

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 18, 2016**

A meeting of the Fayetteville City Council was held on October 18, 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, Matthew Petty, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Petty arrived at 5:35 p.m.

Alderman Kinion, Tennant, and Schoppmeyer were absent.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

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

Agenda Additions: None

Consent:

Approval of the October 4, 2016 City Council Meeting Minutes.

Approved

Canon Copiers and Maintenance: A resolution to authorize the purchase of Canon Copiers and maintenance from various vendors in variable amounts and for varying unit prices as needed through April 30, 2017 and any future renewal periods, pursuant to a state procurement contract.

Resolution 186-16 as recorded in the office of the City Clerk

Schindler Elevator Corporation: A resolution to approve a five year extended warranty agreement with Schindler Elevator Corporation in the amount of \$5,100.00 per year for repair and maintenance of the Spring Street Parking Deck elevator.

Resolution 187-16 as recorded in the office of the City Clerk

Fayetteville Race Series: A resolution to approve a budget adjustment in the amount of \$16,200.00 to increase funding for the Fayetteville Race Series.

Resolution 188-16 as recorded in the office of the City Clerk

RFQ No. 16-01 Allgeier, Martin and Associates, Inc.: A resolution to award RFQ No. 16-01 and authorize a professional engineering services contract with Allgeier, Martin and Associates, Inc. in an amount not to exceed \$90,280.00 for the Utility Electrical Study project.

Resolution 189-16 as recorded in the office of the City Clerk

2017 Proportional Share Agreement: A resolution to approve the 2017 Proportional Share Agreement with Washington County and cities in Washington County to pay Fayetteville's statutorily required share of our State District Judges' base salaries.

Resolution 190-16 as recorded in the office of the City Clerk

Alderman Marsh moved to accept the Consent Agenda as read. Alderman Long seconded the motion. Upon roll call the motion passed 5-0. Alderman Kinion, Petty, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

Unfinished Business:

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. *At the October 4, 2016 City Council Meeting this ordinance was left on the first reading.*

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

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

Elizabeth Link, Representing Foster Development: We are proposing the senior living community with the assisted living. Your city staff have been very helpful to us. I hope you will consider this tonight.

Don Marr, Chief of Staff stated Alderman Tennant was in Little Rock on business and would not be able to make it to the meeting. Alderman Tennant sent an email stating he did not wish to hold it any longer and would rather it be voted on tonight.

City Attorney Kit Williams: What would happen if you didn't get this approved tonight?

Elizabeth Link: I would have to reapply and it is a three month process. We have already missed the next application date. It would delay us six months.

Lisa Riley stated her parents live on Par Court and they requested for the item to not be rezoned. She voiced concerns about traffic and property values.

Elizabeth Link: The traffic number of peak hour trips for the assisted living and memory care is below 30 in the morning. It is below 20 in the peak hour in the evening. The impact from our project will be negligible on Crossover. From a use of utilities, our project is one of the lowest possible creations of demand that there is.

Alderman Gray: We need to keep in mind that this is an assisted living facility. There probably won't be a lot of congestion at the peak hours of traffic.

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 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Ordinance 5915 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 70 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. *At the October 4, 2016 City Council Meeting this ordinance was left on the first reading.*

Alderman La Tour moved to suspend the rules and go to the second reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Kinion, Tennant, and Schoppmeyer** were absent. **Mayor Jordan** voting yes.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission and staff are supportive of the request.

Alderman Long: I am getting a lot of public input on this. I would like for it to go for the full three readings to give the public enough time for their input.

Meredith Hornburger, 3653 Country Meadow Street voiced her concerns about safety and traffic. She stated more livable conveniences are not needed in the area. She spoke in opposition of the ordinance.

Amanda Quin, 2388 Waterway Drive believes that if it is not managed appropriately it will become another Wedington Drive. She stated if the property gets rezoned, regulations should be made to attract the right businesses. She voiced her concerns about water runoff and safety.

This ordinance was left on the Second Reading

New Business:

Mueller Systems, LLC: An ordinance to waive the requirements of formal competitive bidding and authorize the purchase of a leak detection system pilot program from Mueller Systems, LLC in the amount of \$26,985.00.

City Attorney Kit Williams read the ordinance.

Tim Nyander, Utilities Director gave a brief description of the ordinance. He stated the Water & Sewer Committee unanimously recommended forwarding it to the City Council for approval.

Alderman La Tour: We are locating this system east of Township. Will it monitor the entire system or just that area?

Tim Nyander: It will monitor just that area within the system as a pilot study to see how well it works.

Alderman La Tour: Did we select that area because we suspect a great number of leaks there?

Tim Nyander: It is an older system. We suspect we will find some leaks.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Ordinance 5916 as Recorded in the office of the City Clerk

RZN 16-5566 (1615 E. Huntsville Rd./Harrison): An ordinance to rezone that property described in rezoning petition RZN 16-5566 for approximately 1.53 acres located at 1615 East Huntsville Road from RSF-4, Residential Single Family, 4 units per acre to CS, Community 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 9-0 in favor of the request. Staff recommends approval.

Alderman Marsh: I have not received any negative comments about this from constituents. Overall there has been great support for increasing community services in this area.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Ordinance 5917 as Recorded in the office of the City Clerk

RZN 16-5573 (1030 N. College Ave./Lazenby): An ordinance to rezone that property described in rezoning petition RZN 16-5573 for approximately 0.73 acres located at the Southwest corner of North Street and College Avenue from R-O, Residential Office to UT, Urban Thoroughfare.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. The Planning Commission voted 9-0 in favor of the request. Staff recommends approval.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Long seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

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 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Ordinance 5918 as Recorded in the office of the City Clerk

RZN 16-5576 (1160 S. Happy Hollow Rd./Promolife): An ordinance to rezone that property described in rezoning petition RZN 16-5576 for approximately 3.65 acres located at 1160 South Happy Hollow Road from C-2, Thoroughfare Commercial and RSF-4, Residential Single Family, 4 units per acre to I-1, Heavy Commercial and Light Industrial 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. The Planning Commission voted 8-0 in favor of the request. Staff recommends 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 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

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 6-0. **Alderman Kinion, Tennant, and Schoppmeyer** were absent. **Mayor Jordan** voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. **Alderman Kinion, Tennant, and Schoppmeyer** were absent.

Ordinance 5919 as Recorded in the office of the City Clerk

VAC 16-5571 (West Jupiter Dr./Jupiter Drive): An ordinance to approve VAC 16-5571 submitted by Jorgensen and Associates, Inc. to vacate a portion of Jupiter Drive from McGuire Street to the AEP Substation.

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 of the request. Staff recommends approval.

Justin Jorgensen, Jorgensen and Associates, Inc. requested for City Attorney Williams to give an overview.

City Attorney Kit Williams: We don't have a firm agreement with the applicant at this point about the conditions of approval. They might require some additional work. In the interim since we have done this we've spoken with the Fayetteville Water Department. The main that is currently in operation is part of a loop system. The new main will have to be constructed by the applicant and be ready to go and probably hooked up to our system before the other main is taken out of service. Therefore, it would be unlikely the vacation could go forward until that has happened. There is some intent to do some grading there that might possibly damage the water main. We want to make sure that would not happen until the replacement main has been done. I don't think we should advance this tonight. There is more work to be done.

Alderman Long: I would like to hold this on the first reading.

This ordinance was left on the First Reading

Appeal of LSD 16-5488 the Macey Drive Townhomes: A resolution to grant the appeal of Tim Brisiel of Legacy Ventures and to approve Large Scale Development 16-5488 Macey Drive townhomes.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated the item was denied by the Planning Commission 3-5 and the applicant is appealing. He stated it was denied at the Planning Commission due to concerns about traffic safety. He

recommended traffic be the primary point of conversation. He stated he included 14 conditions of approval for the project. Staff recommends approval.

Alderman La Tour: If there is an emergency and we only have one way in and out and the road is blocked, I would like to have two ways in and out. Why is the Planning Department not concerned with that?

Jeremy Pate: Ideally, we would have two ways or even more ways in and out. There are a number of neighborhoods that only have one way in and out in our city. Our policy now, as adopted by City Council, is to have a high degree of connectivity. We want streets to connect to one another as another means of access. In this particular case you have a property that doesn't lend itself to a lot of those access points. It is at an end of a neighborhood that was already fully developed and essentially has one access point to Shiloh Drive. As a city we are bound to only require infrastructure improvements that are relative in terms of impact and influence to the development being proposed. In an ideal world we would ask for another street connection to have another point of access to Mount Comfort Road. The expense and the burden of placing that upon the applicant is too much for the size of the development being proposed.

Alderman La Tour: When I look at the map there is no development between this proposed development and Mount Comfort. It looks like it would be a straight shot up to Mount Comfort to the north to put in a road and bridge. It may be cost prohibitive. I'm an advocate of evaluating cost and benefits. It concerns me we don't have and aren't requiring another way out. It looks like we could have another way out.

City Attorney Kit Williams: That is probably a good question for the applicant.

Alderman Long: Before staff recommended in favor of this, has anyone from the Planning Department driven through after 5:00 p.m. when people are home from work? What I have noticed while driving through the neighborhood is that cars park on the street. It narrows the street and if there was an accident it would prevent an emergency vehicle from being able to enter the neighborhood. It concerns me a great deal. Has anyone looked at that?

Jeremy Pate: City staff visited the site on a couple of different occasions when we were doing the traffic analysis. I don't know what time they visited the site. Probably not after working hours.

Tim Brisiel, Legacy Ventures: We have worked diligently with Planning and Engineering staff. We have come up with a proposal that meets or exceeds all of the development requirements in the City of Fayetteville. The Planning staff recommended approval to the Planning Commission. Most of the conversation at the Planning Commission was about accidents and safety within the development itself. Sergeant Craig Stout pulled all the accident data that occurred within the development. We compiled all our findings and found there is no factual data to substantiate the claim there is a safety issue within that Pine Valley community itself. Since 2011 there's been 13 accidents. All 13 accidents involved a moving vehicle hitting a parked car, parked trailer, mailbox, and privacy fence. There were no injuries. The average estimated damages from the police reports are a thousand to two thousand dollars. Since being denied at Planning Commission we had a meeting with Planning and Engineering staff. The meeting was to determine if there was anything

else we could do to make the situation safer. A recommendation was made to put up some additional signage.

Alderman Long: Just because we haven't had an after hour emergency where an ambulance or fire truck couldn't get through the neighborhood doesn't mean one won't happen. My biggest concern is we don't have another entrance or exit from the neighborhood.

Tim Brisiel: We are looking at accident data within the Pine Valley community. There weren't any accidents that occurred in the one way in. All of the accidents occurred within the subdivision. In the event that a road is blocked it is easy to go around.

Alderman Long: I have been in the neighborhood quite a bit lately. An accident could occur anywhere in that neighborhood.

Tim Brisiel: It could. An accident could occur anywhere.

A discussion continued about cars being parked on the street off the main entrance to the neighborhood.

Alderman La Tour: The only communication I had from my constituents was against this development, which generally does not phase me. I'm generally in favor of development. What would it cost to build a road north to Mount Comfort?

Tim Brisiel: Millions of dollars. It would be cost prohibitive to build a bridge to cross that creek with the floodplain.

Alderman La Tour: I'm sorry to hear that. I understand geography and physics have some limitations. What you are proposing to build are townhouses. Are these like duplexes with an upstairs?

Tim Brisiel: They are single family attached townhomes. They are about 1,250 square feet to 1,350 square feet. They will be finished out really nice. They will rent for \$1,250 a month or we will sell them. They are two stories.

Alderman La Tour: Does the existing neighborhood have townhouses?

Tim Brisiel: The existing neighborhood has duplexes.

Alderman La Tour: Any single family dwellings in the existing neighborhood?

Tim Brisiel: No, sir.

Alderman Long: When you turn into the neighborhood and turn south, there is an access easement. You can tell it is an abandoned road. Is that owned by the same property owner? That could easily tie into the road just south of that.

Tim Brisiel: I think it is owned by a bank. I'm not exactly sure. The reason the road stops there is because of a creek. It is cost prohibitive to cross the creek. The city has evaluated and looked at different options to extend Shiloh Drive for connectivity to the south to Wedington. It is cost prohibitive. The city can't do it because of the creek.

Alderman Long: I knew we had some sort of easement there.

Jeremy Pate: There are some existing rights-of-way that are platted, but not built here. There is a trail that was constructed here and will eventually tie into our overall trail system for west Fayetteville. There's not a street connection. Mr. Brisiel is correct that we have looked at a few bridge assessments. We continue to look at the possibility of connecting Shiloh.

Alderman Long: There is a stub out at the end of the street in the neighborhood and you can tell there was a road.

Tim Brisiel: I really would like to find a secondary way in there. We are working with the Parks Department and have some tentative plans to extend the trail system over to Shiloh Drive.

Alderman Marsh: As a note to staff, it would be helpful if we could show the creeks and Streamside Protection area on documents. It would help with these discussions. This is adjacent to the Hamstring Trail and our trails are accessible by emergency vehicles. If there was an emergency and the access point was blocked, an emergency vehicle could reach the development through that trail.

Tim Brisiel: I'm happy to provide the proposed plat for the trail extension that Matt and I have been working on.

Alderman Marsh: If we had a good trail connection planned as an emergency access route it would alleviate some of my concerns.

Jeremy Pate: Is that right-of-way stubbed out to the property line so it could be extended for some reason in the future if money ever became available?

Tim Brisiel: Yes.

Jeremy Pate: There is the opportunity here with this public street. It is stubbed out so the street could extend further west potentially or if money became available and priority was placed upon this.

Martha Clark stated she was a 25 year resident of west Fayetteville. She is concerned about traffic and high density housing. She spoke in opposition of the resolution.

Renee Hearon stated she was a 17 year resident. She is concerned about traffic and safety. She spoke in opposition of the resolution.

Betty Phillips, 1936 North Pine Valley Drive stated if the item passes she wants the city to take some responsibility to ensure the neighborhood remains safe. She wants lower speed limits and signs saying that children are playing.

Matt Rhoad, 3064 Marigold Drive stated his concerns about traffic and safety. He spoke in opposition of the resolution.

Tim Brisiel: We are definitely open to any additional measures such as crosswalks, signage, and speed bumps to make the neighborhood safer.

City Attorney Kit Williams: You have heard from several residents here. Have you ever attempted to have a meeting with the residents yet?

Tim Brisiel: I have not.

City Attorney Kit Williams: It might be in your best interest to have a meeting. There are only five out of the eight alderman here and you require five votes to prevail on your appeal. If you asked to have this tabled tonight so you have a chance to meet with residents that might be helpful.

Tim Brisiel: I am open to that.

Alderman Long stated after talking with people in the neighborhood he doesn't believe signs will fix the problem for public safety. He has concerns about the extra traffic and not having two exits. He stated he is supporting the Planning Commission's decision.

Alderman Marsh: I would like the opportunity to drive the neighborhood and access the condition before I make a decision.

Alderman Marsh moved to table the resolution to the November 1, 2016 City Council meeting. **Alderman La Tour** seconded the motion. Upon roll call the motion passed 4-1. **Alderman Gray, Marsh, Petty, and La Tour** voting yes. **Alderman Long** voting no. **Alderman Kinion, Tennant, and Schoppmeyer** were absent.

This was a procedural motion. According to the City Council Rules of Order & Procedure this motion takes a majority of Council members present for passage.

This resolution was tabled to the November 1, 2016 City Council meeting.

Amend §157.03 and §157.04: An ordinance to amend §157.03 **Annexation and Zoning Map Amendments** to include Planned Zoning Districts and to replace §157.04 with a new notification requirement if an indefinitely tabled rezoning ordinance is removed from the table.

City Attorney Kit Williams read the ordinance.

Alderman Long gave a brief description of the ordinance.

City Attorney Kit Williams: Section 1 was my idea as I was looking for a place to put the suggestion by Alderman Long. I noticed 157.04 Planned Zoning District needed to be changed. I talked with Jeremy and Andrew about this and they agreed it should be the same zoning notifications as regular. I take no position on Section 2, but regardless of what you decide to do with Section 2, Section 1 needs to remain.

Alderman Petty: Usually whenever we bring something back to the agenda it's because something has changed. Very often that means we amend the rezoning request to a different designation. In that circumstance would we still be able to do that and the sign reflect the amended version?

City Attorney Kit Williams: I think it would be. This is fairly restrictive. It is only when you have tabled indefinitely a rezoning decision, which is rare. Normally you table them to the next meeting. If it is indefinitely tabled then that is when this would kick in.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Petty seconded the motion. Upon roll call the motion passed 6-0. Alderman Kinion, Tennant, and Schoppmeyer were absent. Mayor Jordan voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Ordinance 5920 as Recorded in the office of the City Clerk

Amend Chapters 161, 162, and 164: An ordinance to amend Chapters 161 and 162 to rename and replace "Cottage Housing Development" with "Cluster Housing Development"; to rename Chapter 164 to **Supplementary Zoning Regulations and Specialized Development Requirements**, to replace §164.22 **Cottage Housing Development** with §164.22 **Cluster Housing Development** and make further amendments to §164.22.

City Attorney Kit Williams read the ordinance.

Alderman Petty gave a brief description of the ordinance. He stated the amendments allows a range of building types and a range of settings under fee simple transactions. He is hopeful to see these going forward because they should fit in with the developments the city already has.

Alderman La Tour: I am inclined to support this. It gives greater flexibility and is innovative. The more variety we have in the market, the more we serve our people. Not everything in the package is to my liking. The design standards we are requiring I would rather see left to individual taste. I don't want to shackle the architecture profession in our city with having to do it our way or you can't do it at all. We don't want everything looking the same. If we leave people free to choose their own preferences we might achieve the same goal without the imposition of a standard.

Alderman Long: I plan to support this. Do you think we should vote on this tonight with Ward 3 not being represented here?

Alderman Petty: At Agenda Session no one really had any issues with this. It isn't anything urgent. I believe the ordinance has been vetted very well by the Planning Commission and staff. I am fine either way with what the Council would like to do tonight. The quicker we can get this on the books, the quicker people can take action with it.

Alderman Marsh: This is a great step in helping our ordinances better align with our 2030 City Plan goals. I received no negative public comment about this. I am comfortable with passing this tonight.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion failed 3-2. Alderman Gray, Marsh, and Petty voting yes. Alderman La Tour and Long voting no. Alderman Kinion, Tennant, and Schoppmeyer were absent.

This ordinance was left on the First Reading

Appeal of CUP 16-5558 the WRMC Cell Tower: A resolution to grant the appeal of Smith Communications for CUP 16-5558, Futrall Cell Tower, to amend the CUP to allow the cell tower to be constructed up to 150 feet tall.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. The Planning Commission tabled this item twice. The primary discussion was about the cell tower being compatible with the area. He stated the cell tower would be well outside the radius of residential use. The Planning Commission approved the application with a height limit of 120 feet. The maximum height that is allowed within the city is 150 feet. Staff recommended against the proposal.

City Attorney Kit Williams: This is an unusual situation that hasn't happened in the city before. We have an approved cell tower and yet it is not quite as high as the applicant would like and they have appealed the approval. The only issue for the City Council is whether or not you will agree with the applicant that the cell tower should be higher than 120 feet or limit them to 120 as the Planning Commission did.

Dave Reynolds, Smith Communications: We need the extra 30 feet. We have submitted paperwork from Verizon's engineering that at a level of 120 feet it doesn't cover the areas they

want to cover. It doesn't work at 120 feet for one carrier and it is absolutely undoable for any kind of colocation. This site is in a geographical area that is in the center of other towers and is a very high populated dense usage area. It allows the site to take traffic that is in the medical complex and serve that area. It serves a little bit up towards Fiesta Square and some of the neighborhoods in the area. It takes the traffic off the existing towers that are about 1.5 miles from there and allows overall better service. There are letters from the hospital saying the coverage and service in the area is bad. The extra 30 feet makes it important to get a little more elevation to cover the areas we need too and provide a chance of colocation which is one of the conditions in our approval.

City Attorney Kit Williams: Have you had input from your neighbors?

Dave Reynolds: We have. It has been positive. The extra 30 feet is important to us, the hospital, and the surrounding folks.

Alderman Petty: I was one of the aldermen that signed the appeal letter. I think the 150 feet should be granted. I don't see much of a difference between 120 feet and 150 feet. If there is any public benefit to keeping it at 120 feet it has to be marginal.

Alderman Long: I agree, especially in this location. This isn't probably where you are going to take a great photo of Fayetteville since it is against a backdrop of a lot of large buildings. If we are going to have a large cell tower in town, this is a good spot for it.

Alderman La Tour: I agree with everything that has been said. Why don't you put an American flag on it?

Dave Reynolds: The issue is wind load and lighting.

Alderman Gray: I signed the appeal for discussion tonight. It's not going to make that much difference on the skyline. If we were in Washington Regional and needed reception, we would be very happy we had it. I will be supporting it.

Alderman Marsh: This gives us the opportunity for colocation. If we are going to build the tower, let's get the maximum amount of value out of it as possible. I will vote in support.

City Attorney Kit Williams: That was the position of four of the Planning Commissioners who wanted to approve it at 150 feet. It would likely avoid the necessity of another cell tower having to be built quickly.

Peter Tonnessen, Ward 3 voiced his concerns about rescue helicopters at the hospital due to the pole height, lights not being on the pole, and electronic interference with the navigation equipment. He stated any alderman who had a Verizon account should recuse themselves from voting on the item due to having an interest in improving their service. He spoke in opposition of the resolution.

City Attorney Kit Williams: Our Rules of Order & Procedure have a provision about recusing if you have a financial interest in the outcome of a vote. You can recuse for less direct reasons, such as your best friend coming before the City Council. Being a customer of a business that might

be interested in this is not very important grounds. I don't think that would be a good reason for anybody to recuse in this particular situation. Some of the questions I brought up in my memo were answered at the Planning Commission level. The only real issue you have to decide is if you want the 150 foot tower or leave it at 120 feet as approved by the Planning Commission.

Peter Tonnessen, Ward 3 stated he understood the recusal issue if it were an ordinance of general applicable ability, but this is an exception to an ordinance that has already been agreed to for one company. He stated it is supposedly the one and only time they will ask for it, but doubts that will be the case. He believes it will change the visual aspect of the neighborhood.

City Attorney Kit Williams gave a brief discussion about the history of the pole color and the least obtrusive visual look of the flag pole style.

Alderman Marsh: I am not a customer of Verizon Wireless.

Alderman Long moved to approve the resolution. Alderman Marsh seconded the motion. Upon roll call the resolution passed 5-0. Alderman Kinion, Tennant, and Schoppmeyer were absent.

Resolution 191-16 as recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: The City of Fayetteville is holding public workshops for our Transportation Mobility Master Plan. They are October 22nd through October 25th. The dates and locations are on the city website. We encourage citizen input.

The Project Right Choice is a partnership with Harp's Stores, Northwest Arkansas Tobacco & Drug Free Coalition. The Fayetteville, Springdale, Prairie Grove, and West Fork Police Departments along with the Washington County Sheriff's office are holding a prescription drug take back event. It is on October 22, 2016 from 10:00 a.m. to 2:00 p.m. We encourage citizens who have expired medications to use this event rather than flushing them down the toilet which affects our Water Treatment Facilities.

The tree and shrub giveaway will be at the Fayetteville Square on October 22, 2016 at 7:00 a.m. by Arvest Bank. Bring your water utility bill to show your residency.

The Fayetteville Animal Shelter is having an open house on October 21, 2016 from 10:00 a.m. to 5:30 p.m. The open house is for the new free roaming cat room, puppy nursery, and park improvements as a result from the Lib Horn donations and bequest.

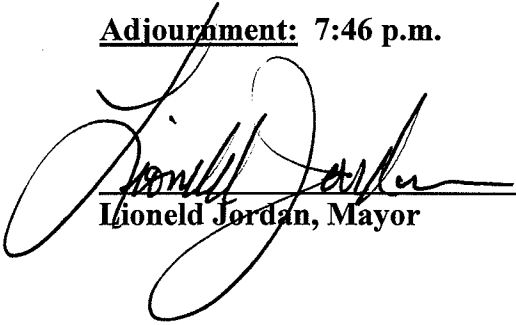
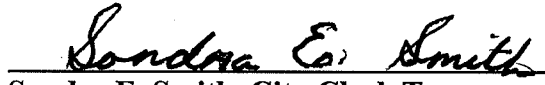
Beginning at the intersection of Dickson and Highland Avenue through the University of Arkansas will be a welcome home parade for Fayetteville's own Savvy Shields, Miss America. It will be on October 22, 2016 at 4:00 p.m.

There will be a ribbon cutting ceremony on October 21, 2016 at 2:00 p.m. to celebrate the Ruppel Road opening. It will be located at Ruppel Road and Persimmon Street near Owl Creek School. It was one of the most expensive projects in our street bond this year to build.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 7:46 p.m.


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