

Council Member Sonia Gutierrez  
Ward 1 Position 1

Council Member D'Andre Jones  
Ward 1 Position 2

Council Member Mark Kinion  
Ward 2 Position 1

Council Member Matthew Petty  
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 Kara Paxton

**City of Fayetteville Arkansas  
City Council Meetings  
February 2, 2021**

**A meeting of the Fayetteville City Council was held on February 2, 2021 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.**

**In order to create social distancing due to the Coronavirus, COVID-19 pandemic, Council Members Sonia Gutierrez, D'Andre Jones, Mark Kinion, Matthew Petty, Sloan Scroggin, Sarah Bunch, Teresa Turk, and Holly Hertzberg joined the meeting via online using a video conferencing service called Zoom.**

**Council Member Bunch arrived after Roll Call.**

**Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Kara Paxton, Chief of Staff Susan Norton, Chief Financial Officer Paul Becker, and staff members from the IT Department were present in City Council Chambers while demonstrating recommended social distancing.**

**Pledge of Allegiance**

**Mayor's Announcements, Proclamations and Recognitions:**

**Mayor Jordan:** In light of the current health concerns, Fayetteville City Hall is closed to the public. This meeting is being held virtually. I am present in Council Chambers with a limited number of essential support staff. City Council Members, city staff, and the public are participating online or by phone. Other than those of us you see before you, the voices you hear during the course of this meeting are being recorded for public record and piped into the Council Chambers. Participation remains of the upmost importance to the City of Fayetteville. We have provided many ways to participate in the meeting, which includes contacting Council Members, City Clerk office

or city staff prior to the meeting. The meeting can be viewed through Fayetteville's government channel online, YouTube, and joining the Zoom conference by smartphone, tablet or computer. To request to speak during the public comment period, you must raise your virtual hand to be recognized. If you are accessing the meeting through a smartphone, tablet or computer, please click the raised hand option to request to speak during the public comment period. If you are calling into the meeting by phone, please press, \*9 to raise your virtual hand for public comment. When it is your turn to speak, please unmute your microphone. For instructions on how to use Zoom, please go to the City of Fayetteville website and type, Zoom Instructions, in the search bar. I will provide a longer than usual period of time for you to raise your virtual hand, so as to ensure time to be recognized. Fayetteville residents will be allowed to speak first. When recognized, please state your name and address for the record. Public comment shall be allowed for all members of the audience who have signed up prior to the beginning of the agenda item they wish to address being opened for public comment. Each speaker has one turn to speak. Each speaker is allowed five minutes to be broken into segments of three and two minutes, which staff will monitor. Amendments may receive public comments only if approved by the City Council by unanimous consent or majority vote. If public comment is allowed for an amendment, speakers will only be allowed to speak for three minutes. The City Council may allow both a speaker additional time and an unsigned-up person to speak by unanimous consent or majority vote.

**State of the City Address will be presented at the City Council Agenda Session by Mayor Lioneld Jordan**

### **City Council Meeting Presentations, Reports, and Discussion Items:**

#### **Monthly Financial Report**

**Paul Becker**, Chief Financial Officer gave a summary of the Monthly Financial Report. He stated the General Fund sales tax was up 6% and the sales tax for the county was up 7.9%. He spoke about the percentages in individual departments. He stated all in all, it was a very good year for the General Fund. He stated we were budgeted at a \$1.3 million deficit, but we made up for that, and a lot of that had to do with expense control. He stated we functioned under good money management. He stated travel was cut back, we conserved on fuel as much as possible, and many other areas. He stated we're in a good position. He stated in looking forward, we don't know how long the Coronavirus is going to be with us but feels we're in a good position going into 2021. He spoke about the Street Fund being up about 5%. He stated the revenues for the Parking Fund for the month of December were 42% of what they were last year. He stated for the year we collected roughly 60% of what we did for the prior year for the Parking Fund. He stated there still will not be money available for art support. He stated HMR is down about 15%. He stated we're going to have about a \$300,000 budget loss for the year, however that's sustainable and we do have the reserves to accommodate that. He stated Recycling and Trash Collection are down about 2% in revenues. He stated Water and Sewer is up about 3%. He spoke about not cutting off service due to the pandemic and citizens inability to pay. He stated we have a rising dollar value in late payments, and we have about \$500,000 due that is over four months. He stated Airport gas sales

were down about 15%. He stated when we look at the year of 2020 with the Coronavirus and the challenges we faced, the City of Fayetteville did very well financially.

**Council Member Gutierrez:** In Parking, you were able to lower operating expenses. Could you go into that a bit more?

**Paul Becker:** We cut back because we didn't need the help for the entertainment parking. We didn't have to have temporary people there. We've also had two individuals who have transferred to other departments within the city for job openings. We don't intend to replace those positions until the parking volume comes back. That's what we have lowered in operations in Parking. Last year we were not able to fund any of the budgeted amount for the arts support. That's essentially where we have cut back in the Parking Fund.

**Agenda Additions:** None

**Consent:**

**Approval of the January 5, 2021 and January 7, 2021 City Council Meeting minutes.**

***APPROVED***

**Bid # 20-58 King Electrical Contractors, Inc. - 2019 Park Improvement Bond Project:** A resolution to approve a proposal from King Electrical Contractors, Inc. in the total amount of \$50,050.00, pursuant to Bid #20-58, for electrical services associated with the Square Lighting and Electrical Improvements Project, to approve a project contingency in the amount of \$5,005.00, and to approve a budget adjustment - 2019 Park Improvement Bond Project.

***Resolution 39-21 as recorded in the office of the City Clerk***

**Centennial Park Underground Utility Easement:** A resolution to approve the conveyance of a General Underground Utility Easement to Ozarks Electric Cooperative Corporation, Ozarks Go and AT&T across a portion of Centennial Park at Millsap Mountain to place the overhead utility lines underground for aesthetic and safety purposes.

***Resolution 40-21 as recorded in the office of the City Clerk***

**Openedge:** A resolution to authorize a contract with Openedge, a division of GlobalPayments, for processing Parks and Recreation credit card transactions.

***Resolution 41-21 as recorded in the office of the City Clerk***

**Arkansas Department of Transportation:** A resolution to approve an Agreement of Understanding with the Arkansas Department of Transportation for the reconstruction of a section of the Razorback Greenway across the Lake Fayetteville dam, to authorize the Mayor to sign

additional documents as necessary to utilize \$150,000.00 in Federal-Aid Funds through the Recreational Trails Program, and to approve a budget adjustment to recognize the revenue.

***Resolution 42-21 as recorded in the office of the City Clerk***

**Titan RBR Properties, LLC:** A resolution to approve an Encroachment Permit Agreement with Arkansas & Missouri Railroad Co. and a contract with Titan RBR Properties, LLC for utility relocations associated with a Multi-Family Development on Razorback Road.

***Resolution 43-21 as recorded in the office of the City Clerk***

**RFQ 20-01 Selection #26, Development Consultants, Inc.:** A resolution to approve a Professional Engineering Services Agreement with Development Consultants Inc. pursuant to RFQ 20-01 Selection #26, in an amount not to exceed \$46,790.00 for the design of a 12-inch gravity sewer main along Razorback Road.

***Resolution 44-21 as recorded in the office of the City Clerk***

**Buffington Weir, LLC Change Order No. 1:** A resolution to approve Change Order No. 1 to the Water Main Installation Cost Share Agreement with Buffington Weir, LLC in the amount of \$70,064.16.

***Resolution 45-21 as recorded in the office of the City Clerk***

**Nelson Byrd Woltz, LLC Change Order No. 4:** A resolution to approve Change Order No. 4 to the contract with Nelson Byrd Woltz, LLC in the amount of \$65,000.00 for the development of an operations and maintenance strategy for the outdoor public space in the Cultural Arts Corridor Project.

***Resolution 46-21 as recorded in the office of the City Clerk***

**The Federal Emergency Management Agency Grant:** A resolution to authorize an application for a 90/10 assistance to Firefighters Grant from the Federal Emergency Management Agency in the amount of \$300,000.00 for the purchase of two brush truck vehicles for the Fire Department.

***Resolution 47-21 as recorded in the office of the City Clerk***

**Chevrolet of Fayetteville - Police Department:** A resolution to approve the purchase of a Chevrolet Tahoe from Chevrolet of Fayetteville in the amount of \$36,753.00, pursuant to a State Procurement Contract, for use by the Police Department.

***Resolution 48-21 as recorded in the office of the City Clerk***

**Chevrolet of Fayetteville - Yvonne Richardson Community Center:** A resolution to approve the purchase of a Chevy Express 15 Passenger Van from Chevrolet of Fayetteville in the amount

of \$26,295.00, pursuant to a State Procurement Contract, for use by the Yvonne Richardson Community Center, and to approve a budget adjustment.

***Resolution 49-21 as recorded in the office of the City Clerk***

**Williams Tractor, Inc.:** A resolution to approve the purchase of eight Hustler Super Z mowers from Williams Tractor, Inc. in the total amount of \$78,000.00, plus any applicable sales taxes and freight charges, pursuant to a Sourcewell Cooperative Purchasing Contract.

***Resolution 50-21 as recorded in the office of the City Clerk***

**Council Member Kinion moved to accept the Consent Agenda as read. Council Member Gutierrez seconded the motion. Upon roll call the motion passed 7-0. Council Members Hertzberg, Gutierrez, Jones, Kinion, Petty, Scroggin, and Turk voting yes. Council Member Bunch was absent during the vote.**

**Unfinished Business:**

**ANX 2020-0001(3435 E. Zion Rd./Burge):** An ordinance to approve the Annexation Petition of Patricia Lynne Severino, as Trustee of the Robert Eugene Burge Irrevocable Trust, and Annex 59.00 acres of land located at 3435 East Zion Road. *At the January 7, 2021 City Council meeting this item was left on the first reading. At the January 19th, 2021 City Council meeting this item was left on the second reading.*

**Mayor Jordan:** Later in the agenda, we have the Streamside Protection Ordinance coming up. I was in hopes that the Council might table this for a couple of weeks so we could look at the information and incorporate the Streamside Protection Ordinance into this.

**City Attorney Kit Williams:** I'd hopefully like to see the Streamside Protection Ordinance amendment passed tonight, and the annexation nor the zoning be passed tonight. I'd rather have the Streamside Protection amendment in effect, so if the City Council decides to annex the land, the stream that is inside this annex area will automatically be protected by our Streamside Protection Ordinance.

**Council Member Turk** spoke about tabling the ordinance for two weeks to have the Streamside Protection Ordinance enforced if it passes tonight.

**Mayor Jordan:** I would like to have a little bit of time to study the information.

**Council Member Scroggin:** We have gotten a massive volume of information. I hope we end up voting for this, but there are some concerns, and I hope we can work through those. Even before this came up, I asked a water engineer about five months ago when are we going to get to swim in Lake Fayetteville. There's already been some conversations started about how we do that. I don't think this one project is going to make or break that, but I hope it starts the conversation about Lake Fayetteville. There are some opportunities for cost sharing, even on this project to get some

things done. The neighborhood to the north is producing water runoff and hopefully by moving this into the city and using our design standards and maybe some cost sharing, we could provide houses and have less run off into Lake Fayetteville. I'm glad we are tabling this and look forward to continuing this conversation.

**Council Member Turk:** There was a report done by FTN about the Lake Fayetteville spillway. It would be helpful if the Council would read that document. It came out in December of 2020. It says in order to meet the probable maximum flood, which would be due to a tropical storm, that we probably need to increase the damn heights. We need to increase the length of the spillway and we need to lower the lake level to increase storage capacity.

**Council Member Turk moved to table the ordinance to the February 16, 2021 City Council meeting. Council Member Bunch seconded the motion. Upon roll call the motion passed unanimously.**

*This ordinance was tabled to the February 16, 2021 City Council meeting.*

**PZD-2020-002 (3435 E. Zion Rd./Chandler Crossing SD):** An ordinance to approve a Residential Planned Zoning District entitled R-PZD 2020-0002 for approximately 81.89 acres located at 3435 East Zion Road. *At the January 7, 2021 City Council meeting this item was left on the first reading. At the January 19th, 2021 City Council meeting this item was amended and left on the first reading.*

**Mayor Jordan:** I assume we are going to table this one because we haven't annexed in the land.

**Council Member Scroggin moved to table the ordinance to the February 16, 2021 City Council meeting. Council Member Turk seconded the motion. Upon roll call the motion passed unanimously.**

*This ordinance was tabled to the February 16, 2021 City Council meeting.*

**VAC-2020-009 (East of 662 W. Taylor St./Gregg Ave. R-O-W):** An ordinance to approve VAC 20-009 for property located East of 662 West Taylor Street to vacate a portion of street right-of-way. *At the January 19, 2021 City Council meeting this item was left on the first reading.*

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

*City Attorney Kit Williams read the ordinance.*

**City Attorney Kit Williams:** I've been working with Jonathan Curth about this and there's a very slight change to the conditions in Section 3. The current condition in number two says, an easement shall be dedicated vacated street right of way to ensure access for maintenance existing utility infrastructure. We want that change to our more standard general utility easement shall be

dedicated in place of the right of way. I would recommend that the City Council amend the ordinance as I have stated.

**Jonathan Curth**, Development Services Director gave a brief description of the ordinance. He stated the utility department has signed off on the proposal.

**Blake Jorgensen**, Jorgensen Engineering stated we've got all the appropriate notifications and worked with utilities to identify the appropriate easements we need to dedicate. He stated he wants to make sure the amendment includes Mr. Curth's modification because Kit Williams modification included dedicating all the right of way as easement and we are requesting to modify that. He believes there may be a modification to that amendment.

**Mayor Jordan:** What modifications are we are we talking about?

**City Attorney Kit Williams:** I think Jonathan showed a different design than what I have seen. Jonathan, I guess that wasn't for the entire right of way?

**Jonathan Curth:** That is correct, Mr Williams.

**City Attorney Kit Williams:** How wide is the one you're recommending?

**Jonathan Curth:** I believe the overall width is about 30 feet of the 40 foot right of way.

**City Attorney Kit Williams:** My understanding is the electrical company wanted a wider easement than even our right of way. Have they changed their decision and no longer appear to have their 50 foot right of way like they originally said they wanted?

**Blake Jorgensen:** We have built the power poles and sewer mains. SWEPCO is requiring 25 feet each side of the power poles and the sewer main lies within that. We're dedicating around 24 to 25 feet, because it's not exactly parallel, but typically the sewer main would require 10 feet each side. We are dedicating five more feet than the City of Fayetteville needs and we're adhering to what SWEPCO is requiring.

**City Attorney Kit Williams:** Are we dedicating an easement the width that SWEPCO has requested?

**Blake Jorgensen:** Yes, sir that's correct. It's above and beyond what the City of Fayetteville would need.

**City Attorney Kit Williams:** That should be the amendment. We'll work on the fine details using the diagram that Jonathan showed you, but we still need an amendment to that effect. We need to have an amendment to reflect you agree with Johnson Curth's diagram.

**Council Member Gutierrez moved to amend the ordinance as described by Jonathan Curth's diagram. Council Member Scroggin seconded the motion. Upon roll call the motion passed unanimously.**

**Jonathan Curth:** I want to confirm what the applicant said. I have the SWEPCO representative's approval document and it does say 50 feet easement centered on the power line. That would mirror what the applicant is proposing.

**Council Member Turk:** Jonathan, could you describe the difference between an easement and the right of way?

**Jonathan Curth** gave a brief description of an easement and a right of way.

**Kyle Smith**, 2801 West Dove Street spoke in opposition of the ordinance.

**Council Member Petty:** I can't support this for many of the reasons that were stated by the members of the Planning Commission who voted in the minority to oppose the vacation. We haven't imagined what we might need this right of way for. I'm skeptical of the public benefit to vacate this right of way, and then sell the adjacent city owned land or a portion of that to the east, which was what we heard as being the master plan the last time we discussed this. It's not just the presence of the historic rail line through this location, although that's important, it's also the university's plans and its proximity to the creek. I can imagine eventually needing this right of way for some kind of transportation purpose. At that time, if we still have control of the right of way, we will be in the best position to construct that infrastructure in the way it needs to be because of its proximity to Scull Creek.

**Council Member Gutierrez:** Council Member Kinion was expressing concern last time. Have his concerns been addressed or reviewed?

**Council Member Kinion:** I do have a concern with this. I would love to see the developer have the opportunity to do their project as they wish, but we have the property right now and to relinquish that is premature at this time.

**Council Member Turk:** I remain concerned about its proximity to the creek. Technically, it looks like it doesn't come under our Streamside Protection Ordinance, but there is some kind of waterway and creek that will be very close by if we give up these public rights and it's developed.

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

*City Attorney Kit Williams read the ordinance.*

**Blake Jorgensen** requested to speak.

**Council Member Gutierrez** and Council Member Bunch stated they would like to hear from Mr. Jorgensen.

**Blake Jorgensen** stated we've done a lot of development along this corridor. He stated if you look at the right of way going north and south and you're at the railroad crossing of Dickon Street, you

see two buildings right up against the actual right of way of the railroad company, which is consistent as you go north and south. He stated there is a Streamside Protection Zone and it lies to the north, which prohibits the ability to put a road in up to Cleveland. He stated there's not a physical way to encroach into that floodway in the last 80 years and this is an opportunity for the city to relinquish unused property and hand it over to development that will add to a tax base.

**Council Member Kinion:** The concern is not just as you've addressed, but also the proximity to the creek and the impact it would have in that area as far as stormwater runoff. Do you have an insight on that?

**Blake Jorgensen:** Absolutely. The unnamed tributary that runs into Scull Creek is prone to flooding, but if you were to try to install a roadway all the way to Cleveland, you're dealing with a massive roadway improvement project. That bank is like a 2 to 1 drop off that wouldn't be acceptable in most development, but that's the natural path of that creek. The land we are requesting to be vacated, stops well before that. We did not try to vacate it all the way to the north, because you couldn't do anything with that property to the north. It's literally a 10 foot drop off into the creek way. It is land we feel is developable and underutilized for the last 80 years. We are trying to recapture that and offer housing to the City of Fayetteville.

**Council Member Gutierrez:** In terms of how the current right of way stands, is this going to cut away in a direction that we really need? Will it cut out a chunk that we potentially could utilize somehow? I'm trying to figure out the impact overall for our potential uses in the future and the storm water.

**Jonathan Curth** stated developing it as a street would be difficult. He spoke about the infeasibility of connecting it from staff's perspective. He stated that does not necessarily preclude using it in some way, shape or form. He stated a street is not the only thing found in rights of way. He stated removing this would prevent that whole connection from ever being made, but staff asserts that connection is unlikely to be ever made.

**Council Member Gutierrez:** Is it because the topography and the way the street is going to need to dead end there?

**Jonathan Curth:** Correct. For a street construction, it's probably not feasible, but that's if you look at it from the lens for vehicular transportation.

**Council Member Gutierrez:** Because of the topography, is there any restrictions for Mr. Jorgensen if he tries to do anything there because it's so close to that stream? Is he going to be limited?

**Jonathan Curth:** I'm not seeing any development details, so that's hard for me to speculate. It is accurate to say that it's beyond the Streamside Protection Zone that extends 50 feet from the banks of a stream. Even in the steepest cases, that's 70 feet and the little drainage way in this right of way is not a protected stream. Scull Creek is the nearest one. There is drainage going through with how much the railroad has been built up, but it may or may not be subject to a higher scrutiny or standards. If it's developed other than with a single or two family under that and developed with

something more intense than that, it would be subject to our drainage criteria, but otherwise, it could potentially be developed without having to meet those standards.

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

*This ordinance failed.*

**Amend §161.22 Community Services and § 161.24 Urban Thoroughfare:** An ordinance to Amend §161.22 Community Services and §161.24 Urban Thoroughfare by changing certain permitted uses to conditional uses. *At the December 15, 2020 City Council meeting this item was left on the first reading. At the January 5, 2021 City Council meeting this item was left on the second reading. At the January 19th, 2021 City Council meeting this item was tabled until the next City Council meeting.*

**Mayor Jordan:** This is on the second reading, but it was tabled for Kit Williams to develop two or three more ordinances.

**City Attorney Kit Williams:** The City Council asked that the current ordinance that's here before you and we discussed before to be changed to three different ordinances. There's three different questions and it's very easy to divide them up. I sent a memo out to the Council with these ordinances, including the one that needs to amend from this one to the one I sent out. That would cover the Community Services for Conditional Uses for Use Unit 18 gasoline service stations and drive in and drive through restaurants. That's the only issue that particular ordinance would cover. The two items on New Business would be the other two parts of this ordinance. I would recommend the first thing that City Council would do is to amend to the ordinance that I have provided them. It's also part of the additional information within this agenda item.

**Mayor Jordan** reiterated what City Attorney Kit Williams stated.

**City Attorney Kit Williams:** That part of Community Services that would be proposed to change gas stations to a Conditional Use instead of Permitted Use, would be the one amended if the City Council wants to make a motion.

*City Attorney Kit Williams read the proposed amended ordinance.*

**Council Member Gutierrez moved to amend the ordinance as read by City Attorney Kit Williams. Council Member Turk seconded the motion. Upon roll call the motion passed unanimously.**

**Council Member Gutierrez 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.*

**Kyle Smith**, 2801 West Dove Street spoke in favor of the ordinance.

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

**Council Member Turk:** Is it possible to move to put an Emergency Clause in this bill in order to reduce the six-month time? Essentially, it would be seven months because we have to wait 30 days before this goes into effect and so we're actually giving a developer seven months before this takes effect.

**City Attorney Kit Williams:** It's already been passed. Let me look at how this is written.

**Mayor Jordan:** Council Member Turk, are you talking about 30 days?

**Council Member Turk:** I am.

**City Attorney Kit Williams:** If you look at the wording for the six months, it's following the enactment of the ordinance, not the effective date of the ordinance.

**Council Member Turk:** Thank you for clarifying that and I withdraw my concern.

***Ordinance 6409 as Recorded in the office of the City Clerk***

**New Business:**

**Amend §161.22 Community Services:** An ordinance to Amend §161.22 Community Services to move Use Unit 8, Single-Family Dwellings and Use Unit 9, Two Family Dwellings from Permitted Uses to Conditional Uses.

***City Attorney Kit Williams read the ordinance.***

**Jonathan Curth**, Development Services Director stated he was available for questions.

**Council Member Gutierrez:** What we're talking about is removing a smaller part of land use per single family out of Community Services, which is intended for denser development. Is that the direction of the ordinance so that we can separate and not use Community Services type zoning and allow for this big spread out development?

**Jonathan Curth:** I believe former Council Member Smith may be able to speak better to his intent of the ordinance. My understanding is it's not entirely removing the allowance for those uses. It's shifting it from a Permitted Use to a Conditional Use, which does not mean that it can't be done. It's subject to a higher level of scrutiny. It means a Conditional Use Permit would have to be brought before our Planning Commission. My understanding of the idea behind that is some of our higher intensity mixed use zoning districts are intended for higher intensity uses. While a single family home can be a very ubiquitous building block of a neighborhood, it may have less of a role

to play in some locations in the city where we'd rather see attached residential dwellings or vertical mixed use dwellings and access to services. A lot of places in the city we've been seeing properties zoned CS, either by the city or at the request of applicants. It's then developed with medium to low density single family, which was not the written purpose of the CS zoning district.

**Council Member Gutierrez:** That's what I had understood quite a while back when I was asking about this. In cities, is that a normal thing? It seems like it's helpful for the people that live in the area to have a better narrow scope of what potentially can go next door to them.

**Jonathan Curth:** If you want to look at it on a historical basis and then nation as a whole, a lot of cities look at zoning in a hierarchical manner such as a pyramid. Imagine a single family home at the top of it and as a result it's given the highest priority and it's allowed in every other zoning designation under it with the notion being it's the lowest potential for nuisance, intense development or impacts. Fayetteville and a lot of cities have begun to realize the impacts of making single family homes, king, is that it's been prioritized to the detriment of cities spreading outward. As some cities have developed mixed use zoning districts, they've incorporated certain tools. This one that you're considering right now is not a common one, but it's not uncommon either. It allows the city to have a higher degree of scrutiny when a development comes through, where if someone wants to develop single family homes, the Planning Commission gets to look at it and see if single family homes are a part of a larger hole in a neighborhood that may be more complete and more connected with closer proximity or mixed in with services and attached residential dwelling. It's not to say single family homes are bad. It's just to say that in certain parts of our city, we have emphasized that it's meant to be a piece of the puzzle to make a better neighborhood.

**Council Member Bunch:** When we're talking about the single family homes, what constitutes a single family home? Are we only talking about RSF-4 or do we have other categories of single family homes that could fit in under that umbrella?

**Jonathan Curth:** The way our zoning code is broken out is by each zoning district and each one of those zoning districts has use units in it. What the Council is looking at tonight is Use Unit 8 and Use Unit 9, which is single family and two family. Regardless of zoning district, Use Unit 8 is a detached single family home and that means a standalone structure and Use Unit 9 are duplexes, which is to be moved to a Conditional Use. It's not necessarily tied to a specific zoning district. Single family homes are allowed in multiple zoning districts.

**Council Member Bunch:** Some of the things we have in this part of town are row houses that are single family and detached. Would that be a Conditional Use with this?

**Jonathan Curth:** A lot of that depends on how they're developed. Our code talks about single family dwellings as whether it's on a single lot or sold fee simple. Whether a house is on its own piece of property or it's attached on one piece of property or separated on multiple pieces of property, Use Unit 8 single family dwellings means a true detached single family home on a single lot. If you took row homes moving up the street on Ruppel, for example, each one of those were on a property, whether it was divided up or not, that would not be considered a single family home under Use Unit 8 in our code. You can still develop townhomes, but not as a Conditional Use.

**Council Member Bunch:** We have lots of areas in town that have much higher density that are single family and they're very small lots. Does it also include a cluster development? That is a fee simple transfer, isn't it?

**Jonathan Curth:** Cluster housing is a completely distinct use unit in our code.

**Council Member Bunch:** We have places in Fayetteville where we have freestanding single homes that are on very small lots.

**Jonathan Curth:** That's correct. Those are not prohibited under this change. It would just be a Conditional Use.

**Council Member Kinion** stated there is always the mention of this was the intention. He stated back when the form based zoning came about, we discussed C-2 allowing a broad range of building by right. He stated people keep saying it's a failure because it's all single family homes. He stated a lot of that is driven by the market, but the single family home is an option and we wanted to have all of these options available. He stated a Conditional Use is not easy and can be very subjective. He stated this subjectivity sometimes can be perceived as being unfair. He stated he is trying to get back to what he knew when they were doing form based code and that is to not make people go and get Conditional Uses. He stated it should be played out and not thrown away. He stated it's almost advocating the opposite of what you're saying that it's advocating now and giving an opportunity for multi-use. He stated that's good, but the multi-use still has the opportunity now. He stated he doesn't see why we're excluding duplexes and single homes. He stated we have approved a lot of high density development in the south side of town that are single homes and it shows the wonderful usage of the property that's available, and it makes it more affordable. He stated he wonders why we're hearing from everyone that the intent was this, but it was a failure. He spoke about row homes. He stated he doesn't understand adding this extra step of time and money for a builder or a person that wants to buy a single family home. He stated Fayetteville has a reputation of being hard to build in, and this was going to give us the opportunity to have a mixed use area and a little commercial. He requested to know that when they developed the code, wasn't it to make it easier to develop.

**Jonathan Curth** stated he was not at the City of Fayetteville when that came through. He stated any intent is what he's inferred from what's written in the CS zoning districts purpose. He stated he doesn't know if it was necessarily meant to make it easier to develop, as much as easier to develop mixed use neighborhoods, which he thinks is where the dilemma has come. He stated what we have gotten is single use developments of single family homes, where the city could have benefited from a more complete neighborhood, with a mix of housing types and the ability of having housing near the services of retail and restaurants that can make them a more walkable community. He stated he's not asserting that CS is a failure, and this does add another step and some unpredictability to a development process. He stated to get a Conditional Use Permit, you have to provide a higher level of detail up front than a developer may want if they can develop something by right, but if the goal is to create complete neighborhoods, this would give the Planning Commission more authority and more ability to drive that.

**Council Member Bunch** stated she was on the Planning Commission when they started adopting the form base zoning. She stated she remembered the meetings where they talked about zoning on Ruppel Road and zoning it CS and all the things they were going to get with that zoning. She stated it hadn't worked the way they intended. She stated she thought her vote for CS in certain areas was going to get a more diversified neighborhood, more mixed use development, and then gradually getting into single family homes. She spoke about making it harder for people to get into single family home because we have so many different types of single family homes now. She spoke about a good transition of mixed use would be duplexes. She stated the houses on Ruppel Road are selling. She stated she's not sold on taking these two out and making them Conditional Use Permits.

**Council Member Scroggin** stated one of the big goals was to allow people to live close to where they work. He stated we need more houses in East Fayetteville and we need more jobs in West Fayetteville. He stated the houses are affordable over there because of the commute you have to make to get to any job and you have to deal with driving across I-49. He stated the idea of form based is that it's possible that your job could be in walking distance. He stated nobody over there around Ruppel, unless they work at the school, is within walking distance of a job. He stated the traffic is going to get worse. He stated this ordinance makes sense, but the only issue is that it's mostly directed at one developer, and we need to know what that developer may do if we push this, as far as litigation against the city. He stated he will support this if we don't think we're going to get sued.

**Council Member Bunch** stated the largest employer is the university and you're not going to have a job over on Ruppel Road with the university that you walk to. She stated our traffic is going to continue to get worse. She stated because of the pandemic, the job market and how we work has changed substantially and she doesn't see that going back completely to the way it was before. She spoke about more people working from home and you can do that from any part of Fayetteville where you choose to live.

**Council Member Petty** stated he is leaning towards support of this. He stated he has called these codes a failure, but that's with respect to the intent of the codes that we memorialized in the code itself. He stated they aren't producing mixed use districts. He stated the intent of the code is to produce more options for citizens and not to produce more options for builders and developers. He stated right now, even with the proposed changes, these codes aren't excluding any housing options, but in what we see built today, we are excluding options for consumers. He stated we have an oversupply of single family housing compared to other housing types. He stated a lot of people are settling for a house or a location that isn't quite right or both. He spoke about consumer preference surveys. He stated our codes have failed to provide a variety of options that our citizens want. He spoke about builders continuing to build what they know and what builders will do if Council passes this. He stated if this is passed, builders will come in with plat submissions to the Planning Commission and can be partnered with developers that build other kinds of housing and other kinds of real estate products.

**Council Member Hertzberg:** My only concern would be if we make it more difficult, builders will not want to build in Fayetteville.

**Council Member Petty:** We've been hearing that for 20 years and they still keep coming.

**Council Member Scroggin:** I think they'll keep building, no matter what we put in the way. It's a great community and it's going to sell because more people want to move here than we have housing.

City Council received 2 public comments regarding this ordinance.

**Council Member Kinion:** I want to leave it on this reading for the time being. If someone on the west side of town bought their home because they didn't find a rental unit or a unit in a high rise, I want to hear from them. I don't know any of those people that were forced to buy a single family home because they didn't find a multi-unit to fit their needs. I'm curious about that.

**Council Member Petty** stated there are people who are settling for a home in a location they don't want or for a home that has characteristics they don't prefer. He stated there are people who are looking for a place Downtown and can't find one and are choosing to live in other arrangements. He spoke about his statistical resources.

**Council Member Kinion** stated he appreciated the statistics but wants to talk to citizens for examples.

**Mayor Jordan:** There seems to be a notion to hold it on this reading. Is anyone in disagreement with that?

**Council Member Petty:** I vote to advance it.

**Council Member Scroggin:** We had enough good conversation about the item we just approved in Old Business, but this one, we didn't talk about it all, even though we broke it apart. I want to hold it.

**Mayor Jordan** asked if anyone disagreed with holding it and it was determined to hold it.

***This ordinance was left on the First Reading.***

**Amend §161.24 Urban Thoroughfare:** An ordinance to Amend §161.24 Urban Thoroughfare to move Use Unit 8, Single-Family Dwellings and Use Unit 9, Two Family Dwellings from Permitted Uses to Conditional Uses.

***City Attorney Kit Williams read the ordinance.***

**Jonathan Curth**, Development Services Director stated he was available for questions.

**Council Member Turk:** Jonathan, do you have an approximate estimate of how many single family dwellings or duplexes are in Urban Thoroughfare zones? From the previous one, I knew there were many in Community Services area.

**Jonathan Curth:** Given its application and some of our busier corridors, they do not lend themselves to property values to develop with single family homes. Allow me to think on that while the Council continues to talk about it. I cannot think of a single example off the top my head that has been developed with single family dwellings to date.

**Council Member Petty:** The answer you gave Jonathan, what percentage of the city is zoned Urban Thoroughfare and for how long in the past?

**Jonathan Curth:** Similarly, I do not have that answer at my fingertips. I can try and track that down while Council continues to speak.

**Council Member Kinion:** It sounds to me like this is working, the way it is. I don't know why we're worried about these single family homes. If there were a few single family homes there, I don't see how that would be a problem.

**Council Member Bunch:** To Council Member Petty's point, if you do look at a map of the city and how it's zoned, it is overwhelmingly zoned very heavy toward RSF-4 in especially the older neighborhoods. There's a lot of RSF-4 zoning in my Ward, but I don't know the percentage.

**Mayor Jordan:** It's a lot.

City Council received 1 public comment regarding this ordinance.

**Council Member Petty** stated if you think this is a problem in CS, then it makes even more sense that we would do it in UT. He stated UT is supposed to be even more intense than Community Services. He stated one of the reasons we haven't seen it be used is because we haven't zoned much of it. He stated the biggest UT zoning we've done was just very recently, and the developers are still doing the plans for it now.

**Council Member Gutierrez** stated she was in favor of holding it. She stated she agrees with Council Member Petty because what we're looking at is an opportunity to be preventative and encourage denser development and not single family homes. She stated as much as she wants to allow people to have all these options, there's two thirds of the city that has a lot of single family homes. She stated what we're trying to do with these thoroughfares and neighborhoods that don't have services, is to make opportunities for people not to drive

**Council Member Scroggin:** I don't see a lot of developers going through the political pressure and the fights of the neighbors to go UT and then at the end of it go single family. If they wanted to do single family in an area, they would zone it single family because it's easier.

**Council Member Turk:** This Council just approved rezoning the Marinoni property and most of that was UT. Ms. Marinoni talked about flexibility and this might restrict some of their development. They could have tiny single family homes, similar to what's in South Fayetteville. The whole parcel was 112 acres, but some of that was CS and we need to consider that recent Council action.

**Council Member Gutierrez:** Would they be grandfathered in? Is this a six month one?

**City Attorney Kit Williams:** Yes, that's what I recommend. We have all of these with that six-month grandfathering in.

**Council Member Turk:** That's a really good point, but you could have another large development like that come through. While it doesn't prohibit it, it sets the bar a lot higher for the developer.

**Jonathan Curth:** I would like to follow up on the answers I was unable to respond to earlier. I can identify a single property in the city that's zoned UT and has been developed with single family homes. There are a handful with single family homes that were already existing before they were zoned. The percentages of the zoning districts appear to be about one and a quarter percent of the city is zoned UT and just shy of 30% is zoned RSF-4. If you take CS and UT combined, it's still about under 3% of the city's land area.

**Mayor Jordan:** I assume we're going to leave it on this reading, unless someone disagrees with that.

*This ordinance was left on the First Reading.*

**2021-2022 Pavement, Sidewalk, and Maintenance Workplans – 2019 Street Improvement Bond Project:** A resolution to approve the Transportation Division Pavement Management and Sidewalk Construction and Maintenance Workplans for 2021 and 2022 - 2019 Street Improvement Bond Project.

**Chris Brown,** City Engineer gave a brief description of the resolution.

**Council Member Bunch:** I've been getting some comments on the extension of the sidewalk along Mission. At our Transportation Meeting, was that in our 2022?

**Chris Brown:** Correct. That's a project under design right now. It's not in this work plan for sidewalks because that's a trails program. That is a separate discussion. We've got preliminary designs and we are trying to get a better feel for exactly where the right of way is and where property ownerships are. We are going to be sending that out for review by all the property owners. We are getting closer on that.

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

*Resolution 51-21 as recorded in the office of the City Clerk*

**Amend §168.12 Streamside Protection Zones:** An ordinance to Amend §168.12 Streamside Protection Zones (C) *Establishment of Designated Surface Waters* to incorporate applicable streams within areas which may be annexed after the adoption of the Streamside Protection

Ordinance into the protections of the Streamside Protection Zones and to adopt an Emergency Clause.

**City Attorney Kit Williams read the ordinance.**

**Chris Brown**, City Engineer gave a brief description of the ordinance. He stated the way the ordinance was written it referenced the map and the map shows areas only within the city limits. He stated this clarifies we can amend the map as necessary as items come in, as annexations occur, and also areas that would otherwise be protected and meet the criteria for protection will automatically be protected. He stated we have already updated the map to make it clearer which streams in the planning area would be protected if annexed.

**Nicholas Anthony**, 3301 East Zion Road requested to know with regard to the Streamside Protection, what happens when a widened stream enters a narrower stream, which would be the case. He stated in this case, the narrow stream is in a county, whereas the water is coming out of the city. He spoke about water and flooding concerns.

**Chris Brown:** Some of the question is related to the proposed development and more water that may be flowing in the stream. The theory behind our drainage ordinance is they don't increase the amount of flow beyond what's currently flowing off site. The Streamside Protection Ordinance requires a set back from any protected stream. The first 25 feet from the top of bank has much more restrictive requirements. The next 25 feet also has some restrictive requirements. The Streamside Protection Ordinance is designed to reduce development right up on top of our streams and create a little bit of a riparian buffer. It doesn't speak to how wide the stream is or widening requirements related to additional flow or anything like that.

**Joseph Robertson**, 3397 East Zion Road: What in the enactment of this protection ordinance would it have for existing structures?

**Chris Brown:** I assume the question is related to protection from flooding of existing structures. This ordinance doesn't speak to that. This ordinance is about protecting the stream and the riparian area along the stream and the water quality in the stream itself. It does not have any impact on flooding or anything like that, at least not directly.

**Mayor Jordan:** This is why it's called the Streamside Protection Ordinance.

**Chris Brown:** Correct.

**Joseph Robertson:** If you enact this protection ordinance and you have requirements for the first 25 feet and then the next 25 feet, is that retroactive? What does it mean for the existing property owners, besides just potential flood impact? I'm trying to get a sense for what it means to those of us that already have structures in place.

**Chris Brown** stated there are allowances for grandfathering and being able to operate the way you're operating now. He stated there are allowances for existing structures that are within Streamside zones, which can be improved, but the footprints generally can't be made larger,

especially not towards the stream itself. He stated there are variance processes for that as well that could go through Planning Commission if necessary.

**Council Member Scroggin:** I would like Council to talk about the liabilities. I have a good idea of what they are, but I want to make sure it's clear.

**City Attorney Kit Williams:** As City Attorney, I'm not going to give advice to private individuals about what liabilities they might have or against whom. I can tell the City Council that I don't think the Streamside Protection Ordinance is going to bring liabilities to the city, especially because we've already had it in place for all of the cities for quite a while. It will be in place if you pass it tonight with the Emergency Clause, before any other stream would be brought into the city. As a regulation that's already in place before land gets annex into the city. We are safe in that particular regard. For liability to the city, it's very small. If there's flooding back and forth between neighbors, then that's between them and it's not a city issue.

**Mayor Jordan:** We had the same discussions back in 2011 when we passed this. The purpose of the Streamside Protection Ordinance is to slow the water down. Then we had people that was in the Streamside Protection area and we grandfathered them in where we wouldn't affect their homes. Correct?

**City Attorney Kit Williams:** That is correct and there was no litigation. The Streamside Protection has been in place now for almost 10 years. A lot of the Streamside Protection Ordinance is to protect the stream banks. It's not a flooding issue. It is a protection to stream banks, which should improve the water quality and prevent damage to the stream and damage to people downstream.

**Council Member Scroggin** thanked Kit Williams for the information.

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

*City Attorney Kit Williams read the ordinance.*

**Council Member Gutierrez:** Kit, thank you for all the wording you got together in time for us to consider this proposal.

**City Attorney Kit Williams:** You're very welcome and Chris helped me out on this ordinance to get it drafted right.

**Mayor Jordan:** It's a good ordinance.

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

**Council Member Scroggin moved to approve an Emergency Clause. Council Member Gutierrez seconded the motion. Upon roll call the motion passed unanimously.**

*Emergency Clause Approved*

*Ordinance 6410 as Recorded in the office of the City Clerk*

**Startup Junkie Consulting, LLC:** A resolution to approve the Second Two (2) Year Renewal Contract with Startup Junkie Consulting, LLC to provide Economic Development Consulting Services in the areas of entrepreneurship and innovation in the total amount of \$300,000.00.

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

**Jeff Amerine,** Startup Junkie gave a brief PowerPoint presentation.

**Council Member Petty:** There might be a perception in town and it's one I've had for a while, but I'm starting to think I was wrong about it, and maybe a lot of other people still have this impression that Startup Junkie only works with startups. I don't know where you draw the line on startups, but it seems like you're serving a wider population than just startups. Can you characterize the kinds of client companies that you do have?

**Jeff Amerine:** In general, the free services we offer are available to companies from pre-revenue to about \$25 million in sales. The idea is that those are still companies that are in a range where it would be difficult for them to retain McKinsey or KPMG level of consultancy, but if we're able to get them beyond the friction points that typically cause companies to stall in terms of their growth, then amazing things can happen. Ozark IC has been a research intensive company for 10 years with a number of patents and they're just now on the verge of breaking down and getting into production. We have played an essential role in advising them on capital raises, how to take advantage of state incentives, how to attract talent, and how to think about that transition to production. That's one of many companies we deal with. We have the same sorts of conversations with restaurants, restaurant chains at all levels that are still within that revenue range where they would qualify as a small business.

**Council Member Petty:** Regarding outcomes you measured with 98 client companies, were those outcomes only associated with the companies that you worked directly with or were those citywide outcomes?

**Jeff Amerine:** Those were just our clients and it wasn't all of our clients. It was a sample size of 98 out of the many hundreds that we work with.

**Council Member Petty:** When you say that, it leads me to believe those are clients you're having a close relationship with and not somebody you have a phone call with that goes on the list.

**Jeff Amerine:** Absolutely. It tends to be the clients that we've engaged with multiple times. In some ways, our services are like a doctor's office. We will give them the tools they need to be successful. They'll use us as a sounding board at some point in the future. The more they engage, the more they tend to be in that sample size and responding to the survey data we send out.

**Council Member Petty** stated one of the things he had been able to see an impact with some of his colleagues, is a program called the Scale Up Cohorts.

**Jeff Amerine** gave a brief description of Scale Up Cohorts.

**Council Member Petty** stated a big part of Mr. Amerine's report was about COVID response. He requested for Devin Howland to speak about his position as the manager of the contracts and characterize what it was like working with Startup Junkie in the days immediately after the pandemic started.

**Devin Howland** spoke briefly about what it was like to work with Startup Junkie. He stated there's a lot of expertise in regard to these federal programs with finance that I don't have internally. He stated working with that was consistent, reliable, and fast. He stated in a time when there was so much uncertainty, what became clear was that we could control information. He spoke about Startup Junkie practicing what they preach with improvising, adapting, and overcoming. He spoke briefly about a FTE, full time equivalent position.

**Council Member Petty:** For Startup Junkie in this contract, it's one FTE in the contract?

**Devin Howland:** It's one FTE.

**Council Member Scroggin** stated he looked forward to the continued support of Startup Junkie. He spoke about his personal experience with Startup Junkie. He stated this is wonderful that it's mostly based in Fayetteville.

**Council Member Jones:** Devin and Jeff, thank you so much for your report. Devin and I have talked a little about minority owned businesses. Jeff, I would like to hear more about creating an opportunity for individuals with disabilities in south Fayetteville. That's special and amazing. Thank you for that.

**Jeff Amerine** spoke briefly about individuals with disabilities. He spoke about a pathway to employment. He stated 85% of developmentally disabled adults and people on the autism spectrum are unemployed. He spoke about the vision of live, work, and play integrated into a community where there will be a variety of fantastic things on this property in south Fayetteville near Kessler Park. He stated we got involved early on and have been working with them in a comprehensive way. He spoke about the magnitude of the project. He stated it'll be a one of a kind place based in Fayetteville that hopefully will set a national standard once it's done.

**Council Member Jones:** Jeff, are you looking at collaborating and partnering with some of the existing organizations that provide somewhat similar services?

**Jeff Amerine:** Absolutely. It's not intended to replace anything or compete with. It's intended to augment and add additional capability to the area with lifestyles and a variety of other groups that are doing fantastic work already.

**Council Member Jones:** When do you think that they may start?

**Jeff Amerine:** A lot of that will be driven by how quickly the funding comes together and the master plan gets built out. They're already working actively with one residential home and getting the clinical side of it figured out on a small scale.

**Council Member Jones:** At some point I will be reaching out. I would like to take a tour and learn more about it. It's a very valuable and much needed service that will move our community forward.

**Council Member Bunch** stated she appreciates all the hard work put into this. She spoke about the good relationship with Startup Junkie and looks forward to the continuation of that relationship. She stated her appreciation in how quickly they were able to come up with ideas to help citizens and small businesses in Fayetteville during an unprecedented time.

**Council Member Gutierrez:** I'm sad there wasn't anyone from the public to speak, but the impact that Startup Junkie has had on the community, including my personal experience with it before being on Council, has been phenomenal. They've been invaluable to multiple businesses I've started and kept running. Some of them didn't do as well as others but they were definitely a key part of all of those. It's a great experience for free services.

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

*Resolution 52-21 as recorded in the office of the City Clerk*

**Fayetteville Chamber of Commerce:** A resolution to approve the Second Two (2) Year Renewal Contract with the Fayetteville Chamber of Commerce in the amount of \$180,000.00 per year to provide Economic Development Consulting Services in the areas of business recruitment, retention, and expansion.

**Devin Howland,** Director of Economic vitality gave a brief description of the resolution. He stated the item before you for your consideration is the second renewal of a contract for economic development consulting services with the Fayetteville Chamber, which staff is recommending approval.

**Zane Chenault,** Chief Economic Development Officer with the Fayetteville Chamber of Commerce. He gave a brief presentation and spoke about the contract, revisions, and moving forward. He stated we are concentrating on a livable wage, not something we've defined, but that was defined by Massachusetts Institute of Technology at the direction of the Office of Economic Development. He spoke about inclusion, diversity, equity, inclusion and investment.

**Council Member Petty:** Devin, could you characterize the Chamber's responsiveness, and especially their flexibility with respect to contract definitions in the days and months immediately at the beginning of the pandemic?

**Devin Howland** stated what is critically important when we think about pandemic response is, these two contracts are very different. He stated when you look at active projects, it didn't lose many. He stated they were able to hold on to those investments, and that was critically important. He stated the days after the pandemic, Zane has been an active member of our Small Business Resiliency Task Force and his experience in regard to flexibility has been huge.

**Council Member Petty:** I'm having trouble understanding how the business recruitment stuff in this contract is different than what we've been doing over the past 10 plus years. Hasn't business recruitment of large employers into the Fayetteville area been at the center of our contracts forever?

**Devin Howland:** Actually, not. When we look at the language of the contract that was passed in 2016, was titled Business Retention and Expansion Services. That was something I noticed throughout these past few years. It didn't do justice to its intent, but language on proactively hunting and pursuing was not in the contract drafts, but it is now.

**Council Member Petty:** I seem to remember getting billed for going out to conferences for the real estate and large commercial retail conferences out in Las Vegas to do recruitment.

**Devin Howland:** Those original from the City of Fayetteville was started prior to my time. Recon expenditures when we go, we did was an amendment to the last contract so the Chamber could go with us. I had taken the retail section out of the 2016 version of the contract and we pulled that internal. That was where our Business Development Manager and the big talking point in 2018. When we made that revision, it was the most significant. Those bills and the funds I spend on recon come solely for me. Because we've taken it out in the past, I wanted to cover that cost. When I plan recon, I plan to take four people out there and that's just part of my budget.

**Council Member Petty:** It was in the contract until 2013, but now it's going back in?

**Devin Howland:** It was actually in the contract until 2018. I had taken that over. My first year in 2017, I advised not going because we needed to get logistics and etc. taken care of. This new component is not focused on retail. It specifically calls out the targeted industry sectors for employment side, which is something I don't proactively hunt.

**Council Member Petty:** I read in your memo that you had originally asked for a \$100,000 contract and a reduction of services. I didn't read in your memo why you brought it forward in this manner, except for you said that you thought the Council should be the venue for the discussion. I didn't read in your memo why this wasn't the contract that you wanted to bring forward.

**Devin Howland** stated in going back and looking at these discussions on restructuring of funds across both contracts, it's not new. He stated we had some robust discussions in 2018 over that, on both sides. He stated one of the reasons for the main FTE revision out of the Startup Junkie consulting contract came from those discussions. He stated the revision level this time is just as

high on the consulting contract as it was, but he included it for a reason. He stated traditionally, we bring it down to the Agenda Session and he wanted to be transparent with the Council and the public about his initial recommendation. He spoke about the economic impacts from the pandemic. He stated it's important to him on both contracts to assess and feel it's part of his job to manage and have oversight of these contracts. He stated Zane worked with him on revisions and the changes are at a very significant level. He spoke about transparency.

**Council Member Petty:** It's hard for me to square you saying that they're very open to revisions, but then they refuse to put in a full time equivalent in the contract. They refuse to work with you on your \$100,000 target.

**Devin Howland:** I have not requested an FTE dedication out of this contract.

**Council Member Petty:** Why not? It's \$180,000 a year contract. That's more than the Startup Junkie contract.

**Steve Clark,** President and CEO of the Fayetteville Chamber of Commerce spoke briefly about the contract. He stated economic development is a team sport and involves Startup Junkie, the Chamber, city and lots of other folks. He spoke about a fair market value. He spoke about funding from the state level. He spoke about resources from the federal level. He spoke about the robotics program. He stated we're trying to make certain whatever Devin, the Mayor and you all say to us you want to get done, we do it just as you have requested or as perfectly as you have requested. He stated what we are providing in services is different and it takes more time, more people, and more effort.

**Council Member Petty:** I'm still not sold. Is the robotics program funded by this contract?

**Steve Clark:** It is not.

**Council Member Petty:** With respect, it's not relevant to the contract discussion. This has been something that comes up over and over again in these Chamber presentations. There's a legitimate complaint that we get presented numbers and outcomes that have nothing to do with the contract and are just things that get counted. We've been through this thing where we revise the presentations in the contract over and over again. How many times are we going to revise something for the exact same purpose before we admit to ourselves we aren't going to achieve what we want to achieve. Is funding from AEDC competitive grant pools?

**Steve Clark:** They are competitive grant pools.

**Council Member Petty:** Devin, can you answer?

**Devin Howland:** Absolutely. Before I answer that question, I'd like to comment about the robotics program. The robotics training center is in the contract, as is the FAB lab. In regards to how the Arkansas Economic Development Commission pool funding works, I do defer to the experts who've worked on that a lot longer than I have. I read the rule book when it gets updated and I lean heavily on our colleagues at the Chamber for information on that. We do think they are

competitive, because there are certain allotments that go into the budget on what they can and cannot do, whether it be quick action closing fund. I don't think there's pools on things like sales tax backs. I don't think it's a yes or no, and it depends on the program. In regards to how those programs operate fully, I would defer to the ones who work on those specifically.

**Council Member Petty:** Devin, last week on the phone, you told me you thought our reception of a road grant from a AEDC had impaired our ability to get another grant from AEDC during the same funding cycle. Would you talk a little bit more about that?

**Devin Howland** stated with the EDA grant, that commerce park road has been a discussion point for a very long time. He stated in the past we looked at the assessment of that and he didn't support it at \$2 million, but supported it at \$500,000. He spoke about grant funding and all the different buckets. He stated it's a complicated topic with a federal entity.

**Council Member Petty:** I was under the impression you thought we could be a little bit more strategic whenever you learned there was another opportunity. I wonder why we're funding a flat FAB lab out of this contract when we just paid for a library that has the same facility at an order of magnitude, better equipment, programming, and availability. It seems like we're not being very critical. The answer that we can't put a FTE measures in this contract because more than one person works on it, is word salad. Does anybody here think Startup Junkie only has one person working for us because they put a commitment to one FTE in the contract. Just trying to go along with what we've been doing because we didn't want to have the hard conversation about whether or not what we've been paying for is worth it.

**Steve Clark:** The equipment at the library versus the equipment in the FAB lab are not identical. You cannot get the same training and cannot learn the same skills. You can learn similar skills. At the library, there's no dedicated personnel in that area to get certifications. Regarding workforce development and the creation of about 225 people in Northwest Arkansas who are skilled robotics technicians in a world that's moving to robotics every hour, has a direct impact on recruitment and traction with talent in business and a direct impact on existing businesses and their ability to get a trained workforce to do the things they're now doing.

**Devin Howland** spoke about not sending a contract to Council if he wasn't comfortable. He stated with these various services and what he adds value in with regards to the FAB lab statement, language in the contract is retained from the original contract supporting the community by having those entities there. He stated it doesn't call for specificity. He stated with cost breakdown his highest valuation for this contract is the work with AEDC, but it would be quickly followed by workforce development. He stated those are the pillars he's maintained consistency on and they excel at those.

**Council Member Kinion:** Mr. Howland, you've got a budget and you see the value in this contract. You're the professional for the city that helps coordinate activity within our city to be certain we have a good return on our investment. I appreciate that. If I'm hearing you correctly, you do place value on this and you can support it. It's your budget we are having to spend on services. You're the Director of that department and you have to spend it wisely or you'll be accountable. Right?

**Devin Howland** stated Fayetteville invest more economic development than any other municipality in the region. He spoke about the budget. He stated there's a key sentence in the contract that in order to make an amendment, all three parties have to agree.

**Council Member Jones:** Devin, I've read the information you have provided and Steve thank you for the great presentation. I feel all of the basis are being covered. This is what Devin does for the city and I believe no one's left behind. I think that both you and the Chamber of Commerce are collaborating making sure that every perspective is represented. Zane pointed out there is a specific focus with minority groups. I look at that as being equitable.

**Devin Howland** stated Fayetteville as a government, we plan our work and we work our plan. He spoke about recovery initiatives during the pandemic.

**Council Member Bunch** stated we as a city have had a long standing relationship with the Chamber. She stated if we've had any ideas we weren't getting what we were paying for, she thinks Devin was able to work with them and come up with a resolution. She stated when she looks at what they provide versus what Startup Junkie provides, they are two different things. She stated she feels comfortable going forward with the contract based on Devin's recommendation. She stated if we were not getting what we thought we should be getting, we can go back and revisit the contract. She requested to know if there was a 30-day clause if things didn't work out.

**Devin Howland:** Correct. Section nine of the item. This contract can be canceled by either party with a 30-day notice.

**Council Member Bunch:** With that in mind, we've expressed what we would like to get from the Chamber. They've come up with what they're going to offer us and we are at a good point and we are in agreement. I'm in support of continuing this contract.

**Council Member Jones:** I look forward to seeing what Devin and the Chamber are going to do as it relates to moving Fayetteville forward. They are intentional and deliberate on making sure everyone has an equitable opportunity. Thank you so very much. It's an amazing collaboration.

**Zane Chenault:** The Chamber understands and acknowledges that changes may be needed for what the city has to do, especially in the great uncertainty we face over the next 18 to 24 months. Our commitment is to remain client focused in servicing this contract. If we need to make changes, the Chamber of Commerce will work together to come up with an equitable solution for all involved.

**Council Member Bunch:** Thank you. I would expect if we're in a partnership with the Chamber, I would expect nothing less than that from you all and we could get things worked out.

**Council Member Gutierrez** thanked Zane and Steve for their presentation. She stated Zane spoke about reaching out to the LGBTQ community and it's a concern for her because it's a branding perception challenge. She stated the Civil Rights Ordinance and their stance on the Civil Rights Ordinance is not forgotten. She stated she knows we change and transform, but would love to hear a serious commitment to the LGBTQ community and how they are going to rebuild these

relationships that were so severed. She stated she wants transformation and reconnection. She stated our Chamber should be leading diversity and inclusion. She stated taking political stances to make barriers with people is hopefully not something we do in the future. She stated she will challenge the contract if that's something that needs to be brought back up. She stated she's excited about the educational opportunities that have been added with the robotics. She requested to know how they are going to handle some of her concerns.

**Steve Clark** stated when there was a second Civil Rights Ordinance offered, the Chamber joined wholeheartedly in getting it passed. He stated the Chamber is now into its 8<sup>th</sup> year of the Hispanic Heritage Festival and they are the only organization doing that in NW Arkansas. He stated the Chamber is a regular supporter of black history month. He stated the Chamber hung rainbow flags off its balcony on the Square. He spoke about the Chamber's commitment to diversity, equity and inclusion and being a welcoming community. He stated we are including those types of things in contracts.

**Zane Chenault** spoke about the events the Chamber was preparing to do, but COVID interrupted those plans, but they will reinstate those plans for the coming year. He spoke about diversity, equity and inclusion.

**Steve Clark:** We will make sure you can measure, identify and relate to.

**Council Member Gutierrez:** I appreciate it. I will follow up with you all to see that in action form.

**Council Member Jones:** I introduced Devin to a young man named BK Simmons who has an extensive background with minority business development. It's going to be very beneficial to all of us. We recognize that opportunities may not have all been present, but we are anticipating and looking forward to a new day.

**Devin Howland** spoke briefly about the great work that is being done and wants to continue to do so.

**Council Member Petty** stated he is not going to support this. He stated it's hard to reconcile the private comments that have been made to him during the pandemic by local businesses and the reports that he gets about what they say to one another on the phone calls after the Chamber representatives click off. He spoke about the stark difference this presentation has taken compared to the phone calls he has had with city staff over the past month. He spoke about being the most outspoken critic of the Chamber on the Council. He spoke about this being a political proposal. He spoke about the history of the Chamber contract. He stated because of our friendships, our relationships and the political power that comes with being aligned with the Chamber of Commerce, we are afraid to criticize this in public, but he has heard many criticisms in private. He stated we are not doing right by the public whenever we keep all that to ourselves.

**Council Member Kinion moved to approve the resolution. Council Member Jones seconded the motion. Upon roll call the resolution passed 6-2. Council Members Hertzberg, Jones,**

**Kinion, Scroggin, Bunch, and Turk voting yes. Council Members Gutierrez and Petty voting no.**

*Resolution 53-21 as recorded in the office of the City Clerk*

**VAC 2020-011 (345 S. Combs/Combs Ave. Row):** An ordinance to approve VAC 20-011 for property located at 345 South Combs Avenue to vacate a portion of street right-of-way.

*City Attorney Kit Williams read the ordinance.*

**Jonathan Curth**, Development Services Director gave a brief description of the ordinance. He stated staff recommends approval and all the affected franchise utilities have agreed to it. He stated the Planning Commission recommended approval.

**Julia Sampson**, Applicant stated she was available for questions. She stated she is going to build a small home on this land.

**Council Member Turk 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 Turk 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 7-1. Council Members Hertzberg, Jones, Kinion, Petty, Scroggin, Bunch, and Turk voting yes. Council Member Gutierrez voting no.**

*City Attorney Kit Williams read the ordinance.*

**Council Member Gutierrez:** I had received some feedback via email to hold on to this a little bit while the neighbors were figuring out what all they want to do with Combs. I don't want to rush and it is why I voted no. I would like to hold it here.

**Council Member Gutierrez moved to table the ordinance to the February 16, 2021 City Council meeting. Council Member Jones seconded the motion. Upon roll call the motion passed unanimously.**

**Council Member Gutierrez moved to reconsider the previous motion to table the ordinance to the February 16, 2021 City Council meeting. Council Member Jones seconded the motion. Upon roll call the motion passed unanimously.**

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

*Ordinance 6411 as Recorded in the office of the City Clerk*

**RZN 2020-025 (318 S. Combs Ave./Lamb Development):** An ordinance to rezone that property described in rezoning petition RZN 20-025 located at 318 South Combs Avenue for approximately 0.20 acres from NC, Neighborhood Conservation to DG, Downtown General.

**Jonathan Curth**, Development Services Director gave a brief description of the ordinance. He stated we have heard from nearby residents who have expressed opposition to the request with concerns that this represented spot zoning and would negatively affect the neighborhoods character and increase traffic to the area. He stated staff is in favor of the request. He stated the Planning Commission voted 6 to 2 to forward the item to the City Council. He stated for the record, the property owner has a similar name to his, but there is no relation between he and the applicant.

**Richie Lamb**, Applicant stated the motivation for the request follows a desire to create a place which has more of the things that people need every day. He stated not just houses, but a variety of housing types and a mix of uses, which are adaptable for change over time. He stated the Downtown General district allows for this, yet it still provides for compatibility with the surrounding mix of uses within the neighborhood. He stated this district is already in place on both the neighboring property and across the street. He stated he seconds staff's findings and asked for the recommendation of approval.

**Council Member Gutierrez:** I want to clarify. I was meaning to hold this one and not the last item. I apologize. I'm planning to try to keep this one to the fewest readings as possible.

**City Attorney Kit Williams:** If you want to go back and change that you can do a motion to reconsider your table. Then you'd be able to go ahead and vote on that tonight.

There was a brief discussion about reconsidering C.7, which was the previous item, VAC 2020-011 (345 S. Combs/Combs Ave. Row). Council went back and approved the item.

**Council Member Gutierrez** stated she wanted to hold this item at this reading. She read a citizen comment that was opposed to the rezoning.

*This ordinance was left on the First Reading.*

**T2 Systems Canada, Inc.:** An ordinance to waive the requirements of formal competitive bidding and approve a contract with T2 Systems Canada, Inc. through December 31, 2021, with automatic renewals for up to three additional one year terms for the continued use of software and services required for the city's Parking Pay Stations in the amount of \$100.00 per pay station per month plus applicable taxes.

*City Attorney Kit Williams read the ordinance.*

**Justin Clay**, Parking Manger gave a brief description of the ordinance.

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

*City Attorney Kit Williams read the ordinance.*

**Council Member Turk moved to suspend the rules and go to the third and final reading. Council Member Gutierrez 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 6412 as Recorded in the office of the City Clerk*

**Bid #21-20 Electrical Resources, Inc.:** A resolution to award Bid #21-20 and authorize a contract with Electrical Resources, Inc. in the amount of \$87,920.84 for the installation of night sky friendly LED lighting at the Grinders Skatepark in Walker Park, and to approve a project contingency in the amount of \$4,579.16.

**Ted Jack,** Park Planning Superintendent gave a brief description of the resolution.

**Council Member Turk:** This is great. It's forward thinking to make our night skies less light polluted and especially down at Walker Park. I want to commend Ted and the park staff for moving this forward to us.

**Council Member Gutierrez:** I am very thrilled about all the work being done on this. Thank you for continuing to improve Walker Park with lighting. It's probably the most used part of the park.

**Mayor Jordan:** It's a job well done. This is going to be a great addition and improvement at Walker Park.

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

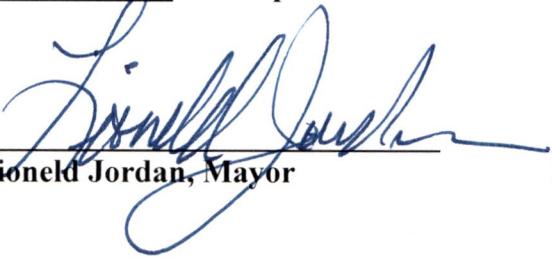
*Resolution 54-21 as recorded in the office of the City Clerk*

**Announcements:**

**Susan Norton,** Chief of Staff stated we announced today that we are opening an invitation to the public to help put a name to the face of the Cultural Arts Corridor. She stated with Experience Fayetteville we've been working on a naming and branding initiative, and this will invite the public to participate in a naming process. She spoke briefly where to submit an idea. She stated we will announce the new name in May.

**City Council Agenda Session Presentations: None**

**Adjournment: 10:14 p.m.**

  
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Lioneld Jordan, Mayor

  
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Kara Paxton, City Clerk Treasurer

