

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Sarah Marsh
Ward 2 Position 1 – Mark Kinion
Ward 2 Position 2 – Matthew Petty
Ward 3 Position 1 – Justin Tennant
Ward 3 Position 2 – Martin W. Schoppmeyer, Jr.
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**City of Fayetteville Arkansas
City Council Meeting Minutes
October 01, 2013**

A meeting of the Fayetteville City Council was held on October 01, 2013 at 6:00 PM 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, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, Assistant City Attorney Jason Kelley, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations, and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the September 3, 2013 and September 17, 2013 City Council meeting minutes.

Approved

Selective Traffic Enforcement Program Grant: A resolution authorizing acceptance of a 2013-2014 Selective Traffic Enforcement Program (STEP) Grant award in the amount of \$100,500.00, and approving a budget adjustment.

Resolution 200-13 as recorded in the office of the City Clerk

Equipment Resource Management, Inc.: A resolution authorizing the purchase of one (1) Wirtgen W35DC mini milling machine from Equipment Resource Management, Inc. of Little Rock, pursuant to National Joint Powers Alliance Cooperative purchasing agreement, in the amount of \$132,134.00, and approving a budget adjustment.

Resolution 201-13 as recorded in the office of the City Clerk

Community Services Division Budget Adjustment: A resolution approving a budget adjustment in the total amount of \$5,103.00 representing CDBG program income received through a housing program lien payoff.

Resolution 202-13 as recorded in the office of the City Clerk

Trail Naming: A resolution naming Clear Creek Trail and an extension of Scull Creek Trail.

Resolution 203-13 as recorded in the office of the City Clerk

Alderman Tennant moved to approve the Consent Agenda as read. Alderman Adams seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Fayetteville Government Channel's Mission Statement Amendment: A resolution amending the Fayetteville Government Channel's Mission Statement, Goals Statement and Operating Policies, as approved by Resolution No. 180-10, to prohibit the recording or televising of meetings of the Nominating Committee of the City Council by the Fayetteville Government Channel. ***This resolution was Tabled at the September 03, 2013 City Council meeting to the October 01, 2013 City Council meeting.***

Alderman Gray: I would like to table this resolution indefinitely. It was never intended to be such a divisive issue as it has turned out to be. It is not about transparency, but rather about the citizens of Fayetteville who voluntarily choose to serve on our Boards and Commissions. As the Chair of the Nominating Committee, we have enjoyed getting to know citizens as they apply for the many positions and we do not want anything to discourage them from applying. This process has never been filmed and it never occurred to any of us that anyone would consider it appropriate to film interviews and deliberations. However, the ordinance is in place and we shall follow it and do our best to choose the best applicants for the positions as we have always done.

Alderman Gray moved to table the resolution indefinitely. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled Indefinitely.

2013 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2013 fixing the rate thereof at 1.3 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. ***This ordinance was left on the Second Reading at the September 17, 2013 City Council meeting.***

Alderman Long moved to go to the third and final reading. Alderman Gray seconded the motion. Upon roll call the motion passed 7-1. Alderman Marsh voting no.

Assistant City Attorney Jason Kelley read the ordinance.

Paul Becker, Finance Director gave a brief description of the ordinance and stated that it is necessary to continue the millage, but the Mayor does not want to recommend an increase in taxes at this point in time.

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

Ordinance 5621 as recorded in the office of the City Clerk

Amend §164.11 Height and Setback Regulations; Exceptions: An ordinance to Amend §164.11 Height and Setback Regulations; Exceptions to enhance livability through appropriate transitions in building scale and to protect access to air and sunlight and to enact an emergency clause. ***This ordinance was left on the First Reading at the September 17, 2013 City Council meeting.***

Assistant City Attorney Jason Kelley read the ordinance.

Alderman Marsh: I would like to thank our Planning staff for their work on this amendment you have before you tonight. We are not done with it yet and I am not ready to propose the amendment. There are some clarifications and details we are working out, but the major issues have been addressed. Our Planning staff has worked closely with me, but has also met with Alderman Petty and various stakeholders on both sides of the issue in our community. I believe we have crafted a nice proposal that helps balance the needs of existing residents with future development.

Jeremy Pate, Director of Development Services gave a brief description of the proposed amended ordinance and stated that they are continuing to work on it.

Assistant City Attorney Jason Kelley: We have a procedural issue. I read the ordinance before we had a motion and second to go to a second reading. If we could have a motion and a second to suspend the rules and go to second reading that will keep me from having to actually read it again.

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

Assistant City Attorney Jason Kelley read the ordinance.

Nina Shirkey, 229 North Block Street: I would like to thank Mr. Pate and everyone who worked on this. I know it is a difficult process, but it is very important work. I have some concerns with allowing architectural overhangs or balconies within the setback zone which may potentially create another loop hole where you are not protecting access to sunlight and air.

Mayor Jordan: You have concerns about the balcony overhangs?

Nina Shirkey: I do and would like a more specific definition of what an architectural feature is and exactly what percentage of the setback zone it would be allowed to take up. I know you said six feet and essentially you are limiting the setback to less than 15 feet.

Jeremy Pate: The building facade could go to 15 feet. I think you are right and for us to enforce this it needs to be more clearly defined what those are. That is something we will look into.

Fran Alexander: We need an ordinance to address this problem now because it's going to be an ongoing problem Downtown. I think it is time to have some public input to talk about these different districts. We are seeing changes fast in Fayetteville and a lot of us are very concerned about the old part of town. We worry if we will ever be able to see it again and how crowded it could become. I encourage you to think about having some public design meetings to talk about the changing character and look of our town. I hope there is a sponsor for something like that on this council. I support this ordinance.

Terra Stephenson, 16 West Maple Street: I was raised in Fayetteville and I am raising my kids on Maple Street. My husband and I have discussed moving because we are watching student housing developments go up in our neighborhood with dismay. I called Jeremy Pate and he was gracious enough to talk with me because I was so upset about the building going in behind Collier Drug Store. I want you to know there are people in that neighborhood who really care about preserving the single family homes. When I look at the development going on behind Colliers and I am told that it is considered a small development and therefore does not go before the Planning Commission, I am shocked. I am encouraged that we have a City Council that is considering more strict height and setback requirements.

This ordinance was left on the Second Reading.

New Business:

City of Johnson Rezoning: A resolution pursuant to Arkansas Code Annotated § 14-56-306(b) agreeing to a change in zoning from Planned Unit Development to C-1, Light Commercial/Office for property located in the City of Johnson that adjoins the City of Fayetteville.

Jeremy Pate, Director of Development Services gave a brief description of the resolution and stated that the Planning staff recommended approval of the resolution.

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

Resolution 204-13 as recorded in the office of the City Clerk

PPL 13-4404 (Persimmon Street Master Street Plan Right-of-Way/Legacy IV Subdivision):

A resolution to approve the dedication of 70 feet of right of way for Persimmon Street along most of the owner's property as recommended by the Planning Commission.

Mayor Jordan: I understand we have a request to table.

Jeremy Pate: Yes, Mayor. The applicant contacted the City Clerk office just before the meeting tonight and I was informed that they would like to table this. I don't see the applicants in the audience and I request that it be tabled and we can take it up at the next meeting.

Alderman Gray moved to table the resolution to the October 15, 2013 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled to the October 15, 2013 City Council meeting.

RZN 13-4467 (Mount Comfort and Shiloh/Kum & Go): An ordinance rezoning that property described in rezoning petition RZN 13-4467, for approximately 1.65 acres located at the northwest corner of Mount Comfort Road and Shiloh Drive from R-A, Residential Agricultural and RSF-4, Residential Single-Family, 4 units per acre, to C-1, Neighborhood Commercial.

Assistant City Attorney Jason Kelley read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance and stated that staff is not supporting C-1 that the Planning Commission supported in the application.

Mayor Jordan: They could put the gas station across the street from where they are wanting to build?

Jeremy Pate: In Community Services they could, because that is a use that is allowed within a Community Services District.

Alderman Schoppmeyer: Does staff approve of commercial use of that corner?

Jeremy Pate: Yes

Alderman Schoppmeyer: Doesn't the city plan state that these types of uses should be at high traffic corners and that property is on the future land use map as commercial?

Jeremy Pate: It states that there should be a mixture of high intensity uses which can be high intensity residential or commercial.

Alderman Petty: Would staff support this if it was a request to go to Community Services?

Jeremy Pate: Yes, I believe so.

Alderman Petty: I didn't see it in the Planning Commission minutes, but are you aware if the Planning Commission approached that subject in their meeting?

Jeremy Pate: I am not aware if that specific zoning designation came up. At Agenda Session the two Ward 4 Council members asked me to approach the applicant again about that very possibility and I did. I conferred with my staff and they had discussed that district before the application. It is generally our policy to do so because your policy tells us to do that, to encourage traditional town form and the best tool that we have to accomplish that goal and principle in our future land use plan is to look at our form based districts. That is one of the benchmarks that were set for us to establish and so as a policy we generally encourage that type of form where it is appropriate. There are times when we don't encourage that because it is not the right place or development style. In this particular case we understood what the applicant was proposing and looking at the transition of uses. There are some non residential uses that have historically been on this corner, but very near by there are residential uses. A transition was a key part of what we looked at in our recommendation.

Alderman Marsh: A use such as a gasoline service station or drive through restaurants is permitted in the Community Services, but the form has to be more walkable and compatible with the neighborhood?

Jeremy Pate: Yes to your first question. Secondly, with the form based codes that you all amended several weeks ago, there is a provision that an assessment of certain uses that aren't as traditional town form as we would like for them to be. Drive through restaurants was one, convenience stores and gasoline stations were another. We recognize through multiple applications that the size of the building, relative to the site needed for the function of the development doesn't necessarily produce the form that we are always looking for. What we have attempted to craft were design regulations that would exempt them from many of the standards that traditional town form standards and form based code standards require, but still have supplemental elements that can make up a portion of that and still place the building at least along one of the streets if it is at corner location. To allow for the pump stations, canopy, and drive through area to be off of the street or be out in front as long as the structure is architecturally embellished to match the principle structure. We utilized a number of other cities examples of how they have gone through the exact same exercise

Alderman Adams: If we do vote to rezone this property and if a convenience store with gas pumps came in, is there another process for them to go through for approval of anything?

Jeremy Pate: This is a 23 acre parcel and it is likely they would split out this piece of property to the size that they are looking to develop. I would assume that's 1.6 acres which is what the actual rezoning application legal description is for. Because it is over an acre it would require large scale development and that goes before our Planning Commission. The standards for large scale development are relatively objective so there are very few subjective decisions.

Rob Waddell, Kum & Go: I know this isn't about how Kum & Go can grow with Fayetteville. I understand this is about a land use decision.

Mr. Waddell presented a Power Point presentation explaining why he chose the site and why he believes that C-1 is appropriate. He stated that this business would be less than a quarter of a mile from Interstate 540 and it has thousands of cars traveling on a daily basis. It would not be a destination for people and Kum & Go is just looking for the drive by traffic. He stated that more services are needed on this side of town due to the lack of gas station availability. He said the only thing that he did not like about Community Services is that his building has to be within 20 or 25 feet away from the property line and that would push his building up against the street. He stated if he had to put his gas pumps behind the store where they are not visible to customers, then it would be too large of a risk to take.

He continued to speak about walkability and is supportive of the concept. His business will have bike racks and air stations. He is willing to make the sidewalk wider and make a bench rest area due to a walking trail being nearby.

Alderman Petty: You said your main concern was pushing the building to the street. Is that to any street or just Mount Comfort?

Rob Waddell: Mostly towards Mount Comfort.

Alderman Tennant: I hope someday that we can expand public transportation all over town, but certainly over there. Does Kum & Go ever build bus stops?

Rob Waddell: Yes, there is one in Bentonville that we put up a specific bench and that is a classification for our LEED standards. If you get LEED certified you get points by having public transportation come by.

Alderman Tennant: If we ever expanded public transportation out that way you would be open to that?

Rob Waddell: Yes, we would love it.

Alderman Tennant: When you decide on a location to go after, are the amount of people served per day part of your decision or do you look at car traffic?

Rob Waddell: It is mostly cars and also population.

Alderman Tennant: Do you have any idea how many people you would be serving from that location?

Rob Waddell: We would probably serve over a thousand people a day. This is drive by traffic.

Alderman Long: Some citizens believe that this business will increase the traffic problem by bringing more traffic into the neighborhood. Is your target audience the traffic that is coming in and going out on a normal basis already or are you looking to draw more in?

Rob Waddell: It is only the traffic from Mount Comfort that we are looking at.

Kim Peters, 2807 West Sauter Lane: I have lived in my home for seven years which is right off of Mount Comfort. I respectfully ask you to decline the rezoning request. I visited with city staff and researched the City Plan 2030. I urge you to think back to the efforts you put into designing the plan and to remember your collaborative efforts with residents who voted you on the Council. I ask you to not waiver from the commitments that you made when you developed the plan.

Joan Hays: My late husband's family has owned the property in question for 90 years and has paid taxes and farmed on it. They didn't need a Kum & Go when they first came here. Their transportation was a wagon and a team of horses. The neighborhood kids walked to Meadow Valley School, which is where the Agri Park is now located. The family gardened and raised cattle. I have been in the neighborhood since 1961 and it was a rural area when I came here. I enjoyed a beautiful and big shady yard.

Then the subdivisions began to develop on Mount Comfort Road. We liked the rural atmosphere and we did not solicit the expansion of the city around us, but each year brought more subdivisions and we considered this progress for Fayetteville. I use to back my car out on Mount Comfort Road and I wouldn't dare do that today because of the traffic increase. The widening of the road took away some very dear old landmarks for us, but that was progress. We lost our shady yard and we have not requested our neighbors to not develop their land. I have considered long and hard about selling this corner because our roots are firmly established in that property and in Fayetteville. My neighbors and I need gasoline and sometimes just a gallon of milk. Every one that bought a new home further west has increased our traffic and we haven't been up here saying to them go away. I feel that some of the people complaining about the traffic are the people who are now here and saying to others go away. We have a nice community and I don't think that a convenience store would change that and I urge you to give us services that are needed.

Clinton Bennett, 2270 Thistle voiced his support for the rezoning and would be excited to see a Kum & Go established. He stated that conveniences are needed in that area so that he wouldn't have to drive to a different part of town for basics such as gasoline for his vehicle.

Gaylon Denham: I own several properties in the area. My background is in architecture and I am aware of the ideas behind walkability in a neighborhood and the idea that you need several types of services available. I think this is a good idea and it would be an asset to our community.

I have lived here for 20 years and for the past ten years I've kept two gallons of gas behind my office because so many people stop due to running out of gas. I think this is a good use for this property.

Tracy Hoskins: I am a current resident of Ward 3, but will soon be a resident of Ward 4. As a Planning Commissioner I don't like to speak on various things, especially those that come through the Planning Commission. I am here tonight as a resident, not as a Planning Commissioner.

Mr. Hoskins stated that he dislikes having to get gasoline for his vehicles on Wedington Drive because the traffic is a mess at all times of the day. He stated that when he gets gasoline at a convenience store on Wedington Drive, there are gas pumps on the front and the back of the business. He does not like retrieving gasoline from the back of the store due to the lack of feeling safe. He prefers that Kum & Go have their gas pumps at the front of the store.

He continued to speak about the various mixtures of zonings throughout the City of Fayetteville. He spoke about trails and how they are an alternative form of transportation, not a replacement for transportation. He stated that if you are going to develop trails within an urban environment, then cars and trails are going to meet eventually and compete. He believes this is one of those cases where they have to occupy the same space. He is glad to see something such as Kum & Go that will bring in more property taxes and revenue for the city and conveniences for the neighborhood and is in favor of the rezoning.

Dan Epperly, 2525 West Mount Comfort Road: I have lived here since 1959. We have seen Mount Comfort community come a long way since we moved out there. Mount Comfort was a gravel road on the way to Wheeler. Then it became a two lane black top with a ditch on each side and now look at what we have. This is thanks to you and people like you in the years gone by that have worked so hard to make our city grow. The traffic count on Mount Comfort should show you how a business like Kum & Go is needed in that area.

Alderman Long: I do not want to vote on it tonight.

Mayor Jordan: I understand that.

Alderman Kinion: Leaving it on the First Reading is fine with me.

Alderman Long: We could hold it at this one so that we can talk about it at the Ward 4 meeting.

Mayor Jordan: That will be great and we will hold it on the First Reading and in two weeks we will continue.

This ordinance was left on the First Reading.

City Council Agenda Session Presentations:

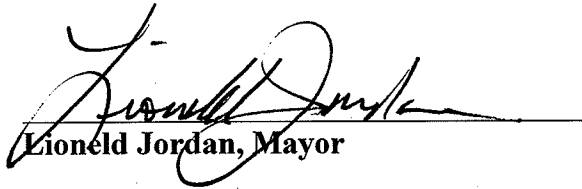
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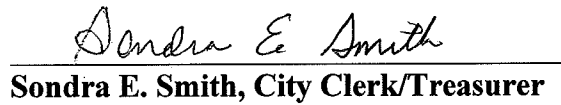
Announcements:

Don Marr, Chief of Staff: This Saturday, October 5, 2013 we have a Ward 4 cleanup at Owl Creek and Holcomb Elementary from 7:00 a.m. to 2:00 p.m.

We have the Chili Pepper run this Saturday, October 5, 2013.

Adjournment: 7:30 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk/Treasurer