

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 16, 2017**

A meeting of the Fayetteville City Council was held on May 16, 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, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Sarah Bunch, John La Tour, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

Ozark Regional Transit Periodic Report

Jeff Hatley, Public Information Officer presented the Ozark Regional Transit report.

Mayor Jordan requested for Mr. Hatley to come and visit with him more about Ozark Regional Transit.

2017 First Quarter Financial Report

Paul Becker, Chief Financial Officer gave a brief summary of the 1st Quarter, 2017 Financial Report. He stated at this point in time we are doing very well and increasing in the General Fund.

He stated we are not up as much as last year, but still positive for the year. He is looking forward to some good results in the next quarter.

Consent:

Approval of the May 2, 2017 City Council Meeting Minutes.

Approved

National Institute of Governmental Purchasing Scholarship: A resolution to approve a budget adjustment recognizing a scholarship received by the Purchasing Division from the National Institute of Governmental Purchasing in the amount of \$2,500.00.

Resolution 105-17 as recorded in the office of the City Clerk

Bid #17-28 DFI Technologies, Inc.: A resolution to award Bid #17-28 and approve a contract with DFI Technologies, Inc. for one year's mailing services at an approximate cost of \$279,369.00 with automatic renewals for up to four additional one year terms.

Resolution 106-17 as recorded in the office of the City Clerk

Bid #17-31 Foundation Specialties, Inc.: A resolution to award Bid #17-31 and authorize a contract with Foundation Specialties, Inc. in the amount of \$34,918.00 for the installation of micropile foundations for the Cato Springs Trail Bridge No. 3, and to approve a project contingency in the amount of \$3,491.80.

Resolution 107-17 as recorded in the office of the City Clerk

RFP #17-11 Challenger Teamwear: A resolution to award RFP #17-11 and authorize a contract with Challenger Teamwear for the purchase of youth soccer uniforms in the amount of \$14.96 plus applicable taxes per uniform for the Fall 2017 and Spring 2018 seasons, with an automatic renewal at the same price for the Fall 2018 and Spring 2019 seasons.

Resolution 108-17 as recorded in the office of the City Clerk

City of Johnson Memorandum of Understanding: A resolution to approve a Memorandum of Understanding between the City of Fayetteville and the City of Johnson to transfer control, operation, ownership and maintenance of the traffic signal at the Joyce Boulevard and Wilkerson Street intersection in Johnson.

Resolution 109-17 as recorded in the office of the City Clerk

Cisco Systems, Inc.: A resolution to authorize the purchase of Cisco Systems, Inc. Data communications products and services through authorized resellers, pursuant to a State of

Arkansas and Western States Contracting Alliance - National Association of Procurement Officials contract.

Resolution 110-17 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 unanimously.

Public Hearing:

Raze and Removal 265 West Nonnamaker Drive: A resolution to order the razing and removal of a dilapidated and unsafe structure on property owned by Harold and Rosetta Harmon located at 265 West Nonnamaker Drive in the City of Fayetteville, Arkansas, and to approve a budget adjustment.

City Attorney Kit Williams: We have a public hearing scheduled and the person whose property it is has asked that he have the opportunity to table the item. I ask that you suspend the rules so we can go straight to the public hearing.

Alderman Marsh moved to suspend the rules and move the Public Hearing before Unfinished Business. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

Harold Harmon, Property Owner requested for the item to be rescheduled to the June 6, 2017 City Council meeting.

Alderman Marsh: What is the reason for your request?

Harold Harmon: I had an operation and I'm not in the position to do this. I just got out of the doctor's office.

Alderman Marsh moved to table the resolution to the June 6, 2017 City Council meeting. Alderman La Tour seconded the motion. Upon roll call the motion to table passed unanimously.

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

Agenda Additions:

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. At the May 2, 2017 City Council Meeting this resolution was tabled to June 6, 2017.

This resolution was tabled at the May 2, 2017 City Council meeting to the June 6, 2017 City Council meeting.

Alderman Kinion requested for the resolution to be removed from the table and added to the agenda.

Alderman Kinion moved to suspend the rules and add to the agenda. Alderman Long seconded the motion. Upon roll call the motion passed unanimously.

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

Justin Cullers, Applicant stated he is proposing to do a single family home subdivision.

Alderman Kinion: The Water & Sewer Committee agreed to send this forward without a recommendation, but for discussion.

Alderman La Tour: Tell us where in relation to your property there is sewer connections?

Justin Cullers: Adjacent to our property are two sewer connections to the northeast at the Lierly Lane subdivision and at the southeast Clabber Creek subdivision. Hughmount subdivision was granted water and sewer services a couple of years ago from the city. There is a manhole access at the southwest portion of our property.

Alderman La Tour: The sewer connections are very close to your property?

Justin Cullers: Yes, as well as water services. There is a six inch main that loops all the way around both points of ingress and egress.

Alderman La Tour: Do you think it would be better for our environment if we put our raw sewage into a system where it goes through treatment before it is released into the environment or if we put it into a septic system that could leech onto the ground? Which is a more sanitary system?

Justin Cullers: That was our reason for requesting sewer service on this development given the requested density. We are uphill directly from Clabber Creek. With property permitting we can do a collective on site STEP system or septic system. It is our preference for an environmental standpoint to provide sewer service.

Yolanda Fields, 3034 Hughmount Road: I'm on the northeast boundary of a project that was proposed and was not approved by the county. What project are we talking about? Is it the one the county did not approve or is it a different one?

Andrew Garner, City Planning Director: The applicant requested a variance to allow for street frontages to be smaller than the county would allow and that was denied. In talking with Mr. Cullers, they are still going to pursue the conditional use permit which would allow for lots less

than one acre. That has not been formally voted on at the county. We received a letter from the county and we sent it out to the City Council. At this point it has been denied. Their conditional use permit will be discussed at a later meeting.

Yolanda Fields: There was a variance requested for 74 houses. There was contingency of connection to the sewer and annexation. That failed, so the conditional use had no movement forward. The variances has to be approved first, then the conditional use. This is a sewer connection to what project? A future project or this same project that is going to go back to the county again?

Mayor Jordan: Andrew, can you answer that?

Andrew Garner: No, I can't answer that. This is getting into the county's process which we don't have the authority over those types of approvals.

Don Marr, Chief of Staff: We don't have a project in front of us now. This is a request for the city to provide sewer for a future project that I guess will be submitted. The project that was originally discussed is not in front of the county.

Yolanda Fields: I would like to know what the specific project is and be able to comment on it.

Justin Cullers stated it is a very difficult process they are going through because of the proximity to the city limits. He gave a brief historical description of the project. He stated when applying for a variance at the county, the project was not denied. He stated the conversation at the Planning Board meeting veered off course from what they were actually meeting about, which was a variance for lot frontages, minimum lot sizes, and square footage. He has redesigned the project and the lots to meet the county criteria. He stated he is not going to have to apply for a variance, only a conditional use which meets all the county criteria. He stated that meeting would be further in the future. He stated he was advised by city staff and county staff to go ahead and proceed with the procurement of water and sewer services.

Liz Lester, 3052 North Hughmount stated her concern about density of houses. She requested to know why there was a recommendation from the Water & Sewer Committee to run the sewer outside of the city limits when it is not the policy.

Alderman Marsh: I want to clarify and Alderman Kinion mentioned it earlier that the Water & Sewer Committee did not forward this with a recommendation. It was forwarded without a recommendation. There was a typo in the packet.

Alderman Kinion: This went through the Water & Sewer Committee. We have one project adjacent to this that does have a connection. At that time the City Council approved it. There was already infrastructure and a plan in Hughmount Village to build. We had a sewer main that went through the property and was adjacent to Clabber Creek. That specific item was connected into the city sewer. What is in front of us tonight is, do we want to look at the long term management of wastewater on the edges of the city or in the immediate stages do we want to not accept these additional hookups. It is a tough decision because there is a need for affordable housing. We also

know that according to our City Code we are not going to allow hookups. Only the City Council can approve that. County properties are not paying property tax into the city. There are a lot of implications we have to discuss as we move forward in considering this type of request. We have to look at a fair and balanced way of managing runoff that will impact the quality of water into the watersheds.

Mayor Jordan: On the resolution it says to approve an extension of the city's sewerage system beyond the city limits to a proposed development near Hughmount Road and Lierly Lane. Is somebody going to have to make a motion to approve and a second? I thought there was a decision made by the Water & Sewer Committee.

City Attorney Kit Williams: If I had realized, without the typo that it had just been forwarded, I would still have drafted the resolution that way. It is the affirmative duty to get five votes in order to pass a resolution to allow sewer service beyond the city limits.

Alderman Petty: The issue for me is the financial sustainability of the extension. I'm not convinced the development would pay its fair share of the cost of maintenance if we do the extension, in terms of our rate structure and the tax revenue that might be generated from it. With the lot sizes and the variance being denied by the county, I don't see any way the math works out for this proposal to pay its fair share of the maintenance that will be required in the future.

Alderman La Tour: Policies are broad guidelines to guide our thinking. They aren't hard and fast rules. We can make exceptions to policies. I've been practicing accounting for 37 years. I haven't seen the numbers and it is hard to make a decision based on conjecture. If we don't allow them to hookup to our sanitary sewer, that waste is going to go directly into the ground. The raw sewage should go into a sanitary sewer and be treated properly. The developments that are downhill from this will be impacted in negative ways. I support letting this development attach to our sanitary sewer system as a matter of keeping the environment clean.

Alderman Marsh: When considering decisions I look first to our guiding principles of our 2030 City Plan. The second guiding principle is that we shall discourage suburban sprawl and this is textbook suburban sprawl. It is outside of our city limits, it is outside the Mayor's box around our city which is supposed to be our urban growth boundary, and it is not served by transit. It would be expensive to serve it with transit and other city services. We are supposed to be growing a livable transportation network. In Northwest Arkansas the cost of transportation exceeds the cost of housing for most households. The cost of maintaining the infrastructure in services beyond the city is not going to make sense with the potential amount of property tax revenue we would generate from this development. Goal five is assembling an enduring green network. I will be voting against this development.

Alderman Bunch: I'm a real estate agent and I've had to tell people they are going to have to go outside of Fayetteville for a certain price range. Affordable housing is always a challenge. I have concerns about the cost of this in terms of increasing sprawl, the connecting streets aren't very wide, the city's cost to maintain this, and the county denied the lot sizes. I will be voting against this.

Alderman Kinion moved to approve the resolution. Alderman Petty seconded the motion. Upon roll call the resolution failed 1-7. Alderman La Tour voting yes. Alderman Long, Gray, Marsh, Kinion, Petty, Tennant, and Bunch voting no.

This resolution failed.

Unfinished Business:

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. *At the May 2, 2017 City Council Meeting this ordinance was left on 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 unanimously.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director: Mayor, I don't have any additional information to present. If you have any questions I will be happy to answer them.

Alderman La Tour: I am against changing the zoning. Generally, I am very pro-growth and pro-development. I want variety in the marketplace. I want people who have nice single family neighborhoods without commercial development in the neighborhood.

Andrew Garner gave a brief description of what could possibly be built on the property as it is currently zoned.

Alderman Tennant: There is a large brick wall that backs up into some houses. A building could be set back, but there would be a buffer zone between the brick wall and any building and/or parking lot that is there under the current zoning?

Andrew Garner: That is correct.

Alderman Tennant: It could go up, but the building could not go straight up 60 feet because of the setback rules, correct?

Andrew Garner: Correct.

Alderman Tennant: It would be stair stepped by however many feet it's going up accordingly?

Andrew Garner: Yes.

Alderman Tennant: Likely it would not be close to the street or we couldn't force that. It would probably be back with a parking lot out front, similar to a lot of the other developments along the area. If someone wanted to build multiple 2,000 square foot buildings to house restaurants or whatever, could they be connected by a roofline or covered walk way between each building?

Andrew Garner: No, they could not do that. If they are connected through a roofline we would say that is all one building. If there is a breezeway in between that would not be allowed under the existing zoning.

Alderman Tennant: It would have to be separate buildings and whatever the Planning Commission agreed upon from a look of the plat?

Andrew Garner: That is correct.

City Attorney Kit Williams: There are two lots. If it was separate ownership, would they have to do lot splits to have more than two businesses established?

Andrew Garner: No, they wouldn't. They could have more than one building on this same lot.

City Attorney Kit Williams: With two different owners of the buildings?

Andrew Garner: Yes. That would be handled through a horizontal property regime. That's not too uncommon in commercial settings.

City Attorney Kit Williams: When this property was rezoned and platted back in 1999 and these individuals built their houses, Residential Office did not allow any commercial at that point. Is that right?

Andrew Garner: That is correct. Not as a permitted use. It was a conditional use only at that point.

City Attorney Kit Williams: The only conditional use that could be commercial was a restaurant?

Andrew Garner: Yes.

City Attorney Kit Williams: That was true until April, 2010 when the City Council changed the zoning for Residential Office and allowed limited business, which now does not make this such a great buffer as it had been prior to the change in the zoning code. In 2010 a large percentage of houses had already been built in reliance on the original R-O zoning that did not allow this commercial use. It concerns me a little bit.

Alderman La Tour: In meeting with the residents yesterday it was apparent they were under the impression that when they bought their property it was going to remain R-O. The definition changed since the time the houses were built. It is kind of like we are changing the deal in the middle of the game. I encourage us to not change the rules.

Alderman Petty: Andrew, please explain how our lighting ordinances might address some of the concerns we have heard from the neighbors about lighting in a parking lot coming into the backyard.

Andrew Garner: The city has an exterior lighting ordinance. It is required to have lights fully shielded and light should be only shining straight down. The code states that you can't have light trespass onto another property. When we review building permits we look at the catalog cut sheet of the light fixtures to make sure they are shielded, shining downwards and not shining onto the neighboring properties.

Alderman Tennant: Whether it is light pollution or sound pollution that would be revisited no matter what development goes in and what we do on the rezoning at the Planning Commission level later. A noise ordinance is different from the entertainment district to a neighborhood zoning district?

Andrew Garner: Yes. In the Neighborhood Services zoning that is proposed, we wrote into the zoning code that for purposes of enforcing the noise ordinance, it is a residential district. It is a lower decibels than in an entertainment district.

A discussion followed about the noise ordinance.

Don Marr, Chief of Staff: I was on the Planning Commission in 1999 and I voted for this zoning. Our discussion was about Residential Office. At the time before our current codes, we did transitional planning of zoning. When we discussed the R-O zoning it did not have the uses by right, but by conditional use at the time. When we talk about lighting pollution, it addresses fixture lighting such as in a parking lot. When you get a 45 to 60 foot building that is lit up at night, you will see light going into properties from the building itself, not the fixtures of the parking lot. There is an impact that comes from the use of the building based on the hours of operation.

City Attorney Kit Williams: I was a little remiss at the last meeting to allow people to talk about pizza places or other specific developments. In a rezoning you can only talk about the potential uses on this property. It could be restaurants, commercial buildings, residences, and office buildings. Don't talk about particular projects.

Jerry Busken, 3057 Waterstone Drive stated his concerns about compatibility issues. He spoke in opposition of the rezoning.

Stevan Vowell, 4868 Trails End Lane requested to present a Powerpoint presentation.

Alderman Petty: How long is the presentation?

Mayor Jordan: It is supposed to be five minutes.

Stevan Vowell: There are 10 slides, but since the Council has visited the site I can do away with five of the slides.

Alderman Petty: Is it new information?

Stevan Vowell: It consists of the same slides I showed City Council last time, but two members of the Council were not present.

A discussion followed about the rules of a presentation.

Alderman La Tour moved to approve a citizen presentation. Alderman Gray seconded the motion. Upon roll call the motion to approve the citizen presentation passed unanimously.

Stevan Vowell spoke about the peaceful neighborhood he lives in. He presented a Powerpoint presentation and spoke in opposition of the rezoning.

Alderman Petty: I am a bit confused about this 2,000 square foot versus 8,000 square foot limitation. In Residential Office could a duplex with a restaurant below it be built by right?

Andrew Garner: That is correct. The residential uses would be excluded.

Alderman Petty: In R-O, is the density limitation 24 units per acre?

Andrew Garner: Correct.

Alderman Petty: In NS-G, is it 18 units per acre?

Andrew Garner: Yes.

Mike Morisette, 1606 North Jordan spoke in favor of the rezoning.

Peter Tonnessen, 3500 Hearthstone Drive spoke about square footage, building usage, parking spaces, and zonings. He spoke in opposition of the rezoning.

Mark Scalise, 3268 Hearthstone Drive stated anything you can build on NS-G zoned lots, you can build on R-O lots, just not as big. He requested Council to honor the R-O zoning that was agreed upon when residents purchased their lots. He spoke in opposition of the rezoning.

Alderman La Tour: How safe is any neighborhood in this city if we vote to change this zoning at your neighborhood?

Mark Scalise: If this one goes, I don't think anything is safe.

Alderman Bunch: We haven't seen a plat, plan or drawing. Is that normal at this stage in the process or is it to be expected that they should have provided these things?

Andrew Garner: This is just considering the rezoning of the property. The City Council is not allowed to consider development, plans or plat. If the developer had something we would tell the Council that they could not consider it. It is not appropriate to be talking about development.

Don Marr: The only time we consider a development with a zoning is when we have a Planned Zoning District.

Max Parker, Owner stated it would be the first property to receive the new NS-G zoning designation. He stated there are over 20,000 cars per day on the busy road and adjacent to a city attraction that has events of over 4,000 people at one event. He stated there are currently no services. He stated he is not gaining monetarily if the rezoning is approved. He spoke about zoning designations. He spoke in favor of the rezoning.

Blake Jorgensen, Jorgensen & Associates stated he could request a conditional use at the Planning Commission level, but with the new zoning he believed it was the key to what they wanted to do.

Miles James, Chef spoke about pizzerias, connecting to the neighborhood and the trail system. He believes the corner of this property is significant in the development of Fayetteville. He stated he wants to develop business in Fayetteville. He spoke about landscaping, lighting, and noise ordinances. He spoke in favor of the rezoning.

Philip Cameron, Owner at 1663 Viewpoint stated he's not trying to do anything underhanded. He stated that he thought the rezoning was going to be a positive thing for the neighborhood. He requested Council to think about what made best sense for Fayetteville in the long term. He spoke in favor of the rezoning.

Carol Chamberlain, 3267 Waterstone spoke in opposition of the rezoning.

Tammy Cagle, Copper Creek stated her concerns with traffic. She spoke in opposition of the rezoning.

Pam Forrester, 3044 Waterstone spoke about the family atmosphere in the neighborhood. She spoke in opposition of the rezoning.

Karen Stevens, 3116 High Meadows spoke in opposition of the rezoning.

Bethany Collins, 3089 Waterstone stated her concerns about lighting. She spoke in opposition of the rezoning.

Alderman Marsh: This parcel is along a major regional transportation corridor. It is across the street from the Botanical Garden of the Ozarks and Lake Fayetteville Park, which are regional tourist destinations. Community feedback from our city wants us to grow a livable transportation network to encourage transit oriented development. They want us to pull the buildings up to the street. Do we want the Crossover corridor to look like North College, where the predominant feature along the street are cars and parking lots or do we want to set a new standard where what we see are buildings and places for people and businesses. If you compare the two units, Neighborhood Services adds three additional uses units. It is setting a new standard for urban form. This will encourage buildings to be put at the road and further away from the residents.

Alderman La Tour: What is important here more than technical terms and zoning classifications is are we going to keep our word or breech our word. The neighborhood bought in at R-O. We are talking about changing the deal on them. I fundamentally have disagreements with that. No neighborhood in the city is safe from a rezoning classification. We need to honor our word to our citizens. Normally, I argue for development, but what trumps my development and growth strategy is variety. Variety serves our people the best, not a stated goal which makes cookie cutter neighborhoods.

Alderman Tennant: In a democracy type situation I've believed that what's good for the majority of people is probably the way you should lean. A lot of times I will agree with Alderman La Tour and lot of times I will agree with Alderman Marsh. They are both talking about variety, but it is the way the variety happens that we are talking about. If I was voting based on the majority of the people, I would have pushed two weeks ago to get this voted on. To overturn city staff and the Planning Commission almost never happens. If we do overturn it, then why do we have the process that we have in place. There are a lot of people who move to that area and people want services of some sort. They would like to see a restaurant or other things go in there. That is not to say that couldn't be done through R-O. I believe the market here is much better for development and for business entities to go in commercial space than it was years a few years ago. If you put your bike on the trail in the parking lot across the street and you ride to the other end of the trail, you see restaurants and other businesses that are thriving. It stands to reason someone is going to come in at some point and say this makes total sense.

I drove down North College and saw a whole bunch of 2,000 square foot buildings pushed back with the parking lots in front. Is that what we want? I wouldn't think so. I would rather have something that is pushed up to encourage proper development. No matter what we do, the people on Waterstone are the most affected by this. If it is going to be developed, let's control it now. I wish we would have planned better on Crossover where Harps is sitting. It is a lousy area for pedestrians and it is not that great for cars. We are now faced with trying to fix some of those things. I don't want to create the same kind of problem up and down that road. East Fayetteville doesn't have the services needed. We are not at the planning stage of anything. There has been a tremendous amount of misinformation given on this entire project. Kit, can we as a Council approve this zoning and restrict the light pollution, noise pollution, and odor intrusion? Do we have the power to restrict what the Planning Commission can then approve or does that have to be done at Planning?

City Attorney Kit Williams: You can't condition a rezoning on things like that. The Unified Development Code has regulations about light restrictions and requiring light not to escape the location. The noise ordinance is part of the Fayetteville Code and is enforced by the Fayetteville Police Department. We don't have many restrictions we can do on smell. Smells are beyond our power to do much with. None of that is related to zoning. Apart from what you have already done we can't do anything else. Zoning is a decision of yes or no. An applicant can occasionally put some conditions on with a Bill of Assurance. It has to be voluntary and offered. It has not been offered in this case and I'm not asking for one. This is the only kind of restriction that can be placed on a zoning.

Alderman Tennant: Since there is not a development, there is no way to get a Bill of Assurance because we don't even know who is going to own it.

City Attorney Kit Williams: If an applicant wanted to present their concept for this development, they could present a Planned Zoning District. It doesn't have development approval, but it does have some parts of the development and show how the development will be done. It's not as complicated as the PZD's used to be.

Alderman Tennant: I don't want the next development to turn into North College that looks absolutely horrible when people drive into our city. We are stuck now between two zonings, neither one of them are very good. The R-O zoning provides potential for some bad future use. The other zoning is better, but it bothers me because of what it does to these six people. Anything that is brought forward better have some concern for landscape, noise pollution, and light pollution. I promise I will be there to fight for it. I believe we can make this work and develop it in a proper way that will create a better way of moving forward in the area and all the way up Highway 265.

Alderman Kinion: We are looking at future development and we have enforced form based development. Every neighborhood has a different character and I respect the character of that neighborhood. When you make a decision on zoning, especially rezoning, you ask the people at the neighborhood. The neighborhood has clearly spoken that they want to continue with the R-O. There may be unintended consequences. It may not meet the vision I have personally as we move forward because I know what has happened on College Avenue. An R-O zoning is what they bought their property with and it is what they want. I will be supporting the R-O out of respect for those that have spoken.

Alderman Gray: There has been a lot of change in the neighborhood where I bought into 12 years ago. There is a large Catholic Church, school, and development across the street from where we live. Change happens. We have heard from about 100 people out of 365 homes. I have heard from several of the 365 households who are excited about the proposition. In 26 years Mr. James has never had an eating establishment go under. We need to remember that we haven't heard from near all the folks who live there. The point that it is a regional development is very significant. I'll be supporting this project.

Alderman La Tour requested a citizen to the podium to speak.

Female Citizen: I don't want to see that corner turned into a noisy and messy area. It is exactly what happens when you put large commercial buildings in a spot that small. I would like to see it have the same kind of offices and buildings that Joyce Boulevard has. It is completely quiet at night, there are no lights, and no people there. Do not change it from R-O. The people have spoken.

Alderman Petty: I could not care less who the applicant is on this rezoning or any other rezoning. I'm very reluctant to overturn a Planning Commission and staff recommendation. Anybody that thinks this rezoning is going to create an urban and walkable neighborhood by the rezoning is kidding themselves. The nature of Crossover Road today prevents that. So much more has to happen before that kind of vision can happen and this may be a baby step. I don't think this rezoning has a meaningful impact on whether that intersection is walkable or not. It is a better

rezoning for a lot of reasons that have already been said tonight. Back when this was done, one of the weaknesses of the 90's and early 2000's in the rezoning decisions we had is that we didn't have some essential parts of the UDC that we have today. Back then we had to rely on conditional use permits because we didn't have things like a lighting ordinance, urban residential design standards or a well written landscaping ordinance. The developments that have occurred since those regulations have been in place are so much different than the ones that occurred before we had them. I trust those because I have seen the impact they have. This proposed zoning is better. It is important we consider the whole city when we make decisions because that is what we are tasked to do.

Alderman Bunch: I have talked to the developer and many of the people in the neighborhood. As a City Council member I don't just consider one neighborhood. I have to consider what is going to be the best move for the entire city. This could be a part of the regional destination. This is a good zoning and it provides needed services in this location. Fire and Police have no opposition to this rezoning. This is not going to be like College Avenue and we don't encourage that type of zoning anymore. This is a good choice for this area. R-O has a lot of hidden things that might not turn out to be what you think it was going to be and not be agreeable to your neighborhood. I have received calls from people who were in support, but they didn't feel comfortable coming out in support. It is hard to get into the offices at Joyce Boulevard because there is not a stoplight and they turn their lights off at 5:00 p.m. I am going to vote in favor of this.

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 7-1. Alderman Long, Gray, Marsh, Kinion, Petty, Tennant, and Bunch voting yes. Alderman La Tour voting no.

City Attorney Kit Williams read the ordinance.

Alderman Long stated he was going to defer to the Ward 3 Aldermen. He stated he would be supporting the rezoning.

Mayor Jordan talked about the zonings in the past. He stated they built and changed the way they did things at the city. He stated they picked the R-O zoning in the past because they felt it was transitional zoning and it would be a buffer. He stated there are more protections now than what they had in the past. He thanked the Council for their comments.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Alderman Long, Gray, Marsh, Petty, Tennant, and Bunch voting yes. Alderman La Tour and Alderman Kinion voting no.

Ordinance 5972 as Recorded in the office of the City Clerk

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. *At the May 2, 2017 City Council Meeting this ordinance was left on first reading.*

Alderman Long moved to suspend the rules and go to the second reading. **Alderman Tennant** seconded the motion. Upon roll call the motion passed 7-0. **Alderman La Tour, Long, Gray, Marsh, Kinion, Petty, and Tennant** voting yes. **Alderman Bunch** was absent during the vote.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. The utility companies have recommended in favor of vacating the portion of the easement. The Planning Commission and staff recommended unanimously to approve the vacation.

Alderman Marsh: Alderman Petty and I were not present at the last City Council meeting. We were attending the Congress for New Urbanism on behalf of the City of Fayetteville.

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 unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5973 as Recorded in the office of the City Clerk

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. *At the May 2, 2017 City Council Meeting this resolution was tabled to the May 16, 2017 City Council Meeting.*

Chung Tan, Fayetteville Chamber of Commerce gave a brief description of the resolution. She requested the City Council to approve the resolution.

Alderman La Tour: My wife and I own interest in a farm and our farm is not in the municipality. We find buying land in a rural setting much more economical for growing crops. Why do you choose to grow your crops inside a municipal government?

Brian Faught, Applicant: It is in a greenhouse for indoor growing, not outdoor growing. In an outdoor setting you get far less production of a cannabis crop than you would indoor due to having the use of commercial lighting.

Alderman La Tour: Can you not build a greenhouse in a rural setting?

Brian Faught: You could build one, but this is a very polarizing product. I'm sensitive to the investment this takes. Inside of the City of Fayetteville has great support and far less likely that down the road I'm going to encounter public backlash against the product. Inside the city will be

easier for my labor pool because of the horticulture at the University of Arkansas and be closer for them to come to work.

Alderman La Tour: Do you plan to ship your product worldwide or statewide?

Brian Faught: Statewide. The amendment allows us to supply the 32 approved dispensaries in the State of Arkansas.

Alderman La Tour: What would be your main mode of transportation for those shipments?

Brian Faught: Security is a detailed part of the whole program. I have contacted several different specialty security companies. This is a mature industry in many areas of the country. It is legal in 28 states and has been legal for 20 years in some states. The proceeds from the sale of the product go back to my facility.

Alderman La Tour: Do you have a background in medicine or agriculture?

Brian Faught: I do not.

Alderman La Tour: What is your background?

Brian Faught: I have been a very successful businessman for 30 years. I don't have to know how to grow cannabis. I have to know how to find the people that do know how to grow it. I've already hired an application company, cultivation company, and processing company. I hired my maintenance supervisor today.

Alderman La Tour: When you say cannabis, you mean marijuana?

Brian Faught: Yes.

Alderman La Tour: Are those two names synonymous?

Brian Faught: Yes.

Alderman La Tour: I had a conversation with a lady who works for the Arkansas Department of Human Services. She's worked there for 35 years and has seen cannabis ruin a lot of lives. What have people been doing for the relief of pain and Parkinson's disease for the last 60 years? Why do we need to turn to cannabis now?

Brian Faught: That is not for me to decide. The people of the State of Arkansas have voted for this product. I'm here to bring an economic opportunity to the City of Fayetteville. It's not if medical cannabis is going to be legal, it is here. The city voted 65 to 35 and it is going to be in your community. I'm offering the Council and the City of Fayetteville to see the process from seed to sale. It will provide 50 really good jobs. In every state that this is legal it is a highly successful industry. I have a friend with cancer and out of the 13 daily medications he takes every day, cannabis is the only one that gives him normalcy.

Don Marr, Chief of Staff: This is a contingent offer of purchase based on successful application of a cultivation license. We can't have an operation unless it is licensed by the state.

Alderman Marsh: I am excited you have chosen Fayetteville to launch this new business venture in our state. I look forward to 50 new jobs in my Ward, especially good paying living wage jobs. My stepfather's stage four internal melanoma was cured by cannabis. There is great economic potential with this product.

Citizen stated she moved from Denver Colorado where cannabis is legal. She stated marijuana drew in drug addicts to the area. She spoke about a pill that cancer patients can take and has the chemical compound from marijuana that has a medicinal fact on cancer. She stated cannabis facilities are a cash business and cannabis creates crime. She stated cannabis does not cure cancer and only deals with symptoms, it is not a cure. She stated everything you put in your body leaves a trace. She stated lives are being ruined by cannabis and every scum bag from every major city will show up in Fayetteville because of the pot. She spoke in opposition of the resolution.

Tom Brown, Citizen gave a brief description about his experience with marijuana. He believes it is going to be safe since the city is going to provide land in the Industrial Park for the growing, packaging of marijuana under state license. He encouraged Council to add addendums in the contract to ensure healthy and organically produced herb for medicine. He spoke in favor of the resolution.

Alderman Tennant: This is contingent on the state approving the license for this location?

Don Marr: Yes.

Alderman Tennant: Do we know when that is going to be?

Brian Faught: Applications start being submitted on July 1, 2017. It is a 90 day submittal period. At the end of September they will start reviewing the cultivation applications first. I believe it will be a 30 day period. It might be sometime before Thanksgiving when they award the license.

Don Marr: In the negotiation of this offer that was given to us, we countered with not leaving it open-ended for an application. This contract is contingent through December 31, 2017. At the next meeting we have another piece of land coming forward. It is not for this type of business, but for a plastics manufacturing business that is a sub-divided portion of this property.

Alderman Tennant: This particular piece of land has multiple lots?

Don Marr: This is the land that Council originally approved for purchase for PVG. When it was re-sold back to the city, we received the first offer for five acres. We got a second offer for three acres. Brian Faught has also made his request.

Alderman Tennant: This particular group wants this property, but they can't officially close on it until after they get their license?

Mayor Jordan: Correct.

Alderman Tennant: What happens if someone comes forward August 1st, wants this land and they have the money and don't have to wait for a license? Are we going to hold this land?

City Attorney Kit Williams: Yes. This contract guarantees them the right to execute and do the closing once they have the license. They have until December 31, 2017.

Alderman Tennant: This is the taxpayers' property. We are going to sell it below market value and we are going to hold it on the chance that the person who wants it will be able to buy it at the end of the year. I would like to see something saying if someone comes forward and wants the land right now and pays more money for it, that we have a way to do that. You have probably spent money on the licensing fees and other things moving forward with the state?

Brian Faught: Yes, sir.

Alderman Tennant: You have already invested a lot of money that you may or may not get back.

Brian Faught: Correct.

Don Marr: The city's land sale ordinance requires us to advertise when we are going to sell a piece of property. Anyone who was interested in this particular five acres of property has had that opportunity to bring a counter offer for an immediate cash offer, either at a higher price or for immediacy of development. We have received none to date.

Brian Faught: Hasn't the land been available for quite some time?

Don Marr: Yes. This is a piece of property that has been undeveloped for over 25 years, until PVG acquired it and then returned it.

Alderman Tennant: I'm not against them doing what they want to do on it. I'm just making sure it is on record about my concern of holding anything.

Alderman La Tour: The beauty of the Industrial Park is that you can spread the fixed cost of additional infrastructure over a variety of businesses, instead of just one business. Do we want to grow a greenhouse in our Industrial Park when we could better utilize that for cost sharing purposes with larger factories? My vision for Fayetteville and NW Arkansas is a technology super center. There is no reason why we shouldn't be the Silicon Valley of America. Do we really want to use our five acres to grow cannabis? We don't need any specialized transportation, other than security. You could do the same thing on five acres on the edge of town, not in our Industrial Park. I will be voting against this.

Mayor Jordan: When I made the decision to bring this forward I knew the people of the State of Arkansas had passed this. It became legal and I wanted to be on the ground floor. When I looked at the vote in this city for medical marijuana, it was 65.6 % in favor. We had the Fayetteville First Economic Development plan, which talks about specialized technologies. This fits in the category.

We have had the land for 25 years and it is time we start doing something with it. I think there are all kinds of businesses that can come in here. We should open it up and be diverse. We are able to control how it is produced. I have had staff, Chamber of Commerce, and the Economic Vitality Director look into it. It produces good paying jobs and that is something we need in this town. I believe we should go ahead and do the business because we will be one of the first in the state. There will be good economic value for this business in this city.

Alderman Marsh moved to approve the resolution. Alderman Long seconded the motion. Upon roll call the resolution passed 7-1. Alderman Long, Gray, Marsh, Kinion, Petty, Tennant, and Bunch voting yes. Alderman La Tour voting no.

Resolution 111-17 as recorded in the office of the City Clerk

New Business:

South Block Partners, LLC Cost Share Agreement: An ordinance to waive the requirements of formal competitive bidding and approve a cost share agreement with South Block Partners, LLC for the installation of a sewer main along a portion of South Block Avenue between West 4th Street and West 5th Street, with the estimated amount to be paid by the City of Fayetteville not to exceed \$16,375.00, and to approve a project contingency in the amount of \$3,347.00.

City Attorney Kit Williams read the ordinance.

Tim Nyander, Utilities Director gave a brief description of the ordinance. The Water & Sewer Committee voted 4-0 to forward the item to the City Council with a recommendation of approval.

Alderman Kinion: This is in the area of town where we are especially interested in the infrastructure since it is aging. We want to expand it into areas where it doesn't exist. It is a good deal.

Alderman Kinion moved to suspend the rules and go to the second reading. Alderman La Tour seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Alderman Marsh spoke about appropriate infill of different housing types.

Alderman Kinion moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5974 as Recorded in the office of the City Clerk

Millsap Drainage Cost Share: An ordinance to waive the requirements of formal competitive bidding and approve a cost share agreement with Southern Star Enterprises, LLC for the installation of drainage improvements along a portion of East Millsap Road with the City of Fayetteville's share of the costs not to exceed \$49,070.40, and to approve a project contingency in the amount of \$5,000.00.

City Attorney Kit Williams read the ordinance.

Chris Brown, City Engineer gave a brief description of the ordinance. Staff is recommending approval.

Alderman Kinion spoke about the continual problem in the area and the opportunity for resolving the issue.

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

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams thanked City Engineer, Chris Brown for his time at the City Council meeting.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5975 as Recorded in the office of the City Clerk

RZN 17-5756 (2621 E. Mission Blvd./ERC Holdings, LLC): An ordinance to rezone that property described in rezoning petition RZN 17-5756 for approximately 2.62 acres located at 2621 East Mission Boulevard from C-1, Neighborhood Commercial to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Andrew Garner, City Planning Director gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted unanimously in favor of the request.

Mary McGetrick, ERC Holdings, LLC stated her company focuses on urban mixed use walkable development.

City Attorney Kit Williams: Thank you for being here.

Mayor Jordan: Thank you.

Alderman Tennant: This being where it is and doing what you are going to do is so welcomed. It is compatible and needed in that area.

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

City Attorney Kit Williams read the ordinance.

Alderman 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 unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: This will be a really good project. I am looking forward to it.

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

Ordinance 5976 as Recorded in the office of the City Clerk

RZN 17-5781 (1622 E. Mission Blvd./Lamb-Morris): An ordinance to rezone that property described in rezoning petition RZN 17-5781 for approximately 0.54 acres located at 1622 East Mission Boulevard from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Director gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted in favor of the request.

Alderman Tennant: Is there a limitation on size for what these are?

Andrew Garner: The lot size is 4,000 square feet and 45 foot wide lots.

Alderman Tennant: Is it feasible there will be multiple smaller homes?

Andrew Garner: Correct.

Richie Lamb, Applicant stated he was available for questions.

City Attorney Kit Williams: How many houses are you going to build?

Richie Lamb: As many as possible.

Alderman Tennant: That area of town is in need and we need all different levels of housing. This is a good thing.

Alderman La Tour: What kind of houses are you going to build?

Richie Lamb: Single family.

Alderman La Tour: Is anybody building micro-houses in Fayetteville?

Richie Lamb: I'm not familiar with a micro-house. I believe I can fit three or four homes on the property.

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

City Attorney Kit Williams read the ordinance.

Alderman La Tour moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

Ordinance 5977 as Recorded in the office of the City Clerk

VAC 17-5751 (1541 W. MLK Blvd./ Monroe Eaton, LLC): An ordinance to approve VAC 17-5751 for property located at 1541 West Martin Luther King, Jr. Boulevard to vacate a portion of a street right of way.

City Attorney Kit Williams: This afternoon my office notified Council members that we had a slight amendment to this vacation ordinance. There was a second condition that an easement shall be provided around a down guy-wire. We have gotten information that it has been taken care of and it no longer needs to be a condition of this vacation. I would like for you to amend the one that was before you to the one you now have in your hand.

Alderman Long moved to amend to the ordinance in hand. Alderman Marsh seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Director gave a brief description of the ordinance. Staff recommends approval. The Planning Commission voted in favor of the request.

Alderman Marsh stated she had received no negative comments from her Ward.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5978 as Recorded in the office of the City Clerk

ADM 17-5705 (UDC Chapter 178 Outdoor Mobile Vendors): An ordinance to amend chapter 178 **Outdoor Vendors** of the Unified Development Code to end the permit lottery for mobile vendors utilizing public parking areas, to allow administrative approval of permits for mobile vendor courts and sidewalk cafés, to allow mobile vendors to administratively renew permits annually, and to make technical revisions.

City Attorney Kit Williams read the ordinance.

Alderman Petty gave a brief description of the ordinance. He stated 19 permits went to the Planning Commission and every one of them had been approved. He stated they thought by removing some of the barriers of getting started as a food truck might be the right thing to do.

Andrew Garner, Planning Director Staff stated they are trying to loosen up the rules a little bit for mobile vending. He stated the intent is to encourage these types of businesses to create a livelier street scape, tax base, and a lot of the goals we have.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5979 as Recorded in the office of the City Clerk

Announcements:

Don Marr, Chief of Staff: May is bike month. We had many citizens participate in our Square 2 Square Bicycle Ride this past weekend. We had a Bike to Baum Day on May 14, 2017. On May 19, 2017 is National Bike to Work Day. You can stop at an Energizer Station at the Razorback Regional Greenway (Frisco Trail) and the Dickson Street trail crossing from 7:00 a.m. to 9:00 a.m. for a free breakfast, giveaways, and minor mechanical support for your bike. Mayor Jordan will issue a Bike of the Month Proclamation at 8:00 a.m. at the Energizer Station. We are having a Life is a Cycle Memorial Day Ride on May 29, 2017.

The Transfer Station at the Waste & Recycling Center will be closed on May 20, 2017 for repairs. It will reopen on May 22, 2017.

Alderman Long: We will not have a Ward 4 meeting on May 29, 2017. It falls on Memorial Day. The next meeting will be on June 26, 2017.

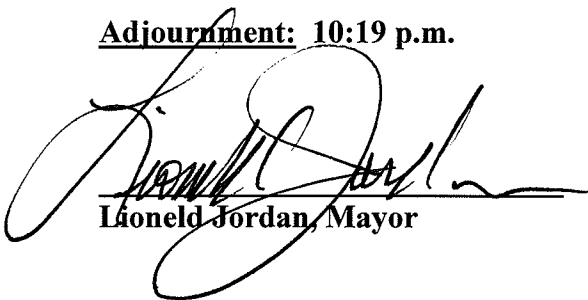
City Council Agenda Session Presentations:

Agenda Session Presentation - FPTV (Public Access) operations update, presented by Dan Robinson, Executive Director of Your Media.

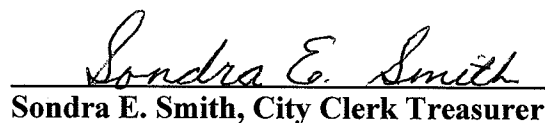
City Council Tour:

There was a City Council tour on May 15, 2017 at 4:00 p.m.

Adjournment: 10:19 p.m.



Lioneld Jordan, Mayor



Sondra E. Smith, City Clerk Treasurer