

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
December 20, 2016**

A meeting of the Fayetteville City Council was held on December 20, 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, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Absent: Alderman John La Tour

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Alderman Martin W. Schoppmeyer Jr. Recognition

Mayor Jordan presented a plaque to Martin W. Schoppmeyer Jr. for his years of service as a City Council member. Mayor Jordan stated that Alderman Schoppmeyer has always been thoughtful, courteous, treated others well, and has been wonderful to work with.

Alderman Schoppmeyer: Thank you to the citizens of Fayetteville for allowing me the opportunity to serve as an alderman in Ward 3. Thank you for being so professional and friendly to me during my time here. I am a better person having served.

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

Agenda Additions:

Alderman Tennant moved to add Seven Hills Mission to the agenda. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman La Tour was absent.

Seven Hills Mission: A resolution to express the City Council's support for the Seven Hills Mission to assist the Fayetteville homeless population and to request our citizens to honor this season of giving with a generous contribution to Seven Hills.

Mayor Jordan read the resolution.

Alderman Tennant gave a brief description of the resolution. He stated it was very important for the City of Fayetteville to show support for the Seven Hills Mission organization. He believes the acknowledgement of support by the city will help the shelter to fundraise and get partners from the community to help them.

Seven Hills Mission Representative: I am encouraged by the grant you offered us and the alignment between the city and Seven Hills to address this social issue. We appreciate the vote of confidence. The City of Fayetteville has been phenomenal.

Alderman Gray: This is one of the neatest things we have done. I am happy to be a part of it.

Alderman Long moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed 7-0. Alderman La Tour was absent.

Resolution 236-16 as recorded in the office of the City Clerk

Alderman Long moved to add Repeal §97.083 and Amend §97.086 to the agenda as the last item of New Business. Alderman Tennant seconded the motion. Upon roll call the motion passed 7-0. Alderman La Tour was absent.

City Attorney Kit Williams gave a brief description of the ordinance.

Repeal §97.083 and Amend §97.086: An ordinance to repeal §97.083 **Soliciting Alms** and to amend §97.086 **Vending and Peddling (A)** of the Fayetteville Code.

This item was moved to the last item of New Business

Consent:

There was a brief discussion about removing A.15 PPL 16-5641 (SE of Persimmon & Broyles/Sloanbrooke Sd, Ph. II) from consent for discussion.

Approval of the December 6, 2016 City Council Meeting Minutes.

Approved

Fayetteville Fire Department Donation Revenue: A resolution to approve a budget adjustment in the amount of \$100.00 representing donation revenue from Newk's Eatery to the Fayetteville Fire Department for the annual employee service awards event.

Resolution 219-16 as recorded in the office of the City Clerk

2016 Body Worn Camera Implementation Program Grant Award: A resolution to authorize acceptance of a 2016 Body-Worn Camera Pilot Implementation Program 50/50 matching grant award in the total amount of \$186,496.00, of which \$67,680.00 will be used by the Fayetteville Police Department, with \$73,696.00 to be disbursed to the City of Springdale and \$45,120.00 to Washington County, and to approve a budget adjustment.

Resolution 220-16 as recorded in the office of the City Clerk

2016 Internet Crimes Against Children (ICAC) Grant Award: A resolution to authorize acceptance of a non-matching grant from the Internet Crimes Against Children Task Force Program in the amount of \$10,000.00, and to approve a budget adjustment.

Resolution 221-16 as recorded in the office of the City Clerk

Federal and State Law Enforcement Forfeitures: A resolution to approve a budget adjustment in the total amount of \$63,682.00 recognizing revenue associated with federal and state law enforcement forfeitures.

Resolution 222-16 as recorded in the office of the City Clerk

2017 Jail Services Amended Interlocal Agreement: A resolution to approve the Eighth Amended Interlocal Agreement for Jail Services with Washington County, Arkansas increasing the booking fee from \$60.00 to \$62.00 per prisoner in 2017.

Resolution 223-16 as recorded in the office of the City Clerk

Fayetteville Police Department Donation Revenue: A resolution to approve a budget adjustment in the total amount of \$2,515.00 recognizing donation revenue to the Fayetteville Police Department in support of officer recognition.

Resolution 224-16 as recorded in the office of the City Clerk

Designation of Collector of Fines Assessed in the Washington County District Court: A resolution to designate the Washington County District Court, Fayetteville Department Clerk to be primarily responsible for the collection of fines assessed in this court.

Resolution 225-16 as recorded in the office of the City Clerk

Bid 16-50 Pianalto Construction: A resolution to award Bid No. 16-50 and authorize a contract with Pianalto Construction, Inc. of Tontitown, Arkansas in the amount of \$156,937.00 for construction of the Transportation Salt Storage Facility, and to approve a project contingency in the amount of \$30,000.00.

Resolution 226-16 as recorded in the office of the City Clerk

Animal Services Donation Revenue: A resolution to approve a budget adjustment in the amount of \$27,167.00 representing donation revenue to Animal Services from April through October 2016.

Resolution 227-16 as recorded in the office of the City Clerk

Hogwash Carwash, LLC: A resolution to approve a 50/50 cost share agreement with Hogwash Carwash, LLC for construction of a sewer main along a portion of East Huntsville Road between South Erika Avenue and South Seven Hills Drive at a total cost of \$8,232.00.

Resolution 228-16 as recorded in the office of the City Clerk

Mitchell, Williams, Selig, Gates & Woodyard, PLLC Amendment No. 5: A resolution to approve Amendment No. 5 to the contract with Mitchell, Williams, Selig, Gates & Woodyard, PLLC in the amount of \$20,000.00 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 229-16 as recorded in the office of the City Clerk

City Hall Audio-Visual Renovation: A resolution to approve a budget adjustment in the amount of \$5,921.00 consolidating three project accounts related to the City Hall Audio-Visual Renovation Project and to approve a change order for accounting purposes.

Resolution 230-16 as recorded in the office of the City Clerk

Bid No. 16-63 T-N-T, Inc.: A resolution to award Bid No. 16-63 and authorize a contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$97,560.00 for construction of an access drive, curb and gutter, and parking improvements at Wilson Park, and to approve a project contingency in the amount of \$9,756.00.

Resolution 231-16 as recorded in the office of the City Clerk

PPL 16-5641 (SE of Persimmon & Broyles/Sloanbrooke SD, PH. II): A resolution to approve a Master Street Plan amendment to remove a portion of an unnamed, unbuilt proposed collector street from Persimmon Avenue to Holland Drive.

Removed from Consent for discussion.

Compensation for Elected Officials: A resolution to allow the City Attorney as all other city employees who have attained their top salary range to receive a one-time service award.

Resolution 233-16 as recorded in the office of the City Clerk

Alderman Marsh moved to accept the Consent Agenda with A.15 PPL 16-5641 (SE of Persimmon & Broyles/Sloanbrooke Sd, Ph. II) being removed from consent for discussion. **Alderman Long** seconded the motion. Upon roll call the motion passed 7-0. **Alderman La Tour** was absent.

PPL 16-5641 (SE of Persimmon & Broyles/Sloanbrooke SD, PH. II): A resolution to approve a Master Street Plan amendment to remove a portion of an unnamed, unbuilt proposed collector street from Persimmon Avenue to Holland Drive.

City Attorney Kit Williams: It was brought to my attention that it doesn't go all the way down to Holland Drive. It goes approximately one-half mile. We need a motion to amend this to the resolution I sent you on December 15, 2016.

Alderman Gray moved to amend the resolution recognizing it does not go all the way down to Holland Drive. It goes approximately one-half mile. **Alderman Marsh** seconded the motion. Upon roll call the motion passed 7-0. **Alderman La Tour** was absent.

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated staff is recommending approval as did the Planning Commission.

Alderman Gray moved to approve the resolution. **Alderman Marsh** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman La Tour** was absent.

Resolution 232-16 as recorded in the office of the City Clerk

Unfinished Business:

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. *At the October 18, 2016 City Council meeting this resolution was tabled to November 1, 2016. At the November 1, 2016 City Council meeting this resolution was tabled to November 15, 2016. At the November 15, 2016 City Council meeting this resolution was tabled to December 6, 2016. At the December 6, 2016 City Council meeting this resolution was tabled to December 20, 2016.*

Jeremy Pate, Director of Development Services gave a brief description of the resolution. He stated staff is recommending approval.

Tim Brisiel, Developer: We have had emergency responders and staff out there. Everybody agrees there is no issue with this particular development and recommends it for approval. This is my position as well.

Alderman Long: Out of all the developments that have gone through in Ward 4 and developers I've worked with, you have been so responsive and made yourself available.

Alderman Petty: If the Council votes to grant the appeal tonight, will all the Conditions of Approval that staff recommended be in effect?

Jeremy Pate: They would. This is an appeal of the Planning Commission's decision. Our recommendations would be with the Conditions of Approval that is included in our staff report. There has been discussion in previous meetings about reducing the number of units. That is not included in this particular action, currently. It has not been formerly offered by the developer. If it is still on the table it would need to be added as an amended additional Conditions of Approval.

City Attorney Kit Williams: The resolution ends with approval is subject to Conditions of Approval recommended by the Planning Department.

Alderman Petty: Refresh our memory on what you offered last meeting in terms of reducing the numbers of units.

Tim Brisiel: We reduced it from 58 units down to 44.

City Attorney Kit Williams: Do you accept that as a Condition of Approval if this is approved tonight?

Tim Brisiel nodded in agreement.

City Attorney Kit Williams: You might want to amend the resolution to reflect the requirement not to build in excess of 44 units.

Robin Byers, 1879 Pine Valley Drive voiced her concerns about the safety of children playing in the neighborhood due to traffic.

Mike Emery, Ward 4 voiced his concerns about having one way in and one way out, on-street parking, and traffic.

Mayor Jordan: Chief Dayringer, I know you all looked at this. Do you see any issues with getting an emergency vehicle in and out of there?

Chief David Dayringer, Fire Department: There are no code issues with the development. The Fire Marshal assured me the streets were wide enough for us to get in and out. They are mostly 30 feet wide which is wider than a lot of other places in the city. We are comfortable we can get around in that development.

Alderman Long: There are a lot of different turning radiuses and cars parked on the streets close to those turning radiuses. Do you think an engine could get through there with cars parked on both sides?

Chief David Dayringer: If there was a problem with it, the Fire Marshal would have told me about it. There may be a problem here or there with the turning radius, but nothing we couldn't overcome.

Alderman Long moved to amend the resolution to include the requirement not to build in excess of 44 units. Alderman Marsh seconded the motion. Upon roll call the resolution passed 7-0. Alderman La Tour was absent.

Todd Walters, Ward 4 spoke about traffic concerns in the neighborhood.

Mayor Jordan: Did staff go out during the evening hours and look at the area?

Chief David Dayringer: The Fire Marshal went out at 5:45 p.m. and stayed until 6:30 p.m. measuring the streets.

Alderman Long: One way in and one way out of a neighborhood this size does not work at this time. If after the connection of Mount Comfort is made, I would be happy to vote for it at that time. I can't vote for it tonight because of the safety issues.

Alderman Petty: There hasn't been any significant accidents reported in the neighborhood since it has been built. The data supports the notion that the streets are very safe for traffic. The developer has been magnanimous with his application, particularly with the reduction and agreeing to all the conditions staff has put forward.

Alderman Marsh moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 5-2. Alderman Tennant, Schoppmeyer, Gray, Marsh, and Petty voting yes. Alderman Long and Kinion voting no. Alderman La Tour was absent.

Resolution 234-16 as recorded in the office of the City Clerk

Amend §33.350 Purpose and Establishment and §33.351 Composition: An ordinance to amend §33.350 Purpose and Establishment and §33.351 Composition of Article XXIII Active Transportation Advisory Committee of the Fayetteville City Code to expand the scope of the committee's duties, to recommend that the City Council appointee should also serve on the Transportation Committee, and to establish a time for the election of the committee chair. *At the December 6, 2016 City Council meeting this ordinance was left on the Second Reading. At the November 15, 2016 City Council meeting this ordinance was left on the First Reading.*

Alderman Marsh requested to make an amendment. She stated an opportunity to improve the language was discussed during a committee meeting. She read the amendment.

Alderman Marsh moved to amend a section to read, "Major sidewalk projects, trails and the active transportation component of the projects where major changes to existing street cross sections are planned. The review will be at the preliminary stage and will include typical cross sections and preliminary horizontal and vertical alignments." Alderman Tennant seconded the motion. Upon roll call the motion to amend passed 7-0. Alderman La Tour was absent.

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

City Attorney Kit Williams read the ordinance.

Alderman Marsh: The Active Transportation Advisory Committee is comprised of a group with a lot of expertise. They are frequent trail and sidewalk users. We have noticed that in trying to fulfill the committees' duties, we have not been as effective as we could be if we were to see projects earlier in the design process. We have been seeing a lot of projects that are pretty far along. In order to make changes it would be costly and eat up a lot of staff time. We want to see the projects earlier on and have the opportunity to give constructive feedback before there is a lot of design time spent on the project. This will yield a much better output for the city as a whole.

Alderman Petty: Could you please be more specific about the projects that have generated this ordinance.

Alderman Marsh: We just saw the new bike lanes added to Sunbridge and that was when it was about ready to be painted. There was the climbing lane added on Cleveland and it was shown to us right before it was to be paved. There was sidewalk improvements planned for North College and the ones where they went to South School. We want to have the opportunity to give feedback earlier on to make it a more successful project.

Alderman Kinion: When we have had this discussion at the Nominating Committee with people who have reapplied to be back on the committee. They feel like they have an opportunity to be a voice, but don't have the opportunity to study the issues in a timely manner. Since we take our advisory committees seriously, we want everyone to feel like their participation in an advisory committee is valuable. They feel like they are rushing through things. I am supportive of this.

Alderman Long: In Section 2 (A) it says, "One (1) voting members of the committee shall be a member of the City Council. It is recommended that this person also serve on the Transportation Committee." This gets into a little bit of how the Mayor does his appointments. I would like for this ordinance to be considered for its own merits and not interfere in anyway with how the Mayor makes his committee appointments. I would like to see the last sentence removed from the ordinance.

Alderman Marsh: We included that as a recommendation. We feel we are lacking the continuity between the Active Transportation Committee and the regular Transportation Committee. As a consequence there is a breakdown in communication. We feel we are getting behind on projects

because we are not seeing everything that comes through. If there was a liaison between the committees we would be more effective.

Alderman Long: When the City Council officially recommends something, generally the administration follows that recommendation when it's in a resolution. I want to amend to remove the last sentence and be supportive of the ordinance if the amendment passes.

Mayor Jordan: Right now we are in the process of putting our committees together. I make the appointments on those committees. The Council always sets up the committees and I go along with the way you all want to set up your committees, then I appoint accordingly. I try to create a balance of four.

Don Marr, Chief of Staff: Your other rules set your committees for Transportation Committee. Someone would have to serve a dual role if you did the recommendation. It wouldn't be a fifth member on Transportation Committee because it is set by ordinance. One of the appointed four would be appointed to the Active Transportation Committee as its member, rather than today, it is a fifth member.

Mayor Jordan restated the options.

Alderman Marsh: The committee understands there may need to be some shuffling. Our intent was to have someone advocating for Active Transportation concerns on the Transportation Committee. We don't have two transportation systems. We need the committees talking to each other, not operating in separate bubbles. There has been a lack of good communication flow.

Alderman Long: Do we have the same staff members on the Active Transportation Committee as the Transportation Committee?

Chris Brown, City Engineer: It is essentially the same staff members. I do attend at times. Matt Mihalevich is the actual staff member and Terry Gulley usually is there as well. The way the ordinance is set up is the recommendations flow from the Active Transportation Committee to the Transportation Committee. Staff would take what those recommendations are and put them on the agenda for the Transportation Committee and present those. It would flow okay from a staff level, but there's the question about the Council liaison.

Alderman Kinion: We are making it more complicated. If we are going to ask citizens, which many of them have expertise and experience to bring advice in an Advisory Committee, it gives them more of an opportunity to be active in the development of our city. Transportation is the most vital mover of interest in economic, residential, and business development. This seems to make a connection we currently don't have. If we are going to ask someone to give their valuable time to be on an advisory committee, then we need to be sure they have the correct communication channels to be heard in a timely manner. It is a valuable step in this important committee. I am supportive of the way it is written by Alderwoman Marsh.

Don Marr, Chief of Staff gave a brief overview of the committees and their responsibilities. He stated he doesn't see a problem changing it or keeping it the same because it is Council's

committees. He stated we are committing to start earlier and have it be an input point in terms of an advisory aspect, as opposed to the final plan review. He stated the City Council gets it from a final plan review. He wants to make sure the scope is clear and that it remains advisory because the only people elected to be approvers are City Council members. He stated a commitment of getting items earlier to the committee for review.

Alderman Gray: All of our committees are open. We have lots of folks who attend the Transportation Committee. Rather than come forward with a complete new ordinance, the Active Transportation Advisory Committee group could decide to have someone attend the Transportation Committee meetings. This will allow them to know what is happening. If the Advisory Committee had been attending, they would recognize that many of the things they want are things we have fought for.

Alderman Marsh: Every one of us are on a great number of committees already. The idea we are going to go to yet an extra committee when we are already working a considerable amount of hours at this job and have other jobs is asking a bit much. The few times I have attended the Transportation Committee we get seated with the public and not at the table. We are allowed to make one comment just like the public. There isn't a real opportunity to interact and engage.

Alderman Gray: I was misunderstood. I meant anyone of the commission members could attend the Transportation Committee, not necessarily a Council member. They could take the information back to the Active Transportation Advisory Committee.

Alderman Long moved to amend Section 2 (A) to delete the last sentence, "It is recommended that this person also serve on the Transportation Committee." Alderman Petty seconded the motion. Upon roll call the motion to amend passed 5-2. Alderman Tennant, Schoppmeyer, Long, Gray, and Petty voting yes. Alderman Marsh and Kinion voting no. Alderman La Tour was absent.

Alderman Petty: Would this require preliminary review by the committee for all sidewalk projects and on-street bicycle facilities?

Alderman Marsh: Yes, all major sidewalk projects, trails, and active transportation components.

Alderman Petty: What does major mean?

Alderman Marsh: We did not want to set a threshold. When talking with staff it was things we are planning in advance and they are going to be spending design time on. Not standard things where they are going to refer to your standard street section.

Matt Mihalevich, Trails Coordinator: A lot of our projects that we do in house aren't going to have design plans that we would be able to present. We didn't want to have to go through those steps of coming up with those plans to show smaller sidewalk replacements and things like that. It would have a design plan that we would have to show.

Alderman Petty: How often does the Active Transportation Advisory Committee meet?

Alderman Marsh: Monthly. We were meeting every other month, but we had so much business and our meetings were running three or four hours.

Alderman Petty: Matt Mihalevich's answer addressed a little bit of my concern, but not all the way. I have procedural concerns about how this might slow down projects. The Transportation Committee and Planning Commission have experienced the same frustrations about certain major projects as the Active Transportation Advisory Committee has. The administration has heard us and is taking steps to address that actively. At the Transportation Committee is where the decisions get made because we are the elected representatives and tasked with doing that. Most of our meetings are poorly attended. Most of the business we are dealing with is highly technical and contractual. The Transportation Committee has done a very good job of pushing boundaries and comfort levels in trying to change the standards that we have. I am optimistic as we move forward in time it will result in better projects. Our citizen committees should be free to discuss things sometimes without influence from staff or aldermen that are on the committee. There might be a better way procedurally to accomplish what is being sought. Does staff have clarity on this?

Chris Brown, City Engineer: We modeled this ordinance after some of the language in the Transportation Committee ordinance. One of the things that got taken out was at the discretion of the administration. There are times when we feel we need to bring things to the Transportation Committee. We use our discretion. The responsibility on detailed designs is the staff and administration and not on the City Council. You are the policy body. Sometimes we do need guidance for things. We make those decisions as to when we need guidance from the committee or from the public to discuss these types of things. The Transportation Committee has been used as a sounding board in a public forum. The Active Transportation Committee could be similar to that for more different types of projects such as sidewalks and trails. There are people on the Active Transportation Committee who have a passion and knowledge for these types of projects and can be beneficial in some cases. There could be situations where we have to back up a month and it takes us another month to get through a process. That is a concern from a staff standpoint in making sure projects are moving forward in a timely manner. Discretion of the administration is really something to be considered.

Don Marr gave a brief discussion about the sidewalk plan working the way it should have in getting information earlier to the Active Transporting Committee. He stated as staff members it our job to manage and make sure it doesn't get captive in an advisory committee.

Alderman Marsh: If you walk or ride your bike around our town you realize the state of our active transportation infrastructure is nowhere near where it needs to be. It is dangerous in some places. Our 2030 City Plan goal that we will grow a livable transportation network is a high priority for our citizens. Our committee thinks this is one way that cost our city absolutely nothing and we can try to improve our internal processes so we deliver a better result to our citizens. This current administration has been very cooperative with our needs, but future administrations may not be the same. If we are going to be making any major improvements, we have good communication with the staff to tell us what is major and what is not. We don't want to hold up the process. We want to improve the process.

Alderman Kinion: This is not an attempt to hijack anything that is done by the Transportation Committee. This is to give an opportunity for better communication to an advisory committee. They have expertise and there is no reason we should not validate that individual to show them respect for what they bring to the Active Transportation Committee. This is a recognition of a need in this specific committee because it is such an important part of the growth of our city as we move forward.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 4-3. Alderman Long, Marsh, Kinion, and Petty voting yes. Alderman Tennant, Schoppmeyer, and Gray voting no. Alderman La Tour was absent.

This ordinance failed.

VAC 16-5582 (41 E. North St./Andona Properties): An ordinance to approve VAC 16-5582 submitted by Andrea Fournet to vacate the unbuilt Pike Street right-of-way between Highland and Pollard Avenue. *At the December 6, 2016 City Council meeting this ordinance was left on First Reading.*

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

City Attorney Kit Williams read the ordinance.

Andrea Fournet, 1214 North Shady Lane gave a brief description of the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5935 as Recorded in the office of the City Clerk

New Business:

RFP No. 16-08 ACS Playground Adventures, Inc.: A resolution to award RFP No. 16-08 and authorize a contract with ACS Playground Adventures, Inc. in the amount of \$506,500.00 for the demolition and removal of old playground equipment and installation of new playground equipment, including the David Lyle Bayyari Music Playground, at Wilson Park, and to approve a project contingency in the amount of \$50,650.00.

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

Alderman Petty: It looks great and I can't wait see it happen.

Mayor Jordan: Alderman La Tour pulled this from consent and he is not here. Do you all want to wait for him to be here?

Alderman Long: I sat on the selection committee and it had a very thorough review.

Alderman Long moved to approve the resolution. Alderman Tennant seconded the motion. Upon roll call the resolution passed 7-0. Alderman La Tour was absent.

Resolution 235-16 as recorded in the office of the City Clerk

The Belford Group: An ordinance to waive the requirements of formal competitive bidding and approve a one (1) year contract with the Belford Group with an option to renew for up to four (4) additional one (1) year terms to provide online recreation program registration and pavilion reservations to residents and visitors at no cost to the city.

City Attorney Kit Williams read the ordinance.

John Crow, Recreation Superintendent stated he was available to answer any questions.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5936 as Recorded in the office of the City Clerk

Stormwater Education Agreement: An ordinance to waive the requirements of formal competitive bidding through 2019 and approve a one-year contract with the Northwest Arkansas Regional Planning Commission in the amount of \$41,505.61 for a Stormwater Education Program for 2017.

City Attorney Kit Williams read the ordinance.

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

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

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. **Alderman Gray** seconded the motion. Upon roll call the motion passed 7-0. **Alderman La Tour** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Kinion: From the Water & Sewer Committee standpoint it has always been a good relationship. It is necessary for us to remain active in this partnership in order to be approved by ADEQ and EPA. The committee supports this.

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

Ordinance 5937 as Recorded in the office of the City Clerk

Amend §39.10 Water and Wastewater Damage Claims: An ordinance to amend §39.10 **Water and Wastewater Damage Claims** by enacting a new subsection (4) to (b) *Requirements for Property Damage Claims to be Eligible for Compensation*.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the ordinance.

Alderman Petty: Can you imagine a circumstance where it may be reasonable and fair to award damages greater than \$20,000?

City Attorney Kit Williams: That provision is already in the code by a super majority. You can actually go higher than that. I don't remember ever going above \$20,000.

Damage Claim Applicant stated it was his law firm building that had the leak. He appreciated Kit doing the legal work. He stated he hopes the city will adopt the ordinance. He went on to describe the water leak.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Don Marr: For the public watching this and for the record, this is only for the Water and Wastewater claims. It is not for all other claims.

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

Ordinance 5938 as Recorded in the office of the City Clerk

Standing or Walking on a State or Federal Highway Prohibited: An ordinance to repeal §74.04 Hitchhiking Prohibited and enacting a new §74.04 **Standing or Walking on a State or Federal Highway Prohibited** and to amend §74.05 of the Fayetteville Code to clarify permit requirements for organizations and individuals who wish to walk or stand within a principal arterial roadway.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the ordinance. He made a suggestion to make one change on Exhibit A. He stated he originally had an individual's insurance be at \$50,000. He requested for it to be amended to \$500 to make it be more feasible.

Alderman Marsh moved to amend an individual's insurance be \$500. Alderman Petty seconded the motion. Upon roll call the motion to amend passed 6-1. Alderman Tennant, Schoppmeyer, Gray, Marsh, Kinion, and Petty voting yes. Alderman Long voting no. Alderman La Tour was absent.

Angela Belefond, Citizen: If I violate this ordinance and get arrested for panhandling, what is the charge and punishment for the crime? When you become homeless and you are in the judicial system you have a lot harder time getting back into employment. I know we are trying to keep people safe, but this could create barriers for people to be homed or employed again.

City Attorney Kit Williams: It is neither a misdemeanor nor a felony. It is a violation of a city ordinance. No imprisonment possible. I don't think the state keeps any records of violations because they are only violations of city ordinances. It is not for panhandling. It is for getting into the street when you shouldn't be. If they are charged with a state crime that could be a misdemeanor and could go on their record.

Angela Belefond: What's the fine for a violation of the city ordinance?

City Attorney Kit Williams: It is the standard fine we have for any ordinance violation, which is up to \$500.

Alderman Marsh: The last speaker raised some interesting points. I would like to hold it here unless this is a time sensitive issue.

City Attorney Kit Williams: It would be an issue. I have learned our ordinances are being looked at. Suits are being prepared against us for trying to restrict somebody's freedom of speech by restricting their right to solicit. I would like for this to be passed tonight as a little bit of armor for us and keep us from getting sued. If there are changes you would like to propose for the future that don't involve freedom of speech issues, then I would be willing to entertain them. I would like for this one and the one that has been walked on be passed tonight so we don't face litigation before our next City Council meeting.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Marsh: How does this affect protestors who want to gather and maybe shut down traffic as part of their political speech?

City Attorney Kit Williams: This ordinance wouldn't have a true effect on them. There are already other ordinances about streets. Normally you can obtain a special event permit to do that. Streets are somewhat of a public forum, but not a total public forum where you can take them over anytime you want and block traffic.

Alderman Petty: I hope we will continue to be lenient with people crossing roadways. There may not be a crosswalk for an extended length on the roadway.

City Attorney Kit Williams: There is a state jaywalking statute that the police don't go out of their way to enforce, unless it is an unsafe situation.

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

Ordinance 5939 as Recorded in the office of the City Clerk

Repeal §97.083 and Amend §97.086: An ordinance to repeal §97.083 **Soliciting Alms** and to amend §97.086 **Vending and Peddling (A)** of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the ordinance.

Alderman Petty: Will this in anyway affect our concession or food truck permits?

City Attorney Kit Williams: No, it should not affect that.

Alderman Marsh: How will this affect people who are using Craig's List and they don't want to draw strangers to their home to complete a transaction? Instead, they may opt to meet at a public place, such as the city parks.

City Attorney Kit Williams: It is banned right now. If this would ban it, I guarantee you it's already banned. This really limits what we are prohibiting people from doing in the parks. An argument could be made that the sale was already made over the internet and they were just exchanging. I don't think that would be a problem.

Don Marr: The Police Department has a Craig's List exchange site. It is available by our police station in a filmed area.

City Attorney Kit Williams: It is the safer place to go.

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

City Attorney Kit Williams read the ordinance.

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

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

Ordinance 5940 as Recorded in the office of the City Clerk

Mayor Jordan: If the winning party on a Council vote decides to reconsider a vote, how long do they have to do that?

City Attorney Kit Williams: They can consider it either during the meeting on which the vote occurred or the next meeting before it is adjourned.

Mayor Jordan: I'm probably going to reconsider the Active Transportation vote.

City Attorney Kit Williams: This is an unusual situation because the Mayor chose not to vote. Someone might ask if he is really on the prevailing side and in my opinion, yes he is. If he had chosen to vote and vote yes, it would have passed. He chose as the prevailing side, no. Even though I have never seen that before, I do believe he has the right.

Alderman Long: As a point of order, we should be careful about this moving forward. I disagree with our City Attorney that if someone doesn't vote, I think that is more of an abstention. Per memos received from the City Attorney, someone who abstains can't make a motion to reconsider. I caution us against doing that.

Mayor Jordan: If I decide to sponsor an ordinance and bring it back, can I do that?

City Attorney Kit Williams: You certainly can. I think you can do a motion to reconsider. You did not really abstain. An abstention is just not voting, it is saying I have a conflict of interest. In this particular case the Mayor stated he was not going to vote. It is clear he was with the prevailing side and as a member of the prevailing side could bring it back in a motion to reconsider or you can bring back a new ordinance.

Mayor Jordan: I will bring back something in two weeks.

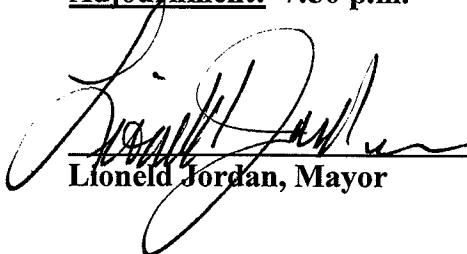
Announcements:

Jeremy Pate, Director of Development Services stated city offices will be closed on Friday, December 23, 2016 and Monday, December 26, 2016 to observe Christmas Eve and Christmas Day. The Animal Shelter will also be closed on those days to the public. Emergency calls can still come into dispatch. A brief schedule of Trash and Recycling Services was discussed. He thanked Alderman Schoppmeyer for his service to City Council.

City Council Agenda Session Presentations: None

City Council Tour: None

Adjournment: 7:50 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer