

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
June 21, 2016**

A meeting of the Fayetteville City Council was held on June 21, 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, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Long was absent.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

International Institute of Municipal Clerks Certified Municipal Clerk Presentation and Arkansas City Clerks, Recorders, and Treasurers Association Certified Arkansas Municipal Clerk Presentation - Sherri Gard, Fort Smith City Clerk and ACCRTA President.

Sherri Gard, Fort Smith City Clerk and ACCRTA President: The reason for my visit is to recognize one of your employees. We are so proud of Kim Johnson, Senior Clerk Codifier in the City Clerk office. She has attained designations of Certified Municipal Clerk and Certified Arkansas Municipal Clerk. It takes at least three years of education and training to attain those designations. It is my honor to recognize Kim for the hard work and dedication to achieve this.

Kim Johnson, Senior Clerk Codifier: Thank you very much.

Mayor Jordan: The Clerk's office does a wonderful job here. Thank you Sondra and Sherri. Congratulations, Kim.

Consent:

Approval of the June 7, 2016 City Council Meeting Minutes.

Approved

CDBG Program Income: A resolution to approve a budget adjustment in the total amount of \$7,375.00 representing CDBG program income received from a housing program lien payoff plan, energy efficiency rebates from SourceGas and donations from citizens and local businesses.

Resolution 123-16 as recorded in the office of the City Clerk

Assistance to Firefighters Grant (FEMA): A resolution to authorize the acceptance of a 90/10 Assistance to Firefighters Grant from the Federal Emergency Management Agency in the amount of \$613,637.00 for the purchase of a Mobile Training Simulator System for the Fire Department, and to approve a budget adjustment to provide for matching funds in the amount of \$61,363.00 and a project contingency in the amount of \$27,000.00.

Resolution 124-16 as recorded in the office of the City Clerk

Federal and State Law Enforcement Forfeitures and a Refund: A resolution to approve a budget adjustment in the total amount of \$23,435.00 recognizing revenue associated with federal and state law enforcement forfeitures and a refund from EOTech for defective rifle optics.

Resolution 125-16 as recorded in the office of the City Clerk

Fayetteville Police Department Donations: A resolution to approve a budget adjustment in the total amount of \$2,400.00 recognizing donation revenue to the Fayetteville Police Department in support of officer recognition.

Resolution 126-16 as recorded in the office of the City Clerk

Gallagher Benefits Services: A resolution to approve the annual renewal contract with Gallagher Benefits Services in the amount of \$57,600.00 for the provision of city employee benefits broker services.

Resolution 127-16 as recorded in the office of the City Clerk

Alderman Marsh moved to accept the Consent Agenda as read. **Alderman Tennant** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

Unfinished Business:

Amend §72.58 Off-Street Parking Facilities; Rules and Rates: An ordinance to amend §72.58 **Off-Street Parking Facilities; Rules and Rates (M)** to limit the Mayor's authority to assign any city owned paid parking lots or on-street paid parking spaces within the Entertainment District or the closure of city streets for the use of a permitted special event to not more than two (2) days per year without express approval of the City Council. *At the May 17, 2016 City Council Meeting this item was moved to the June 21, 2016 meeting. Left on the Second Reading at the April 5, 2016 City Council Meeting and Tabled until the May 17, 2016 City Council Meeting. At the March 1, 2016 City Council Meeting, this ordinance was left on the second reading and. Tabled to April 5, 2016. This Ordinance was left on the first reading at the February 16, 2016 City Council meeting.*

City Attorney Kit Williams: The Ordinance Review Committee has met and they have a recommend amendment. It has been submitted to all the City Council members. If it is satisfactory, I would like to see a motion to amend.

Alderman Petty moved to amend to the version recommended by the Ordinance Review Committee. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-1. Alderman Gray, Marsh, Kinion, Petty, Tennant and Schoppmeyer voting yes. Alderman La Tour voting no. Alderman Long was absent.

City Attorney Kit Williams read the ordinance.

Peter Nierengarten, Sustainability & Resilience Director gave a brief description of the ordinance.

Alderman La Tour: I have reservations about this proposal. All of the notification provisions of the proposal, I like. I like that people know what is going on in their neighborhood. I would not even object to an appeals process, but by bringing it to the City Council, you open that process up to some possible undesirable results. During the debate we were having at the Ordinance Review Committee, somebody made the comment that this would give the people of Fayetteville the opportunity to decide what really fits for Fayetteville. That can be a thinly disguised question of do we like the promoter's politics or do we like the promoter at all. I don't want it to become a political event. If we bring it before the City Council, it will be a political event. I feel better having it in the Mayor's office. I trust Mayor Jordan and his staffs' ability to choose things that are good enough for our city. I didn't see any big problems with the existing festivals and events that we have. The Mayor's email and phone number are on the internet and you can contact him to talk about any concerns.

Alderman Marsh: Members of the Council have been presented with a petition of over 800 signatures of citizens and stakeholders that do not feel the existing permitting process for large scale events is adequate. We are attempting to provide additional screening and notification as part of that process by putting the burden on the festival owners to go out and notify the community. It also allows feedback whether the community is supportive or not of that event on the form. They would submit that to a clerk's office and the City Council would have an opportunity to see if this event is popular or unpopular. If we are finding it is an unpopular event, we have the opportunity

to come together as a community and figure out what we can do to make that event more palatable to the people who are most directly affected by it in the downtown area. It is a good compromise that puts the burden of notification on the event organizer. It gives an opportunity for the community to weigh in and for the people's representatives to step in and call for additional reviewer oversight. It is a good compromise that can help us better manage our festival policy.

Alderman Tennant: As Chairman of the Ordinance Review Committee, I wasn't convinced that there was anything wrong with the current situation we had. Mayor Jordan does a really good job with weighing the pros and the cons before he does the festivals. I don't have a problem with the current situation. When I started thinking about the future, it made me compromise. At some point, we will have another Mayor. If that Mayor doesn't like motorcycles or coffee, you never know what is going to happen. This could at least give us another mechanism. It is important to keep the appeal process quick, so it wouldn't be a big burden on the festival organizers.

Alderman Gray: I agree with Alderman Tennant. Thank you to Peter Nierengarten and our staff who have worked so hard to come up with these rules and regulations. They are excellent. I will be supporting the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I'm dealing with the 2010 Council direction. I have pretty much let you all decide what you want to do on your own property. You are the landlords of the property and we manage it the best that we can. If there is anything over eight hours, we will send you out a notification, telling you that I've signed off on it, so we don't get any breakdowns in communication. I will tell you I have signed off on a particular festival, that goes over eight hours, and then you've got seven days to do whatever you think you need to do.

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

Ordinance 5881 as recorded in the office of the City Clerk

Falling Waters Appeal: An ordinance to rezone that property described in Rezoning Petition RZN 16-5385 for approximately 35.31 acres on Dead Horse Mountain Road from R-A, Residential Agriculture to RSF-2, Residential Single Family, 2 units per acre subject to a Bill of Assurance limiting development to 51 homes. *At the June 7, 2016 City Council Meeting this item was left on first reading until the June 21, 2016 City Council Meeting. At the May 17, 2016 this item was left on the first reading.*

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: There are some additional limitations in the new Bill of Assurance that was submitted to us today.

Jonathan Curth, Senior Planner: The new Bill of Assurance has a new section. In addition to limiting the number of homes built on the site to 51, it now proposes to include two rain barrels for any house being built and also the reasonable efforts to incorporate low impact development.

Robert Rhoads, Attorney Representing Buffington Homes stated that in the interest of time he was going to have the engineer for the project give a presentation. He asked everyone in the audience that was in support of the project to please stand.

Tom Henley, Engineer for Crafton Tull gave a brief history and description of the project. He spoke about water drainage and flooding in the area and how it will be addressed. He stated that the developers are responsible and they do the right thing.

Alderman Marsh: What is the approximate square foot range of these homes?

Clay Carlton, Developer: We don't have the zoning yet. It is going to be 3,000 to 4,000 square feet.

Alderman Marsh: If these are 3,000 to 4,000 square foot homes, how big are each of those rain barrels going to have to be to handle the 1 year, 24-hour storm?

Tom Henley: The rain barrels won't be designed to handle the 1 year, 24-hour storm. This is why we will be incorporating the rain gardens and bioswales.

Alderman Marsh: My house is about 825 square feet. I've got 2,000 gallons of rain water storage on two outlets and that fills up regularly on a monthly basis. When I see something about committing to doing rain barrels on large houses, it looks like there is not a good understanding of the actual implications of this volume and quantity of water on this site. When I hear the phrase light impact development, instead of low impact development, it makes me doubt that you have a good understanding of what is going to be required.

Tom Henley: I assure you I have a good understanding of it.

Alderman Marsh: Are you a Structural Engineer?

Tom Henley: No, I am a Civil Engineer. I have worked with and continue to work with the city for the past 20 years.

Alderman La Tour: Did you ever intend the rain barrels to be the exclusive remedy for the runoff problem?

Tom Henley: Absolutely not.

Tom Henley gave a brief description of additional remedies for water runoff that will be in conjunction with the rain barrels.

Alderman La Tour: Thank you.

Alderman Kinion: It says that they will make reasonable efforts to incorporate low impact development features. I don't know what the definition of reasonable is.

Tom Henley: We can't make a blanket commitment. There are areas on the site where you can't use that type of low impact development. There is a significant ravine over on the western end of the site.

Alderman Kinion: The velocity is what I'm most concerned about. I think this is a good plan, but just the vagueness of it is where my concern is. It makes me feel that I can more likely support this knowing the sensitive nature of the management of the runoff there right into an impaired waterway. We need to manage the velocity. I'm looking for a better definition of what one might find reasonable and practicable in order to make their decision.

Tom Henley: The intent is to give you some sort of assurance that we are making a good faith effort to work with staff. We are dealing with a piece of property that is adjacent to a traditional development. We can discharge water into a pipe and that pipe may not be able to handle what we are throwing at it. We are required to not exceed what the capabilities of that drainage system is, whether it is a pipe, ravine, or a creek on the golf course. We fully intend on coordinating with the course manager to find out where the problem areas are and to do whatever we can. I know we are speaking in vague terms, but this site has not had a preliminary drainage report done. I can't commit to anything other than we will do everything we can to incorporate those where they make sense and where they are practical.

Alderman Kinion: I'll certainly take that for the record. I still have to think about it. When we worked on the revision of the low impact development stormwater drainage, we talked extensively about this so that it could be incorporated if someone committed to it, to manage this type of flow. It would be nice if you were committed to that.

Tom Henley: We are committed to incorporating low impact development features in this development. To what level, I can't speak to that. There are so many other things that play into that such as tree preservation, slopes and utility locations.

Alderman Kinion: Thank you.

Alderman Petty: I appreciate the Bill of Assurance. I take it on good faith you are going to do what you say you are going to do. I have a request of staff. I realize that this is just zoning and

we're not into development considerations, but I want to preview a change in policy that staff should consider with regards to this and other development proposals. This Bill of Assurance references the runoff that is due to the building footprints. A big portion of the runoff from this development, if it were to be approved, is going to be from the new infrastructure itself. The policy at the city right now is that while developers have to address water quality and peak flow issues that's created from the infrastructure itself in addition to the buildings, those treatment facilities can't be placed within the right-of-way even though that is where the infrastructure is located. In a lot of cases that may mean the most sense. I hope we can get a commitment from staff to say that if the Council approves this project that they are also going to work with the developer to put these facilities in the best locations. Even if it means changing the policy and allowing them in the right-of-way.

Jay Ray, 2050 South Cherry Hills Drive voiced his concerns about flooding in the area. He spoke in opposition of the ordinance.

Jim Lilly, 1863 South Cherry Hills Drive gave a historical review of the project. He stated he isn't going to ask City Council to vote for or against the ordinance.

Jeane Stutzman, 3970 Spyglass Hill Drive: The 35 acres that is being rezoned, what is happening with the zoning up the rest of the side of that hill?

Jonathan Curth: The proposed zoning is only for the site in question. The rest will remain Residential Agriculture.

Jeane Stutzman: The Buffington Group owns the whole side, but the rezoning would only be for that 35 acres?

Jonathan Curth: It's only to the subject property in question.

Mayor Jordan: We don't know what they are going to bring until they bring something later on.

Jeane Stutzman: We spoke of that the evening they were out in our neighborhood. We asked them what the plan was for the rest of the hillside. Nobody could or would say. As a person who could buy one of those lots, if I wanted to cut down all of the trees on my lot, I would have the right to do that?

Mayor Jordan: You do.

Jeane Stutzman: You can't keep anybody from cutting down trees on their lot.

Mayor Jordan: The Hillside ordinance is a little different. Is that correct, Jonathan?

Jonathan Curth: Yes. You can remove the trees, but eliminate your development rights.

Jeane Stutzman: I don't know what eliminating your development rights means?

Jonathan Curth: Your ability to add on to a house or somehow change the footprint of the structure on the property.

Jeane Stutzman: You can remove all the trees and have a clear lot?

Jonathan Curth: Unless there is a tree preservation easement on the property.

City Attorney Kit Williams: The city won't stop you from doing that. The landowner can have restrictive covenants on their property. All of the landowners are bound to restrictive covenants and we don't know what they are. It is something between the developers and landowners.

A discussion followed about restrictive covenants.

Jeane Stutzman voiced her concerns about the traffic.

Larry Altman, 2059 South Cherry Hills Drive voiced his concern that once it is approved and built, it will be used to justify developing the rest of the mountain.

Ed Williams, Stonebridge Meadows reviewed the history of the project. He believes City Plan 2030 is a well thought out plan. He voiced his environmental concerns.

Wanda Altman, 2059 South Cherry Hills Drive stated the land should be protected under the City Plan 2030.

Tim McFarland, 2000 East Magnolia stated Clay Carlton has paid his interest for many years. He stated the neighbors need to think about that. He believes if the real estate is given back and not paid, then the real estate goes down for everyone in the neighborhood. He spoke about legal remedies and litigation.

Steve Clark, Fayetteville Chamber of Commerce President stated that the developers are very loyal to the City of Fayetteville. He stated they own this investment and they have a right to develop it. He spoke in favor of the ordinance.

Alderman La Tour stated traffic problems indicate where people want to be. He stated let's not kill a development because it will increase traffic. He spoke about repairing substandard roads and drainage. He believes the developers should be allowed to develop their land.

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

City Attorney Kit Williams read the ordinance.

Alderman Marsh: I will not be supporting this proposal. The revised Bill of Assurance, where they are committing to use low impact development strategies, they've provided no objective

metrics. We have no measurable standards to enforce this Bill of Assurance. City staff and the Planning Commission have recommended we deny this rezoning. I support their findings. This proposal is in direct contradiction to our 2030 City Plan. Preventing pollution and sedimentation is cheaper than cleaning it out of our watershed.

Mayor Jordan requested for City Attorney Kit Williams to speak about investments that property owners make.

City Attorney Kit Williams: There was an argument that says since they had invested so much money to bring utilities and water underneath the White River, maybe they should be given some credit for that and be allowed to develop their property. I didn't realize the Supreme Court has said that is probably a vested right, to do at least a partial development of their property. It is my duty as Fayetteville City Attorney to caution you when an action, that might be taken, could result in substantial monetary exposure and litigation danger. These are unusual circumstances with this PZD, with this request now for a rezoning, because of the substantial cost they incurred to try to complete their PZD. They invested money to drill underneath the river and other improvement cost on infrastructure. This investment they made could trigger what is called, Vested Property Interest in the right to develop their property.

There was a case in West Memphis that involved a mobile home park and 25 spaces, but the investment was much less. The Supreme Court said they did have vested rights. West Memphis was trying to deny them the right to complete their mobile park. The Supreme Court said, attempts to deprive the owner of a preexisting use had been regarded as unconstitutional as a taking of property without compensation and in violation of due process. I think there is a possibility of significant litigation, damages, and attorney fees, you need to carefully consider these factors. For 16 years I have preached caution to the City Council when it comes to issues like this where our citizens could have to pay a substantial amount of money. There has been a substantial investment in this property. If they aren't allowed to economically develop any of it, then that exposes our citizens to substantial damages. It is much safer and advisable to approve this rezoning. I believe they have a vested interest that we can't take away without paying damages for them. Mr. Rhoads hasn't threatened me with lawsuits. It is my duty to advise the City Council and because I represent all citizens of Fayetteville they have a right to know about this particular issue.

Alderman Petty: Kit, do we need to adopt the new Bill of Assurance?

City Attorney Kit Williams: I don't think you do. It has been offered. When I read the ordinance for the third time and said, subject to the Bill of Assurance, this means the Bill of Assurance has been offered at this meeting. The City Clerk has the original copy. It is offered by the applicant, rather than anything we do. Mr. Rhoads needs to confirm that the most recent one has been presented to the City Clerk is the one they are offering.

Alderman Petty: To what extent does their current right to develop the property at one home per two acres mitigate your concern?

City Attorney Kit Williams: I'm concerned, because from a practical point of view the amount of infrastructure that will have to be built, the road frontage that is required under Residential

Agricultural, and the two acre lots that's required. I think they would make the argument that it's not a feasible way they could develop their property. Even though they have a technical right to develop, and if they were in a field somewhere maybe they could afford to do that, but on a mountain side, they would make an argument that it's not a feasible way they could develop their property economically. A rezoning to R-2 which is only half of dense to the property owners that are right abutting them, it is actually half as dense as what the zones are right above them with the people that are complaining that there should be no zoning on this beyond R-A. I think that would not probably save us. There is enough experience with the applicants and engineers to make a strong argument that it would be very difficult to feasibly develop under an R-A zoning.

Alderman Petty: I'm generally opposed to approving any kind of rezoning's that are out so far on the edge of town. It makes me uncomfortable to have to vote on this tonight. I was hopeful we would take this up in another two weeks so staff would have some time in the current context to consider changing the policy allowing stormwater facilities within the right-of ways. I'm going to support this because of Kit's legal reasoning. That is about the only way I could justify overturning a Planning Commission decision. They aren't charged with considering those legal ramifications. I think they made the right call and staff made the right call. I would make the same call absent of what our City Attorney has told us tonight. I can't see myself supporting a rezoning for more of the land that is owned as part of this property in the future. I'll meet with Planning Commissioners and city staff about stormwater facilities to try and garner support for policy change.

Alderman Gray: It is our responsibility as a city to manage the flooding situation. Changes are going to come and we have managed other huge drainage problems. I have faith we can manage that one in Ward 1. We do not need to allow that particular problem to tie the hands of these fine young men. Instead of letting the bank take over, they have stretched themselves to pay the interest for all these years and have a huge investment. I'm glad our attorney has pointed out to us the fact that we could be liable.

When citizens put their faith in us and we change the rules in the middle of the game, we need to be held accountable. I appreciate this Bill of Assurance. I have faith these developers will do exactly what they have told us they will do. I'll remember this during budget time. I want more money in the budget to handle drainage. As a city we have to help our Stonebridge Meadows community deal with this drainage problem. Our 2030 City Plan and ordinances are guidelines for us as a government. I lean heavily on our staff, but it is our responsibility to look at all of the things that impact a project.

Alderman Kinion: As we move forward and we are looking at more development, we have to consider the impact of zoning based on what we are faced with today. If we wanted to appreciate the history of a property, we would do away with all zoning and go back to what we had when we developed the center of our Downtown initially. We haven't changed the rules. A PZD expired and that was a rule. There were a lot of elements that caused that to occur. It is hard for me to overturn the expertise of our Planning staff. It's hard for me to question the sound arguments that were offered by the Planning Commission. We are faced regularly at the Water & Sewer Committee with the management of an impaired waterway. The West Fork of the White River directly impacts this. Looking at these issues it is very hard for me to support this. On the other hand, I don't want us to be faced with the litigation. I requested for this to come before us as a

PZD. As a PZD we can look at the total development of the plan. We have more assurances than just some vague stormwater management. I'm going to take their word for it because I don't want the litigation. I'm going to support this, but we didn't change the rules. In the future we are going to have to look at the management of the topography, of the unique environmental issues we are faced with, and the impact on the neighborhoods. It perhaps is going to cost the city as much to manage the damage that may be caused by future development if they use this model.

Robert Rhoads: Mr. Williams asked me to affirm our Bill of Assurance and I am doing that. The third feature we added today does have subjective portions, but also has objective portions to it as well. The Buffington Home owners, Clay and Mike, know they can sue. Instead of suing they have come here, met with the neighbors, and put out a three time revised Bill of Assurance trying to work with everybody. Hopefully they can recoup some of their money. They want the project to be the finest project the company has ever done and that the City of Fayetteville will be proud they voted for it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Gray, Kinion, Petty, Tennant, Schoppmeyer and La Tour voting yes. Alderman Marsh voting no. Alderman Long was absent.

Ordinance 5882 as recorded in the office of the City Clerk

New Business:

Proposals for Development of South End of West Avenue Parking Lot: A resolution to clarify and extend the timeframe to solicit proposals for development of the West Avenue parking lot and to consider parking neutral proposals for sale of smaller parcels on southern end.

Alderman Petty gave a brief description of the resolution. He believes the lot is important to the community. He stated he is worried that there is a politics of allegiance at play. He stated instead of a politics of allegiance, he would like to approach it with a politics of the facts.

Rob Sharp, Architect: I am here on behalf of Brian Reindl who is the landowner that owns the land adjacent to the West Avenue parking lot. This is a chance to fix up this area. If the City Council decides to proceed with future projects, we have a cleaned up square block to work with or if they decide to proceed with a festival space, green space, or a park.

There are compelling reasons to consider this proposal. It is a way to fulfil the dream of the Master Plan from 12 years ago. It is a significant improvement in the experience of the multi-use trail. It squares up the property line where the parcels interface. It is a significant financial return on the city's investment from the initial investment of the land. It adds a landmark building to the downtown area. This is a chance for the private sector to come in with a companion project that is of equal value and quality. My client has an excellent record and he is a local developer. This is parking neutral. This is a project we can do that redistributes parking, but we don't lose any parking. It is a substantial project. It is the best way the city can test out the waters for development and see how the process works.

Alderman Petty: If we were to do something like this, we'd fix the trail. Before even negotiating, just the offer letter would pay back the reserves we used for the parking study more than three times. Property taxes from this project, when completed, would put more than \$80,000 into our school district budget every year. There would be more than \$110,000 to the city and parks development and impact fees. It is parking neutral. The proposal is the kind of thing that ends up on a postcard in the future. With regards to the prior votes. There has been some misinformation about the meaning of the resolution we passed on March 1, 2016. That was a resolution to open a RFP process for this site. I hear from so many people that Fayetteville changes its mind too much to do business here. It is a perception issue. I don't think it is actually true. If as a Council we move forward with offering this small fraction of the lot for sale, we are being very consistent with what we did on March 1, 2016.

Alderman Petty gave a brief overview of the City Council meeting on March 1, 2016. He stated we should look at the parking district as a whole before we consider the whole lot. He stated if we were to develop the lot, it would give us a means to do other improvements in the district that may make some of the existing assets we have more useful. He believes it is critical to maintain a portion of the site as open space for festivals. He favors an incremental approach. He stated they would have the interim results at the beginning of July, which will be before voting on the project. He believes it will give the community time to consider it while the results come in. He stated at the March 15, 2016 City Council meeting it was to fund the parking study. He reviewed the transportation scope description of an analysis of existing and future demand. He spoke about the land sale procedure and appraisal. He believes it is best to do it now and not wait. He stated he is fearful of a politics of allegiance, that has proceeded the facts being presented, is going to argue to us that we should be paralyzed with further analysis. He doesn't want to vote on the resolution until the parking results are in hand.

Sarah Sparks Diebold, 1662 East Amber Drive: Do we know the actual dates that the physical parking study was conducted?

Peter Nierengarten, Sustainability & Resilience Director: April 28th and April 30th.

Sarah Sparks Diebold: Those were the only two dates?

Peter Nierengarten: Those were the only two dates.

Sarah Sparks Diebold: In regards to the appraisal. Was there analysis made to different values per space? Are the spaces on the Dickson Street frontage valued at a higher price per square foot than those in the back corner?

Alderman Petty: It wasn't broken out that way. The appraiser looked at the land as though it was raw land and that it was developable for any uses allowed in the zoning code. My belief would be that the spaces closest to Dickson are the most valuable.

Sarah Sparks Diebold: Was there any consideration on financial analysis in reference to the city's financial well-being about the lost tax revenue from area businesses relocating due to a lack of parking?

Mayor Jordan: I do not know the answer to that question, but I would not think so.

Don Marr, Chief of Staff: I don't believe so.

Mayor Jordan: We can look into it.

Don Marr: All we have done on the parking is calculated per space revenue generated for the full year divided by the number of spaces. \$400 per space in event parking, \$900 per space on the meter revenue for a total of \$1,300 per space for that lot.

Mayor Jordan: We are supposed to get some preliminary numbers by the end of the month. Is that correct Chris?

Chris Brown, City Engineer: That is correct.

Sarah Sparks Diebold: On behalf of the Dickson Street Merchants Association, I ask that we delay making any decisions about this in any capacity until we get the comprehensive parking study back.

Mayor Jordan: The Transportation study as a whole will not be ready until next year.

Chris Brown, City Engineer gave a brief description of what the city will receive at the end of this month.

Mayor Jordan: There is the overall Transportation plan, but then there's the parking end of it. Is that going to come in any quicker?

Chris Brown There are other parts to the plan. In the Fall we will start to see some of the initial concepts. By the end of June, we should get the initial demand analysis. That way we know what the current and future demand is on a preliminary basis.

Mayor Jordan: Those are not the finalized numbers?

Chris Brown: They aren't the final numbers. The other big part of the parking that we have talked about is the Entertainment District versus the downtown and the management of that. There is still a lot of work to be done.

Sarah Sparks Diebold spoke about economic development in the area. She spoke about the parking problem at the University of Arkansas. She believes there needs to be a comprehensive view before picking off parking spaces from key lots. She discussed the Regional Sports Park and WAC bond initiative. She requested for Council take a step back and wait for all the clear facts before moving forward with the RFP process to avoid any legal situations.

Hunter Haynes, 4796 Prestwick stated he struggled why this is even being presented. He spoke in opposition of the resolution.

Steve Clark, Fayetteville Chamber of Commerce President: This proposed development came to our attention months ago. At the time it was presented to us we thought it had lots of potential and promise. Our concerns were about parking. From the Chambers perspective, we need more parking. We don't see that this project does anything to hinder the advancement of what we are trying to do to address the parking issue and what we are trying to do to advance that sense of place that is Fayetteville. We think this is a good project if you are advancing economic development.

Barbara Taylor, City appointee on the Walton Arts Center Council strongly encouraged the city to complete the comprehensive parking study for the Entertainment District before any development of the parking lot is considered.

Alderman Tennant: Do you have a timeline of when the Walton Arts Center will be completed and fully operational?

Barbara Taylor: Yes, November of 2016.

Carl Collier, 2165 Manor Drive questioned what the hurry was and that it shouldn't be rushed. He voiced his concerns about the loss of parking spaces. He spoke in opposition of the resolution.

Alderman Tennant: How long have you been a part of the Dickson Street community and how long has Colliers been open?

Carl Collier: Since May 26, 1950. In general, we have been in Fayetteville since 1917. That is with experience on the square and all the way to Dickson Street. We want you to wait for the full parking study.

Alderman Marsh: I think this is an excellent proposal. This project allows us to put more residents and businesses Downtown. I am less concerned with providing parking spaces than I am in providing reasons for people to live, shop and work Downtown. People will find ways to get desirable locations. This land is too valuable to be leaving vacant.

Alderman Petty stated that they need to have the existing and future demand analysis in hand before voting. He outlined the two part proposed resolution. He stated people choose a community before choosing a job.

Alderman La Tour stated he liked the idea of development and moving forward. He stated he liked what he's seeing with this development. He said the time frame can be debated, but doesn't want to do something that they will regret later. He spoke about the economic value of the land. He voiced his support for a public-private partnership doing something good for the city. He stated he trusted Rob Sharp's evaluation.

Alderman Tennant: I have never seen Alderman Petty so passionate or bullish on one particular project. I believe he is always thinking of what is best for the ward he represents. Matthew, I don't appreciate the insinuation when you mentioned politics of allegiance. It indicates to me that you think our votes are somehow geared because we are friends or relatives with people. I don't think

that comment was necessary and I resent it. I don't intend to be talked to by you or anybody else at this table like that.

I like this particular project in the way it looks. It may be exactly what we need in that spot at some point. I'm not convinced that we should be in a hurry. I should have an allegiance to the Dickson Street Merchants Association, Dickson Street Improvement District, and the Walton Arts Center who have said we need to slow down and wait on this. The Walton Arts Center is going through a huge expansion that will be finished in November. It will be a game changer for the part of the country we live in. I want to be real careful because as they develop that small theatre there will be ideas of festivals that spill out into the streets. As a business person, if I could spend \$337,000 and in 3.5 years have that huge debt paid off, I could have investors by noon tomorrow that would go in on that one with me. It seems extremely cheap. I want to wait for this initial study and I want to wait until the Walton Arts Center opens.

Alderman Petty: I apologize Alderman Tennant if I miscommunicated what I meant by that term. It's no accusation on any of my colleagues up here. I am confident that all of us make decisions we feel are the best and aren't bound by allegiance. I used those words because I haven't been able to get a phone call with some people. They have organized without talking or considering all the facts that have been presented tonight.

Alderman Tennant: Thank you.

Alderman Petty moved to table the item to the July 5, 2016 City Council meeting. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman Long was absent.

This resolution was tabled to the July 5, 2016 City Council meeting.

Energy Improvement District No. 1 Membership Agreement: An ordinance to authorize Mayor Jordan to sign a membership agreement allowing the City of Springdale to become a member of Energy Improvement District No. 1, and to amend §33.381 **Board of Directors, Membership, Terms of Office** of Article XXVI **Energy Improvement District No. 1** to provide for the City of Springdale's representation on the Board of Directors.

City Attorney Kit Williams read the ordinance.

Peter Nierengarten, Sustainability & Resilience Director gave a brief description of the ordinance.

Alderman Marsh: This is a welcomed development for our Energy Improvement District. We are seeing some initial success with it. This will help facilitate a regional cooperation on energy issues between our two cities. This will help us attract more contractors to join our program because they will have a larger service space. It will give our customers more choices as to who they would like to contract with. This is a win for our Energy Improvement District.

Mayor Jordan: That it is. Very good.

Alderman Marsh moved to suspend the rules and go to the second reading. **Alderman La Tour** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marsh moved to suspend the rules and go to the third and final reading. **Alderman La Tour** 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 5883 as recorded in the office of the City Clerk

Wayfinding Signs, Poles and Appurtenances: An ordinance to waive the requirements of formal competitive bidding and authorize the purchase of wayfinding signs, poles and appurtenances from Architectural Graphics, Inc., in an amount not to exceed \$122,930.98, and to approve a budget adjustment.

City Attorney Kit Williams read the ordinance.

Alan Pugh, Staff Engineer gave a brief description of the ordinance.

Alderman La Tour: I would like for you to describe for us those extraordinary circumstances that require us to waive the requirements for competitive bidding.

Alan Pugh: We have an existing program where signs were installed and produced by Architectural Graphics, Inc. Other municipalities in the region have gone forward with competitive bidding for other manufactures to produce that signage for them. Unfortunately, it did not match the existing signage that they had. Those communities made the decision to scrap that signage and go back and waive competitive bidding to use Architectural Graphics, Inc. We are trying to avoid that issue with the limited funding we have and be ensured that it does match.

Alderman La Tour: The issue is uniformity?

Alan Pugh: It is.

Alderman La Tour: They want the signs all along the trail, whichever municipality, to be the same?

Alan Pugh: Yes. This is a regional program. These signs have to be approved by the region.

Alderman La Tour: Thank you.

Don Marr, Chief of Staff: We paid set up fees with the vendor for the original wayfinding signage. That fee will be avoided by our repetitive orders. This is a cost saving mechanism, as well as consistency.

Alan Pugh: This is for materials only.

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 Marsh 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 5884 as recorded in the office of the City Clerk

RZN 16-5386 (North of 1110 N. Frontage Rd./Lindsey Properties): An ordinance to rezone that property described in rezoning petition RZN 16-5386 for approximately 6.40 acres located north of 1110 North Frontage Road from C-1, Neighborhood Commercial to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Hugh Jarratt, Representing Applicant: The visibility from Toys R Us and Barnes & Noble really hurts the commercial aspect of this parcel. There are traffic outlets all over the place that can disperse the traffic.

Alderman Marsh: I appreciate the applicant requesting a form based zone. It will be good to have more residents, as well as variety of other mixed uses in this area. I hope we can work towards making it more pedestrian friendly.

Alderman Marsh moved to suspend the rules and go to the second reading. **Alderman La Tour** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marsh moved to suspend the rules and go to the third and final reading. **Alderman La Tour** 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 5885 as recorded in the office of the City Clerk

RZN 16-5425 (NW Corner of Mill Ave. & South St./Thurmond-Quinlan): An ordinance to rezone that property described in rezoning petition RZN 16-5425 for approximately 1.84 acres located along the northwest corner of Mill Avenue and South Street from R-O, Residential Office, and RMF-24, Residential Multi Family, 24 units per acres to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Alderman Kinion: The rezoning is excellent in the area. From the Water & Sewer Committee point of view there is not any current main line down South Street. As we move forward we are going to have to seriously consider how we are going to manage that. This is an area where we are talking about the importance of upgrading our infrastructure. I am in favor of this.

Alderman Kinion 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.

Brian Teague, Community by Design requested for the item to be approved at tonight's meeting.

Alderman Marsh: I am happy to see another proposal for appropriate infill coming to Ward 1. We need some redevelopment in this area.

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 Long** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: I have received some good calls on this.

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

Ordinance 5886 as recorded in the office of the City Clerk

VAC 16-5424 (NW Corner of Mill Ave. & South St./Thurmond-Quinlan): An ordinance to approve VAC 16-5424 submitted by Allison Thurmond-Quinlan for property located at the northwest corner of Mill Avenue and South Street to vacate street right-of-way.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff and the Planning Commission recommend approval.

Alderman Marsh 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 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 5887 as recorded in the office of the City Clerk

C-PZD 16-5408 (Wedington & Marinoni Dr/Cross Church): An ordinance to rezone that property described in rezoning petition RZN 16-5408 for approximately 24.60 acres at Wedington Drive and Marioni Drive from C-2, Thoroughfare Commercial and UT, Urban Thoroughfare to C-PZD, Commercial Planned Zoning District.

City Attorney Kit Williams: When this item was placed on the agenda that was the request of the applicant. The applicant has changed their request significantly. All of the commercial development that was being proposed for the Commercial Planned Zoning District is now going to be withdrawn from the request. They are all going to develop under the Urban Thoroughfare requirements. The remaining lots 7, 8, 9 and 10 are owned by the church. The church has changed their request to P-1 Institutional, which is the zone designed for churches. Rather than reading the initial ordinance that was presented, I ask that you amend to what the church has requested.

Alderman La Tour moved to amend to the church request of P-1 Institutional. **Alderman Kinion** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner: Staff recommends that the Aldermen review the packet provided by the applicant. Staff will withhold any recommendation due to our lack of time to review the proposal.

Ken Hall, Representing Cross Church gave a brief description about the relocation of the church and background information on the property. He spoke about traffic issues.

Don Marr, Chief of Staff stated Alderman Long sent an email to the City Clerk office requesting this item to be left on the First Reading.

Alderman La Tour: Mr. Hall is there some urgency, you said the church is using six or seven places for parking and families are having to walk through parking lots. On streets we are accustomed to looking for cars, but in parking lots, we many times don't look for cars.

Ken Hall: I know it's not only an issue the parishioners of the church recognize, but the city itself. There have been discussions about the hazards that are created. The traffic is an issue. We have had a traffic study completed which shows that the entire subdivision as developed does not create traffic problems. We are outgrowing the facility and need a better location.

Alderman Marsh: Since we are making a land use decision here and not a PZD, why are we reviewing the specific details of this proposal?

City Attorney Kit Williams: The Bill of Assurance was included in one of those diagrams that you had. Is that correct?

Ken Hall: I did not include that as a diagram.

City Attorney Kit Williams: I assumed they were showing something that was on their Bill of Assurance. Normally, we don't allow the development to be shown in a zoning decision.

Ken Hall: I apologize. That is the intention, along with the proposed rezoning is to provide a Bill of Assurance to identify the location and expansion of the building, and identify the intended use of the property.

Alderman Marsh: If you are going to show us the plan, I see impervious surface area. What is your stormwater plan and what low impact development techniques will you be using to manage the stormwater?

Ken Hall: Jason Appel from Engineering Services Inc. will answer those types of questions.

Jason Appel, Engineering Services, Inc.: This was part of an approved development plan in 2006 when this development came through. The drainage issues were addressed at that point in time. There is an approved drainage plan in place for this area.

Alderman Marsh: We have updated our stormwater standards since 2006. This proposal has changed dramatically since it went through the Planning Commission and staff review. I would like to have their review of the revised proposal before moving forward.

Alderman La Tour: Maybe we should hold it on the first reading to allow Alderman Long to provide input. Will two weeks be ample time for staff to review this?

Jonathan Curth, Senior Planner: That should be sufficient time to review the proposal.

This ordinance was left on the First Reading

Amend the Definition of "Setback" in §151.01: An ordinance to amend the definition of "Setback" in §151.01 of the Unified Development Code to allow architectural projections of a building such as its eaves to slightly protrude into a setback under certain conditions.

City Attorney Kit Williams read the ordinance.

Alderman Petty gave a brief description of the ordinance.

Alderman Marsh moved to suspend the rules and go to the second reading. **Alderman Petty** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Long** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Marsh 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 5888 as recorded in the office of the City Clerk

Announcements:

Alderman La Tour: We have a Ward 4 meeting on June 27, 2016. It will begin at 6:00 p.m.

Don Marr, Chief of Staff: We are having our second open house at Fire Station Number 5 on June 23, 2016 from 4:00 p.m. to 7:00 p.m.

Our new city newsletter is out on the city's website.

Fayetteville Animal Services urges caution with pets in the extreme heat with people leaving pets in vehicles. We have a new ordinance that prohibits that activity.

On June 24, 2016 is the Dive-In movie. The movie is called, Max. The movie will begin at sunset.

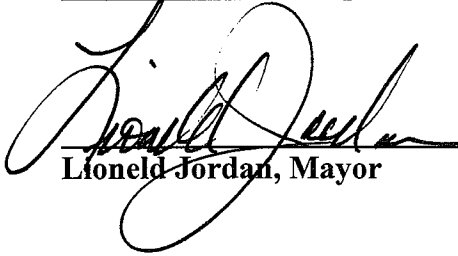
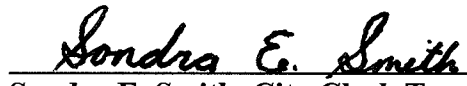
On June 23, 2016 at 7:00 p.m. will be the next Gulley Park Concert Series. It is a band called, Blue Healer.

City Council Agenda Session Presentations:

Agenda Session Presentation - Sarah McKenzie, Executive Director of the Office for Education Policy at the University of Arkansas, will present statistics that compare the City of Fayetteville's public school student demographics and performance to the Northwest Arkansas region and to the benchmark cities cited in Fayetteville First, the city's Economic Development Strategic Plan. Dr. McKenzie will also talk about the potential economic impacts of public schools in the areas of economic growth and competitiveness.

City Council Tour: None

Adjournment: 9:59 p.m.


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