

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
August 16, 2016**

A meeting of the Fayetteville City Council was held on August 16, 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.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

Fayetteville Natural Heritage Association Check Presentation

Jennifer Ogle, Chair of the Fayetteville Natural Heritage Association: We are a local organization that is committed to conserving natural areas in Fayetteville. We are a funding partner in the acquisition of Kessler Mountain. We have committed to raising \$300,000 to help cover a portion of the purchase price of this important urban natural area. Thank you for reserving a portion of that money towards doing some really great opportunities for Kessler Mountain. Thank you for your dedication to conservation in Fayetteville. I would like to present a check for \$60,000.

Mayor Jordan: This is not the first time we have partnered with the Fayetteville Natural Heritage Association. You have always been a great partner for us. You always put your heart into this city and your investments. Thank you on behalf of myself, citizens, and the City Council for this wonderful check.

Consent:

Approval of the August 2, 2016 City Council Meeting Minutes.

Approved

NWA Regional Airport and NWA Council Foundation Coop Agr.: A resolution to approve the cooperative agreement between the City of Fayetteville, Northwest Arkansas Regional Airport (XNA), and the Northwest Arkansas Council Foundation regarding the placement of wayfinding signs directing travelers to and from the airport within the public rights-of-way at no cost to the city.

Resolution 150-16 as recorded in the office of the City Clerk

Mitchell, Williams, Selig, Gates & Woodyard, PLLC: A resolution to approve Amendment No. 4 to the contract with Mitchell, Williams, Selig, Gates & Woodyard, PLLC in the amount of \$15,000.00 for additional legal services related to the White River water quality standards petition to the Arkansas Pollution Control and Ecology Commission, and to approve a budget adjustment.

Resolution 151-16 as recorded in the office of the City Clerk

CDI Contractors, LLC: A resolution to approve a budget adjustment in the amount of \$11,820.00 recognizing revenue from CDI Contractors, LLC for its share of costs for repairs to Wilson Avenue.

Resolution 152-16 as recorded in the office of the City Clerk

Alderman Petty moved to accept the Consent Agenda as read. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Amend §164.23 Single-Family Infill Standards: An ordinance to authorize the City Council to grant a variance in the Single-Family Infill Standards to support attainable, affordable housing. *At the August 2, 2016 City Council meeting this ordinance was Left on the Second Reading and sent to Ordinance Review Committee.*

Alderman Tennant: The Ordinance Review Committee met. We heard from members of the public. We had a good discussion with the committee members as well as city staff. Thank you to

city staff for their participation. Kit and Andrew gave us some good changes I thought needed to be made and the committee voted unanimously in that same way. Kit will give an overview of a couple of proposed changes.

City Attorney Kit Williams: The committee favored what Planning had suggested. They focused the ordinance and code section on truly small lots, which are now 50 feet wide and smaller. This resolves a lot of the issues that we had. Secondly, in the purpose section, I kept what was in there already, but added aesthetics, that was something that can support this ordinance. As City Attorney I would like to see this because that has been recognized by the Supreme Court as a valid concern of the cities. If this ordinance was ever challenged I would like to have that in there to defend the ordinance. I spoke to the Ordinance Review Committee and said I might want to put back in some of the wording that Planning had initially removed. That wording was, when a garage opening might be more than 50% of the front of the facade of the house, which if you are going to have a two car garage and a very small lot it might be more than 50%. It might be impossible not to build it that way. What Planning had in before we replaced. It has to be a two story house so that the second story would have windows facing the front and/or you could have a deck or balcony that would extend up to be flush with the garage for both aesthetic reasons and to keep eyes on the street. Rather than reading an ordinance we don't need anymore, I would like a motion to do what the Ordinance Review Committee unanimously recommended and to change the current ordinance to the one that has been presented to you tonight.

Alderman Tennant stated these changes need to be made for both the current developer that has the situation and anything else. He stated some hard work is going to have to go into making some big changes and this is the way to do it right now.

A discussion followed about the amendment procedure.

Alderman La Tour: I voted as part of the unanimous vote in the Ordinance Review Committee for this change. We are losing our freedom when the city can tell you where to place your garage. That decision should be made by the homeowner, his builder, and architect. I voted for this provision because it is lessening the impact. It is disrespectful to people to call their home a snout house. Some people enjoy having their garages a little ahead of their front door. I would like for City Council to refrain from calling it a snout house in our publications and discussions.

Alderman Marsh: What happened to the part about affordable housing? It was my understanding that was the primary motivation behind looking at this ordinance.

City Attorney Kit Williams: The affordable housing was in relation to if we were going to have a variance procedure in front of the City Council. The variance procedure will no longer be part of this ordinance if you agree to this amendment. I thank Alderman Schoppmeyer for sponsoring the previous proposed amendment. Part of the reason for that was to make sure the City Council knew there had been some problems with this particular ordinance. I didn't want to suggest any real substantive changes. This is the recommendation of the Planning Department to make these modifications and I join in that recommendation. This is the reason I didn't talk about affordable or attainable housing since that variance procedure is no longer part of that ordinance.

Alderman Marsh: This is no longer about creating affordable housing. It is about making it easier for developers?

City Attorney Kit Williams: It does help affordable housing. If we had continued with the ordinance where it's less than 70 feet and you have to have the garages recessed and not just flush, then that could be expensive for homebuyers. Even though this isn't the major purpose of this particular ordinance, it is one affect in helping affordability and attainability of houses.

Mark Marquess, Riverwood Homes thanked staff, Kit Williams, Mayor Jordan, and City Council for being a champion of affordable housing. He spoke in favor of the amendment.

Aaron Worth, Cobblestone Homes voiced his concerns about the ordinance. He believes that 50 foot is a step in the right direction. He stated he is building houses as affordable as possible.

Lorraine O'Neal, 3001 West Wedington thanked the Ordinance Review Committee for their work on the ordinance. She stated it is a step in the right direction.

Alderman Marsh: We just received this information today. I have an issue with sending it to the third reading. When we pass these too quickly the media doesn't have time to report it. Citizens aren't aware of what we are doing and don't have an opportunity to give feedback.

A discussion followed about leaving it on the third reading or tabling the item.

Alderman La Tour stated it shouldn't be delayed another two weeks.

Alderman Petty moved to amend the ordinance to the new ordinance that City Attorney Williams presented. Alderman Schoppmeyer seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams: The only reason I'm asking for you to suspend the rules and go to the third and final reading is because we haven't actually read this before. If anybody would want to challenge this procedurally, that motion would be enough to qualify for three readings at this point.

Alderman Marsh: Because we haven't read it before it is important to hold it where it is and give the community an opportunity to learn what we are doing.

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

City Attorney Kit Williams read the ordinance.

Alderman Petty: I am going to support this. This is part of a broader recognition we need to have as a Council and as administration. Our design standards are written incorrectly, if not broken. I'm not saying we should throw them out, but they need to be recalibrated according to what we already

have and what we really want. Whether it is the Downtown, Urban Residential or Single-Family standards, there are a lot of instances when reading the code and looking at the kinds of projects that are feasible, you can find fine lines in the code that probably need to be struck or closely looked at. I'm hopeful this conversation in addition to what we are doing with the developer and input groups will lower our barriers to good development. I hope we can take all of that and approach that conversation in good faith. It is something that needs to happen and is probably one of the highest barriers we have to the kind of development we say we want in our 2030 Plan.

Alderman Marsh: Snout houses is the accepted architectural term for a house with a protruding garage that takes up most of the facade. This is an appropriate architectural term.

Mayor Jordan: We have been meeting with developers for about the last seven months on a lot of these things. This one just occurred. I told Mark we would come up with something to fix this and that is why I wanted the Ordinance Review Committee to weigh in on it.

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

Ordinance 5895 as Recorded in the office of the City Clerk

New Business:

RZN 16-5474 (South of 1297 E. Farmers Rd./Hale): An ordinance to rezone that property described in Rezoning Petition RZN 16-5474 for approximately 1.28 acres located South of 1297 East Farmers Road from R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre to RSF-7, Residential Single Family, 7 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission recommended approval unanimously. Staff is supporting the request.

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

City Attorney Kit Williams read the ordinance.

Alderman Tennant 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 unanimously.

Ordinance 5896 as Recorded in the office of the City Clerk

Kessler Mountain Conservation Easement: A resolution to authorize Mayor Jordan to sign a Grant of Conservation Easement to the Northwest Arkansas Land Trust for the preservation of Kessler Mountain.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He voiced his appreciation to the Fayetteville Natural Heritage Association and citizens for their support. He thanked the City Attorney office and Parks & Recreation office for their work on reviewing the document. He also thanked Terri Lane, Executive Director of the Northwest Arkansas Land Trust. Staff is recommending approval of the easement document.

Terri Lane, Executive Director of the Northwest Arkansas Land Trust: Thank you for allowing us to be a partner in permanently protecting this very important natural area in our growing region. These natural amenities are important to our community and to future generations. This project is a shining example for the rest of the region of the different partnerships that can come together to protect these places in our region. No one entity can do all of this alone.

Alderman La Tour: I'm having a hard time supporting the resolution. I have nothing against conservation. I question the wisdom of encumbering this land for eternity and perpetuity. I would rather see us grant the easement with some limit on it. Maybe 100 or 200 years. This area may be surrounded by metropolitan development for ten miles on all sides. We have encumbered the land and can only be used for one purpose. I would rather leave people in the future to decide its best use at that point.

City Attorney Kit Williams informed the City Council that the million and a half dollar grant from the Walton Family Trust required the conservation easement to be perpetual. He stated the more Fayetteville grows, the more important it is to have hundreds of acres preserved. He stated if the city grew all the way around Kessler Mountain it would be even more important, just like Central Park is important to New York City.

Alderman Long: This is such a great thing because the Northwest Arkansas Land Trust went into a cooperative agreement with the city and put up money.

Mayor Jordan: It is important we support our natural heritage. Once it is gone, it doesn't come back. The reason I support preserving that urban forest for our kids. We are going to be gone, but they are going to remain. If this city lasts 10,000 years, they aren't going to remember any of us up here. They are going to walk on Kessler Mountain and they are going to be glad someone had the forethought to think about the future of the city and their children.

Alderman Petty moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the resolution passed 7-1. Alderman La Tour voting no.

Resolution 153-16 as recorded in the office of the City Clerk

RZN 16-5483: (NE Corner of Morningside & 15th St./Rausch Coleman): An ordinance to rezone that property described in Rezoning Petition RZN 16-5483 for approximately 36 acres located at the Northeast Corner of Morningside and Fifteenth Street from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation, subject to a Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted in favor 6-0. Staff recommends approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Marsh: I have not received any citizen feedback on this proposed rezoning. I applaud the applicant for the conservation areas to protect water quality.

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

Ordinance 5897 as Recorded in the office of the City Clerk

RZN 16-5501 (1030 S. College Ave./K. Smith): An ordinance to rezone that property described in Rezoning Petition RZN 16-5501 for approximately 0.17 acres located at 1030 South College avenue from NC, Neighborhood Conservation to NS, Neighborhood Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted 8-1 in favor. Staff did not support the request.

Alderman Long: There was a part time landscape business owner two streets south of this. He had to close his business and move to Springdale because we didn't allow things like this. It is not consistent with the surrounding zoning. Would you consider this to be fair to that business if we allow this to be rezoned to a zoning classification that allows a business like this to be done by right?

Jeremy Pate: I'm not sure about the fairness issue. In that particular case of the landscaping business, we had received complaints from neighbors about the storing of trash and debris on the

site. They gathered in the mornings with their crews and it was a disruption to the neighborhood. I spoke with the business owner. They understood and were willing to find another location. They had an option to request the rezoning of the property, but they chose to not pursue that. This particular site, they could request a conditional use permit. It could stay the same zoning and they can request a conditional use permit for the very use they are proposing. The challenge for the property owner is if they change that use or if someone wanted to move in that's different than the business, they would have to request another conditional use permit. There is never a guarantee they could utilize the property as such. The other difference is this has not been a residential building historically for many years. It has been a church for as long as most people can remember, whereas the others have been a house.

Alderman Long: I wanted to get some background and perspective. Thank you.

Keaton Smith, Applicant: Because it has always been a church, the building is not suitable for residential use in anyway. It doesn't have shower facilities. It lends itself to more of a commercial use. We are not planning to change the structure or the footprint of the building, other than painting. Maintaining the footprint of the building and the historical use of the building would maintain the historical nature of it and keep the context of the neighborhood intact. This would allow us a little bit more flexibility and we wouldn't have to add residential facilities to a historically non-residential building. We collected some letters of support from neighbors. Looking at the Walker Park Neighborhood Master Plan and City Plan 2030, the request falls in line with those goals.

Alderman Long: With the church being there, I hope you grow to the point where you eventually need a larger facility. Do you think that puts the neighborhood in any kind of situation with the property being rezoned because a person that moves in to purchase the property would then be dealing with a different use by right.

Keaton Smith: In terms of the risk to the neighborhood of a commercial use that's unfavorable or disruptive to the neighborhood moving in, I believe the risk is low because the site is small. What's allowed in Neighborhood Services is such a light commercial use. It is professional offices and a cafe or coffee shop would require a conditional use permit. I can't imagine the property being redeveloped in a way that would create a disruptive commercial use by right in this zoning category.

Alderman Long: Thank you.

Alderman Petty: Is it true that you have a pending lease on the property?

Keaton Smith: Yes.

Alderman Petty: Could you tell us what that is?

Keaton Smith: It is a local non-profit theater company that plans to use it for office and studio space.

Alderman Petty: If this rezoning request is denied and you elect to come back for a conditional use permit, will the subsequent delay mean you lose that lease?

Keaton Smith: Yes. At the very least it will delay it.

Alderman Petty: I am inclined to support the request, and not because there's a pending lease. I read through the staff report and it seems a little bit confusing on the compatibility standpoint. It starts out saying this requested rezoning is consistent in terms of development to the north, east, and south. It then ends the paragraph saying it is not compatible because it is mid-block. We should temper the commitment to putting things on corner blocks in this case. It is an unusual pattern in that neighborhood. With regards to the uses that are allowed in Neighborhood Services, the commercial uses are extraordinarily limited in Neighborhood Services. It's really only what's called limited business. The requested rezoning is generally compatible with everything around it. I support this without reservation.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray: I had one person from the neighborhood call me. They were concerned we were going to be making everything on that block commercial. I assured her I did not see that happening.

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 unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Marsh: This project is entirely consistent with our 2030 City Plan. While I do agree that staff had some reasonable concerns about introducing commercial mid-block, I want to remind the Council that this is only 0.17 acres. It is an important piece of the architectural heritage of that neighborhood. This is a great new use that will bring some jobs to the neighborhood.

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

Ordinance 5898 as Recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: Welcome to all of our University of Arkansas students. We encourage them to check out our City of Fayetteville website for activities taking place throughout the city.

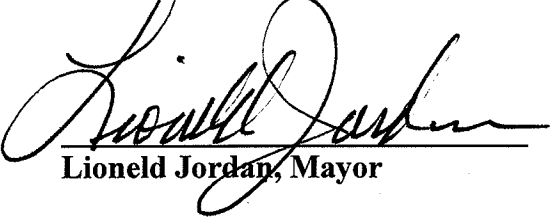
The Kessler Mountain Regional Park grand opening will be August 20, 2016 from 8:00 a.m. to noon. This has been a long time coming and we are looking forward to celebrating the opening of our park.

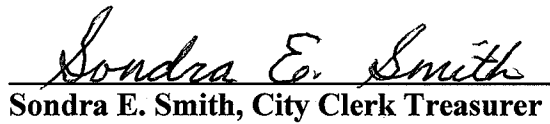
City Council Agenda Session Presentations:

Agenda Session Presentation - Dr. Matthew Wendt, new Superintendent of the Fayetteville Public School District, will introduce himself and share goals for the Fayetteville Public Schools and provide thoughts on collaboration and partnership opportunities between Fayetteville Public Schools and the City of Fayetteville.

City Council Tour: None

Adjournment: 6:38 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer