue. It's an issue that has to be discussed in the community if we are taking it to the community. If we were to bring this to the chamber for two more readings, experience shows us that we're going to hear the same people with the same arguments. Everyone has a valid argument from their point of view. It's based on their beliefs, attitudes, values and how they feel on this specific issue. I respect all of that. Since this is a revised ordinance that suggests we take it to the people, then let's take it to the people. This is not the same ordinance, in my opinion. A lot of the issues we

heard were taken seriously into consideration and discussed with local individuals. Let's see if the revisions answered the concerns of the business community and to some of the individuals that felt like it was bad legislation. We all have the right to say what we want in our community and express how we feel about specific legislation. We all have the right to vote on a different piece of legislation that was developed with the concerns of the community as it was brought forth in our previous discussions. I have the utmost respect for the individuals that had the capacity and time to come out this evening. The engagement we have here in Fayetteville and the care that everyone has for their part in our community is what makes our community so great.

Alderman Tennant: As Chairman of the Ordinance Review Committee, I need to speak on the Ordinance Review piece to this. I am happy to schedule an Ordinance Review meeting. We have three weeks from tonight before the next City Council meeting. I'm not scheduling it to delay this. Most of my objections have been removed from when I voted against it first time. I'll support this one from the wording that it is now. I'm not necessarily in support of spending money on a Special Election. What I think is important now is to get a final document together that the public can look at and vote on. If I schedule that I would want in writing from people that wanted to submit things ahead of time so that we didn't have a long meeting. It would be efficient.

Kit Williams: At this point in time, the City Council would either have to vote on the ordinance or have it tabled because the rules have been suspended. It has been read for the third and final time.

Alderman Petty: I am also willing to have a meeting. Is there reasonable hope for a consensus?

Alderman La Tour: Are you asking me?

Alderman Petty: I am. It seems like a majority of the Council is ready to vote in support of this, except for one of us. I'm willing to have another meeting if we have reasonable hope for a consensus.

Alderman La Tour: I cannot tell you right now that I would vote for it until I see the final ordinance. I'm for freedom, Mr. Petty. I'm for freedom of choice. There's probably not a reasonable expectation that I'm going to agree on the final ordinance.

Alderman Gray: I think our attorney needs to clarify again, if we vote to accept this particular ordinance as it is written, then there's no need for an Ordinance Review Committee?

Kit Williams: No, the ordinance will be passed and the Special Election will be called. Either table it and go to Ordinance Review or don't table it and don't try to come back and change it in the interim when we're looking at an election.

Alderman Gray: Thank you for that clarification.

Alderman La Tour: I've read this ordinance several times. I read the original 119 ordinance several times. I cannot see an ounce worth of difference in these two. There have been cosmetic changes made to it. It's the same ordinance. The people who appoint the commission in the ordinance are

our Nominating Committee. When people ask me what committee I'm on, I tell them whichever committee is further away from the center of the universe. There's only one person that makes those committee assignments and he and I disagree on some things. I'm not going to be on important committees probably. That's just my take on it. I realize there could be difference of opinion on that.

Alderman Tennant: When I said earlier that I was for the writing of this ordinance, the one thing I'm against is the same thing I was before, which is spending \$37,000 plus on another Special Election. You stated last year that you were elected to make these sort of decisions, so what has changed now that we can't make the decision here at this moment? If the public gets petitions together and has a Special Election, my feeling is they might get the signatures but enough of the 52% of the people that voted against this will not repeal it the second time. Many of my constituents told me they wanted to vote for the last one. They were for the LGBT part of it, but there were other parts to it that they couldn't vote for. With many of those items stripped away, I think that makes a Special Election not as important. Let's not spend the \$37,000 plus on a Special Election. If we are bound and determined to vote on it tonight, then let's just vote on it tonight.

Alderman Gray: It's a very important issue. I feel we need to put it to a vote of the people. We all know that people can still get the signatures and it can still go to a vote of the people. The reason we have the ordinance written as it is now is that we felt like it was such an important issue that we wanted all the people of Fayetteville to get a chance to vote on this ordinance. It is very different from the other ordinance.

Alderman Marsh: I think it's unfortunate that we're needing to send it to a Special Election. One of the feedbacks that I've heard was that a lot of people felt misled by the last petitioning process. The ordinance language was very confusing. People called me in distress that their name had been revealed to have been on the petition because they didn't realize what they were signing and that it was opposite of what they had been presented with. One of the advantages of us sending it directly to the people is that we can be clear and transparent in the ballot language. The other reason that we can't wait until November is that equality can't wait.

Alderman Petty: I'd actually thought of doing this in the Primary or General Election next year with the City Attorney. It's probably not constitutionally allowed by the Arkansas Constitution because elections have to happen within a certain time frame after an ordinance is passed, so it's just not in the window. Civil Rights shouldn't be voted on, but when it comes down to this, it's a practical matter. The opposition collected signatures before, they'd be able to do it again, so we might as well have it. It may not be appreciated, but I think it's a matter of respect. It was put to a referendum before and we should respect that it happened and allow it to be voted on again.

Alderman Marsh: One thing that I learned while working with the Citizens First Congress is that only two states in the U.S. do not have a Civil Rights Commission. Arkansas is one of them. For people who are already in a protected class, we have nowhere to go and seek recourse against discrimination against us. One of the things I really like about this ordinance is that it establishes the Civil Rights Commission for the City of Fayetteville. Whether you've been discriminated on the basis of gender, race, family status, or any of the other protected classes, you will have access to this body to help you mediate through the situation.

Mayor Jordan: When I went through this ordinance, one of the changes I saw was that there is a Civil Rights Commission and there wasn't before. In Section C it says "churches, religious schools, daycare facilities, and religious organizations of any kind are exempt of this article." I understood that the religious issue had been dealt with through this ordinance. The research that I did, and I wanted to confirm it with Dr. Nance when she was up here, was the LGBT citizens can be thrown out of their home for being LGBT. They can lose their job because they are LGBT. There's a 20% chance of hate crimes in this country against LGBT communities. I think that's wrong and needs to be addressed.

The 14th Amendment of the Constitution does say "No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States." I don't think the LGBT community is asking for special rights, but equal rights. I understand the class struggle. That's why I always fought for the ERA and the LGBT. It is why I fought for the ADA. I believe we have two forces at work here. One is love and one is fear. We need to quit looking at what people are and really who they are and what's on the inside of them. I believe in treating everybody the same. I will not sacrifice my stand on equality for anything or anyone. It may cost me the next election, I'm willing to pay that price.

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

Ordinance 5781 as Recorded in the office of the City Clerk

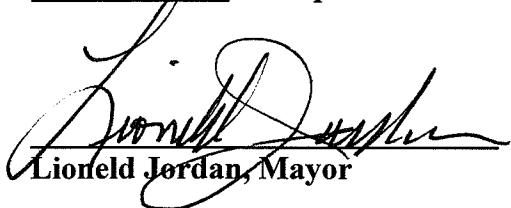
Announcements: None

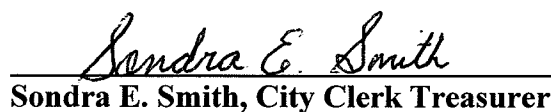
City Council Agenda Session Presentations:

Agenda Session Presentation – Solid Waste Reduction, Diversion and Recycling Master Plan update by Mitch Kessler.

City Council Tour: None

Adjournment: 9:58 p.m.


Lionel Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer

Nominating Committee Report

Members Present – Chair Mark Kinion, Sarah Marsh, and Alan Long

The Mayor recommends the following candidates for appointment:

HISTORIC DISTRICT COMMISSION

Jerry Hogan – One term ending 06/30/18

Christine Myres – One term ending 06/30/18

Will Watson – One term ending 06/30/18

The Nominating Committee recommends the following candidates for appointment:

ANIMAL SERVICES ADVISORY BOARD

Alyson Low - One Citizen at Large term ending 06/30/18

Nicole Ferguson - One Citizen at Large term ending 06/30/18

AUDIT COMMITTEE

Scott Pacheco – One unexpired term ending 12/31/16

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

Allison Quinlan – One unexpired term ending 03/31/20

Joe Terminella – One unexpired term ending 03/31/20

ENVIRONMENTAL ACTION COMMITTEE

Josh Crittenden – One Citizen at Large term ending 06/30/18

FAYETTEVILLE ARTS COUNCIL

Nathan Morton - One Working Artist term ending 06/30/18

Donna Smith - One Arts and Cultural/Citizen at Large term ending 06/30/18

Sean Morrissey - One Arts and Cultural/Citizen at Large term ending 06/30/18

TELECOMMUNICATIONS BOARD

Khandice Baldwin - One unexpired term ending 06/30/17

Aubrey Shepard – One term ending 06/30/19

Allie Taylor – One term ending 06/30/19

TOWN AND GOWN ADVISORY COMMITTEE

Alex Flemister - One University of Arkansas Student term ending 09/30/17

WALTON ARTS CENTER COUNCIL, INC.

Bill Waite – One term ending 06/30/18