

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
January 19, 2016**

A meeting of the Fayetteville City Council was held on January 19, 2016 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items:

Presentation of the City of Fayetteville 2016 Dr. Martin Luther King, Jr. Brotherhood Award – Kit Williams

City Attorney Kit Williams: I have been privileged to select a City of Fayetteville employee to receive the Dr. Martin Luther King Jr. Brotherhood Award. This award is given annually in recognition to a city employee whose service to our city and our community best exemplifies Dr. King's dream of equality, justice and brotherhood. For the first time in 14 years, I have decided to honor two city employees, who together went beyond the call of duty to serve our community and provide hope to one of our less fortunate citizens. A few Police Departments in our nation have brought shame and disrespect upon themselves when their officers used more force than was really

needed and sometimes even unjustified deadly force. Such actions poisoned community respect and support for the police and made keeping the peace even more difficult. We in Fayetteville are lucky that our Fayetteville Police Department is highly professional, community orientated, and respectful of our citizens. Not one case in this century has any of our police officers ever been found to have acted with excessive force or violated the constitutional rights of our citizens. This perfect record for our Police Department is not lucky, but well earned. A perfect record and professionalism of our Police Department are not just testaments to Chief Tabor and his management team, but to every police officer.

I would like to honor Renar Benson and Justin Faubus, two of our Dickson Street patrol officers. Not for solving a crime, but for personally curing the ill effects of that crime. These officers walk the Dickson Street beat which requires a thick skin, even temperament, and good judgment to keep everybody safe. They learned that Jason, a guitarist, who plays for tips on Dickson Street had his guitar stolen and lost his ability to earn a living. Officer Benson and Officer Faubus informed Jason that there were no real leads on the case as to who stole his guitar. This was distressing to Jason because he had no other way to earn a living. Officer Benson and Officer Faubus used their own money to purchase a guitar and gave it to Jason. When questioned about this, both officers acknowledged what they had done, but neither desired any recognition. The Mayor, City Council, City of Fayetteville, and I shall recognize you for epitomizing Dr. King's dream of equality, justice, and brotherhood. It is my honor to award both of you the 2016 City of Fayetteville Dr. Martin Luther King Jr. Brotherhood Award.

Mayor Jordan: Thank you, gentleman.

State of the City - by Mayor Lioneld Jordan

Mayor Lioneld Jordan read the State of the City Address.

A copy is attached.

Agenda Additions: None

Consent:

Approval of the December 15, 2015 and January 5, 2016 City Council Meeting Minutes.

Approved

Pierce Manufacturing Donation Revenue: A resolution to approve a budget adjustment in the amount of \$500.00 representing donation revenue from Pierce Manufacturing to the Fayetteville Fire Department for the annual employee service awards event.

Resolution 29 -16 as recorded in the office of the City Clerk

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

Unfinished Business:

RZN 15-5194 Villas at Stonebridge (Various Expired PZD Locations/Expired PZDs): An ordinance to rezone that property described in Rezoning Petition RZN 15-5194 for approximately 53.03 acres located at east of Riverwalk Subdivision on Dead Horse Mountain Road from RPZD 06-2170 (Villas at Stonebridge) to R-A, Residential-Agricultural. *At the December 15, 2015 City Council meeting, this ordinance was left on the first reading. At the January 5, 2016 City Council meeting, this ordinance was left on the second reading.*

Alderman La Tour moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Robert Rhoads, Attorney for the Applicant, Mitchell Massey: Six of the Council members were here the last time I spoke. The two that weren't here, probably looked at the film. Based on Ms. Marsh's comments, we had our engineers send you all a letter describing what the developer would do if he develops this. It describes how the drainage issues would be taken care of, all well within the ordinances of the city, as well as state laws. We had one person from the public speak at the last meeting stating that she originally was against the project. She is now in favor of the project since it is 2.5 units per acre.

At the PZD level, the maximum that could have been put on this property was 349 units. At RSF-4, had we not put the Bill of Assurance together, the total number of units would have been 212. With the Bill of Assurance at 2.5 units per acre it is 133. I would like for you to think about those numbers when you look at the maps showing either a lot of flood plain area that's not developable or the RSF-4 that is all around this particular site. I ask that the Council vote on this and allow it to be a RSF-4 with the Bill of Assurance in place, at no more than 2.5 units per acre.

Alderman La Tour spoke in favor of amending the ordinance to RSF-4 with a Bill of Assurance.

Alderman Marsh: What was the Planning Commission recommendation?

Jeremy Pate: They separated it out from the rest of the Planned Zoning Districts that have come forward. They recommended it to be returned to the original zoning of Residential Agriculture.

Alderman Marsh: Staff recommendation as well?

Jeremy Pate: Yes, that is correct.

Alderman Marsh: In a sense this is an appeal of the Planning Commission and staff's recommendation. We should retain the original language. I will not support the amendment.

Alderman Long: Was the Bill of Assurance present when the Planning Commission had their discussion?

Jeremy Pate: It was not.

Alderman Long: It was basically RSF-4, 4 units per acre, but now it is 2.5 units per acre. The Planning Commission didn't have that to consider.

Jeremy Pate: I don't believe the Planning Commission ever voted on the RSF-4 request. They discussed it, but didn't take a vote on RSF-4 if I remember correctly. Kit, do you remember that?

City Attorney Kit Williams: There was no Bill of Assurance offered. I told them they needed to recommend something to you. We can't leave it in an expired PZD status. I don't think they ever voted on a RSF-4.

Julia Seibert, 3791 East Spanish Bay Place stated she wants to keep the area rural and avoid urban sprawl. She stated there are a lot of issues on Dead Horse Mountain with flooding. She requested Council to vote against a development.

Alderman Kinion: The issue that we are looking at is a zoning issue. A zoning by right. We are replacing a PZD. I can't support the RSF-4 because I would like to have more information on a development, but that is not what we are discussing this evening. We are not discussing a development. We are discussing the capacity to build on property at a certain density. I'm not going to support this amendment. I want the owner of the property to know that I am not against developing this property. We know from previous discussions that there are a lot of water issues in the area. I could possibly support a form based zoning or a PZD with specific development that can be considered as we move forward. I am going to support the staff and Planning Commission recommendations.

Alderman Petty: In addition to the drainage infrastructure problems that have been outlined, we have some transportation infrastructure concerns with developing on the edge of town. There is a traffic congestion issue out there that is caused directly by having so much housing developed. This would establish the right to build 130 more homes that would add to that. I voted to overturn the Planning Commission and staff on a dozen or so occasions in the past. Each one of those cases we were presented with compelling reasons to do so. I haven't heard those compelling arguments tonight.

Alderman Gray: I will be supporting the 2.5 per acre. This developer has given us a Bill of Assurance that will stay with the property. With our new drainage rules that we have, we should be able to build the 2.5 per acre and control the drainage. In regards to the 130 houses and the intersection. If you have been there since we've opened up the new highway and all the new design of that intersection, you will see it is like night and day of what it used to be. I have not been

delayed since the new intersection has opened up. The Planning Commission did not have the 2.5 per acre and Bill of Assurance.

Alderman La Tour moved to amend the ordinance to RSF-4 subject to the Bill of Assurance. Alderman Long seconded the motion. Upon roll call the motion to amend passed 5-3. Aldermen La Tour, Long, Gray, Tennant, and Schoppmeyer voting yes. Aldermen Marsh, Kinion and Petty voting no.

A discussion followed about the definition of RSF-4.

Mayor Jordan: Jeremy, does this change your opinion going to a Bill of Assurance with 2.5 units per acre?

Jeremy Pate: It does not.

Alderman Marsh: At the last Water, Sewer, and Solid Waste meeting we talked about the West Fork of the White River. We talked about the impairment of the waterway and the potential that we may need to construct a \$30 million plus facility in order to clean out the damage. It is a potential burden on our taxpayer in order to accommodate this kind of development, which is inconsistent with our 2030 City Plan. As we have plotted for development, this property makes it difficult to serve with public transit, trail system, and other amenities our citizens expect. There are access issues due to traffic. I question our ability to safely serve this area of town with police and fire services. We have seen testimony from residents in other areas along the Stonebridge Meadow golf course about the flooding that they are experiencing. I don't believe this development would be significantly different from that. It would be irresponsible to allow more development in these flood prone areas. It is important to avoid sprawl. For the opportunity for some development, another PZD would be appropriate.

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

Ordinance 5842 as recorded in the office of the City Clerk

Appeal of a Condition of PPL 15-5253 to require the Developer to Build a Connection to Fox Trail: A resolution to grant the appeal of a condition of PPL 15-5253 to require the developer to build a connection to Fox Trail. *At the January 5, 2016 City Council meeting, this ordinance was tabled.*

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated staff recommends approval.

Alderman La Tour: Is this something the developer has proposed?

City Attorney Kit Williams: That is correct. They are requesting the removal of this condition.

Jeremy Pate: We recommend in favor of that.

Tom Terminella: I am here on behalf of the subdivision. We feel that this is a reasonable request and ask for your approval. Thank you.

Mayor Jordan: You are welcome, Tom.

Alderman Long moved to approve the resolution. Alderman Schoppmeyer seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 30-16 as recorded in the office of the City Clerk

New Business:

Amend the 2016 Adopted Budget: A resolution to amend the 2016 adopted budget by reappropriating \$71,748,700.00 in bonded or ongoing capital projects, outstanding obligations and grant funded items.

Paul Becker, Chief Financial Officer gave a brief description of the resolution.

Alderman La Tour requested to know what two of the largest CIP Projects were.

Paul Becker: One of the largest projects is the Regional Park. Another one is for water and sewer. This addresses rehabbing the water and sewer lines. It reauthorizes approximately \$12 million worth of bond funds to continue the street program that was authorized by the voters in 2006.

Alderman La Tour: The \$71 million is spending that has already been approved in our budget process?

Paul Becker: Yes. In previous years this has been authorized. This is coming forward to be reauthorized. As we go forward, we have the same bid procedures for anything over \$20,000 that has to be approved by Council. This isn't an automatic expenditure, this is the authorization or inclusion in the budget.

Alderman Marsh moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 31-16 as recorded in the office of the City Clerk

Amend §72.02 Nonconsensual, Police-Initiated Towing, Storage and Impoundment Procedures and §72.03 Parking Prohibited in Certain Places: An ordinance to amend §72.02 Nonconsensual, Police-Initiated Towing, Storage and Impoundment Procedures and §72.03 Parking Prohibited in Certain Places to clarify that persons may not legally park their motor vehicles on city trails.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: This issue came to my attention from city staff who were concerned. I was sent a picture of a truck that was parked blocking a city trail. There is another picture showing about five or six scooters parked along the trail impeding the use of that trail. When we drafted the parking regulations we assumed that people wouldn't park their motor vehicles on the city trail since they aren't allowed to drive their motor vehicles on a city trail. This will give our police officers the specific power to enforce this.

Alderman Long: On Section 72.02, subsection B and C it refers to whenever the Police Department removes a vehicle from a street under this section. Those two sections talk about notification to the owner or how they find the registration records. It only refers to a street. Should those also reference the other sections mentioned in Section 72.03?

City Attorney Kit Williams: I don't think we need to change them. This is directing our Police Department. One of the problems we are going to have with motor scooters parked along trails is that a lot of them don't have any registration. It will be more difficult for the police to find the owners. I would ask the Police Department to follow this procedure for due process reasons.

Alderman Long: I was thinking about motorcycles because we host Bikes, Blues and Barbeque. They all have registrations and license plates.

Captain Brown, Fayetteville Police Department: The problem is getting a hold of the scooter owners because they are not required to be registered. Cars are a different story. We would probably try to contact the owner before we ticket and tow to ask them to move them.

City Attorney Kit Williams: There was a suggestion from Alderman La Tour that we could leave them a note saying if it is your scooter, please contact the Police Department. We could affix tickets to the scooter saying this is your one warning and after that it is subject to not only being ticketed, but removed.

Captain Brown: Officers have that discretion to issue a written warning, ticket, or tow.

Alderman La Tour: We should tell the public right now that if your scooter turns up missing, call the police first and ask if it was towed.

A discussion followed about scooters being towed and the ability for police officers to write a ticket.

Alderman Long: Looking at Section 72.02, and saying in subsections B and C that when the Police Department removes a vehicle from a street, we should also reference the other areas for the sake of consistency. I'm going to offer an amendment to Section 72.02, subsections B and C to change the word street, to the areas mentioned in Section 72.03.

City Attorney Kit Williams: That would mean from a highway street, street right-of-way, trail, trail right-of-way, city parking lot, or other city owned property not authorized for parking?

Alderman Long: Correct.

City Attorney Kit Williams: That is a longer version. I like to keep the code as short and consistent as possible. I have no objection to adding that for both B and C.

A discussion followed about the wording of the amendment.

Alderman Marsh: Would it be better to say from a prohibited parking area, instead of all those things?

Mayor Jordan: Do you want to change it?

Alderman Long: I think it is the same thing either way.

Alderman Marsh: If you say prohibited parking area, it covers everything.

Alderman Long: I agree.

Alderman Long moved to amend the word street to prohibited parking area. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

Alderman Marsh: Thank you to staff for bringing this forward. This has been a real problem in my area.

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

City Attorney Kit Williams read the ordinance.

Alderman 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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5843 as recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: The City Council has contracted Boyette Strategic Advisors to conduct a public input session for our citizens to provide input on Economic Development Strategy for the City of Fayetteville. It will be January 21, 2016 at 5:30 p.m. at the Fayetteville Town Center.

We are under a winter weather advisory. We have posted slides from the National Weather Service on the City of Fayetteville Facebook page.

Alderman Long: There will be a Ward 4 meeting on January 25, 2016 at City Hall in Room 111 at 6:00 p.m.

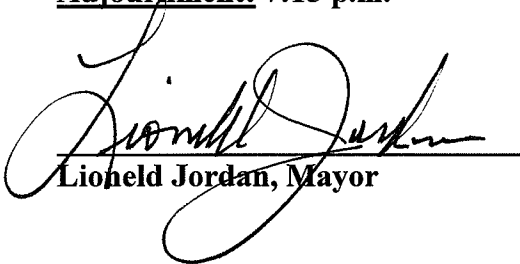
Mayor Jordan: I will be leaving tomorrow, January 20, 2016 for the United States Conference of Mayors in Washington, D.C. I sit on the Housing & Urban Development Board and Parks Tourism & Recreation Board.

City Attorney Kit Williams: I would like to let the City Council know that next Tuesday, the Uniform Civil Rights Protection ordinance has been scheduled for a hearing. Your attendance is not required. I will be there to make the arguments.

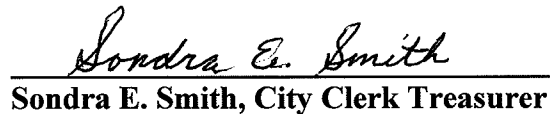
City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 7:15 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk Treasurer