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
October 6, 2015

A meeting of the Fayetteville City Council was held on October 6, 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, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Martin Schoppmeyer

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

City Council Meeting Presentation – Fayetteville Natural Heritage Association check presentation related to Kessler Mountain Reserve.

Jeremy Pate, Director of Development Services: In the spring of last year the city closed on more than 300 acres called Kessler Mountain, to preserve that land for ecological and recreational benefits. That added over 200 acres we already acquired for the Regional Park that is under construction. We had two funding partners in that acquisition. One was the Walton Family Foundation who graciously gave us $1.5 million for a one-to-one match for that purchase. In addition, Fayetteville Natural Heritage Association committed at least $300,000 for the purchase of that property. They came back to you earlier this year with a proposal to offset $120,000 roughly in benefits to Kessler Mountain. They committed almost $180,000 to bringing back in cash to you. Dr. and Mrs. Heinzelmann, as well as the Waltons, established the Fayetteville Natural Areas Foundation that has already paid to the city $10,000 as part of this commitment.

Bob Caulk, Fayetteville Natural Heritage Association presented a check for $30,000.

Mayor Jordan: This is not the first time that we have had a partnership with Fayetteville Natural Heritage Association. You have been excellent partners for this city. Thank you on behalf of myself, City Council, and the citizens of Fayetteville.

City Council Meeting Presentation - Ozark Regional Transit Presentation: No presentation was made.

Agenda Additions:

Mayor Jordan requested a walk-on to be added to the agenda.

Alderman Petty moved to add: Proposal to Consolidate the Fayetteville Local Firemen's Pension Fund with LOPFI by the Local Firemen's Pension Board to the agenda. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

Consolidate the Fayetteville Local Firemen's Pension Fund with LOPFI: An ordinance transferring administration of retirement coverage for eligible members of the Fayetteville Fire Pension and Relief Fund to the Arkansas Local Police and Fire Retirement System (LOPFI) and authorizing the Mayor to enter into an irrevocable agreement with LOPFI and approving an emergency clause.

Paul Becker, Finance Director: We have an old pension fund that funds the pension for the firefighters and police officers, prior to 1983 when LOPFI came on board. Years ago that pension fund was to provide 50% of the salary benefits for those police and firefighters who retired. After LOPFI came on board those pension funds went under the jurisdiction of the PRB, the State Pension Review Board which monitors those funds. The PRB could grant increases if it actuarially looked like it could be done, and they did this by what was called a cash flow study. If increases could be granted they would approve that recommendation to the trustees of the oversight board of the pension fund. That is a board here, not under city jurisdiction, which has members of retired police or firefighters, Mayor, and City Clerk.

In 1996 a request was made to increase those benefits from 50% of retired salary to 65%. That was reviewed by the PRB actuary, Jody Carreiro. The increase was granted. In 2001 a request was made to again increase those benefits, and it went through the Pension Review Board. The actuary certified he felt that could be done and the pensions were raised to 90% of ending salary. In the late 80's investment returns were very strong. In 2003 a 3% COLA was temporarily approved for three years. We hit times where earning increases were not as good. In 2007, an increase was requested and PRB turned it down. They did not feel that the fund could support an increase. In 2009 we had tough economic times and the Fire Pension Fund was declared Projected Insolvent. In 2010, PRB made a presentation as to what they thought could save the fund. The projection was that it would take $250,000 to $350,000 per year over 15 and 25 years to save the fund. We here at the city, and based on my recommendation did not feel we had the funds to allocate to the old pension fund. At the trustees meeting it was recommended by the Mayor and City Clerk that pension amounts be reduced to the pensioners to save the fund. It was voted down. An Attorney General's opinion was requested, and he advised that he did not feel there was legislation to allow that to happen. City Attorney Kit Williams recommended and advised that the city was not liable for that pension fund. It was the responsibility of the pension fund and the trustees of that fund. Since that time, proposed legislation was presented to the legislature which would allow us or the trustees to legally reduce the pensions to pensioners if they felt it was necessary to save the fund. That was voted down in the legislature.

We have a pension fund that is a liability of the trust fund as advised by our City Attorney and it looks like it is near certain to run dry in the future. As of 2014, that funds unfunded actuarially liability is $14 million. We are going to get money in from a levy that was approved by the voters of .4 mills in the future. We are going to get income into that fund so the liability would not be that large if in fact it failed. However, that is the unfunded liability calculated at this point.

Mr. Becker did a scenarios overview of statistics for funding the pension fund that were previously presented at the September 29, 2015 City Council meeting. He stated there are three types of revenue coming in to the trust fund to pay the pensioners. He stated that the fund is generating around $700,000 and paying out about $1.1 million. He stated in trying to ascertain what the liability would be over time, it would be the variables of sources of income, property taxes increase, interest earnings being achieved, continuing to get premium taxes on property insurance, and the mortality table. He stated if the city does decide to send this to LOPFI and sign a contract saying we will pay whatever is necessary, they can raise that to what they need to pay those pensioners. We know what that would be in 2016, but with variables it could be raised as early as 2017. He believes we are taking on a risk. He stated the request before the City Council is coming from LOPFI and asking them to sign a contract to have LOPFI manage this, pay the current pension cost at the same level they are right now, and pay LOPFI what they need. He has reservations about an 8% interest earnings. He stated LOPFI will tell you they have earned an excess of 9% interest earnings over the life of the plan, and that is true. He reminded Council that the plan goes back to the 90's when interest earnings were very good. He expressed some options that the City Council has. He stated that they could subsidize the current plan, send it to LOPFI, leave it the way it is right now, ask the voters to extend the property taxes up to one mill, or pursue legislation to reduce the pension funds or manage them better.

Alderman La Tour: Paul, one of the possible options for resolving the conflict is a millage rate increase we take to the public?

Paul Becker: Yes. The statute allows up to one mill by voter referendum. We currently have 4/10 of a mill.

Alderman La Tour: Have you run the numbers if we take it to a full one mill if the people vote to do that?

Paul Becker: It should generate at least another $600,000 or more a year to the fund. It should be enough, from at least what the actuarially studies are, to save the fund.

Alderman La Tour: If we were to assume the liability and send this to LOPFI, they aren't going to accept our net liabilities without some commitment from our city. If we increase the millage that is coming from the people of Fayetteville, it lets them know what their government is doing. Of the options, that is my favorite.

Paul Becker: You are right. LOPFI is not going to assume anything. LOPFI is going to manage the fund. They can take the fund and pool it with the investment resources and should be able to gain a greater return. The city assumes the liability.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: The agreement that is part of this states that we will have to pay a half percent for their investment cost every year, plus one percent of all the salary cost. For the fund to achieve 8% it would have to earn 8.5%. This is a contract saying what you must do and is not a negotiated contract.

Paul Becker: Those cost were factored into the actuarial study.

Alderman Tennant: State Representative Whitaker introduced legislation that was fought and defeated that would have enabled the funds legal authority to deal with their funds. Is that not correct?

Paul Becker: That is correct.

Alderman Tennant: It was fought harshly by the very group that I think would benefit from it. I don't understand why they fought something that would enable them to do the very thing they are asking the taxpayers now to do.

Paul Becker: It was introduced and was defeated.

City Attorney Kit Williams: Representative Whitaker requested that I go down to testify about this in front of a joint committee of the House and Senate, which it did pass in. There were representatives of the Fayetteville Fire Pension Relief Fund as well as the State Pension Relief Board that argued strenuously that they should not pass that. They did not want the authority to reduce their benefits regardless of whether it was voluntary. It did pass the House. They were able to get it defeated in the Senate to try and prevent them from having any authority to reduce benefits, even though the pension board is controlled by the pensioners with four out of six votes. Jody Carreiro was there explaining the predicaments of various pension funds. I was surprised that it was opposed. All it would have done was given them additional clear power. I believed they had the power anyway, but the Attorney General disagreed with me. I thought a statute would clear that up, but that statute did not pass.

Alderman Tennant: I was confused as to why they would fight it. I would think that would be the enablement that they would want to make those changes and give them power.

Alderman Marsh: They have seen a 40% increase in benefits over the last 20 years, which seems a little out of step with the average earnings for active workers, but they don't have the authority to reduce their benefits. Is that correct?

City Attorney Kit Williams: The Attorney General says they do not have that authority. I believe they do have the authority. No one will really know unless a judge says they do or do not have that authority.

Alderman Petty: Is that still your opinion that they have the authority to reduce their benefits?

City Attorney Kit Williams: Yes. I believe there is a particular statute that talks about prorating benefits. I don't believe that only takes affect when the fund has been driven into the ground with no money left. The Attorney General basically said, "You have to totally deplete the fund before you can start prorating the benefits."

Alderman Petty: We have been told that historically the LOPFI returns have been in an excess of 9%?

Paul Becker: That is correct, from their inception in 1983.

Alderman Petty: What are the historical returns for the local fund?

Paul Becker: I can only go back about ten years and it's been 5%. Lately it has been under that.

Alderman Petty: A few percentage points less than the LOPFI fund?

Paul Becker: Yes. From the last report it was about 3.5%. The fund is a little over $4 million currently. Once a fund goes under $5 million dollars the law restricts where you can invest. When it was over $5 million the investment manager here for the Fire Pension Fund was fairly aggressive and could earn a better rate than that. It was earning 6% or 7% at times. LOPFI could earn a better return if there are returns to be had, but of course nobody knows that.

Alderman Petty: You presented us one of the options that the people could raise taxes. If we consolidated with LOPFI and the scenario we've been presented didn't play out and we had additional obligations 15 years down the line, could we not also raise taxes at that point?

Paul Becker: I don't see anything that would prevent it. That is a legal question.

City Attorney Kit Williams: We have talked to the Pension Boards over the last several years that they have the right to go to the citizens if they felt like that is what they wanted to do. They would not have to go all the way to a one mill. In 2001 the property taxes had been escalating so quickly, then Amendment 59 was violated. It required that the millage be rolled back to .4 mills, that's why it's .4, instead of .5. If the Pension Boards would go to the voters and ask to have that tenth of a mill back, that would increase their millage by 25% which is a pretty substantial amount. It would go a long way toward making their fund more solvent. Even at this late date with the amount that has dwindled in their pension plan it's probably not enough to completely save them. The latest report from our Accounting Department shows their market value and assets are under $3.6 million. Looking at the amount of millage, about $250,000 of the millage hasn't been paid yet, which I assume will be paid in this quarter.

Alderman Petty: We have some decisions based on the options Paul laid out. We could keep the fund local and fix it if the people raise taxes by some amount or we could consolidate it into LOPFI. If we were to consolidate it into LOPFI, raising taxes to fix a future problem is not off the table?

City Attorney Kit Williams: I will have to research that. I don't know why it would be off the table. I think if the citizens wanted to tax themselves more to do this, then they probably have that power.

Alderman Petty: This is a very difficult decision. I concur with Alderman La Tour's statement at our Special City Council meeting that we have a moral obligation to fund these pensions. What I'm struggling with is the fact that we have conflicting opinions if we can reduce benefits. I'm not concerned about the pensioners' benefits to themselves. It is at a level with our current employees. It's at around 90% and that is fine with me. The spousal benefits after death are a little unusual and may go a long way to fixing the problem.

The enabling legislation that was proposed by Representative Whitaker and then opposed by our own pension board, if I was being cynical, I would say they are playing an all or nothing game and trying to paint us into a corner with this decision. I don't like being cynical, but the tactician in me might consider that game. I believe that is where we are at today. I am not particularly concerned that the actuarial predictions we were shown at the special meeting are too risky. There is an acceptable level of risk. We were told that if they only earn 7% we would be okay. There is that assumption. We were also told that we have to earn 3% on property tax revenue, we have to appreciate it 3%. I am bullish about property tax more than the average person. I see Northwest Arkansas continuing to grow and play a competitive game on the national stage in terms of bringing new residents to the region. I don't see us annexing more land. There are a variety of other factors that is going to make property taxes appreciate more quickly than they have historically. There is an acceptable level of risk in the actuarial projections if we were to consolidate. This conversation is only about the Fire Pension. We have a Police Pension that is almost in the same boat. Whatever decision we make today is going to strike a precedent for the decision we have to make about the Police Pension.

I don't like the all or nothing position we have been put in. I would prefer to strike a deal with the Pension Board and say, we understand there is a legal risk if you reduce your spousal benefits. If you guys were to say today we will vote to reduce our spousal benefits, I would be more inclined to vote to consolidate and to share that legal risk with you and be on your team. As it stands I don't perceive that we are on the same team.

Alderman La Tour: At the special meeting I expressed a sentiment that I think is shared by most people on this City Council. Fire and Police put their lives on the line every day and I appreciate that. What gives me concern is that I don't like writing blank checks. If we send this to LOPFI, someone else is going to dictate to our city how much money we have to send them. That is the big unknown. It is hard to commit to $150,000 to $350,000. Whether we send it to LOPFI or we keep it and we finance ourselves, the money is all coming from the Fayetteville taxpayers one way or another. I like the idea, if it is legally permissible, to go directly to the people of Fayetteville and let them vote on it. You would be free to make your case to the people of Fayetteville. We appreciate the service you have provided to our families. It seems like you would have a fairly easy case to make with the public. Taxes are not popular with anyone, but that is the most honest way I can think to do this. If we go to court and a judge rules that we owe it to you, it is still coming from the people of Fayetteville. LOPFI is not going to take on these liabilities without a commitment from us to pay the difference. We want to do it all, but we don't have the wherewithal to do it all. Our budget has to give somewhere.

Mayor Jordan gave the rules for the public to speak. He requested for the Council to not vote on the item so that David Clark, Executive Director of LOPFI and PRB could attend the next City Council meeting to speak.

Peter Reagan, Fireman's Pension Board: David Clark could not be with us tonight. He can be here at the October 20, 2015 meeting. If we can send this to the next meeting, I will give you my remarks then.

Mayor Jordan: It will stay where it is and then it automatically goes to the October 20, 2015 meeting.

Alderman Petty: Is there a member of the audience that was present at the committee meetings where the enabling legislation was discussed?

Peter Regan: I was there.

Alderman Petty: Was the City Attorney's account right that you opposed the legislation?

Peter Reagan: Yes. I want to clarify one thing. I was not there as a Pension Board member. I was asked to be there and make a presentation by the president of the Arkansas Professional Firefighters, the position I formerly held.

Alderman Petty: That is why you opposed the legislation?

Peter Reagan: I was asked to speak against the legislation. No one wants to reduce benefits. The liability of the fund is held with the city. The city is required to carry the unfunded liability on its books. That's a GASB, Governmental Accounting Standards Board. Is that not right, Paul?

Paul Becker: Yes.

Peter Reagan: The Mayor is named in state statute as Chairman.

Alderman Petty: In your official role as a member of the Pension Board, is that your position?

Peter Reagan: Yes, it is.

Alderman Marsh: We carry the liability for the funds, but then we don't have the authority to regulate benefits. Is that correct?

City Attorney Kit Williams: I am not going to comment on the accounting rules for GASB that requires us to have it on the books. That is not the same thing in my opinion as legal liability. The legal liability argument is that they have a pension established by the state and you can't end it even though you don't have any power as a city to control it. I found this out when I was on the Council and tried to do something about it. One of the sections of the statute states what happens if it runs out of money. It says, "The benefits will be prorated until they are exhausted that year and then you wait to the next year for the millage to come in." It says nothing about the city having to make up and pay anybody. I don't believe there is liability regardless of what might be on the city books for accounting purposes. The key is what a court would say. If they do run out of money, they will probably sue us and then we will find out.

Paul Becker: Our auditors require us to book it. The criteria is a reasonable possibility that we would be responsible, therefore we book it. That does not mean that there is an absolute liability. They can't make that determination.

Alderman La Tour: A company called Enron was fond of taking their liabilities and putting it on other entities books to hide things. Our accounting profession today is real concerned about that issue. They maybe go too far this direction to book everything so that it will show full disclosure. It doesn't mean we are legally liable. It is a conservative way to present it just in case we are liable.

This ordinance was left on the First Reading.

Consent:

Approval of the September 15, 2015 City Council meeting minutes.

Approved

2015 Justice Assistance Grant Local Solicitation Award: A resolution authorize acceptance of a 2015 Justice Assistance Grant Local Solicitation award in the amount of $72,774.00, of which $29,576.00 will be used by the Fayetteville Police Department, with $28,943.00 to be disbursed to the City of Springdale and $14,255.00 to Washington County, and to approve a budget adjustment.

Resolution 171-15 as recorded in the office of the City Clerk

2015 Bulletproof Vest Partnership Program Matching Grant Award: A resolution to authorize acceptance of a fifty percent (50%) matching grant award from the 2015 Bulletproof Vest Partnership Program in the amount of $6,056.00 for the replacement of body armor vests for Fayetteville Police officers, and to approve a budget adjustment.

Resolution 172-15 as recorded in the office of the City Clerk

Fayetteville Police Department Policies: A resolution to approve Fayetteville Police Department policies 1.1.1, Law Enforcement Role; 1.2.3, Bias Based Profiling Prohibited; 1.3.4, Less- Lethal Weapons and Defensive Tactics; 12.1.1, Organizational Structure, Functions and Direction; 12.2.1, Policies, Procedures and Rules Development and Review Procedures; 22.2.8, Military Activations; 25.1, Grievance Procedures; 33.1, Training; 35.1.1, Performance Evaluations/Personnel Early Warning System; 41.2.5, Missing Persons; 41.2.7, Department Response to Mentally Ill Subjects; 41.3.5, Grooming and Uniform Requirements; 42.1.1, Criminal Investigations; 44.1.1, Juvenile Operations; and 84.1.1, Property Management, Acquired and In-Custody.

Resolution 173-15 as recorded in the office of the City Clerk

Bid No. 15-48 Alliance Pump & Mechanical, Inc.: A resolution to award Bid No. 15-48 and authorize a contract with Alliance Pump & Mechanical, Inc. in the amount of $78,950.00 plus applicable taxes to rebuild seven (7) gearboxes at the Noland Wastewater Treatment Plant.

Resolution 174-15 as recorded in the office of the City Clerk

Blueingreen, LLC Change Order No. 1: A resolution to approve Change Order No. 1 to the contract with Blueingreen, LLC in the total amount of $58,269.06 to fund the sales taxes for ozone equipment necessary for the project and an increase of Blueingreen, LLC's warranty bond from one year to two years, and to approve a budget adjustment.

Resolution 175-15 as recorded in the office of the City Clerk

Trimark Strategic Equipment, Inc.: A resolution to authorize the purchase of a hydrovection oven from Trimark Strategic Equipment, Inc. in the amount of $21,848.40 plus applicable taxes, pursuant to a National Joint Powers Alliance cooperative purchasing agreement, for use by the Fayetteville Senior Center.

Resolution 176-15 as recorded in the office of the City Clerk

Garver, LLC Task Order No. 4: A resolution to approve Task Order No. 4 with Garver, LLC in the amount of $27,500.00 for design, bidding and construction oversight services for the Drake Field Airfield Roof Rehabilitation Project.

Resolution 177-15 as recorded in the office of the City Clerk

Hi-Lite Airfield Services, LLC Change Order No. 1: A resolution to approve Change Order No. 1 to the contract with Hi-Lite Airfield Services, LLC in the amount of $8,895.00 to increase the quantities of airfield pavement markings to be rehabilitated.

Resolution 178-15 as recorded in the office of the City Clerk

Washington County Video Services Contract: A resolution to approve a one year video services contract with Washington County in the amount of $750.00 per month for the City's Media Services Division to record, telecast, stream and archive meetings of the Washington County Quorum Court and certain committees, and to approve a 0.25 full time equivalent position increase.

Resolution 179-15 as recorded in the office of the City Clerk

SWEPCO Utility Relocations: A resolution to approve a utility relocation agreement with AEP/SWEPCO for utility relocations as part of the Old Wire Road/Highway 45 Intersection Improvements Project, with the total amount to be paid by the City of Fayetteville not to exceed $46,718.86.

Resolution 180-15 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 7-0. Alderman Schoppmeyer was absent.

Unfinished Business:

ADM 15-5093 (UDC Chapters 161, 164 and 172 – Single Family and Two Family Infill): An ordinance amending Title XV Unified Development Code of the City of Fayetteville to Amend Chapters 161, 164 and 172 to modify the bulk and area regulations to encourage small lot single family and two family infill in multi-family zoning districts and to include minimum design standards for this type of development. *At the August 4, 2015 City Council meeting, this ordinance was tabled to the October 6, 2015 City Council meeting.*

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He stated the Board of Adjustment was supportive of the proposal. He requested the ordinance and exhibits presented in the packet be amended to reflect the latest draft.

City Attorney Kit Williams requested it to be amended before he read the ordinance.

Alderman Marsh: Previously I had asked you to look at eliminating the minimum lot width. What was the rationale for keeping those?

Jeremy Pate: We looked at both Neighborhood Conservation and RSF-8. In order to keep a zoning district in tact that has a minimum zoning there has to be some underlying lot area or lot width. Reducing those even further would increase the density of the underlying zoning, such that those zones would then become much more dense than what they are zoned currently. Our proposal to alleviate that was to create this new zoning district with a much higher density.

Alderman Marsh: I was looking for the ability to cluster developments in the smaller land areas in order to preserve open space for wildlife habitat or stormwater infiltration. Smaller house types are becoming more popular and it seems like these lot minimum widths seem quite large to do any kind of innovative housing types. By doing that we are ensuring there is uniform pattern of development over a piece of property as opposed to a cluster and an open space.

Jeremy Pate: It doesn't really prevent that and that's a common perception about zoning. These are minimum standards so this allows for a great variety if a developer chooses to do so. The Multi-Family Zoned Districts have been difficult to develop in except for a multi-family product because it has been so restrictive in terms of the lot area and width.

Alderman Marsh: This is a big improvement over what we've got, but I still think we have work to do on it. I'm willing to support it.

Robert Sharp, 4th Street stated his appreciation for the staff in updating the ordinance. He spoke in favor of the ordinance.

Alderman Petty moved to amend the ordinance. Alderman La Tour seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman Schoppmeyer was absent.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty: There are a lot of people in the community that have been involved in a national reform of zoning codes and they have done a lot of good to bring about change. Fayetteville participated in that trend starting with our Downtown Master Plan. This ordinance is a good ordinance, but we should not mistake it for a solution for underlying problems in our code. RSF-18 fills an important gap, but doesn't fill all the gaps. It leaves some wide open, particularly when we start looking at land uses outside of residential. If we were to wade into the details of lot width by designation basis from RSF-4 to RSF-8 through all the RMF's, reasonable people can disagree about how those should be constructed. This ordinance isn't perfect. It makes our existing Unified Development Code better. It needs to be tweaked and we need to be cognitive of that going forward. It does not benchmark well against the best zoning codes across the nation anymore like it did when we first started this process after the Downtown Master Plan. Other cities have leap frogged us in the way they write and amend these codes. They are offering far more certainty to their development community, especially the traditional small scale development community, at the same time maintaining their protections for existing neighborhoods. This is an ordinance that makes our code better, not an ordinance that fixes the problem with our code. Staff should continue to be as aggressive as they have been with this and much more so.

Aubrey Shepherd, Fayetteville Citizen stated he needed clarification of the ordinance.

A discussion followed reviewing the ordinance to clarify any confusion and discussed the benefits of the new ordinance.

Aubrey Shepherd stated his dissatisfaction with the ordinance due to environmental issues.

Alderman Kinion: There is a possibility of a multi-family construction at this type of density. I look at this as the possibility for home ownership that is more affordable. It is going to allow us to conserve more of the green space since 50% of the land area has to be green space as it is developed. We are offering a more urban opportunity with density. We need density to get to our transportation goals. We are allowing the infill that is necessary as we develop our urban center. Alderman Petty hit it so directly. We have a lot to work on in our code to make it more comprehensive, diverse, and more easily understood by individuals who want to develop. This is one step forward to reach those goals. Rezoning is one of the toughest decisions we make on the City Council because it makes an impact on the future. We are seeing the impact of runoff, the management of stormwater, and the high velocity we get with high density development. It all has to be managed responsibly. This is a step towards a solution in managing this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5800 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. *At the September 1, 2015 City Council meeting, this ordinance was left on the first reading. At the September 15, 2015 City Council meeting, this ordinance was left on the second reading.*

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 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He had an amendment for consideration. He stated the ordinance read tonight included staff's original proposed amendment which removes parking standards or requirements for non-residential development anywhere within the city. He stated what was read was what the Planning Commission originally voted upon. Staff supports either option.

Mayor Jordan: The amendment would let staff decide whether to use a variance for the parking spaces instead of it being a unified ordinance. Is that correct?

Jeremy Pate: Correct. Exhibit A shows that you would still utilize the base line parking ratios. In Section E it would allow for further administrative reductions based on availability of public or shared private parking, potential adverse impacts on parking or neighborhoods, proximity to alternative transportation, multi-use trails, and any other relevant considerations. We added particular consideration should be given to redevelopments where there is an adaptive reuse of an existing structure, preservation of historic structures, accessory outdoor uses, low impact development techniques or replacement of the footprint of an existing structure. Those are the items we added for this potential amendment.

Alderman Petty: If we are going to vote tonight, I'm not going to be able to support the amendment. This proposal is something we need to be sensitive to in Fayetteville, which is certainty in the development process, especially in small scale development processes. Small scale development is how our city was built. Before we had a zoning code, it was the retired and the neighbor who built our city increment by increment. For those who have to do most of their planning on the cheap, who don't have the money to design a project, we need to provide certainty within the code as to what they can expect. This does not do that. I understand the City Attorney's concern that we may be removing the ability of a future City Council to reinstitute these requirements. I am not concerned with that. If the small town builders go to the bank and want to build a neighborhood corner store and don't have any parking spaces provided for it, except for what is already on the street, you know what the first question the lending officer is going to ask? They will say, "Justify it. Tell me why you can succeed with this development without any parking spaces." This is one area of the market that is efficient. We should signal to small scale developers and the community that they get to make that decision with their team. We don't have liability at the city for this. If we do vote to amend this I would suggest that we send it back to the Planning Commission to consider. This is an approach that they did not see. They had a strong consensus in support of the original proposal.

Alderman Marsh: I would agree with Alderman Petty. I support the original proposal and not the amendment. I worry that the amendment puts too much responsibility on our Planning staff. Parking spaces are money and to have a staff member being responsible for direct impacts on the cost of development is risky and opens us up to allegations of favoritism or impropriety. I don't believe our office would do that but it opens us up. If it is such a concern that we maintain some ability to regulate parking I would be in favor of reducing the requirement to one space per property if that would achieve the same result. We need to keep our development codes simple and make approval quick. If you were to invest in a piece of property for development, you need to be able to predict how many units you can fit on the lot or what use units you are allowed. If you have to go back and forth with the Planning staff, this adds a lot of time and effort that people may not be willing to invest when they are considering small scale development.

Alderman Kinion: There needs to be more review. Alderman Marsh and Alderman Petty have valid points of view which I think we are going to get too. It is a big change. I am approaching it with a cautionary point of view and that's why I would offer the amendment. We did get the advice from our City Attorney that there is no turning back if we don't have something as a fail-safe measure. I don't like that it goes to an administrative review to the city staff, but I don't know what the option would be otherwise. We have a lot of things that are reviewed by city staff. This is why I support the amendment.

Alderman Tennant: I agree with almost every point that Alderman Petty and Alderman Marsh made. I like the original more than the amended one. I don't like adding any more power to the city staff or telling business people how much parking they need. We should leave that to the business owners. I wouldn't be in favor of the amendment.

Alderman La Tour: The market place is very capable of allocating scarce goods and resources such as parking places across the nation. People will do what is in their best interest. Bankers don't want to lend money on losing propositions. The market provides ample incentives to have a reasonable number of parking places. I view the amendment as taking a step backwards.

City Attorney Kit Williams: There is a thing, called The Tragedy of the Commons. When you have a part of something you don't own, but it is common with everybody else, you will overuse that until it is exhausted. Parking can be like that. We aren't just talking about small businesses, this says every business. If the City Council wants to try to protect the small businesses, this could be somewhat changed to try to do that. I grew up in Fayetteville. In the 1960's and 1970's the square was suffering terribly. It was suffering because of lack of parking. The people that built the businesses didn't build extra parking. The square was not able to recover until the parking you see now was built. Some were built by the parking authority and some by the city. This is one of the reasons that the Town Center was built so that we could have a parking deck on the square, to rejuvenate the square, and it worked.

We have had parking problems in Fayetteville that has required great efforts to solve. What concerns me is that we have a lot of mixed use zoning with existing homes in neighborhoods, but you could have a restaurant. Somebody could decide to put a restaurant in a house and not provide any parking, because they can park in the neighbor's street. It would save a lot of money not putting a parking lot in. They are inflicting their parking problems on the neighborhood. Maybe this won't happen. It makes sense for the Planning Department to look at the situation and decide if there is enough parking to handle the proposed business. If after a few years with this variance procedure, if there hasn't been any problems, then you could take it away and be safe that you aren't going to need to reinstitute it.

People would use up the commons of parking for their own private businesses because they can make more money, and the City Council in the future will have its hands tied by this City Council. You cannot do that in the future, because to do that you would be violating the Personal Property Protection Act. You would be taking more than 20% of somebody's value of their property if you required them to put a parking lot in. It is a very dangerous thing. You are closing the door and locking it against any future regulation if you pass the original proposal.

Alderman Petty: I want to talk about how we got our parking minimums in the first place. Jeremy, were those based on any kind of local survey?

Jeremy Pate: No, they were not.

Alderman Petty: Do we know where we got the numbers?

Jeremy Pate: No. Most of the parking standards you look at across the country are very similar. The charts you see in our ordinance are very similar to many other cities across the country. They are based on a handful of studies that have been conducted across the nation.

Alderman Petty: These parking defaults have been debunked by contemporary research. They have no bearing whatsoever on the actual use that occurs within the building. How do we know that every 300 square feet of retail space requires one parking spot? Look at Dickson Street. A 1000 square feet means every retail space down there requires three parking spots. A traditional main street is served only by its on-street spaces in front of the building. They share spaces. It is far more accurate to talk about The Tragedy of the Commons in terms of our gross land area. We have about three parking spaces for every car. That is not unusual across the country. The tax revenue on a parking space is pretty close to zero. We just had a conversation about how we need to gain our property tax appreciation over time for our pension funds. This is part of that problem. How we use our land is the core of the property tax appreciation conundrum that we face with our pension funds, along with the rest of our budget. The notion that the square was failing simply from parking could stand some critique. From the 1950's to the 1980's, Fayetteville grew its land area through annexation at a rate of three times its population growth. We call this sprawl now. Fayetteville grew historically when these parking minimums were instituted in an environment that is much different than what we have today.

On a housing basis, Fayetteville and Northwest Arkansas are affordable. The Northwest Arkansas Council in 2010 commissioned a study looking at our transportation cost. When you look at a housing and transportation basis, we are not affordable at all, even though our homes are cheaper. We instituted parking minimums because our commercial spaces were isolated from our homes and neighborhoods. The only way to get to them was to drive. If we want to fix that we have to adopt policies like this proposal. We have to allow commercial spaces to reintegrate back into the neighborhoods they once occupied. To Council members who are hesitant about adopting the original full proposal. We may not be able to reinstitute parking minimums we have today if we abolish them as our City Attorney has advised us. We can reinstitute them up to the limits of the state law he's citing. We can reinstitute them up to 20%.

Alderman Kinion: In the 1960's I saw everyone flee from the square. I have a different point of view. I have to look at our neighborhoods that somehow need to be protected. We do have a parking crisis in some of our neighborhoods. It is evident as we get higher density that people are not getting rid of their cars. Offering this amendment is reasonable. In a year or so we might want to visit this again and throw it out. I don't want to move forward so rapidly that we don't have the opportunity to evaluate the impact until it is too late. It is heartbreaking to see empty parking lots in Fayetteville, such as Evelyn Hills. There was a time that Evelyn Hills was filled completely. There is a balance at looking at historical experience that I've seen in our city. This is why I am offering some cautionary step. If we need to take this back to be reviewed, I am all for that. Parking is probably the biggest complaint that any Alderman sees in an area where there isn't any. We see it around Wilson Park all the time. Maybe we should go back to the drawing board and look at a step that will protect us that is not as dramatic as the original that was offered without an amendment.

Alderman Long: Parking in neighborhoods is one of the biggest complaints I get as representative for the area around the University of Arkansas. I get a complaint at least once a day. It happens around schools and apartment buildings. I would hate to see us make a hasty decision to just get more complaints because we have no parking standards for small business that go in and around neighborhoods. The average of three parking spaces per car is in part due to places like Evelyn Hills and Fiesta Square. Zoning isn't done the same way anymore, so we can't just use that statistic in Fayetteville. We have parking standards, a Planning Commission, and Planning Department that evaluate every new thing that is developed in the City of Fayetteville. Someone made the point that this put too much power in one staff member, but our codes are written that way so when we put people in those positions, we should trust them. If a parcel is divided into two zoning categories, our Planning Director, Andrew Garner can administratively extend one of those zoning categories 50 feet along the entire parcel. We put a lot of faith and power in our staff members. We pay them to make the decisions. There shouldn't be any problems with being cautious. The City Attorney has given us advice. We usually listen to good advice from our elected City Attorney. Our budget is tight. We are talking about increasing the mills to pay for fire and police. Are we going to be talking about increasing the mills or sales tax to pay for residential parking districts to be monitored? We don't even have all of our staff positions filled right now. I would support sending the entire ordinance to Ordinance Review or to the Planning Commission to reevaluate some of these elements. I can't support this ordinance without the amendment.

Alderman Marsh: We need to pass the original ordinance and we need to pass it now. We need to do that because we have a serious lack of affordable business space, small retail space, and affordable housing space. The study Alderman Petty referenced regarding housing and transportation identified that residents of Northwest Arkansas are spending more on transportation than they are on housing. When you look at Downtown infill development, each space runs in the neighborhood of $20,000 to $40,000. When you are trying to create affordable business space, having this parking requirement creates a huge barrier to doing that. We are not tampering with the residential requirements. Any new residential development still has a parking requirement. There are environmental benefits of reducing parking area.

Alderman Gray: I am leaning strongly to voting for the amendment. All these wonderful things that are being mentioned are great ideas, but I can see those beginning to happen under the amendment. Is that correct?

City Attorney Kit Williams: With the amendment it can go down to zero if that is what Planning thinks is proper.

Alderman Gray: Exactly. I see no problem taking this first big step. It doesn't make sense to take this movement to such an extreme in the first step. I will be supporting the amendment.

Rob Sharp, 4th Street stated the amendment is a good idea to try and work through it more slowly, but as a society we should be thinking about how much we want to dedicate to the car. He stated there is no guarantee of a bed to sleep in or a roof over your head, but if you have a car there is always a parking space for you. He believes these priorities should be changed.

Lorraine O'Neal, 2001 West Wedington spoke in opposition of the amendment.

Alderman Kinion moved to amend the ordinance as published. Alderman Long seconded the motion. Upon roll call the motion to amend failed 3-4. Alderman Long, Gray, and Kinion voting yes. Alderman La Tour, Marsh, Petty, and Tennant voting no. Alderman Schoppmeyer was absent.

Lorraine O'Neal, 2001 West Wedington spoke in favor of passing the ordinance.

Alderman Kinion: I am going to support this and we need to move forward. I wish we could had moved forward with the caution I presented through the proposed amendment.

Alderman Long: I see the city having to be involved in a lot more complaints and going through our Code Enforcement Department. That is going to cost money. I will not be supporting the ordinance in this form.

A discussion followed about what would happen if in the future problems occurred with citizen complaints.

Alderman La Tour stated he liked for people to be able to have freedom of choice. He stated he is in favor of the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. Alderman La Tour, Marsh, Kinion, Petty, and Tennant voting yes. Alderman Long and Gray voting no. Alderman Schoppmeyer was absent.

Ordinance 5801 as Recorded in the office of the City Clerk

2015 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2015 fixing the rate thereof at 2.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund and 1.0 mill for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas. *At the September 15, 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 Tennant seconded the motion. Upon roll call the motion passed 6-1. Alderman La Tour voting no. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Paul Becker, Finance Director gave a brief of description of the ordinance.

Alderman La Tour moved to amend the ordinance to state, the Finance Director will calculate the additional tax revenue raised by the millage increase set forth in this Ordinance on an annual basis, and report the same to the City Council. This amount shall be added incrementally to the budgeted amount for the Police and Fire Departments in fiscal year 2016 and beyond, and not diverted to other budget uses or functions.

City Attorney Kit Williams: There are problems with your proposed amendment from a legal point of view. When you talk about it must be budgeted for the police in the future and thereafter, this City Council can't bind the hands of a future City Council on what they are going to use the general operating millage for. It has to be enacted every year. The budget is enacted every year. I have tried to make sure that the various branches of government do not step on each other's toes. When there has been a proposal in the past that would direct the Mayor or a Director by the Council, I believe that is beyond the power of the Council.

The amendment failed for lack of a second.

Alderman La Tour stated with his proposed amendment he was trying to ensure that the police and fire were the ones who would really get the money. He stated he is skeptical if the money that is in the General Fund will actually go to police and fire.

Alderman Long: To borrow some words from Alderman La Tour, "Good fire and police protection are part of the reason that Fayetteville grows." With Fayetteville growing, I doubt that the need for fire and police, that we are dedicating this money to, will ever go away. I doubt that the millage would ever be used for something else. The cost of the police force is not going to decrease over time.

Paul Becker: 60% of the General Fund expenditures are on police and fire. This shows the Mayor and Council's commitment to public safety. We are audited every year. Those numbers are in our annual audit on what we expend. Every year we come before the Council to discuss budgeting. At any point the Council feels there is a need or not a need, they can change the millage.

Lorraine O'Neal, 2001 West Wedington stated she agreed with Alderman La Tour's concerns.

Aubrey Shepherd: Can someone give a statement about how much this will help the pension funds?

Mayor Jordan: This won't do anything for the pension funds. This is to hire 19 new fire and police personnel.

Peter Tonnessen, Ward 3: If the city is growing and the tax base is increasing, why doesn't that, at a given millage rate allow for the growth of the Police and Fire Departments?

Paul Becker: The amount of dollars that we generate from property taxes is about $1.3 million. It does grow, but it doesn't grow at a fast enough rate to take care of the increases in our needs.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-1. Alderman La Tour voting no. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Alderman La Tour stated his dissatisfaction on increasing the tax burden on citizens who are barely getting by.

Alderman Petty gave a brief history of prior City Councils when dealing with trying to balance the budget. He stated there are only two ways to pay for staff increases, the first is to raise taxes in the manner being proposed, and the second option is to find an equivalent amount elsewhere in the budget and eliminate the program.

Alderman Marsh: The median home value in Fayetteville is about $160,000. The impact of this tax would be a little over $30 per year. I would be willing to spend that to have the fire and police respond to my house in less than five minutes.

Alderman Long: When the Chief of Police and Fire Chief say they need something, those are the things you respond to first. I've never seen either of those two people come to Council and ask for something to protect the citizens of Fayetteville. No one likes tax increases, but $2.50 a month is not a large tax burden for the outcome.

Alderman La Tour: Five months ago when we were discussing making a $50,000 grant to the Walton Arts Center, I brought up that we had four or five unfunded and frozen positions on our Police and Fire Departments. Both Chiefs appeared before us and said, "We are making it just fine without those. We will do it with overtime." Five months later when we want a tax increase, they come back and tell us they need this. It looks like a manufactured need to accommodate this tax increase. I would like to hear my colleagues on the Council say they are firmly committed in making sure this money goes to fire and police.

Mayor Jordan: There will be an easy way of tracking it if we put on 19 fire and police positions. If we don't, then you can come back and hold me responsible.

Don Marr, Chief of Staff: Last year in the budget discussion, Alderman Long presented a request for a ninth beat to the city. At that time we did have both Chiefs come forward and talk about the fact that we thought we could continue it at the current levels. We were seeing a trend, but three months or six months doesn't make a trend. We wanted to see more time before we went to the citizens to ask for increases from their pocketbooks. We had been doing it through cuts. We are in the 13th additional month from the first discussion of this information. We have 13 more months of upward trend brought to us by our Chiefs. The commitment that was made to the Council by the Mayor, me, Paul Becker, Chief Tabor, and Chief Dayringer was that when we believe that there would be a need, we would bring that need immediately to the Council.

Another item we talked about was that the Council would need to do policy discussion changes and funding from the funds that we pay some of these other areas. When talking about the Walton Arts Center, it is parking fund revenues controlled by the Council where those funds go, which today are limited to parking. That wasn't a viable option for funding at the time or now, until someone brings that forward as a discussion, which has not been done by the administration and would need to come from the Council. It is the first time since 2005 that a request has been made for public safety. We have hit the 10 year threshold with a significant population change as the fastest growing municipality in the State of Arkansas during that period.

Alderman Long gave a brief history of a resolution that he co-sponsored to ask the administration to study the impact of the growing population compared to the police force. He stated the data at that time didn't support an increase. The Police Chief told him that if there was a time that the data changed that we would do exactly what we are asking for now. Alderman Long expressed his appreciation for the Chiefs' and administration for keeping public safety as their top priority.

Mayor Jordan stated there are few politicians that run on, I'm going to raise your taxes platform. He stated there comes a time when there is a need. He stated we studied this and made a commitment that we would be reviewing this. He stated the top priority of any administration is to keep a city safe.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman La Tour voting no. Alderman Schoppmeyer was absent.

Ordinance 5802 as Recorded in the office of the City Clerk

<u>**New Business:**</u>

Nabholz of Bixby, Oklahoma: A resolution to authorize the purchase of a rotary lift system from Nabholz of Bixby, Oklahoma in the amount of $45,990.85 plus applicable taxes pursuant to a National Joint Powers Alliance cooperative purchasing agreement for use by Fleet Operations.

Jesse Beeks, Fleet Operations Superintendent gave a brief description of the resolution.

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

Resolution 181-15 as recorded in the office of the City Clerk

Bid No. 15-47 Peterbilt of Fort Smith: A resolution to award Bid No. 15-47 and authorize the purchase of a Peterbilt 320 diesel truck with Labrie/Wittke superduty front loader from Peterbilt of Fort Smith in the amount of $243,520.00 for use by the Recycling and Trash Collection Division.

Jesse Beeks, Fleet Operations Superintendent gave a brief description of the resolution.

Mayor Jordan: Have these gone through the Equipment Committee?

Alderman Gray: They have.

Alderman La Tour: Why do we need this?

Jesse Beeks: It picks up containers at businesses.

Alderman La Tour: How many of these trucks do we have right now?

Jesse Beeks: Seven.

Alderman La Tour: They are wearing out?

Jesse Beeks: We rotate them throughout their life. We keep newer units and we don't replace them all at one time.

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

Resolution 182-15 as recorded in the office of the City Clerk

Bid No. LSC-2015 Benchmark Construction: A resolution to award Bid No. LSC-2015 and authorize a contract with Benchmark Construction in the amount of $37,000.00 for a kitchen rehabilitation project at Lifesource International using Community Development Block Grant funds.

Yolanda Fields, Community Resources Director stated she could answer any questions.

Alderman Gray moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the resolution passed 6-1. Alderman La Tour voting no. Alderman Schoppmeyer was absent.

Resolution 183-15 as recorded in the office of the City Clerk

Apple Seeds, Inc.: A resolution to authorize the sale of approximately 0.75 acre of city-owned real property located at 2648 Old Wire Road to Apple Seeds, Inc. for the amount of $200,000.00, and to approve a twenty (20) year lease agreement with Apple Seeds, Inc. for approximately two (2) acres on the north end of Gulley Park for the purpose of operating a teaching farm.

Connie Edmonston, Parks & Recreation director gave a brief description of the resolution.

Mary Thompson, Apple Seeds: We are a non-profit. Our mission is to inspire healthy living through garden based education. We have a teaching farm on College that serves over a 1000 students each year. We host a variety of programs. We grow organic produce that goes to the schools for the students to host their own farmer's market stands at their school. They encourage healthy eating habits at a young age. Establishing a teaching farm at Gulley Park would allow Apple Seeds to expand to reach more students and to be an educational resource for our community.

Mayor Jordan: It is a great organization.

Alderman Tennant: This is great for the city. I appreciate the effort and creativity in the use of this land. Thank you.

Aubrey Shepherd spoke in favor of the resolution.

Alderman Tennant moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed 6-1. Alderman La Tour voting no. Alderman Schoppmeyer was absent.

Resolution 184-15 as recorded in the office of the City Clerk

Brett Michael Maguire and Kimberly Ann Maguire Real Estate Contract: A resolution to authorize the sale of approximately 0.50 acre of city-owned real property located at 2634 Old Wire Road to Brett Michael Maguire and Kimberly Ann Maguire for the amount of $111,500.00.

Connie Edmonston, Parks & Recreation director gave a brief description of the resolution. She stated she would recommend approval of the sale of the home.

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

Resolution 185-15 as recorded in the office of the City Clerk

City Sales and Use Tax Bonds: An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2015, for the purpose of financing a portion of the costs of certain street improvements; authorizing the execution and delivery of a Fourth Supplemental Trust Indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an Official Statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a Bond Purchase Agreement providing for the sale of the bonds; authorizing the execution and delivery of a Continuing Disclosure Agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Paul Becker, City Finance Director gave a brief description of the ordinance.

Don Marr, Chief of Staff thanked Dennis Hunt and Bo Bittle with Stephens, Inc. and Gordon Wilbourn with Kutak Rock for helping the city through numerous bond issues and their guidance to city staff.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams stated his appreciation for the team at Kutak Rock and Stephens, Inc.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5803 as Recorded in the office of the City Clerk

Theatre Squared City Council Support: A resolution to express the City Council's support of Theatre Squared and its intent to lease 0.8 acre of city property at the southeast corner of West and Spring as Theatre Squared's new permanent performance facility.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated staff is in support of the resolution.

Jamey McGaugh, Theatre Squared Director of Development: We have had an amazing kickoff to our season. We are operating at 94% capacity and still several years away from our new facility. Over the last ten years we have had over a 100,000 people come to Downtown Fayetteville for these shows. We are excited about the opportunity to work with the City of Fayetteville on this project.

Alderman Petty: Thank you for pursuing this. There are a lot of investments lining up for School Avenue/West Avenue area. Because of these kinds of investments, the Downtown is the heart beat of the city. Over the next few years, as organizations like Theatre Squared and the library ramp up their efforts, we should be prepared to match their efforts with attendant infrastructure improvements that will be necessary to make sure they are successful.

Mayor Jordan: I look forward to working with you and getting a permanent home for you all.

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

Resolution 186-15 as recorded in the office of the City Clerk

RZN 15-5179 (324 N. Hornsby Dr./Markham Hill Rezone): An ordinance to rezone that property described in Rezoning Petition RZN 15-5179, for approximately 1.39 acres from RSF-4, Residential Single Family, 4 Units Per Acre to NC, Neighborhood Conservation, and RSF-8, Residential Single Family, 8 Units Per Acre.

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 recommending in favor.

Rob Sharp spoke on behalf of applicant Brian Reindl, that the project would maintain a single family quality.

Alderman Long expressed his appreciation for Rob Sharp's presentation at the Ward 4 meeting and the Bill of Assurance he submitted. He stated that everyone he has spoken with likes the project.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5804 as Recorded in the office of the City Clerk

RZN 15-5156 (1220 W. Cleveland St./Expired PZD 12-4079): An ordinance to rezone that property described in Rezoning Petition RZN 15-5156, for approximately 2.71 acres, located at 1220 and 1226 W. Cleveland Street and 725, 727 and 805 Hall Avenue from R-PZD, Residential Planned Zoning District to RSF-4, Residential Single Family, 4 Units Per Acre and P-1, Institutional.

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 recommending in favor.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was 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 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5805 as Recorded in the office of the City Clerk

RZN 15-5165 (1118 S. Dunn Ave./Pearson Development): An ordinance to rezone that property described in Rezoning Petition RZN 15-5165, for approximately 0.23 acres, located at 1118 S. Dunn Avenue from I-1, Heavy Commercial and Light Industrial to NC, Neighborhood Conservation.

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 recommending in favor.

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

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5806 as Recorded in the office of the City Clerk

RZN 15-5174 (S. End of Rupple Rd./Striker Development): An ordinance to rezone that property described in Rezoning Petition RZN 15-5174, for approximately 102 acres, located at the southern end of Rupple Road from NC, Neighborhood Conservation; CS, Community Services; R-A, Residential-Agricultural; RSF-4, Residential Single Family, 4 Units Per Acre; and RSF-2, Residential Single Family, 2 Units Per Acre to R-A, Residential-Agricultural; RSF-2, Residential Single Family, 2 Units Per Acre; RSF-4, Residential Single Family, 4 Units Per Acre; NC, Neighborhood Conservation and CS, Community Services.

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 recommending in favor.

Blake Jorgensen, Jorgensen & Associates expressed his excitement for the project. He stated he agrees with staff.

Alderman Long: How long have the signs been up about the rezoning?

Jeremy Pate: The requirement by the code is at least 15 days prior to a Planning Commission hearing.

Alderman Long: It's a very large area. Would it slow you all down or impact your project timeline if we held it for one more City Council meeting?

Blake Jorgensen: When we did the groundbreaking for Rupple Road, the sign posting was prominently displayed in the background. This is something we have been working on since 2007. Breaking ground would be advantageous for us. We have been working with staff for a very long time. It's gone through several rezonings and this isn't the first request. You can send anyone my contact information and I would talk to them anytime.

A discussion followed about rezoning signs.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I remember this piece of property when I was on the Council. It is going to be great to see that developed in that area.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5807 as Recorded in the office of the City Clerk

VAC 15-5087 (1005 E. Rockwood Trail/ L & F Construction): An ordinance to approve VAC 15-5087 submitted by Fred Patrick for property located at 1005 Rockwood Trail to vacate an alley right of way.

City Attorney Kit Williams read the ordinance.

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

Alderman Long: What was the purpose of the vacation?

Jeremy Pate: It is an old platted right-of-way that is along the rear of their property. It does not fully connect streets. They wish to return the property back to the adjacent property owners.

Alderman Long: The property owners are requesting it through a construction company. Are they planning on building something?

Jeremy Pate: There is a home that is already constructed there that the builder still owns.

Alderman Long: Is there a problem with the city maintaining the right-of-way and is it going to change anything?

Jeremy Pate: Not physically. They are requesting it to be as part of their yard now to be owned by them, as opposed to a potential alley connection along Rockwood Trail.

Alderman Long: I've spent the last two weeks working with the utility companies and some property owners on Rockwood Trail. That is a very narrow street and could see the city possibly needing utility easements and right-of-ways in that area in the future.

Jeremy Pate: This would be maintained as a utility easement per the conditions of the ordinance.

Mayor Jordan: Have you received any calls on it?

Alderman Gray and Alderman Marsh: No.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5808 as Recorded in the office of the City Clerk

VAC 15-5157 (688 N. Whitham Ave./1st Western Bank): An ordinance to approve VAC 15-5157 submitted by Gene Buescher for property located at 688 Whitham Avenue to vacate an alley right of way.

City Attorney Kit Williams read the ordinance.

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

Alderman Long: Is this not valuable property? We own the property?

City Attorney Kit Williams: We only own a right-of way that was dedicated to us. We don't own the underlying property.

Alderman Gray 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 Marsh was absent during the vote. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman La Tour seconded the motion. Upon roll call the motion passed 6-0. Alderman Marsh was absent during the vote. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Marsh was absent during the vote. Alderman Schoppmeyer was absent.

Ordinance 5809 as Recorded in the office of the City Clerk

VAC 15-5161 (2055 E. Signal Hill Depot/Butterfield Trail Village): An ordinance to approve VAC 15-5161 submitted by Joe Perme for property located at 2055 E. Signal Hill Depot to vacate a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

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

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

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5810 as Recorded in the office of the City Clerk

VAC 15-5176 (Mark Mills Lane/Summit Place SD): An ordinance to approve VAC 15-5176 submitted by Blew & Associates, Inc. for property located along Mark Mills Lane to vacate portions of a conservation easement.

City Attorney Kit Williams read the ordinance.

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

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was 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 6-1. Alderman Long voting no. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Long voting no. Alderman Schoppmeyer was absent.

Ordinance 5811 as Recorded in the office of the City Clerk

VAC 15-5177 (1375 N. Leverett Ave./Noble Oaks Apts.): An ordinance to approve VAC 15-5177 submitted by Jorgensen & Associates, Inc. for property located at 1375 N. Leverett Avenue to vacate a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted in favor of the request. Staff is recommending approval.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman La Tour seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5812 as Recorded in the office of the City Clerk

VAC 15-5178 (SW Corner Joyce & Steele Blvds./CMN Lots 3 & 4): An ordinance to approve VAC 15-5178 submitted by Jorgensen & Associates, Inc. for property located at the southwest corner of Joyce & Steele Boulevards to vacate portions of utility, drainage and trail easements.

City Attorney Kit Williams read the ordinance.

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

Alderman Long moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Schoppmeyer was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5813 as Recorded in the office of the City Clerk

Amend §156.03 Development, Parking and Loading: An ordinance to amend §156.03 **Development, Parking and Loading** of the variances chapter of the Unified Development Code to establish a variance procedure for Commercial, Office and Mixed Use Design and Development Standards.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted 8-0 in favor of the request. Staff is recommending approval.

City Attorney Kit Williams: I am partly responsible for this change. I had suggested one of the design standards should follow all the other design standards by saying, "it should be done", instead of saying, "it shall be done", on the prominent entry way. I support this variance procedure.

Alderman Long: The City Council can still appeal these decisions?

Jeremy Pate: Correct.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Schoppmeyer was absent.

Ordinance 5814 as Recorded in the office of the City Clerk

Parking Division Full Time Equivalent Position: A resolution to authorize the addition of 1.0 full time equivalent position to the Parking Division to provide four part time employees to staff event parking in the Spring Street Parking Deck.

Peter Nierengarten, Sustainability & Resilience Director gave a brief description of the resolution.

Alderman Marsh: My primary concern is the low wages that is on this position. I know these are part time positions with no benefits, but this is the kind of job that people combine three jobs and still can't make a living. In order to meet the affordability threshold for the average one bedroom apartment in Fayetteville, we would need to be paying at least $12 an hour. I see that the bottom salary is $10.10 per hour. I would like to see us raise that to set a better example and providing for these people who are providing these services.

Mayor Jordan: I took that to staff and there were some complications with that.

Don Marr, Chief of Staff: We have current event parking staff that is being paid at the level that is being proposed today. We could potentially have pay inequity issues between existing staff and the new positions unless we changed all of them. We have a compensation study as part of our budget proposal for 2016. If we want to address minimums higher than the market set minimums or the minimum wage, federally or state, that is the time to talk about it from a comprehensive perspective. We have other positions that fall into this arena. The rates are currently set based on the market rates. We don't think it is fair to hire four new people at a wage higher than we have individuals working in the city today.

Peter Nierengarten: The event parking position tend to be filled by college students. We have four parking enforcement staff that are full time at $32,000 with benefits and overtime. Two of those four started in event parking. It can serve as a nice stepping stone into full time employment at a handsome wage within the Parking Division.

A discussion followed about addressing the issue during budget discussions.

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

Resolution 187-15 as recorded in the office of the City Clerk

Announcements:

Alderman Gray: We are currently taking applications for the Civil Rights Commission.

Don Marr, Chief of Staff: The Utility Division is releasing the new utility pay system on October 13, 2015.

Mr. Marr gave the final two fall bulky waste cleanup dates.

The business license renewal deadline is October 31, 2015.

The city is taking applications for the 2016 food truck and trailer permit lottery. Applications are being accepted through October 30, 2015.

The Hero Half Marathon is October 10, 2015.

A free fishing weekend will be October 10-11, 2015.

Jeremy Pate congratulated City of Fayetteville employee, Alison Jumper for running in the Arkansas Traveler 100 mile race in Central Arkansas. He stated she finished as 1st female and 7th overall in the race out of 165 participants.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 10:20 p.m.

Lioneld Jordan, Mayor

Sondra E. Smith

Sondra E. Smith, City Clerk Treasurer