

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
December 03, 2013**

A meeting of the Fayetteville City Council was held on December 03, 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, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Long

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan asked the students from Ms. Shay Hopper's Woodland Junior High School 9th Grade Pre-AP American Government class to stand and be recognized.

City Council Meeting Presentations, Reports and Discussion Items:

Golden Acorn Award: Fayetteville Natural Heritage Association

Mayor Jordan: Bob Caulk from the Fayetteville Natural Heritage Association is here to present a special award tonight.

Bob Caulk, Fayetteville Natural Heritage Association presented the Golden Acorn Award to the Fayetteville Parks and Recreation team. Connie Edmonston, Alison Jumper and Byron Humphry accepted the award.

Connie Edmonston: This means a lot to us and our whole city. If the Administration and City Council did not support the things we have done we would not be able to accomplish anything. The Fayetteville Natural Heritage group is an awesome partner.

Quarterly Financial Report – 3rd Quarter of 2013, Paul Becker, Finance Director

Paul Becker, Finance Director gave the 3rd Quarter Financial Report for 2013.

Agenda Additions: None

Consent:

Re-approval of the November 5, 2013 City Council meeting minutes and approval of the November 19, 2013 City Council meeting minutes.

Approved

General Construction Solutions, Inc.: A resolution approving Change Order No. 1 to the contract with General Construction Solutions, Inc. in the amount of \$34,037.14 for the completion of construction on FEMA Project, Location 22 Sanitary Sewer near the entrance to the Cliffs Apartments related to Spring 2011 flooding, and approving a budget adjustment.

Resolution 241-13 as recorded in the office of the City Clerk

Grubbs, Hoskyn, Barton & Wyatt, Inc. Amendment No. 1: A resolution approving Amendment No. 1 to the contract with Grubbs, Hoskyn, Barton & Wyatt, Inc. for the additional amount of \$8,000.00 for additional geotechnical evaluations of Tract 14 of the Fayetteville Industrial Park, approving a project contingency of \$2,000.00 and approving a budget adjustment.

Resolution 242-13 as recorded in the office of the City Clerk

Continental Flooring Company: A resolution authorizing the purchase and installation of vinyl plank flooring from Continental Flooring Company for the Transportation Division office in the amount of \$38,843.00 plus any applicable bonding fees and tax pursuant to an NJPA cooperative purchasing agreement.

Resolution 243-13 as recorded in the office of the City Clerk

Landers Toyota of Little Rock: A resolution authorizing the purchase of two (2) Toyota Tacoma pickup trucks in the total amount of \$55,910.00, pursuant to a state procurement contract, from Landers Toyota of Little Rock for use by the Transportation and Water & Sewer Division, and approving a budget adjustment in the amount of \$28,500.00.

Resolution 244-13 as recorded in the office of the City Clerk

Bid #13-20 Shipley Motor Company of Lowell: A resolution authorizing the purchase of one (1) Mack LE613 truck with Wayne Titan body in the amount of \$245,060.00, pursuant to Bid #13-20, from Shipley Motor Company of Lowell for use by the Solid Waste Division.

Resolution 245-13 as recorded in the office of the City Clerk

Assistance to Firefighters Grant: A resolution authorizing application for a 90/10 matching Assistance to Firefighters Grant through FEMA in the estimated amount of \$427,500.00 for the purchase of a front line fire pumper apparatus for the Fire Department.

Resolution 246-13 as recorded in the office of the City Clerk

2013 Sales and Use Tax Bond Issue Proceeds: A resolution approving a budget adjustment in the total amount of \$22,750,000.00 to appropriate proceeds from the 2013 Sales and Use Tax Bonds for street projects.

Resolution 247-13 as recorded in the office of the City Clerk

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

Unfinished Business:

Amend UDC Height and Setback Regulations: An ordinance to Amend §§161.16, 161.18, 161.19, 161.20, 161.21, 161.22, 161.23, 161.24, and 161.25 to change setbacks and setbacks for adjoining property and height limitations for several districts and to amend §164.11 Height and Setback Regulations; Exceptions to reduce or eliminate setbacks in certain circumstances, to require wider sidewalks for buildings higher than 36 feet and to provide a building height variance for buildings receiving LEED Gold Certification and meeting other requirements, and to amend §156.02 (F) to authorize a requirement for a height variance applicant to provide a Viewshed Analysis or Sun/Shadow Study. *This ordinance was left on the First Reading at the September 17, 2013 City Council meeting. This ordinance was left on the Second Reading at the October 01, 2013 City Council meeting. This ordinance was left on the Third Reading, Tabled to the November 5, 2013 City Council meeting and referred to the Planning Commission at the October 15, 2013 City Council meeting. This ordinance was left on the Third Reading, Tabled to the December 3, 2013 City Council meeting and sent the Ordinance Review Committee for review.*

Alderman Marsh: Mr. Mayor, Alan Long was unable to be here tonight and he played a very pivotal role in working this ordinance through our Ordinance Review Committee. I would like to request that we hold this ordinance until he is able to participate in the discussion and vote.

Mayor Jordan: Is that a motion?

Alderman Marsh: Yes, that is a motion.

Alderman Petty: I will second it.

Mayor Jordan: We have a motion and a second to table. What discussion do we have on it?

Alderman Kinion: I feel like we are faced with a moratorium that is ending. There has been a lot of discussion on this. Unfortunately, I was not able to attend the meeting of the Ordinance Review Committee, but I have reviewed it. I have looked extensively at the trail that we have taken from the initial discussion to where we are now. It has gone from something very simple to protect the integrity of neighborhoods and to offer the protection and the availability of fresh air and sunlight to residences that are already established in the Downtown area, to a very broad and all-encompassing ordinance change. I don't feel like we are at the point to move forward in that broad sweep. At the same time since we are faced with the end of the moratorium, I think we should move forward with something. You will find in front of you an amendment that I am going to offer.

Mayor Jordan: We have to vote on the tabling first.

Alderman Kinion: I am getting to that.

Mayor Jordan: Ok, I am sorry.

Alderman Kinion: In an effort to go ahead and move forward I would say that I can't support tabling this.

Mayor Jordan: Any other comments on that?

Alderman Adams: I have a question about the moratorium. It is clear that we set this date so that we would not risk having changes made while this was being considered.

City Attorney Kit Williams: The moratorium will expire before your next meeting. The reason for the moratorium is to give the City Council enough time to act. If you want to act before the moratorium expires and development can occur no matter what, then you would need to make a decision tonight and actually pass some ordinance.

Alderman Adams: Thank you very much.

Alderman Petty: I would like to reiterate how important Alderman Long was to the process at Ordinance Review. He chairs that committee. He also prepared the amendments that came out of the committee which I think were useful and responded to the input that we got from the other council members that were there and from the members of the committee. I think it is vital that he is here to weigh in as chair of that committee.

Alderman Marsh: I am drafting a new much more streamlined ordinance that will address a lot of the comments and concerns that I intend to file tomorrow morning. Hopefully by putting that

in place before the end of the moratorium will help this process along while safeguarding the homeowners.

Mayor Jordan: Mark, you are going to present an amendment after we vote on the tabling?

Alderman Kinion: Yes.

Mayor Jordan: Sarah, you are going to bring an amendment as well?

Alderman Marsh: A new ordinance.

City Attorney Kit Williams: Mayor, if the motion to table passes, then there can be no amendments presented. This item will then be left on the table until the next meeting.

Mayor Jordan: Any other discussion on the motion to table?

Alderman Adams: If we table it someone can come into Planning before our next meeting and all this is for naught. I usually vote to table something when an Alderman can't be here but we have a moratorium and date that was put before us and that is an important consideration. Alderman Marsh you were concerned about that date.

Alderman Marsh: Right. I wish we could move forward, but the reality is this ordinance has mutated significantly and it has gotten really messy. I asked Kit to draft the ordinance and he sent back the initial draft so we could file something to put that moratorium in place. I did not do a good job in editing the ordinance to refine the intent of the ordinance. I would like to go back and clean that up and incorporate a lot of the comments and suggestions that we have received. This is going to affect our community for a long time and it is really important that we get it right. I think it is important that we involve the entire Council in such a large decision. I am prepared to withdraw the ordinance tonight and file a new one tomorrow morning.

City Attorney Kit Williams: The City Council has to vote. You can not withdraw something that is before the City Council.

Alderman Kinion: I endorse the comments that have been made by Alderman Petty and Marsh. The intent was to move forward with this. We will still have the opportunity in the future to revise the elements associated with the discussions that we have had. My concern is with the moratorium. We need to move forward to protect some residential areas downtown. I apologize to Alderman Long, it is tough when you are absent. It is important because of the timeliness of the moratorium that we move forward this evening.

Alderman Marsh: Maybe as a compromise we could vote on the existing ordinance but call it a pilot program and it would expire in one year. That would give us time to hammer out a new improved version and protect us in the interim.

Alderman Adams: Are you meaning a pilot program with the ordinance. You said you did not like some of the things you did in it and you wanted to change it because it is messy now you think it would be okay to try it for a year?

Alderman Marsh: I think it would allow us to put something in place to protect the existing home owners while we figure out a much cleaner version.

Alderman Marsh moved to table the ordinance to the December 17, 2013 City Council meeting. Alderman Petty seconded the motion. Upon roll call the motion failed 2-5. Alderman Marsh and Petty voting yes. Alderman Gray, Kinion, Tennant, Schoppmeyer, and Adams voting no. Alderman Long was absent.

Alderman Kinion: There is an amendment in front of you. This amendment recognizes the home owner's rights for adequate sunlight and that room for air and wind should be protected. It also recognizes this is an ordinance that is brief and to the point that handles the situation we are faced with in the core of our city and the downtown area. It recognizes protecting those individuals that are residents of this area.

Alderman Kinion moved to amend the ordinance to the new ordinance that was introduced at the City Council meeting. Alderman Gray seconded the motion.

City Attorney Kit Williams read the ordinance that was introduced at the City Council meeting.

City Attorney Kit Williams: This is similar to the initial ordinance that was presented to you. It has been tightened significantly and improved to make sure it is limited to the Downtown General and Main Street Center zoning districts. This would protect a single family home being used primarily as a single family residence, no other buildings would receive protection. It would not limit single family residents from being constructed within the city. I wrote this ordinance in response to comments from the Aldermen and citizens.

Alderman Kinion: The moratorium will be up before our next meeting. This is an opportunity to have a measure in place that is simple, not complex and offers protection to those individuals that came forward early in the process and asked for protection.

Alderman Gray: I agree with Alderman Kinion. I want to thank our City Attorney for drafting this ordinance for us. At the Ordinance Review Committee meeting we were not offered the opportunity to discuss this ordinance. I feel this is the direction we should go. We may want to make adjustments in the future with lots of citizen input. I support this redrafted ordinance.

Alderman Tennant: I think the best part about government is taking the best ideas and adding other ideas or subtracting things that do not work. This idea in the beginning had very good intentions. I think this is a good compromise. I want to commend Alderman Kinion and City Attorney Kit Williams for bringing this forward. I am in favor of it.

Alderman Petty: I appreciate the view points. I disagree with what has been said. I am a big supporter of this process and getting something out of it. This is absolutely the wrong way to do it. It is prejudicial against anyone that can not afford to live in a single family house. This new ordinance limits practical development. I can not support the ordinance.

Alderman Kinion: I respectfully disagree with Alderman Petty. We still have the opportunity to come back and reevaluate this. We need to protect the neighborhoods and the integrity of the neighborhoods and those that have purchased single family homes in this area. The intent of this legislation is to respect those individuals that are currently in their single family homes. That is what we were asked to do when we started this discussion. I live in this area and it is in the ward that I represent.

Alderman Marsh: I respect and appreciate Alderman Kinion's efforts. I agree with Alderman Petty that this discriminates against people who can not afford to own their homes. I think we need to do something to immediately protect our neighborhoods. I would like to amend this to 39 feet and add a six month expiration date. I would be willing to do this even though I do not think this is in the best long term interest of our community.

Alderman Marsh moved to amend the ordinance to 39 feet. There was no second to the motion.

Tom Overby: I ask that in the future you consider issues other than single family homes. Light and air is important to people besides single family residences.

Todd Jacobs, Jacobs Newell Company: We are one of the few builders that are doing infill development on a small scale. What we see before you tonight scares us deeply. We see no predictability coming from City Administration and the City Council.

Mr. Jacobs asked questions about the proposed ordinance and how the changes would affect his proposed projects.

A discussion followed on the development that would be allowed if the ordinance is approved.

Hathum Alley asked how this ordinance would affect his property.

A discussion followed regarding the setbacks and step backs that could affect Mr. Alley's property.

Aubrey Shepherd voiced his concern about enforcing low impact development. He voiced his concern about building infill development where there is no absorbent soil.

City Attorney Kit Williams: We have a low impact ordinance but it is not mandatory, it is optional.

Steve Clark, President of Chamber of Commerce: The moratorium gives me great concern. If the notion is that one member of this Council can offer an ordinance for debate or discussion

and the net effect is to stop everything until that debate and discussion is resolved then you put your city at a very strong disadvantage. I support the new proposed ordinance. This gets us out of the moratorium. I ask you to not be a part of an effort to use your power, individually as an Alderman, to stop growth. Change is not bad for us and growth is not bad for us.

Bob Estes voiced his support for the new amended ordinance.

Russell Rudzinski asked the Council to not support any ordinance that is before the Council. He stated he thinks the zoning that we have in place is doing an adequate job.

Nina Shirkey stated she was born in a home that was built in 1906 long before this plan was developed.

Alex Blass stated he would implore that this be shut down until we can have more time to look at other cities and have more discussion within the city itself.

Tracy Hoskins: I believe this amendment is an improvement from what was originally before us. I have concern that the 15 foot setback along with a 15 foot step back is going to seriously diminish the usability of some property. I hope the Council would consider adjusting one or the other. I don't think the step back is going to make a lot of difference to a single family residence below.

Alderman Marsh: I agree that these setbacks are extreme. We need retail and restaurants spaces in our downtown area. We need the types of spaces that bring vitality and economic opportunities into our downtown and this really disincentives that. When I envision the future of our community I see a mid-rise walkable community filled with sustainable buildings and that is what I intended to do with my ordinance. While this offers some good protections for single family residences it swings the pendulum too far back against opportunities for good infill development and the diversity of building types in our downtown. I think we need to look at the 15 foot setbacks and step backs because those are development killers.

Alderman Kinion: I don't understand how this inhibits commercial development.

Alderman Marsh: It limits us to one to two story buildings which are not economically viable for commercial projects.

Alderman Marsh moved to amend the ordinance that new multifamily, commercial, office, parking deck or mixed use construction be raised from 24 to 39 feet and amend the maximum building height farther down to 39 feet. There was no second to the motion.

Alderman Petty: Everyone up here wants to support the heritage in Fayetteville. That is the intention of this ordinance. I do not see an emergency or a crisis. I would be in favor of taking no action tonight. I can not vote for a law that I think is bad just to buy us more time.

Alderman Adams: At the Ordinance Review Committee we did not get to talk about the ordinance that was presented at the meeting. We have put a lot of time into this and had some good conversations. I am ready to vote tonight.

Upon roll call the motion to amend the ordinance to the new ordinance that was introduced at the City Council meeting passed 5-2. Alderman Gray, Kinion, Tennant, Schoppmeyer, and Adams voting yes. Alderman Marsh and Petty voting no.

Tracy Hoskins asked for clarification and if the LEED certification, including any type of residential, and shadow studies was removed from the ordinance.

Mayor Jordan: That is correct.

Seth Mims, Specialized Real Estate Group asked for clarification on what ordinance was being voted on.

Mayor Jordan: It is the one City Attorney Kit Williams proposed with the addition of multi family, commercial, office, parking deck for mixed use construction.

City Attorney Kit Williams: This was handed out at the Ordinance Review Committee with multi family, commercial, and mixed use. I have included office buildings and parking decks to the one that was handed out at the Ordinance Review Committee.

Seth Mims: I think a 15 foot setback is extensive and will greatly affect building in downtown. If anyone considers another moratorium you are going to push development out. The danger is there are competing cities looking for development.

Mr. Mims voiced his concern about some projects that might not be built if another moratorium is put in place. He feels the ordinance is over reaching.

Alderman Kinion: You have asked for variances before and received them. You have that opportunity with this. We need to lift the moratorium. We are in an economic advancement stage.

City Attorney Kit Williams: Moratoriums are tricky. They can be legal if they are relatively short, for a determined amount of time, and there is a reason behind it. Repeated moratoriums fall far outside the spirit of the United Development Code. I do not think it was envisioned that there would be repetitive moratoriums. It would not be proper to have a long term moratorium set up without extremely strong grounds of great danger to our citizens. I do not think a new moratorium would be appropriate.

Jeremy Pate: We have not utilized this type of moratorium very often. I think it is used with great care when you are considering any type of stop gap measure or consideration of an ordinance that would cease development for a specific type.

Russell Rudzinski: I am all for preserving heritage. With these restrictions you are preventing the city from growing up to reflect our cities important ranking as the third largest city in the state.

Aubrey Shepherd voiced his concern about people not caring about what is going on. He stated if there is not a wide enough setback construction machinery, gravel and dirt is put out in the street surrounding the property and that should not occur.

Alderman Marsh: When I first proposed this ordinance we had the 15 foot setback and 15 foot step back in it. The intention of that was to do something really extreme so that when we came back with something later everyone would say it was better. My intention with the previous ordinance and the amendments was to find something that was really strategic and context sensitive and not something that was this broad and sweeping. I can not support this. This is a gross distortion of what I had initially intended. I think this is really bad for the livability of our downtown and commercial viability.

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

Ordinance 5636 as recorded in the office of the City Clerk

Resolution Calling for a Public Hearing for VAC 13-4516 (Brenda Drive, Court and Walton Street/University of Arkansas): A resolution to fix the date for hearing the University of Arkansas' request to vacate Brenda Drive, Court Street and Walton Street on December 17, 2013 at 6:00 p.m. in the City Council Chambers, Room 219 of the City Administration Building.

City Attorney Kit Williams gave a brief description of the resolution.

Alderman Adams moved to approve the resolution. **Alderman Tennant** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Long** was absent.

Resolution 248-13 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. *This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting.*

Alderman Adams moved to table the ordinance to the December 17, 2013 City Council meeting. **Alderman Gray** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

This ordinance was left on the Second Reading and Tabled to the December 17, 2013 City Council meeting.

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. *This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: I ask that you amend this ordinance to add Section 3 and add the conditions of approval that were recommended by the Planning Commission.

Alderman Petty moved to amend the ordinance to add Section 3 and add the conditions of approval that were recommended by the Planning Commission. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Long was absent.

Alderman Adams: This is a reduction of the original plan. In the future I would like us to treat PZD's in the same notification way that we treat zoning changes.

Jeremy Pate: There are no requirements to notify whatsoever of zonings or annexations that come before the Council. You have no notification process in our current codes. Interested neighbors generally follow from the Planning Commission meeting and look at the agendas on line or in the paper. There are no signs or notification requirements for the City Council meeting.

City Attorney Kit Williams: There is a single notification by the city and that is at the Planning Commission level.

Alderman Adams: I would like to see us change that in the future.

City Attorney Kit Williams: I am working with Planning on revising the planned zoning district.

A discussion followed on planned zoning districts, when that zoning was incorporated and possible changes to the ordinance in the future.

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

Ordinance 5637 as recorded in the office of the City Clerk

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. ***This ordinance was left on the Second Reading at the November 19, 2013 City Council meeting.***

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 7-0. **Alderman Long** was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: I ask that you amend this ordinance to add the conditions of approval that were recommended by the Planning Commission.

Alderman Petty moved to amend the ordinance to add the conditions of approval that were recommended by the Planning Commission. **Alderman Adams** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

Alderman Adams: This is a change in a PZD. It is a down size but it is important that the citizens be notified.

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

Ordinance 5638 as recorded in the office of the City Clerk

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. ***This ordinance was left on the First Reading at the November 19, 2013 City Council meeting.***

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 Long** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Adams: I would like to ask that we hold this on this reading tonight. I know we have people here, but there is no date attached to this and **Alderman Long** is not here.

Mayor Jordan: You would like to hold it on the second reading?

Alderman Adams: I would request that if you would support that.

Tom Overby, 1855 West Pratt Drive: I am 500 feet from Mr. Archer's property. I have been asked to speak on behalf of several people in the neighborhood. Why are so few complaints noted in the filing of Pratt Place Inn with respect to noise and other activities? An answer is because we neighbors rely on the 10:00 p.m. curfew. If there is noise during the week we know it is going to end at 10:00 p.m. because that is the curfew. Sometimes an event will run over a little bit to 10:15 p.m., but that is far different than events running over to 12:15 a.m. if you move to the midnight curfew during the week. We debate the argument that there have not been many complaints. The request that was filed by the owners of Pratt Place Inn was for midnight Monday through Saturday, 10:00 p.m. on Sunday, plus ten events per year until 2:00 a.m. That is not what City Planning has proposed, but that was the request.

Pratt Place negotiated long and hard with this Council and the neighbors in 2005. They now want to change the deal. It is not just a noise issue. The issue beyond noise is the traffic in a residential neighborhood. It is a beautiful place. It's not what they are doing that we are complaining about, it is extending it two more hours in a residential neighborhood. The Archer's haven't talked to anyone in the neighborhood to our knowledge. They have only talked to you guys.

Lynn Wade, 100 North Sang Avenue: I am surprised that we have to be here. In 2005 we thought this was put to bed in a very amicable way. I appreciate the discussion of the notice. I concur with what Mr. Overby has said and particularly I am glad to hear the discussion tonight about protecting the neighborhood. This is what we ask you to do.

William Feldman, 16 North Sang: The PZD has time requirements, but they aren't always obeyed and that has become a problem. At least they are in place and offer us some protection after 10:00 p.m. and after midnight during the weekends. If we didn't have that protection, I think we would all feel that our situation was compromised in terms of privacy and integrity of the neighborhood and a sense of quiet.

Debra Boddington, Palmer and Hotz in Ward 4: I am a little south of where this particular issue is impacting. Although the integrity of the neighborhood is very important, there are several things that are impacting the neighborhood right now as far as traffic concerns. I concur with my neighbors.

Julian Archer, 2115 West Markham: Are we going to postpone because of Alan's absence?

Alderman Adams: I requested that, but someone could move to go on.

Julian Archer: I can give my remarks, but I would rather hold them until there is actually going to be a vote.

Mayor Jordan: From what I understand we have had a Council member from Ward 4 request that it be held on second reading. Is that correct Rhonda?

Alderman Adams: He didn't ask me specifically. I don't know if he asked one of you all or not. I didn't really know how to handle this.

Don Marr, Chief of Staff: Alderman Long sent an email requesting that this item be considered to be left on the second reading. Staff informed him that is up to the Council.

City Attorney Kit Williams: This is a somewhat different situation in that his vote could be critical on this particular issue. It takes five affirmative votes to pass an ordinance. Every vote would count and in this particular case he might have the critical vote. I think this is a situation where I would hope you all would keep this on the second reading.

Alderman Kinion: We certainly could hear information.

Mayor Jordan: Absolutely.

Alderman Adams: It is not a time sensitive issue.

Mayor Jordan: From what I understand we want to hold on a second reading.

Julian Archer: I should go ahead?

Mayor Jordan: Yes. You can do it now and then you can do it again in two weeks.

Julian Archer: I want to thank the staff for the time in reviewing this and their recommendation. I would like to have an amendment on your part and that is to remove the two year statute of limitations because that simply causes all of us an incredible nuisance. We have been on trial. We have a track record of eight years of the barn being open and functioning. The Inn has a five year track record and I think you can successfully make your determination on the basis of that experience. We have a track record. I ask that you amend the proposal and not include that. I do think you should include, and I would like an amendment coming forth for this, two options in the year to go until 2:00 a.m. We would have to inform the Planning Department and the Police Department a week ahead of time at least. Those events will have off duty policemen, either University or Fayetteville Police.

You have been given the impression that a party ends precisely at one time and 200 cars descend the road. That never happens. If you are attending an event, people come at different times and they depart at different times. There are events which want to go later and I would like to have the opportunity to do that.

There is competition. Fayetteville doesn't exist in isolation. If you want to rent Crystal Bridges, you can go as long as you want. You can have amplified music outside and there is no time limit. Residences are far closer to Crystal Bridges than ours. The City of Bentonville imposes no restrictions. We are competitive. There are choices in Fayetteville, Springdale and Bentonville.

Robert Albertson, Ward 4 resident: I have lived on Markham Hill since 1971. I have seen the changes that has been happening there and the barn doesn't faze me. It is out of sight from my house. Just because it is not in my back yard doesn't mean that I can't appreciate how late night noise would disturb my neighbors. My house is situated where I get the headlights and the noise. There doesn't seem to be a speed sign on Markham and they go fast. I ask you to help me protect the value of my property and the quality of life by not extending anything.

Mayor Jordan: We are going to leave it on the second reading.

This ordinance was left on the Second Reading.

New Business:

Fayetteville Youth Center, Inc.: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and Fayetteville Youth Center, Inc. in the amount of \$215,175.00 to provide public recreation services for the youth and citizens of Fayetteville for 2014 contingent on approval of the 2014 Annual City Budget and Work Program.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Director of Fayetteville Parks & Recreation gave a brief description of the ordinance.

Eric Schuldt, Executive Director of the Fayetteville Boys and Girls Club: Thank you for the support you have given us in the past and hopefully going forward. Our Board of Directors and staff make every effort to be a good community partner and help add to the quality of life in Fayetteville. We do this in so many ways.

Mayor Jordan: Thank you. You have been a great partner to this city.

Alderman Adams: Ward 4 thanks you for the things we have asked for our ward meetings.

Alderman Tennant: This is a jewel for the city and I thank you for everything you do.

Eric Schuldt: Great and I appreciate it.

Alderman Gray: I want to thank you also. It is a great place to visit and always a pleasant experience.

Eric Schuldt: We are very blessed to be where we are at as an organization, to continue to grow and try to help our kids and families in the community.

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 Long 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 Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Long 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 Long was absent.

Ordinance 5639 as recorded in the office of the City Clerk

Northwest Arkansas Economic Development District: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$74,314.00 to provide public recreation services for the senior citizens of Fayetteville for 2014 contingent on approval of the 2014 Annual City Budget and Work Program.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Director of Fayetteville Parks & Recreation gave a brief description of the ordinance.

Kayla Irving, Director of Fayetteville Activity & Wellness Center: The Fayetteville Senior Center is a wonderful place to visit. The Fayetteville Senior & Wellness Activity Center provides recreation for 700 plus seniors. We also provide Meals on Wheels and transportation for our seniors in the community. I would like to encourage you all to come out and have lunch with us.

Mayor Jordan: Thank you very much for another great partnership. You all do tremendous work there.

Alderman Tennant 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 Long 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 Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Long 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 Long was absent.

Ordinance 5640 as recorded in the office of the City Clerk

RZN 13-4520 (S. of Martin Luther King Blvd. and East of S. Beechwood/Eaton): An ordinance rezoning that property described in rezoning petition RZN 13-4520, for approximately 16.57 acres located south of Martin Luther King Boulevard and east of South Beechwood from I-1, Heavy Commercial and Light Industrial to CS, Community Services.

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.

Blake Jorgensen, Jorgensen & Associates: We did send out notification. There was no public comment. We did a lot of that development a long time ago. Everything that Jeremy has said is the reason we are requesting this rezoning.

Alderman Kinion: Was this part of the Fayette Junction plan whenever we looked at that or was it outside?

Jeremy Pate: It was a little further west. This is a long trail that is actually being constructed right now, a little further east and the west side of Beechwood has already been constructed. This is a gap that we are trying to connect and trying to acquire properties currently between Razorback Road and Beechwood.

Alderman Marsh: Just to clarify. Are multi-family residential uses permitted in Community Services?

Jeremy Pate: They are

Alderman Marsh: Excellent and thank you.

Alderman Adams: We talked a little bit about this the other night at Agenda Session and we talked about my request that we look at the master plan. This isn't in Fayette Junction, it's not in any exact plan so I was talking to Jeremy about trying to make some thoughtful plans in the future here. This is a really important part of town and we have great confidence in those who want to go forward with this. I think it would help us as a Council to have some guidance as we look at the future, if we look at this as part of a master plan.

Jeremy Pate: Correct. The Planning Commission on Monday night will see on page 6 of your map how this property is laid out. The property to the east of this is also up for a rezoning request for a very similar district. It is something we are seeing for possibility of redevelopment in this particular area, which is within walking distance to campus and also a major arterial trail system as well.

Alderman Adams: Thank you.

Alderman Marsh: I have a question for the applicant. Are you the owner of the property or do you actually have development plans for this property?

Blake Jorgensen: We are a civil engineering surveying company. We have done work on and off for the owners for a number of years. .

Alderman Marsh: Even though we are not directly inside the Fayette Junction master plan boundary, I was recently reviewing that plan, and the number one concern of the residents there was the integration of the built and the natural environments. They really wanted an emphasis placed on low impact development because we have such a storm water issue down there. Are there any plans to include low impact development best management practices in the development of the project?

Blake Jorgensen: Right now there is not any developments in the works. I can tell you if we get the opportunity to do some engineering on it that's one of our main priorities. We just got a big U of A parking lot, LID job we are going to start soon. The Hilton Garden Inn is going to have some of the most low impact development features for development in Fayetteville. We are always excited to try to implement those in all our developments. If something comes up and we get the job, that will be one of our checklist items.

Alderman Kinion: You said something that kind of shocked me. You are doing a parking lot?

Blake Jorgensen: A low impact development, specific parking lot.

Alderman Kinion: At the University?

Blake Jorgensen: Yes sir and we are real excited about it.

Alderman Kinion: I am excited to hear that. The velocity of water that runs off parking lots there is a problem with us.

Blake Jorgensen: We were fortunate to be a stakeholder in the LID manual. We went to a lot of the reviews. We worked a lot with the companies that developed the manual for the City of Fayetteville and it is something we embrace and are excited about. You can do it on small or large scale. As far as something for this property, I hope we get the job and hope it is something we can implement for a project. That is always our goal.

Alderman Marsh: Thank you. I am really excited to see this request to move to a form base zone. I want to invite all the developers who are just zoned out of our Downtown area to come to the south side. We have plenty of land available for development. As we move forward with developing down there, I think it is critical that we place an emphasis on low impact development strategies. If there is an opportunity that we could tie that to this rezoning, I know that my neighbors in Fayette Junction would appreciate that. I support this request. I would request that we amend it to include a requirement for low impact development.

Blake Jorgensen: Since the owner is not present, I can't speak on her behalf.

City Attorney Kit Williams: That is an illegal request. For zoning, you can only consider the land use and not put additional conditions upon it for a zoning. That is what they are asking for is a rezoning. We can't ask them to do that.

Alderman Marsh: Ok. Thank you and I hope you get the job.

Blake Jorgensen: Thank you very much.

Mayor Jordan: I live in that area. I think that's a really good development down there. I walk in that area a lot and it will be a nice development.

Alderman Adams 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 Long 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 Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Long 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 Long was absent.

Ordinance 5641 as recorded in the office of the City Clerk

Amend §166.08 Street Design and Access Management Standards: An ordinance to amend §166.08 Street Design and Access Management Standards of the Unified Development Code to clarify or alter several design regulations.

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 this request after two meetings of discussion. Engineering and Planning staff are recommending it to you for consideration.

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 Long** 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 Long** 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 Long** was absent.

Ordinance 5642 as recorded in the office of the City Clerk

City Council Agenda Session Presentations: None

City Council Tour:

December 2, 2103 – 4:00 PM – Mt. Kessler

Announcements:

Alderman Marsh: On Thursday at 5:00 p.m., the Fayetteville Forward Historic & Heritage Resources group will be meeting at the Shirkey residence on Block Street to discuss Downtown revitalization. Everyone is welcome to attend.

I would like to congratulate the University on the LEED Gold certification of their new Jean Tyson Child Development Study Center. It is nice to see somebody being really serious about sustainability in our community.

Don Marr, Chief of Staff: We participated in a conference call this afternoon, a weather briefing from the National Weather Service of Tulsa. To update the Council, for any scheduled meetings you have out there doesn't look good. We have posted on the city's Facebook page the slides from that presentation that give time frames and weather impact for citizens to look at. They are projecting a significant winter weather event that would encompass freezing rain, sleet

and snow. Temperatures are expected to be extremely cold. For individuals seeking warm locations we will be visiting that with our local shelters.

I want to remind citizens that there will be free parking in the city on December 24th and December 25th in our Downtown Entertainment Districts.

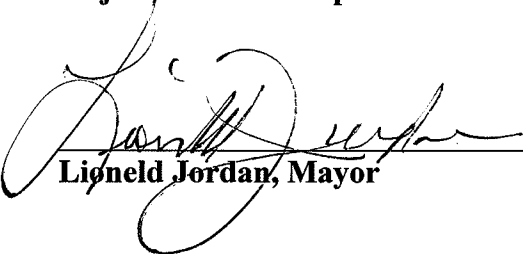
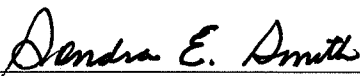
On Thursday, December 5th, Fayetteville Forward Green Economy Group is meeting at 4:00 p.m. at the Fayetteville Chamber of Commerce.

Due to excess supply of mulch, the city is continuing to offer our free mulch giveaway for the month of December to Fayetteville residents.

Alderman Marsh: The Fayetteville Forward Economy Group is not having a December meeting. We will resume our regular meetings in January.

City Attorney Kit Williams: After a little more than four years, Assistant City Attorney Jason Kelley has been stolen away by Bella Vista, who I took him from. They had decided to pay him what he is worth, which we were paying him. He is now going to be the Bella Vista City Attorney and run their legal department. His last day will be December 13, 2013 and I want to wish him well. He's done very well for me and the City Council. He has worked very well with the staff. We are now accepting applications for an Attorney with at least three years of experience. I am very sorry to see him go. He has done a very fine job and I wish him well.

Adjournment: 9:22 pm


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

