

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 Meeting
March 16, 2021**

A meeting of the Fayetteville City Council was held on March 16, 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 Petty was absent during Roll Call.

Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Kara Paxton, Chief of Staff Susan Norton, Chief Financial Officer Paul Becker, Chief of Police Mike Reynolds, Fire Chief Brad Hardin, 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 utmost 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.

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

Agenda Additions:

Nominating Committee Report

Council Member Bunch: The new committee that was formed called, Community Development and Assistance Programs Advisory Board, it was suggested we not set the rotating terms and authorize the City Clerk to randomly draw the term assignments for the committee.

Council Member Bunch moved to authorize the City Clerk to randomly select terms. Council Member Scroggin seconded the motion. Upon roll call the motion passed unanimously.

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

Kara Paxton, City Clerk Treasurer: Thank you Council Member Bunch and the Nominating Committee for working with the City Clerk Treasurer's office for this quarter. We received around 71 applications that they had to review. They worked with us on creating the new Laserfiche form that updates automatically to show information for every application, dependent upon which application that person is being selected for or applying for.

Council Member Bunch: Thank you very much. That form helps a lot. It streamlines that and even still, we had 256 pages of applications and resumes to read. I appreciate it.

Kara Paxton, City Clerk Treasurer: Thank you. The City Clerk office developed the actual form and the coding for the fields, but a special thank you to our IT Department. Sarah Webb helped create everything to go along with that. She is wonderful and I appreciate her.

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

Consent:

Approval of the February 18, 2021 City Council meeting minutes and the February 23, 2021 Special City Council meeting minutes.

APPROVED

Washington County Jail Services: A resolution to approve the Per Capita Jail Fee Agreement with Washington County for jail services in 2021 in the amount of \$91,553.45.

Resolution 85-21 as recorded in the office of the City Clerk

BKD, LLP: A resolution to authorize Mayor Jordan to sign an engagement letter with BKD, LLP and pay an amount not to exceed \$124,440.00 for auditing services for the 2020 audit.

Resolution 86-21 as recorded in the office of the City Clerk

Hazmat Services Revenue: A resolution to approve a budget adjustment in the amount of \$2,733.00 recognizing hazmat services revenue received from Progressive Insurance and increasing the related expense budget.

Resolution 87-21 as recorded in the office of the City Clerk

RFQ 201-01 McClelland Consulting Engineers: A resolution to approve a professional engineering services agreement with McClelland Consulting Engineers, Inc., pursuant to RFQ #20-01 Selection #22, in the amount of \$128,900.00 for the design of the North Street Corridor Project, and to approve a budget adjustment - 2019 Transportation Bond Project.

Resolution 88-21 as recorded in the office of the City Clerk

YRCC Spring Program Donation Revenue: A resolution to approve a budget adjustment in the amount of \$3,813.00 representing donations from Friends of YRCC to fund 2021 spring semester programs offered at the Yvonne Richardson Community Center.

Resolution 89-21 as recorded in the office of the City Clerk

Shofner Lease Agreement: A resolution to approve a lease agreement with William Keith Shofner, Jr. for 82.55 acres of unused land adjacent to Lake Sequoyah for the purposes of pasturing cattle and horses, and cutting and baling hay.

Resolution 90-21 as recorded in the office of the City Clerk

Price Lease Agreement: A resolution to approve a lease agreement with Jeff Price for 54.55 acres of unused land adjacent to Lake Sequoyah for the purposes of pasturing cattle and horses, and cutting and baling hay.

Resolution 91-21 as recorded in the office of the City Clerk

2021 Five Year Economic Vitality and Recovery Plan: A resolution to express the City Council's support for the study and development of a Five Year Economic Vitality and Recovery Plan in 2021.

Resolution 92-21 as recorded in the office of the City Clerk

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

Unfinished Business:

Short-Term Rental Regulations: An ordinance to amend §118.01 *Applicability* of Chapter 118 **Business Registry and Licenses**, Chapter 151 **Definitions**, Chapter 161 **Zoning Regulations**, §162.01 *Establishment/Listing* of Chapter 162 **Use Units**, and Chapter 163 **Use Conditions** of the *Unified Development Code* to classify the types of short-term rentals and create regulations to permit and inspect the rentals. *This agenda item was tabled until the first meeting in 01/2021. At the December 1, 2020 City Council meeting this item was tabled until the 01/05/2021 City Council meeting. At the January 5, 2021 City Council meeting this item was left on the second reading and tabled until the February 16, 2021 City Council meeting. At the February 18, 2021 City Council meeting this item was left on the second reading and tabled until the March 16, 2021 City Council meeting. This item was sent back to the Ordinance Review Committee.*

Mary McGetrick, Long Range Planning & Special Projects Manager: Staff would like to recommend this item be tabled until the April 6, 2021 City Council meeting. The Ordinance Review Committee is scheduled to meet March 17, 2021 at 5:30 pm to consider possible additional amendments to the proposed ordinance.

Council Member Scroggin moved to table the ordinance to the April 6, 2021 City Council meeting. Council Member Bunch seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was tabled to the April 6, 2021 City Council meeting.

Bank of Fayetteville/Depot Lot Site: An ordinance to approve real estate purchase contracts with the Farmers & Merchants Bank, Fayetteville Depot, LLC, and Dickson & West Investments, LLC to purchase about one half acre in the Depot/Bank Lot for \$350,000.00, to approve a lease-to-own arrangement with Dickson & West Investments, LLC for the .2 acre lot on the north end of the Civic Plaza, to agree to convey to Dickson & West Investments, LLC the ownership of about 14,000 square feet of the bottom floor of the city's public parking deck and other items, and to pass an Emergency Clause. *At the December 1, 2020 City Council meeting this item was left on the First Reading. At the December 15, 2020 City Council meeting this item was left on the second reading. At the January 5, 2021 City Council meeting this item was left on the second reading and tabled until the February 16, 2021 City Council meeting. At the February 18, 2021 City Council meeting this item was tabled until the March 2, 2021 City Council meeting. At the March 2, 2021 this Ordinance was left on the Second Reading and Tabled for two weeks.*

Mayor Jordan: Kit, I understand you are bringing forth an amendment.

City Attorney Kit Williams: Yes. We need to have an amendment for a couple of reasons. We've gone from a lease to own contract for the .2 acres in the Walton Arts Center parking lot to a purchase contract. Since it is a straight purchase contract, we need to be able to make sure we are complying with the Fayetteville Code. Section 34.27 of the Fayetteville Code, would require some notifications, potential rezoning, and all this other stuff that is not applicable in this particular case. In order to be able to approve the contract tonight and improve these ordinances, if that's what the City Council wants to do, there needs to be an amendment. The amendment would say the Council can sell parcels in the West Avenue parking lot by majority vote, without any other procedures or actions required in subsections A, B and C of Section 34.27. That would allow the City Council, if they wanted by majority vote, to approve the ordinances tonight. Assuming the amendment might get passed, I need to read this ordinance amendment. I need to have a full reading of it before it is passed by the City Council, to comply with State law.

City Attorney Kit Williams read the ordinance.

Council Member Turk: The sale of the north side of the of the Civic Plaza, that's a new thing today, unless I missed an email. What is the sale price amount?

City Attorney Kit Williams: The city had it appraised, and the appraised price was \$263,000.

Susan Norton, Chief of Staff: That's not new. The real estate purchase agreement was discussed and brought up at the last meeting when you all had the February contract. Vicki Bronson is here to answer any questions about the real estate purchase contract.

Vicki Bronson, Conner & Winters: The document that was presented before, was the same purchase price, but previously there have been discussions about it being a lease, instead of a straight out purchase. The developer represented they weren't going to be able to get financing to build, if they didn't actually own the real estate. The document was changed, whereby it's a sale to the developer, but there are conditions that they have to fulfill. If they don't fulfill those conditions, then the city has the option to purchase the property back for the amount of the purchase price.

Susan Norton: If you read the document I prepared for you all that described the difference between the contract you last saw and this one, I describe that in my document that I sent out to you last Friday.

Council Member Turk: I missed that one but thank you for the explanation.

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

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

City Attorney Kit Williams read the ordinance.

Wade Abernathy, Bond Projects & Construction Manager gave a brief description of the ordinance. He spoke briefly about the contract contents.

Council Member Bunch: If it's not built within 10 years, we have the right to buy it back. Does that mean we can absolutely buy it back or is there any discussion about buying it back?

Wade Abernathy: We have the right to acquire the property back.

Vicki Bronson: That's correct. There are no conditions on that.

Council Member Bunch: I'm wondering if there wouldn't be a possibility, where they wouldn't want to sell it back to us? Would they have the right to do that?

Vicki Bronson: Not under this contract. The city has absolute right to purchase it, if the building is not built to the black box specifications that are set forth in the contract within the 10 years.

The City Council received four public comments regarding this ordinance.

Council Member Petty stated we are getting so much more with this project, on this site, than we would if we were to do it in another location. He spoke about the historic protections. He spoke about the parking decks ability to be used for multiple uses. He spoke about the police substations in Downtown. He spoke about a qualified team on the other side of the table to help implement this vision. He stated this has been structured in a fair way. He spoke about a grant he wrote in 2014 to study the Plaza site. He stated we received funding from the National Endowment for the Arts, which we designed four different conceptual scenarios for this site. He gave credit to Steve Clark for urging him back then to be inspiring and choose the iconic plan, which he believes they have done that. He stated we've got something here that's going to inspire the community for generations. He stated he doesn't think we would be able to pull off anything like this, without having trust. He thanked Chief of Staff, Susan Norton and Sterling Hamilton for their work on this plan. He spoke in favor of the ordinance.

Council Member Bunch stated she is supportive of this because she has an element of trust. She stated the public/private partnerships have had issues in the past but trust we have learned from our past experiences and won't continue to make the same mistakes again. She stated the vision is right and she likes what they can possibly get out of this building. She spoke in favor of the ordinance.

Council Member Turk gave a brief history of the item. She stated in April of 2019, citizens of Fayetteville barely approved funding of the Cultural Arts Corridor for \$31.6 million dollars. She stated the approval was by 53% and passed by the narrowest margin of any of the other bond projects. She spoke about the 290 space replacement parking deck study. She stated it was clear from the beginning that the administration favored the Depot lot as a location for a parking deck. She stated once this was made apparent, the Depot property owners took their time negotiating the deal and had supreme leverage during these talks. She stated without actively pursuing the School Street lot, the city provided the signal to staff and the Depot lot landowners that it was highly favoring the Depot lot for construction, which diminished any leverage the city had in negotiating a fair deal for the citizens of Fayetteville. She spoke briefly about what the landowner and developers obtained from the proposed contract. She spoke about different scenarios of leasing and creating revenue for the city. She spoke about the city giving out the contract for a Request For Proposal. She spoke about the Frisco Train building being on the National Register of Historic Places and the possibility of compromising the integrity of the historic nature of the building and possibly losing the national register designation. She stated she supports public/private partnerships, but in such agreements, each party should benefit equally from the arrangement. She stated in her review, the proposed contract is not in the best interest of Fayetteville residents and taxpayers. She stated it is a giveaway in excess of \$1.1 million to local developers. She stated the city is foregoing substantial assets and future revenue. She stated this not a fair or equal deal for the Fayetteville taxpayer and is a private plunder of public funds. She spoke about scenarios that the \$1.1 million dollars could be used for instead, which could help needy citizens and support other important critical needs for residents. She is opposing the proposed contract. She stated the proposed parking deck and food court are out of scale, out of character and will forever change the nature of Dickson Street. She requested her City Council colleagues to reject the contract and asked city administration to begin designing the replacement parking lot on School Street. She stated this project was designed and sold to the people, only to include a parking deck. She stated the complexity of this deal obscures the private fleecing of public funds. She stated this deal is not good for Fayetteville.

Council Member Gutierrez stated she was skeptical going into this and voted against going towards the Depot lot at the beginning, because of all of the details it would take to make a contract like this work. She spoke about appreciating everyone's collaboration and persistence in making this contract happen. She stated she feels like the vision has happened. She spoke about contracts being, give and take. She stated this is going to help the creative economy. She spoke in favor of the ordinance.

Council Member Scroggin spoke about supporting the ordinance. He stated there are some great cities that have areas where you can get food on the first floor, next to parks. He spoke about trust being involved. He stated Fayetteville will be better 10 years from now, by pursuing this.

Council Member Kinion stated the vision is remarkable. He stated it is a great development and asset, but if you listen to Council Member Turk, and what was voted for and what we are getting, it's not the same. He stated the complexity is the problem with making certain this really occurs in a manner in which it's expected. He stated the last public/private partnership that was promised to the people was the TIF District. He stated the people that are paying increased taxes to cover that TIF, have received absolutely nothing. He stated the city has received nothing but a blighted strip of property and has colored my value of this type of partnership. He stated he wants this development to be successful but does not think it was negotiated in the best interest of the taxpayers. He stated the city didn't get the fair end of the deal. He spoke about a funding source stepping forth and help the developers to develop it. He stated he hates to vote against this but can't in good faith support a project this complex and not what was presented to the voters.

Mayor Jordan spoke about the history of the project and developing the parking lot. He thanked Chief of Staff, Susan Norton, former Chief of Staff, Don Marr and former staff member, Jeremy Pate for their work on this over the years. He spoke about his personal journey in the arts. He stated he wants this to be a gathering place for people to bring their families and children to be exposed to something they wouldn't get anywhere else. He spoke about being happy with a vote of 53% for this project. He stated there is always a risk in anything you do. He stated we could always put the parking deck on School Street, but that does not enhance the vision he would like to see in the city. He spoke about his time on the City Council when the TIF District didn't work out. He stated he's taking complete responsibility for this deck and if it doesn't work out, everybody can say the Mayor brought the wrong kind of vision and he will not blame any Council Member. He believes this will work and is another step in the process they've been going on for many years. He gave a brief overview of the history of the entire bond project. He stated we've got a strong contract and this contract serves the city's interest. He stated this project helps create an asset to the community that enhances access, safety, convenience and commerce. He requested for the City Council to support and pass this.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Council Members Petty, Scroggin, Bunch, Hertzberg, Gutierrez, and Jones voting yes. Council Member Turk voting no. Council Member Kinion abstained.

Council Member Kinion: I'm going to abstain as a matter of my point of view. I don't want to vote against something that can be really good. I just don't like the way it was funded with taxpayer's money.

City Attorney Kit Williams: We need a separate vote for the Emergency Clause.

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

Emergency Clause Approved

Ordinance 6420 as Recorded in the office of the City Clerk

RFQ-19-01 Olsson, Inc. Amendment #2: A resolution to approve Amendment No. 2 to the professional engineering services agreement with Olsson, Inc., pursuant to RFQ #19-01, in the amount of \$154,900.00 for the remaining architectural services related to the replacement parking deck for the Cultural Arts Corridor project, and to approve a budget adjustment – 2019 Cultural Arts Corridor Bond Project. *At the 11/17/20 City Council meeting this item was tabled for two weeks. This agenda item was tabled for two weeks. At the December 1, 2020 City Council meeting this item was tabled for two weeks. Table until the first meeting in January 2021. (January 5, 2021). At the January 5, 2021 City Council meeting this item was tabled until the February 16, 2021 City Council meeting. At the February 18, 2021 City Council meeting this item was tabled until the March 2, 2021 City Council meeting. At the March 2, 2021 City Council meeting this Resolution was tabled for two weeks.*

Wade Abernathy, Bond Projects & Construction Manager gave a brief description of the resolution.

Council Member Gutierrez moved to approve the resolution. Council Member Petty seconded the motion. Upon roll call the resolution passed 6-2. Council Members Petty, Scroggin, Bunch, Hertzberg, Gutierrez, and Jones voting yes. Council Members Turk and Kinion voting no

Resolution 93-21 as recorded in the office of the City Clerk

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. At the February 2, 2021 City Council meeting this item was left on the First Reading and Tabled for Two Weeks. At the February 18, 2021 City Council meeting this item was left on the First Reading and tabled until the March 2, 2021 City Council meeting. At the March 2, 2021 City Council meeting this Ordinance was left on the Second Reading.*

Council Member Gutierrez 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.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated since the last meeting, staff has received no revisions to the request. He stated since the last meeting, he has received a few pieces of public comment. He stated concern has been expressed that many of the items discussed by the applicant at these meetings are not necessarily enshrined in the PZD booklet, which is the governing document for development of the property. He stated other comments staff received is regarding process with due consideration for some of the known and unknown environmental issues that have been brought up by residents and members of the Council. He stated staff recommends in favor of the request. He stated the Planning Commission

agreed, providing one of their own conditions and in response to the preliminary wetland study, that was shared with the Council and staff. He stated staff offers a further condition, if the Council would like to include that in any approval, that a Corps of Engineers Jurisdictional determination be provided at the time of developmental submittal.

Alli Quinlan, Flintlock Limited gave a brief PowerPoint presentation. She stated she wanted to emphasize to Council that the PZD application is a land use request and not a development proposal. She spoke about the three Planning areas. She stated a PZD is a big commitment by a developer and significantly more work, but she believes that investment in time was effort well spent. She stated approval of this proposal will allow the property to be developed at a responsible density of six units per acre. She stated the proposed density is a more responsible reaction to our areas unprecedented growth rate. She spoke about the region having a supply and demand challenge in the housing market. She stated the pandemic and unprecedented ability to work from anywhere has accelerated the influx of new residents to the city and region. She spoke about storm water. She stated these three Planning areas provide a complete compact and connected traditional neighborhood.

The City Council received six public comments regarding this ordinance.

Council Member Scroggin stated we approved the resolution protecting Lake Fayetteville. He stated we have to look at the runoff that's coming from the neighborhood to the north. He stated whether we approve this or not, that has to be handled. He stated some of the flooding that's happening in this area has to be handled when we approve this or not. He stated if we don't approve this PZD, they'll probably come back with something that's RSF-4, which they already have gone to Planning Commission with something that's basically RSF-4. He stated the Planning Commission turned that down. He spoke about the reasons why it was turned down. He stated this PZD gives us access to put a park or some nature preserve on the north side and limit some runoff. He stated there are a lot of cities around the world that have started intentionally designing their parks to flood, so when you have a massive flood, they can take some of that, instead of flooding houses. He stated he's fine taking on land that does flood. He stated this is designated as a node and we should increase density. He stated this is only six units per acre and is not really high density. He stated in America, we have the highest per capita pollution. He stated we pollute more per person than any other country in the world. He stated we have to drive so far to get to places. He stated this location allows people to drive to Springdale and Fayetteville and will loosen some of the load for travel. He stated the median price for a house in Ward 3 was \$485,000. He spoke about the need for more houses and handling runoff. He stated by building these houses and commercial in the PZD, we will increase property taxes. He stated we will have the money to start taking care of some of those issues. He spoke about the detention pond being later steps in the development. He stated he is glad the developer is going through the PZD and that it cost a lot of money to go through this process. He spoke in favor of the ordinance.

Council Member Turk stated this is a very bad place to put this development. She spoke about it being high density and having a huge amount of impervious surface, which will make it much worse for Lake Fayetteville. She spoke about the existing water problem. She stated we have not addressed the issue of the retention ponds or retrofitted them, and we need to do that. She stated we don't need to wait until we have a storm utility fee that provides \$8 million annually. She spoke

about the drainage manual and is not confident of the existing requirements. She stated the development will increase runoff. She stated there will be additional phosphorus that will be discharged because of the disruption of the soil and the surface during the building construction process. She stated if this is approved and built, all that impervious surface will have gas leakages from cars and other chemical products that will not be filtered out because we have built over almost all of the prairie space. She stated there's a tiny bit this PZD will preserve, but not very much. She spoke about it being a sensitive wetland area and possibly having a threatened crayfish frog. She hoped the developer would come back with something scaled down, would retain more of the prairie mounds and give due consideration to the wetlands. She stated toxic algal blooms is devastating to the city and it is designated as impaired. She stated she will not be supporting the ordinance.

Council Member Petty thanked Council Member Scroggin for his diligent comments and it helped him make up his mind.

Council Member Kinion: My biggest concern is Lake Fayetteville and the runoff. We are considering a stormwater utility. We've talked a lot about the problems we have with the topography, geology and that we are at the headwaters of two very important rivers. In this case, all the runoff is going into an impaired lake. It's a lake that has toxic algal blooms. It's a lake that is the backup water supply for the City of Fayetteville. Until I can see that this is not going to add to the impairment of Lake Fayetteville and it's not going to increase the flooding in the area, I can't support it. When you're looking at the prairie land, we are destroying all of it, but a very small piece. That is important in managing the runoff of this property. The concern is real. Someone can develop in that area, but they have to present something that shows it's not going to impair the lake. I'm not going to support it. The basic thing is managing the runoff of that property and I don't think it's managed under the PZD that we have.

Council Member Bunch: If this is approved, when do we get to the point where we really start delving down into runoff? Is that at the land use stage or is it on down the line?

Jonathan Curth: If the PZD were approved, the next stage would be either submit it as a Large Scale Development or a plat, depending if they're moving forward with the commercial side near Crossover or the residential side further from Crossover. Either one of them requires demonstrating the ability to meet the requirements in the drainage manual. It gets into very specific drawings. There's a drainage report that's filed with the project. That's when specifications about the street grid, lot layouts and building footprints start to come forward. There is a little bit higher degree of detail, beyond that, when a grading permit is requested. That's when it actually gets into the exact specifics of what is going into the ground. That is the finest level of detail for any drainage requirements, but development submittal would be the next step and is where it comes up.

Council Member Kinion: Doesn't that have more to do with managing the volume and the velocity, rather than the nutrient load?

Jonathan Curth: Both water quality and water detention are elements of our drainage criteria manual.

Chris Brown, Public Works Director: Water quality requirements are to remove 80% of the total suspended solids that are found from the increased impervious area. Anytime you increase the impervious area of your property, as development always does, you have to demonstrate calculations that you're reducing those nutrient loadings by 80%. Typically, the way that most larger developments like this operate, is they keep the first inch of rainfall on the site and do not allow that to runoff by use of bioswales, enhanced detention ponds and that sort of thing. There is a water quality requirement, and it's to remove those additional pollutants that come from development.

Council Member Bunch: This is a really tough decision in this area. I agree that we already have runoff problems and stormwater problems in the area that need to be addressed. However, when I look at what could possibly be built here and how we want to shape this part of our community, the PZD is never going to be perfect, but it is our best option. This is the best possibility to have a little bit better control over development, rather than saying no to every development. I do have issues with the runoff and the potential for harming the lake, but the lake is impaired now. I think there's a potential to have the ponds and the runoff maintained in a better fashion, but we need to address the flooding issues in the other part of that area.

Susan Norton, Chief of Staff requested Chris Brown to speak about the flooding issues in that part of the area, especially with reference to the Copper Creek discussion.

Chris Brown: I've heard several times that those detention ponds need to be fixed, but we need to define what fixed means. Those detention ponds function to meet our previous standard, which was to mitigate the flows from two year storms and higher. They really only begin to function when we have much larger storm events and that keeps the peak flow at the at the pre-development levels. The reason it doesn't look like those are working well is because they're not designed to do anything up until we get some larger events. I want to caution everyone to think, that just fixing those and creating more detention on those ponds would solve the flooding problem, is really a fallacy. The fact is, those areas are about 6% of the watershed, overall. It's a very large watershed that comes through here. Even if you totally stop the flow from those subdivisions, you would only be reducing the flow of water in these very large events, by a very small amount. It's a much larger problem than just those detention ponds and those subdivisions to the north.

Council Member Bunch: Where does this water come from that's running through here?

Chris Brown showed a slide of the watershed. He stated it is about 670 acres where the stream crosses Zion Road. He stated it's essentially north, south and east of this proposed development. He stated it goes south to Gulley Road and east to Butterfield Coach Road. He stated much of that flows into Hilton Creek to the west of Zion Road. He stated it doesn't impact the flooding at Zion Road.

Jonathan Curth showed an illustration of boundary lines and where stormwater is coming to Hilton Creek and Copper Creek enters it upstream.

There was a brief discussion about detention ponds.

Council Member Bunch: This is a very large area. A lot of it is in the county.

Council Member Turk: 80% of the sediment load would be removed under our drainage guidelines. That mean 20% of hydrocarbons, fuel, and all kinds of other sorts of runoff from this development would be allowed to flow in or flow off of the PZD. Is that accurate?

Chris Brown: By default, some of the other pollutants will be captured in whatever system is designed. There will be some pollutants that generated in this area that are currently not being generated. Urban runoff is different than undeveloped property.

Council Member Turk: By paving over the wetlands, we've lost any filtration that was in the area that would go towards Lake Fayetteville. We are doing a double disservice here. That's exactly why wetlands are there. The prairie is there to filter all kinds of different pollutants that would run in there. Our standards are not high enough. We should be able to capture 100%, instead of contributing to more degradation of an already impaired lake.

Council Member Gutierrez thanked the county residents for their involvement. She stated she was glad the city annexed the land because the city will hold higher standards. She stated she wants to support increasing housing stock but wants to do it with a responsible approach. She trusts the city will go through the various steps needed. She stated she feels better about bringing this into Fayetteville. She spoke about the need of watershed education. She stated she is looking for continual oversights from the Planning Department. She spoke about appreciating the PZD. She stated she will support the development.

Council Member Kinion: Jonathan, as far as changing the PZD, I thought the whole idea of a PZD was that we would not change it.

Jonathan Curth: Is the question, how one changes a PZD?

Council Member Kinion: If we approve the PZD as it is now, we're not going to be able to request changes to meet higher standards of water management. Right?

Jonathan Curth: That's correct. Any changes made to a PZD after it's been approved and recorded as an ordinance, comes through as an amendment to that PZD. It's treated as a zoning action in itself.

Council Member Kinion: If you have a PZD, you present it and it is approved, it's not expected to have a lot of changes. The engineering is what I'm most concerned about. We are engineering a way to manage the water, rather than let it naturally flow. If we approve the PZD, the engineering is going to have to be outside the PZD to manage this runoff?

Jonathan Curth: Typically, yes. With a typical PZD, the only thing being changed is the zoning allowance on the property unless the applicant wants to offer a heightened requirement. Currently, that's not on the table. I think that's what some on the Council and many residents have expressed a preference to see some higher degree of standard or providing some additional information prior to adopting the PZD as an ordinance.

Council Member Kinion: There's a misunderstanding of when they come for their permit for grading, for example, that we would have a lot of opportunity to change. The grading permit is to control the runoff during the construction. It's not a long term solution. When you get a permit, you look at moving the soil and the runoff from that while you're constructing your project. What is the responsibility for the engineered change in the long run?

Jonathan Curth: What ultimately comes through, needs to be at a bare minimum of the city's minimum standards. They need to demonstrate the ability to observe that, at the development submittal stage. At a grading permit stage, they need to show construction drawings, down to the inch of where the stormwater is going to be accommodated. Typically, the Council does not see a project once the rezoning is approved. The only way the Council would see this project again is if the PZD were to be amended.

Chris Brown: What you're seeing here at the PZD level is a location for detention ponds. Those ponds have not been sized. The outfall structures haven't been designed. The pipe systems getting to the ponds, have not been designed. The next stage during the platting process, we will review those designs and verify the pond sizes and outfall structures meet the requirements. As they go into the detailed design, the storm drainage and pipe sizing are taken care of. All of the additional level of detail is done as we go through the process. It is potentially a situation if they haven't allocated enough area for detention ponds and there's more size needed, that could impact the site enough that it would need to come back. Typically, it's part of the design process to get that detailed design and figure out exactly how to meet all of our requirements.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-2. Council Members Petty, Scroggin, Bunch, Hertzberg, Gutierrez, and Jones voting yes. Council Members Turk and Kinion voting no.

Ordinance 6421 as Recorded in the office of the City Clerk

RZN-2020-027 (1673 & 1675 N. Florene St./Hermez-Hernandez): An ordinance to rezone that property described in rezoning petition RZN 20-027 located at 1673 and 1675 North Florene Street for approximately 0.30 acres from R-A, Residential Agricultural to RI-12, Residential Intermediate, 12 units per acre. *At the February 18, 2021 City Council meeting this item was left on the First Reading. At the March 2, 2021 City Council meeting the Ordinance was left on the Second Reading.*

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.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated on the tour of the property there were neighbors who had a lot of questions and concerns. He stated there may have been a handout from one of the neighbors to some of the other neighbors

describing some things that could be done to the property in the new zoning district that does not appear to be accurate, based on the size of the property.

Council Member Bunch: The existing zoning of this part of the street is RA. Is that correct?

Jonathan Curth: That's correct.

Council Member Bunch: It's not really zoned appropriately to begin with. It's kind of odd zoning out there. There is a big walnut tree in the backyard. Would the zoning they are requesting apply to that tree and would we have to provide some protection for the tree? Could they cut it down if they wanted?

Jonathan Curth: That is true. A property owner can remove any trees on their property. Lacking a survey, we estimated the frontage along Florene of the property to be about 92 feet. The RI-12 zoning district requires 50 feet per lot. If they wanted to add additional housing to the property, their options would be to remove the existing duplex and build a new duplex or they can add a third unit under the proposed zoning density, but that would subject them to the city's tree preservation standards. The only way to get around that, which some people call it the single family and two family loophole, would be if they tore down the duplex they have today and rebuilt another duplex. That would be the scenario where they would not have to pay any consideration for the tree, or they could remove it today.

Council Member Bunch: I hope they don't. So, this new zoning would provide some protection there?

Jonathan Curth: Yes, if they were to develop that lot with additional units.

Council Member Turk: Could they not build an ADU right now under the current RA zoning?

Jonathan Curth: No, they cannot. The ADU ordinance only applies to detached single family dwellings, as it's currently written. If they wanted to go that route, they'd have to remove the duplex, build a single family home and then build an ADU in association with that.

Council Member Scroggin: Is there any plans for widening of that road? The flyer that was sent out encouraged people to intentionally clog that road up and they kind of successfully did that. It is narrower than some of the other streets. I don't think a single family home being added there would compound that, but I would like to know what plans we have for that.

Jonathan Curth: There are currently not any plans for Florene. The closest city project right now is to create a connection between Steamboat Drive from Wedington, which runs near Harps to Dorothy Gene Street, which may have been the way you took to get to Florene. If they were to add one unit to the street, it's likely they may have to get a variance from our development codes which require a bare minimum street width for safe access to a property or it would be difficult for staff to make an assertion of the concept called, rough proportionality where a city required improvement, can only be roughly proportional to the size of the improvement being made. Single family home is not usually enough to trigger that. Typically, we can get something like sidewalks

from the developer. Under what is being proposed zoning wise and the potential development wise, I don't see an opportunity for the city to be able to require significant improvements to Florene.

Council Member Scroggin: Has the Fire Marshal made any comment? Do they feel comfortable getting down there, as is?

Jonathan Curth: They don't typically evaluate street widths with a rezoning. That comes a little bit further down the line. They do pay special attention to existing streets or give special consideration for existing streets. If it was a new street, the typical minimum requirement would be 20 feet wide and that would be with no on-street parking. It's possible that if there was additional development on the street, one way to protect the current residents from concerns about over parking would be installed signage like you see in other parts of the town that limit parking to either one side of the street or in some cases, limit it altogether for the whole length of the street, either side.

Brad Hardin, Fire Chief confirmed Jonathan Curth's previous statement.

Council Member Turk: Currently on Florene, it's an extremely narrow street. We saw some cars parked there yesterday. I was told by one of the neighbors it was typical there were that many cars parked on the side of the street. Do you have concerns right now being able to properly provide fire protection with this narrow of a street? Have you had any issues on Florene in the past?

Brad Hardin, Fire Chief: We have not had any issues that I'm aware of. I have not been out there and went through. The Fire Marshals will look at it more if the rezoning is passed. They will be looking at the streets and giving information.

Council Member Turk: In some ways, it would be nice to be able to have you all address that up front. Even though this is not a huge potential rezoning, but the streets are extremely narrow.

Brad Hardin, Fire Chief: We would be happy to go out there and measure it if it's something that you're wanting to wait on.

Council Member Turk: It would certainly answer one of my questions if we were able to do that. It was very narrow. There were lots of cars on the street and if that's a typical situation, then I would think that would be cause for concern from the Fire Department.

Council Member Scroggin: I would be fine holding this tonight to get that extra information.

Brad Hardin, Fire Chief: From the stance of the Fire Department, there's places all over the city where we would like to see more room than what we have. Where we have the ability to do something about it is whenever they start the new development.

The City Council received one public comment regarding this ordinance.

There was a brief clarification on what reading the ordinance was on.

Council Member Petty: I would suggest that we call the vote. We haven't heard a compelling reason to hold this up. We have narrow streets all over the city and we're not going to evacuate any of the houses that are on them. Narrow streets are safe streets because they're slow streets. Fast streets are dangerous streets. If there was an obvious concern with the Fire Department, we would have already heard it. It will be reviewed by the Fire Department at the time of the development review. The most salient fact that justifies voting on this tonight, aside from the general length of our meetings and our agendas, is our city Planning Director has advised us this does not allow a whole lot more than is already there.

Council Member Kinion moved to table the ordinance. Council Member Turk seconded the motion. Upon roll call the motion failed 4-4. Council Members Scroggin, Turk, Hertzberg, and Kinion voting yes. Council Members Petty, Bunch, Gutierrez, and Jones voting no.

Council Member Kinion: The thing that was impressive about our tour, was the neighborhood itself. When we go into these neighborhoods and there is a community that gathers together and show a real love for each other. This was a great gathering of neighbors. They talked about how they wanted to preserve it. I understand that's not always popular. The reason I wanted to table is there's a lot of misinformation with the neighbors. I would rather them be more informed of the facts, instead of incorrect information going out to stir everyone up. I would like to respect that they want to keep the neighborhood a small and affordable neighborhood. I won't support the rezoning tonight.

Council Member Scroggin: If we're going to say we can't add houses in places because their environmentally sensitive, we have to start looking at adding houses where they're not environmentally sensitive.

Council Member Gutierrez spoke about attending the tour and advising citizens on how to participate in the meeting via Zoom. She spoke about the parking situation. She stated she walked downhill the entire time. She stated adding more impervious surface there is not a good idea. She stated the neighbors were incredibly organized and made themselves available. She stated it is very clear to her what the neighbors want. She stated she won't be supporting the ordinance.

Council Member Bunch: We saw the zoning map. This is a little street that is zoned RA. It was built in the 60's or 70's. Everything around it has a higher zoning. Correct?

Jonathan Curth stated it does for the most part. He stated it's three or four duplexes on the west side of the street that are currently zoned RA. He gave a brief description of the area. He stated they are asking for the minimum zoning district to allow duplex by right and to bring the lot into conformance.

Council Member Bunch: And possibly one more unit because of the size of the lot. Is that correct?

Jonathan Curth: Correct, because of the acreage.

Council Member Turk thanked staff for the tour. She spoke about the walnut tree. She stated the area was wet and she could tell by the topography that's where the water flows through. She spoke

about a neighbor who is downstream whose shed stays damp. She stated more impervious surface is not a good thing.

Council Member Petty: The surrounding lots that are zoned agricultural, are non-conforming. Is that true of this lot?

Jonathan Curth: That is correct.

Council Member Petty: Could you remind us what the impacts are when a structure is non-conforming. To what extent are they able to construct on the property when it's not conforming?

Jonathan Curth stated it depends on what the non-conformance is. He stated in this case, being a zoning non-conformance, they generally could not do anything with the property beyond the footprint of the building today. He stated there's a threshold in code for non-conforming lots, where if you have at least half the lot width of the underlying zoning district, the code gives you certain entitlements to build a single family home. He stated this property under RA is required to have 200 feet, which it has approximately 90, so there are very limited allowances what they can do with it. He stated if they were to try to modify the existing duplex or improve it or expand it, it may be squeezed awkwardly into the belt of the building. He stated if they voluntarily removed it, they could effectively not build it back, ever again. He stated if it was destroyed by an act of nature, there are certain allowances to rebuild it in its exact same footprint. He spoke briefly about another property in the area. He stated staff's concern is there are very limited development potentials with it and the ability to afford them to make modest improvements to it, with the minimally entitled zoning district, seems like a reasonable request.

Council Member Petty: I agree. Thank you for clarifying the non-conforming status.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 3-5. Council Members Petty, Scroggin, and Bunch voting yes. Council Members Turk, Hertzberg, Gutierrez, Jones, and Kinion voting no.

This ordinance failed.

RZN 2020-028 (East of W. Michael Cole Dr & W. Wedington Dr./Kidder): An ordinance to rezone that property described in rezoning petition RZN 20-028 located east of West Michael Cole Drive and south of West Wedington Drive for approximately 5.00 acres from R-A, Residential Agricultural to RMF-18, Residential Multi Family, 18 units per acre. *At the March 2, 2021 City Council meeting this Ordinance was left on the First Reading.*

Council Member Gutierrez 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.

Jonathan Curth, Development Services Director: The applicant requests the item be continued with either being left on this reading or tabled to the next meeting, so they can bring forward an alternative rezoning request.

Blake Jorgensen, Applicant stated we are trying to table this item. He stated we're trying to work with staff and our client to figure out the next appropriate request. He spoke briefly about the item and the options available.

Mayor Jordan: How long are you going to need?

Blake Jorgensen: We will be okay with holding it for two weeks.

This ordinance was left on the Second Reading.

New Business:

Street Name Change: A resolution to change the name of Leroy Pond Drive to Nolan Richardson Drive and to change the name of Meadow Street between Stadium Drive and Graham Avenue to Leroy Pond Drive.

City Attorney Kit Williams: I have been working with Council Member Jones on this. Our initial thought about renaming Meadow Street to Leroy Pond Drive was something we couldn't do. It's a university campus drive. After we did some additional research, we discovered there is a much better solution. I've already sent the Council a memo about this. I have talked this over with Council Member Jones and he supports the proposed amendment to the street name change.

City Attorney Kit Williams read the resolution.

Council Member Jones moved to amend the resolution to rename Leroy Pond Drive to Nolan Richardson Drive and rename Government Avenue to Lieutenant Colonel Leroy Pond Avenue. Council Member Scroggin seconded the motion. Upon roll call the motion passed unanimously.

Council Member Jones stated for decades, African American students and residents have called for equitable treatment and justice, both on and off campus, but many times their demands have been watered down by the tides of academia forestalling substantial change and running into administrative red tape. He stated committees and task force only acknowledge problems and do not solve them. He stated the U of A Black Alumni Society, students and the African American community members are confident the City Council will offer more than meaningless words about our presence and spaces in the community. He stated Fayetteville has long led the way, regarding racial harmony. He stated many communities and institutions have failed to remedy the injustice of the past and its lackluster performance needs to shift towards immediate and substantial change. He stated let's partner with the University of Arkansas Black Alumni Society, students and members of the African American community and support an opportunity to honor Nolan Richardson as a citizen and a living legacy. He stated let us continue to create a Fayetteville where

everyone will be proud. He stated our youth will benefit from the better future they seek, rather than once again having their work be ignored and voices muted, for decades, once again.

Council Member Scroggin thanked Council Member Jones and Kit for working on this. He stated we have something that works really well for the city.

Council Member Hertzberg: I received several emails from citizens who don't want to rename Leroy Pond Drive. I had one citizen request a possibility to rename Stadium Drive. Is that possible?

City Attorney Kit Williams: Stadium Drive is a campus drive that the university controls. Some of the people that were saying they shouldn't rename Leroy Pond Drive, didn't realize there was a much better street to name in his honor. By renaming Government Street, which goes into the National Cemetery, it will say a lot about Leroy Pond and will enlighten people about who Leroy Pond was and what kind of hero he was. I think with this amendment, that's a much better street and more honorable for Leroy Pond. We owe him that honor. The university decides what their streets are going to be called.

Council Member Bunch: I would like to hear more about Nolan Richardson's activities as a citizen in Fayetteville. I know Council Member Jones is on the board or committee for the Yvonne Richardson Center. Tell us a bit more about that, because that is an important aspect of his legacy as well.

Council Member Jones: I'm no longer a member of the Board of Directors of the Yvonne Richardson Community Center. I am serving on the steering committee as relates to the new renovations. In 2013 and 2014, I served as a member of the Board of Directors of the organization. In southeast Fayetteville they're doing tremendous work as it relates to working with youth and families. We all know the various resources the organization provides. Nolan has been very instrumental in supporting those efforts. He's made a difference through that organization and an amazing impact.

Council Member Kinion: I received a long outline of Leroy Pond saying we can't forget him. It was from G. Allen Hill, Lieutenant Colonel USMC. It is a well written outline of the hero that Leroy Pond was. He wanted it submitted. How do I do that?

Mayor Jordan: You can submit it to the City Clerk, or you can read it.

Council Member Kinion: He wanted me to read it, but considering how long our meeting is, I think if it's in the minutes it will be fine. I'll forward it to all the City Council Members, but they probably have already received it. That will be a respectful way to handle this.

Kara Paxton, City Clerk Treasurer: You could do that a couple of ways. If you are wanting it to be in the actual minutes, you can read it or you can summarize what was said. If you'd like to submit the letter, we will add that to go along with the agenda item. Within the minutes, we will reference that it has been included with the packet.

Mayor Jordan: Council Member Kinion, you are going to submit the letter. Right?

Council Member Kinion: That's right.

An outline of Leroy Pond, written by G. Allen Hill, Lieutenant Colonel USMC was included in the agenda packet as requested by Council Member Kinion and Lieutenant Colonel Hill USMC.

Council Member Gutierrez thanked City Attorney Kit Williams for helping to find an alternative street for Leroy Pond because it feels like a great fit. She thanked Council Member Jones for his work. She stated it's a great way to honor Nolan Richardson, to celebrate black culture and elevate the conversation. She stated she's excited they have the opportunity to honor two important people in the community. She believes it's going to bring more education about Leroy Pond and Nolan Richardson.

The City Council received 9 public comments regarding this resolution.

Council Member Jones spoke about Black at UARK. He spoke about honoring George Floyd's life and condemning white supremacy and racism here in Fayetteville. He stated it was the only city in the state that had a peaceful protest. He stated a couple of months later, the City of Fayetteville named racism as a public health crisis, unanimously. He stated several months after that, he was elected to be a member of the Fayetteville City Council. He stated Fayetteville has always been progressive, which he is expecting the same thing tonight.

Mayor Jordan: Council Member Jones, thank you very much for bringing this forward. Kit, thank you for working on it. We are all on a journey right now and we are all in it together to make things better.

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

Resolution 94-21 as recorded in the office of the City Clerk

Traffic Calming Policy: A resolution to approve a new Traffic Calming Policy.

Chris Brown, Public Works Director gave a brief description of the resolution. He stated the policy is similar to the previous one. He stated it has a point system and it's based on traffic speeds, volume, whether sidewalks exist or not, accidents that may have occurred, and proximity to schools. He spoke about the second major component being neighborhood consensus. He stated the Transportation Committee would review the request and would approve these for implementation, up to the amount of funding that's available. He stated the funding will be allocated as part of the Transportation Work Plan, each year.

Council Member Petty stated as Chair of the Transportation Committee and to underscore the history, we review citizen traffic calming requests relatively frequently. He stated they are probably the most common citizen suggestions we take up on our agendas. He stated with exceedingly few exceptions, the current policy has more or less forced us to deny almost all of

those and it hasn't been fair to the public or to the neighborhoods. He stated this is a way forward, especially in combination with our tactical urbanism guidebook and the low cost improvements we've been encouraging over the past couple of years. He encouraged his colleagues to support this.

Council Member Turk stated she appreciated Chris for bringing this item forward. She stated we've had some serious issues in University Heights. She stated this process will be much more understandable for the neighborhood and much easier to work with, in terms of the steps and be confident the neighborhood agrees by 70%. She spoke about deaths in the neighborhood. She stated she would appreciate the Transportation Committees consideration of making an adjustment to the point scale rating.

Council Member Bunch spoke about how frequently she reviews traffic issues in neighborhoods on the Transportation Committee. She stated it's one of the things she receives the most complaints about as a Council Member. She receives complaints about people driving too fast or reckless driving. She stated if we have this playbook that citizens can use, they can go through the steps and know what they're supposed to do. She stated it's more equitable and fairer and all around better to include citizens in how we make these decisions. She stated she is in favor of the resolution.

Mayor Jordan: This is very much needed.

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

Resolution 95-21 as recorded in the office of the City Clerk

RZN-2020-024 (916 N. Sang Ave./Glorious Assets, Inc.): An ordinance to rezone that property described in rezoning petition RZN 20-024 located at 916 North Sang Avenue for approximately 0.70 acres from RSF-4, Residential Single Family, 4 units per acre to RSF-7, Residential Single Family, 7 units per acre, subject to a Bill of Assurance.

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 with adopted Planning documents, including the Future Land Use Map and City Plan 2040 goals. He spoke about the public notification process. He stated the applicant doesn't want to have additional entitlement, they want the additional urban design flexibility to have the homes orient towards Sang and then have them all operate from a shared driveway. He stated the Bill of Assurance doesn't get into the specifics of how the houses will be oriented, they have limited development of the site to three lots, which is exactly what the entitlement is today, but allowing for flexibility to make the lot orientation varied. He stated there was a significant amount of public comment received about traffic, drainage, rezoning to a higher density could compromise the character of the neighborhood, and tree canopy. He stated all the lots are at least 70 feet wide, which is the baseline allowance in the RSF-4 zoning district. He

stated RSF-7 would represent a deviation. He stated this type of development, where a lot is purchased and is eligible for administrative lot splits and single family home construction, does not subject it to the city's tree preservation standards. He stated staff and the Planning Commission recommended approval. He stated the applicant was not available tonight and requested for the item to be tabled to the April 6, 2021 City Council meeting or leave it on the First Reading.

Council Member Hertzberg: The way it is zoned right now, they're not able to orient the houses the way that they want too?

Jonathan Curth: Correct. Because of the baseline lot width requirement in RSF-4 zoning district, you need 70 feet of lot width to subdivide a property. Although it's a corner lot and there's well over the 210 feet of width you would need to create three lots, that much width is not available along Sang.

Council Member Hertzberg: The only reason they're wanting to rezone is for that orientation or is there another reason?

Jonathan Curth: The applicant has asserted they'd like the three homes to all be oriented towards Sang and be accessed from a driveway onto Ora Drive.

Council Member Hertzberg: Right now, with the zoning they have, they would not be subject to tree preservation?

Jonathan Curth: That's correct.

Council Member Hertzberg: Could we require that?

Jonathan Curth: Not under a zoning action. If the applicant had opted to include that in their Bill of Assurance, but I don't believe there's any authority the Council has, other than amending the Unified Development Code, to require that.

The City Council received five public comments regarding this ordinance.

Mayor Jordan: The applicant could not be here and asked us to hold it on this reading.

Council Member Scroggin: I'm fine with leaving it here. A lot of people that are talking to us said they've gone through a lot of changes. Change is inevitable. The map is pretty much all RSF-4, but we've already had a lot of changes. This isn't even a use unit change. We are still single family housing. They can build two there now and then three if we make this change. These are the things we are going to have to start approving if we don't want to build 400 houses on an old farm. We've got to start sprinkling these houses in where we can. This is reasonable and it allows one more house to be closer to the university, instead of being west of 49. We are about to learn how bad our land use policies of the last 40 years are when we close Wedington. We need more houses east of 49 and we need more jobs west of 49. This makes sense and it's an incremental change. You don't want the thing that's behind Harps on Wedington, which is a monstrosity.

Council Member Turk: I need to disclose that I own a house on 1915 Ora, which is about six houses up from this proposed rezoning. I'm very familiar with that neighborhood. The streets on Ora are quite narrow. This is a very stable neighborhood. About six or eight months ago where people were howling at night, there was a shared unity and grief about going through the pandemic but having resiliency through the howling. We need to revise our tree preservation ordinance. Those mature trees on that lot are providing a lot of greenhouse gas sequestration. It doesn't make a difference right now about what the developer will be required to do, but we do need to revise our tree preservation ordinance. There are tons of drainage problems at that corner where the developer wants to expand and have his houses facing Ora. That corner is a very tight corner because the streets are so narrow. There's a big ditch that is often full of water. Those things need to be considered. Maybe we need to have a tour.

Council Member Petty: This is a comment to the applicant for their benefit. If this rezoning were to pass, you would have a lot more valuable project if you kept those trees.

This ordinance was left on the First Reading.

RZN-2020-030 (324 E. Huntsville Rd./Siemek): An ordinance to rezone that property described in rezoning petition RZN 20-030 located at 324 East Huntsville Road for approximately 0.20 acres from RSF-8, Residential Single Family, 8 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 does recommend in favor of the request and feels the proposal to rezone it to RI-U to allow a wider spectrum of housing types meets the city's goals for a property this close to Downtown and access to many amenities. He stated the Planning Commission recommended unanimously in favor to forward the item to the Council with a recommendation of approval.

Council Member Scroggin: What's the most number of units that could be put on here?

Jonathan Curth: I tend to avoid speculating. With my understanding from the applicant, they would like to keep the existing home on the property. If that was the case, it's a theoretical two very small houses that could be built on either side of it.

Council Member Scroggin: It's right next to RMF-24?

Jonathan Curth: To the northwest and northeast. Across the street is Neighborhood Conservation to the south and RSF-8 eight to the south east.

Council Member Petty: Jonathan, I heard you mention that large areas of the city were rezoned multi family during the city's urban renewal period. It would be beneficial for us to get an Agenda Session presentation on those urban renewal actions. From my review of those Planning Commission and City Council meeting minutes, we adopted multi family zoning codes and single family zoning codes for large lots, at more or less the same time and then rezoned areas like,

Washington Willow and Wilson Park and our most cherished neighborhoods with single family codes and rezoned almost all the rest of the city with the multi family codes. There's a lot of fascinating details and insinuations in those meeting minutes that would be quite illuminating with what we might call the genealogy of our land use patterns today. I would like to formally request within two to four months that we do an Agenda Session presentation on that.

Jonathan Curth: I'd relish the opportunity for that Thank you.

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 7-0. Council Members Petty, Scroggin, Turk, Hertzberg, Gutierrez, Jones, and Kinion voting yes. Council Member Bunch was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

Ordinance 6422 as Recorded in the office of the City Clerk

Appeal RZN-2020-026 (5200 Block of W. Wedington Dr./Planet Storage, LLC): An ordinance to rezone that property described in rezoning petition RZN 20-026 located in the 5200 block of West Wedington Drive for approximately 1.32 acres from R-A, Residential Agricultural to CS, Community Services.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated the applicant is proposing an appeal from a Planning Commission denial. He stated they'd like to rezone the property to Community Services. He stated from a land use perspective, staff did not find the request to be compatible. He stated staff recommends denial of the proposal. He stated the Planning Commission vote failed 3-5 to forward it to the Council for approval.

Dave Burris, Applicant gave a brief presentation on the proposed project. He spoke about the possibility of a small pocket neighborhood being developed and activating some of those parcels that are off of Wedington. He stated we're not just trying to activate a corridor and become urban sprawl but are trying to be in keeping with some of those visions the city has set forth with that vision and the Future Land Use Plan. He stated storage is not by use here. He stated this is a small office and has always been proposed as a small office.

Council Member Scroggin: In our packet, we've got renderings that look exactly like these that were just showed with the word, storage, on it. The LLC, is called Storage. I'm assuming staff didn't make renderings and put storage on the side of the renderings.

Jonathan Curth: That's correct.

Council Member Scroggin: These were presented with the word storage on it and we're confused why residents think storage may go in here. I feel like we are getting way too many of these appeals. These meetings are going way too late. This is way out there and is not in the Mayor's box. Correct?

Jonathan Curth: That's correct. This is west of Ruppel.

Council Member Scroggin: I don't feel like this fits. For an appeal, do we still have to go through three readings?

City Attorney Kit Williams: Yes. This is an ordinance. We draft what they have requested, and it goes through three readings, just like any other rezoning ordinance.

Council Member Scroggin: This is way out there. Staff and the Planning Commission agree. I hope we can get this moved along.

Council Member Petty: It's fair to observe that the source of confusion is probably the renderings and labels. It's also probably fair to say that if Mr. Burris is genuine with what was described today, it's different. Maybe that remains to be seen, and with a trust, but verify approach. I read the report carefully. I agree that Community Services allows a scale that would be out of context with what exists and doubly so when we consider the timeliness. Presuming what was described today is the intention of the applicant, do you feel what was presented today is out of scale, in time and place?

Jonathan Curth: The most interesting piece of the proposal, is the addition of housing behind the offices. That could potentially be a complimentary request, not just internally to this request itself, but also the property to the west where those building blocks for a complete neighborhood are being made. There are the allowances for non-residential immediately adjacent to residential development. From what I've heard, I don't know that CS is the necessary mechanism to achieve what the applicant wants to do. I would need to consider the renderings a little bit more to offer a more informed opinion.

Council Member Petty stated that was the clarity he was looking for. He stated he is not going to vote for Community Services and assumes the majority of the Council is also not going to support Community Services. He stated there's an opening here to request either a different zoning that is more representative of what was described to them today and may be a different zoning designation that is already on the books. He stated it may be a PZD. He stated it could be a set of restrictions memorialized in a Bill of Assurance, which is the applicant's choice. He stated he would encourage the applicant to explore those options. He stated Community Services just allows way more than what has been shown.

Dave Burris: I did put both of those renderings together. There is a leasing office in this office space. That office is going to be responsible for both the co-op space, as well as the units in the back. We discussed with the Planning staff about other options for rezone. The other option they pitched to us was, RO. That would be fine, however we are capped at 3,000 square feet and right now we are currently showing 3,800 square feet. We felt that if we wanted that 3,800 square feet with that additional co-op space in here, that CS was the best fit. We have CS immediately adjacent to us. We felt staff agreed that is consistent. If we are still asking you to vote on this and we are denied, we cannot come back with a CS, but we could still come back with an alternate zoning and we may have to make some modifications to that footprint get rid of some more co-op offices to be able to make that fit within that. Am I correct?

Jonathan Curth: It is an ordinance that an identical request cannot be submitted within a year of it being denied. There is a caveat to it that's subject to the Planning Commission's consideration or if in their judgment something has changed substantially enough to merit reconsideration.

Dave Burris: I don't feel like anything we're proposing here is anything different than what has been allowed on adjacent properties. It's a great service to the community. The preliminary designs for the pocket neighborhood in the back is part of this vision as a larger piece of property. Our request for appeal is to rezone to CS.

Council Member Scroggin: What is currently developed on that CS, to the west?

Jonathan Curth: It is undeveloped.

Council Member Scroggin: What could go there, could be incompatible with what's there because right now, it's nothing.

Jonathan Curth: Correct. You can look at as many pretty pictures on any project and you never know what you're going to get without some sort of assurance. That may have been a similar condition on the Cobblestone properties. They'd proposed a pocket neighborhood on the back portion of the property and an office or retail function on the front, where residents could work immediately adjacent to where they live. It's not to say that project won't move forward, but that's what was shown to the Council during the annexation and rezoning conversation.

Council Member Scroggin: There's some examples on Crossover. We've got a nursing home and we probably need it, but they showed us this pretty pocket neighborhood. They just wanted the nursing home. That switcheroo happens a lot.

Council Member Kinion: Pretty pictures and elevations don't really matter. What we're looking at is what can be developed under the zone. We always get sidelined by all this stuff that is irrelevant. The many years I've been on City Council, many of these do not ever come to fruition and it's a lesson well learned. Look at the zoning. Look the worst case scenario, the best case scenario, and does it fit in that area. Looking at this zoning, I'm not sure how it fits. I've got to consider what is possible.

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

City Attorney Kit Williams read the ordinance.

Mayor Jordan: If they vote yes, they are in favor of the appeal.

City Attorney Kit Williams: That would pass the ordinance.

Mayor Jordan: If you vote no, you are against the appeal.

City Attorney Kit Williams: The ordinance would fail.

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

This ordinance failed.

VAC 662 West Taylor Street: An ordinance to vacate a portion of public right-of-way for property located east of 662 West Taylor Street.

City Attorney Kit Williams read the ordinance.

Mayor Jordan: Council Member Hertzberg, I believe you are sponsoring this.

Council Member Hertzberg: Yes. I met with the applicant who submitted an amended request with conditions that I believe warrant reconsideration by the Council. I believe the intended use is clearer and there is now a benefit offered to the city with the public access easement. I would like to request the Council to reconsider this and possibly consider approval.

Blake Jorgensen, Applicant thanked Council Member Hertzberg for sponsoring the reconsideration. He requested that a Council Member potentially ask staff if we could revise the amendment to omit item two, from a condition of approval and in lieu of that, replace item three to read, that a portion of the right of way to be vacated and shall be dedicated as a public access easement and general utility easement, the length of the property as depicted in a survey attached on Exhibit C. He stated this would accomplish all the prerequisites to vacate this. He stated there are only two utilities within this alley or right of way that needs to be considered, which is the overhead electric and a sewer line. He stated he is fine with leaving it on the First Reading since it was so late.

There was a brief discussion about leaving it on the First Reading to allow more time to review the item.

Council Member Turk: Didn't we hear this same proposal, with a very slight variation tonight, a couple of Council meetings ago? Is it procedurally correct that it can be brought up with these very slight changes?

City Attorney Kit Williams: It doesn't have to have any changes, since it's a vacation ordinance. The restrictions we have on rezoning ordinances are in the code. It says they have to be a substantial change or they cannot be reheard within a year. There's no comparable code provision for vacations. In my 20 years as City Attorney, this is the first time I've seen this, but there's always something new coming up. It's not technically a reconsideration. It's too late for that. Basically, you are looking at the same vacation ordinance that was unanimously voted down awhile back. There's nothing in the code to prevent that procedurally from happening. You all could put something in the code, if you wanted. This is one time out of 20 years, so you are probably not going to see it again.

Council Member Scroggin: We've had several appeals recently where the applicants aren't ready and then we almost have to immediately table. I don't know what to do with that.

The City Council received one public comment regarding this ordinance.

Council Member Hertzberg: I would like to hold it on the First Reading.

This ordinance was left on the First Reading.

Reformation of Deeds - 115 Oklahoma Way: A resolution to authorize the City Attorney to seek Reformation of Deeds for property located at 115 Oklahoma Way.

City Attorney Kit Williams: I'm asking for authority for the city to file a suit in order to reform deeds that were created in 1975. Unfortunately, there was an error in the legal description of the deeds and unintentionally did not deed the grantee the house and property he thought he was getting, but instead deeded some raw land immediately south of that house. The city still legally owns the house and the land on which it sits. The Gilbert's own a raw piece of land that we wanted to keep. This was obviously a mistake and we have sought to fix this mistake by trading quitclaim deeds. This way they can own their house and we would own the raw land lot. Unfortunately, the current owners of the raw land have refused to do an exchange of deeds in order to correct the mistake that was made back in 1975. The only way the city corrects this is by going to court and seeking the judge to acknowledge with all the evidence we have, which is pretty substantial, that there was a mutual mistake made by the surveyor that was wrong by a couple hundred feet. Therefore, the wrong description was set forth in the deed and a mistake was made by both parties. The people who thought they're getting the house, have lived in the house for over 45 years. We want to correct this. We don't see a way to correct it, unless they change their mind or else we have to go to court. I'm asking City Council to authorize me to go to court to seek reformation of the deeds for the property located at 115 Oklahoma Way and the raw land immediately south of that.

Mayor Jordan: We've worked a long time on this. We don't seem to be getting anywhere. This has been going on for years.

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

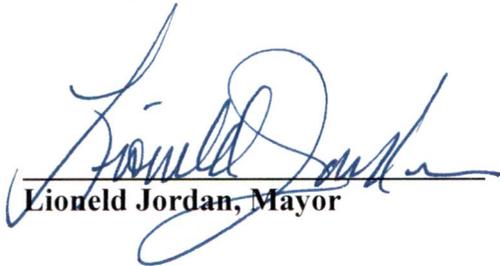
Resolution 96-21 as recorded in the office of the City Clerk

Announcements:

Susan Norton, Chief of Staff: Our Economic Vitality Director, Devin Howland and our communication team have been working to put forward as much information as possible about the American Rescue Plan. Residents and businesses can find it easily on our website. The season of planting is also the season of invasive removals. We're back with the Bradford Pear bounty. If residents can remove some of the invasive from your yard and take a picture of yourself, you can compete to receive a free reward of a tree or a shrub. Details are on the website.

City Council Agenda Session Presentations:

Adjournment: 11:00 p.m.


Lioneld Jordan, Mayor


Kara Paxton, City Clerk Treasurer

