

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
October 19, 2021**

A meeting of the Fayetteville City Council was held on October 19, 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, Mark Kinion, Matthew Petty, Sloan Scroggin, Sarah Bunch and Teresa Turk joined the meeting via online using a video conferencing service called Zoom.

Mayor Lioneld Jordan, Council Member D'Andre Jones, Council Member Holly Hertzberg, Assistant City Attorney Blake Pennington, 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: None

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

Agenda Additions: None

Consent:

Approval of the October 5, 2021 City Council Meeting Minutes.

APPROVED

Bid #21-59 Central Salt, LLC: A resolution to award Bid #21-59 and authorize the purchase of bulk crushed rock salt from Central Salt, LLC for \$80.00 per ton for materials picked up and \$94.25 per ton for materials delivered as needed.

Resolution 248-21 as recorded in the office of the City Clerk

Traffic Logix Corporation: A resolution to approve the purchase of speed cushions from traffic Logix Corporation in the amount of \$25,285.00 plus any applicable sales tax and freight charges pursuant to a NCPA Cooperative Purchasing agreement for use by the Transportation Department.

Resolution 249-21 as recorded in the office of the City Clerk

Butterfield Trail Village, Inc. Cost Share Agreement: A resolution to approve a cost share agreement with Butterfield Trail Village, Inc. for Butterfield Trail's removal and reconstruction of a portion of damaged city sidewalk along Old Missouri Road in the amount of \$2,900.00 to be paid by the City of Fayetteville.

Resolution 250-21 as recorded in the office of the City Clerk

Bid #21-70 Crossland Heavy Contractors, Inc. – 2019 Transportation Bond Project: A resolution to award Bid #21-70 and authorize a contract with Crossland Heavy Contractors, Inc. in the amount of \$1,680,751.00 for the construction of the Shiloh Drive and Steele Boulevard Intersection Project, to approve a project contingency in the amount of \$252,000.00, and to approve a budget adjustment – 2019 Transportation Bond Project.

Resolution 251-21 as recorded in the office of the City Clerk

Garver, LLC - 2019 Street Bond Project: A resolution to approve Amendment No. 1 to the Professional Engineering Services Agreement with Garver, LLC in the amount of \$25,000.00 for construction phase services associated with the Shiloh Drive and Steele Boulevard Intersection Project, and to approve a budget adjustment - 2019 Street Bond Project.

Resolution 252-21 as recorded in the office of the City Clerk

JBZ, Inc. d/b/a Ellingson Contracting Change Order #3: A resolution to approve Change Order No. 3 to the contract with JBZ, Inc. d/b/a Ellingson Contracting in the amount of \$140,619.00 for construction of the front and rear porches and replacement of missing windows and doors associated with the Woolsey Farmstead Restoration Project and to approve a project contingency in the amount of \$14,062.00.

Resolution 253-21 as recorded in the office of the City Clerk

Special Needs Assistance Program Grant Agreement Amendment: A resolution to approve the Special Needs Assistance Program Grant Agreement Amendment with the U.S. Department of Housing and Urban Development and Fayetteville Housing Authority in the total amount of \$76,763.00 for the city to administer programs to assist homeless Fayetteville residents.

Resolution 254-21 as recorded in the office of the City Clerk

Arkansas Department of Transportation: A resolution to approve an amendment to the current right of way maintenance permit with the Arkansas Department of Transportation in order for the city to be able to assist the creation of the city's third medical cannabis dispensary by having the right to determine which trees may be removed and which must be retained from parcel 765-14875-001 near Interstate 49.

Resolution 255-21 as recorded in the office of the City Clerk

Ms. Jean Jowers Rescission Deed: A resolution to approve a rescission deed to reconvey about 5.82 acres to Trust A of the Hoyet Greenwood Estate so that Ms. Jean Jowers may personally donate this 5.82 acres back to the City of Fayetteville.

Resolution 256-21 as recorded in the office of the City Clerk

Northwest Arkansas Council Foundation COVID Communications Campaign and Vaccination Campaign: A resolution to approve a Subrecipient Agreement with the Northwest Arkansas Council Foundation to provide funding from American Rescue Plan Local Recovery Funds to provide a region-wide COVID-19 communication and vaccination campaign in Benton and Washington Counties, and to approve a budget adjustment.

Resolution 257-21 as recorded in the office of the City Clerk

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

Unfinished Business:

1776 North Fox Hunter Road Extension of the City's Sewerage System: A resolution to approve an extension of the city's sewerage system beyond the city limits to property located at 1776 North Fox Hunter Road. *At the October 5, 2021 City Council meeting this item was referred to the Water & Sewer Committee and tabled for two weeks.*

Mark Rogers, Water & Sewer Operations Manager gave a brief description of the resolution. He stated Utilities is in support of the request. He stated the Water & Sewer Committee voted 3 to 0 to forward it to the City Council with a recommendation of approval.

Council Member Turk: During our discussion at the Water & Sewer Committee meeting, we talked about there being no cost to the city. The landowner will bear all the cost associated with purchasing the manhole cover and will pay the impact fees. That reason led us to agree, as well as it not being suitable for soil for perking the septic tank.

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

Resolution 258-21 as recorded in the office of the City Clerk

New Business:

Police Department Unmarked Unit Program: An ordinance to waive the requirements of formal competitive bidding and authorize the purchase of used vehicles for the Police Department Unmarked Unit Program in an amount not to exceed \$35,000.00 per vehicle, and to allow existing unmarked units to be sold for trade-in value toward replacements.

Assistant City Attorney Blake Pennington read the ordinance.

Mike Reynolds, Chief of Police gave a brief description of the ordinance.

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

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Gutierrez 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.

Assistant City Attorney Blake Pennington read the ordinance.

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

Ordinance 6492 as Recorded in the office of the City Clerk

Appeal ADM-2021-065 (NE of Randal Pl. & Zion Rd./Randal Place Development Appeal): A resolution to grant the appeal of City Council Member Sarah Bunch and to deny LSIP 2021-007.

Council Member Bunch stated she was approached by several people in the vicinity of this development. She stated there was a lot of concern in the neighborhood. She stated she was bringing this resolution before Council on behalf of the neighbors.

Jonathan Curth, Development Services Director gave a brief description of the resolution. He gave a brief history of the item. He stated staff recommends upholding our approval, as well as the Planning Commission's confirmation made last month.

Brian Teague, Community By Design stated he is representing the property owner and the developer of the project. He gave a brief history of the project. He stated the parking meets the development code. He spoke about historical data of vehicular accidents. He spoke about a Master Street Plan modification for the Tier 2 Center.

Council Member Turk: Please speak about tree canopy preservation and if that has been worked out where it reaches the 17.5% during his process.

Jonathan Curth: This portion of lot was largely without canopy, compared to the Northern portion.

Brian Teague: Mr. Curth is correct. Most of the first phase or the south side of the project is not a lot of tree canopy. The way that we did our tree canopy calculation was that we were going to lean on that north phase and have a lot more tree preservation on the north phase of the development.

Jonathan Curth: It looks like some removal had to be done below the minimum canopy and as a result, 27 trees are required to be planted to mitigate that.

Council Member Turk: Have those trees already been removed?

Jonathan Curth: Not to my knowledge. That would be a violation of our Tree Preservation Ordinance.

Council Member Turk: Longer lived trees sequester much more carbon than new saplings that are planted. There is a stream that runs through there that goes to Lake Fayetteville. Looking at the design that was just presented, it looks like that stream is completely paved over. Is that accurate?

Jonathan Curth: It showed development on the northern half of the site and was part of the applicant's master plan they had shared with one of their variances. That is not being impacted with this portion of the proposal tonight.

Council Member Turk: It makes it difficult when you split them up. It's zoned all CS, but when it is split up like this, it makes it difficult for everybody to follow. What does the applicant plan to do with the stream that cuts the property in half at 90 degrees?

Brian Teague: We are meeting the Streamside Protection Ordinance and the requirements. The stream is a part of a larger drainage basin that somewhat traverses the site from east to northwest. We are proposing to preserve most of that stream corridor. If you look at the Master Plan, you'll see the Pedestrian Greenway that traverses the site from east to west and partially from south to north. That is where the stream is located. There are two other smaller sub-drainage basins. One

goes along the east property line, which we are proposing to pipe about 150 feet. The second sub-drainage basin is along our west property line. It's a ditch that runs along the east side of Randal Place. Because of the street widening requirement on Randal Place, we are proposing to pipe that drainage.

Council Member Turk: With the proposed widening to create parallel parking on the east of Randal Place and the ditch, who actually pays for the street widening? Is it a cost share?

Jonathan Curth: As it came through development, it would be the developer. For it to be cost shared with the city, it would have to go before the City Council.

Council Member Turk: Typically, it's exclusively by the developer unless there's a cost share arrangement approved by the City Council?

Jonathan Curth: Correct.

Council Member Hertzberg: Some of the residents I have spoken with had some concerns about overflow parking. They claim the proposed design provides less than 50% of the parking that is needed. Have you spoke with any of the residents and do you have a plan for overflow parking?

Brian Teague: We spoke to a number of the residents last Fall when we brought the rezone forward and those concerns were not brought forward at that time. We feel like we are providing adequate parking for our proposal. It will likely function in a shared parking scenario where some of the businesses, their peak parking demand will happen in the evening, where other businesses peak demand will happen during the day. If we need too, the residential portion of parking that addresses the residential requirement, that parking would be shared also.

Council Member Hertzberg: When you were taking into consideration for parking for one bedroom, did you count one car for that unit or two?

Brian Teague: We counted one car per bedroom.

Council Member Gutierrez: What is the current speed limit and what will be the new speed limit with the revised street plan on Zion?

Jonathan Curth: I believe it is 25 all the way to Randal and then I think it increases, but I'm not certain what it will be after the construction.

Chris Brown, Public Works Director: There are some 25 and maybe 35 as well. That is something we have not yet evaluated, but we will be evaluating. It ties into some of the discussion we had recently about speed limits and what the appropriate limit is. There are ways of making those decisions. That street classification in our Mobility Plan shows recommended operating speeds of 25 to 30 miles per hour. It would be somewhere in that 30 miles per hour speed limit range and give or take 5 miles per hour.

Jonathan Curth: The reviewing Engineer on this item did look at the on-street parking on Zion, in terms of a 30 mile per hour speed limit. It was anticipated it would be towards that upper end of what Mr. Brown referenced.

Council Member Bunch: I know there are other places in Fayetteville where we have parallel parking like this that might have two lanes and a turn lane, which is similar situation to what is causing people to have so much concern.

Jonathan Curth: The most prominent one that most people would be familiar with, is Lafayette. It has on-street parking, two lanes, but I don't believe it has a turn lane. Closer to this area at Watermark apartments on the northeast corner of Steele and Van Asche they installed on-street parking with that development. On Van Asche there is on-street parking along the entire extent, with two lanes of traffic ends a turn lane.

The City Council received 12 public comments regarding this resolution.

There was a brief conversation about PowerPoint presentations.

Council Member Jones moved to allow a PowerPoint presentation to be displayed during public comment. Council Member Turk seconded the motion. Upon roll call the motion passed 6-2. Council Members Bunch, Turk, Hertzberg, Gutierrez, Jones and Kinion voting yes. Council Members Scroggin and Petty voting no.

Kara Paxton, City Clerk Treasurer: I have scanned the documents and emailed them to the Council Members regarding the PowerPoint that was provided earlier.

Nathan Ogden, Developer stated what has been approved through the city so far is the south half of the development. He stated nothing on the north phase has been applied for or approved. He stated as a design team and developer we have followed the law and city statutes for code, policies and procedures established by the City of Fayetteville. He stated the parallel parking was done to make parking spaces. He stated the restaurant will be owner/occupied, so it's counterintuitive for them to build a development they don't think they have enough parking places for the residents and their customers at the restaurant. He spoke about noise concerns. He requested for Council to uphold the decision of the Planning Commission.

Council Member Turk: I went out there and looked around in the neighborhood. I have serious safety concerns about the blind turn when you go from Randal Place, north/south to making that turn to the west. It's concerning because of the alley that comes in there and a driveway. Parking is going to be a serious issue. The way the lakeside development is oriented, there's not a lot of green space or extra room. I am concerned about the stream. The north side has not been before us, but what I have seen from the south side, this is too dense. I will be supporting the appeal.

Council Member Hertzberg: If we denied the LSIP, what is the developer able to do by right?

Jonathan Curth: The project would likely have to be resubmitted to Planning, addressing the reasons it was denied. Unlike a rezoning, there aren't any standards in our ordinances that say there

has to be a cooling off period to resubmit. Alternatively, the Council could deny it or modify the conditions of approval that came with it. It's not something that happens procedurally very often.

Mayor Jordan: The rezoning allows the development, but the rezoning does not allow the parking. That was a variance. Correct?

Jonathan Curth: No. The variance was to allow the construction, the addition of on-street parking on Zion. This project could have been proposed with even less parking and meet our ordinances. Fayetteville does not have parking minimums for non-residential development. A restaurant and an office do not have to provide any parking. In instances where no parking is provided, staff can ask for an analysis on how it's not going to impact the area. In this instance, staff felt it was adequately met. The applicant provided enough parking to meet our residential parking requirements, which are minimums and maximums. They were required to provide one parking space per bedroom. The parking meets code. The proposal to include on-street parking on Zion was the exception requested by the applicant.

Mayor Jordan: If the parking went away, could the development still occur? It is already zoned a current way. Correct?

Jonathan Curth: Correct.

Mayor Jordan: Blake, is that what you understand as well?

Blake Pennington, Assistant City Attorney: Yes.

Mayor Jordan: As long as they stay in the confines of the zoning, the development can occur, but the on-street parking could go away?

Blake Pennington, Assistant City Attorney stated correct. He stated the Council could deny the variances that were requested by the applicant. He stated the City Code is very specific about the reasons that a development could be denied. He stated the City Council has enacted six reasons that a small or large site improvement plan can be denied, and he spoke briefly about the six reasons of denial. He stated the Supreme Court has said that it is arbitrary as a matter of law to deny approval of a plat that meets the standards of the code.

Mayor Jordan: If they stay within the confines of the code, then they are legal. Correct?

Blake Pennington, Assistant City Attorney: Correct. I would have serious concerns about our ability to deny such a development that meets those standards.

Mayor Jordan: That would not include parking on the street?

Blake Pennington, Assistant City Attorney: Correct. The Council could change the conditions of approval for those variances.

Council Member Kinion: Looking at the property, neighborhood and the street layouts with the topography, density and on-street parking, which the reason they asked for the variance is because they see a need for the parking. Just because the off-street parking goes away doesn't mean the parking problem goes away. If the off-street parking was not approved, it would add more to the hazard of this area than what we have anyway. There has to be a compelling reason to deny this. The only compelling reason that would fit one of the six would be the safety. It is clear it would be hard to arrange an entrance, exit and parking in this area without creating a safety hazard. You can talk about removing the variance, but that does not remove the danger. I have concerns about runoff and the stream. We are trying to protect Lake Fayetteville. I am concerned there is not a compatibility with a residential neighborhood going into a high density area. We have to look at what could be the worst possible case with the zoning that we are faced with tonight. The zoning will always stay with the property. I will support the appeal.

Council Member Bunch: We are talking about the safety of the street. That is the only thing I can see we can look at on this, as far as what we can deny or approve this appeal on. Are the streets in Lakewood, public streets or private streets?

Jonathan Curth: Public streets and public alleys.

Council Member Bunch: Theoretically, people park on them now that go to visit there, or anyone could park on a public street. Is that correct?

Jonathan Curth: Correct.

Council Member Scroggin: I hear from developers a lot of times that they get frustrated on us denying variances. A lot of times they have the right to do something and they ask for variances, so that it sits in our 2040 Plan better. It makes things safer because people don't want development at all, they say deny the variances. A lot of times the variances are what makes it work and fit in the 2040 Plan. Those are a needed component. If we deny the variances, I agree there are some legal issues because they can basically do this by right without the variances. The project would be far worse without the variances. Regarding traffic, I think this is a good location for this. With the roundabout that is going west of this and that there's sidewalks with trees in front of the athletic club and having parallel parking here is going to keep in people's mind that this is not an area to go 50 or 60 miles per hour. Parallel parking is safer. Some of the people in Lakewood could park in the parallel parking. I won't be voting for the appeal.

Council Member Bunch: When I consider the Lakewood subdivision when it was built, there wasn't a whole lot out there and that is pretty high density at the time it was built. I don't recall if there was any opposition to that subdivision going in, but there was probably some. I am having a hard time finding, other than being able to say it might cause an unsafe traffic condition around that sharp corner. I don't know that having the street parking is going to be as unsafe when you consider you are going to have a light in one area, a turn lane now and a roundabout. It's going to tone all that down a little bit. I am struggling with what my decision should be.

Council Member Petty stated it seems the applicant followed the proper procedures. He stated we got what the rules say and what our plans say that we want. He stated this feels like a bait and

switch if we were to grant an appeal that reverses such a strong decision from the Planning Commission and a strong recommendation from our staff. He spoke about growth centers. He stated he can't vote to approve or support the appeal.

Council Member Jones: I had the opportunity of visiting out there. Safety is a concern. I appreciate how the citizens have come forth to express their concern. I appreciate how the business owners have come out as well and are wanting to do something that's going to make Fayetteville nicer.

Council Member Bunch: If we vote down this appeal, we still have what can go in there without the variances. The variances dramatically improve the possibility of this property. The variances make it safer.

Council Member Gutierrez spoke about an area of town on 15th Street that has parallel parking. She stated she uses that particular street quite a bit so she can avoid MLK. She stated the idea that parallel parking is bad and is going to make people go faster, the opposite is true. She stated removing the parking is going to put more parking into the neighborhood. She wants the applicant to have a better conversation about the north part with the neighbors.

Mayor Jordan: A yes vote, is a vote for the appeal. Correct?

Blake Pennington, Assistant City Attorney: Yes. That would deny the large site improvement plan that has been submitted by Mr. Teague and his team.

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

This resolution failed.

Appeal RZN-2021-064 (1287 N 54th St./Northstar Construction): An ordinance to rezone that property described in rezoning petition RZN 21-064 located at 1287 North 54th Street for approximately 12.18 acres from R-A, Residential Agricultural to RI-12, Residential Intermediate, 12 units per acre.

Assistant City Attorney Blake Pennington read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated this is an appeal of the Planning Commission's denial of the request. He stated staff was fairly mixed on the findings but supports the request. He stated the Planning Commission was conflicted but denied the request 6-1. He stated staff has not received any public comment.

J.R. Carroll, Legal Counsel for the Applicant briefly described the project. He stated it is unlawful under Arkansas law to have what is considered spot or downzoning. He stated there are 20 acres of RU on one piece of property and on the other side of the piece of property you have RI-12,

which amounts to 40 acres. He stated if the city were not to allow RI-12 and would require a less dense zoning, it would be a classic example of downzoning. He stated in this area, there is a history by the city that they approve this type of zoning. He spoke about the infill score. He spoke about density and services.

Council Member Jones: It sounds like it is going to create connections between neighborhoods. Correct?

J.R. Carroll: Correct. It would be zoned exactly the same way that the zoning to the west is.

Council Member Jones: That would allow citizens to have an alternate route to 51st Street and then to Mount Comfort when Wedington is backed up?

J.R. Carroll: Correct. This was in the county until last month. By annexing this property, it allows the city to make those connections that are on its Master Street Plan.

Council Member Jones moved to suspend the rules and go to the second reading. Council Member Hertzberg seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Turk: The applicant spoke to Arkansas law about not allowing downzoning or denying the zoning type when there was adjacent properties next door that had that zoning type or higher density. Is that accurate?

Blake Pennington, Assistant City Attorney: Yes. The Supreme Court has said that spot zoning is illegal. I would not say this is a downzone. Our code provides that when property is annexed into the city, it is zoned R-A. It is up to the City Council whether that property gets rezoned. There are factors that you need to consider when you are considering a rezoning. The primary factor is compatibility with adjacent zones. As far as spot zoning is concerned, if you were to leave it R-A, I don't believe that would be spot zoning because you have R-A to the northeast and also to the south between this property and Wedington. The RI-12 is compatible with the property to the west and the east. You do have discretion. If this was challenged in court, the standard the court would look at is whether your decision was arbitrary and capricious.

Council Member Jones moved to suspend the rules and go to the third and final reading. Council Member Scroggin seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Ordinance 6493 as Recorded in the office of the City Clerk

RZN-2021-065 (481 S. Happy Hollow Rd./Fulton): An ordinance to rezone that property described in rezoning petition RZN 21-065 located at 481 South Happy Hollow Road for approximately .51 acres from RSF-4, Residential Single Family, 4 units per acre to RSF-18, Residential Single Family, 18 units per acre.

Assistant City Attorney Blake Pennington read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated finds the request to be compatible from a land use perspective. He stated from a land use perspective, staff finds it be to similarly compatible. He spoke briefly about citizens extra documentation that was included in the packet. He stated staff recommends in favor of the request. He stated the Planning Commission concurred with staff and forwarded it to Council with a unanimous vote of 7-0.

Jay Young, Development Consultants stated he is the representative for the developer. He briefly presented some slides to illustrate the type of development that developer wants to do. He spoke about lot sizes and configurations. He spoke about the architectural elevation of the type of structures the owner wants to build.

Jonathan Curth: When the applicant's amended request changed, we did not note on Exhibit A that it was supposed to be RSF-18, instead of RI-U. As the Council moves forward with this request, if you would like to consider the amended one, please substitute this Exhibit A I am showing here with RSF-18 noted on it. I will get that to the City Clerk.

Mayor Jordan: We've got to change what we were presented, to something else. Correct?

Jonathan Curth: No. What was presented was correct. The Exhibit A that staff and I included in the packet still noted the previous request prior to the applicant request to amend it. This would amend Exhibit A to reflect what the Planning Commission considered, and staff is supporting.

Blake Pennington, Assistant City Attorney: I suggest making a motion to replace the Exhibit A in the packet with the corrected version.

Council Member Hertzberg moved to amend the ordinance by replacing Exhibit A. Council Member Jones seconded the motion. Upon roll call the motion passed 6-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones and Kinion voting yes. Council Members Gutierrez and Petty were absent during the vote.

The City Council received three public comments regarding this ordinance.

There was a slide presentation shown of the proposed rezoning.

Council Member Turk stated a tour in the neighborhood would be helpful. She requested to hold it on the First Reading.

Mayor Jordan: Is that in your Ward, Council Member Jones?

Council Member Jones: Yes. I support that.

This ordinance was left on the First Reading.

RZN-2021-067 (4143 N. Shiloh Dr./RGMS Investments): An ordinance to rezone that property described in rezoning petition RZN 21-067 located at 4143 North Shiloh Drive for approximately 7.42 acres from C-2, Thoroughfare Commercial to CS, Community Services.

Assistant City Attorney Blake Pennington 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 the surrounding land uses in the area. He stated the neighboring business owner to the south was in favor of the request but wanted to ensure they weren't going to be at a loss for water and sewer services during the construction. He spoke about the Utility Department process for water and sewer service. He stated the Utility Department representatives feel confident there were enough protections for the property owner to not pose any concern. He stated staff is in favor of the request. He stated the Planning Commission forwarded it unanimously and recommends approval.

Robert Goltermann, Owner of RGMS Investments, which is the applicant. He spoke briefly about his project. He stated the site has been underutilized for multiple years. He stated he has come up with a design that will not disrupt anything when it comes to the utilities and relocation.

Council Member Scroggin: The rezoning can only make this area better. It would be great if we had residential here. I am in support of this.

Council Member Kinion moved to suspend the rules and go to the second reading. Council Member Jones seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Scroggin moved to suspend the rules and go to the third and final reading. Council Member Hertzberg seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Ordinance 6494 as Recorded in the office of the City Clerk

RZN-2021-069 (1471 S. Shiloh Dr./LLEJ IX, LLC): An ordinance to rezone that property described in rezoning petition RZN 21-069 located at 1471 South Shiloh Drive for approximately 2.09 acres from R-A, Residential Agricultural to CS, Community Services.

Assistant City Attorney Blake Pennington read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated staff recommends approval. He stated the Planning Commission recommended with a vote of 7 to 0 to forward to Council for approval.

Council Member Turk: Jonathan, thank you for updating us with the ARDOT plans. Are those finalized or in development? How sure can we be that they are going to build an overpass here and a couple of roundabouts? What year would you anticipate something like that being built?

Jonathan Curth: In talking to our City Engineer, he shared that it was in the work plan for ARDOT. However, the exact timeline of it is not as assured. My understanding is that the earliest it would be is mid to late 2022 before it would begin.

Council Member Turk: That's relatively soon.

Mayor Jordan: I have been working on this project for quite a while. We are moving that along as quickly as we can. The double roundabout is going to open up that whole south end in many different ways. It will address a lot of that 4 way stop business we got down there by the railroad track. It will promote better access to the hospital and our Regional Park. We will be close to the trail system.

George Ducane, Applicant stated he was available for questions.

Council Member Kinion moved to suspend the rules and go to the second reading. Council Member Jones seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Kinion 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 7-0. Council

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

Assistant City Attorney Blake Pennington read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Ordinance 6495 as Recorded in the office of the City Clerk

VAC-2020-005 (2020 S. Cline Ave./Cline Ave. Row): An ordinance to approve VAC 20-05 for property located at 2020 South Cline Avenue to vacate portions of existing street right-of-way and portions of a general utility easement.

Assistant City Attorney Blake Pennington read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated staff recommends approval. He stated the Planning Commission recommended unanimously to forward to Council for approval.

Gary Denzer, Applicant stated all the existing utilities that were in the utility easement were abandoned because there was no longer a need. He stated they ran new utilities and new easements to serve the structural lab.

Council Member Hertzberg moved to suspend the rules and go to the second reading. Council Member Jones seconded the motion. Upon roll call the motion passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

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

Assistant City Attorney Blake Pennington read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Member Gutierrez was absent during the vote.

Ordinance 6496 as Recorded in the office of the City Clerk

Amend §161.22 Community Services: An ordinance to amend §161.22 **Community Services** by removing Use Unit 18, Gasoline Service Stations and Drive-In/Drive-Through Restaurants from Permitted Uses and adding it to Conditional Uses.

Assistant City Attorney Blake Pennington read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance.

Council Member Hertzberg moved to suspend the rules and go to the second reading. **Council Member Jones** seconded the motion. Upon roll call the motion passed 7-0. **Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty** voting yes. **Council Member Gutierrez** was absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

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

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Scroggin: Do we want to do an Emergency Clause to make this immediate because it would have already taken effect by now?

Blake Pennington, Assistant City Attorney: It would be difficult to justify it from a health and safety standpoint, which is what the Supreme Court requires for an Emergency Clause. I would say, probably not.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Council Members Scroggin, Bunch, Turk, Hertzberg, Jones, Kinion and Petty** voting yes. **Council Member Gutierrez** was absent during the vote.

Ordinance 6497 as Recorded in the office of the City Clerk

Amend §31.16 Aldermen, Compensation: An ordinance to amend §31.16 **Aldermen, Compensation** of the *City Code* to allow Council Members to participate in participant-paid dental and vision insurance plans and to receive city-paid life insurance of \$15,000.00 and the AD&D Municipal League insurance.

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Kinion gave a brief description of the ordinance.

Council Member Scroggin: Is the \$15,000 life insurance already included?

Missy Cole, HR Director: The \$15,000 is not included. That's being added.

Council Member Scroggin: What does that cost the city?

Missy Cole: It is \$2.40 per month, per Council Member.

Mayor Jordan: We can afford it.

Council Member Kinion moved to suspend the rules and go to the second reading. Council Member Hertzberg seconded the motion. Upon roll call the motion passed 6-0. Council Members Scroggin, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Members Bunch and Gutierrez were absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Council Member Hertzberg 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 6-0. Council Members Scroggin, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Members Bunch and Gutierrez were absent during the vote.

Assistant City Attorney Blake Pennington read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Council Members Scroggin, Turk, Hertzberg, Jones, Kinion and Petty voting yes. Council Members Bunch and Gutierrez was absent during the vote.

Ordinance 6498 as Recorded in the office of the City Clerk

Announcements:

Council Member Turk thanked Council Member Petty for his dedication and service for 13 years to the city. She stated she has learned a great deal from him and wished him all the best in his new ventures.

Council Member Petty: Thank you.

Mayor Jordan stated this will be Council Member Matthew Petty's last evening with us as a Council Member. He spoke about Council Member Petty's service and many contributions to the City of Fayetteville. He stated his service over the past 13 years has helped make Fayetteville a great place to live and work. Mayor Jordan thanked him for his dedication to the people of Fayetteville. He stated it has been his privilege to work with Council Member Petty on making the city a better place for everyone.

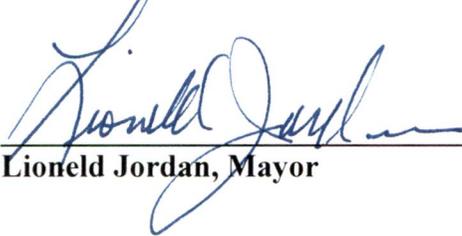
Council Member Petty: Thank you.

City Council Agenda Session Presentations:

Agenda Session Presentation - Annual Airport Update, Summer Fallen.

City Council Tour:

Adjournment: 8:59 PM


Lioneld Jordan, Mayor


Kara Paxton, City Clerk Treasurer

