

Alderman Adella Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2



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

Alderman Justin Tennant
Ward 3 Position 1

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

Alderman John La Tour
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

**City of Fayetteville Arkansas
City Council Meeting
May 3, 2016**

A meeting of the Fayetteville City Council was held on May 3, 2016 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

Alderman Tennant arrived at 5:35 p.m.

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 April 19, 2016 City Council Meeting Minutes.

Approved

Pierce Manufacturing, Inc. 2016 arrow XT Fire Engine: A resolution to approve the purchase of a 2016 arrow XT Fire Engine from Pierce Manufacturing, Inc. of Appleton, Wisconsin in the amount of \$551,396.00 plus a performance and payment bond at a cost of \$3,453.00 pursuant to the Houston-Galveston Area Council Cooperative Purchasing contract, to approve a contingency of \$16,625.00, and to approve a budget adjustment.

Resolution 82-16 as recorded in the office of the City Clerk

Pierce Manufacturing, Inc. 2016 Rescue Pumper Fire Engine: A resolution to approve the purchase of a 2016 rescue pumper fire engine from pierce manufacturing, Inc. of Appleton, Wisconsin in the amount of \$681,111.00 plus a performance and payment bond at a cost of \$4,295.00 pursuant to the Houston-Galveston Area Council Cooperative Purchasing contract, and to approve a contingency of \$34,271.00.

Resolution 83-16 as recorded in the office of the City Clerk

Professional Turf Products, L.P.: A resolution to authorize the purchase of a 2016 Toro Grounds Master 4000D from Professional Turf Products, L.P. of Lenexa, Kansas in the amount of \$62,441.17 pursuant to a National Intergovernmental Purchasing Alliance cooperative purchasing contract for use by the Parks and Recreation Department, and to approve a budget adjustment.

Resolution 84-16 as recorded in the office of the City Clerk

Williams Tractor of Fayetteville: A resolution to approve the purchase of two (2) Hustler Super Z mowers from Williams Tractor of Fayetteville in the total amount of \$26,508.00 pursuant to a state procurement contract for use by the Parks and Recreation Department.

Resolution 85-16 as recorded in the office of the City Clerk

Lewis Automotive Group of Fayetteville 2016 Dodge Ram 2500 Crew Cab 4x4: A resolution to authorize the purchase of a 2016 Dodge Ram 2500 Crew Cab 4x4 from Lewis Automotive Group of Fayetteville, Arkansas in the amount of \$26,863.00, pursuant to a state procurement contract, for use by the Parks and Recreation Department.

Resolution 86-16 as recorded in the office of the City Clerk

Lewis Automotive Group of Fayetteville 2016 Dodge Ram 2500 Crew Cab 4x4: A resolution to authorize the purchase of a 2016 Dodge Ram 2500 Crew Cab 4x4 from Lewis Automotive Group of Fayetteville, Arkansas in the amount of \$26,863.00, pursuant to a state procurement contract, for use by the Transportation Department.

Resolution 87-16 as recorded in the office of the City Clerk

J.A. Riggs Tractor Company of Springdale: A resolution to authorize the purchase of a Caterpillar CB-34B Double Dum Roller from J.A. Riggs Tractor Company of Springdale,

Arkansas in the amount of \$50,089.00 pursuant to a National Joint Powers Alliance cooperative purchasing contract for use by the Transportation Department.

Resolution 88-16 as recorded in the office of the City Clerk

Repeal Resolution No. 23-16: A resolution to repeal Resolution No. 23-16 and authorize the purchase of a Volvo MC135C Skid Steer from Hugg & Hall Equipment of Springdale in the amount of \$50,323.00, pursuant to a Houston Galveston Area Council cooperative purchasing contract, for use at the West Side Wastewater Treatment Facility.

Resolution 89-16 as recorded in the office of the City Clerk

Bid #16-34 Cap Fleet Upfitters, LLC: A resolution to award Bid #16-34 and authorize the purchase of upfit items for twelve (12) police patrol units from Cap Fleet Upfitters, LLC of Bryant, Arkansas in the amount of \$33,912.00 plus applicable taxes.

Resolution 90-16 as recorded in the office of the City Clerk

University of Arkansas Memorandum of Agreement: A resolution to approve a Memorandum of Agreement with the University of Arkansas for placement of a wayfinding vehicular signage system to be owned and maintained by the university within the City of Fayetteville right of way.

Resolution 91-16 as recorded in the office of the City Clerk

Gregg Avenue Rehabilitation and Overlay: A resolution to express the willingness of the City of Fayetteville to utilize state aid street monies for the rehabilitation and overlay of Gregg Avenue between North Street and Township Street.

Resolution 92-16 as recorded in the office of the City Clerk

Arkansas Highway and Transportation Department Change Order No. 1: A resolution to approve Change Order No. 1 to the contract with the Arkansas Highway and Transportation Department in the amount of \$7,851.40 to increase the city's share of the costs associated with the Highway 45/Old Wire Road Signal and Intersection Improvements Project to the total amount of \$411,454.78, and to approve a project contingency in the amount of \$92,148.60.

Resolution 93-16 as recorded in the office of the City Clerk

Alderman Gray moved to accept the Consent Agenda as read. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman La Tour abstained.

Unfinished Business: None

New Business:

Northwest Arkansas Nutrient Trading Research and Advisory Group: A resolution to approve an agreement for the City of Fayetteville to join the Northwest Arkansas Nutrient Trading Research and Advisory Group.

Mark Rogers, Water & Sewer Operations Manager gave a brief description of the resolution.

City Attorney Kit Williams: We have been working on the contract to try to make sure that we preserve the City Council's power, especially over financial decisions. I recommend that this agreement is pursuant to legislation that we got passed by the legislature last year. It gives us the opportunity to work on the regulations that we are going to be regulated under. We can try to make sure they are going to be fair, they will accomplish what they need to accomplish, but not present undue burdens on any of the cities in Northwest Arkansas. This is a very good opportunity. Every major decision that will be made pursuant to this agreement will have to be ratified by the City Councils' of the various cities. There is a lot of protection built in for you all and for other cities. I think it is a very good decision and I recommend its approval.

Alderman La Tour: Give an overview of the objective of this agreement. Why do we want to do this?

Mark Rogers: It will allow us to share with those areas that don't have similar problems to impaired waterways that we may have and it could keep us from having to spend money on wastewater treatment plant improvements in the future.

Alderman La Tour: It could lead to budget advantages for us and save taxpayer dollars?

Mark Rogers: Absolutely.

Alderman Kinion: This has been discussed for quite some time with the Water, Sewer & Solid Waste Committee. We have received a lot of information on this. We have two watersheds in Fayetteville and no other city is dealing with both watersheds. By sharing the responsibility of both the White River and the Illinois River watershed with other cities, it helps spread the risk associated with managing these waterways. When we initially heard this, we knew it was going to be important. The group will be able to collectively help manage any impaired waterways that may occur. It encourages each of the cities that will be involved in this to share the burden and responsibility. It is a big advantage regionally. We are not completely aware of how things are going to go with the ADEQ or EPA. It gives us a stronger voice regionally if we can be unified in managing the nutrient load or any impaired waterways in the future. The Water, Sewer & Solid Waste Committee supports this.

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

Resolution 94-16 as recorded in the office of the City Clerk

Kessler Mountain Trails Master Plan: A resolution to accept and adopt the Kessler Mountain Trails Master Plan.

Ken Eastin, Park Planner gave a brief description of the resolution.

Nathan Woodruff, Progressive Trail Design gave a presentation to the City Council. He stated some key objectives was to access the sustainability of existing trails and needs for potential reroutes, address the needs and desires of targeted user groups while considering impacts to wildlife and other resources and improve user safety and reduce user conflict by better organizing the trail system. Additional key objectives was to create additional areas for the public to recreate, access the skill level of existing trails and propose new trails that create a greater diversity of user ability and skill levels. Also, determine key connections between recreational areas and improved trail system functionality by creating better links to trails and create a sustainable multi use trail system that appeals to the widest variety of users.

He stated there are three proposed trails varying in skill level, length and serving different purposes to key locations or recreational opportunities. Approximately two miles of the existing trails system is on private land. He recommended the possibility of getting an easement or acquisition of some sort to retain the trails. He recommended improvements be a top priority for the existing trail and installing signage. He recommended a connector trail from the baseball parking lot and a final design on any new trails that are developed in the future.

Alderman La Tour: I would like for us to consider taking remedial steps so that our trails are not misused for criminal activity.

Mayor Jordan: I agree that we want to keep everything safe.

City Attorney Kit Williams thanked staff, volunteers, Walton Family Foundation, and the Natural Heritage Association for all their hard work and support. He congratulated the City Council for purchasing the property.

Mayor Jordan: I agree. Thank you.

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

Resolution 95-16 as recorded in the office of the City Clerk

RZN 16-5358 (1429 E. Huntsville Rd./ H&H properties): An ordinance to rezone that property described in Rezoning Petition RZN 16-5358 for approximately 1.88 acres located at 1429 East Huntsville Road from RSF-4, Residential Single Family, 4 units per acre to CS, Community Services and RMF-24, Residential Multi Family, 24 units per acre.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Zara Niederman, applicant stated he could answer any questions.

Alderman Petty: I will be recusing from this. I'm not part of the team requesting this, but the applicant is one of my business partners.

Alderman Marsh: I have not received any comments from the neighborhood residents, but based on the area I think this is a good fit. It will hopefully bring more services to that location.

Alderman Marsh 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 Petty recused.

City Attorney Kit Williams read the ordinance.

Alderman Long: I think this development would bring a lot to the area. Do you think this will impact traffic in the area?

Alderman Gray: I haven't heard any complaints at all.

Alderman Marsh: I don't believe traffic will be an issue. This will provide an opportunity for people to have access to better services in the area.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Petty recused.

Ordinance 5869 as recorded in the office of the City Clerk

RZN 16-5360 (930 S. College Ave./Prime Estates): An ordinance to rezone that property described in Rezoning Petition RZN 16-5360 for approximately 0.34 acres located at 930 South College Avenue from NC, Neighborhood Conservation to RSF-18, Residential Single Family, 18 units per acre.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Zara Niederman, Applicant stated he could answer any questions.

Alderman Petty: I will be recusing from this.

Alderman Long: Usually we would see form based zoning codes come to us and we are seeing some form based zoning codes being changed to more standard RSF zoning codes or multi family. Are we moving away somewhat from that?

Andrew Garner: The RSF-18 zone is a form based zoning district. In our opinion it has a build to zone so buildings are still required to be placed close to the street. It is a single family zoning district. We feel we are still in line with our city traditional development patterns. The reason we created the RSF-18 zoning district was to allow for smaller single family infill lots to be built out and allow for the potential of more affordable housing.

Alderman Marsh: I am excited to see more infill happening in south Fayetteville.

Alderman Marsh 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 Petty** recused.

City Attorney Kit Williams read the ordinance.

Alderman Marsh 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 Petty** recused.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Alderman Petty** recused.

Ordinance 5870 as recorded in the office of the City Clerk

RZN 16-5371 (5650 E. Huntsville Rd./ MB Properties): An ordinance to rezone that property described in Rezoning Petition RZN 16-5371 for approximately 3.28 acres located at 5650 East Huntsville Road from RSF-1, Residential Single Family, 1 unit per acre, R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Bo Wilkins, ESI stated he was representing the owner and would answer any questions.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Petty voting no.

Ordinance 5871 as recorded in the office of the City Clerk

VAC 16-5354 (1137 W. MLK Blvd./Arena Village): An ordinance to approve VAC 16-5354 submitted by Steve Fowler for property located at 1137 West Martin Luther King Boulevard to vacate portions of a utility easement.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. The Planning Commission recommends approval.

Alderman Kinion: This is on the edge of the creek, so I know whenever we are developing this, we are talking about more impervious surface that is going to be running in there. We are already having a high velocity flow in that area. There are engineering ways to handle this. Was this a concern and did anyone mention this?

Andrew Garner: The project went through the development review stage and they did turn in engineering plans, including stormwater drainage. One of the big issues we talked about was improving the sidewalk. However, because of the creek and the sensitivity of the area, they are not required to do some of the normal connections to alleviate some of those issues or at least not to exasperate them any worse. We definitely were concerned about those topics.

Alderman Kinion: This area is especially significant because we have seen such increase in velocity. I am not going to support this. I don't think more impervious surface there is going to be beneficial. We are getting such high velocity that is running to the south. My concern is we are going to see more wash out of the stream side. We know this is a problem area. If we ever have flash flood type situations, it is going to exasperate this situation.

Alderman La Tour: I will support this proposal. There are engineering methods we can use to slow down the velocity in the creek to stop the water runoff. If the applicant has met our standards through the review process, I don't see any reason to deny them the privilege of expanding their

building. As far as impervious surfaces, that same argument can be used against every sidewalk in town. We can't use that as reason to deny an applicant.

Alderman Long: From where the shopping center starts to where it stops. There are approximately 12 curb cuts in that short span. My biggest concern is infrastructure and traffic. How do we feel that we could correct that?

Andrew Garner gave a brief description about the current access management ordinance and how driveways will be taken care of to make it safer in the area.

Alderman Kinion: I am not against impervious planning. It is appropriate in this area to look at the sensitive nature of the property since it is adjacent to a water way that has been identified as having the potential of flooding.

Alderman Long: I am going to support this because we are closing off one of those curb cuts and we are adding one from the back entrance.

Alderman Marsh: I want to hold this on the first reading. I would like more time to review this situation before I vote.

This ordinance was left on the First Reading

Amend Chapter 116: Door to Door Solicitation: An ordinance to Amend Chapter 116: Door to Door Solicitation of the Fayetteville Code by repealing §116.01, enacting a replacement §116.01 and by amending the definition of solicitor in §116.02 (a) (4).

City Attorney Kit Williams proposed the ordinance be amended. He stated that he prepared two options for the City Council. He explained that option A would be more restrictive. It would say that if a homeowner posted a no soliciting sign, then no one other than emergency personnel, government employee, or a neighbor communicating an emergency situation would be allowed to go there because it would violate the homeowner's private property and privacy rights. He stated that option B would prevent solicitors and peddlers from going onto someone's property that has been properly posted with a no soliciting sign. He recommended option B to the City Council.

Alderman La Tour stated he liked fewer regulations and would be in favor of option B.

A discussion followed about a no soliciting sign being posted on a homeowner's property.

Alderman Tennant: I brought this forward originally because groups were targeting east Fayetteville and claiming to sell magazines and no one ever got their magazines. This was not Girl Scout cookies. These were scams. We need to protect our citizens from being targeted. Kit, you are in favor of option B?

City Attorney Kit Williams stated he was in favor of option B. He believes the City Council should be proactive and protect City of Fayetteville property owner's rights.

Alderman Tennant: I support the City Attorney's option on this particular case.

Alderman Kinion: People are concerned about who is coming to their door. When citizens request that no one come and bother them, then they don't want to be bothered, regardless. With that intent, I kind of like option A. On option B they might still feel bothered. We have had an increase in our area of people going door to door. I have received a lot of calls regarding this. If someone has their sign out, that means don't bother me.

City Attorney Kit Williams: This is a policy decision for the City Council and a difficult question.

Alderman Long: Option B would be the more appropriate version of this ordinance to enact. It addresses the issue at hand, which is solicitors and peddlers. Kit, in Arkansas you can post a no trespassing sign and people aren't supposed to trespass.

City Attorney Kit Williams: It is true that you can do that. You have to have it properly posted. This would give the homeowner a stronger proof that criminal trespassing occurred. You only commit criminal trespassing if you intentionally trespass when you know you shouldn't. You have to decide if you want to go with the most restrictive ordinance. I haven't heard of a lot of problems and that is why I recommended option B.

Alderman Long: I will support option B. We need to address the issue of solicitation and peddling and leave trespassing issues to state law.

Alderman Petty moved to amend the ordinance to option B. Alderman Long seconded the motion. Upon roll call the amendment passed 7-1. Alderman Kinion voting no.

City Attorney Kit Williams read the ordinance.

Alderman Long: On Section (H)(2) about Fayetteville children through Senior High status, I found that a bit ambiguous.

City Attorney Kit Williams: This is the same language that is in the current one. I think it is clear and not ambiguous. It means if you are a Fayetteville student, then you will be exempt from this ordinance. It is still proper here. I suggest that you not go further to the third reading and allow citizens more time to review option B.

Alderman Gray moved to suspend the rules and go to the second reading. The motion died for lack of a second.

This ordinance was left on the First Reading

Announcements:

Alderman Tennant: There will be an Ordinance Review Committee meeting on May 5, 2016 at 4:00 p.m. in Room 326. We will be discussing the festival ordinance.

Susan Norton, Communication Director: The Transportation Division is repaving Sunbridge Drive.

The Spring Bulky Waste Clean-Up will be at the Recycling & Trash Facility, 1560 South Happy Hollow Road and at the Church of Christ, 303 West Center Street on May 7, 2016 from 7:00 a.m. to 2:00 p.m.

May is National Bike month. Several events are listed on the City of Fayetteville website.

Alderman La Tour: May 5, 2016 is our National Day of Prayer. I encourage everyone to pray for our country and city.

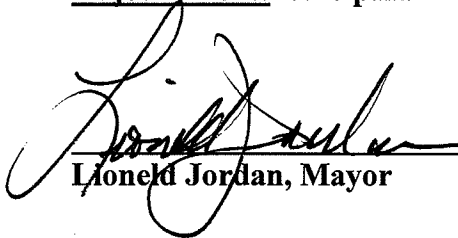
Mayor Jordan: This week is Teacher Appreciation Week. Please thank a teacher when you see them.

City Council Agenda Session Presentations:

Agenda Session Presentation Ruppel Road Construction Status Update - Chris Brown.

City Council Tour: None

Adjournment: 6:46 p.m.


Lionel Jordan, Mayor
Sondra E. Smith, City Clerk Treasurer