

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
September 1, 2015**

A meeting of the Fayetteville City Council was held on September 1, 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, Justin Tennant, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Matthew Petty and Alderman Martin Schoppmeyer.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Quarterly Financial Report - 2nd Quarter 2015, Paul Becker, Chief Financial Officer.

Paul Becker, Finance Director gave a brief summary of the 2nd Quarter Financial Report for 2015. He stated everything is positive for the year and there is no major decline in revenue.

Agenda Additions: None

Consent:

Approval of the August 18, 2015 City Council meeting minutes.

Approved

Animal Services Donation Revenue: A resolution to approve a budget adjustment in the amount of \$39,089.00 representing donation revenue to Animal Services for the first and second quarters of 2015.

Resolution 151 -15 as recorded in the office of the City Clerk

Williams Tractor of Fayetteville: A resolution to authorize the purchase of two (2) 2015 T590 T4 Bobcat Compact Track Loaders from Williams Tractor of Fayetteville, Arkansas in the total amount of \$101,189.02 pursuant to a National Joint Powers Alliance cooperative purchasing agreement for use by Transportation Services.

Resolution 152 -15 as recorded in the office of the City Clerk

Lewis Ford of Fayetteville: A resolution to authorize the purchase of a 2015 Ford F250 4x4 from Lewis Ford of Fayetteville, Arkansas in the amount of \$23,075.00, pursuant to a state procurement contract, for use by Parks and Recreation.

Resolution 153-15 as recorded in the office of the City Clerk

Bryce Davis Park and Improvements to Lake Fayetteville: A resolution to approve a budget adjustment in the total amount of \$147,170.00 recognizing parkland dedication fees from the Northwest and Northeast Quadrants to be used for lighting at Bryce Davis Park and improvements to Lake Fayetteville.

Resolution 154-15 as recorded in the office of the City Clerk

Fayetteville Advertising and Promotion Commission Amendment No. 2: A resolution to approve Amendment No. 2 to the contract with the Fayetteville Advertising and Promotion Commission for the city to provide operational and maintenance services for the Town Center Parking Deck in exchange for the use of fifty-five (55) parking spaces for a period of one year with five additional one year automatic renewals.

Resolution 155-15 as recorded in the office of the City Clerk

Federal Emergency Management Agency (FEMA) Risk Map Phase 2: A resolution to authorize the city's participation in Phase 2 of the Risk Map program with the Federal Emergency Management Agency and the Arkansas Natural Resources Commission to update the Washington County Flood Insurance Study and Flood Insurance Rate Maps at a cost of up to \$43,658.00.

Removed from the Consent Agenda for discussion.

Alderman Marsh moved to accept the Consent Agenda as read with A.7. Federal Emergency Management Agency (FEMA) Risk Map Phase 2 removed from the Consent Agenda for discussion. Alderman Gray seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

Federal Emergency Management Agency (FEMA) Risk Map Phase 2: A resolution to authorize the city's participation in Phase 2 of the Risk Map program with the Federal Emergency Management Agency and the Arkansas Natural Resources Commission to update the Washington County Flood Insurance Study and Flood Insurance Rate Maps at a cost of up to \$43,658.00.

Chris Brown, City Engineer gave a brief description of the resolution. He stated it will be very beneficial to the city.

Alderman Kinion: In the management of stormwater we have monitoring for velocity and for levels of water. Is this going to get us good additional information that we could use?

Chris Brown: The stations that we have out there for water quantity monitoring and water quality information, this is a supplement, and it all works together. This is more a mapping level, the FEMA mapping, the flood insurance rate maps that are used to determine where flood insurance is needed and what the flood insurance cost are. Some of those monitoring stations that we have are a little more fine grained information and more detailed information just on particular streams. This is a county wide project. All of the floodplains will be re-delineated and looked at again.

Alderman La Tour: How are they going to give us more data? Are they going to walk through the stream themselves taking camera shots?

Chris Brown: There will be some field work. Most of it is computer modeling. The topographic information is used to develop cross sections and to figure out the lay of the land. You run the computer modeling and that topographic information and hydraulic information is analyzed by the computer that sets floodplain elevations. It determines where the flooding levels are going to be. It is mostly a computer exercise.

Alderman La Tour: In this computer exercise, could the system be manipulated in some way to deter development? Is there some standard deviation of error or is it subject to some sort of error rate?

Chris Brown: There are standard practices on the way you model things. In areas where you have lots of trees and the water has slowed down and doesn't flow through quite as quickly, you have adjustments factors that you put into the computer model. It is a computer model so it is subject to error, but this will give us much more accurate data than we have now. There may be some areas we determine later that the computer model needs further adjustment.

Alderman La Tour: By us spending this money it will give us much more accurate data that property owners could use when they have a building project, to see where their property is in relation to the floodplain. Would there be a charge for that data?

Chris Brown: If we have that information available we provide it at no charge as a service to our citizens. If we don't have the information available, they do sometimes have to hire a consultant to do the investigation to determine where the floodplain is on their property.

Alderman La Tour: I would hate to think that we as a City Council are going to spend \$43,658. of our citizens' money and then charge them again for the same data.

Chris Brown: We do not do that.

Cora Lamphear, 1215 Ellis Avenue stated she lives in a floodplain and is concerned that the flooding might be worse due to development. She stated there is no real flood mitigation benefit from the authorization of this money. She stated she would like the enforcement and interpretation of the tree ordinance, low impact development ordinance, and open spaces plan. She requested a broader view to be taken on these ordinances and plans as it pertains to watersheds that are undergoing rapid development and experience a great deal of flooding.

Alderman La Tour: Do you want us to vote for spending this money?

Cora Lamphear: No, I don't think it is worth it.

Alderman Kinion: We have talked about this specific area a lot at the Water, Sewer & Solid Waste Committee. We are upgrading our monitoring because we have to protect our stormwater runoff in order to protect our drinking water. Whenever it starts at the highest elevation, which is around the university and comes down through your neighborhood and it heads down to Town Branch and then to the West Fork of the White River, we need good information. It is expensive to get information that will help us quantify what we need to do for mitigation. I understand your concern about spending the money on it. If the federal dollars are going to come in, it might be worth it to have this additional information. The university is going to develop more by the high school and that is going to put this directly into this tributary. If we can get half a million dollars' worth of valid information on topography, then it will better help us understand what we need to develop and fine tune as far as low impact development.

Cora Lamphear: I am in favor of more data. I wonder if we could have stream gauges installed. They would measure the velocity. I don't think the topography has changed very much since FEMA has already done its study.

Alderman Kinion: If we have the topography and we understand the hydrology, then we can better understand the way that the velocity is going to impact the activity. For engineering standards we can better interpret what we would expect as the growth increases in the area. We would be able to take more data to the U.S. Geological Survey who is a big partner with us in managing this. We have gotten new metering and we are discussing ways we can improve that.

Alderman Marsh: Even though the topography probably has not changed significantly, mapping tools have evolved. We have better and more precise technologies to understand that topography. I live in the floodplain and these elevation certificates are serious. Having this better technology to understand the lay of the land can be helpful for us.

Peter Tonnessen, Ward 3: Why is this not paid for by whomever it is who collects flood insurance premiums and administers the flood insurance program? If the city does pay for it, does the city get to make this decision as to what is or is not a flood zone?

Alan Pugh, Staff Engineer: We are seeing a shift in FEMA funding. Historically, what FEMA had done was come into communities periodically and pay for all the risk map updates. The latest conversations with FEMA is that they no longer have the funding to do that. In this particular instance we are seeing the lion's share of the funding coming from federal and state government rather than municipal government. We are recognizing the benefit here locally that we could receive from updated mapping. FEMA and Arkansas Natural Resources Commission is asking us to do is to participate in that update.

Alderman La Tour: Who decides where that floodplain lies? Is it a mathematical equation or some human element that determines where the floodplain is?

Alan Pugh: There is some human element. There is some engineering judgment in where that line is set. In this particular manner, hopefully the city will have more control over how that is set if we have questions. We will be able to review and comment before they ever get to the FEMA level.

Alderman La Tour: Will we have final authority as a city to say that this is where we recognize the floodplain?

Alan Pugh: FEMA has ultimate final authority on all floodplains throughout the nation. With this process we will have more ability for input.

Alderman La Tour: We have the ability to influence where FEMA places that line?

Alan Pugh: To a certain degree. Understanding from an engineering standpoint, there is only so many things that you can influence. We will try to map it as accurately as we can. We don't want to bring people into the floodplain that don't necessarily need to be. We don't want to leave properties out, but we should be regulating to limit that risk.

Mayor Jordan: It is like the Highway Department. You can make recommendations, but at the end of the day, they decide.

Alderman Marsh moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

Resolution 156-15 as recorded in the office of the City Clerk

Unfinished Business: None

New Business:

RZN 15-5130 (1285 E. Millsap Rd./Christian Life Cathedral): An ordinance rezoning that property described in Rezoning Petition RZN 15-5130, for approximately 15 acres, located at 1285 E. Millsap Road from RSF-4, Residential Single Family, 4 Units per Acre, to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted 7-0 in favor.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

Ordinance 5794 as Recorded in the office of the City Clerk

VAC 15-5127 (19 N. Palmer Ave./Baker): An ordinance to approve VAC 15-5127 submitted by Allen Baker for property located at 19 N. Palmer Avenue to vacate an existing blanket water and sewer easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted 6-0 in favor.

Alderman La Tour moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

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 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

Ordinance 5795 as Recorded in the office of the City Clerk

ADM 15-5153 (Timber Trails Subdivision PZD Amendment): An ordinance amending a Residential Planned Zoning District entitled R-PZD 04-1154, Timber Trails, containing approximately 26 acres, to modify the zoning of lots 70 through 77, 98, and 99 to allow for Use Unit 8, Single Family Dwellings.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted 6-0 in favor.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

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 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Petty and Alderman Schoppmeyer were absent.

Ordinance 5796 as Recorded in the office of the City Clerk

Amend 172.05 (ADM 15-5088 UDC Amendment Chapter 172.05 Non-Residential Parking Requirements): An ordinance to amend section 172.05 of the Unified Development Code to remove minimum parking standards for non-residential uses.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission is in favor. Staff is in favor and requested to hold it on the first or second reading to allow community input.

Alderman Gray inquired about how a medical office could acquire more parking places.

Jeremy Pate: We have a maximum parking ratio in our ordinance. There is an ability to ask the Planning Commission for more parking. It is built into the code currently.

Alderman Gray: There is a maximum, but more can be asked for?

Jeremy Pate: That is correct.

Alderman La Tour: The change we are proposing is to do away with the minimums, but we are not eliminating the maximums?

Jeremy Pate: That is correct. We have not found a community that went to that extent to eliminate maximums. We looked at communities that did away with their minimum standards, which is generally the concern. Maximum standards deal with more environmental issues. It is usually more wasteful space. You see many properties in the city that now have much more parking than would ever be needed for the businesses that occupied it.

Alderman La Tour: I applaud our efforts to deregulate our businesses to this extent. I would like to see the maximum removed. A business is capable of projecting its needs. They have the strongest economic incentives to do so accurately.

Alderman Long: Would an example of the maximum be something like we see on College Avenue with the expansive parking lots? We wouldn't allow something like that to happen now, such as Fiesta Square?

Jeremy Pate: That is a perfect example of a property that is almost 100% paved. It probably has hundreds of parking spots more than is ever used, even on the busiest day of the year. There is a better investment than these expansive parking lots. They can put more retail square footage and use exact same amount of parking that is already there.

City Attorney Kit Williams: Because of the Personal Property Protection Act that was enacted, this is kind of like a one way street. If you remove the minimum requirements as recommended by the Planning Department and you run into problems where commercial land is developed in our mixed use areas, such as Walker Park, where a lot of mixed use areas are in low residential areas, a developer could decide to put their business in and provide no parking and use the parking that the neighborhood has been using. It makes good financial sense to that business owner because he doesn't have to pay for parking. If it is a problem for his neighbors, that's just kind of tough on them because most of his customers aren't going to be the neighbors, it will be other people such as employees and customers.

The proposal I'm recommending to you would grant to the Planning staff a variance procedure that they do themselves and it does not have to go to the Planning Commission. They could vary the amount all the way from a 100% of the minimum that it is right now, or all the way down to 0%. They could allow a reduction in the parking, but give us some bike racks, scooter parking, or disabled parking. It would give the Planning staff complete discretion all the way down to zero. You could have a test run for a few years and see when no parking is allowed in these particular areas, is that absorbed by the neighborhood with no problems or does it cause problems. If it caused problems then you could do away with the variance procedure or make it more difficult. If you do away with the minimum standards because of the Personal Property Protection Act you will never again be able to require minimum standards. It is a closed door, because if you do, then you are putting on a new regulation and a regulation that is going to impact more than 20% of the landowner's value. Therefore, that would be a taking under that law and we would end up paying the developer to build a parking lot for his customers. These minimum parking standards have been in place in Fayetteville for decades. Before they are thrown away, we should look at trying a transition. I don't recommend an immediate discarding of all the minimum parking standards.

Alderman Marsh: Typically how that is handled in other cities, especially in historic areas, where the commercial districts don't have parking by today's standards is you would form a residential parking district with two hour parking during the day and residential by permit at night. I think that is an easy thing to overcome as other cities around the country have done that. Handicap accessible spaces that is not under our code, it is an American with Disabilities Act mandate. Businesses will still be required to have a certain number of handicap accessible spaces. If you look at the development that has occurred within these last few decades, it's exactly the kind of development that is contrary to our 2030 City Plan goals. It is in the best economic and urban planning interest to remove these parking minimums. I think we have some good mechanisms we can fall back on should we inadvertently create friction in some of our areas.

Alderman Long: In the city we have some residential parking districts. We have people that monitor those. Expanding those districts cost money, staff, cars, and equipment to do that with. It gives me some concerns to say that we could do that all over the City of Fayetteville outside the Entertainment District or Downtown District.

Alderman Marsh: In terms of the Walker Park area, that is where we have a commercial district in close proximity to a residential district. If that became an issue, that's a tool we can use. If they are monitoring it and they are finding violators, then we are collecting revenue from those violations. It has the potential to pay for itself.

Alderman Long: Do you think we could study the effects of having those residential parking districts before going forward with this? Maybe we could look at Kit's idea of a more cautious approach to achieving the same goal. There's a lot of startup cost in expanding the residential parking districts.

Alderman Marsh: I don't think we are going to run into that many residential parking districts, especially not anytime in the near future. What concerns me about putting it in the hands of a staff member is that it gives the appearance of impropriety or impartiality, rather than having set standards that you can guide by.

Alderman La Tour: I agree with Alderwoman Marsh.

Alderman Kinion: I have looked at lot of data regarding parking districts and they are in very specific areas where there is commercial, institutional, and residential overlap. That is the only area that would be considered for a parking district. We are a college town and we know there is an overlap. I like it now that I have looked at what other cities have done.

Alderman Long: Ward 4 is the largest ward with contiguous neighborhoods to the university than any other area in the City of Fayetteville. We deal with a lot of parking in our neighborhoods. That is one of the largest complaints I get.

A discussion followed about the ordinance being heard at three City Council meetings.

This Ordinance was Left on the First Reading

Announcements:

Don Marr, Chief of Staff: On September 3, 2015 the Fayetteville Community Resource Division invites all citizens to the 5th Annual "Fest of All" Celebration.

I want to remind our City of Fayetteville businesses that renewing business licenses has begun. You have until October 31, 2015. Information can be found on the city website.

September 2, 2015 is the groundbreaking ceremony for Ruppel Road. It will be at 11 a.m.

We want to welcome all of our fans and visitors to our first home football game this Saturday.

The city offices are closed on September 7, 2015 in observance of Labor Day.

Alderman Marsh: We have a Uniformed Civil Rights Protection ordinance Special Election happening. You can do early voting at the Washington County Courthouse. Voters can cast their vote at any polling location on September 8, 2015.

City Attorney Kit Williams: About five months ago I told you we won a case in a summary judgment. A property owner claimed we were responsible for some flooding problems. They filed a Notice of Appeal and have not followed through. Our victory is going to remain and not be overturned on appeal.

There will be a hearing on a motion for a temporary restraining order that was filed. I will be defending the City Council's position and believe the election will continue. I will do everything I can to make sure people have the right to vote. It is their constitutional right to vote according to Amendment 7. I don't think the election will be ended despite the efforts of the plaintiffs. There will probably be more litigation after the election.

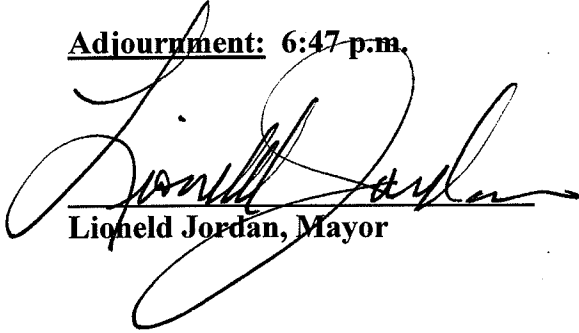
Alderman La Tour reminded everyone that the Washington County Fair was in town.

City Council Agenda Session Presentations:

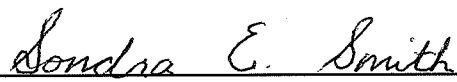
Agenda Session Presentation: Alison Jumper, Regional Park Progress Update.

City Council Tour: None

Adjournment: 6:47 p.m.



Lionel Jordan, Mayor



Sondra E. Smith, City Clerk Treasurer