

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
October 4, 2016**

A meeting of the Fayetteville City Council was held on October 4, 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:

Development Services Presentation – Jeremy Pate

Jeremy Pate, Director of Development Services gave a brief Development Services presentation.

Mayor Jordan thanked Jeremy Pate and his staff for their work.

City Council Meeting Presentations, Reports, and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the September 20, 2016 City Council Meeting Minutes.

Approved

Springdale Tractor Co.: A resolution to authorize the purchase of a Kubota 60-inch Pro Deck mower with canopy in the amount of \$13,175.00 from Springdale Tractor Co. of Springdale, Arkansas for use by the Transportation Services Department, and to approve a budget Adjustment.

Resolution 174-16 as recorded in the office of the City Clerk

Bid No. 16-54 Lewis Ford Sales, Inc. Transportation Department: A resolution to award Bid No. 16-54 and authorize the purchase of a Ford F550 Crew Cab 4x4 with Davis Dump Body from Lewis Ford Sales, Inc. of Fayetteville, Arkansas in the amount of \$54,670.88 for use by the Transportation Department.

Resolution 175-16 as recorded in the office of the City Clerk

Bid No. 16-54 Lewis Ford Sales, Inc. Parks and Recreation Department: A resolution to award Bid No. 16-54 and authorize the purchase of a Ford F350 Crew Cab 4x4 with Davis Dump Body from Lewis Ford Sales, Inc. of Fayetteville, Arkansas in the amount of \$44,947.88 for use by the Parks and Recreation Department.

Resolution 176-16 as recorded in the office of the City Clerk

Bid No. 16-54 Lewis Ford Sales, Inc. Water and Sewer Operations Division: A resolution to award Bid No. 16-54 and authorize the purchase of a Ford F550 Standard Cab with Davis Dump Body from Lewis Ford Sales, Inc. of Fayetteville, Arkansas in the amount of \$48,397.88 for use by the Water and Sewer Operations Division.

Resolution 177-16 as recorded in the office of the City Clerk

Bid No. 16-56 Lewis Ford Sales, Inc. Water and Sewer Operations Division: A resolution to award Bid No. 16-56 and authorize the purchase of a Ford F550 4x4 with Reading Utility Body from Lewis Ford Sales, Inc. of Fayetteville, Arkansas in the amount of \$48,005.00 for use by the Water and Sewer Operations Division.

Resolution 178-16 as recorded in the office of the City Clerk

Bid No. 16-57 Lewis Ford Sales, Inc. Water and Sewer Operations Division: A resolution to award Bid No. 16-57 and authorize the purchase of a Ford F550 Diesel 4x4 with Reading Utility Body from Lewis Ford Sales, Inc. of Fayetteville, Arkansas in the amount of \$55,243.00 for Use by the Water and Sewer Operations Division.

Resolution 179-16 as recorded in the office of the City Clerk

Bid No. 16-60 Art Thureson Inc.: A resolution to award Bid No. 16-60 and authorize the purchase of a prefabricated bridge in the amount of \$31,500.00 from Art Thureson, Inc. of Waterford, Michigan for installation on the Cato Springs Trail.

Resolution 180-16 as recorded in the office of the City Clerk

Garver, LLC Amendment No. 1: A resolution to approve Amendment No. 1 to the contract with Garver, LLC in the amount of \$32,200.00 to add construction phase services related to the installation of a tunnel and bridges on a portion of the Cato Springs Trail within the Arkansas Highway and Transportation Department right of way.

Resolution 181-16 as recorded in the office of the City Clerk

Walton Arts Center Council, Inc. Restated Articles of Incorporation: A resolution to approve the Restated Articles of Incorporation of The Walton Arts Center Council, Inc.

Resolution 182-16 as recorded in the office of the City Clerk

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

Unfinished Business:

RZN 16-5442 (2514 W. Lori Rd./Razorback Golf Course): An ordinance to rezone that property described in rezoning petition RZN 16-5442 for approximately 99.10 acres located at 2514 West Lori Road from R-A, Residential Agricultural; RSF-1, Residential Single Family, one unit per acre and RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation; R-A, Residential Agricultural and NS, Neighborhood Services subject to the attached Bill of Assurance. *At the July 19, 2016 City Council meeting this ordinance was left on the first reading. At the August 2, 2016 City Council meeting this ordinance was left on the first reading and tabled indefinitely. At the September 6, 2016 City Council meeting this ordinance was left on the first reading and tabled to the September 20, 2016 City Council meeting. At the September 20, 2016 City Council meeting this ordinance was left on the second reading.*

City Attorney Kit Williams read the entire ordinance. Therefore, no motion was made to suspend the rules and go to the Third Reading.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance.

Ron Caviness, Applicant: Do we need to discuss the validity of my Bill of Assurance?

City Attorney Kit Williams: It's not the validity. We need to make sure we really understand what you are proposing.

Ron Caviness: In the Bill of Assurance I put that a maximum of 400 single family houses would be built and that is all.

City Attorney Kit Williams: I thought that was your intent. I wanted to make sure it included both those zones. 400 single families in both the Neighborhood Conservation and Neighborhood Services would be all that would be built there.

Ron Caviness: Correct.

City Attorney Kit Williams: Thank you for making that clear. This land is actually owned by a LLC. Are you and your wife the only owners of the LLC?

Ron Caviness: Yes. My wife and I are 50/50 owners. I am the president of the corporation and I am authorized to speak for the corporation.

City Attorney Kit Williams: You are signing the Bill of Assurance for the corporation, as well as yourself?

Ron Caviness: Yes.

Alderman La Tour: I encourage us to consider this strongly. While I am concerned with what the neighbors think about the rezoning, he has given us what we need to proceed with this. We are not building apartments. We are building single family houses. We can't afford to make it a park. This land will be developed and we can't expect a private owner to sit on his investment and not get a return on it.

Alderman Long: Jeremy, I've received input from the surrounding areas about the environmental impact on that piece of property and the corresponding flooding that happens. Can you talk about the process and how it is addressed?

Jeremy Pate: This is a recognized stream on the property that the request for Residential Agriculture is being made. The floodplain extends beyond that area, but FEMA has flood wave and floodplain regulations with which the city must comply. In addition, Council has adopted a Streamside Protection ordinance. The Corp of Engineers is the authority on wetlands. They supersede our authority in that particular case. Because this site floods, that would be part of our review process. There have been some studies already done and those would be submitted to the Corps of Engineers. Whatever decision they make, the city would then have to abide by as well.

Alderman Long: When we had the Falling Waters rezoning before us, the Environmental Action Committee took a look at that ordinance. Would this be something the Council feels that they should also look at?

Alderman Kinion: I commend the developer for giving us a Bill of Assurance and for defining a good compromise as we move forward. Looking at the topography of the property and knowing we have steps in place that can mitigate damage to the wetlands in this area, I feel at this point I

would hardly endorse this specific development as it is presented to us. If you look at it closely and you know what we have as far as future planting, this is an ideal compromise.

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

Ordinance 5909 as Recorded in the office of the City Clerk

New Business:

Bid No. 16-53 Boulder Construction, Inc.: A resolution to award Bid No. 16-53 and authorize a contract with Boulder Construction, Inc. in the amount of \$3,753,369.40 for construction of portions of the Cato Springs Trail from the Town Branch Trail to Kessler Mountain Regional Park, to approve Change Order No. 1 to reflect value engineering items and reduce the contract amount by \$880,253.40, and to approve a project contingency in the amount of \$287,311.16.

Matt Mihalevich, Trails Coordinator gave a brief description of the resolution.

Mayor Jordan: Great partnership. Good work Matt.

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

Resolution 183-16 as recorded in the office of the City Clerk

RZN 16-5543 (3434 N. Crossover Rd./Villages Assisted Living): An ordinance to rezone that property described in rezoning petition RZN 16-5543 for approximately 21.40 acres located at 3434 North Crossover Road from R-A, Residential Agricultural to RT-12, Residential Two and Three Family; P-1, Institutional and CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff feels the proposed zoning is compatible with the surrounding properties. The Planning Commission voted 7-1 in favor. He discussed the notification process for a rezoning.

Mayor Jordan: I got a few calls and emails about the notification process.

Alderman Tennant: I heard from some people about the notification process. The people that live across the street on Birdie or Par, the requirement is only to notify those within just a certain distance of Crossover. How do you know how far in the neighborhood to go to do any sort of notification?

Jeremy Pate: It's only those properties that are adjacent, we consider across the street, we ignore the street essentially, and consider those adjacent. We don't require another lot in. The second lot in does not get a letter mailed to their house. There is a sign and we notify through our public agendas.

Alderman Tennant: I don't know if there is a way to change that. I don't want to put any extra burden on city staff. A lot of these people on Birdie and Par are going to be affected by this because that's the only way out. I worry we aren't notifying enough people in this case. I would like to hold it and not vote on it tonight. Was there any study done or anything looked at as far as the traffic? Is there any concern about the level of traffic coming in and out with no light or turn lane?

Jeremy Pate: There has not been a traffic study done with the rezoning. We don't know what is actually going to develop there at this time. The uses that have been discussed and the zoning that is allowed with the acreage doesn't throw up a red flag for us. It is not a super high intensity use that is going to potentially happen there. We just widened this major arterial. We have to evaluate cross traffic at the time of development. The need for a future signal will also have to be evaluated with the development.

Alderman Tennant: I want us to look at this carefully because someday that road might connect to Bridgewater and over by Overton Park. There are a lot of people that live over in that area and Oakland Zion has more housing. This will be a major connector to Crossover for people who want to avoid Highways 45 and 265. In the future there is going to be a lot of cars on that interchange and that needs to be considered. For this particular proposal, leaving it here and giving more people a chance to speak on it is very important. I don't believe enough people were notified because of the way the process works.

Elizabeth Link, Representing Foster Development: When we met with staff and talked about notification, we took the town's requirement and added many more people than your ordinance required. I hope I don't get penalized for the process you have on the books. As far as traffic, we are talking about 100 rooms of assisted living and memory care. Traffic studies that we have done for a similar project in Memphis shows we have under 30 cars during peak time in the morning and under 20 during peak time in the evening. It is a very low use of roads and infrastructure. We are also proposing up to 32 units of apartments for 55 and older. We are talking about building a walkable neighborhood and a green design. As far as traffic and the connection, our traffic is going to be miniscule. If other projects come later on that road, I assume more improvements to an interchange will be required at that point. We will be doing a traffic study with our project as required by staff.

Alderman Tennant: In no way did I mean your project will be penalized for this. My comments were mainly on the process itself, regardless of what development or rezoning we would have. There are a lot of people that will be affected by this. I want us to examine this.

Elizabeth Link: The State of Arkansas believes this particular area of Washington County is very low on assisted living and memory care beds. It is a need you all have and we are hoping to fill 100 of the 250 beds. You are still going to be short. I'm not talking about 20 years from now, I'm talking about now. We are hoping we can at least help on that side of town to meet the need.

Alderman Tennant: Thank you very much.

Jeremy Pate: I want to clarify. When looking at the aerial photograph there is a turn lane to a future street off of Par Court to the east. It was constructed with the Highway Department's improvements.

This ordinance was left on the First Reading

RZN 16-5548 (1211 W. James St./Haven Campus): An ordinance to rezone that property described in rezoning petition RZN 16-5548 for approximately 0.63 acres located at 1211 West James Street from R-O, Residential Office to CS, Community Services subject to the attached Bill of Assurance.

City Attorney Kit Williams read the ordinance.

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

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

City Attorney Kit Williams read the ordinance.

Alderman Petty 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 5910 as Recorded in the office of the City Clerk

RZN 16-5550 (2155 N. Ruppel Rd./Hazen): An ordinance to rezone that property described in rezoning petition RZN 16-5550 for approximately 73.37 acres located East and West of Ruppel Road and South of Mount Comfort Road from RSF-1, Residential Single Family, 1 unit per acre; RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural to CS, Community Services and R-A, Residential Agricultural.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff finds the proposed zoning to be compatible with the surrounding land uses in the area. The Planning Commission voted 7-1 in favor of the request. He stated four members of the public

spoke in opposition of the request with concerns of increased traffic. He stated the exhibits were replaced in the ordinance. He had the applicant remove the right-of-way that the city purchased for the Mount Comfort extension and part of the Ruppel Road. It now encompasses about 70 acres of the property.

City Attorney Kit Williams: We had submitted this ordinance with 73 acres and staff is now recommending we remove the right-of-way which makes it about 70 acres. We need to amend the ordinance to reflect the new exhibits.

Jeremy Pate: This would be reflective of the right-of-way we have already acquired through the Mount Comfort Road widening project.

Mayor Jordan: You are asking for an amendment?

City Attorney Kit Williams: It was recommended by the Planning Department.

Tom Terminella, Representing Jim and Judy Hazen: It is my understanding we were removing just the right-of-way that the city has already acquired.

City Attorney Kit Williams: That is my understanding.

Tom Terminella: We are good with it.

Alderman Long: I have started getting a lot of public input. I would appreciate the Council holding it on this reading tonight.

Mayor Jordan: Kit, please read the amendment.

City Attorney Kit Williams: The only amendment would be to the title. Instead of saying approximately 73.37 acres, it would say approximately 70 acres with the acknowledgment that the Exhibit A map and Exhibit B legal description have been slightly changed by the Planning Department.

Alderman Long moved to amend the title to say approximately 70 acres with the Exhibit A map and Exhibit B legal description being slightly changed. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

A discussion followed about leaving the item on the First Reading.

Marilyn Braswell, 2254 North Hidden Creek Lane spoke in opposition of the rezoning. She voiced her concerns about traffic, safety, and environmental issues.

Tom Terminella requested for citizens with concerns to contact him.

This ordinance was left on the First Reading

RZN 16-5560 (103 N. Plainview Ave./McMahon): An ordinance to rezone that property described in rezoning petition RZN 16-5560 for approximately 3.34 acres located at 103 North Plainview Avenue from R-O, Residential Office to RT-12, Residential Two and Three Family.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted 8-0 in favor of the request.

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

City Attorney Kit Williams read the ordinance.

Alderman Marsh 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.

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

Ordinance 5911 as Recorded in the office of the City Clerk

ADM 16-5564 (1530 Golf Club Dr./The Links PZD Amendment): An ordinance to amend Ordinance No. 5015 which enacted Residential Planned Zoning District 07-2452 (The Links) to allow a clubhouse and swimming pool to be constructed on a 0.4 acre parcel of the R-PZD.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted 8-0 in favor of the request.

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

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5912 as Recorded in the office of the City Clerk

Startup Junkie Consulting, LLC: A resolution to approve a two (2) year contract with Startup Junkie Consulting, LLC to provide economic development consulting services in the areas of entrepreneurship and innovation in the amount of \$300,000.00, and to approve a budget adjustment.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He explained the contract is for a two year period with an amount of \$150,000 per year. He stated the second page of the contract inadvertently talks about coordinating with the city with a reference to the Chamber of Commerce. He stated the Chamber of Commerce is the next contract being considered on the agenda. He wanted to make sure the contract got revised before being approved and signed. Staff recommends approval.

Don Marr, Chief of Staff: On page two of the contract under Exhibit A where it says the City of Fayetteville shall coordinate with the Fayetteville Chamber of Commerce, it should say Startup Junkie on this particular contract. As well as any modifications shall be agreed upon by both parties it should say, Startup Junkie, not Fayetteville Chamber of Commerce.

Alderman Long: Do we need to amend the contract prior to this being authorized and signed?

City Attorney Kit Williams: No, you don't have too. You should express your willingness that this be changed and we will change it before the Mayor signs it.

Alderman La Tour: Where is Startup Junkie located?

Jeremy Pate: In Fayetteville.

Jeff Amerine, Startup Junkie: We are located on the second floor of the Pryor Center for the last three years.

Alderman La Tour: What is your educational background?

Jeff Amerine: United States Naval Academy graduate with a background in physical science and engineering. A Master's Degree in Operations Management from the University of Arkansas. I am an adjunct professor of entrepreneurship at the U of A.

Alderman La Tour: How long have you been in this business?

Jeff Amerine: I have been through the startup process eight times over the last 26 years. I have specifically been in this business since 2008 as part of the Innovate Arkansas program.

Alderman La Tour: Have you contracted with any other municipal governments to provide this sort of service?

Jeff Amerine: We have been under contract with regional economic development groups such as the Northwest Arkansas Council. Yet to be announced pending legislative review, we will be under contract with the University of Central Arkansas. We have agreements with municipalities in Canada. We are familiar with having stakeholders in all aspects of state, federal, county, and city governments.

City Attorney Kit Williams: You heard about the mix-up putting the Chamber of Commerce in place where you were supposed to be in. You have no complaint that we are going to fix that contract?

Jeff Amerine: We are happy with it being changed.

City Attorney Kit Williams: It shall be correct when you see it.

Jeff Amerine: Thank you.

Lorraine O'Neal, 3001 West Wedington stated she has always viewed consulting services with skepticism. She doesn't believe there is any benefit to spending money on consulting.

Peter Tonnessen, Ward 3 stated that Fayetteville is part of Northwest Arkansas which is ranked as the third most desirable place to live. He stated he doesn't understand why the city needs to spend money on these kinds of services. He believes their standards of performance are unmeasurable. He spoke in opposition of the resolution.

Keeton Smith, Ward 1 stated he is a commercial lender and partners with Startup Junkie. He stated that Startup Junkie provides free services to all the startups and entrepreneurs that they support. He spoke in favor of the resolution.

Alderman Marsh: I personally met with Startup Junkie for mentoring. I am starting my own business here in Fayetteville. I think their planning services, they assisted me with, was invaluable. By contracting with the city we will be able to use this resource for a greater spectrum of our young entrepreneurial community.

Alderman La Tour: Alderwoman Marsh maintains that your services are very valuable. It seems like people would be willing to pay for those services. Why don't you charge for your services?

Jeff Amerine: I have built businesses, not just in Arkansas, but those that were tied to Silicon Valley. I worked at three Fortune 500 companies in executive positions. I spent seven years at the U of A running the technology commercialization function. Startups have an extremely high failure rate and startups are essential to economic development in small business. Startups can't afford to pay McKinsey, Ernst & Young or other highly paid consultants at that critical point in their maturation. These services are essential to make sure they don't hit the same mine fields a lot of us hit through trial and error. When companies are sustainable they should pay for their consulting. When they are at the concept stage, not really sure what they need to do, and don't have access to strategic advice the failure rate increases. You don't get the economic benefit and

we need these startups to succeed. We need to retain the talent that comes out of the University to build new businesses here.

Alderman La Tour: Would you agree with me that my client should fire me if I don't save them more in tax than I cost them?

Jeff Amerine: Absolutely. There should be a return.

Alderman La Tour: Right, there should be a return. On that basis you would expect a startup in a very delicate stage of business to hire a professional. Have you ever made a payroll?

Jeff Amerine: Absolutely. Eight different times in my career.

Alderman La Tour: When you list Fortune 500 experience that is impressive.

Jeff Amerine: Eight different startups, three Fortune 500's, seven years at the University of Arkansas. I have had profit and loss experience every single situation I've ever been in.

Alderman La Tour: I'm glad to hear that. You should charge for your service.

Alderman Petty stated that anybody who thinks this kind of organization isn't necessary needs to do the history. He stated success stories started with an organization like this helping out.

Alderman Gray: The first time I met this group was when I was on the committee to select them. I was very impressed with their presentation. Anyone who has lived in Fayetteville has seen many businesses start up and don't make it. We need to look at what we can do to help those businesses be successful. This group is going to do this for us and I give them my support.

Alderman Tennant: It is good and healthy to question consultants. I don't think it is a bad thing with the questions that have been brought up because this is a lot of money. Living in the corporate technology world, a lot of people have failed at their jobs and have become consultants. The questioning leads me to be supportive because I have no doubt this group provides a positive for our area. The measurable dollar amount that comes from them comes later in the job creation. I am very much in support.

Alderman Petty gave a brief discussion about innovative districts and creating an economic opportunity for the City of Fayetteville over the next decade.

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

Resolution 184-16 as recorded in the office of the City Clerk

Fayetteville Chamber of Commerce Economic Development Consulting Services: A resolution to approve a two (2) year contract with the Fayetteville Chamber of Commerce to

provide economic development consulting services in the areas of business recruitment, retention, and expansion in the amount of \$360,000.00, and to approve a budget adjustment.

Jeremy Pate, Director of Development Services gave a brief description of the resolution.

Chung Tan, Fayetteville Chamber of Commerce thanked Mayor Jordan and City Council for their first contract in 2009. She stated they have made many relationships. She looks forward to working on this contract while concentrating on business retention and expansion.

Peter Tonnessen, Ward 3: Has the city been paying the Chamber of Commerce since 2009?

Mayor Jordan: Yes.

Peter Tonnessen stated it strikes him as odd that the city and Chamber of Commerce are contractually connected. He believes it is a conflict. He spoke in opposition of the resolution.

Alderman Long: You don't want us to approve the contract. Would you prefer us to hire an in-house economic development team?

Peter Tonnessen: Yes. I have been impressed by a lot of the city employees. There are a lot of great people working in this city.

Lorraine O'Neal, 3001 West Wedington: I am opposed to this. My concept of the Chamber of Commerce has been that they worked for business. For the city to pay them consulting services is beyond my grasp of comprehension. Is the contract with the Chamber of Commerce contingent on them providing some proof that what they are actually doing is succeeding? I would like to see some of those numbers.

Mayor Jordan: We started off with Fayetteville Forward about 2009. In 2013, I was approached by Council members that we needed to revise our economic development plan. We had open meetings and I conferred with many of you at the meetings. By direction of the Council we hired a consultant to give us an economic development plan. We hired Boyette. They brought us in a plan and these are the steps from that plan. The Council has a choice. You could either do that plan or not do that plan. We were not going to get into a situation where we had developed a plan and not bring it forward. When the Council gives us direction to develop certain plans and in this case advice on our economic plan, we bring it forward. I'm leaving it up to you all on what you want to do with this.

Don Marr, Chief of Staff: Every city, particularly the top 20 cities contract with their Chamber of Commerce to provide business retention and expansion services. Many of the development Councils in Northeast Arkansas, Central Arkansas, and in Northwest Arkansas contracts with all of the Chambers in the region to provide interviews of companies on what is keeping them here and what their issues are. This economic development strategic plan is extremely detailed into the focus areas of each of these contracts and what services are to be provided. They keep inventories of available land and buildings for inquiries we receive. One of the number one complaints when Mayor Jordan was elected was that the City of Fayetteville did not have a single point of contact

for economic development opportunities. Mayor Jordan directed the staff through Fayetteville Forward for us to change that and the Council adopted it. We did an RFP process. The Chamber has reported every quarter for the entire six year period that we have been under contract with them. Out of all the cities in Arkansas we have received more quick action closing fund dollars from the Governor's office than any city in this state. We have staff that have other jobs and we have never had a 100% dedicated staff member for this because we wear many hats. The expertise we are getting in these two contracts is 100% dedicated focused effort. We need to spend time focused on promoting what is taking place in our economic development process with our current contractor and with our new contractor. The Chamber of Commerce created one company every work day in our last contract period. There are not a lot of cities who can say that. This information is on the city website. We are thrilled with both of our potential providers. The third part of the plan you paid for was to have a dedicated Economic Development & Vitality Manager at the city to coordinate our contracts and our state and federal relationships. We are investing in job growth.

Mayor Jordan expressed that the City of Fayetteville is a transparent government.

Peter Tonnessen believes in the economic drive of individuals and partnerships. He stated he is skeptical of the government becoming too involved.

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

Resolution 185-16 as recorded in the office of the City Clerk

Partners For Better Housing, Inc. Agreement: An ordinance to waive competitive bidding and to approve the contractual agreement attached to the Engineering Department's agenda memo in the form of a cost share agreement with Partners for Better Housing, Inc. in the amount of up to one million dollars (\$1,000,000.00) pursuant to Resolution No. 117-13.

City Attorney Kit Williams read the ordinance.

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

Alderman La Tour: If a development company came in and wanted to develop something here in Fayetteville, would they get a million dollars from the city?

Chris Brown: The Council has the authority to authorize these cost share agreements. We bring them from time to time. It is a case by case basis if the money is available and if the Council deems it to be a good deal for the city. Anybody can ask the question. The money is available.

Alderman La Tour: Suppose my development company convinces this Council to give us a million dollars. We spend the money on the infrastructure and then we ask the city for reimbursement and we say we are going to take the million dollars and subsidize loans for low income people. As soon as you make the million-dollar reimbursement to us we declare bankruptcy. Do those people ever get helped?

Chris Brown: That is a good legal question as to what might happen.

Michael Ward, Partners for Better Housing Executive Director stated homes at Willow Bend is a nine-acre infill site in the Walker Park neighborhood. They intend to build 77 homes over the next three to four years utilizing traditional neighborhood development that fosters community and connectivity. The goal is to build a mixed income community. He stated the project meets four out of the six goals of the 2030 City Plan.

Alderman La Tour: You are building 77 homes. How many of that 77 will be subsidized through this million dollar subsidy?

Michael Ward: Potentially two thirds of the homes. 26 homes will be dedicated to people who make 50% to 80% of area median income. 26 homes will be dedicated to people who make 81% to 100% of area median income at the time of purchase.

Alderman La Tour: 52 will be subsidized?

Michael Ward: That's the plan.

Alderman La Tour: Suppose you have 100 people wanting to move into these 52 homes. How do you decide?

Michael Ward: We haven't done this before, so we will have to create a vetting process. It is a good problem to have.

Alderman La Tour: When you are giving away money, you will find you have a lot of friends.

Michael Ward: They have to qualify. Not just anyone can get this.

Alderman La Tour: Is your pledge still to forgive the subsidy if they live there for 12 years?

Michael Ward: Yes.

Alderman La Tour: Is that a contractual provision in your contract you are proposing with buyers?

Michael Ward: Yes.

Alderman La Tour: If we the City Council give you a million dollars, we expect you to do what you tell us you are going to do with it. If you are telling us you are going to give it away in 12 years, we expect you to be obligated to that. Right?

Michael Ward: One would assume.

Alderman Gray: We have talked about this for a long time. It is something we need very desperately in our town. We need to move on with this and create affordable housing.

Alderman Marsh: We have found ourselves in the unfortunate position where wages are not keeping track with the cost of housing in our community. This is an innovative solution to enable people to make the first step into home ownership. I have received a lot of positive feedback from the neighborhood. I'm looking forward to the drainage infrastructure. It will help improve an area that is experiencing a lot of right-of-way drainage. This project will improve connectivity. There are a lot of homes within walking distance of goods and services, but there are not a lot of pedestrian connections through there. This will have implications much greater than just the houses we are building. The neighborhood as a whole will be positive.

Alderman Long: I appreciate everything Partners for Better Housing has done. It was 2013 when this was initially discussed at City Council and set forth in the budget. I had a concern the city couldn't legally do this and require the subsidy be given for some people and not others. After speaking with the City Attorney, I still have the same concern. The City Attorney doesn't know if we can legally do this 100%. I'm not going to vote to allocate city funds when there could be a chance we could be sued and lose. My constituents have expressed to me that they are paying these taxes and they want to see a portion of this money spent in their area of town.

Alderman La Tour: What Alan just spoke is my big problem with it. We are taking a million dollars from our other taxpayers and giving them to 52 special taxpayers. Most people are trying to make ends meet. I don't feel good about asking them to pay for somebody else's house when they are struggling to pay for their own. The point that Alderman Long makes about legality, we discussed this with Kit Williams at Agenda Session. He told us it was probably legal. I prefer to have more assurance than that.

Alderman Kinion: We have talked a lot tonight about economic vitality of our community. I was on the original Partners for Better Housing when we were looking at options for affordable housing. It was one of the city plan goals set forth. We were fortunate to get property that was not utilized in the south part of town and needed attention for infrastructure. This program is going to allow us to expand economic opportunities for individuals that can live and work in our city and become productive in the long run. It fits into the Walker Park plan that we worked a long time on. I understand if someone says I don't want to support someone else. I pay taxes too. When I pay my taxes I have compassion for folks that want to own a home. They are hardworking individuals looking for an opportunity. We have the chance to provide an opportunity to revitalize a part of our town that is otherwise not vital and not being developed. I believe this is the right thing to do.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-2. Alderman Long and Alderman La Tour voting no.

City Attorney Kit Williams read the ordinance.

Alderman Marsh: What we are actually doing is reimbursing for infrastructure improvements. This is in a neighborhood that has historically been underinvested in. There are large parts of this neighborhood that were built without sidewalks and appropriate drainage infrastructure. Partners for Better Housing is going to build the infrastructure, including the low impact development infrastructure. We are going to reimburse them for those improvements to our city and then they are going to turn around and take that money and use it for a good cause. I hope it is legal. Kit's best advice is that it probably is. If the city is going to get sued for something, trying to find innovative ways to serve our citizens with affordable housing is not such a bad thing to have to defend.

Alderman Marsh moved to suspend the rules and go to the third and final reading. Alderman Kinion seconded the motion. Upon roll call the motion passed 6-2. Alderman Long and Alderman La Tour voting no.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I have written memos on this for three years expressing some concerns I had with it. Article 2, Section 18, Privileges and Immunities Equality of the Arkansas Constitution which states the general assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens. I have found cases interpreting this. They have both enforced this on occasion, invalidated a statute, and upheld statutes. The most recent talks about you must treat everybody the same that is similarly situated. Does that mean we can through indirect means assist persons that are earning below the average median income and treat them all the same, but treat them differently than people making more money? This is the big issue. This contract is more likely than not constitutional. This is a risk of a million dollars. I will take the more cautious approach and say that I would rather you stay clearly within our power and not get close to the edge. I don't think you are going over the edge on this. My recommendation cannot be in support of this contract and this ordinance. Even though at a million dollars it is a lot of money, it is a finite amount of money. When I have been more forceful in asking you not to do something, it is usually because there was very much more risk for the city. As Alderman Marsh stated, we are basically paying for our infrastructure and we can do that. In order to try to protect that investment as Alderman La Tour wants us to do, I have drafted a contract. The contract tries to assure the money we are paying, to the developers once the city has accepted the infrastructure they've built, would be used as you wanted it to be used and not pocketed. There is a direct link between the city and the soft second mortgages this money would fund because of that there is some constitutional risk. It is not high in my opinion.

Alderman La Tour: Mr. Ward told us he doesn't have the vetting process down yet. 52 people are getting preferential treatment in the same income class that the other 48 are not getting. We have people similarly situated that are in the same below average income and some of them are getting preferential treatment. Therein is the problem.

City Attorney Kit Williams: The way the contract is drafted is they have to continue to offer the soft second mortgages until all of the money the city has paid for the infrastructure is exhausted. They will have to vet the applicants to see if they can qualify for some of the other types of assistance they outlined in their booklet. I included the booklet as an exhibit to the contract as part

of the contract. Everything they said in their booklet and everything they presented to you in this contract, I am going to do my best to hold them to it. When the money runs out, then I guess they can't accept any more applications. They must treat everybody fairly up to that point in time. There will be a process for people to go through. It will be a first come first served until the money runs out. I don't think the courts would say that was an unfair system.

Alderman La Tour: You are not showing compassion when you vote to spend taxpayer money. If you want to show us your compassion, spend your money, not other people's money. We are spending other people's money to benefit a select group.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Long and Alderman La Tour voting no.

Ordinance 5913 as Recorded in the office of the City Clerk

Amend Chapter 6 Pavement Structure and Materials: An ordinance to amend **Chapter 6 Pavement Structure and Materials** of the Minimum Street Standards Manual to allow alleys to be constructed with gravel pavement sections in certain circumstances.

City Attorney Kit Williams read the ordinance.

Alderman Petty gave a brief description of the ordinance.

Alderman Long: We will allow them to construct these with gravel, but the city won't take responsibility for maintaining it?

Alderman Petty: Yes and that is imparity with the current policy we have with alleys.

Alderman La Tour: If we don't maintain alleys constructed this way, will we require the person who built it to maintain it?

Chris Brown, City Engineer: The existing ordinance in Chapter 172 provides some maintenance requirements. There is a violation of that chapter if the driveway is not maintained properly.

Alderman La Tour: By the adjoining landowner?

Chris Brown: It would be in violation of the city ordinance and they could be issued a violation by the city.

Alderman La Tour: You are saying the adjoining landowner has the obligation of maintaining the alley.

Chris Brown: This is where it gets kind of murky in that it is within city right-of-way. Multiple owners could own it and then it becomes a matter of the property owners working it out as to who would be maintaining it.

Alderman La Tour: But the city owns the right-of-way and the alleyway, right, not the owners?

Chris Brown: Right, but Chapter 172 is the driveway ordinance. There are maintenance requirements for driveways. It would be the users of that driveway.

Alderman La Tour: If I get permission from the City Engineer to build an aggregate alleyway instead of an asphalt alleyway, then the city would be looking to me to maintain it.

Don Marr, Chief of Staff: It is just like private streets. Some of the locations where the developer chose not to build to the street standards and they built it as a private street or they have an alleyway. Such as Salem Village, all the roads that are not public streets, the POA in that particular location is responsible for maintaining those. If there isn't a formal POA structure, then it would be the homeowners of adjoining adjacent property to the alley.

Mayor Jordan: At my house I have an alley and I maintain that alley.

Alderman Kinion: Over in the area where I live there are alleyways that are grass. Are they going to now be required to meet some type of engineering standard?

Chris Brown: No. We would typically look at using this ordinance as part of a new development or a new home. People sometimes use city alleys for gardens, storage buildings, and other various things. None of that would change in terms of this ordinance.

Alderman Kinion: I'm not sure this ordinance is clear. Is it clear?

Chris Brown: It is always in accordance with development or part of a building permit. We don't go out and enforce existing situations.

Peter Tonnessen, Ward 3: Who were the handful of contractors who requested Mr. Petty to request this change?

Alderman Petty: I am not authorized to share their names. Some of them have submitted email records to us and some of them might be in the audience to talk about it.

Peter Tonnessen: If I do a Freedom of Information Act request for your emails I can then get the names?

Alderman Petty: Yes.

A discussion followed about gradient of gravel percentages.

Rob Sharp, Ward 1 stated he was in favor of the ordinance. He believes it is a compromised solution that is affordable.

City Attorney Kit Williams: I want to understand the intent of the drafting. It says exiting alley rights-of way. Does that mean existing right now or existing anytime in the future? Does it mean for tonight?

Alderman Petty: Yes.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Marsh 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 Tennant 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 5914 as Recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: Our last two ward cleanups for the fall are taking place over the next several weeks.

This weekend is the Alabama game and we expect increased traffic. We are trying our game day parking program again in the Dickson Street Entertainment area at our Spring Street Deck.

We have lane closures on I-49 between exits 65 and 69 for Arkansas Highway & Transportation project work.

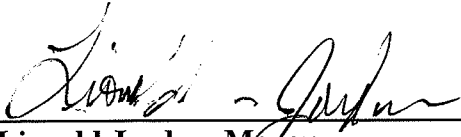
The city is currently taking food truck applications October 3rd through October 31st.

If you need mulch or compost, you can get it on Saturdays from 8 a.m. to noon.

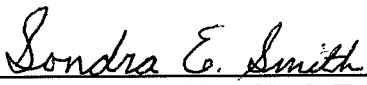
City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 8:28 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk Treasurer