

Council Member Sonia Harvey
Ward 1 Position 1

Council Member D'Andre Jones
Ward 1 Position 2

Council Member Mark Kinion
Ward 2 Position 1

Council Member Mike Wiederkehr
Ward 2 Position 2



Council Member Sloan Scroggin
Ward 3 Position 1

Council Member Sarah Bunch
Ward 3 Position 2

Council Member Teresa Turk
Ward 4 Position 1

Council Member Holly Hertzberg
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Treasurer Kara Paxton

**City of Fayetteville Arkansas
City Council Meeting
August 16, 2022**

A meeting of the Fayetteville City Council was held on August 16, 2022 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Lioneld Jordan called the meeting to order.

PRESENT: Council Members Sonia Harvey, D'Andre Jones, Mark Kinion, Mike Wiederkehr, Sloan Scroggin, Sarah Bunch, Teresa Turk, Holly Hertzberg, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Kara Paxton, Staff, Press, and Audience.

Council Member Bunch arrived at 5:50 PM after roll call had been taken.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

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

Agenda Additions: None

Consent:

Approval of the August 2, 2022 City Council Meeting Minutes.

Amendment No. 2, Burns & McDonnell Engineering Company, Inc.: A resolution to approve Amendment No. 2 to the Professional Engineering Services Agreement with Burns & McDonnell Engineering Company, Inc. in the amount of \$33,880.00 for a hydraulic analysis and survey associated with a project to address scour at the South Armstrong Avenue Bridge over Town Branch.

Resolution 177-22 as recorded in the office of the City Clerk

Change Order No. 5 Tri Star Contractors, LLC: A resolution to approve Change Order No. 5 to the contract with Tri Star Contractors, LLC for additional work associated with the Zion Road - Vantage Drive to Crossover Road Project in the amount of \$264,597.22, to approve a project contingency in the amount of \$120,000.00, and to approve a budget adjustment – 2019 Transportation Bond Project.

Resolution 178-22 as recorded in the office of the City Clerk

RFQ 22-07 Crossland Heavy Contractors, Inc.: A resolution to authorize a contract with Crossland Heavy Contractors, Inc., pursuant to RFQ 22-07, in the initial amount of \$78,550.00, to provide construction manager at risk services for the Midtown Corridor Project, and to approve a budget adjustment.

Resolution 179-22 as recorded in the office of the City Clerk

Amendment 1, Boston Mountain Solid Waste District: A resolution to approve a contract amendment with the Boston Mountain Solid Waste District for Environmental Education and Outreach Services through the end of 2022 in the amount of \$9,500.00.

Resolution 180-22 as recorded in the office of the City Clerk

Commercial Electronics Corp: A resolution to approve the purchase of a phone system recorder from Commercial Electronics Corp in the amount of \$139,125.90 plus any applicable taxes and shipping charges, pursuant to a Houston-Galveston Area Council cooperative purchasing contract.

Resolution 181-22 as recorded in the office of the City Clerk

Thermal Dryer at the Biosolids Management Site: A resolution to approve a budget adjustment in the amount of \$346,580.00 to fund site preparation work prior to the installation of the thermal dryer at the Biosolids Management Site.

Resolution 182-22 as recorded in the office of the City Clerk

Amendment No. 1, Miller Boskus Lack Architects, P.A.: A resolution to approve Amendment No. 1 to the Professional Architectural Services Agreement with Miller Boskus Lack Architects, P.A in the amount of \$754,200.00 for architectural Services associated with the Yvonne Richardson Community Center Expansion, and to approve a budget adjustment - 2022 Park Improvement Bond Project.

Resolution 183-22 as recorded in the office of the City Clerk

Change Order No. 5 JBZ, Inc. D/B/A Ellingson Contracting: A resolution to approve change order no. 5 to the contract with JBZ, Inc. d/b/a Ellingson Contracting in the amount of \$148,038.00 for additional construction associated with the Woolsey Farmstead Restoration Project.

Resolution 184-22 as recorded in the office of the City Clerk

Nabholz Construction Change Order 11, Cultural Arts Corridor: A resolution to approve Change Order No. 11 to the contract with Nabholz Construction Corporation in the amount of \$4,984,952.00 for West Avenue Improvements and the Greenway Trail Improvements related to the Cultural Arts Corridor Project, and to approve a budget adjustment - 2022 Cultural Arts Corridor Bond Project.

Resolution 185-22 as recorded in the office of the City Clerk

Council Member Harvey moved to accept the Consent Agenda as read. Council Member Scroggin seconded the motion. Upon roll call the motion passed 7-0. Council Member Jones, Kinion, Wiederkehr, Scroggin, Turk, Hertzberg and Harvey voted yes. Council Member Bunch was absent.

University of Arkansas Athletic Department: A resolution to congratulate the University of Arkansas Athletic Department for being selected by CBS Sports as the fifth best in the nation.

Council Member Jones spoke about the University of Arkansas Athletic Department being named the fifth best in the nation. He went on to request that this item be removed from the consent agenda in order to have a separate discussion and vote to issue a certificate from Mayor Jordan and the rest of City Council to be given to the Athletic Department.

Council Member Harvey moved to approve the resolution. Council Member Jones seconded the motion. Upon roll call the resolution passed 7-0. Council Member Jones, Kinion, Wiederkehr, Scroggin, Turk, Hertzberg and Harvey voted yes. Council Member Bunch was absent.

Dorita Dokins, Associate Vice Chancellor & Deputy Athletic Director spoke and talked about the exceptional last two years the Athletic Department has had. She went on to thank the City of Fayetteville for the certificate of recognition.

Resolution 186-22 as recorded in the office of the City Clerk

Unfinished Business:

RZN 22-025 (507 S. Church Ave.): An ordinance to rezone that property described in rezoning petition RZN 22-025 located at 507 South Church Avenue in Ward 1 for approximately 0.17 acres from NC, Neighborhood Conservation to RI-U, Residential Intermediate-Urban. *This Agenda Item Was Tabled to The July 19, 2022 City Council Meeting and Left on A First Reading.*

Council Member Kinion moved to suspend the rules and go to the second reading. Council Member Jones seconded the motion. Upon roll call the motion passed 7-0. Council Member Jones, Kinion, Wiederkehr, Scroggin, Turk, Hertzberg and Harvey voted yes. Council Member Bunch was absent.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director spoke and gave a description of the property and explained that the property located at 507 S. Church Ave. is located southwest of the intersection of Fifth St. and Church St. He went on to explain that the request received asked to rezone the property from NC, Neighborhood Conservation to RI-U Intermediate Urban. Mr. Curth went on to provide additional information to the Council. He explained that staff found this request to be land use compatible. Staff also agreed that the allowances under RI-U would be fully compatible.

Sarah Geurtz, Earthplan Design Alternatives Representative spoke and explained what the applicant/client is not planning on creating a five-story building on this location.

Council Member Harvey spoke and asked Ms. Geurtz if she had heard from the one neighbor who had submitted a public comment.

Ms. Geurtz spoke and explained the organization had not heard from the neighbor.

Council Member Harvey moved to suspend the rules and go to the third reading. Council Member Kinion seconded the motion. Upon roll call the motion passed 7-0. Council Member Jones, Kinion, Wiederkehr, Scroggin, Turk, Hertzberg and Harvey voted yes. Council Member Bunch was absent.

City Attorney Kit Williams read the ordinance.

Council Member Turk spoke and explained that she felt the current zoning of NC, Neighborhood Conservation was appropriate. She went on to explain that due to how small the lots were, prevented her from supporting the rezone request.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Council Member Jones, Kinion, Wiederkehr, Scroggin, Hertzberg and Harvey voted yes. Council Member Turk voted no. Council Member Bunch was absent.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 6594

New Business:

Walton Family Foundation Grant Acceptance: a resolution to authorize the acceptance of a 50/50 Matching Grant of up to \$1,400,000.00 from the Walton Family Foundation to construct an expansion of the Yvonne Richardson Community Center and support public engagement and programming, and to approve a budget adjustment - 2019 Park Improvement Bond Project.

Alison Jumper, Parks, Natural Resources and Cultural Affairs Director spoke about the history of this item. She went on to explain that the funding will provide \$1.4 million dollars for the construction and continued community engagement. Ms. Jumper went on to explain that the grant funds would be used on increasing the number of participants in the programs, promoting a sense of belonging in the community, physical expansion of the building, and increasing the number of diversity events/programs.

Council Member Kinion spoke and expressed his appreciation to the Walton Family Foundation.

Council Member Bunch spoke and echoed the comments Council Member Kinion made. She went on to explain that she thought the conceptional drawings in Ms. Jumper's presentation looked great.

Mayor Jordan spoke and echoed the comments made by Council Member Kinion and Bunch. He also went on to thank Alison Jumper for her work.

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

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 187-22

2022 Community Development Block Grant (CDBG) Action Plan: A resolution to approve the 2022 Community Development Block Grant (CDBG) Action Plan, to authorize Mayor Jordan to execute the CDBG Agreement for 2022 in the amount of \$725,638.00 when received.

Yolanda Fields, Community Resources Director/Equity Officer, spoke and explained to the City Council Members that by approving the item it would give Mayor Jordan the authority to execute the 2022 Community Development Block Grant (CDBG) Agreement.

Council Member Kinion, spoke and provided a history regarding CDBG funds. He went on to explain that a majority of the funds go to housing rehabilitation.

Council Member Harvey moved to approve the resolution. Council Member Jones seconded the motion. Upon roll call the resolution passed unanimously.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 188-22.

Griffin Residuals, LLC: An ordinance to waive competitive bidding and approve the Griffin Residuals Drying as a Service Agreement with the City of Fayetteville, to approve a contingency amount of \$81,250.00, and to approve a budget adjustment.

City Attorney Kit Williams read the ordinance.

Tim Nyander, Utilities Director spoke and provided a history of the biosolids drum type dryer had a catastrophic failure. He went on to explain that due to the equipment failure his department had to start taking the biosolids to the landfill daily. Mr. Nyander also provided information regarding the research that he and his team completed regarding what steps they needed to take in order to correct the equipment failure.

Council Member Turk spoke about her appreciation for Tim Nyander and his team for finding a solution to the equipment failure.

Council Member Kinion spoke about the Water and Sewer Committee and the work the committee completes for the City.

Council Member Wiederkehr spoke and echoed the comments made by Council Member Kinion and Turk. He also explained that he felt that this will be a good investment for the City and the residents of Fayetteville.

Council Member Scroggin spoke about the process the committee and Mr. Nyander had gone through. He also expressed his appreciation for the company bringing the technology to the City and demonstrating how it will benefit the City instead of just saying it will benefit the City.

Council Member Scroggin 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 Scroggin moved to suspend the rules and go to the third and final reading. Council Member Jones 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.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 6595

West End Apartments: A resolution to authorize Mayor Jordan to sign an offer to purchase approximately 1.74 acres of land located at 1125, 1137, 1153, and 1189 North West End Avenue for the amount of \$1,390,000.00 plus closing costs, to approve a project contingency in the amount of \$10,000.00, and to approve a budget adjustment.

Alan Pugh, Staff Engineer spoke and explained that this property flooded in 2017. Since this property recently came on the market to be sold, the City staff decided that it would be a good idea to purchase this property and turn it into green space. Mr. Pugh went on to explain that once this property is purchased the City will demolish all structures on the property. He also explained that the costs of demolishing the structures was not included in the current resolution.

The City Council received 6 public comments regarding this resolution.

During the public comment made by Gladys Tiffany there was a brief question and answer session between Gladys and Alan Pugh. Yolanda Fields name was brought up regarding the programs that the City offers. Yolanda provided additional information regarding the programs that the City currently offers.

During another public comment Paul Becker, Chief Financial Officer, came to the microphone and provided clarification regarding if this property was ever resold by the City of Fayetteville.

Council Member Scroggin spoke about the property and explained that he sent an email to the City in April of 2017 about needing to purchase this property and turning it into a park. He went on and explained that this property experiences flooding every 4 to 5 years.

Council Member Turk spoke and agreed with Council Member Scroggin regarding his comments. She also brought forward a suggestion to the Planning Commission for future reference. She explained that development in a floodway or floodplain should not be approved.

Council Member Hertzberg: Alan, do we have an appraisal on this property?

Alan Pugh: We do. We are currently offering the appraised amount. It is listed for \$1.4 million dollars. The appraisal we have shows it at \$1.39 million. So, we would be offering slightly lower where it is listed at.

Council Member Wiederkehr, spoke in support of the item. He went on to talk about flood insurance rates causing a negative impact on citizens in the area. He also spoke about the floodplain as opposed to the floodway and expressed his interest in having not only a detention area but a detention area with more substantial additions that the neighborhood would enjoy.

Council Member Harvey, spoke and thanked everyone who spoke on this item.

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

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 189-22.

School Resource Officer: A resolution to approve the addition of a new full time equivalent police officer position to be assigned to the Fayetteville Public School District as a school resource officer beginning in the 2022-2023 school year, to express the intent of the City Council to add two new school resource officer positions each year thereafter until every school in the district is able to have an officer on site each school day, and to approve a budget adjustment.

Council Member Hertzberg, spoke and explained why she brought this item forward. She explained that this item will ensure the safety and security of students, faculty and staff. Council Member Hertzberg also referenced safety, security, and incidents that have happened in the past in other areas.

Chief Mike Reynolds, Police Chief spoke and explained the history of safety and security incidents at schools around the United States. He referenced the shooting incident that happened at Columbine High School in the late 1990s. He went on to provide the number of school shootings and casualties that have happened since 1999. He also provided information regarding Governor Asa Hutchinson's creation of a task force to study the epidemic of school shootings. The Fayetteville Public School created their own task force as well to study the security of their facilities, student mental health, and faculty training. Chief Reynolds provided a summary of the actions taken by both groups. He also explained that the SROs would receive their health and benefits through the City of Fayetteville for 82 days of the officer's annual salary and the Fayetteville Public School District would pay the officer's hourly rate for 178 days out of the year. Chief Reynolds summarized his presentation by providing the statistics of interactions between the Police Department and students during the early years of the pandemic while schools were closed. He also shared the video of Officer Stephen Carr being shot while sitting in a police SUV outside of the Police Department to demonstrate the response time of the Police Department.

Council Member Scroggin and Council Member Jones requested to give Chief Mike Reynolds an additional 10 minutes to complete his presentation that included videos.

Council Member Hertzberg spoke and explained that Dr. Cheryl May with the Arkansas School Safety Commission was present and requested that she be able to present information for this agenda item as well.

Chief Mike Reynolds, spoke and explained that Dr. Cheryl May has worked for the University of Arkansas Criminal Justice Institute since 1995. He went on to provide additional information regarding her accolades including the fact that Dr. May serves on the Governor's school safety task force.

Dr. Cheryl May spoke and thanked the City Council for allowing her to present. She went on to explain the advocacy that she conducts daily to encourage schools to set up a comprehensive and

layered program. She went on to explain that school resource officers are a large piece of a comprehensive plan. She also provided information regarding mental health for children in K-12. Dr. May also talked about legislation changes that have happened over the last few years that provide rules and guidelines to ensure that the school resource officers that serve in the state of Arkansas have a clear understanding of what their responsibilities are. These changes also provide the person who is the supervisor of the school resource officer to better understand how to direct and train the school resource officer.

Council Member Hertzberg spoke and explained she would like to have Dr. Megan Duncan present on this item.

Dr. Duncan spoke and thanked the Mayor and City Council for allowing her to speak. Dr. Duncan explained that the school resource officer is a very small component of the overall process of the child. She went on to say that schools today are very different. She explained that the school focuses on the whole child. Dr. Duncan summarized her comments and explained that the President of the school board Ms. Waitsman would like to speak to provide additional comments regarding the agenda item.

Mayor Jordan spoke and asked the City Council Members if that was ok. No Council Member voiced an objection.

Ms. Waitsman spoke and echoed the appreciation of Mayor Jordan and the City Council. Ms. Waitsman talked about the value of having a school resource officer located at each school. She also talked about the value of the other individuals who had taken part in the presentation for the agenda item.

Dr. John L. Colbert spoke and explained that he is the current superintendent for the Fayetteville Public School District. Dr. Colbert previously spoke with African American students of Fayetteville Public Schools and explained that the students he spoke with supported having a school resource officer at school. Dr. Colbert when on to explain the policies and procedures that go into a successful program within the school. He summarized by explaining all the policies and procedures in place that have been identified to create a successful program.

Council Member Jones spoke and talked about the concerns in 2020 for students of color regarding adding more school resource officers. He went on to ask Chief Reynolds to provide information regarding how he has increased his connection with the black community in Fayetteville. Council Member Jones also talked about how appreciative he is for Chief Reynolds and the work that Chief Reynolds puts in on a regular basis to ensure he stays connected with the black community.

Chief Mike Reynolds spoke and talked about his relationship with the African American community. Chief Reynolds referenced what the other presenters had said during their presentations. He also talked about the fact that he keeps lines of communication open by being available. Chief Reynolds also summarized by explaining that he has diversified the school resource officers that are stationed at Fayetteville Public Schools.

Council Member Jones thanked Chief Reynolds for the community support that he provides. He also recognized Chief Reynolds for receiving the award as a racial justice champion. Council Member Jones went on to talk about the data of children in K-12 that are impacted by violence. He asked Chief Reynolds to share information regarding the topic of children being impacted by violence.

Chief Reynolds spoke and referenced his previous presentation. He talked about the police department advocating for victims. Chief Reynolds also explained that the victims that are students of color make up a large portion of students being affected by violence.

Council Member Bunch spoke about the school resource officer program and asked for Chief Reynolds to explain what the officers do when schools are closed.

Chief Reynolds spoke and referenced the information he had provided earlier in the meeting. He explained that 178 days out of the year the Fayetteville Public School pays the hourly rate for the school resource officers. Then for the 82 days left the City pays the hourly rate. During the 82 days there are three events scheduled for the school resource officers to engage with the youth in the area. Chief Reynolds also explained that the Police Department conducts two two-week events for the youth citizens police academy where 100 – 125 students attend. The Police Department also conducts a one-week event for youth citizens police academy for younger students.

Council Member Scroggin spoke and explained the amendment that he brought forward to request a budget adjustment in order to provide more training and education for school resource officers.

Mayor Jordan: Chief, Do you have any issues with this amendment?

Chief Reynolds: No Mayor. I welcome this with open arms. I am all about resources for our Police Department, the community, and for the officers. As Dr. Colbert and his staff mentioned and Dr. May, Arkansas state statute require certain training for our school resource officers. I think this builds on that. I talked to our finance director today after Council Member Scroggin gave me a call to ask me how I felt about this. I can cover the \$18,000.00 within my budget. We have been fiscally conservative enough to cover this expenditure.

Council Member Scroggin spoke and thanked Chief Reynolds. He went on to explain that he had received calls from people in the community regarding mandating that the police officers have a background in social work. He went on to say it is difficult to fill the ranks now when it comes to hiring and explained he wants more opportunities to be given to the current officers.

Council Member Scroggin moved to amend the resolution to add \$3,000.00 for each SRO for social work or counseling education. Council Member Kinion seconded the motion. Upon roll call the resolution passed unanimously.

The City Council received 28 public comments regarding this resolution.

Council Member Jones talked about the public comment he had received over the past few weeks regarding this item. He went on to talk about why he ran for office and about a recent incident at the junior high school where someone brought a gun to football practice. He went on and expressed his appreciation for the school resource officer who intervened in this incident to ensure the safety of others. He summarized his comments by explaining the capability of the Fayetteville Police Department and voiced his support for the resolution.

Council Member Kinion spoke and compared the public comments received, presentation, and documents for this item to the public comments received, presentation, and documents in 2020 regarding the school resource officer program. He went on to explain that based on the comments he had received he felt that the community wanted the City Council to approve the resolution. He summarized his comments and voiced his support for the resolution.

Council Member Bunch spoke and compared the public comments received, presentation and documents for this item to the public comments received, presentation and documents in 2020. She went on to say that all the information submitted really helped the City Council to make an informed decision.

Council Member Wiederkehr voiced about the fact that the citizens and council members had meaningful conversations for this agenda item. He went on to explain that is why he and his wife moved to Fayetteville. Council Member Wiederkehr summarized his comments and talked about the data regarding school resource officers and the fact that you cannot generate data for incidents that never occurred due to a school resource officer being stationed at the school.

Council Member Harvey spoke and echoed the previous comments been made by other City Council Members. She went on to explain that the concerns she had in 2020 have now been addressed. She also thanked everyone who spoke regarding this item and the individuals who worked on the item.

Council Member Hertzberg spoke and thanked everyone who worked on the agenda item.

Council Member Bunch spoke and thanked Council Member Hertzberg for bringing this item forward.

Mayor Jordan spoke and provided a history of his support for the school resource officer program in 2020. He went on to thank Council Member Hertzberg for bringing this item forward. He continued his comments and said that he felt the City of Fayetteville has the best police department and police chief that anyone could have in the state of Arkansas. He ended his comments by thanking the Fayetteville Public School District, voicing his support of this item, and voiced his promise of keeping the children safe.

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

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 190-22.

RZN 22-028 (1466 N. Gregg Ave./Reynolds): An ordinance to rezone that property described in rezoning petition RZN 22-028 located at 1466 North Gregg Avenue in Ward 2 for approximately 0.43 acres from RSF-4, Residential Single-Family, 4 units per acre to RI-12, Residential Intermediate, 12 units per acre.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director spoke and gave a description of the property and its location at the beginning of his presentation. He also provided a history of the property and explained that the applicant had requested to rezone this property from RSF-4, Residential Single-Family, 4 units per acre to RI-12, Residential Intermediate, 12 units per acre. Mr. Curth explained that the staff found the request to be compatible with the future land use map and the City's 2040 Plan. This property also has access to fire response, water & sewer, a grocery store, park & trail, and transit.

Matthew Scott, Applicant, spoke and said he is available to answer any questions.

Council Member Kinion, spoke and explained he had not heard from anyone in Ward 2 about this agenda item. He questioned the ability for someone to exit the property. He went on to verify with Mr. Curth that the only exit from this property would be to turn on Gregg Ave.

Jonathan Curth, spoke and explained that exiting from this property would be dependent on the development plans instead of the rezoning request. Mr. Curth explained that the City of Fayetteville has access management standards. He summarized his comments by explaining that what ever development is placed there, they may have to share a driveway.

Council Member Harvey, spoke and asked how many lanes Gregg Ave. has and asked if there was also a turn lane.

Jonathan Curth spoke and explained that there is no turn lane and there is no plan to place one in this location.

Council Member Harvey asked if there was a bus stop nearby. She also went on to talk about bus shelters near multi-family zones and explained she would be bringing that discussion forward in the future.

Council Member Harvey 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 Kinion moved to suspend the rules and go to the third and final reading. **Council Member Harvey** 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.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 6596.

Appeal RZN 22-029 (1678 W. Palmer Pl./Rich): An ordinance to rezone that property described in rezoning petition RZN 22-029 located at 1678 West Palmer Place in Ward 1 for approximately 0.35 acres from RSF-4, Residential Single-Family, 4 units per acre to RI-U, Residential Intermediate-Urban.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director spoke and provided a description of the location of the property. Mr. Curth provided a history of this item and explained that the Planning Commission denied the request. He explained that the applicant has requested to rezone this property from RSF-4, Residential Single-Family, 4 units per acre to RI-U, Residential Intermediate-Urban via the appeal process. Mr. Curth also explained that the request was compatible with the future land use map and the City's 2040 plan. He also addressed the issues that were brought up while staff reviewed the item. Mr. Curth explained that the planning department had received a lot of public comment regarding this item. He finished his presentation by explaining that the applicant had submitted a Bill of Assurance that limited the property to single or two-family dwellings, four units and four lots.

Will Kellstrom, Representative of Applicant spoke and re-iterated the comments that Mr. Curth had provided. He also identified issues that the applicant had with the concerns of the Planning Commission. He explained that the applicant has now provided a Bill of Assurance and the comments made by the Planning Commission should no longer be concerns. Mr. Kellstrom also provided information about the structures currently on the property, neighborhood comments, and what type of developments the applicant could consider.

Council Member Harvey spoke about the tour of the property and expressed concerns regarding parking. She explained that an individual cannot park on Palmer.

Jonathan Curth spoke and verified her comment.

Council Member Harvey spoke and asked if parking could be something that the City Council could take into consideration.

Jonathan Curth spoke and explained that the City of Fayetteville does have minimum parking standards for residential parking. The requirements state that the residential parking must be onsite. Mr. Curth also provided additional information regarding exceptions to these rules per the City's code.

Council Member Harvey spoke and thanked Mr. Curth for the tour of the property. She also thanked the neighbors and owner of the property for being there as well to answer questions.

Council Member Turk spoke and thanked Mr. Curth for the tour. She also asked under the current zoning how many houses could be built on the property.

Jonathan Curth spoke and explained that the property is around 1500 sq. ft. so that would only allow the owners to build one house.

Council Member Turk: So, they could build a single-family house and one ADU?

Jonathan Curth: Correct.

Council Member Bunch spoke and asked if the single-family home could have one attached and one detached ADU.

Jonathan Curth spoke and explained the allowances within City code. Within the allowance both homes could have two ADUs but then occupancy questions would have to be answered. He went on to explain that if the home had two ADUs one would have to have someone living in it.

The City Council received 5 public comments regarding this ordinance.

Council Member Harvey spoke and explained what she had heard from several people as well as seeing signs in the neighborhood regarding this item. Council Member Harvey went on to describe the area as mostly RSF-4, Single-Family, 4 units per acre. She also described the area as very crowded but explained that once you get to the neighborhood where the applicant's property is located, she described it as having a very different feel or vibe. She went on to describe the area as very diverse when it comes to different income levels and professions.

Council Member Turk spoke talked about the 14% slope on the property. She also went on to talk about the retaining walls behind the property and explained that if more impervious surface is added the flooding will get worse.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Council Member Wiederkehr: They have enough lot width; I wish they had enough total square footage to be able to keep RSF-4 zoning and do a lot spilt. I think two homes would actually work in the neighborhood and be a win for everybody. I know we don't have the exact measurement on

the depth, but I mention that because they do have enough width to go ahead and develop two lots. My primary concern, despite having stormwater management standards, given the slopes and soils of the City of Fayetteville and despite people's best intentions we end up getting a significant number of calls from people that feel they are impacted, despite all of our good intentions. There was a comment earlier that we may need to again continue to review our stormwater management guidelines. I think this is an instance where that would be appropriate.

Council Member Scroggin: The water that is coming here is mostly coming from RSF-4 lots correct?

Jonathan Curth: That's correct.

Council Member Scroggin: So, the argument to not go above RSF-4 is weird. I feel like we are chasing our tails. That the zoning that is causing the problem is the reason we can't go to a different zoning. I am going to vote against the appeal because of Palmer St. I hope we think about that more as we go forward, that RSF-4 is causing the problem is now the excuse for not going higher than RSF-4 here. I know this close to the University it will just turn into an Air B&B. If we are close to stuff where people want to be and we don't up zone it, it is just going to turn into an Air B&B. That is going to be an issue across the city.

Council Member Kinion spoke and talked about the neighbor's issues with compatibility of the rezoning request. He went on to talk about slope issues, parking issues, and the in-ability for emergency vehicles to get down the road that this property is located on.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 0-8.

Johnson Controls Inc.: A resolution to authorize Mayor Jordan to sign an Energy Savings Performance Contract with Johnson Controls Inc., pursuant to RFQ 20-06, in the amount of \$4,448,399.00, to authorize Mayor Jordan to negotiate and sign agreements with the Advertising & Promotion Commission and the Fayetteville Public Library for the payment of their respective project costs, and to approve a budget adjustment.

Peter Nierengarten, Environmental Director spoke and explained that approval of this item will save the City of Fayetteville approximately \$4 million dollars over a 20-year period. He explained that if this item is approved and implemented the City of Fayetteville will see an increase in the City's clean energy consumption percentage to 75%. Mr. Nierengarten went on to provide a history of steps the City has taken to increase the City's energy savings and talked about the City's goal of reducing the green house gas emissions by 80% by year 2050.

Council Member Kinion, spoke and explained that he did not understand how the Fayetteville Public Library and the Advertising and Promotion Committee factored into the terms and agreements.

Peter Nierengarten: The cost of their projects are not included in the packet but we have their pricing locked in for 60 days. We are talking to both organizations to see if we are able to come to repayment terms with them.

Council Member Kinion: Do we have what that locked in price is?

Peter Nierengarten: It is in the packet.

Paul Becker, Chief Financial Officer: For the two of them, it is approximately \$1.5million. It is between \$1.5 million and \$1.6 million. The \$4.4 million we are talking about is strictly for city buildings.

Council Member Kinion: That is what I wanted to know. Sarah, I know we have talked about this at A&P but have we discussed the terms of repayment?

Council Member Bunch: I don't think we talked about terms.

Council Member Kinion: That is what I am concern about. I will look into it. Thank you, Peter.

Council Member Scroggin: How much do we pay for the solar arrays for the wastewater treatment plants?

Peter Nierengarten: Those were approximately \$23 million investments. The amounts that we put into those projects was approximately \$800,000 worth of, what we call, make ready costs. There were utility upgrade costs that had to be made at the two wastewater treatment plants. We don't own those solar arrays outright. We have a small share of the ownership. The primary ownership is with Today's Power the solar developer. We have a 20-year agreement to buy all the electricity at a set rate for those two projects. The comparisons between that and this where we would own these solar arrays is a little bit of apples and oranges in terms between the two.

Council Member Scroggin: What is the payback period for those solar arrays?

Peter Nierengarten: It was around five years.

Council Member Scroggin: And this one is 20 years?

Peter Nierengarten: Yes. The larger scale of those arrays, being ground mounted, being generally a lot more cost effective than roof mounted generally improves the payback for those.

Council Member Scroggin: I am looking at this and I am just wondering why we don't just do that again. Because then we would go to 100% clean energy and have a quicker return.

Peter Nierengarten: We are working on an RFP right now to do additional ground mounted solar arrays. To me it is not a question of either or it is a question of both and type of decision to try to maximize our solar and clean energy generation potential.

Mayor Jordan: I have instructed Peter to start work on the solar panels. We are just starting right now but Sloan your point is well taken. To be honest with you, I am trying to lock down the prices of our buildings because if we don't lock it in before the first of September then they will not hold the buildings prices. Since we are working on the financings with the library and the A&P Commission, they gave us 60 days, but I want to lock these 84 buildings in.

Council Member Bunch: So, we have to make a decision tonight?

Mayor Jordan: Either that or I will have to call a special council meeting.

Council Member Kinion: Since we have not discussed this at A&P it is a big deal about how we are financing things in capital projects. I don't feel like I can vote on this because there is such a big unknown.

Council Member Bunch: Paul, I don't think we did but I can't remember.

Paul Becker, Chief Financial Officer: What we are talking about right now locks us in for \$4.4 million. That is for the other buildings. Not A&P and not the library.

Council Member Kinion: It also says in here that it gives the Mayor the right to negotiate and I appreciate that, but does that mean to negotiate and approve the terms?

Paul Becker: Well he would, or he could bring it back. Either way, we have 60 days to do that. So, you would have two months from now to make that decisions. They will hold the prices

Council Member Kinion: The biggest thing is, we have been talking about capital improvements, especially at the town center in our meetings. I don't think we have discussed that much about the terms.

Paul Becker: All I can say is that I talked to Molly a little bit about that. She will have discussions with you.

Council Member Scroggin: Can I see the timeline on this again? You showed one earlier. When was the first time as a council we would have been able to see this if we were not following other committees that we aren't apart of are doing?

Peter Nierengarten: The project development agreement was brought to you all in February of 2021 and that is what kicked off the energy audits for all the projects.

Council Member Scroggin: Then I guess the next time we would have heard about this is here?

Peter Nierengarten: I provided an update as part of the Energy Action plan last June. We were not super far into it at that point.

Council Member Scroggin: Had you picked the company at that point.

Peter Nierengarten: Yes.

Council Member Scroggin: I mentioned it at the last meeting that sometimes I feel like, and I mentioned all departments, stuff is brought to us and it is like a take it or leave it. We don't really have time to go through all of the stuff. Because it seems like there is two entities, the public library and the A&P Commission, that don't really even know what they are going to be agreeing to or not. That is problematic.

Mayor Jordan: I was trying to lock down that price. They came to me and said this is what we need to do. I had to make a call and I did the best we could do. What they said they would give us until the first of September because we did ask them to extend it once, right?

Paul Becker: Yes, we did extend it once.

Council Member Scroggin: Did we know about that extension?

Paul Becker: No, we didn't come to the Council with that. We did that to try to hold in the prices as best as we could. The best answer we can give you is that nobody had anticipated, this was a long project, it took them a long time to vet these and evaluate the timelines, and the paybacks. What could be done to benefit us. Nobody ever anticipated inflation hitting at the point of time it did. So, there was no urgency and all of a sudden when these inflationary costs started hitting. They were looking at us turning it around within a week or two, which there was no way we could do that. We asked them to defer it a bit and we did. Then we brought it forward completed to you. The actual answer is we never anticipated the inflationary costs.

Council Member Kinion spoke about the A&P Commission and the town center. He went on to explain that it does not match what this item shows. He went on to explain that he does not feel confident that he is representing the committee that he has been appointed to responsibly if he supports it.

Susan Norton, Chief of Staff, spoke and explained that Molly Rawn plans on bringing additional information to the A&P Committee.

Council Member Scroggin: I am under the impression that Molly doesn't think the terms work.

Mayor Jordan: That would be fair.

Council Member Turk, spoke and explained that she felt confused. She went on to clarify that if the item is passed then that does not mean that the solar or energy improvements are going to be implemented.

Paul Becker: All we are doing is holding the price to do the library and the A&P. They will allow us to add them with an amendment to go forward. So, what we are really talking about here being locked in is the other buildings. We could bring them back in with a change order for those two buildings, if in fact it went in that direction.

Council Member Turk: That is where I thought we were. I just wanted to make sure the rest of the Council understood that. We just locked the price in but we are not locking ourselves in to the library or the A&P. I see the risk here is that we lose this good price for the needs that we have right now on our city buildings. I hope you all will be in support of this. It really gets us 3% ahead, from 72% to 75% and then Peter is going to have some other projects come forward in the future that hopefully will get us to 100% real soon. Wouldn't that be cool to be the first city government in the state to have 100% renewable.

Council Member Kinion: It would be cool. I get it. If you were in our previous meetings over there and we were talking about capital improvements and this really didn't come up as an issue. Then suddenly we are faced with it.

Kit Williams, City Attorney, spoke and further clarified that by passing this the Council will be ensuring that the library and A&P Commission can be included if they decide to be.

Council Member Kinion: When it said negotiate and sign agreements, I thought we were signing an agreement because that is what it says.

Kit Williams: It is the agreement with the City's buildings but not with the A&P Commission or the library.

Council Member Kinion: That is not what it says. I understand the intent.

Kit Williams: This would authorize the Mayor to agree to that if the A&P Commission offers to do that and the same thing with the library.

Mayor Jordan: We needed more time, but they gave us 60 days for those.

Council Member Kinion: I am just being responsible with my duties and it is a big deal with how we are trying to manage the town center right now. There are capital needs there.

Council Member Wiederkehr spoke about the procedure that the city went through with the RFQ. He went on to explain that four firms responded to the RFQ. Then he went on to address the question of should the city have separate agreements or have one agreement that would save money in the long run. Council Member Wiederkehr went on to explain that he supported saving money over the long run. He also referenced the cost of inflation that could potentially be apart of future agreements if they chose to have separate agreements instead of the one agreement.

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

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 191-22.

Announcements:

Council Member Wiederkehr: This Saturday the Washington County Historic Society annual ice cream social is taking place from 3:00 – 6:00 p.m.

City Council Agenda Session Presentations:

Agenda Session Presentation - Time to Acknowledge A Different History, Council Member Jones and Dr. Banton

City Council Tour:

Rich Rezoning Appeal Tour (Agenda Item 2022-0695) Date: August 15, 2022, Time: 4:00 PM, Address: 1678 W. Palmer Place, Parking: Parking is available on-street along Hartman Avenue, Request: An appeal to the Planning Commission’s denial to rezone the property from RSF-4, Residential Single-Family, 4 Units per Acre, to RI-U, Residential Intermediate-Urban.

Adjournment: 11:13 PM


Lioneld Jordan, Mayor


Kara Paxton, City Clerk Treasurer

