

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



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

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

**City of Fayetteville Arkansas
City Council Meeting
September 20, 2022**

A meeting of the Fayetteville City Council was held on September 20, 2022 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 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, Communications & Marketing Director Lisa Thurber, Chief Financial Officer Paul Becker, Staff, Press and Audience.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Jordan welcomed journalism students from the University of Arkansas.

City Council Meeting Presentations, Reports, and Discussion Items:

Nominating Committee Report

Council Member Bunch presented the Nominating Committee report and recommended the appointments as submitted. She stated there were several positions still vacant the city did not receive applications for. She stated these positions would be showing up on the next quarter vacancies.

Council Member Hertzberg moved to approve the Nominating Committee Report as read. Council Member Turk seconded the motion. Upon roll call the motion passed unanimously.

Agenda Additions: None

Consent:

Approval of the August 16, 2022 City Council Meeting Minutes.

APPROVED

Recognizing Additional Revenue for Parking Facilities and Services: A resolution to approve a budget adjustment in the amount of \$100,000.00 recognizing additional revenue and associated expenses for certain parking facilities and services.

Resolution 209-22 as recorded in the office of the City Clerk

LC Joint Adventures, LLC to Creamer Pilot Services, LLC Agreement: A resolution to approve the Agreement for Assignment of a lease for Airport property located at 4560 South School Avenue from LC Joint Adventures, LLC to Creamer Pilot Services, LLC.

Resolution 210-22 as recorded in the office of the City Clerk

Arkansas Department of Transportation: A resolution to approve a payment of \$48,511.28 to the Arkansas Department of Transportation for the construction of a side path along Wedington Drive at the intersection of Interstate 49, and to approve a budget adjustment.

Resolution 211-22 as recorded in the office of the City Clerk

EZest Solutions, LLC d/b/a Dumpster Dudez of Northwest Arkansas: A resolution to approve an agreement with EZest Solutions, LLC d/b/a Dumpster Dudez of Northwest Arkansas for the hauling and disposal of solid waste in the City of Fayetteville.

Resolution 212-22 as recorded in the office of the City Clerk

Water Leak and Sewer Overflow Damage Claims: A resolution to approve a budget adjustment in the amount of \$100,000.00 to appropriate additional funds for water leak and sewer overflow damage claims that may occur in 2022.

Resolution 213-22 as recorded in the office of the City Clerk

Water and Sewer Division Minor Equipment: A resolution to approve a budget adjustment in the amount of \$25,000.00 to appropriate funds for minor equipment purchases by the Water and Sewer Division that may occur in 2022.

Resolution 214-22 as recorded in the office of the City Clerk

State Drug Crime Enforcement and Prosecution Grant: A resolution to authorize acceptance of a State Drug Crime Enforcement and Prosecution Grant for state funding of the Fourth Judicial District Drug Task Force in the amount of \$91,319.00, and to authorize Mayor Jordan to sign all necessary documents to receive the grant funds.

Resolution 215-22 as recorded in the office of the City Clerk

Axon Enterprise, Inc.: A resolution to approve a ten year Service Agreement with Axon Enterprise, Inc. and authorize the purchase of body worn cameras, taser conducted energy weapons, interview room video recorders, and digital mobile video recorder systems in the total amount of \$4,186,494.72 pursuant to a Sourcewell Cooperative Purchasing Contract, for use by the Police Department, and to approve a budget adjustment.

Resolution 216-22 as recorded in the office of the City Clerk

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

Unfinished Business:

Reallocate CDBG-CV Funding for COVID-19 Outreach, Testing and Protection: A resolution to approve a budget adjustment in the total amount of \$557,298.00 to reallocate CDBG-CV Funding for COVID-19 outreach, testing and protection. *At the September 6, 2022 City Council Meeting, this resolution was pulled for further discussion and referred to the CDAP Advisory Board. This resolution was tabled to the September 20, 2022 City Council Meeting.*

Yolanda Fields, Community Resources Director/Equity Officer gave a brief description of the resolution. She stated this was presented to the Community Development and Assistance Programs Advisory Board who met via Zoom and voted unanimously to support the budget adjustment.

Council Member Scroggin: I recuse from this item.

Council Member Kinion: Yolanda, thanks so much for working with CDAP. I'm glad we have support from the committee. I think that's real important and I appreciate the extra time it took.

The City Council received one public comment regarding this resolution.

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

Council Member Kinion: This is a good lesson learned, to be sure we are inclusive, and now with this new CDAP Committee we can utilize it better. I saw public policy work in this instance. In

the comments, you will see there were concerns, but it's concerns that can be handled in the future based on what we know from this meeting. It was a very civil meeting, from what I saw. Thank you, Ms. Terry, for encouraging that.

Resolution 217-22 as recorded in the office of the City Clerk

Amend §157.02 Development: An ordinance to amend §157.02 **Development** in Chapter 157 **Notification and Public Hearings** of the Unified Development Code to require public notification of administrative items and variances considered by the Planning Commission. *At the September 6, 2022 City Council Meeting, this ordinance was left on the first reading.*

Council Member Turk 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.

Britin Bostick, Long Range Planning/Special Projects Manager: This is an item that was meant to be put into our code. It's a policy for notification that currently exists in Development Services. I don't have any additional updates for the Council from Agenda Session. We have not received any additional public comment.

Council Member Turk moved to suspend the rules and go to the third and final reading. Council Member Hertzberg 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 6600 as Recorded in the office of the City Clerk

Rename Archibald Yell Boulevard to Nelson Hackett Boulevard: A resolution to rename Archibald Yell Boulevard to Nelson Hackett Boulevard. *At the September 6, 2022 City Council Meeting, this resolution was tabled to the September 20, 2022 City Council Meeting.*

Council Member Jones: I believe the last time we met, Britin was tasked to reach out to the business owners and those who live in close proximity to Archibald Yell. If it's okay at this time, is Britin allowed to report back to the Council as it relates to what she found?

Mayor Jordan: What I told her to do was to contact business owners and the people that lived along that area as a request. You did that, correct, Britin?

Britin Bostick, Long Range Planning/Special Projects Manager: To give a little bit of an update to the City Council on the last meeting, I want to confirm where we are today, a week later. I was able to connect with several of the businesses and property owners along Archibald Yell. One of the things we looked at in the last regular meeting is that there are properties addressed on Archibald Yell. There are properties that front on Archibald Yell but are maybe addressed on a side street. Some properties would potentially have an address change with the name change and then some would not. I did my best to reach out to property owners and business owners along Archibald Yell. We did have seven letters returned, so I was not able to connect with about seven of the twelve property owners through phone, email or mailing. When I was able to connect with folks, it was via phone and email. I believe the council has received comments from some of those folks either in writing or perhaps phone call. In speaking to people, there were some concerns expressed. There was an ask for an economic impact study to be done first, specifically for the businesses that might be affected, additional public input, the city to pay business costs for the changes to the name, whether that be for new signs and other costs associated, etc. Also, for the city to widely advertise the name change so there would be recognition. One of the things I highlighted for the council in Agenda Session were some concerns expressed by at least two property owners that people know where they are on Archibald Yell but they may not be as familiar with where the business location is if the name were to change. There are proposals to rename a different street in the city for Nelson Hackett, such as; College Avenue, School Avenue, 15th Street and 11th Street. They said they think this was done with the MLK street renaming to start with an honorary naming rather than going straight to the name change. A couple of property owners were in support and business owners that I spoke with. Folks were maybe ambivalent. They said okay and then a few were expressing concerns in opposition, which I've summarized for you. I haven't had much communication since last Tuesday and so not a whole lot of update beyond that to report.

Council Member Scroggin: You mailed out to people on that street with the current name and got a bunch of them back?

Britin Bostick: That's correct.

Council Member Scroggin: So, the names not working now as far as for those businesses, because their mail is coming back.

Britin Bostick: It looked like, according to the U.S. Postal Service stickers, it was mostly address undeliverable or no mail receptacle available.

Council Member Bunch: There were twelve addresses and you got seven letters back? Or seven were responded?

Britin Bostick: I sent 20 letters out. Our GIS Map is wonderful in that it captures some of the County Appraisal Data. The mailing address for the property owner may be different than the property address itself. In trying to use any address that might work, I sent out at least twenty letters and seven of those have come back as of today.

Council Member Bunch: Did you do your due diligence and check the county records because that's where their tax record would go?

Britin Bostick: It looked like, in a couple of instances at least, the property owner had sold the property where their mailing address was and had not updated their information with the county.

Council Member Jones: Britin, you work with the commission and I have the privilege of serving on the commission. There's been some concern this was frivolous. Explain to the council the thoughtfulness in how this came about, the number of meetings, the diligence and how this commission made sure the decision they made was conducive to what the Council wants them to carry out. University of Arkansas history professors have been making sure the community is not being educated against Archibald Yell but telling the story of Nelson Hackett.

Britin Bostick stated Mr. Jennings, the chair of the commission, was in attendance. She spoke of how the commission started considering this item in their March meeting. She stated Dr. Michael Pierce, who the Council has heard from in a previous meeting, came and shared the story of Nelson Hackett and the work of the University's project for Mr. Hackett. She stated there were several months of meetings of what it would mean to recognize Mr. Hackett in Fayetteville's history and that began to transition to consider how it could be applied to the name change. She stated they spoke about code before deciding to move ahead with the recommendations for the marker and the street renaming.

Council Member Jones spoke about the impact of the story and the research with Dr. Michael Pierce and Dr. Banton as it relates to educating and how far reaching that has been. He stated teachers throughout the country were on campus at the University of Arkansas this past summer to learn about this story. He spoke about Fayetteville's impact on international slave policy.

Britin Bostick: That is something Professor Pierce has highlighted in both of his presentations to the commission. One of the commissioners asked about their summer program. There's an elementary school teaching component that the University shares to support the Nelson Hackett story being taught in school curriculums across the country. He provided an update on their summer program, which was very successful this year.

Council Member Jones: Fayetteville's having a positive impact on international slave policy and that history should be told. Thank you for the work you've done for the city and the commission.

JL Jennings, Member of the Black Heritage Preservation Commission stated the President of the Fayetteville Evergreens Cemetery spoke about the accomplishments of Archibald Yell and his signing of the document to extradite Mr. Hackett as one of his duties. He stated Mr. Yell did some great things but that he was on the wrong side of history on this one. He spoke about Archibald Yell being a founding father of Fayetteville and his legacy. He spoke about men like Nelson Hackett who were robbed of their legacies and considers Nelson Hackett to also be a founding father of Fayetteville. He stated all of Fayetteville's voices need to be heard and acknowledged, including Mr. Hackett. He requested Council to support the resolution to rename Archibald Yell Boulevard to Nelson Hackett Boulevard.

Kaleb Turner, Member of the Black Heritage Preservation Commission stated his thankfulness to the Council, Britin Bostick and JL Jennings. He stated his support for the resolution and asks

the council vote in favor. He read a paragraph from the Northwest Arkansas Democrat Gazette Editorial about the street renaming.

Council Member Jones stated this has been very challenging for Fayetteville and he has heard the concerns. He spoke about how this is an opportunity to practice inclusion and he hopes this is received in the manner it should be. He stated if we are going to empower groups to do this kind of work then we need to trust them and not undermine their authority and voices. He stated when we think of this street renaming five years from now, think about the impact it is going to have. He gave a brief description of how this is Mayor Jordan's legacy and how the African American community is eternally thankful for him. He spoke of how racism was declared a public health crisis in 2020, but the City Council has done little since then and now can do more. He spoke of how this is not just good for African Americans, but for other groups as well. He believes this is the right thing, regardless of political pressure and hurt feelings. He spoke of how this is about diversity, equity, inclusion and belonging, which are the four things we cherish in Fayetteville.

The City Council received four public comments regarding this resolution.

Council Member Scroggin: I have an amendment I would like to propose. It allows the Mayor to reimburse potential costs of the renaming of the street. Kit, what would I need to do to move this forward?

City Attorney Kit Williams: It adds one Whereas clause, as well as in Section 2 the Whereas clause would be added says, Whereas the Fayetteville City Council wishes to reimburse any necessary additional expenses that renaming Archibald Yell Boulevard would cost existing businesses or residents currently addressed on Archibald Yell Boulevard. Section 2 would say that the City Council of the City of Fayetteville Arkansas hereby authorizes Mayor Jordan to reimburse businesses and residents currently addressed on Archibald Yell Boulevard for expenses necessitated by the change of name of the street. Later this afternoon, Council Member Jones asked to do an amendment, which I think would not be contrary to yours, but might be combined with it if you want me to do that. That would add another section; Section 3. It would state that the City Council of the City of Fayetteville Arkansas hereby determines this resolution will not go into effect until Juneteenth of 2023 to give businesses and residents addressed on the Boulevard enough time to make a transition to a new name. If you're also in agreement with that, then we could combine those and it would be a single amendment or if you want to hear them separately, we could do that.

Council Member Scroggin: I would consider that a friendly amendment and make it with mine.

Council Member Jones: That's fine. Kit, thank you. When I reached out to you, this was part of that amendment, and part of the discussion we had last Thursday when we met. We wanted to make sure the business community understands we're working together in doing everything we can to accommodate them. Britin reached out to the postal service and they had one year. If it passes tonight and it's June 2023, they have up until June 2024 to make that change. They also have an additional six months. We want to make sure we honor and do everything we can to collaborate with our business owners. We wanted to make sure we are empathetic to their needs and they have as much time as they need to make those changes.

City Attorney Kit Williams: I would suggest either you or Council Member Scroggin make the amendment and the other person second it. We could go forward from there.

Mayor Jordan: How much money do you think we need to reimburse these businesses?

Council Member Bunch: That is my question as well, is there a limit?

Council Member Hertzberg: Do we have any idea what we would allow the reimbursement to be for? Is it just for changing addresses, postage or what? How do we quantify the financial piece?

Mayor Jordan: Paul, do you have any thoughts on that?

Paul Becker, Chief Financial Officer: It's not very clear what we are talking about reimbursing them for. If you are going to reimburse them for expenses, there should be some type of individual cap. We should call those reasonable expenses that are directly necessitated for the name of the street. You could come up with all kinds of arguments for something that's related. I'd like to see something talked about directly, necessitated and being reasonable by the naming of the street capped individually.

Council Member Hertzberg expressed concern this amendment could include larger items, which could rack up the total amount.

City Attorney Kit Williams: I should note from the language, it merely authorizes the Mayor to reimburse businesses. It does not say must and it leaves the details up to the Mayor, as long as the expense is necessitated by the change of the name of the street.

Council Member Jones: I'm thinking in terms of just simple postage. I don't know how much that would incur. Perhaps just changing 'whatever's required' to 'address change'. I'm thinking in terms of regular monies for postage.

Council Member Scroggin stated he only expects business cards to be reprinted and signs adjusted.

City Attorney Kit Williams: One thing Council could do if you wanted to limit this more closely is to say, 'not exceeding \$50 dollars per address.'

Council Member Harvey briefly spoke of how she had a business on 6th Street before it was renamed to MLK. She stated she did not receive any kind of reimbursement. She spoke of her concerns regarding if the city is going to reimburse businesses every time there is a street name change.

Council Member Jones: The business owners have almost a year and a half to get this taken care of. We're looking at Juneteenth, June of 2023, then they have 12 months. Then they have an additional six months. That is 18 months. I understand there is communication that goes out that the city will educate the businesses on how to do this. I was not prepared to ask the city to pay

anything but wanted to be gracious and consider it with the time and making sure the business owners can take care of what they need, as it relates to changing their address.

City Attorney Kit Williams: It seems like we have two separate amendments that need to be considered. We should start with one or the other, either with Council Member Jones' amendment or Council Member Scroggin's amendment. They probably should not be joined, from what I am hearing tonight.

Council Member Scroggin: I move to amend to Council Member Jones' amendment he has presented. I'm going with Jones' first, not mine.

Council Member Harvey: No reimbursements?

Council Member Scroggin: We will talk about that next.

Council Member Harvey: Okay, second.

Mayor Jordan: I have a motion and a second to do the street renaming on Juneteenth of next year.

Council Member Hertzberg: This would be nine months? Next June?

Council Member Jones: This would take place June 2023. They have until June 2024 to have their address changed and updated. They have 12 months and then they have an additional six months, so 18 months total to make these changes.

Council Member Wiederkehr: Do we need to vote on this first or do we get to have discussion and then we can decide on this later, as far as an amendment?

City Attorney Kit Williams: No, this is something you should discuss since the motion is on the floor, it's an amendment to the proposal by Council Member Jones to have the effective date of the resolution on Juneteenth next year. You should vote on that before you get to any other potential amendment.

Council Member Jones briefly spoke of how he wants the business owners to understand this will not happen immediately because they have up to 18 months. He stated the city will not pay for but guide them through the process.

Council Member Scroggin moved to amend the resolution effective date to June 19, 2023. Council Member Harvey seconded the motion. Upon roll call the motion passed unanimously.

After further discussion, Council Member Scroggin withdrew his amendment.

Council Member Jones gave a brief description of his thankfulness and noted there needed to be a larger conversation as it relates to street renaming.

Council Member Bunch spoke briefly of how she does not understand the comments of how this is erasing history. She spoke of how Archibald Yell will still be memorialized and how he is widely commemorated in Fayetteville. She stated we do not have as much regarding Nelson Hackett and that his story is integral to our collective history. She stated the Council should listen to the committee when making their decision on how to vote.

Council Member Scroggin gave his thanks to the commission for bringing this item forward. He stated he learned about Archibald Yell through a rotary program. He spoke of how there is a difference between learning history and honoring people, and they are getting that distinction today. He spoke of how he now knows more regarding the history of Archibald Yell and hopes Council will vote for the name change.

Council Member Kinion spoke briefly about his family being six generations deep in Washington County. He stated he recognizes that Archibald Yell did a lot for Fayetteville as a Founding Father but that does not give anyone the right to be a savage. He explained how he did not know anything regarding Nelson Hackett and having a street named after him will have people wondering who he is. He believes the Council had a good discussion regarding two men that had an impact on the history of Fayetteville. He stated he is happy to support the resolution, but he has empathy for the business owners who are located on Archibald Yell Boulevard.

Council Member Wiederkehr stated he believes the resolution will pass and it could be a good thing. He spoke of how the street renaming is a form of social restitution for the harm and consequences of several centuries of slavery in our country. He stated this renaming will tell a portion of the community they matter but there is a portion of people who did not feel like they were included in the process. He spoke of how he wants to be cautious and give room to be forthright. He explained there are people in Fayetteville that have mixed feelings about this, and they matter. He stated the costs is not in business cards but in someone who spent years in getting their name to pop up in a google search algorithm. He believes we need to be cautious in demonizing one another in saying history is just history and we're just renaming a street. He spoke of how we lose people because we do not allow them to feel what they contribute matters and that works against us in being inclusive. He stated he wants Fayetteville to have room for a difference of opinion. He explained that the city has a monument and that is a significant statement. He stated a street renaming does not tell the people that come to Fayetteville who that person is, like the monument does. He spoke of how we must be more inclusive with the community in the future.

Council Member Jones spoke of how he remembers hearing some of the same comments from the discrimination ordinance in August of 2014. He spoke of how we have been educated on so many things but when it comes to race, we become defensive. He stated the same thing happened in 2014 when Council voted, and it came down to the anti-discrimination issue. He spoke of how Fayetteville was fine and as a result of that, Fayetteville has one of the largest Pride celebrations in the state. He spoke of his appreciation for Council Member Bunch pointing out the fact the commission has done exactly what it was commissioned to do. He stated there must be room at the table for minorities in this city and that he is advocating for his community but that doesn't mean he loves our community any less. He briefly spoke of meeting with Chief Reynolds regarding an issue in Fayetteville of African Americans being arrested for marijuana use, far more than any other group. He stated Chief Reynolds met with his committee and listened, and they saw the

change. He spoke about when the city placed the Black Lives Matter banner in Fayetteville, there was backlash they addressed together. He spoke of standing with Chief Reynolds when the city had the protest and the City of Fayetteville stood together and did not cancel each other. He spoke of how Fayetteville is different and leading the way in terms of character, diversity and inclusion. He spoke about the city's Police Department and how proud he was of Chief Reynolds addressing the challenges that have come up. He stated he does not want this to be looked at from the perspective of canceling and demonizing people. He spoke of how the city has addressed differences in naming racism as a public health crisis.

Council Member Turk briefly spoke of her love for history and being on the Historic District Commission. She stated this issue has been a struggle for her because she has heard a lot of information from both sides and that has been very educational. She spoke of how this has divided us and as we move forward, she would like to explore other alternatives. She stated honorary street names with educational materials would be more inclusive rather than renaming certain things. She stated how proud she was the evening of the Black Lives Matter rally and how it was a great example of unity, compassion, tolerance and she wants us to keep that same feeling. She stated she feels a great way to create more education would be if the City Council received a presentation in the future regarding honorary street names like other cities have done.

Council Member Bunch: When we have division, that is when we grow. This may make me or you uncomfortable, but we all grow through that. I don't think we will all ever be completely on the same page. Everybody on this Council is trying to do the right thing. We will vote on this, if it passes, it passes. If it does not pass, it doesn't pass. It will pass and it will be okay to change the street name because everything doesn't stay the same forever. At some point down the line we may want to change the street name again to something else. I'm glad we've had this conversation and I learned all these things about Archibald Yell and Nelson Hackett. I did not know about Mr. Hackett until I went to the website of the Nelson Hackett Project. If anyone has not done that you should.

Council Member Harvey spoke of how she has heard about this for quite some time. She noted how it took the creation of a commission to prompt the Council and she is glad it has happened. She explained how she is on the Nominating Committee and part of what they do is choose people from the community to guide and advise them. She stated this street is the entrance to Fayetteville in Ward 1 and welcomes people to Fayetteville. She stated this will help people feel acknowledged. She believes it is important to think about what the name is and what it stands for in Fayetteville. She commended all the people who worked on this and those that came to speak for and against this item.

Council Member Kinion: What I'm taking out of this is we need to have a procedure to name and rename streets. It needs to be part of our code and inclusive. There needs to be notification of people involved and it's important to get it done soon. The reason I tabled this two weeks ago was so that we could have inclusive discussion and explore the impact of this street change. It will impact businesses, which I hate, but I also have other values that are important.

Mayor Jordan: Thank you Council Member Jones for bringing this forward. Thank you to the commission for their work on this, you did exactly what the Council wanted you to do. I've spent

a better part of my life fighting for equity, diversity and inclusion. We fought for LGBTQ rights, women's rights, African American rights, Latino rights and for other people of color in this city. I believe in an open door, open mind and an open heart. No matter what the color of their skin, religious belief, what country they come from or who they love, you accept them. I believe in an open mind where people can express themselves. I believe in an open heart; you serve, rather than being served. Those are guiding principles for me. People of color have had a tough time. I don't know everything, and Council Member Jones, I don't know what it is to be black. But when you know better, you do better. I didn't really know anything about Nelson Hackett until a couple of years ago. When I saw that this was going forward and Britin mentioned it in a meeting, I told them immediately what I was going to do. I would support this if I had to vote because I have supported equity, diversity and inclusion for as long as I can remember. I appreciate that it's going to take all of us in a unified effort to change things, but we're going to change things for the better. I support the changing of the name.

Council Member Harvey moved to approve the resolution. Council Member Scroggin seconded the motion. Upon roll call the resolution passed 7-1. Council Members Scroggin, Bunch, Turk, Hertzberg, Harvey, Jones and Kinion voting yes. Council Member Wiederkehr voting no.

Resolution 218-22 as recorded in the office of the City Clerk

New Business:

Miller Boskus Lack Architects, P.A., d/b/a MBL Planning: A resolution to approve a professional architectural services agreement with Miller Boskus Lack Architects, P.A., d/b/a MBL Planning pursuant to RFQ #21-09, in the amount of \$212,257.00 for the development of a pre-approved building design program, to approve a project contingency in the amount of \$10,613.00, and to approve a budget adjustment.

Jonathan Curth, Development Services Director gave a brief description of the resolution. He stated his thanks to Council Member Turk for proposing to take this item off Consent which resulted in a well written newspaper article and several comments from both residents and the developer in the area. He stated he is available for questions.

Council Member Turk: Could you describe the process you went through before submitting the RFP? Did this go through Long Range Planning? I understand its part of the 2040 Plan, but was this specifically identified as an action from the 2040 Plan?

Jonathan Curth: Yes, it is one of the implementation items specifically mentioned in City Plan 2040. It was discussed as a part of City Plan 2040's updating and adoption a few years ago by the Planning Commission's Long Range group a handful of times and at one of the Planning Commission's retreat meetings. It has been vetted and evaluated. A lot of Planning staff and the commissioners have been watching these programs nationally and seeing what works and what doesn't work. I don't want to call it novel because it has several years under its belt now and we've had the opportunity to officially see what can make ours better.

Council Member Turk: This is \$212,000, which is significant. That could go to water and sewer repairs and a whole host of other worthy projects we need within the city. Have you evaluated other cities and how much their costs have been and the number of citizens or residents that have utilized a program like this?

Jonathan Curth: We have looked at it and that gets back to evaluating what other cities have done because the concern is that some cities, like with a lot of planning efforts, you'll adopt a plan and it sits on a shelf and everyone feels good about it but it doesn't get implemented. We found several instances where these programs were not successful and were utilized at a very low rate or not at all. We sought through working on this contract with the developer to identify ways to make this more successful. One of those is Miller Boskus Lack Architects, which intends to offer us more floorplans and building types than we had asked for in the RFP. We submitted asking for four to six and they suspected they could get approximately 24 out of it. One of the biggest failings of these programs is there aren't enough iterations of house types. The way that Miller Boskus Lack has looked at it through their work, most recently in Claremore, Oklahoma and Bryant, Texas, is having a larger number of plans available makes it more successful.

Council Member Turk: What have the implementation costs been? Did Bryant, Texas pay approximately the same amount we are being asked to pay here? Was it for a three-year duration?

Jonathan Curth: They did the program differently. It has had limited success. They bought a set number of plans for the duration of the program. The hope is having that three-year access period to allow the architect to substitute plans in and out as they see use. If they are not seeing use in what was developed for the city, they could substitute new plans and that's what comes with that time period. If it's a successful program, we've negotiated a rate to continue that license agreement with them. That is not included in this but if it's something the Council sees appropriate moving forward; we could go that route. To your question about costs, it is very difficult to compare these programs. A lot are specific to one building type. In Los Angeles they have 12 or 15 different types that are all submitted by different architects as part of the project, as opposed to using a single firm. I have not found a program exactly like this that we can compare it too.

Council Member Turk: What is the track record of this company? I noticed they were the only one that responded to the RFP. Have they had a successful implementation in a peer size city?

Jonathan Curth: The Claremore, Oklahoma project is the most recent one and they have seen more usage. I don't have numbers of permits pulled but I do know they've been implemented in speaking with their Planning group.

Council Member Turk: I would like to see that data. The price is high for only three years. It would take 27 different houses to make up the \$212,000 we're being asked to approve. I would love some additional information.

Council Member Bunch: Are the plans not good for just three years but for a long period of time? Saying it's only good for three years is the architecture firms contract to develop them, right?

Jonathan Curth: There are two pieces to this contract. There is the response to the RFP, which is the city's request for four to six designs. Miller Boskus Lack will work to give us a permanent license to those designs. In addition to that, there is a three-year program where the City of Fayetteville can participate in an online portal that is publicly accessible. Those plans can be added to, removed, swapped in and out as they show themselves to be successful in the program.

Council Member Bunch: It's indefinite once we pay, the plans are ours, right?

Jonathan Curth: For the four to six we have as part of the RFP, yes. For additional ones, no.

Council Member Scroggin: Let's say somebody comes up with a plan identical to one of these, do they have any benefit other than citizens have say in it? Are they going to get to skip any steps in the development process? If they needed a variance to make it work, will they still have to go for that variance?

Jonathan Curth: Correct.

Council Member Scroggin: If they needed a CUP they would still have to go for that CUP? This is not putting them past citizens in any way?

Jonathan Curth: Right. The intent of this is to incorporate citizens into the process where they aren't already and to develop plans that acknowledge our existing codes.

Council Member Scroggin: That was my understanding, I just want everyone else to see that. It's not skipping the citizen input steps; it may add some because they get to kind of develop the plans. When we talk about rezones, people are concerned because they want to know what it's going to look like. With people being able to have input, hopefully that is the case and that it's contextual to what's already there. The state has removed our right to do anymore, so I will be in support of this. It makes sense to allow citizens to develop what may come next in their neighborhood.

Council Member Wiederkehr: I will be supporting this. I thought we were purchasing a subscription for three years but at the end of three years we don't have any legal licensing to use these preapproved plans.

Jonathan Curth: The ones beyond the four to six that are a part of the RFP response.

Council Member Wiederkehr: Sears Catalog used to sell homes. They framed them out, put them on a train and shipped them to your community. The beauty of that in the community I lived in previously was some of the most desirable neighborhoods were the Sears Catalog homes because they fit the time and design sense of the communities purchasing them. I don't have any concerns about preapproved designs. The real cost at this step in development is the time it takes to get a plan approved and that's not staff's fault, that's just the number of people submitting plans for staff to review. This would be an efficiency for even customers that don't use a preapproved plan just by virtue of freeing up plan checkers to look at someone else's plans instead of these. This is a tremendous opportunity for us. The cost is going to be greater than in other communities because we're purchasing community meetings with the consultants and the designers present. The

number one complaint I received is a gem in a beautiful pitch roof neighborhood and now I have a three story monolithic block that's been built. It doesn't sit well with the neighbors that felt like the architecture of their neighborhood is a value in and of itself. Alleviating one additional fear of the community helps them get behind additional support, density and additional accessory dwelling units. It's a terrific step in the right direction.

Jonathan Curth: Public input costs are a big portion of that \$212,000 contract price. One reason this local group is appealing to us is because it allows them the potential for more public input whereas an outside firm often has large travel budgets that have the consequence of compromising your ability to contribute more to the plan. One piece we have been able to negotiate is a market analysis. This will be ours to consider as a part of ongoing housing dialog with the city.

Council Member Turk: I ask we hold this for two weeks so we can get information on the success of more cities and this company. Citizens have concerns about cookie cutter housing so having the input would be helpful. There is no requirement you use one of these plans or have a contextual plan in an established neighborhood, right? This is just an option?

Jonathan Curth: Correct. The incentive comes with the savings and permitting times.

Council Member Turk: Could you describe how much time savings, if these were approved, for the average homeowner or developer?

Jonathan Curth: That depends on the plan. When you submit plans to the City of Fayetteville for an Accessory Dwelling Unit, for example, that could take anywhere from seven to 30 days. If it's a homeowner doing it themselves, we have seen those take many months because there is a lack of familiarity with basic development codes and standards. Sometimes to the point where months extends into a year and they end up hiring an architect or a design consultant to do the work for them. It gets complicated if you were to do an attached residential unit, whether it's a stacked duplex or a quadplex. Those get very expensive and timely. A lot of those require an architect's stamp as part of the process. It's very difficult to quantify how much time, but it can be anywhere from two weeks to several months. When it comes to dollar amounts, I can't speak to whether they're carrying a construction loan or what kind of financing is associated with it or whether they have design professionals they are paying hourly for every revision or iteration. It's hard to put a number regarding how much you can save, whether it's resident or developer.

Council Member Turk: With these preapproved plans, you wouldn't skip the grading permit and many of these other steps. If you do, could you maybe expand or show that to us in two weeks?

Jonathan Curth: One benefit of doing these kinds of programs in established parts of town, there is an established development pattern. Whether that's a platting that's identical from block to block, so what that affords a consultant on a project is they can plan for an exact lot size where they will only need to potentially shift the building footprint around to accommodate if there is any sort of grading requirement or storm water requirement. That's where the efficiency is gained in going through all the pre-evaluation with the departments beforehand so it's not something that has to be done through the development review process.

Council Member Turk: This would save staff time as well. It's hard to justify this amount of money. The Sears Catalog, the homeowner paid for that, not the city. The difference here is we are spending city money and if I can justify it by saving staff time, that would make me feel better.

Jonathan Curth: It's impossible to know how successful the program will be. On average the city is approving about two single family building permits a day right now. If a small portion were to filter out into this program it would have a meaningful impact on staff time to use for other reviews or policy evaluations.

Council Member Turk moved to table the item to the October 4, 2022 City Council meeting. Council Member Jones seconded the motion. Upon roll call the motion passed 5-3. Council Members Turk, Hertzberg, Harvey, Jones and Kinion voting yes. Council Members Wiederkehr, Scroggin and Bunch voting no.

This resolution was tabled to the October 4, 2022 City Council Meeting.

2022 Millage Levy on Real and Personal Property: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2022 fixing the rate thereof at 2.3 mills for General Fund Operations, 0.4 mills for the Firemen's Pension and Relief Fund, 0.4 mills for the Policemen's Pension and Relief Fund, 2.5 mills for Fayetteville Public Library Operations and 1.2 mills for the Fayetteville Public Library Expansion; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Paul Becker, Chief Financial Officer: Annually at this time of the year we bring forward the Mayor's recommendation for property taxes to the Council. This year we are recommending the same amount we had last year. That is 2.3 mills for General Fund Operations, 2.5 mills for Library Operations, 1.2 mills for the Public Library Expansion to pay the bonds, 0.4 mills for the Police Pension and Relief Fund, and 0.4 mills for the Firemen's Pension and Relief Fund. 6.8 mills is what the recommendation was for last year.

Council Member Scroggin moved to suspend the rules and go to the second reading. Council Member Turk 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 Turk 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 6601 as Recorded in the office of the City Clerk

RZN 22-037: (SE of W. 18th St & W. Custer Ln/Southern Living Construction LLC): An ordinance to rezone that property described in rezoning petition RZN 22-037 located southeast of West 18th Street and West Custer Lane in Ward 1 for approximately 3.10 acres from RMF-24, Residential Multi-Family, 24 units per acre and C-1, Neighborhood Commercial to RI-U, Residential Intermediate-Urban.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of this ordinance. He stated the Applicant noted in their request they intend to develop it with single or two family dwellings. He stated from a long-range perspective, staff finds the request to be complementary of the future land use map. He spoke briefly of receiving concerned public comments and about the tour Council had of the property. He stated staff is recommending in favor of the request and the Planning Commission voted unanimously 7-0 to forward the request to the City Council.

Brian Teague, Community by Design: I am representing the property owner. We are requesting the Council rezone this property from C-1 and RMF-24 to RI-U. Many might consider this to be a downzone, but we are willing to forego the commercial use, multifamily use and the five-story maximum height to trade that for what RI-U has to offer, which is three story height maximum and more flexible lot standards. Hopefully those would help us navigate the constraints of the site, stream, trees, utilities etc.

Council Member Turk: Jonathan, thank you for trying to address the issue with that slope of the different height of the stream bank. Were you or Alan able to do some calculations or drawings about how that might affect this property where those protections would be bounded?

Jonathan Curth: He was not. I learned a lot more about the streamside protection ordinance than I knew before this day started. The way it's calculated is, assuming taking this property is a good example, the stream is protected from property line to property line. When a property is reviewed with a protected stream a point is taken at each property line and then every 100 feet in between. If at those points that 15% slope is present, that sets a standard for that portion as far as its development goes. You don't do a section of the stream the entire length of it, it's intended to be a general survey of the stream along its route. It looks more like a polygon rather than a linear curve.

Council Member Turk: Could you describe the variance process if this is approved and the applicant wanted a variance with the streamside protection?

Jonathan Curth: At the highest level, streamside protection variances go to our Planning Commission. Staff makes a recommendation like a Planning staff would on a Planning item. Depending on what the variance is, could result in different conditions being formulated. The typical variance the Planning Commission sees relates to disturbance in either the management or waterside zone. If it's needing to place portions of a structure or a footing, Alan Pugh representing

the Engineering Division, formulates a series of conditions that work to offset any intrusion. It usually comes with a lot of streambank repair and native planting. If it's something more intrusive, like a crossing, the expectation is any crossing will span the breadth of the streamside protection area. If that is not feasible, the Engineering Division requires a determination of 'no feasible alternative'. When that is determined, there's a few different design options which could include incorporating a culvert or boxes in the stream where you can cut out the bottom of the box to preserve the stream bed or you have to bury the box to try to preserve the streambed. Engineering works to formulate conditions that try to either minimize or offset the impact by streambank restoration or native planting along the stream.

Council Member Turk: When you determine there is no feasible alternative, is that showing a hardship? Is that the equivalent to that?

Jonathan Curth: It is. It can vary. It can be conditions on the site, cost related and it's one they have to evaluate internally. The variance would still go to the Planning Commission for public hearing.

Council Member Turk: When you model, are you modeling on a 10 year flood or 25 year flood?

Jonathan Curth: Mr. Brown, could you answer that?

Chris Brown, Public Works Director: The question is related to the modeling overall for drainage or just for the streamside?

Council Member Turk: It would be for this piece of property for streamside.

Chris Brown: If you're trying to determine the limits of the streamside protection zone, you start with the identified top of the bank. We typically expect the surveyor to determine what that is. Everything is then measured from the top of the bank, so it's not related to a storm event or anything like that. It's more the physical characteristic of the stream itself.

Council Member Wiederkehr: I received a comment from a resident this was within an affordable neighborhood with modest homes and their hope was whatever is developed would then be potentially obtainable to young families. I agree with the applicant about moving from a larger five story apartment building to single family or duplex homes would be more in keeping with the context of this neighborhood. I think that is a step in a favorable direction.

Mayor Jordan: I live in that area which is a very modest neighborhood. We live in some of those houses the Kelly Brothers put together. Those are all pretty much scalable. Mr. Teague, how would you get into that property?

Brian Teague: The most likely plan would be a driveway coming off Custer and going east. We would most likely try to cross the stream and some type of courtyard style development in the southeast corner of the property.

Council Member Turk stated her thanks to Mr. Teague for being at the tour and thanked Jonathan for organizing the tour.

Council Member Turk: Jonathan, could you put up some of the photos I took? It might be helpful for the other Council Members that were not present at the tour. There are a lot of limitations with what can be developed at the property. I am concerned about the stream and I hope there are no variances requested.

Council Member Turk described the photos she took at the tour.

Mayor Jordan and **Council Member Turk** described the concrete that was in the stream.

Mayor Jordan: RI-U is better than a five-story apartment building. I was a sponsor of the Streamside Protection Ordinance in 2011 and I didn't bring that to do variances on it. I did that to protect our stream because of the erosion we were having due to over construction. I want you to know that in the future, if there is a variance in that streamside protection, I wouldn't be supporting that at all.

Council Member Harvey: I want to hold this item. I have a lot of business going on with various items and I was not able to invest as much time in this item for Ward 1. I got to make it to the tour. It's thick in there and my concern is just because we did this buying out of the West End Apartments, I feel like we're going to create a similar type issue. I agree the RI-U is more appropriate, but that isn't my concern. I feel like if we put any housing near the stream, it's going to be something that will cause issues for residents and water. I would prefer for us to hold this and reach out to more of the neighbors in the area.

Council Member Jones: I've had a few residents reach out to me and I agree with Council Member Harvey. I would like to hold this and have more conversation around it.

This ordinance was left on the First Reading.

RZN 22-039 (726 W. Taylor St/BDM Realty LLC): An ordinance to rezone that property described in rezoning petition RZN 22-039 located at 726 West Taylor Street in Ward 2 for approximately 0.70 acres from RMF-40, Residential Multi-Family, 40 units per acre to RI-U, Residential Intermediate-Urban.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of this ordinance. He stated he has not received any public comment on the request and that staff recommends in favor. Planning Commission felt similarly and forwarded it to the City Council with a vote of 7-0.

Gavin Smith, Civil Engineer stated he is joined tonight by the owner of the property and he is available for questions.

Council Member Kinion spoke briefly of how there is not a lot of residential single family in the area that is not affiliated with the university.

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 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 Scroggin** seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Council Member Wiederkehr spoke of how he feels the site is underutilized and it would be an ideal property to redevelop.

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

Ordinance 6602 as Recorded in the office of the City Clerk

RZN 22-031 (110 S. University Ave./Robson): An ordinance to rezone that property described in rezoning petition RZN 22-031 located at 110 South University Avenue in Ward 2 for approximately 0.20 acres from I-1, Heavy Commercial and Light Industrial to MSC, Main Street Center.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of this ordinance. He stated staff is recommending in favor of the request. He stated a member of the public spoke in favor of the request at the Planning Commission. He stated the Planning Commission forwarded this to Council by a vote of 7-0 with limited discussion.

Marcia Robson, Applicant spoke of her history with the property. She stated her reasoning for the rezone is so she could potentially have a business within her home to supplement her income.

Council Member Turk: Thank you for explaining your rationale for MSC. You can go all the way up to seven stories.

Marcia Robson: I'm not going to do that. I can't afford to do that.

Council Member Turk: Your rationale was just being able to live and work in the same and having that flexibility?

Marcia Robson: Yes.

Council Member Hertzberg 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: I'm interested in this live/work conversation with this being right there at the Ramble. Jonathan, when she is saying live/work, my ideal situation for an artist or for Ms. Robson is she can have a shop underneath and then live above. Is that the case? She can have some type of a small-scale production on this list and then potentially live above or behind, is that allowed?

Jonathan Curth: That would be from a zoning standpoint under Main Street Center. Building Code may be another question. I think what Ms. Robson's main concern is the Industrial zoning doesn't allow her house as it is today. It could remain as a non-conforming use but modifying it would be not allowed, especially not to modify it to a live/work arrangement. Given the terrain of the property and the setbacks, she is needing as much flexibility as possible to be able to use it in that manner.

Council Member Harvey: I just want to make sure, and I'm sure you guys have already worked with her to confirm that. As we are looking at continuing to advance the Ramble and live/work type situations with artists potentially having a studio space and maybe creating more artworks of lower level and then living above. She was saying this was one of the only zonings available for her to do that. I'm wanting to confirm that configuration they can be there at the same time because I'm seeing the uses are there. Can we have a small-scale production facility and a home in the same space?

Jonathan Curth: Yes. Typically, an artist studio would be classified as an office in our Code if you're looking at the packet, Use Unit 25 is an allowed use. There are other zoning districts that would afford her the opportunity to do what she wants, but probably not on this property given the size and how the house is situated. That's where her concerns come from and Planning staff evaluating zoning districts that would afford her this opportunity, how they landed on the Main Street Center zoning district for this request.

Council Member Harvey spoke briefly of how she wanted to confirm the information for the applicant and about potentially bringing it forward for other properties in Fayetteville.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 6603 as Recorded in the office of the City Clerk

RZN 22-032 (115 & 121 S. University Ave./Robson): An ordinance to rezone that property described in rezoning petition RZN 22-032 located at 115 and 121 South University Avenue in Ward 2 for approximately 0.60 acres from RMF-40, Residential Multi-Family, 40 units per acre to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of this ordinance. He stated staff did not support the request to rezone the property to Main Street Center. He stated the Planning Commission amended the request to Downtown General before forwarding it to the City Council by a vote of 6-1. He explained there was public comment received in favor of the rezone.

Marcia Robson, Applicant: These three houses were bought over the course of the last 30 years. Two of these houses sit back from each other. One is on the 1908 map and the other is not. I suspect it was built later as a mother in law house. There's 75 feet across the front of it and what I would like to do is be able to separate those two houses so they each have their own parcel. The Downtown General zoning allows me to do that because I can have an 18 foot wide lot so the mother in law house that sits behind the larger house would fit in there and allow me to go ahead and leave the larger house on the 50 feet. That was one of my main concerns. We added a parking lot in front of those two houses so there is 50 feet of parking now off the street. It was originally a single-family home until someone bought it and put a wall down the middle and made it into two apartments. When we remodeled it, we took the wall out of the middle and turned it back into a single-family unit. We left the two front doors and added the third door in front of the staircase. Now that it has three doors across the front and parking, it lends itself for people to be able to run a business and live in their home. Currently we're just renting it to a couple. Someone mentioned it being a duplex; there is another unit over it. That unit enters in from the back of the house but that's not the issue for me. It's just mainly being able to separate it and having some flexibility in what people can do.

Council Member Turk: I'm wondering if there were other zoning types because there's no Downtown General zoning type in this area. Are there zoning types that you all explored that would allow you to split those two houses?

Marcia Robson: I looked at different ones and thought about Main Street Center, but Downtown General is perfect. Right next to 115 is a vacant lot and there is another house after that and on the other side of Putnam Street; that's all zoned Downtown General. It's the Eco Flats Apartments. Further down the street from my house on the other side there's apartments and duplexes that are all zoned Main Street Center. It's not that different from the rest of the lots.

Council Member Turk: Thank you. Holly showed me the map a little further out, you're right.

Council Member Wiederkehr: Jonathan, this would not create a flag lot. This would be a separate stand-alone lot with 18 feet of width and street frontage?

Jonathan Curth: That's what she's described, yes. To Council Member Turk's question, there is not a zoning district that allows 18 foot lots and the potential for having a live/work arrangement on the property. We have RI-U, which allows 18 foot lots. All the other zoning districts allow 18 foot lots also and allow increasing degrees of nonresidential use like DG and MSC.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: Jonathan, have we had any public comment?

Jonathan Curth: There was a phone call prior to the Planning Commission meeting, in favor of this item. There was comment at the meeting in favor of the previous item. I don't know if either caller distinguished between the two items or not, but both were in favor of the two requests.

Council Member Harvey 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.

Ordinance 6604 as Recorded in the office of the City Clerk

RZN 22-033 (SE of S. Smokehouse Trail & W. Martin Luther King Jr. Blvd./McNeal Family Investments): An ordinance to rezone that property described in rezoning petition RZN 22-033 located southeast of South Smokehouse Trail and West Martin Luther King, Jr. Boulevard in Ward 1 for approximately 2.09 acres from R-A, Residential Agricultural to UT, Urban Thoroughfare.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated there was public comment expressed in favor of this item and staff is in favor. He stated the commission is in favor of the request and forwarded it unanimously 7-0. He gave a brief explanation of the discussion from the commission saying they would hold a variance request to a high standard.

Marcia Woody, Applicant spoke briefly of the McNeal family wanting the property to be rezoned so a developer could potentially purchase and put the property to its best use.

Council Member Turk: Jonathan, I'm a little confused about the Master Street Plan where you showed that slide. Where is that? Is that a requirement or a plan? Is it just something on the map? If you could clarify I would appreciate it.

Jonathan Curth: As far as our Master Street Plan goes, it is the guiding transportation document for the city. It is most readily enshrined in a map that shows all the streets of the city. Some of them don't have any particular designation. Most of those are existing streets just as they are. There have been specific streets called out in Fayetteville that are intended to serve a specific function in the city, typically it's the movement of traffic and ensuring they are built to adequately carry certain volumes of traffic. When it comes to this one, this street section was adopted by the City Council. A section of Smokehouse between Ruppel to the north and where Smokehouse transitions into Hoot Owl to the south, this has been applied to that. When a developer comes into the city on this or any other property, one of our first thoughts is to evaluate it in terms of our Master Street Plan. Those are the baseline expectations for how they develop their street frontage. You hear me talk about it in terms of if you build a house you might have to build a sidewalk or if you build an apartment complex you might build sidewalk, curb and gutter. In this instance, it may be they contribute to building it out to its parking on the west side, but then preserving that natural buffer area on its east side. The Master Street Plan gives staff the leverage to be able to require a specific design from an applicant whereas it might just fall to our standard street sections with sidewalk on both sides, street trees and turf grass.

Council Member Turk: In other words, you're able to negotiate something that would be similar to this 36 foot natural buffer area?

Jonathan Curth: Correct.

Council Member Turk: If you weren't able to negotiate that, this would be preserved because we approved it? .

Jonathan Curth: This has a higher likelihood of being applied because you're not requiring any street improvements. You're just requiring right-of-way dedication. In this instance, when a development comes in from the center line of Smokehouse onto the property to the east, they would have to dedicate right-of-way. It would encompass this natural area, which would then be the city's to hold.

Council Member Turk: Thank you for clarifying.

The City Council received three public comments regarding this ordinance.

Council Member Wiederkehr: Jonathan, do you have an estimate on the amount of street frontage it has on the 36 foot tree canopy easement? I'm wanting to see what percentage on that frontage the 36 feet is.

Jonathan Curth: The length of the frontage extends south from MLK about 237 feet.

Council Member Wiederkehr: In addition to the 15% tree canopy, we are going to get the 36 feet of additional existing tree canopy that's preserved before the 15% gets calculated, correct?

Jonathan Curth: Yes, in the sense that trees in the right-of-way cannot be contributed to that canopy requirement. The foresters don't count trees in right-of-way.

Council Member Wiederkehr: Thank you.

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.

Mayor Jordan asked if Council Member Jones and Council Member Harvey have been contacted regarding this item. Council Member Jones stated he has not been contacted and Council Member Harvey stated she has received letters of support.

Council Member Turk: Jonathan, we have 36 feet of right-of-way that's going to protect those trees and then if we rezone it, there's the 15%. Does that get us close to 25% tree protection under the current zoning?

Jonathan Curth: I've not calculated the amount of existing right-of-way and how far we go into the property. I don't know that number off hand.

Council Member Turk: I'm guessing it's beyond our powers that we could limit this further, that we just do a straight rezoning to UT? In other words, we can't place additional conditions on the zoning. Would that be accurate, Kit?

City Attorney Kit Williams: That is correct.

There was a motion and a second to go to the third and final reading. Once the roll call began and it came to Council Member Turk's turn to vote yes or no, she requested to know if the vote could stop and she preferred to table the ordinance instead. City Attorney Kit Williams said, "At this point I think the motion is being voted on, so we probably need to continue with the vote and see if it gets to a 2/3 vote that it will require to pass." The vote continued as recommended by Mr. Williams.

Council Member Harvey moved to suspend the rules and go to the third and final reading. Council Member Scroggin seconded the motion. Upon roll call the motion passed 7-1. Council Members Wiederkehr, Scroggin, Bunch, Hertzberg, Harvey, Jones and Kinion voting yes. Council Member Turk voting no.

City Attorney Kit Williams read the ordinance.

Council Member Harvey stated her thanks to Frank Sharp and the neighbors for coming together to do the extra tree canopy suggestion and she is looking forward to seeing how it will come to fruition.

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

Ordinance 6605 as Recorded in the office of the City Clerk

RZN 22-036 (6040 W. Wedington Dr./Houston): An ordinance to rezone that property described in rezoning petition RZN 22-036 located at 6040 West Wedington Drive in Ward 4 for approximately 0.39 acres from R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated from a compatibility standpoint staff is in favor of the request and he has received several public comments regarding being okay with the applicant rezoning the property, but they reject the request that's currently at the Planning Commission. He spoke briefly of Planning Commission being in favor of the request.

Mayor Jordan: Is the applicant here?

Jonathan Curth: Nikki Littrell is the applicant. I was not able to get ahold of them before the meeting and I don't see them in person or online.

Mayor Jordan: Council Member Hertzberg, have you heard anything?

Council Member Hertzberg: We have not.

Council Member Scroggin moved to suspend the rules and go to the second reading. Council Member Hertzberg 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 Hertzberg 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 6606 as Recorded in the office of the City Clerk

RZN 22-038 (201 E. Spring St./Teague): An ordinance to rezone that property described in rezoning petition RZN 22-038 located at 201 East Spring Street in Ward 1 for approximately 0.20 acres from RMF-24, Residential Multi-Family, 24 Units per acre to RI-U, Residential Intermediate-Urban.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated staff finds the request to be compatible. He spoke about the applicant preparing a Bill of Assurance to potentially include a higher standard of setback, but staff didn't feel this was necessary. He stated the RI-U district offers inherent protections and contextualization for the neighborhood. He stated the Planning Commission agreed and the Bill of Assurance was not forwarded to the City Council. He stated there was one public comment in favor of the request. He stated staff is recommending in favor and the Planning Commission forwarded it to City Council unanimously.

Brian Teague, Applicant spoke about the history of RI-U zoning at the City of Fayetteville and stated he has used that zoning multiple times as a tool to create good development. He spoke about previous projects he has built in the city. He stated he would like to see the whole area rezoned to RI-U.

Council Member Turk: What is the frontage width of the current property we are evaluating?

Jonathan Curth: It looks to be about 50 to 55 feet, but Mr. Teague probably has a recent survey.

Brian Teague: It's 50 feet.

Council Member Hertzberg: Mr. Teague, I really like the two projects you have done in the past and I would love to see something like that here.

Council Member Hertzberg 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: I am familiar with Mr. Teague's work and I am a fan of it. I liked Mr. Teague's recommendation of potentially changing all the RMF-24 to RI-U. I might follow up about that with Jonathan Curth.

Council Member Harvey moved to suspend the rules and go to the third and final reading. Council Member Hertzberg 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 6607 as Recorded in the office of the City Clerk

Announcements:

Lisa Thurber, Communications & Marketing Director gave a brief discussion of the events going on in the City of Fayetteville. All information can be viewed on the City of Fayetteville website.

There was a discussion when ward meetings would be held. Calendar dates are on the city's website.

Council Member Jones announced a walk at Gulley Park to end the mental health stigma on September 24, 2022.

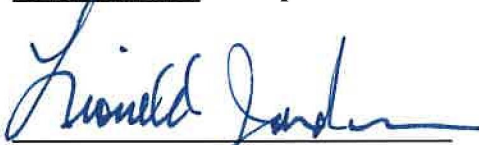
City Council Agenda Session Presentations:

Agenda Session Presentation - Paul Becker 2023 Levy Request and General Fund Projected Budget.

City Council Tour:

Southern Living Construction LLC Rezoning Tour (Agenda Item 2022-0787) Date: September 19th, 2022, Time: 4:00 PM, Address: Unaddressed; Four lots south of W. 18th St./W. Custer Ln. on the east side of Custer. Location of prominent overhead electric transmission tower, Parking: Parking is available on-street along the west side of Custer Lane, Request: Rezone the property from RMF-24, Residential Multi-Family, 24 Units per Acre, and C-1, Neighborhood Commercial, to RI-U, Residential Intermediate-Urban.

Adjournment: 9:48 p.m.



Lioneld Jordan, Mayor



Kara Paxton, City Clerk Treasurer

