

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, J
Ward 4 Position 1 – Rhonda Adams
Ward 4 Position 2 – Alan T. Long

**City of Fayetteville Arkansas
City Council Meeting
November 19, 2013**

A meeting of the Fayetteville City Council was held on November 19, 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, Matthew Petty, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Mark Kinion

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 November 05, 2013 City Council meeting minutes.

Approved

Watershed Conservation Resources Center (WCRC) Task Order No. 5: A resolution approving Task Order No. 5 with the Watershed Conservation Resources Center (WCRC) for the City to pay \$195,707.00 to restore White River stream bank near the Noland Wastewater Treatment Facility.

Resolution 225-13 as recorded in the office of the City Clerk

2013 Bulletproof Vest Partnership Program: A resolution authorizing acceptance of a fifty percent (50%) matching grant award from the 2013 Bulletproof Vest Partnership Program in the amount of \$4,644.00 for the replacement of body armor vests for Fayetteville police officers, and approving a budget adjustment.

Resolution 226-13 as recorded in the office of the City Clerk

Federal and State Law Enforcement Forfeitures: A resolution approving a budget adjustment in the total amount of \$176,211.00 recognizing federal and state law enforcement forfeiture revenue received through October 2013 and increasing the related expense budget.

Resolution 227-13 as recorded in the office of the City Clerk

Washington County Jail Services Interlocal Agreement: A resolution approving an amendment to the jail services interlocal agreement with Washington County, Arkansas, continuing fees at \$60.00 per booked prisoner for calendar year 2014.

Resolution 228-13 as recorded in the office of the City Clerk

Police Department Policies: A resolution approving Fayetteville Police Department policies 1.2.4 Domestic Violence, 33.1 Training, 41.2.8 Vehicular Pursuit, 41.2.11 Use of Department Vehicles, 61.1 Traffic Enforcement and 61.3 Traffic Direction and Control.

Resolution 229-13 as recorded in the office of the City Clerk

Animal Services Donation Revenue: A resolution approving a budget adjustment in the amount of \$1,900.00 recognizing revenue from the Friends of the Fayetteville Animal Shelter for stainless steel countertops and other improvements to the Animal Shelter clinic area, play yard and dog park.

Resolution 230-13 as recorded in the office of the City Clerk

Community Access Television, Inc. (dba Your Media) Contract: A resolution approving the annual extension of the contract with Community Access Television, Inc. dba Your Media in the amount of \$105,000.00 for the provision of public access television services and the operation of the public access television channel through 2014.

Resolution 231-13 as recorded in the office of the City Clerk

Grant Thornton, LLP: A resolution approving a contract with Grant Thornton LLP in the amount of \$85,000.00 to provide independent audit services to the City of Fayetteville.

Resolution 232-13 as recorded in the office of the City Clerk

Aviation Gasoline: A resolution approving a budget adjustment in the total amount of \$39,682.00 to increase the airport budget for aviation gasoline.

Resolution 233-13 as recorded in the office of the City Clerk

2013 Cops Hiring Program: A resolution authorizing acceptance of a 2013 Cops Hiring Program matching grant in the total amount of \$723,494.00 to fund three (3) police officers for a period of four (4) years with the matching requirement split proportionally between the City and the Fayetteville School District, and approving a budget adjustment.

Resolution 234-13 as recorded in the office of the City Clerk

Woolsey Wet Prairie Wetland Bank: A resolution to reaffirm the City Council's support for the expansion of the Woolsey Wet Prairie to create a wetland bank for the city and possibly other agencies if allowed by the Corps of Engineers.

Resolution 235-13 as recorded in the office of the City Clerk

Alderman Tennant moved to approve the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Unfinished Business: None

Public Hearing:

Van Asche Drive Construction Project Condemnation and Possession: A resolution authorizing the city attorney to seek condemnation and possession of certain lands owned by Dale & Martha Benedict and David Clark McClinton, needed for the Van Asche Drive Construction Project.

Mayor Jordan Opened the Public Hearing

Chris Brown, City Engineer gave a brief description of the resolution.

City Attorney Kit Williams thanked the City Engineer and the property specialist for their work on this item. He stated the city will continue to try and negotiate with the two land owners.

Mayor Jordan Closed the Public Hearing

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

Resolution 236-13 as recorded in the office of the City Clerk

New Business:

2014 Annual Budget and Work Program: A resolution adopting the 2014 Annual Budget and Work Program.

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

Alderman Petty stated he handed out a document at the budget meeting proposing they study a pay plan for next year. The pay plan would be similar to the pay plan at the University of Arkansas and the Federal General Services Administration, and that is used by many other governments. I wanted everybody to have time to think about that before I proposed an amendment. I do not want to propose an amendment to pay for that study today so I would ask that we table this until the next meeting.

Alderman Petty moved to table the resolution to the December 3, 2013 City Council meeting. **Alderman Marsh** seconded the motion. Upon roll call the motion failed 2-5. **Alderman Marsh** and **Petty** voting yes. **Alderman Long**, **Gray**, **Tennant**, **Schoppmeyer** and **Adams** voting no. **Alderman Kinion** was absent.

Alderman Gray moved to approve the resolution. **Alderman Schoppmeyer** seconded the motion.

Alderman Petty: I think the budget is near perfect. I think we are kicking the can down the road when it comes to the employee pay plan. Our Budget Director has told us numerous times that we are in the red in 2017 in the best case scenario. The employees that have been with us the longest do not receive cost of living adjustments when we give raises to the rest of our employees. Our new hires come in at a rate that is below market. I think we are making an irresponsible decision by not having that discussion at this time.

Mayor Jordan: Keep in mind if the budget passes, you can still bring it back and have a new pay plan discussion.

Alderman Petty: I will plan to do that.

Upon roll call the resolution passed 6-1. **Alderman Long**, **Gray**, **Marsh**, **Tennant**, **Schoppmeyer** and **Adams** voting yes. **Alderman Petty** voting no. **Alderman Kinion** was absent.

Resolution 237-13 as recorded in the office of the City Clerk

VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas): An ordinance approving VAC 13-4516 submitted by Development Consultants, Incorporated for property located west of Razorback Road and north of Center Street to vacate the right-of-way of Brenda Drive, Court Street, Walton Street, and a thirty foot wide alley off of Hotz Drive.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff is recommending approval as well as the Planning Commission with a vote of 8-0.

Alderman Gray: What do the 207 parking places represent?

Jeremy Pate: The representative from the University will be able to explain their project. The intent is to provide surface parking for students in the area.

Jay Young, Development Consultants: The parking spaces and the layout of the roads are the conceptual plan we have at this time. We are looking at the summer of 2015 when the parking lots are anticipated to be built. The number of parking spaces is estimated to be around 190 to 207.

Alderman Tennant: Will this be one level?

Jay Young: It will be black top parking on ground level.

City Attorney Kit Williams: Are you satisfied with the terms and conditions of this vacation?

Jay Young: Yes sir.

Alderman Tennant moved to suspend the rules and go to the second reading. Alderman Schoppmeyer seconded the motion. Upon roll call the motion passed 6-1. Alderman Gray, Marsh, Petty, Tennant, Schoppmeyer and Adams voting yes. Alderman Long voting no. Alderman Kinion was absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray: What are the total parking spaces?

Jay Young: In total there will be 900 spaces as part of this conceptual plan. That also includes a parking lot that is south of Center Street along Graham Avenue as part of the total.

Alderman Long: I would like to hold this until the next City Council meeting so that it can be discussed at the Ward 4 meeting.

This ordinance was left on the Second Reading.

ADM 13-4512 (Wedington Drive and Salem Road/Forest Hills PZD Modification to Planning Area 2): An ordinance amending a Residential Planned Zoning District entitled R-PZD 07-2793 Forest Hills to revise the concept plan and zoning criteria for Planning Area Two,

reducing the number of dwelling units from 100 units to 72 units and removing the requirement for vertical mixed-use buildings.

City Attorney Kit Williams read the ordinance.

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

Alderman Marsh: The ground floor parking areas seem to be designed to resemble habitable space. It may include the use of entrance features that may not be operable. Are they putting fake facades on the buildings?

Jeremy Pate: It could be openings articulation in the building where the parking structure is located. Depending upon the elevation where the structure is located and the topography of the ground outside, openings aren't always able to actually access the parking garage. What we are looking at in this particular case is trying to have an entrance every 50 feet or some semblance of an entrance. We have not seen the actual site development plans.

Alderman Marsh: I have some concerns about this. Can we hold this?

Alderman Adams: No one attended the Planning Commission to talk about this?

Jeremy Pate: There was not any public comment on this or the next item.

Alderman Adams stated she would like Alderman Marsh to explain why she would like to hold this item.

Alderman Marsh: I think by talking about it tonight we will get some press on it. People who do have an interest will have the ability to come forward and talk about it. We are varying from some of our traditional requirements.

Alderman Long: You are saying that it varies from what we normally do. It is a Residential Planned Zoning District and PZD's are variances from what we normally do by definition.

Alderman Marsh: I think it would be good if the public had a little more time to weight in. It seems we are sticking some of the features on we want to see without the functionality we like to see in these types of developments.

Alderman Adams moved to suspend the rules and go to the second reading. **Alderman Schoppmeyer** seconded the motion. Upon roll call the motion passed 6-2. **Alderman Long, Gray, Tennant, Schoppmeyer, Adams** and **Mayor Jordan** voting yes. **Alderman Marsh** and **Petty** voting no. **Alderman Kinion** was absent.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

ADM 13-4513 (Wedington Drive and Salem Road/Forest Hills PZD Modification to Planning Area 5): An ordinance amending a Residential Planned Zoning District entitled R-PZD 07-2793 Forest Hills to revise the concept plan and zoning criteria for Planning Area Five, reducing the number of dwelling units from 60 units to 31 units and amending the housing type from townhouses to detached single-family houses.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission vote was 8-0 and staff is also recommending approval of this site.

Aubrey Shepherd stated this is the first time density has been reduced in years. He voiced his concern about protecting the soil. Anything you can do to keep the soil in place and let native plants grow and protect the stream banks has many benefits.

Alderman Adams: We are putting green space in and have nice places for citizens to live. We are reducing density which in this area supports our goal of minimizing sprawl.

Alderman Long: I agree.

Alderman Petty: I can't support moving on without the applicant being here to answer questions.

Alderman Adams: That's a good point.

Alderman Marsh: I would also like to hear from the applicant about these changes.

Alderman Adams moved to suspend the rules and go to the second reading. **Alderman Long** seconded the motion. Upon roll call the motion passed 6-1. **Alderman Long, Gray, Marsh, Tennant, Schoppmeyer and Adams** voting yes. **Alderman Petty** voting no. **Alderman Kinion** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: Will you contact the applicant and ask them to be at the next meeting?

Jeremy Pate: I will make sure that happens.

This ordinance was left on the Second Reading.

ADM 13-4450 (Pratt Place Inn): An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670 Pratt Place Inn, to revise the hours of operation as listed in Section 1.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. This did not have to go to the Planning Commission.

Julian Archer, 2115 West Markham Road: My wife Jane and I are the owners of Pratt Place Inn. I am astonished that there is no one here from Ward 4 to speak. I understand the desire to allow the residents of Ward 4 to have time to digest this. Rather than taking time tonight to explain, when there is no one from the ward, if you would like to postpone this until the next Council meeting I think that would be better. It has been very pleasant working with Jesse and Jeremy. I would like to thank them for their work.

Aubrey Shepherd stated that Ward 4 residents should have an opportunity to speak. Was notice sent to the people that live near this that there would be hearing on this change?

Mayor Jordan: Did we send out any kind of notice?

Jeremy Pate: For this particular type of item there is no requirement for any type of notice to be presented to anyone except being published in the public agenda.

Alderman Adams: This didn't go through Planning Commission so that is one less place for citizens to hear about this. I met with Mr. Archer and he has explained his position to me. I have not announced to citizens that this was coming forward. I believe that we should hold this and receive some feedback.

Jeremy Pate: I was interviewed yesterday on a local television station. A story came out this morning about this topic on 40/29 television. If anyone is interested in that interview they can go to the website and review that.

Mayor Jordan: I would encourage the Council to look at the old tapes and review all the meeting minutes from that period of time because you will find it interesting. I was a Council member from that ward at that time.

Alderman Gray: Are those decibel levels for residential areas?

Jeremy Pate: It is. The way the noise ordinance works what is measured is the decibel level of the adjoining property. If someone complains a police officer will take a reading and the noise decibel limitation is measured based on what their property is zoned. In most of these cases it will be residential decimal levels which are lower than commercial.

Alderman Gray: I think that piece of information is very significant.

This ordinance was left on the First Reading.

New Fayetteville Planning Area: A resolution to confirm the approval of the Planning Commission and to designate the attached map and described boundary as the new Fayetteville Planning Area.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. Northwest Arkansas Regional Planning deserves a lot of credit for the creation of these maps. We appreciate that assistance. Staff is recommending approval.

Aubrey Shepherd requested the map be displayed on the screen in the City Council meeting so television viewers could see the planning boundaries during the presentation.

City Attorney Kit Williams: There were minor changes made to the map.

Don Marr, Chief of Staff: The map is available to the public in the City Clerk's packet as well as online.

Alderman Long moved to suspend the rules and go to item number 7, Amend Chapter 178. **Alderman Adams** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Kinion** was absent.

City Attorney Kit Williams: The map is on display now.

Aubrey Shepherd: I have not studied the map very much, but it is great that you brought it back. I hope the camera is on it because that is important in case the public has any input. Most of us trust the staff and the Council to make good decisions. It is every citizen's duty to try and know what is going on.

Alderman Petty moved to approve the resolution. **Alderman Long** seconded the motion. Upon roll call the resolution passed 6-0. **Alderman Adams** was absent during the vote. **Alderman Kinion** was absent.

Resolution 238-13 as recorded in the office of the City Clerk

Amend Chapter 178: An ordinance to repeal §178.03 Sidewalk Vendors and enact a replacement §178.03 Sidewalk Vendors and Food Trucks and to repeal §178.04 Outdoor Mobile Vendors Located on Private Property and enact a replacement §178.04 Outdoor Mobile Vendors Located on Private Property.

City Attorney Kit Williams read the ordinance.

Peter Nierengarten, Director of Sustainability & Strategic Planning gave a brief description of the ordinance. The changes were presented to the Planning Commission and supported by the Planning Commission by a vote of 7-2.

Alderman Adams asked about a section of the packet. Why are the highlights there?

Peter Nierengarten: The highlighted yellow denotes changes. Anything in bold is an addition and anything with a strikeout is a deletion.

Jeremy Pate: Alderman Petty brought this to our attention and we have been working on it quite a while. With Peter's leadership we have worked with Planning staff and the Mayor on a lot of this. Some of these changes make it easier for permits to be administered. A lot of mobile vendors are seasonal. We have seen some of these businesses move to brick and mortar.

Alderman Petty: We have been working on this for almost two years. It started with a meeting I was asked to attend at Little Bread Company. There were about 30 people interested in starting a food truck. I think this is a good ordinance to pass. One thing that I think will come up soon is food vending on public property. The ordinance doesn't really address this. The typical food truck model goes beyond private property and includes parallel parking spaces all over the community. This ordinance does not allow for that. I suspect we will hear from citizens who would like to see that. There are multiple ways of addressing that and if we don't address it now, I will be coming back in the next six months and asking that we address it. If this Council wants to go ahead and take that on, I will support that as well and if we do, I suggest we go to Ordinance Review. Either way I will support the ordinance we end up with.

Alderman Tennant: Who manages the food vendors that go to Gulley Park during the concert series?

Alderman Petty: There is an inconsistency in our current ordinances. If you look at our park ordinances, all commercial sales are prohibited, so the Gulley Park vending is an anomaly in that. I don't want to speak for the Parks Department, but they were considering a tandem ordinance with this to allow them to issue event permits for vending with food trucks and regular vending. I think this is something we should do and actually go a little bit farther with.

Don Marr, Chief of Staff: I do want to make one correction. The ordinances actually were written to allow for the Gulley Park concert vendors specifically as an exemption in the current ordinance.

City Attorney Kit Williams: That is correct. There are several exemptions and the Gulley Park vendors are one of the exceptions that the City Council passed and placed in the code. We are following the code and not violating the code.

Alderman Petty: That is why I called it an anomaly, because we don't allow that in general. I think that is something we should allow and talk about now or whenever this comes up again.

Don Marr: Staff is very supportive of having this discussion that relates to public parks. I played in a tennis tournament in another state that allows mobile vending in their parks. It gave more of a food option for those of us who were participating rather than the traditional concession food. I came back and shared the information and our Parks Department was very open to it. I think the issue on why you don't see them in tandem tonight is because that discussion came up at the end of where this was and we didn't want to delay this one any further.

As we continue to improve capital for concession projects, it gives us the ability to scale those back some to be more cost efficient in our investment in concessions constructed, by allowing mobile vending as alternative options. Not only in diversity of options offered, but in us not having to bear the entire cost of providing facilities to make those offerings. Those are the reasons staff is supportive of this discussion coming forward.

Alderman Marsh: Thanked Alderman Petty for this ordinance update. Mobile vending is an important tool for economic development, business incubation, and neighborhood revitalization. Mobile vendors can play an important role in diversifying our culinary landscape, bring healthy foods in and enlarge the market for local foods.

Alderman Marsh stated she attended a conference in Seattle and learned a lot about mobile vending success stories and challenges in other communities. She stated they had some good lessons learned and recommendations to share. She would like to see this go to Ordinance Review to discuss incorporating some of those ideas in this ordinance. She stated there is a report by the National League of Cities called Food on Wheels, Mobile Vending goes Mainstream. They recommended separate permits for vendors in locations.

Aubrey Shepherd: We love those vendors.

Cody Nethers, The Hopper Food Truck stated he appreciated everything that has come forth. He has studied food trucks for the last year. He works strictly with the Farmers Market and all of his proteins come from them. He stated with less overhead it gives him the budget to buy proteins from the Farmers Market. Asking a \$100 to park in each place, if that goes five times that is \$500 every six months.

Travis Feltner, Feltner Brothers stated he owns restaurants in town and is considering doing a food truck. Thank you for moving to this point with this. This is what Fayetteville needs it is the perfect city and the perfect area of Arkansas for this. I think public parking will eventually come up as an issue. I think that is why most people decide to go with a truck as opposed to a trailer for the freedom of travel. The main reason we decided to do a food truck is that we get numerous calls to cater an event for 250 people or more. We would have to close down one of the two stores to be able to accommodate that many people. If someone pays us in advance and we are not taking any form of payment on site is that considered mobile vending and a permit needed.

City Attorney Kit Williams: I believe what is being described is catering since they are not doing individual sales. They are actually servicing a business all on private property. I would think this should not be required under here for you to get a permit. This is part of the Unified Development Code and the official interpreter is Mr. Pate. His interpretation controls, but if his interpretation is different, then we probably need to revise the ordinance.

A discussion followed about what constituted as catering and mobile food vending and what permits are needed.

Cody Nethers: I have a commissary with Brick House Kitchen. I know it makes people nervous as to where our food comes from. I am trying to open it up to where we all have a joint commissary. What I would propose is that the food trucks will regulate ourselves. I am glad there is an awareness to the difference between a trailer and a truck.

Jeanette Beltram, Best Frickin Chicken in Town: I am from California and I have seen how the mobile trucks started out there. They were the best places to eat and when they rolled up you knew you were getting good food. We are approved by the Health Department and follow it by the book. I have a thing about every time we move to a new location there would be a fee for us. I am having a hard time understanding the difference between a mobile truck and a trailer that a truck pulls. We have the kind that a truck has to pull. It is still mobile, but bigger. I have great concerns that it will be costly if we have to pay every single time we move.

Alderman Petty: The concerns we have heard tonight are things we have discussed internally in developing this. If Council wants to address that, we are already half way there. We have alternative frameworks and we can discuss those as a Council. I don't think any of us anticipated we were going to get the strong majority of support that we received at the Planning Commission for this. Based on the comments and other times this was brought up and in the newspaper, we were expecting much more opposition and questions about the expansion of this new industry. We didn't see that at the Planning Commission. The seven who voted for this were enthusiastic about it and wanted it to go farther. If we want to pass this as it is or if we want to take another two weeks we can do that. We have heard some legitimate concerns. We have the frameworks ready to go, so the discussion will be efficient.

Mayor Jordan: Alderman Marsh mentioned this going to Ordinance Review.

Alderman Long: I am fine with it going to Ordinance Review.

Mayor Jordan: If you left it on the First Reading you would have two weeks to go to Ordinance Review.

City Attorney Kit Williams: There is an Ordinance Review Committee meeting scheduled tomorrow. It is on a single subject and it will probably take up the whole time.

Alderman Petty: I believe we need a meeting at Ordinance Review dedicated to this.

A discussion followed about the scheduling of an Ordinance Review Committee meeting to discuss this topic.

Alderman Petty moved to table the ordinance to the December 17, 2013 City Council meeting and send it to the Ordinance Review Committee. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

This ordinance was left on the First Reading, Tabled to the December 17, 2013 City Council meeting and sent to Ordinance Review.

The Council returned to item #6 to view the planning map as requested.

Huntsville Road City Property: A resolution to amend the 2030 Future Land Use Map to change the city owned parcel of the former Tyson plant on Huntsville Road from Civic Institutional to City Neighborhood and to express the City Council's support to request proposals for the sale and development of the remaining acreage.

Peter Nierengarten, Director of Sustainability & Strategic Planning gave a brief description of the resolution. This resolution would change the future land use designation for the property from Civic Institutional to City Neighborhood and direct staff to begin a development for Request for Proposals for the property.

City Attorney Kit Williams: I do have one correction. This resolution does not direct staff to do anything. The Mayor directs staff. This one is expressing support to request proposals for the sale and development of remaining acreage. Obviously, I think the Mayor will use his staff to look at the sale of this property as you have requested through your intent. This comes up occasionally where we have staff sometimes saying that they are being directed by you, but that is not correct, they work for the Mayor and he is the Chief Executive Officer, you do not get your directions from the City Council.

Peter Nierengarten: Thank you Kit, my mistake.

City Attorney Kit Williams: I drafted the resolution and it is correct.

Alderman Marsh: I would like to thank staff for their work on this proposal, for engaging citizens and getting their feedback. The three top priorities based on design elements and ideas two of the highest ranked ones by citizens were neighborhood gardens and public space green space park. What are we doing to ensure that those will be included in any development proposals?

Peter Nierengarten: I think that could be written into part of the criteria as part of that proposal process.

Alderman Marsh: Does staff have a recommendation on the percentage of the site that would be allocated for those uses?

Peter Nierengarten: I don't think we have looked at it in that level of detail. At this point, I don't think we have a percentage. The concepts we presented showed using those public spaces as neighborhood or communal garden spaces. We would look at some allotment that would be appropriate for the number of residents that would be using that space for that type of use.

Alderman Marsh: I would like to see some type of guidelines attached to our Request for Proposal to develop this property to ensure that we are meeting that citizen request.

Mayor Jordan: Is that a motion?

Alderman Marsh: Yes.

City Attorney Kit Williams: Could you please repeat the motion.

Alderman Marsh: To request that staff provide some guidance as part of the Request for Proposals in terms of a percentage of community garden or park space that would be allocated based on the use of the property

Alderman Petty: You mean to include a specific number? I will second that.

Alderman Marsh: Yes or proportionality. I want staff to set a minimum amount of either community garden or green space park space.

City Attorney Kit Williams: Do you have the minimum amount you want to request?

Alderman Marsh: No, I would like staff to recommend that based on their expertise.

City Attorney Kit Williams: Who are they recommending that to?

Alderman Marsh: To include that as part of the Request for Proposals we send out for development.

Mayor Jordan: You are asking for a minimum amount of green space to be determined by the staff?

Alderman Marsh: Yes.

Alderman Gray: Based on the input from the citizens.

Alderman Marsh: I just don't want it to be left over space allocated as green space. We want to actually meet the neighbor request for garden and park space.

Mayor Jordan: We had public input sessions and what did you garner from that Peter?

Peter Nierengarten: All three options that we drew up showed garden and green space in them. I can't tell you the exact amount of acreage for each of those. Alderman Marsh is correct that the public reaction to those illustrations was very positive and supportive of inclusion of garden or green space.

Mayor Jordan: I remember we had garden and green space in the three proposals.

City Attorney Kit Williams: We are required by our contract with Kum & Go to have that half acre space by the intersection that will be green space.

Alderman Marsh: If you look at these top priorities outlined by our citizens, the number one request is neighborhood gardens. That is not left over space at a busy intersection.

City Attorney Kit Williams: You want to have neighborhood gardens rather than green space?

Alderman Marsh: Neighborhood gardens, public space green space and park areas. I don't know if there are some guidelines for percentage of community gardens space per resident that we could look at. I'm sure someone has established some standards that we could use. I am asking the staff to determine what the recommended ratio is and to include that as a requirement in the Request for Proposals.

Mayor Jordan: Do you have green space or gardens in the proposal?

Peter Nierengarten: We have not even drafted the Request for Proposal yet. Upon direction from you and with guidance from the Council we will start that process soon. Our plan was to include the allotment that Alderman Marsh is alluding to.

Don Marr, Chief of Staff: I want to make sure we are clear. It needs to be specific to the properties in which someone is making a proposal for. We are making an assumption that the proposal offer is going to be for all the property and there may be someone who only makes a proposal for part of the property. You want the flexibility in that design to be able to possibly piece together two separate proposals because you think it ends up being the best development proposal as opposed to single property development option or it could be the exact reverse. If I understand what we are being directed by this Council amendment is that staff would make a determination of what green space option subsets to be used for either portions of the property or all the property developed into those categories outlined in community gardens and public green spaces.

Mayor Jordan: I believe what you are saying is there is a certain proportion of green space you want to see left in these seven acres. Is that correct?

Alderman Marsh: Not just green space. I'm not looking at turf grass.

Mayor Jordan: I understand some sort of usable green space.

Alderman Marsh: Some ecological services provided by this sight. In the Request for Proposals, they can either include it in the proposal if they want to design something for the whole sight or we can request that they pay into a fund that could then offset the development cost of another portion of the sight. We want to make sure we are including the citizen's desire for these spaces in this development.

Mayor Jordan: This will be an amendment to this resolution.

City Attorney Kit Williams: This will be a new section three.

A discussion continued about the phrasing of the amendment for the resolution.

City Attorney Kit Williams: It would say that the City Council expresses its support to set a minimum amount of green space for neighborhood gardens and park space to be included in the development of the sight.

Alderman Marsh: Perfect. Thank you.

Aubrey Shepherd: The exact dimensions and portions of the sight makes a lot of difference, if we require green space out by the street in front of Kum & Go, it is going to be basically fake green space. This will serve the purpose of some native plants, but will not allow perennials to root deeply. I am for the amendment.

Mayor Jordan: The motion is for useable green space, not just a bunch of sub soil thrown down on the ground with grass on top of it. This is useable green space.

Alderman Marsh: Not left over space. It would provide ecological services.

Aubrey Shepherd: I am correct that it would be the southeast corner?

Mayor Jordan: Yes, pretty much.

Alderman Petty: It is always a good idea when you are sending out a Request for Proposals to include parameters to guide the respondents. With this being at the top of the citizens list, it makes sense to include it.

Alderman Marsh moved to amend the resolution to express the City Council's support to set a minimum amount of green space for neighborhood gardens and park space to be included in the development of the sight. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

Alderman Marsh: I would like to propose an amendment that in our Request for Proposals that we include that they follow our low impact design guidelines. There is a lot of drainage in this area that needs to be dealt with appropriately.

Alderman Petty: We passed an ordinance to create a new set of drainage guidelines and establish a Best Practices Manual for low impact development. To former Alderman Sarah Lewis credit, she came from the industry where she advised developers on low impact development. We already had a good basis of understanding on what low impact development meant. It is not controversial at all when you talk to developers now. It seems like it is only controversial with some elected officials across the country. If you look at the data, developers and cities love it for two reasons, on average it saves 40% on construction cost and saves on maintenance cost year after year.

Alderman Marsh: Having just been on mobile tours in Seattle at the National League of Cities Conference you can see low impact development green streets. They are beautiful and they have done a lot to attract new businesses and green industries. I think that in order to attract the best development and hopefully some green jobs, this could help us do that.

Mayor Jordan: This amendment is to develop that area according to low impact development standards.

City Attorney Kit Williams: It is actually to require a developer to follow our low impact design standards.

Alderman Adams: We can require a developer to use low impact development design standards?

City Attorney Kit Williams: Low impact design standards were done as an option. We were trying to encourage developers to do it voluntarily. There were certain advantages for them if they decided to do that. We can not require that at this point in time, however this is our property. It might lower the money that we are going to get for the property. Every time you put another restriction on the property you are trying to sell, you are reducing its value to a developer who would rather buy a property with no restrictions. It doesn't mean you shouldn't put any restrictions on it, but you need to keep in mind, that the more restrictions you place upon this the fewer people are going to be interested in developing a commercial sight and the less they are probably going to be willing to pay for it.

Alderman Tennant: I am not against this, but I am worried about immediately putting so many restrictions on this property. I am worried about potential developers and investors even looking at this and moving forward with this because of the restrictions. We might have somebody out there who would come and look at it if we don't have a tremendous amount of restrictions on it. We could work with them and decide if they are right for the property at that point, rather than say you can't even come into town and look at this piece of property until you meet all these requirements. We need to sell this land for the most money. The taxpayers deserve that, but at the same time we have proven that we make decisions not just based on money.

Alderman Petty: I understand that concern. I don't think there is cause for that concern in this case because every developer understands low impact design. They understand the cost savings associated with it. In most cities it is still illegal and that is what keeps them from going there. It won't prevent anybody from applying, especially if we develop an RFP that will be advertised nationally.

Alderman Long: Are we putting an extra restriction on ourselves? Usually I am for low impact development. We are going to have to talk about who we sell the land to when it comes to us. I question whether that is smart to do on the front side.

City Attorney Kit Williams: I would like to ask Jeremy Pate if he is aware of the number or percentage of low impact developments that have occurred in Fayetteville since we enacted the ordinance.

Jeremy Pate: Honestly, I do not know.

City Attorney Kit Williams: Is it a large percentage. Have we seen a lot of low impact development?

Jeremy Pate: We have seen a lot of developments utilize portions of it. Where an entire project has come through is probably a much lower percentage. The drainage criteria manual we are working on incorporates low impact development as a part of the manual. It is much more built into the overall system and that will be coming forward at the beginning of next year.

Mayor Jordan: Do you have any thoughts on this Adella?

Alderman Gray: I think we have heard some good arguments, if we can do the negotiation on the other end that would be great. Is that okay with our attorney?

City Attorney Kit Williams: That is what we did with Kum & Go. We entered into an extensive negotiation once they showed some interest. The negotiations can continue right up until you make a final decision to sell them the property.

Alderman Gray: I feel like that is probably the better decision for us at this point in time.

Alderman Marsh: This is right next to the White River and that has a huge issue with sedimentation. Having these ecological services that low impact development provides, is a benefit to our community. Sensing the hesitation on the Council, I would like to amend the resolution to request low impact design proposals rather than require it.

Alderman Marsh moved to amend the resolution to request a developer to follow our low impact design standards. Alderman Petty seconded the motion. Upon roll call the motion passed 7-0. Alderman Kinion was absent.

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

Resolution 239-13 as recorded in the office of the City Clerk

Instrument & Supply, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving an agreement with Instrument & Supply, Inc. for the purchase of a JWC Channel Monster in the total amount of \$192,342.36, and approving a budget adjustment.

City Attorney Kit Williams read the ordinance.

David Jurgens, Utilities Director gave a brief description of the ordinance.

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

Ordinance 5635 as recorded in the office of the City Clerk

CH2M Hill Engineers, Inc. Amendment No. 4: A resolution approving contract Amendment No. 4 with CH2M Hill Engineers, Inc. in the amount of \$7,441,428.00 for operation, maintenance, management and engineering services for city wastewater treatment facilities and systems in 2014 subject to approval of the 2014 annual city budget and work program, and approving a \$70,000.00 contract contingency.

David Jurgens, Utilities Director gave a brief description of the resolution.

Mayor Jordan: CH2M Hill does an excellent job and I am very pleased with their work from an administration perspective.

Alderman Marsh: This went through the Water & Sewer Committee and was endorsed unanimously.

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

Resolution 240-13 as recorded in the office of the City Clerk

City Council Agenda Session Presentations:

Economic Development Report: Chung Tan, Chamber of Commerce

City Council Tour: December 2, 2013 – 4:00 PM – Mt. Kessler

Announcements:

Alderman Gray: There will be a Ward 1 meeting on November 21, 2013 at the Fayetteville Senior Center at 6:00 p.m.

Alderman Marsh: On November 23, 2013 at 10:00 a.m. the Fayetteville Forward Creative Economy Action Group will be getting together at the St. Paul's parking lot to build a float for the Lights of the Ozarks Parade. Our theme is Super Heroes.

Don Marr: I would like to remind the Council on November 20, 2013 at 5:15 p.m. in Room 326 is the Ordinance Review Committee meeting to discuss the building height proposal that is before the Council.

November 21, 2013 the Northwest Arkansas Regional Planning Commission is having a Transit Alternatives Analysis meeting for public input to discuss the options on regional public transit. It will be in Room 326 from 4:00 to 7:00 p.m.

November 23, 2013 will be the Lights of the Ozarks lighting and parade on the Square at 6:00 p.m.

City offices will be closed November 28, 2013 and November 29, 2013 for the Thanksgiving Holiday. Solid Waste services do not operate on Thanksgiving Day. Citizens, who have their services normally on Thursday, will be on Friday.

The office and transfer station will not be open to the public at the Solid Waste Division on November 28, 2013 or November 29, 2013.

Alderman Marsh: On November 25, 2013 we will celebrate the completion of the Cato Springs Road project at 2:30 p.m. on Cato Springs Road.

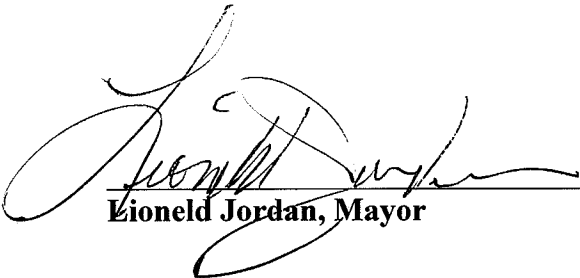
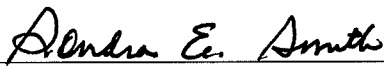
Alderman Adams: We will have a Ward 4 meeting on November 25, 2013 at 6:00 p.m. in Room 111 at City Hall.

City Clerk Sondra Smith: We have 34 openings on the Boards and Committees. The application deadline is November 22, 2013 at 5:00 p.m. Please encourage citizens to apply for these openings. The openings can be found online at accessfayetteville.org.

Don Marr: We would ask for your active recruitment of citizens for Boards and Committees. While we have more openings this period, we are seeing fewer applications.

Mayor Jordan: I would like to wish the City Council, City Attorney, City Clerk and the great citizens of this city a very happy and safe Thanksgiving.

Adjournment: 8:35 pm


Lioneld Jordan, Mayor
Sondra E. Smith, City Clerk/Treasurer