

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 Sarah Bunch
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
May 2, 2017**

A meeting of the Fayetteville City Council was held on May 2, 2017 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, Mark Kinion, Justin Tennant, Sarah Bunch, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Sarah Marsh and Matthew Petty were absent.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

CH2M Hill Engineers, Inc.: Ten (10) Years Accumulative Safety Award

Alderman Kinion: We were pleased to be notified that CH2M Hill was given an award for 10 years of no time out for accidents. This is incredible considering the amount of operations they manage for the City of Fayetteville.

Don Marr, Chief of Staff: They received the Governor's Safety Award for safe work place of 10 years with no loss time accident.

Alderman Kinion: We appreciate the way you run our operations. It says a lot for the integrity you bring to the operations for our Wastewater Treatment plants. Thank you.

Mayor Jordan: You have been great partners of this city. You have done a fantastic job over the many years that you have run the Wastewater Treatment plants. You have made our jobs a whole lot easier. Thank you all very much.

Duyen Tran, CH2M Sustainability Director stated she appreciated the Mayor, Council, and everyone for acknowledging their success in safety. She stated if it wasn't for a few accidents that were not their fault, they would have been over 30 years without any incidents. She recognized individuals at CH2M for the great work.

Agenda Additions:

Consent:

Approval of the April 18, 2017 City Council Meeting Minutes.

Approved

South Delta Aviation, Inc. Three Year Lease Agreement: A resolution to approve a three year lease agreement with South Delta Aviation, Inc. for the airport hangar at 4568 South School Avenue and office space in the Airport Terminal Building at 4500 South School Avenue for rent in the amount of \$4,200.00 per month.

Resolution 97-17 as recorded in the office of the City Clerk

T-N-T, Inc. Change Order No. 3: A resolution to approve Change Order No. 3 to the contract with T-N-T, Inc. of Van Buren, Arkansas in the amount of \$21,096.00 for road and parking improvements at Wilson Park, and to approve a budget adjustment.

Resolution 98-17 as recorded in the office of the City Clerk

Fayetteville District Court Access Control and Video Surveillance Systems: A resolution to approve a budget adjustment in the amount of \$30,000.00 recognizing revenue from the court automation fund for upgrades to the access control and video surveillance systems used by the Fayetteville District Court.

Resolution 99-17 as recorded in the office of the City Clerk

Hawkins-Weir Engineers, Inc.: A resolution to approve a professional engineering services agreement with Hawkins-Weir Engineers, Inc. in an amount not to exceed \$71,820.00 for engineering services related to the elimination of the Masters Sewer Lift Station, and to approve a project contingency in the amount of \$7,182.00.

Resolution 100-17 as recorded in the office of the City Clerk

Washington Regional Medical Center: A resolution to waive and release all rights of first refusal within paragraph 5.(c) of the Real Estate Conveyance Agreement of October 4, 2011 and the October 13, 2011 Quit Claim Deed conveying the property to Washington Regional Medical Center.

Resolution 101-17 as recorded in the office of the City Clerk

University of Arkansas - Razorback Transit: A resolution to approve a one year contract with the University of Arkansas - Razorback Transit with automatic renewals for up to four additional one year terms in an annual amount of \$250,000.00 for the provision of public transit services within the City of Fayetteville.

Resolution 102-17 as recorded in the office of the City Clerk

Condemnation Litigation Settlement Agreement: A resolution to authorize a settlement agreement with Drake Street Property, LLC; 1155 Properties, LLC; and RPM1 Properties-Fayetteville, LLC a/k/a RPM1 properties, LLC concerning condemnation litigation filed for the water and sewer relocations associated with Arkansas Highway and Transportation Department Project BB0414 - Interstate 49 and Highway 112 Interchange.

Resolution 103-17 as recorded in the office of the City Clerk

Alderman Kinion moved to accept the Consent Agenda as read. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Bunch, La Tour, Long, Gray Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

Unfinished Business: None

New Business:

Bill of Assurance Amendment (354 N. Double Springs Rd./Pinnacle Bank): An ordinance to replace a Bill of Assurance to allow the development of the 9.7 acre parcel at 354 Double Springs Road with up to 9 attached dwellings units and 35 single-family detached houses.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff recommends approval.

Tom Hennelly, Crafton Hull: I appreciate staff working with us to expedite in getting this on the agenda. We hope you will make a favorable decision on this.

Alderman Long: I have heard no input from constituents on this.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Kinion seconded the motion. Upon roll call the motion passed 6-0. Alderman Bunch, La Tour, Long, Gray Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

City Attorney Kit Williams read the ordinance.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Tennant seconded the motion. Upon roll call the motion passed 6-0. Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

Ordinance 5969 as Recorded in the office of the City Clerk

Cullers Sewer Extension: A resolution to approve an extension of the city's sewerage system beyond the city limits to a proposed development near Hughmount Road and Lierly Lane.

Tim Nyander, Utilities Director gave a brief description of the resolution. He stated the Water & Sewer Committee voted 3-1 to forward the item to the City Council for consideration with the recommendation of approval.

Alderman Kinion: Alderman Marsh was the dissenting voice on this proposal. She isn't able to be here this evening. I would like to request this to be tabled until the June 6, 2017 meeting to allow a more complete discussion on the issues.

Alderman Kinion moved to table the resolution to the June 6, 2017 City Council meeting. Alderman Bunch seconded the motion. Upon roll call the motion to table passed 6-0. Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

This resolution was tabled to the June 6, 2017 City Council meeting.

University of Arkansas SEFOR Sewer Agreement: A resolution to approve an agreement with the University of Arkansas to accept wastewater from the University's Southwest Experimental Fast Oxide Reactor facility into the city's sanitary sewer system for treatment.

Tim Nyander, Utilities Director gave a brief description of the resolution. The Water & Sewer Committee voted 4-0 to forward this item to the City Council with no recommendation.

Alderman Kinion: At the Water & Sewer Committee there was discussion on the item with no recommendation because we need full discussion on contaminants that may be in the water.

Alderman La Tour: What type of facility is the University of Arkansas dismantling?

Tim Nyander: It's an old nuclear reactor they purchased. It never did generate electricity. It was an experimental research and they are dismantling it. It was closed down several years ago.

Alderman La Tour: It is a nuclear reactor we are talking about?

Tim Nyander: Correct.

Alderman La Tour: This is wastewater from that reactor?

Tim Nyander: It is ground water that's filled the basement. It is not wastewater from a process.

Alderman La Tour: If the University is allowed to discharge this wastewater in our sanitary sewer system on campus, would it go to our west or east sewer plant?

Tim Nyander: East sewer plant.

Alderman La Tour: After we have gone through the process, the water that is left over goes into which reservoir?

Tim Nyander: It goes into the White River and into Beaver Lake.

Alderman La Tour: Where does our drinking water come from?

Tim Nyander: Same place.

Alderman La Tour: We are dumping nuclear wastewater into our drinking supply. The state says that is okay?

Tim Nyander: Yes, they do.

Alderman La Tour: I'm not a chemist, but I feel uneasy about putting anything nuclear into what I'm going to drink. I feel some of our citizens feel the same way.

Alderman Long: I have received correspondence from people in the City of Fayetteville. What about all the testing that has been done with radioactive material throughout the years, that at the time they didn't understand the consequences? Our drinking water source is one of those things we can't do without as a city. What happens if we find out something years down the road that we don't know at this point in time? I would hate to be one of the people that voted to support

discharging that into our drinking water system, especially into Beaver Lake. I've read the data and I understand the State of Arkansas is saying it is safe. The constituents I have heard from don't feel that in the long range we know enough information. I won't be supporting this tonight.

Alderman Kinion: I would like to get more information from CH2M Hill who gave us the initial information. I'd like them to point out that this is not from a nuclear reactor, but it is from an adjacent building. I need clarification on that. Can you give us a comparative on the level of contaminant and what that means based on any other standard of water that is released into our system?

Denise Georgiou, CH2M Hill: This water is considered under the regulations exempt. This is why it was considered unrestricted for proper release or disposal. It is about a thousand times less than the regulated amount for going to sewers. We are talking lots of zeroes. It is really low amounts. I don't want to scare people about radiation, but there is radiation we get through the sewer system in a lot of other ways that are allowed on a regular basis. Most hospitals have a nuclear medicine department. You are going to get radioactive waste from them that is more of a source than what this is. This is contaminated ground and rain water. It's a very small amount of radioactive water.

Alderman Kinion: This is not from the nuclear reactor, but it is from a building adjacent to the nuclear reactor?

Denise Georgiou: That is correct.

Alderman Kinion: This is ground water that has come in due to the rain and seepage. There was no radioactive material in these buildings at the time of the operation?

Denise Georgiou: As far as I understand. There may be somebody from the University of Arkansas who knows more than I do about that.

Mike Johnson, University of Arkansas Associate Vice Chancellor for Facilities stated the State of Arkansas is an agreement state. He stated the Arkansas Department of Health enforces the regulations put forth by the Nuclear Regulatory Commission in the State of Arkansas. He stated it is not just the State of Arkansas testing and making a determination. It is a determination that is made across the entire country by the Nuclear Regulatory Commission. He stated that a number of states are agreement states and they enforce those rules. He gave a brief description of the reactor and facilities. He stated in 2011 they had some water that had some slight Tritium contamination and a little bit asbestos contamination, well below threshold for disposal and municipal sanitary waste treatment plants or disposal to the ground. He spoke about working with the city and CH2M Hill in 2011. He stated that the levels are well below threshold for disposal. He spoke about people receiving radiation every day, naturally occurring. He stated Tritium is naturally occurring in very small amounts in the ground and around us. He stated it is transportable in water. He stated there will be no asbestos in the water. He stated they would not do anything that exposed or put anyone at risk. He stated it will go to the White River through the Nolan Plant and a manhole at Baum Stadium. It will be done under the watchful eyes of CH2M and the City Water & Sewer Department. He recommended and requested for the agreement to be approved.

Alderman Gray: What are our alternatives? I know the University will dispose of it in some other way if we do not allow them to do this. Where would the University dispose of it and what would it cost?

Mike Johnson: Technically, we could pump it out on the ground and move on. We did not do that in 2011. We want to be very transparent. We want to do the same thing in 2017. We chose the Municipal Wastewater Treatment Plant. It is set up to handle those type of things through their process. This is why they set the threshold levels across this country for different levels of chemicals, drugs, and radiological material that come through our wastewater. It is about \$20,000 for us to haul back and forth from SEFOR to the manhole. Other than pumping it to the ground using it for dust control, we could put it on a hayfield or haul it somewhere. We would be hauling water around to dispose of water.

Alderman Long: We have heard about different forms of radiation that people are exposed too. There have been documented cases around the world of people being born with birth defects from exposure to radiation. We haven't heard any examples of Tritium being put into wastewater systems for cities in these levels. Do you have any specific examples of Tritium?

Mike Johnson: People have been hurt and disfigured from massive amounts of radiation, not the .0001 that we are talking about with this current Tritium. I have not looked up to see what somebody that has had massive amounts of Tritium exposure. Tritium occurs naturally in our daily lives.

A discussion followed about Tritium levels.

Alderman La Tour: You mentioned an option would be to pump it out onto the ground. If you chose to do that, which water shed would it go into?

Mike Johnson: I think that where we are in Strickler, it would probably be Lee Creek, which is Fort Smith. I would have to go back and look at the charts. The quantities we are talking about would normally be released by irrigation. Irrigation does not run off and it goes into the ground.

Alderman La Tour: You are saying the water is safe. If it goes into Lee Creek and then to the Fort Smith water supply, no big deal. Right?

Mike Johnson: Wherever it goes, it's a big deal until we have tested, met thresholds, and convinced it is safe. It's always a big deal until we prove it is safe based on known scientific evidence.

Alderman La Tour: You are misinterpreting my term, big deal. What I am referring to is, you are saying it is safe. So, it's not going to cause a lot of trouble is what I mean, because we have such low levels.

Mike Johnson: I am saying it is safe and it will not expose human beings to adverse consequences.

Alderman La Tour: I am gratified to hear that. Just the same, I would rather put it in somebody else's water supply than our city water supply. You say it is safe wherever it goes, but just the same, why take the risk. Put it somewhere else so it filters through the ground system and be safe when it goes to their filtration system.

Mike Johnson: I would never say, let's not do it here, let's do it somewhere else. That is putting your head in the sand. We aren't going to do anything, anywhere that is unsafe.

Alderman La Tour: Glad to hear that. There are some people in our city that are not convinced it's unsafe. According to your test and ADEQ's test, with the technology they have available to them today, yes it is safe. Maybe in 50 to 100 years, we don't know.

Mike Johnson: I don't want to get into speculation like that. Who knows what's going to happen in 100 years from now.

Alderman La Tour: I agree. Why take the risk?

Mike Johnson: We aren't taking a risk with the science as we know it today.

Tom Brown, 2031 West Main Street stated he is a Navy veteran and worked with nuclear weapons. He is opposed to the idea of discharging anything radioactive into the drinking water supply. He spoke in opposition of the resolution.

Ed Brocksmith, Tahlequah, OK stated that this was an irresponsible proposal. He believes the University of Arkansas has put the City of Fayetteville in an awkward position. He spoke in opposition of the resolution.

Gary Kahanak, South Washington Fayetteville stated science is one thing that makes the nation great. He believes fears should be calmed and data looked at. He gave a brief overview of Tritium. He spoke in favor of the resolution.

Jessie Green, White River Waterkeeper for the Waterkeeper Alliance stated her concerns about contamination levels.

Alderman La Tour spoke about the nuclear power plant in New York called, Three Mile Island. He stated it was reported in the press that it was the worst nuclear disaster in United States history, but many times the press does not put things in perspective. He spoke about radiation levels from the incident. He stated even though it may have been the worst nuclear accident, it was a nominal thing and the media made it larger than it was. He stated in this situation maybe the amounts of contaminants are small and meaningless, but why put it into our drinking water. He believes there are alternatives. He spoke about transporting to Little Rock as a better alternative of disposal.

Alderman Tennant: I believe we are overreacting a bit. I've looked at studies that have shown if you drank multiple times Tritium in 2 liters of water for a day for 75 years straight, you had a one in a million chance of developing cancer. I don't see this as something flowing and glowing through an active reactor into the White River. I do question everything when it comes to my

children. If I thought this was going to harm them, I would not do it. I appreciate the concern, but I believe it's not going to be that harmful. I wouldn't be opposed to doing this.

Alderman Kinion: I have a background in science. When I looked at this I was pleased with the data we received to support this. It is more responsible to release this in a system so we can monitor it. This way we will know where the water is going, what the radioactive levels are, and have a scientific understanding of the basis of the release. The public outcry and alarm is based on semantics. Anytime you hear radioactive, there is a semantic reaction of alarm. I'm looking at the science methodology. It is with great concern and care that I looked at the data presented to the Water & Sewer Committee. Based on the real science, I do not see that we are putting any undue risk on the watershed. There is power in the knowledge. I will support this.

Alderman Long: People swim in the White River and Beaver Lake. I want to be 100% sure the decision we make here tonight won't have a negative impact in the future. I can't say that for sure at this point. There is uncertainty of the exact levels in all of the water because there's only been two samples taken recently and that causes concern. The ecosystems could be impacted. As a city we have been concerned about trace elements of minerals that our wastewater facility discharges into the Illinois River. Trace elements of radioactive material should be something we are concerned about. I haven't heard a good reason of this not being taken to another controlled environment. I don't see a good reason not to transport this to a controlled environment outside Fayetteville and not discharge this into our drinking water systems. I will be supporting my constituents who have been concerned about this as well.

Mayor Jordan: Tim, in 2011 we treated water that came from the very same SEFOR?

Tim Nyander: Yes, sir. We treated 36,000 gallons.

Mayor Jordan: It was at higher levels than this one?

Tim Nyander: Yes.

Mayor Jordan: It was still under the safe levels?

Tim Nyander: Yes, sir.

Mayor Jordan: This time it is safer than that was?

Tim Nyander: That is correct.

Mayor Jordan: I want it on the record that this is not the first time that we have taken SEFOR water. In 2011, it was deemed as safe at that point in time. Right?

Tim Nyander: Yes, sir.

Mayor Jordan: How exactly is this distributed?

Tim Nyander stated it would be discharged into the parking lot manhole as it was in 2011. He gave a brief description of the process.

Mayor Jordan: It's going to go through treatment?

Tim Nyander: Yes, sir.

Mayor Jordan: The scientific data aligns up with what the University has said?

Tim Nyander: Correct.

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

Resolution 104-17 as recorded in the office of the City Clerk

Amend §51.146 Backflow Prevention: An ordinance to amend §51.146 **Backflow Prevention** of the Fayetteville Code to more closely conform to the latest American Water Works Association and Arkansas State Plumbing Code.

City Attorney Kit Williams read the ordinance.

Tim Nyander, Utilities Director gave a brief description of the ordinance. The Water & Sewer Committee voted 3-1 to forward the item to the City Council for consideration with a recommendation for approval.

Alderman Kinion stated this would bring the City of Fayetteville in line with the State Plumbing Code and requested for it to be considered.

Alderman La Tour: How many instances of contamination do you know of that has resulted in the lack of backflow preventers?

Tim Nyander: I can't tell you of any from the lack of a backflow preventer. I can give you three instances where a backflow preventer did cause us to remain safe. On March 31, 2008 City Hall experienced a contamination when a pump malfunctioned causing brown water throughout the hot water system. It was contained only in City Hall because the backflow preventer didn't get into the public system. In April 28, 2008 a city employee discovered a propane tank connected to a water hose which was connected to the water supply at a residence. The hose bib had a vacuum breaker which is a backflow preventer and the water supply was protected. On August 29, 2015 a local industry discovered an amber colored soapy water. Cooling tower chemicals were getting into the factory's drinking water due to a drop in water pressure. The public water supply was protected by parallel backflow preventers. It is important that the backflow preventers are in place.

It is important they get tested because a backflow preventer is a mechanical object and should be checked on an annual basis.

Alderman La Tour: The examples you gave us were city and industry. You didn't give us any homeowner examples.

Tim Nyander: When you get a problem in a resident system, then it is probably already too late.

Alderman La Tour: Probably is, but since 1828 when we founded our city we don't have any examples of consumers causing problems.

Alderman Kinion: In looking at national data, there are examples of death and illness due to backflow failure into the public water system. This is a measure to prevent that type of danger, especially with water sprinkler systems and pool systems where chemicals or a biological contaminant might be used. We don't have to wait for a death or illness to be reported to understand there is a real issue looming if there is contaminant put directly into a public water line that's going from house to house.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 6-1. Alderman Bunch, Long, Gray, Kinion, and Tennant voting yes. Mayor Jordan voting yes. Alderman La Tour voting no. Alderman Marsh and Petty were 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 6-1. Alderman Bunch, Long, Gray, Kinion, and Tennant voting yes. Mayor Jordan voting yes. Alderman La Tour voting no. Alderman Marsh and Petty were absent.

City Attorney Kit Williams read the ordinance.

Alderman Long: It says that the records of the backflow preventers shall be kept by the Water & Sewer Department. Does this mean every time the backflow preventer is inspected by a board certified person that the City of Fayetteville has to receive a copy of the report?

Tim Nyander: That is correct.

Alderman Long: How will we determine where we need to review this or who needs to submit those reports to us?

Tim Nyander: The certified backflow tester who already gives reports to us on the backflow preventers that are being tested, we are doing a program where it's simplified where they can electronically send us the test results.

Alderman Long: What about the people who are not currently having their backflow preventers tested? How do we know they need one?

Tim Nyander: We will get letters out to the customers letting them know. We will find out if they have a backflow preventer or what their system is. This is the first place we will have to start because this has never happened before.

Alderman Long: What if they don't respond?

Tim Nyander: Then we will try again.

Alderman Long: I'm just assuming in the City of Fayetteville there will probably be backflow preventers we don't know about.

Tim Nyander: We know that we have 6,300.

Alderman Long: Do we think there is a gap between what is in existence in Fayetteville and what we know and what we don't know?

Don Marr, Chief of Staff: If they have followed the correct permitting process of the city when putting in a pool or having their irrigation system approved as part of their single family home, then we have a record of those who have had backflow preventers installed.

Alderman Long: Right, but maybe before that city process was installed and codified, there could be homes that have or don't have backflow preventers. What is the enforcement mechanism to identify all of those or are we just hoping they will respond to the survey?

Tim Nyander: Are you asking what the enforcement is if they don't get them inspected?

Alderman Long: No. The enforcement of making sure they report that they have one of the scenarios that would require them to have a backflow preventer.

Mayor Jordan: I believe what Alderman Long is asking, is if they haven't admitted they have a backflow preventer, how do you track them?

Don Marr: We read meters of every single water and sewer account of the city on a monthly basis through nine billing cycles. We have the opportunity through our meter readers to evaluate households to do an inventory of those that might have backflow preventers.

Alderman Long: Even if they aren't at the site of the meter?

Tim Nyander: A backflow preventer has to be above grade so it will be noticeable. It's either going to be close to the meter or it's going to have its own meter.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. **Alderman Bunch, Long, Gray, Kinion, and Tennant** voting yes. **Alderman La Tour** voting no. **Alderman Marsh and Petty** were absent.

Ordinance 5970 as Recorded in the office of the City Clerk

RZN 17-5728 (1640 S. Hanshew Rd./Wm. Lindsey): An ordinance to rezone that property described in Rezoning Petition RZN 17-5728 for approximately 1.25 acres located at 1640 S. Hanshew Road from RSF-4, Residential Single-Family, 4 units per acre to C-2, Thoroughfare Commercial.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. The Planning Commission voted 9-0 in favor of the request. Staff recommends approval.

Alderman Long: On the application for rezoning it says the parties that have a financial interest in this rezoning request are the applicant and the City of Fayetteville. How does the City of Fayetteville, other than future tax revenue, have a financial interest?

Jonathan Curth: I did not note that when we were processing the application. I don't know other than the property owner himself having any financial interest in that. That may be an error.

A discussion followed about zonings for the area.

Billy Lindsey, Applicant requested for the two adjacent parcels for his business to be rezoned to C-2. He believes it would benefit the community. He stated the use of the parcels for a parking lot would make it safer for all who drive on Hanshew Road. He stated it would enable service vehicles to enter the property to deliver vehicles and supplies instead of backing in off the street which is dangerous and unimproved.

Alderman Long requested to know how the City of Fayetteville would have a financial interest.

Billy Lindsey stated for future tax revenue.

Justin Hoover, 1859 Hoot Owl Lane spoke in favor of the rezoning.

Alderman Tennant 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 Bunch, La Tour, Long, Gray, Kinion, and Tennant** voting yes. **Alderman Marsh and Petty** were absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray 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 Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

Ordinance 5971 as Recorded in the office of the City Clerk

RZN 17-5733 (SE of Crossover Rd. & Hearthstone Dr.): An ordinance to rezone that property described in Rezoning Petition RZN 17-5733 for approximately 1.79 acres located at southeast corner of Crossover Road and Hearthstone Drive from R-O, Residential Office, and RSF-4, Residential Single Family, 4 units per acre to NS-G, Neighborhood Services, General.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff is recommending approval. The Planning Commission voted 8-1 in favor of the request.

Alderman Tennant: There are several reasons to hold this here tonight and not vote on it. We don't have a full Council tonight. I have talked to multiple people in that area, both for and against. We owe it to the decision and the rezoning itself to take our time on this. Pushing it through would be a mistake. I ask that we hold it here. Under the zoning as it is now, someone could build an office building or an office complex, at what height?

Jonathan Curth: Up to 60 feet. There is a requirement however when you are adjacent to single family districts that you be limited to a 20 foot cap. You can increase that one foot for every foot further away you move from the single family district. There is not a similar requirement for the NS-G zoning district.

Alderman Tennant: I am mostly concerned with the houses behind the brick wall that are right behind this land. Blocks away from this I think traffic will be minimal. If I was going to build an office complex there would you say that setback rule is from the neighborhood or from that brick façade? I would need to go closer to the road to go up any more than that?

Jonathan Curth: Correct. One foot away for each one foot in additional height up to 60 feet maximum height.

Alderman Tennant: This zoning as it currently sits doesn't necessarily require closer to the road or behind the road, whereas the other one encourages building closer to the road with parking in the back? Is that correct?

Jonathan Curth: The residential office zoning district does allow for 15 foot setback if the parking lot is not in between the building and the street. If the parking lot is located between the building and the street the setback is increased to 50 feet.

Alderman Tennant: You couldn't build as high if you set it back because of the brick fence that separates this land from the development?

Jonathan Curth: Potentially. It depends how the site was laid out.

Alderman Tennant: It is important to remember what could go there if we leave it alone. Some people think the best idea is to replicate what is across from Hearthstone, which is a small one story office complex. Residential development there is going to be difficult because of the marketability.

Alderman La Tour stated he would like to give the public the opportunity to speak. He stated he's pro-development and pro-growth in Fayetteville, but more than that he is pro-free markets and choice for citizens. He believes variety in the marketplace serves people the best.

Blake Jorgensen, Jorgensen & Associates stated this zoning is a down zoning and feels it is appropriate for the area. He stated he has tried to meet with neighbors to discuss their concerns. He stated he was okay with it being left on the first reading.

Bob Anderson, 4844 Lavendon Place spoke about compatibility issues. He spoke in opposition of the rezoning.

Craig Collins, 3089 Waterstone Drive stated he lives alongside the brick wall that separates the subdivision from the proposed rezoning change. He is concerned because it will be in his back yard. He spoke in opposition of the rezoning.

Alderman Tennant thanked Mr. Collins for his statements.

Stevan Vowell, 4868 Trails End Lane spoke about the peaceful neighborhood he lives in. He spoke in opposition of the rezoning. He requested to present a Powerpoint presentation.

Alderman Long moved to approve a citizen presentation. Alderman La Tour seconded the motion. Upon roll call the motion to approve the citizen presentation passed 6-0. Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant voting yes. Alderman Marsh and Petty were absent.

Stevan Vowell presented a Powerpoint presentation.

Peter Tonnessen, 3500 Hearthstone Drive spoke about the quiet neighborhood he lives in. He passed out packets he prepared. He spoke in opposition of the rezoning.

Alderman Long: On Mission Boulevard there is a Tim's Pizza and Eureka Pizza just off the main highway and nestled in the neighborhoods. Can you make any comments on how this would be different?

Peter Tonnessen: That is a winding road and a little bit hillier. I encourage Council to take a tour of the area. It is a wide open area. If anything is built there it is going to affect the whole experience of people visiting the Botanical Garden. There isn't a Botanical Garden across the street from Mission.

Alderman Long: There is a very large cemetery.

Alderman Tennant thanked Mr. Tonnessen for his presentation. He stated he wanted to go look at a 60 foot office building and the parking spaces it might have. He spoke about the types of businesses that could possibly be in the area.

Peter Tonnessen spoke about the high turnover rate of restaurants.

Mark Scalise, 3268 Hearthstone stated he knew when he built his home in the neighborhood there would be office buildings at the entrance. He stated the current R-O zoning is acceptable and changing the rules in the middle of the game isn't fair or right. He spoke in opposition of the rezoning.

Heather Hudgens, 3081 Hearthstone Drive spoke about traffic noise and accidents. She spoke in opposition of the rezoning.

Suzanne Zamora, 3103 Waterstone spoke about flooding. She spoke in opposition of the rezoning.

Max Parker, Owner gave a historical overview of the land. He stated there is no financial gain for him if it is rezoned. He stated the neighborhood could buy it and keep it as green space. He spoke about the misconceptions that people have with rezoning it from R-O to NS-G. He believes it will be a nice development and be compatible. He stated restaurants are allowed in R-O. He spoke in favor of the rezoning.

Alderman Gray: Could we have a listing of what all can be built in R-O?

Mayor Jordan: You sure can.

Jonathan Curth: R-O permitted uses includes city wide uses by right which includes things you would find in a right-of-way, government facilities, single family dwellings, and two family dwellings. Limited business allows non-residential retail, restaurants up to about 3,000 square foot depending on the exact use. Most of them are capped at 2,000 square feet. It allows offices and cluster housing developments. Conditional uses under R-O are city wide uses by condition use permit. These are utility facilities, cultural and recreational facilities, manufactured home parks, eating places which are restaurants with no size limitations, neighborhood shopping goods, home

occupations, multi-family dwellings, wireless facility, clean technology facility, and small scale production. There are no agriculture uses allowed in the R-O zoning district.

Alderman Gray: Restaurants up to any size?

Jonathan Curth: Up to 2,000 square feet. By conditional use you can request a restaurant with no building size limitation. It would be conditional use. It's not allowed by right.

A brief discussion followed about the type of building that could be built there.

Tammy Cagle, Jasper Lane spoke about family atmosphere of her neighborhood. She spoke in opposition of the rezoning.

A discussion followed about leaving it on the first reading.

This ordinance was left on the First Reading

VAC 17-5753 (SE Corner of Crossover Rd. & Hearthstone Dr./CP Properties): An ordinance to approve VAC 15-5753 for property located at southeast corner of Crossover Road and Hearthstone Drive to vacate a portion of a drainage easement and a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Senior Planner gave a brief description of the ordinance. Staff is recommending approval.

Alderman Long: Due to the drainage issue they were having, would it be wise to keep the drainage easement on the frontage to Crossover or do you think it was from the major flooding we had?

Jonathan Curth: I can't speak to that. The City of Fayetteville Transportation Department signed off. They are the ones who maintain our drainage easements. Any development in the city is subject to our water detention and water quality standards. Any impervious surfaces that are created on a property must be captured on that property and gradually released.

City Attorney Kit Williams: After this major flooding event we had, it might not be bad to let the engineers take another look at it.

A discussion followed about allowing a review by engineers.

Don Marr, Chief of Staff: We are fielding and investigating hundreds of issues from our recent 100 year rain event. It wouldn't hurt us to wait and have our flood engineer look at this as one of his review topics.

Alderman Tennant: That is a good reason to wait for a little while longer. When you get the sign off on a piece of property for a development and it's a parking lot, is that taken into the decision to vacate? You said you don't think it would aggravate it, but is it taking into consideration a parking lot might be there?

Jonathan Curth: I don't know if that consideration goes into the vacation sign off itself. That does get factored into any development that would come through.

This ordinance was left on the First Reading

Fayetteville Commerce Park Land Sale: A resolution to sell about 5 acres of land in the Commerce District to AR-Canna, LLC for \$75,000.00 contingent on AR-Canna, LLC receiving a medical marijuana cultivation facility license from the State of Arkansas.

Chung Tan, Chamber of Commerce Director of Economic Development gave a brief description of the resolution. She stated the applicant requested for the item to be tabled to the next City Council meeting. She stated revisions need to be made.

Don Marr, Chief of Staff: As a part of those changes, we also identified a high pressure gas line that runs on the perimeter of this parcel that we are dealing with as a part of this transaction. It is important for this to wait for two weeks.

Alderman Long moved to table the resolution to the May 16, 2017 City Council meeting. **Alderman Gray** seconded the motion. Upon roll call the motion to table passed 6-0. **Alderman Bunch, La Tour, Long, Gray, Kinion, and Tennant** voting yes. **Alderman Marsh and Petty** were absent.

This resolution was tabled to the May 16, 2017 City Council meeting.

Announcements:

Don Marr, Chief of Staff stated the last Spring Ward cleanup will be May 6, 2017 from 7:00 a.m. to 2:00 p.m. It will be at the Recycling & Trash Facility on Happy Hollow Road and at the Church of Christ at 310 West Center Street. He spoke about items that could be disposed of. He spoke about disposal of E-Waste items.

The City of Fayetteville is seeking entries for the 2017 Sustainable Landscape competition.

Fayetteville is celebrating International Compost Awareness Week. We are having a tour of our compost facility on May 6, 2017 at 10:00 a.m.

Mayor Jordan: We turned on the new light on Ruppel Road and MLK today. Tomorrow, I will be leaving for the Congress for New Urbanism in Seattle. I will be there until Saturday. If any of you have had flooding problems, staff will be here to answer questions.

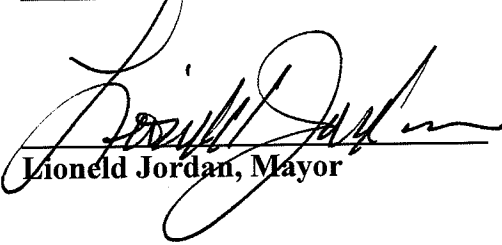
Don Marr: Anytime we have a significant natural disaster event, we collect information about the cost that the city incurred in case we hit the minimum thresholds for FEMA reimbursement. While the city doesn't anticipate our operations will hit that, we are trying to gather information from private property owners who had water in their structures. We can provide that information to the county for their total consideration.

City Council Agenda Session Presentations:

Agenda Session Presentation - Fayetteville Urban Forestry Advisory Board Annual Report.

City Council Tour: None

Adjournment: 8:50 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer