

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 Kyle Smith
Ward 4 Position 2

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

**City of Fayetteville Arkansas
City Council Meeting
March 6, 2018**

A meeting of the Fayetteville City Council was held on March 6, 2018 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 Members Adella Gray, Sarah Marsh, Mark Kinion, Matthew Petty, Justin Tennant, Sarah Bunch, John La Tour, Kyle Smith, 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:

Monthly Financial Report - Paul Becker

Paul Becker, Chief Financial Officer gave a summary of the Monthly Financial Report.

Agenda Additions: None

Consent:

Approval of the February 20, 2018 City Council Meeting Minutes.

Approved

Hazmat Services Revenue: A resolution to approve a budget adjustment in the amount of \$11,198.00 recognizing hazmat services revenue received from Washington County and increasing the related expense budget.

Resolution 65-18 as recorded in the office of the City Clerk

Arkansas State Drug Crime Enforcement and Prosecution Grant: A resolution to authorize acceptance of a 2017-2018 State Drug Crime Enforcement and Prosecution Grant for state funding of the Fourth Judicial District Drug Task Force in the amount of \$54,693.47, and to authorize Mayor Jordan to sign all necessary documents to receive the grant funds.

Resolution 66-18 as recorded in the office of the City Clerk

Environmental Consulting Operations, Inc: A resolution to approve Amendment No. 4 to the contract with Environmental Consulting Operations, Inc. in the amount of \$61,872.00 for wetlands mitigation site monitoring and management in 2018.

Resolution 67-18 as recorded in the office of the City Clerk

RFP #17-07 EcosConnect, LLC: A resolution to award RFP #17-07 and authorize the Mayor to sign a one-year contract with EcosConnect, LLC, with an option to renew for up to four additional one-year terms, in the amount of \$12,000.00 per year for backflow tracking services.

Resolution 68-18 as recorded in the office of the City Clerk

Garden District Townhomes, LLC: A resolution to approve Amendment #1 to the water main installation cost share agreement with Garden District Townhomes, LLC to provide for reimbursement of the cost of materials for installing two fire hydrants in the amount of \$5,121.60.

Resolution 69-18 as recorded in the office of the City Clerk

Bobcat Company: A resolution to authorize the purchase of a Bobcat E45 Excavator with attachments from Bobcat Company of West Fargo, North Dakota in the amount of \$69,857.30, pursuant to a National Joint Powers Alliance cooperative purchasing agreement, for use the by Transportation Services Department.

Resolution 70-18 as recorded in the office of the City Clerk

Superior Automotive Group: A resolution to approve the purchase of three police package Chevrolet Tahoes from Superior Automotive Group of Siloam Springs in the total amount of \$95,589.00, pursuant to a state procurement contract, for use by the Police Department.

Resolution 71-18 as recorded in the office of the City Clerk

Lewis Automotive Group: A resolution to authorize the purchase of a 2018 Dodge Ram 1500 4WD Regular cab from Lewis Automotive Group of Fayetteville, Arkansas in the amount of \$21,131.00, pursuant to a state procurement contract, for use by the Facilities Management Division.

Resolution 72-18 as recorded in the office of the City Clerk

Williams Tractor: A resolution to approve the purchase a 2018 New Holland RB450 4x5 Dry Hay Baler from Williams Tractor of Fayetteville in the amount of \$30,241.00 pursuant to National Joint Powers Alliance cooperative purchasing contract, for use by the Wastewater Treatment Division.

Resolution 73-18 as recorded in the office of the City Clerk

Steve Landers: A resolution to authorize the purchase of a Toyota Prius Hybrid from Steve Landers of Rogers, Arkansas in the amount of \$23,108.00, pursuant to a state procurement contract, for use by the Fleet Division, and to approve a budget adjustment.

Resolution 74-18 as recorded in the office of the City Clerk

Repeal Resolution No. 33-17: A resolution to repeal Resolution No. 33-17 and authorize the purchase of a 2018 Elgin Crosswind Street Sweeper from Environmental Products Mid-South of Memphis, Tennessee in the amount of \$251,739.20, pursuant to a National Joint Powers Alliance cooperative purchasing contract, for use by the Transportation Services Department.

Resolution 75-18 as recorded in the office of the City Clerk

Sweetser Construction, Inc.: A resolution to authorize Mayor Jordan to sign a contract with Sweetser Construction, Inc. in the amount of \$3,891,372.55 for the construction of the Old Wire Road Protected Bike Lane and Sidewalk Project, to approve a project contingency in the amount of \$194,000.00, and to approve a budget adjustment.

Resolution 76-18 as recorded in the office of the City Clerk

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

Unfinished Business:

RZN 17-6034 (2468 N. Crossover Rd./Jones): An ordinance to rezone that property described in rezoning petition RZN 17-6034 for approximately 4.40 acres located at 2468 North Crossover Road from RSF-2, Residential Single Family, 2 units per acre to NS-L, Neighborhood Services-Limited. *This ordinance was left on the first reading at the February 6, 2018 City Council meeting. This ordinance was left on the second reading at the February 20, 2018 City Council meeting.*

Council Member Marsh moved to suspend the rules and go to the third and final reading. Council Member Petty seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Jerry Jones, Applicant: We believe that it has been shown that Crossover Road, north of Township is no longer a residential area. No houses have been built on Crossover Road since 1982. Fayetteville continues to grow and with it comes more traffic. Thankfully, the City of Fayetteville and State of Arkansas partnered to widen Crossover Road. With 21,000 cars using Crossover, we believe the zoning of NS-L will have the least impact on traffic because of the limited number of buildings that can be built on the three acres we are proposing. This property has been for sale for many years. If any serious buyer or developer has any interest, they can still come forth. Changing the zoning will not prevent anyone from building a home on this property. The city staff and Planning Commission support this rezone.

Paul Henry, 2885 East Township spoke about traffic concerns and safety. He spoke against the ordinance and stated it isn't consistent with City Plan 2030. He believes there would be a side effect of spot zoning.

Ted Runnells, 2396 Crossover Road stated he would like to show a video presentation.

Council Member Tennant moved to add a citizen presentation. Council Member Gray seconded the motion. Upon roll call the motion passed unanimously.

Ted Runnells showed a video presentation about safety and traffic concerns.

Brenda Gullett, 2709 North Candlewood Drive stated her greatest concern is public safety.

Bob Gullett, Candlewood Subdivision spoke about traffic, noise, litter, and public safety concerns. He spoke about the appropriate and best use of the land.

Ted Wade, 2863 East Township spoke about traffic flow concerns and people coming down his private driveway.

J.B. Hayes, 2595 Firewood Drive stated he supports the ordinance.

Council Member Tennant: We have said before that we don't approve spot zoning. What is the city's answer to the question that this is spot zoning? What is the difference here that allows the city to want to approve this to be Neighborhood Services Limited?

Garner Stoll, Development Services Director: There are two factors. The first is, the character and size of the parcel, the character of the street and adjacent parcels, and the requested zoning. Secondly, there have been many court cases where if you find it in conformance with your comprehensive plan by nature, it isn't spot zoning. I'm not saying that is an Arkansas case, but in other states that is frequently the case. In this case, it is designated residential neighborhood. It specifically talks about appropriate scale development and mixed-use development. The 2030 Plan is trying to move away in an appropriate fashion towards more mixed-use development and substituting this size of the structure, rather than rigid separation of uses. You can reduce trips and promote less driving. It severely limits the building size and the location of the building. It allows a broader range of uses.

Council Member Tennant: The height limit of the buildings is the same in NS-G and NS-L?

Garner Stoll: Yes.

Council Member Tennant: What is really dreaded in this spot is something like the dentist office that is down the street towards the Neighborhood Market. It is a three-story large building. I don't know what the square footage is, but it is a very tall building. There is no zoning anywhere that you could allow the same size or smaller square foot buildings, even in a mixed-use stance, but with lower height.

Garner Stoll: You can always have theoretical scenarios, but we want to look at the probability of that happening. If you have a limitation of 3,000 square foot of office use, are you really going to get three stories?

Council Member Tennant: I see your point on that. Is there anything that shrunk even less than 3,000 square foot? Even if it was multiple smaller buildings. If the height limitation was very low, then you might not see it from the neighborhood.

Council Member Bunch: The property to the north of this is zoned R-O. What are the height limits on that property?

Garner Stoll: The same. The existing zoning is three stories, also. The height limit stays the same.

Council Member Tennant: In a perfect world, this should be residential. The only way this is residential, successfully, is if there's another way in or out of it. Nobody is going to build a house on that spot, where you have to go right in and right out on Highway 265. I almost got in a wreck at this site at our City Council tour. Mr. Jones is never going to sell it residential, unless he gets another way in or out of it. There is another way into that area through Firewood and Candlewood area. There is a road in there that is not a road now, but is a right-of-way that could be a connection into that. We need to look at all the options. I would like to table this for a while, until the

developers, Mr. Jones, and Mr. Runnell can get together and discuss possible solutions. There are ingress and egress problems on Highway 265 with this spot, even if it is residential or retail.

Council Member Petty stated he would defer to the rest of the Council if they wanted to table to look for another option to work on. He stated he was prepared to support the request that is before City Council. He spoke about compatibility and traffic issues. He stated Neighborhood Services Limited does a good job of addressing what might make multifamily incompatible with other types of residences. He believes the three-story heights are compatible. He stated traffic is awful at rush hour, but stated it is a function of the way the city was designed in the past.

Council Member La Tour: City government is here to keep our citizens safe. I've been in Washington D.C. with school children crossing six lanes of traffic. Our engineers are capable of designing a street system that will keep our school children safe. I don't believe we are compromising safety if we allow some development there. From the testimony of other people on this Council we have more than we need single family homes. What we don't have are affordable one-bedroom apartments. We need more of that development. Maybe the market is demanding mixed use. Whether Mr. Jones has selected the right combination to make his development successful is of no concern to me. It is his concern. My concern is to enable people to build in our city within existing zoning regulations. I want us to be fair to everybody and I support this.

Council Member Marsh: I look at this from a regional perspective. This is along our regional transportation corridor. If we are going to have mixed use development, this is a good place to put it. It's easily served by transit and services. I don't see what is objectionable to having an attorney's office, bakery, or any of the other permitted uses by right in this location. If you consider a 3,000-square footprint, most of the homes in Candlewood already exceed that size. This is a compatible proposal. Traffic problems occur when we have too much single use zoning. Mixed use will help alleviate some of the problems resulting from our historical development patterns. I support this.

Council Member Gray: The tour was helpful. Traffic is congested there and I sympathize with the neighbors. I understand the concerns for when children are coming and going. I understand Mr. Jones wanting to sell his property and he has the right to do that. Have you ever had a retail business approach you about any of the land?

Jerry Jones: No.

Council Member Gray: I avoid certain retail places when I think it could be a dangerous situation with traffic. I would like for us to table it and look at some options. Are you looking at the possibility of selling four lots?

Jerry Jones: Correct.

Council Member Gray: It would only be a maximum of four houses. I don't believe that's a concern of the neighbors for that number of houses with exiting and entering.

Jerry Jones: Tabling it prolongs something we have already discussed several times with a lot of builders that's been out there. They have enough experience to say if they are interested.

A discussion followed about tabling to take more time for other options.

Council Member Bunch: Traffic is always going to be an issue out there. Whether this property is rezoned or not, the size of it and the limitation with access right now, it poses unique limitations on the property anyway. We have an owner who wants to rezone his property with the possibility of a sale one day. As much as I feel for the neighbors, I feel for Mr. Jones because of the amount of time he has put into trying to sell this property. Traffic will increase, but I see the possibility of improvements being made in the future to help with traffic. With the property to the north being zoned R-O, this is an appropriate rezoning request for Mr. Jones.

Council Member Kinion stated rezoning is one of the biggest decisions that Council makes. He stated it sets a pathway to development throughout the city. He spoke about compatibility. He stated the NS-L zoning is similar to homes in Candlewood when looking at the square footage footprint. He stated the restrictions on the type of services offered in NS-L would help regulate traffic. He believes the median and having better planning creates a safer roadway on Highway 265 than what is on Wedington and MLK currently. He spoke about neighborhood preservation. He is in favor of NS-L.

Council Member Marsh stated the speed of traffic on the corridor is a concern. She believes the reason cars go so fast is because there are not a lot of entrances and exits. She stated by having a few more interruptions along the corridor, it will cause people to slow down. She stated when it is developed with mixed use, it equals more money for infrastructure improvements. She stated single family residential will still be allowed by right.

Council Member Tennant spoke about tabling the item to allow more options to be researched.

A discussion followed about a right-of-way road.

Council Member Gray moved to table the ordinance to the March 20, 2018 City Council meeting. **Council Member Tennant** seconded the motion. Upon roll call the motion to table passed 5-4. **Council Members Kinion, Tennant, Bunch, Gray, and Mayor Jordan** voting yes. **Council Members Marsh, Petty, La Tour, and Smith** voting no.

This ordinance was tabled to the March 20, 2018 City Council meeting.

New Business:

VAC 18-6075 (East of Dead Horse Mountain Road/Meadows at Stonebridge): An ordinance to approve VAC 18-6075 for property located east of 2000 Block, Dead Horse Mountain Road to vacate a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Garner Stoll, Development Services Director gave a brief description of the ordinance. He stated staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

Council Member Kinion moved to suspend the rules and go to the third and final reading. Council Member Petty 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 6042 as Recorded in the office of the City Clerk

RZN 18-6062 (South of 2901 Mt. Comfort Rd./Bauer-Henbest): An ordinance to rezone that property described in rezoning petition RZN 18-6062 for approximately 16.76 acres located south of 2901 Mount Comfort Road from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation for about 7.47 acres, to RI-U, Residential Intermediate-Urban for about 1.96 acres, and to R-A, Residential Agricultural for about 7.32 acres.

City Attorney Kit Williams read the ordinance.

Garner Stoll, Development Services Director gave a brief description of the ordinance. The Planning Commission and staff recommend approval.

Shaun Thomas, 1842 North September Strolls Lane spoke about infrastructure concerns and the high student enrollment at Holcomb Elementary.

Mayor Jordan: Have Council Members from that Ward heard anything?

Council Member Smith: We spoke about this briefly at the Ward 4 meeting, but there wasn't a lot of feedback. Is there any likelihood at development time there would be some type of traffic control measure for this development to exit out onto Mt. Comfort?

Garner Stoll: That would be a platting subject, which would be the next step. Mt. Comfort has four lanes. It has a biked lane the entire distance and sidewalk. There are a full range of facilities in place.

Council Member Gray moved to suspend the rules and go to the second reading. Council Member La Tour seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Council Member Gray moved to suspend the rules and go to the third and final reading. Council Member Smith seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Council Member Petty stated he attended a joint City Council and School Board meeting. He spoke about a demographic study of students in the Fayetteville Public School system. He stated projects like this one could help some of the transportation issues and spoke about the school district spending \$1.2 million a year on bussing. He stated if people could get closer to the schools with projects like this it could help.

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

Ordinance 6043 as Recorded in the office of the City Clerk

The following item was discussed before the Consent Agenda.

RZN 17-6052 (East of Rolling Hills Dr./Keenan): An ordinance to rezone that property described in rezoning petition RZN 17-6052 for approximately 22.59 acres located at east of Rolling Hills Drive and Old Missouri Road from RSF-4, Residential Single Family, 4 units per acre to NC, Neighborhood Conservation.

Mayor Jordan: I would like to move New Business, C.3, RZN 17-6052 (East of Rolling Hills Dr./Keenan) before the Consent Agenda.

City Attorney Kit Williams: We need a motion to suspend the rules to adjust the agenda.

Council Member Kinion moved to remove RZN 17-6052 (East of Rolling Hills Dr./Keenan) from New Business and place it before the Consent Agenda. Council Member Gray seconded the motion. Upon roll call the motion passed unanimously.

Mayor Jordan: The reason we have moved this is because we are going to make a recommendation to send it back to the Planning Commission.

City Attorney Kit Williams: Thank you Mayor for calling this to my attention and thank you to the neighbors in the area for looking at this situation very closely. When looking at the application, I noticed there were some problems with it. I looked at the underlying ordinance from the Unified Development Code that talks about what procedure we use when a private party wants to rezone their property. One of the three things that was required was a statement explaining why the proposed changes will not conflict with the surrounding land uses. That had not been addressed in this rezoning application. At this point, there is not an effective application that went to the Planning Commission and it shouldn't have been heard by the Planning Commission. I would like for City Council to send it back to the Planning Commission to be heard, when a proper application with that information has been supplied by the applicant.

Mayor Jordan: The Planning Commission meets on March 12, 2018.

A discussion followed about when the next time it could be heard at a City Council meeting.

Council Member Gray moved to refer the item to the Planning Commission. Council Member Tennant seconded the motion. Upon roll call the motion passed unanimously.

Automated Merchant Systems, Inc.: An ordinance to waive the requirements of formal competitive bidding and approve a contract with Automated Merchant Systems, Inc. for credit card processing services.

City Attorney Kit Williams read the ordinance.

Paul Becker, Chief Financial Officer gave a brief description of the ordinance.

Council Member La Tour thanked Paul Becker.

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

City Attorney Kit Williams read the ordinance.

Council Member Gray moved to suspend the rules and go to the third and final reading. Council Member 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 6044 as Recorded in the office of the City Clerk

Amend Chapter 98 & Chapter 50: An ordinance to Amend §98.02 **Duty Of Property Owner And Occupant To Keep Sidewalks Free From Obstructions**, §98.04 **Growing Trees And Other Vegetation Near Intersections; Right-Of-Way To Be Kept Free From Grass And Weeds**, §98.08 **Spilling Or Tracking Debris Onto Public Streets** and §50.01 **Definitions** of the Fayetteville Code, and to enact §98.09 **Abatement By City; Costs Responsibility Of Owner**.

City Attorney Kit Williams read the ordinance.

Matt Mihalevich, Trails Coordinator and Staff Representative for the Active Transportation Advisory Committee gave a brief description of the ordinance. He stated the committee unanimously supports the proposed changes.

Council Member Petty: At my house, I have a sidewalk at the back of the curb, just like this regulates. I also have parallel parking next to the curb. If I put my trash can in my yard like this ordinance requires, they can't get to it because there are cars parked in the way. I usually put mine in the gutter, but it would be disallowed by this ordinance.

Matt Mihalevich: It would be allowed in the gutter if it doesn't impede the flow of traffic.

Council Member Marsh: This is to make sure we have full utilization and proper maintenance of the infrastructure we already have. We want citizens with mobility challenges or someone pushing a stroller to have full inclusive access. We've seen an increase in construction and this gives them an incentive to clean up after themselves.

Council Member Marsh moved to suspend the rules and go to the second reading. Council Member Kinion 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.

Don Marr, Chief of Staff thanked the Active Transportation Advisory Committee for their work. He reminded everyone that the city has a crew of four to handle 55 square miles of city limits and that is why the ordinance has always been in place for property owners to assist in maintaining areas adjacent to their own property. He stated there would be a consequence of higher taxes if more people were hired to maintain it. He spoke about Title 6 for the disabled and handicapped community.

Council Member La Tour: If someone defaces the sidewalk in front of my house, am I responsible for that?

City Attorney Kit Williams: I don't think that is covered. This is about vegetation and weeds. We make an effort to get graffiti cleaned up as quickly as possible to deter future graffiti.

Council Member La Tour: If I'm pouring a sidewalk in my backyard and the concrete truck gets mud from my backyard and tracks it onto the road, am I responsible for the mud cleanup?

City Attorney Kit Williams: No, they would be responsible for that by ordinance. Developers know what to do and they take care to not track up the streets.

Don Marr: This is an important factor to our water quality, related to runoff and impact on our streams.

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

Ordinance 6045 as Recorded in the office of the City Clerk

Enact §97.083 Smoking And Use Of Tobacco Products: An ordinance to enact §97.083 **Smoking And Use Of Tobacco Products** into Chapter 97: **Parks And Recreation** to prohibit smoking and tobacco use in all city parks and trails.

City Attorney Kit Williams read the ordinance.

Connie Edmonston, Parks & Recreation Director gave a brief description of the ordinance. She stated the Parks & Recreation Advisory Board are in favor of the ordinance. She stated signs would be posted in parks and on trails. She stated the Northwest Arkansas Tobacco and Drug Free Coalition has endorsed the ordinance and will assist with the signs.

Council Member Tennant: I am in favor of this. Is the Northwest Arkansas Tobacco and Drug Free Coalition paying for the signs or are the signs part of the budgeting?

Connie Edmonston: They are going to assist us with signage.

Council Member Gray moved to suspend the rules and go to the second reading. **Council Member Kinion** 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 Gray** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

A discussion followed about the safety and health benefits of the past smoking ordinance and the current one being proposed.

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

Ordinance 6046 as Recorded in the office of the City Clerk

Downtown/Entertainment District Parking and Mobility Plan: A resolution to approve and authorize Mayor Jordan to proceed with Phase One of the Implementation Schedule for the Downtown/Entertainment District Parking and Mobility Plan developed by Nelson/Nygaard Consulting Associates, Inc.

Justin Clay, Parking Manager gave a brief description of the resolution and Phase 1 objectives.

Jason Schrieber, Nelson/Nygaard Consulting Associates presented a PowerPoint Presentation. He spoke about the study, it's findings, challenges identified, the plans strategies and recommendations aimed at improving how the parking system functions, and the experience of those who park, with the goal of increasing availability throughout the entire parking system.

Justin Clay spoke about customer service, increasing supply, adding on street spaces to West Avenue in front of Grubs restaurant, open the leasing spaces behind the old court house as free parking, and working with the Arts Center to institute bundled and prepaid parking for theatre goers. He stated he wanted to make clear the recommendation around the residential benefit improvement district and responsive pricing. He stated the way they are applying the recommendation is to continue to build upon the existing stakeholder groups to discuss what's been recommended. He stated there is no implementation of any of the rate changes or any of the structural changes to the existing programs in Phase 1. He stated as they move forward with any one specific item, he will come back before Council for them to consider it on its own merit. He stated that the phase approach sets them on a clearly defined roadmap.

Council Member Tennant: The biggest problem in the city about parking doesn't have a whole lot to do with the city owned lots. It has to do with the private lots. Almost every complaint I get is about the private lots. How can we best go about improving private lot problems?

Justin Clay: One of the recommendations is to pursue shared parking agreements with private lot owners. Even possibly, the lot owners that currently make their parking publicly accessible.

Don Marr stated signage is important to let people know they are in the city's public lot and when they're in a private public lot for those that we are not able to work agreements with. He spoke about labeling to show the city controls it and makes it clear that the city doesn't boot and tow. He spoke about the parking equipment when initially purchased. He stated a contract has been negotiated with the University of Arkansas West Annex Building. He stated the city would like to capitalize on parking that is used in the daytime, but available at night. He spoke about legal and economic aspects. He stated the branding and education components are a big part of the customer service plan.

Council Member Tennant: The branding is key. Once people learn that, they are going to remember it.

Don Marr: We are targeting our Wayfinding Signage Program because it would be consistent throughout the entire region.

Council Member Tennant thanked city staff for their efforts.

Council Member La Tour: It is hard to sell something, somebody else is giving away for free. When I go to Ruth's Chris Steak House in Rogers, I park for free. When I go to the Bentonville Square or downtown Springdale, I park for free. When I come to downtown Fayetteville, at one point, I had to download an app and figure out how to use it so I could pay for my parking. I go south of the mall or MLK to eat and I don't have to worry about parking. What can we do that's

going to make me want to come back and eat on Dickson Street? I want an uncomplicated way to go to dinner.

Justin Clay: These recommendations and Phase 1 objectives have the goal of making parking convenient, easy to understand, and available at all points of the system.

Jason Schrieber: The concern you speak about is the concern I've heard in every parking study over the years. People still come to downtown Fayetteville because of what it is. It's something all those other locations you can go to that have free parking will never be able to provide. That will always be the case.

Council Member La Tour: When you argue we have a big demand for our downtown area and people will maneuver the parking for the culture, you are saying they are coming despite our parking. I would like for the parking to be simple and inexpensive. My solution is to make it free.

Mayor Jordan: We have \$10 million worth of bonds. How are you going to pay that off if you don't have paid parking?

Council Member La Tour: I agree we have bonding obligations, so we can't make it free. That was a mistake we made ten years ago. We went into debt and incurred those obligations and now we are competing with these other cities who have free parking.

Mayor Jordan: Doesn't matter how you got there, you got to pay the bonds off.

Don Marr: I don't agree with you Council Member La Tour. There are people who can tailgate at Wilson Park for free. They are further away, but they would much rather be in a sense of place closer to the stadium for convenience of amenities. People pay to park in a lot for the convenience. You are paying for parking when you go to Ruth's Chris Steak House or the mall. There is a cost to those entities to provide that and it is in their cost of making back what they invested to put those things in place. People think it's free, but the cost of parking is something we deal with. It's whether it's included in your pricing or whether it is a stand-alone item for a user based situation. People understand what the benefits are. There are items we can improve. That is why we are taking the role we took in this study and why these recommendations need to go into place. It is an asset we don't give away for free. To offset bond payments and to pay for parking the city is providing, that businesses didn't necessarily build in this scenario, we have to be able recoup and finance that.

Mayor Jordan: How many of the parking spaces are privately owned in the Entertainment area?

Jason Schrieber: I think it is more than half, but I don't know the number.

Mayor Jordan: Private owners were already starting to do paid parking before we ever started to do paid parking. We met with business owners on Dickson Street and they said they had been promised a parking deck for 20 years and nobody has brought forward a way to do that. I told them I had a way, but it's going to take paid parking and they said okay. We passed bonds and we must pay for those bonds.

Council Member La Tour: I know there is no such thing as a free lunch. The cost of parking is going to be paid one way or the other, but the whole city is taking on that burden. We fancy ourselves as a welcoming city, but visitors must pay for parking downtown. It would be a more welcoming city if we as citizens of Fayetteville paid for the parking for visitors. I know we can't go back, but it's an academic point. I rather see us be in a position where we could offer free parking because it would make our downtown flourish even more.

Mayor Jordan: What would be your plan to do that?

Council Member La Tour: It would be a tax increase and I don't like that either.

Don Marr: The debate we had at this Council was if this was going to be paid by the citizens in their taxes or paid by the user benefiting from the service.

Jason Schrieber: The end game is for visitors and customers to be able to find a parking space. When it's free and as cool as your Entertainment District is, I would never find a parking space as an outsider, unless it's nothing but parking garages. If it's all parking garages I'm not coming because it will look ugly. That tradeoff is what downtowns have been doing for a long time. The downtown merchants are the number one constituents who get behind the pricing plans. They see new curb spaces that are opened because of pricing as opportunities for their customers to get in. Parking activity has increased, retail sales have gone up, and people have become happier. As an outsider, I would happily pay \$2.00 an hour to park to attend places in your Entertainment District.

Council Member Marsh: Downtown Springdale and Bentonville are not within walking distance of a campus that has 25,000 students. The U of A charges between \$66.00 and \$879.00 for a parking space, per year. If I was a student looking to save some money, I would leave my car on Dickson Street all day. The benefit of having paid parking is that it makes people judicious where they leave their car. People can park further away at the Public Library or Mill District who don't have a lot of money to park. This is an excellent plan and I look forward to us implementing it.

Council Member Smith: You get what you pay for, but you also pay for what you use. I will happily go downtown, but I park further away. It is our job to make sure that despite paid parking that Dickson Street stays the type of place we want to be.

Teresa Turk, Citizen requested the analysis to look at the days of the week regarding usage. She stated it would be nice to park free on Sundays.

Katherine Galloway, 609 West Dickson stated the more you have to park for a place, the more desirable it is. She spoke about safety and ride sharing services.

Justin Clay spoke briefly about ride sharing and traffic congestion issues.

Council Member Petty spoke about the general study results and upcoming stakeholder meetings. He stated HMR revenue downtown has grown over the years since paid parking was implemented. He stated criticism leveled at the city was legitimate for the way the city was communicating about the system and the way it was structured. He stated the report defines a clear plan to fix legitimate

weaknesses and make it stronger. He spoke about branding, transparent pricing, and priced according to demand.

Council Member Gray requested for security to be addressed.

Don Marr spoke about security and days of the week regarding usage that was addressed in the plan.

Greg Tabor, Chief of Police: We have had two officers work Dickson Street for many years. We have recently increased it to four in the evening hours. We have regular meetings with the Dickson Street Merchants Association. We have worked with the U of A to increase lighting. We have installed cameras on Dickson Street that are fed into Dispatch for viewing. We have worked on traffic congestion. We have been doing a lot in the last few months to increase safety on Dickson Street.

Council Member Gray thanked Chief Tabor for letting the public know what all is being done about safety.

Mayor Jordan stated they had been working directly with Dickson Street business owners.

Don Marr thanked Justin Clay, Peter Nierengarten, and Nelson/Nygaard Consulting Associates for their work on the plan. He thanked stakeholders, Walton Arts Center, Dickson Street Merchants, parking users, and the public who provided input into this plan.

Mayor Jordan expressed his appreciation for everyone's work.

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

Resolution 77-18 as recorded in the office of the City Clerk

Sale of City of Fayetteville Property about 0.04 Acres: A resolution to authorize Mayor Jordan to sell about 0.04 acres of city property south of George's Majestic Lounge and west of the railroad tracks to the highest or best bidder.

Devin Howland, Director of Economic Vitality gave a brief description of the resolution. He stated there were two bids received. Staff is recommending retaining the property. He stated utilizing the property for parking potentially could impact the seven mature trees located on the parcel. Staff recommends retaining the property until the completion of the Design Excellence Grant work is done to ensure it's not needed as part of the project and to further establish the compatibility of proper uses against the Design Excellence Grant.

Council Member Petty: The recommendation is to not sell the property right now?

Devin Howland: Correct, not until the Design Excellence Grant work is done. Even if the property did need to go back out to rebid, the Council could set parameters inside of the bid if they don't want the trees removed if it is sold.

Don Marr: State law about disposing of property from the city starts with the property value being over \$20,000 or under \$20,000. The city can entertain individual offers for property without bidding them if under \$20,000. They must be bid if over \$20,000. Two long term businesses bid, but we believe it is important to wait until we see what the Design Excellence Grant work shows.

Craig Underwood, Underwoods Jewelers stated he submitted a high bid for the parcel with the intent of using it for parking. He spoke briefly about Underwoods parking situation. He stated he does not understand why the property was put up for sale if there was no intent to sell it. He stated he put up the highest bid for \$25,000 and is over the appraised value. He believes he should be awarded the parcel.

Council Member Tennant: I brought this forward because I was approached by a Dickson Street business owner who was curious if we would sell it. City staff instructed me on how it all worked. I erroneously believed George's would be the only one who could possibly want it because of where it is and what it is. Now, two 50-year respected businesses want it. I wasn't as educated as I should've been on the Design Excellence Grant, plus the Mobility Study, and what that might mean to this spot. I would like to wait until we get some results back from the reports to make the best decision.

Council Member Gray: How many trees would possibly have to be cut?

Devin Howland: It would be sheer speculation, but there are seven on the parcel.

Council Member Marsh: I appreciate Mr. Underwood's offer, but I think we owe it to our citizens to wait until we have a plan for this area. I hope it can bring a new attraction and not just add more parking to an existing attraction.

Mayor Jordan: The resolution is to not sale the property?

City Attorney Kit Williams: You would vote against the resolution. The resolution is to sell the property.

Mayor Jordan: The recommendation from staff is to not sell the property?

Devin Howland: Yes.

Don Marr: In a previous City Council meeting there was a lot of discussion by the Council that putting it to bid did not mean you had to sell it. The Design Excellent Grant was spoken about and the possibility of it being an even higher value for someone to look at for housing. The City Attorney told you that you could accept the highest bid or you could reject any of the bids to not sell the land. Going through this process did not commit you to do it.

City Attorney Kit Williams explained what a yes or no vote means. He spoke about what tabling an item indefinitely means.

Council Member Gray moved to approve the resolution. The motion died for lack of a second.

Council Member Marsh moved to table the resolution indefinitely. **Council Member Smith** seconded the motion. Upon roll call the motion passed unanimously.

This resolution was Tabled Indefinitely.

Sale of City of Fayetteville Property about .1 Acres: A resolution to sell about 0.1 acres of land at the Northwest corner of South Razorback Road and Sligo Street to John Christopher Looney and Myriah Dawn Johnson for \$5,000.00.

Devin Howland, Director of Economic Vitality gave a brief description of the resolution.

John Christopher Looney, Applicant thanked the Council. He stated he doesn't intend to use any of the trees for the 20% tree canopy. He stated he is not cutting down the silver maple on the property. He spoke about storm retention.

Council Member Marsh: I have not heard any comments in opposition to this. It is a good use of what is underutilized land. Thank you to the proposed buyer for taking into consideration the sensitive nature of the site, water shed, and tree canopy.

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

Resolution 78-18 as recorded in the office of the City Clerk

Amend § 74.01: An ordinance to amend §74.01 **Application Of Regulations** to add a definition of roadway.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: Chief Tabor had questions about whether medians would be covered within our normal ordinance that people aren't supposed to walk into the street, such as highways and arterials. I looked at the ordinance and it wasn't clear and decided I needed a definition of roadway to make it clear.

Greg Tabor, Chief of Police stated the Police Department has seen a large increase of people being in the median of different roadways, which is very dangerous. He stated it could cause a dangerous distraction.

Council Member Marsh: How many accidents have we had in the last ten years that are attributable to people being in the medians?

Greg Tabor: I have no idea. In 2017, we had 41 calls of someone being in the median. I don't know how many were accidents.

Council Member Marsh: I would like to have that information. I'm hearing concerns from my constituents that this is about criminalizing panhandling. We need to address the root cause of panhandling, which is poverty, unemployment, and underemployment. Until I see some numbers that shows this is a problem, I'm not supporting this ordinance.

Greg Tabor: There are many people panhandling outside of medians. We have not criminalized them or wrote any citations.

Don Marr: It concerns me to hear a statement like that because it implies that's the staffs' intention. Our concern is safety. We are just as concerned about the safety of a panhandler in the middle of the road as we are about a pedestrian. When you have people standing longer periods of time, not in a pedestrian crossing aspect, it is a real safety issue. It is not a target of reducing panhandling. If a person is doing that, we direct them to where they can do that, safely and legally. We are talking about items that are typically raised concrete dividers between lanes or a triangle put into the middle of the road to hold a stop sign, not to be used as a pedestrian standing permanent location.

Council Member Tennant: This will still allow multiple intersections to be used if someone chooses because it doesn't cover everything. This about smaller spaces we are trying to keep people safe in.

Greg Tabor: No, that isn't correct. I don't think it would allow you to do it in the roadway at any location. You could be on the side of the road and do it at just about any location in town.

Council Member Tennant: At Joyce Boulevard, there is a small concrete divider where a man was selling water for money. He had an ice chest with wheels on it. It rolled off and I saw three cars, somehow not run into each other. He ran out to stop it and a car almost hit him. This is what this ordinance is about.

Greg Tabor: That's correct. This is about safety.

Council Member Kinion: I understand the intent is safety. Is there some way we can better amend this? Whenever you read it, you can possibly see that it could be interpreted to criminalize a person panhandling.

City Attorney Kit Williams: All this does is define what the roadway is. It's already against the law to jaywalk because of safety issues. It's already against our other ordinance to get into roadways of arterial streets or highways. This is purely for safety. You have to rely a little bit on our Police Department to make sure they are looking at safety issues and not something else. If you are getting on the median on College Avenue between where Joyce comes in, how do you get

there? There are no crosswalks there. We are encouraging people to be unsafe if we let them stand there because they have to be unsafe to cross there. There are lots of places that people can go and panhandle legally in the city. We don't have to wait for somebody to get killed to pass this.

Greg Tabor: Every Fayetteville Police Officer knows what our City Attorney's opinion is about the legalities of panhandling and what the Supreme Court ruling is.

A discussion followed about Supreme Court rulings.

Council Member Kinion: I know the intent is in earnest and is about safety. We have been approached by many people who are concerned about the city targeting panhandlers.

Greg Tabor: It will be our intent to enforce this for someone being in the median. Not what they are doing in the median.

City Attorney Kit Williams: If there is a problem in the future, it is up to the Council to fix it. Just like the problem with our previous ordinance needing a definition and that's why I drafted one and brought it to you. You must have confidence in our democratic system and City Councils' in the future as problems occur.

A discussion followed about the definition of what a roadway is.

Council Member La Tour: We have to rely on the Police. Chief Tabor, thank you for protecting our families and people. Every time I exit I-49, there's usually someone at the exit asking for money and this ordinance won't stop that, but I'm concerned about safety. Let's not wait for somebody to get killed.

Council Member Smith: I don't question the intent of the ordinance, but I worry about the perception. If it's perceived as targeting the poor, I want to make sure we are providing services for that first before we go after criminalizing it. Safety is a real concern. Where have the 41 calls been?

Greg Tabor: Joyce and College intersection, College and Township, Wedington, College and Rolling Hills, Garland, Zion, Crossover, and South School.

A discussion followed about requesting panhandlers to move from the median to the edge of the road.

Council Member Smith: Would a citation come before or after they are asked to move?

Greg Tabor: Officers' use discretion every day for many things. Our records management system is very robust. It keeps track of all the warnings and citations we give. I hope the very first time, we would give warnings. If you have been warned three to six times, you are going to get a citation.

Council Member Smith: That sounds reasonable.

Don Marr spoke about the City of Fayetteville contributing over \$600,000 to homeless services. He stated he is not aware of any other city that can make that statement.

Council Member Smith: I did not intend to imply we weren't doing anything to tackle the problem. There is a whole lot more problem left in front of us.

Rob Qualls, 2140 Jonquil stated he represents a Civil Rights organization called, For Fayetteville. He gave statistics of the 2017 calls to the Police Department. He spoke about Civil Rights of panhandlers.

Amber Bruce, Social Worker spoke about her concerns of homelessness.

Council Member Marsh spoke about fixing the roadway design rather than pass laws that could criminalize people in crisis.

Council Member Petty stated he would like to hold the ordinance and requested information about other median ordinances. He spoke about other communities who have posted signs, to text a certain number, to donate to homeless shelters.

City Attorney Kit Williams: I have looked at the issues with medians and in many cases the prohibition against medians were directly linked to panhandlers. In other cases, they tried to do them city wide as was alleged here. Ours is not city wide, it's only principle arterials and federal or state highways. This law is somewhat influx and no guarantee as to what is exactly going to happen. All we are doing is clarifying the ordinance by adding a definition to roadway. This is not a significant change to the existing ordinance you all passed not very long ago. It is directed towards safety. It is not directed toward panhandlers. A panhandler has the right to ask for money, but doesn't give the right to break a law or create danger for other people.

This ordinance was left on the First Reading

Announcements:

City Attorney Kit Williams: The city was sued by a law firm over the False Alarm Reduction ordinance we passed several years ago. This law firm sued Fayetteville, Little Rock, and Hot Springs. Little Rock has filed a motion to dismiss. I filed an answer, an extensive motion, and brief attacking their attempt to certify a class to sue against us. I filed a motion for judgement on the pleadings. Hot Springs is supposed to settle, pay attorney fees, refund money to false alarm people, and agreeing to not enforce the ordinance anymore. Our False Alarm ordinance is defensible. It has worked and we have reduced the false alarms by 50%. We would like to reduce that even more. I'm going to do my best to defend this case because the ordinance has been effective for our Police Department.

Greg Tabor, Chief of Police: On March 10, 2018, we are having a community event at Arkansas Athletes Outreach beginning at 8:00 a.m. Everyone is invited to attend.

Susan Norton stated she is a member of the National League of Cities and is appointed to the Information Technology Communication Committee. She will be attending a meeting in Washington D.C.

Mayor Jordan stated he is on the Human Development Committee and will be attending a meeting in Washington D.C.

City Council Agenda Session Presentations:

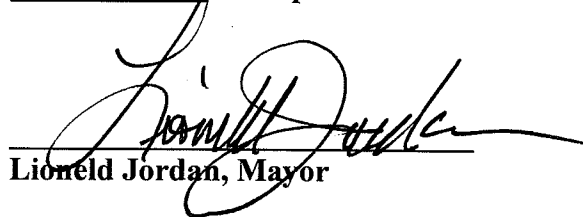
Agenda Session Presentation, Sales Tax Report - Paul Becker

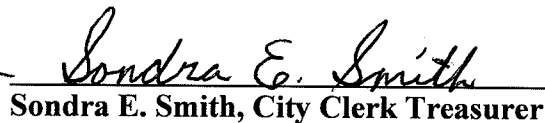
Agenda Session Presentation, Monthly Energy Usage Report – Peter Nierengarten

City Council Tour:

4:30 p.m. Monday, March 5, 2018 RZN 17-6034 2468 N. Crossover/Jones

Adjournment: 9:42 p.m.


Lioneld Jordan, Mayor


Sondra E. Smith, City Clerk Treasurer