

Council Member Adella Gray
Ward 1 Position 1

Council Member Sarah Marsh
Ward 1 Position 2

Council Member Mark Kinion
Ward 2 Position 1

Council Member Matthew Petty
Ward 2 Position 2



Council Member Justin Tennant
Ward 3 Position 1

Council Member Sarah Bunch
Ward 3 Position 2

Council Member John La Tour
Ward 4 Position 1

Council Member Alan T. Long
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

**City of Fayetteville Arkansas
City Council Meeting
September 19, 2017**

A meeting of the Fayetteville City Council was held on September 19, 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: Council Member 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:

Nominating Committee Report

Council Member Kinion presented the Nominating Committee report and recommended the appointments as submitted.

A copy of the report is attached.

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

Ozark Regional Transit Report on Public Transit in Fayetteville

Jeff Hatley, Public Information Officer presented the Ozark Regional Transit report. He stated ridership was down for the year, which stems from the fire in January, but the numbers are starting to be restored. He spoke about the many veterans that use the transit system. He stated they are using insurance funds to purchase replacement vehicles. He stated the Walton Family Foundation gifted them with a grant to do a feasibility study.

Council Member La Tour stated his gratitude for allowing veterans to ride at no charge.

Jeff Hatley: Thank you. I spoke to a veteran's group and they were very appreciative. They knew some people who could definitely use the service.

Mayor Jordan: Thank you very much. Keep up the good work.

Agenda Additions: None

Consent:

Approval of the September 5, 2017 City Council Meeting Minutes.

Approved

Hazmat Services Revenue: A resolution to approve a budget adjustment recognizing hazmat services revenue received by the Fire Department from Washington County in the amount of \$8,476.00 and increasing the related expense budget.

Resolution 191-17 as recorded in the office of the City Clerk

Bid #17-51 Cruse Uniforms & Equipment, Inc.: A resolution to award Bid #17-51 and authorize the purchase of Class A-B Uniforms from Cruse Uniforms & Equipment, Inc. as needed through 2022, at an estimated cost of \$29,307.45 per year, for use by the Fire Department.

Resolution 192-17 as recorded in the office of the City Clerk

Assistance to Firefighters Grant: A resolution to authorize the acceptance of a 90/10 Assistance to Firefighters Grant from the Federal Emergency Management Agency in the amount of \$110,001.00 for the purchase of a Mobile Air Cascade System Trailer for the Fire Department, and to approve a budget adjustment to provide for matching funds in the amount of \$10,999.00 and a project contingency in the amount of \$18,150.00.

Resolution 193-17 as recorded in the office of the City Clerk

Bid #17-61 Benchmark Construction of NWA, Inc.: A resolution to award Bid #17-61 and authorize a contract with Benchmark Construction of NWA, Inc. in the amount of \$263,800.00 for phase one of the removal and replacement of windows at City Hall, and to approve a project contingency in the amount of \$50,000.00

Resolution 194-17 as recorded in the office of the City Clerk

Council Member Marsh moved to accept the Consent Agenda as read. Council Member La Tour seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business: None

New Business:

Energy Assessment Grant Acceptance: A resolution to authorize the Mayor to sign a grant offer accepting a 90/10 matching grant from the Federal Aviation Administration in the amount of \$25,740.00 for an Airport Energy Efficiency Assessment, to authorize the City Attorney to certify the grant agreement, and to approve a budget adjustment.

Summer Fallen, Airport Services Manager gave a brief description of the resolution.

Council Member Marsh moved to approve the resolution. Council Member Kinion seconded the motion. Upon roll call the motion passed unanimously.

Resolution 195-17 as recorded in the office of the City Clerk

RFQ 17-12 Crossland Construction Company, Inc.: A resolution to authorize a contract with Crossland Construction Company, Inc., pursuant to RFQ 17-12, for Construction Manager at risk services for the Fayetteville Public Library Expansion and Renovation Projects, to approve Phase One pre-construction services in an amount not to exceed \$110,000.00, and to approve a project contingency in the amount of \$15,000.00 for Phase One.

Paul Becker, Chief Financial Officer gave a brief description of the resolution. He believes this is the way to get the best value and product at the end of the construction project.

Council Member La Tour: I am a strong proponent of competition. I think competition protects taxpayers as well as consumers. How are we going to inject competition into this cost system we are implementing for the library? Will there be competition or bidding at some point?

Paul Becker: Sure, there will be competition. The Construction Manager bids it out to the sub-contractors. The sub-contractors then submit bids to the Construction Manager. We at the city will see those bids. We will ensure we get the lowest bid to do the work. If the Construction Manager wishes to bid on a phase, then they can do that. They have to submit a bid like anyone else. There

is a bidding process all along the way. This is a good way because we do value engineering at the beginning and we see what those cost should be. This is a good way to ensure we see the lowest cost. Each of those phases is bid out to a sub-contractor, rather than receiving one bid by one contractor.

Council Member La Tour: I'm glad to hear that. I agree with your position that value engineering in the design stage is an important aspect to this process. I'm glad to know there is bidding along the line.

Mayor Jordan: Paul, have we used this process on any other projects in the city?

Paul Becker: We have used it at the library. We learned how to proceed and how to use it to our better advantage. I believe this will be successful and we will get the best product at the lowest cost to the taxpayers. This will be almost a \$50 million-dollar project by the time it is completed. We need to go carefully and prudently as possible.

Council Member Marsh moved to approve the resolution. Council Member Kinion seconded the motion. Upon roll call the motion passed unanimously.

Resolution 196-17 as recorded in the office of the City Clerk

Appeal of LSD 17-5775: (324 E. 12th Place/Morgan Manor Apts. Addition): A resolution to grant the appeal of City Council Member Sarah Marsh and to deny the Fayetteville Housing Authority's application for a Large Scale Development.

Council Member Marsh: The entire application process was a controversial one. I received a lot of concerns from the community. The Planning Commission stretched this out for the maximum number of meetings. They were struggling with this deliberation. Five commissioners voted in support, two voted against, and two abstained because they didn't feel comfortable making a decision. They wanted this to come before the City Council for additional review. It is prudent for us to take a closer look at this decision.

Initially this project was represented to the Planning Commission as a non-profit low-income housing development. Through the Freedom of Information Act, citizens have found out that this is a private for-profit development. The applicant misrepresented the project against the advice of their attorney for financial gain. There are concerns about the lack of public process, transparency, and compliance with HUD guidelines. We have to look exclusively at the Unified Development Code and this projects compliance or lack thereof. The proposed development would violate a city ordinance, state statute, or federal statute. The proposed development would create or compound a dangerous traffic condition. The proposed elevation does not meet our design standards, the units don't open into a public space as our codes require, there are issues with the drainage infrastructure, and a lack of pedestrian connectivity to essential services.

Mayor Jordan: Did you say it violated some federal statutes?

Council Member Marsh: There is a letter saying they did not violate HUD guidelines, but there is nothing saying they were in compliance with those guidelines. They failed to notify HUD or create the appropriate paper trail in order to liquidate the Willow Heights development. They want to move these residents of low-income housing into this other housing. They were required to notify HUD of their intention to sale the property. They should have done a feasibility of rehabilitation study on the property, which was not done. They should have solicited input from the residents, which was not done until after this property was under contract. They should have had an independent appraisal of the property, which was not done. They didn't offer to sale the property for public bid. I would like to send this back to the drawing board and start the process over.

Mayor Jordan: You are saying the process was flawed?

Council Member Marsh: The process was absolutely flawed. We have a very at-risk population and they were not included in the decision to what was going to happen with their dwelling units. They are trying to relocate them to a site that does not have the connectivity that they currently live in. These are people who are heavy pedestrians and transit users and this will be substandard infrastructure.

Council Member La Tour: If we vote for this resolution, are we saying we're going to start the process over?

Council Member Marsh: We are saying that what they currently proposed is not acceptable and we want to start the process over. It's our responsibility to do this process right and protect the assets of the Housing Authority and the interest of the residents.

Council Member La Tour: If they weren't forthcoming, had inaccuracies or misrepresentation, we may have a chance to correct that. I will not fault them for being for profit. We just committed to giving a \$50 million-dollar project to a for profit organization. What is wrong with that?

Council Member Marsh: They came forward and represented themselves as a being a non-profit public entity.

Council Member La Tour: I would have a problem with misrepresentation.

Council Member Marsh: They have changed their design midway through the application process and did not submit the new drawings to the Planning Commissioners. They were making decisions on incomplete information. We need to do our due diligence and comply with all the laws.

Council Member La Tour: How much will it cost the applicant to start from ground zero? How much will they lose?

Council Member Long: They have been accused of not being forthcoming with this and representing themselves incorrectly. I would like to hear from the applicant.

Council Member Petty: If we are appealing an approved Large Scale Development, the development proposal needs to be presented at some point by staff and the applicant. I was under the impression this proposal was more or less shipwrecked whenever the loans were not approved from the Arkansas Development Finance Authority. Is this project on the table still or has it been withdrawn by the applicant?

Council Member Marsh: It was approved by our Planning Commission. Based on the feedback from my constituents, they wanted me to do my due diligence and make sure this project was dead.

Mayor Jordan: Therefore, the primary applicant at this moment is Council Member Marsh because she is bringing the appeal forward.

Council Member Marsh: I am making the appeal in the name of citizen, Melissa Terry.

A brief discussion followed about time limit procedure for citizen input at the podium.

The applicant for the development was not in attendance.

Melissa Terry, Appeal Applicant gave a brief historical description of the proposed project. She stated the proposed budget for the project is \$8.6 million. She stated the Housing Authority estimated it would cost \$2.1 million to renovate and bring Willow Heights up to standards. She spoke about design standards not being met and substandard streets. She stated she wasn't sure that the project was applicable because the tax credit application was denied, but the board chair said they were going to proceed. She believes it needs to be started anew and do it the way that the community expects.

Council Member La Tour: Seven of the Planning Commissioner members did not vote against this project. Five voted positive and the other two wouldn't vote at all. I feel uneasy about scrapping this without hearing from the other side. We are hearing only one side of the argument.

Melissa Terry: I am not sure why they aren't here.

Council Member La Tour: I would rather table this and see what they have to say. What you and Council Member Marsh are describing sounds egregious. If that was the case, then I can't believe that seven of our Planning Commissioners would not vote against it.

City Attorney Kit Williams: When something is coming up for decision like a Large Scale Development or Preliminary Plat, the only things you can consider are the six things that are listed within the Unified Development Code. Wisdom of the project is not one of those. Proper procedures that the owner might have gone through is not part of it. Whether you like the project is not part of it. That is not your discretion. You must simply look at the Unified Development Code and see if they have complied with the minimum standards the City Council has set in the UDC. When the Planning Department looked at their project they felt like they had complied with the minimum standards. The one factor that has much more discretion for either the Planning Commission or the City Council is whether or not it would create or compound a dangerous traffic situation. You need some facts for that. It still provides much more discretion on the body to decide

the issue than any of the others, which are basically, just check the box. There was an issue at the Planning Commission level about whether the community building was required to meet urban design standards. Even though the Planning Commissioner listened to Melissa Terry and many other people who thought it was not a good idea, that really is not something they could base their decision on. They need to find problems in the Unified Development Code and if they can, then it can be turned down. When you vote, if you are going to vote yes on the resolution to deny the Large Scale Development, please give me an explanation of why so we have it on the record as to why it was denied.

Council Member La Tour stated he wants to hear from the other party. He stated that maybe their absence suggests they aren't interested in the project anymore and Melissa Terry had won.

Melissa Terry: The goal is for the community to win and be able to facilitate a progression of low income housing and includes everybody.

Council Member Petty: I agree with Council Member La Tour. I want to hear what everybody has to say for it to be more effective. This will give the applicant every chance possible to be here.

There was a brief discussion about public comments.

Angela Milford is a community advocate trying to end homelessness in Northwest Arkansas. She believes the more you diversify someone's social network, the better chance they have of breaking the cycle of poverty. She wants data to be gathered to create a strategic plan for homelessness.

Ally Quinlan, Planning Commissioner stated it was made clear to us that it would be appealed to the City Council, prior to our final vote, which probably made a difference in that vote. She gave a brief historical description of the item. She spoke about architectural design standards and cost share public improvements.

City Attorney Kit Williams: Only the City Council can agree to cost shares. There's no certainty that a cost share, that helps basically a single property, would be approved by the City Council.

Council Member Petty moved to table the resolution to the October 3, 2017 City Council meeting. Council Member La Tour seconded the motion. Upon roll call the motion to table passed unanimously.

This resolution was tabled to the October 3, 2017 City Council meeting.

2017 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2017 fixing the rate thereof at 2.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund, 2.5 mills for Fayetteville Public Library Operations, and 1.2 mills for the Fayetteville Public Library Expansion; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Paul Becker, Chief Financial Officer gave a brief description of the ordinance. He stated he gave a presentation at the September 12, 2017 Agenda Session that citizens could view on the City of Fayetteville website.

Council Member La Tour: If I vote yes, I will not be voting for a tax increase. Correct?

Paul Becker: You will not be voting for a tax increase.

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

City Attorney Kit Williams read the ordinance.

Council Member Marsh moved to suspend the rules and go to the third and final reading. Council Member 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 5996 as Recorded in the office of the City Clerk

Announcements:

Council Member Long stated there would be a Ward 4 meeting on September 25, 2017 at 6:00 p.m. in Room 111 at City Hall.

Don Marr, Chief of Staff spoke about the Startup Crawl that will be on September 29, 2017. He reminded citizens about the Fall Bulky Waste Clean-Up on September 30, 2017. More information for the two events can be found on the City of Fayetteville website. He stated the Bikes, Blues and Barbeque Festival was approaching and citizens could view the city website for street closures. He stated that Paul Becker was announced as one of the chosen public-sector finalist in the Chief Financial Officer category of the year. He stated the city was very happy to have him and his expertise. He stated the award ceremony will be in October and the city wishes him luck. He stated that Development Services Director, Garner Stoll will be starting on October 2, 2017.

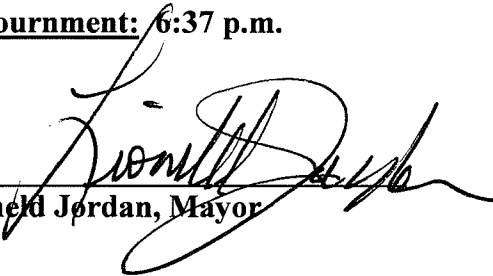
City Attorney Kit Williams spoke to the City Council about their title of Alderman being changed to Council Member, per the legislature. He gave a brief description about the Civil Rights Ordinance. He stated there will be a hearing on Thursday, September 21, 2017 at 1:30 p.m. in Judge Martin's courtroom at the Washington County courthouse.

City Council Agenda Session Presentations:

Agenda Session Presentation - Welcoming Fayetteville Plan Update

City Council Tour: None

Adjournment: 6:37 p.m.


Lionell Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer

Chair
Alderman Mark Kinion
Ward 2 Position 1

Alderman Sarah Marsh
Ward 1 Position 2



Alderman Sarah Bunch
Ward 3 Position 2

Alderman Alan T. Long
Ward 4 Position 2

Nominating Committee Report September 7, 2017

Members Present – Chair Mark Kinion, Sarah Marsh, and Sarah Bunch

Absent – Alan Long

The Nominating Committee recommends the following candidates for appointment:

ACTIVE TRANSPORTATION ADVISORY COMMITTEE

Steve Frankenberger – One community/citizen at large term ending 12/31/19

Laura Canter – One unexpired community/citizen at large term ending 12/31/18

ENERGY IMPROVEMENT DISTRICT NO. 1

Vacant – One term ending 12/31/19

FAYETTEVILLE ARTS COUNCIL

Vacant – One unexpired working artist term ending 06/30/19

Peter Croken – One unexpired arts and cultural citizen at large term ending 06/30/19

TELECOMMUNICATIONS BOARD

Ari Bazan – One citizen at large unexpired term ending 06/30/21

TOWN AND GOWN ADVISORY COMMITTEE

Vacant – One Ward 1 Resident term ending 09/30/19

Donna Daniels – One Ward 3 Resident term ending 09/30/19

Vacant – One University of Arkansas Student term ending 09/30/19