

Council Member Sonia Harvey
Ward 1 Position 1

Council Member D'Andre Jones
Ward 1 Position 2

Council Member Mark Kinion
Ward 2 Position 1

Vacant
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
November 2, 2021**

A meeting of the Fayetteville City Council was held on November 2, 2021 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

In order to create social distancing due to the Coronavirus, COVID-19 pandemic, Council Members Sonia Harvey, Mark Kinion, 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, 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.

Council Member Jones was absent during Roll Call and arrived a few minutes after Unfinished Business had begun.

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports, and Discussion Items:

Monthly Financial Report

Paul Becker, Chief Financial Officer gave a summary of the Monthly Financial Report. He stated the city was up 10.8% compared to prior year and the county was up 19%. He stated that puts us at about 15 ½ % up, compared to last year. He stated our budget numbers are very good. He stated retail trade on the internet was up 10%. He stated accommodations and food services were up 25% for the period. He stated that helped carry our sales tax to where it was, which was very strong for the month of September. He stated franchise fees are up in the 3% range and alcoholic beverages are up over 20%. He stated building permits are up about 18%. He stated charges for services are flat. He stated interest rates are down over 30%. He stated court fees and fines are down 25%, however that's far offset by the total revenue coming in from other sources. He stated all in all, we're up 13% compared to prior year of total revenue in the General Fund. He spoke about the street half cent sales tax and wholesale gas taxes. He spoke about the parking fund and HMR taxes. He spoke about Recycling & Trash and Water & Sewer billings. He spoke about Airport revenue. He stated things look very positive heading into the final quarter of the year.

Agenda Additions: None

Consent:

Approval of the October 19, 2021 City Council Meeting Minutes.

APPROVED

Midland Industrial Services, LLC: A resolution to approve a Change Order to the contract with Midland Industrial Services, LLC for additional services on the Noland Water Resource Recovery Facility Electrical Upgrade Project in the amount of \$1,920.44.

Resolution 259-21 as recorded in the office of the City Clerk

Budget Adjustment for Water Purchases: A resolution to approve a budget adjustment in the amount of \$1,000,000.00 for the purchased water account due to increased water usage.

Resolution 260-21 as recorded in the office of the City Clerk

Environmental Consulting Operations, Inc.: A resolution to approve Amendment No. 8 to the contract with Environmental Consulting Operations, Inc. in the amount of \$65,500.00 for wetlands mitigation site monitoring and management in 2022.

Resolution 261-21 as recorded in the office of the City Clerk

Washington Water Authority: A resolution to approve an agreement with Washington Water Authority to provide customer usage information.

Resolution 262-21 as recorded in the office of the City Clerk

Bid #21-64 Bertrem Products, Inc.: A resolution to award Bid #21-64 and authorize the purchase of a water pump for the Noland Water Resource Recovery Facility from Bertrem Products, Inc. in the amount of \$38,528.45 plus applicable taxes.

Resolution 263-21 as recorded in the office of the City Clerk

Pinnacle Ozone Solutions, LLC: A resolution to approve a one year renewal of the Ozone Equipment Service Contract with Pinnacle Ozone Solutions, LLC in an amount not to exceed \$24,920.00 for the ozone disinfection system at the Noland Water Resource Recovery Facility.

Resolution 264-21 as recorded in the office of the City Clerk

Bid #21-36 Aracrebs II, LLC d/b/a Elite Building Solutions: A resolution to award Bid #21-36 and authorize a one year contract with Aracrebs II, LLC d/b/a Elite Building Solutions for HVAC services on an on-call basis with automatic renewals for up to four additional years.

Resolution 265-21 as recorded in the office of the City Clerk

Bid # 21-72 Comfort Systems USA (Arkansas): A resolution to award Bid No. 21-72 and authorize a contract with comfort systems USA (Arkansas), Inc. for plumbing services on an on-call basis for a term of one year with automatic renewals for up to four additional one year terms.

Resolution 266-21 as recorded in the office of the City Clerk

2021 Arkansas Department of Environmental Quality Grant: A resolution to authorize acceptance of a 2021 Arkansas Department of Environmental Quality Grant through the Boston Mountain Solid Waste District in the amount of \$8,000.00 for the purchase of recycling dollies, and to approve a budget adjustment.

Resolution 267-21 as recorded in the office of the City Clerk

Arkansas Department of Transportation: A resolution to approve a budget adjustment in the amount of \$31,575.16 recognizing revenue from Walk On Properties, LLC, and to authorize a payment to the Arkansas Department of Transportation in the amount of \$31,575.16 for construction of a 400 foot section of the Shiloh Trail.

Resolution 268-21 as recorded in the office of the City Clerk

Additional 100LL Fuel Request: A resolution to approve a budget adjustment in the amount of \$60,000.00 for the purchase of additional 100LL fuel through the end of 2021.

Resolution 269-21 as recorded in the office of the City Clerk

2021 Justice Assistance Grant: A resolution to authorize acceptance of a 2021 Justice Assistance Grant in the total amount of \$54,909.00 which will be used to purchase law enforcement training and equipment for the Fayetteville Police Department and the Washington County Sheriff's Office, and to approve a budget adjustment.

Resolution 270-21 as recorded in the office of the City Clerk

2022 Jail Services Fee Agreement: A resolution to approve the Per Capita Jail Fee Agreement with Washington County for jail services in 2022 in the amount of \$76,421.40.

Resolution 271-21 as recorded in the office of the City Clerk

2021 Bulletproof Vest Partnership Program: A resolution to authorize acceptance of a matching grant award from the 2021 Bulletproof Vest Partnership Program in the amount of \$11,999.70 for the replacement of body armor vests and outfitting new officers for Fayetteville Police Officers, and to approve a budget adjustment.

Resolution 272-21 as recorded in the office of the City Clerk

Fleet Office Expansion Project: A resolution to approve a budget adjustment reappropriating funds in the amount of \$10,000.00 from the Fleet Shop Expansion Project to the Fleet Office Expansion Project.

Resolution 273-21 as recorded in the office of the City Clerk

Additional Fleet Fuel Purchase: A resolution to approve a budget adjustment in the amount of \$117,000.00 for the purchase of additional Fleet fuel through the end of 2021.

Resolution 274-21 as recorded in the office of the City Clerk

TIPS Cooperative Purchasing Contract: A resolution to authorize the purchase of video security networking equipment, software, and services from authorized resellers, pursuant to a TIPS Cooperative Purchasing Contract, on an as needed basis through July 31, 2024 and any future renewal periods.

Resolution 275-21 as recorded in the office of the City Clerk

Nelson Byrd Woltz, LLC Change Order No. 5: A resolution to approve Change Order No. 5 to the contract with Nelson Byrd Woltz, LLC in the amount of \$395,009.00 to provide professional landscape architecture services for the early package of the Upper Ramble and additional construction administration services for the Lower Ramble in the Cultural Arts Corridor Bond Project, and to approve a budget adjustment.

Resolution 276-21 as recorded in the office of the City Clerk

Council Member Bunch moved to accept the Consent Agenda as read. Council Member Harvey seconded the motion. Upon roll call the motion passed 6-0. Council Members Bunch, Turk, Hertzberg, Harvey, Kinion, and Scroggin voting yes. Council Member Jones was absent during the vote.

Unfinished Business:

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. *At the October 19, 2021 City Council meeting this item was left on the First Reading.*

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

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He spoke briefly about the City Council tour of the property. He spoke about a Neighborhood Master Plan and proposed house designs. He stated a lot of municipalities ability to regulate single family home design was preempted by the State of Arkansas a few years ago and we have very limited capacity to dictate or set standards for what single family homes can look like. He stated we have received some public comments since the last meeting, and they were in favor of the request but had concerns about the city's infrastructure keeping up with the growth in this area. He stated staff is in favor of the request. He stated the Planning Commission unanimously forwarded the item to City Council recommending approval.

The City Council received two public comments regarding this ordinance.

Council Member Jones stated he had the opportunity of touring on Happy Hollow and talking with the residents. He stated their concerns are legitimate. He briefly read a citizen letter from Beverly Larry who had concerns about the proposed rezoning.

Council Member Bunch: There was a lot of discussion that went on in Rolling Hills. The Mayor and some of the city staff were present at those meetings. I believe there was a misstatement made by someone that they thought the neighbors had to get together and have 70% of the neighborhood agree to have a stop sign and that's not the case. We can put a stop sign, but we need to do a traffic study. If the speed tables aren't working, then maybe we need to reevaluate the speed tables. Stop signs are usually put on streets where the traffic is a similar volume on each street. If we put stop signs everywhere to try and slow down traffic, then people don't pay attention to the stop signs. I understand the exasperation of people in the neighborhood and feeling like you can't get the right person or the right information at the right time to answer your questions. We can look at this in a

different approach, than just to say we don't want this development, or we don't want any rezoning. What is it zoned now?

Jonathan Curth: RSF-4, which is Residential Single Family four units per acre.

Council Member Bunch: Someone could build a very large home there, instead of four smaller homes. They could cut down every tree on the lot and just build one home. We need to work with our citizens and work at educating them on the way things happen in the city.

Council Member Kinion spoke about being very familiar with the property. He stated change is inevitable and it would be nice if it were preserved as he remembered back in the 60s, but it isn't. He stated he will support this with caution. He stated we must keep an eye on traffic and safety. He stated as we move forward, he predicts there will be a strong neighborhood association develop. He stated as it is being improved and developed, there can be a voice to protect the safety and the other things that are important to this neighborhood. He stated he will be supporting this.

Council Member Scroggin: At .51 acres, would we be able to build two houses and two ADU's?

Jonathan Curth: From the survey I've seen that the applicant submitted with their theoretical lot split, it does appear they could split it into two lots. It would allow two houses and two ADU's.

Council Member Scroggin: We're basically at four now. In that case, it would almost be more like multifamily because you have somebody in the front and then they're probably renting it out to somebody in the back. There's some hatred of multifamily and that somehow people who live in multifamily just aren't as family as other people. I really have issues with that, especially on something we're going from single family to single family. That argument wouldn't even hold here. This is a reasonable increase, given the fact we could do two ADU's. I don't think we would build four houses and four ADU's. That would almost be impossible to fit there. We have a massive housing crisis. When I look at the price of houses around here, it is mind blowing. It's not because the houses we are building now are expensive and it's causing all the houses to be expensive, there's just so many people that want to move here. We don't have enough supply to meet the demand. When I see us going from basically two units to four units or in this case four to four depending on how you slice it, this seems like a reasonable increase. These new houses aren't driving house prices. People say we want to build affordable, but you just have to build houses. I would love to save the trees, but we can put one house here and take down every tree. Unfortunately, that happens. I'll be in support of this.

Council Member Bunch: Council Member Scroggin brings up a good point about the ADU's, but it's my understanding if they divide it into two lots, they could build two houses and two ADU's in the back. Couldn't they also have an attached ADU?

Jonathan Curth: Under the current Accessory Dwelling Unit ordinance, you have 1,200 square feet to play with, which could be split between one attached ADU, one detached ADU or one at 600 square feet each.

Council Member Turk: I went on the tour yesterday. Thank you to everybody for coming out and voicing their perspective. It was enlightening because this neighborhood has kind of been forgotten. We need to pay some attention to it, irrespective of this rezoning. I looked at the lots, talked to the developer, and what they proposed. This is too dense. I would be much more in support of RSF-8. RSF-18 is too much for this neighborhood because it is very modest. It's incompatible and will change the character of that neighborhood. I will not be supporting this development. It's too much for this neighborhood, at this time.

Council Member Jones: I appreciate the residents of Happy Hollow advocating for their street. The speeding, stormwater issues and connectivity are all challenges. I'm hoping we are able to address these issues sooner, rather than later. This is complex for me because the residents have spoken out, but there is a housing crisis here and that can't be denied. I believe there is an opportunity for the city to take a closer look at the needs of Happy Hollow and create an opportunity for additional housing. Because we're needing more housing, I'm inclined to support this, but I'm wanting to make sure moving forward the residents of Happy Hollow don't feel they're forgotten. This is the perfect opportunity for us to make sure they have the resources for these challenges and to address them as quickly as possible.

Council Member Bunch: There's a 1,000 foot gap in the sidewalk. Correct?

Jonathan Curth: Yes, to the north on Happy Hollow.

Council Member Bunch: What would that gap be filling in?

Jonathan Curth stated there's a subdivision to the north. He stated there was sidewalk installed with that on the west side of Happy Hollow. He spoke briefly about the sidewalk connectivity in the area.

Council Member Bunch: It would give people a better way to get to the park and to the extended part of the trail system. Would it help with kids going to school and things like that?

Jonathan Curth: I can't speak to it. That is a fair distance. I don't know how many people would be comfortable with their kids walking to school that far.

Council Member Bunch: I don't like the idea of having something over here that you might want to go to, but you can't get to because of 1,000 feet of sidewalk or you have to maneuver around or go along the road. That is something that really concerns me. One of the things that was brought up at the meeting yesterday and I've tried to do research on, is how do you develop a master plan for your neighborhood? I talked with staff about some of the different plans we have and how much work had gone into them. Some are less intensive, and some are more intensive. If people are going to talk about having a master plan for their neighborhood, we need to know and see if we need to work that out with them somehow. That's going to take a lot of organization from the neighborhood. I don't want them to lose hope that they can never get that, but they're just getting started with being organized. I would encourage that neighborhood to continue with their efforts, continue to organize and find out what they want for their neighborhood. It will give the neighborhood much more focus.

Council Member Harvey: Would this neighborhood be included if we did the Walker Park Master Plan or is this too far east?

Jonathan Curth: It falls outside the Walker Park plan area.

Council Member Harvey: What kind of plan would it fall into or would it have to be a new plan?

Jonathan Curth: Something like this would be a new plan. That can take a lot of different shapes. Walker Park is one of the more intensive ones the city has ever done. That covered a very large area of land. Some on the Council may recall there was a much smaller scale one that was done, south of 15th Street. Council Member Bunch is on point that the first question is, what does the neighborhood want for itself. It may be something that a plan, zoning or the city's tools that are available can address. It could be possible it could be things that could be addressed under currently available resources if it is a question of traffic calming. Defining more what the neighborhoods interest are is the first step to figuring out what the city could do to support them.

Council Member Harvey: We recently changed the tree requirements. What will be the tree requirements, currently, and what will they be with 18?

Jonathan Curth: Under RSF-4 currently, it is a 25% minimum tree canopy requirement. I think a portion of this property is in the HHOD. It increases that minimum by 5%, but if it were rezoned, that changes it from a 25% canopy to 30% minimum canopy. Depending on the level of development on it, I know the Council is used to thinking in terms of single family and two family versus everything else. Our tree preservation standards now are based more on the amount of impervious area proposed like driveways, rooftops and things of that nature. It could be that tree preservation requirements do kick in, as low as 6,000 square feet of imperviousness on the property, which I cannot comfortably say whether that would or would not be the case here, but with four homes and associated driveways, it's a possibility.

Council Member Bunch: When I was growing up, we had a driveway that had two strips of concrete and then it was just grass and gravel in the middle. It's kind of an old fashioned driveway and not paving the entire driveway. There are products where you put in the ground that give some support underneath, so you're not just parking on mud, but they also allow the water to drain down into the ground, instead of running off. If we work with people and developers, there's ways that we can cut down on that impervious surface. Maybe not from rooftops, but as far as paved areas, I think we can work on that a little bit.

Jonathan Curth: The way the Stormwater ordinance was revised was intended to incentivize less imperviousness. The more impact you're having, the more you have to do as a developer.

Council Member Jones: What's the process of addressing traffic calming and sidewalks because that's the biggest issue. That's one of the issues that both sides agree on. I would like to know how soon we can get that moving.

Mayor Jordan: We have a Street Committee that meets every two weeks. There was a lot of times we would bring neighborhood issues to the Street Committee. A lot of times the neighborhood

would come in and speak to the Street Committee. You have the Water & Sewer Committee that looks at a lot of the drainage issues. There's a lot of things in place. The Street Committee also looked at traffic calming. It is called the Transportation Committee now. We look at these kinds of issues, such as stops signs and sidewalks. These needs are brought to the Council Members and there's a Council Member from each Ward on the Transportation Committee that can voice their concerns. When they vote on sidewalks, stop signs or traffic calming, that's when the Transportation Committee gets active. So, it's not like there's not a process for people to be heard.

Council Member Kinion 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 Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance failed 4-3. Council Members Bunch, Hertzberg, Kinion and Scroggin voting yes. Council Members Turk, Harvey and Jones voting no. Mayor Jordan chose to not vote.

Mayor Jordan: I want to change my vote. I want to vote yes on the rezoning. I want to reconsider my vote.

City Attorney Kit Williams: We need to make a motion to reconsider.

Council Member Kinion moved to reconsider the motion. Council Member Hertzberg seconded the motion. Upon roll call the motion passed 6-1. Council Members Bunch, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes. Council Member Turk voting no.

City Attorney Kit Williams: The motion has now been reconsidered. We are right back to where we were before we voted. We would need to do a whole revote.

Mayor Jordan: There is a process the neighborhood can go through to get before this Council. After a little bit of thought, the process is there. It's not like they're not ever going to be heard. We have a housing shortage in this city that we are going to have to address. This is appropriate infill. I normally don't vote against the Council Members from the Ward, but I believe in this instance I'm going to reconsider my vote.

City Attorney Kit Williams: This vote will be a vote on whether the ordinance passes or fails to rezone the property.

Council Member Bunch: A yes vote, is a rezone. A no vote, is not to rezone.

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

Ordinance 6499 as Recorded in the office of the City Clerk

New Business:

RZN-2021-070 (796 N. 54th Ave./PBS Properties): An ordinance to rezone that property described in rezoning petition RZN 21-070 located at 796 North 54th Avenue for approximately 1.01 acres from R-A, Residential Agricultural and RSF-4, Residential Single family, 4 units per acre to RMF-6, Residential Multi-Family, 6 units per acre.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated staff recommends in favor of the request. He stated the Planning Commission forwarded the item to Council recommending approval with a vote of 8 to 1. He stated staff has not received any public comment. He stated as a follow up on an item that came up at Agenda Session, there was a question about Clevenger Drive. He stated running east to west and serving the duplexes to the south and east of this property, the ownership of the property for both this request and those duplexes is the same. He stated it is the same owner for both. He stated there is not a conflict or concern with the ability to access Clevenger Drive if this property is redeveloped.

Paul Schmidt, Applicant stated he was available for questions.

Council Member Turk: Jonathan, I am looking at the packet and I don't see any graphics that show this is in the floodplain. Do you have something you could put on the screen for us to see?

Jonathan Curth brought up the graphic on the screen and stated this is basically the same view as the aerial I showed you previously. On the graphic he pointed to 796 North 54th Avenue and the blue, you see, is the 100 year flood plain associated with Owl Cree. He stated the orange is the 500 year flood plain and the hashing is the floodway for Owl Creek.

Council Member Turk: Thank you. Could you talk about the existing footprint that's on there right now and what an RMF-6 could possibly increase the footprint. It would be nice to contrast what's possible with this rezoning compared to what is right now.

Jonathan Curth: With the way the property is today, it's just over an acre. The RMF-6 zoning district wouldn't allow a theoretical additional two units. Those could be in the form of duplexes, like what you see to the south and east. It depends, too, if the applicant intends on keeping the existing single family home there, so that makes it a little bit more difficult to speculate without knowing what their plans are for that. It could make a difference on what could be done with the property. If the property were to have all structures on it removed today, the zoning would allow up to six units on the property.

The City Council received one public comment regarding this 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 Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes.

City Attorney Kit Williams 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 Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes.

City Attorney Kit Williams read the ordinance.

Council Member Turk: There's been an International Climate Change conference going on this past week. At some point, we've got to say we can't build in the floodplain because this is what's going to happen with the predictions of climate change in our area. I'm not going to support this. It's not that it's incompatible with the neighborhood because obviously there's a lot of RMF-6 already there, but because it is in that flood area. We're going to have to address that and I'm going to start now by not supporting any new development within a floodplain.

Council Member Kinion: There's five things mentioned in this proposal that I had to consider. First of all, part of it is in the Hillside Overlay. The fact that it's in a floodplain is a real concern for me. The hydric soils, it's going to be important that there is really good engineering and that is a concern to me. I would like to support the staff and the Commission, but on this I'm not going to support it.

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

Ordinance 6500 as Recorded in the office of the City Clerk

RZN-2021-072 (3220 W. Old Farmington Rd./Stricklin): An ordinance to rezone that property described in rezoning petition RZN 21-072 located at 3220 West Old Farmington Road for approximately 20.40 acres from R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre to RSF-8, Residential Single Family, 8 units per acre.

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. He stated the Planning Commission unanimously agreed and they felt the access to services, amenities and the size of the property offset their concerns about the developments impact on natural features. He stated no public comment had been made.

Evan Niehues, Harrison French and Associates stated we did look at some multifamily zonings and eventually it fell on RSF-8, finding that it was with the streamside being there. He stated we have surveyed the streamside. He stated we have no intention to get in there and the floodplain is only within that streamside. He stated the ordinance protects that stream in the flood zone very well. He spoke about working with staff about traffic and flooding. He spoke about a traffic study.

Council Member Kinion: When this was rezoned back in 2004, attached with the rezoning was a Bill of Assurance. Could you tell me about that?

Jonathan Curth: I am not familiar with a Bill of Assurance for this property. Everything I've seen shows it was used agriculturally before it was annexed into the city and has been used for single family.

Council Member Kinion: I might have messed up when I was looking on the GIS map. So, I accept that. Thanks.

Council Member Harvey: I don't want to rush this, but I don't hear any opposition. It is new on the agenda. Is it possible we could leave it on this reading?

Mayor Jordan: Is that in Ward 1?

Council Member Harvey: Yes.

Council Member Turk: I am fine with holding it.

This ordinance was left on the First Reading.

RZN-2021-071 (710 S. College Ave./Cedarwood Group): An ordinance to rezone that property described in rezoning petition RZN 21-071 located at 710 South College Avenue for approximately 0.31 acres from NC, Neighborhood Conservation to DG, Downtown General.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated staff recommends in favor of the request. He stated the Planning Commission forwarded it to Council in favor of the request with a vote of 8-0. He stated one Commissioner recused. He stated there was no public comment at the Planning Commission, but prior to that, a nearby neighbor to the south had written in to express their support for the request.

Lucas Cooper, Applicant stated he is an owning member of Cedarwood Group. He stated he is looking to take an abandoned building that has set vacant for years and bring new life to it. He stated we are wanting to leave the existing building structure the way it is and beautify it.

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

City Attorney Kit Williams read the ordinance.

Council Member Turk: I'm looking back and forth between Downtown General and Neighborhood Conservation and many of the items are the same, but Neighborhood Conservation

is three stories and Downtown General is five. I'm encouraged by the applicant wanting to brighten up the current building, but I'm curious why they can't do that right now with Neighborhood Conservation. Jonathan, could you speak to any differences and permitted uses between Neighborhood Conservation and Downtown General.

Jonathan Curth: The biggest consideration is a nuance of the Neighborhood Conservation zoning district when it comes to nonresidential uses. There are no nonresidential uses allowed by right in Neighborhood Conservation. There is what we call Use Unit 12A, which is Limited Business, and that is a Conditional Use in Neighborhood Conservation where a property owner can petition the Planning Commission for a Conditional Use Permit to operate in certain building sizes for certain uses. The biggest limitation is that some of the uses allowed are capped at, I believe 1,500 square feet and the existing building on this property according to the county records is 1,800 square feet. By right, immediately the property owner would not be able to use it for some of the service oriented aspects under limited business things. Salons and barbershops would not be allowed in that building if it is over 1,500 square feet.

Council Member Turk: Thank you so much for clearing up that nuance difference. That is really important.

Council Member Harvey: This is my neighborhood. I live around the corner and see that building. I would love to see some businesses in the neighborhood. It's just across the street from the park. That building is an eyesore. I'd love for people to be able to have some services to walk too. I'll be supporting this.

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

City Attorney Kit Williams read the ordinance.

Council Member Harvey: How this is really different from the other ones we've seen is that we're not talking about a hillside, we're not talking about a 100 year floodplain area. We're not talking about an area that has ditches. This is a good area for some development and some growth. I'm excited about it.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Council Members Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes.

Ordinance 6501 as Recorded in the office of the City Clerk

Amend §34.23 Purchases and Contracts Not In Excess of \$20,000.00: An ordinance to amend §34.23 **Purchases and Contracts Not In Excess of \$20,000.00** to increase the competitive bidding threshold for goods and services to \$35,000.00 and to enact §34.24 **Contracts For Public Improvements Not In Excess of \$50,000.00.**

City Attorney Kit Williams read the ordinance.

Andrea Foren, Purchasing Manager gave a brief description of the ordinance. She stated Section 34.23 increases the threshold to \$35,000 for goods and services and increases the quotation limit up to \$5,000. She stated it adds language to the Mayor to authorize a representative to execute contracts, not in excess of \$35,000 and it exempts items from quotes, competitive bids or sole source that meets State law requirements. She stated Section 34.24 increases public improvement projects to \$50,000. She stated this modification is similar to thresholds existing for the City of Little Rock. She stated the City of Springdale and City of Bentonville have both increased their thresholds as well.

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

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 Jones** seconded the motion. Upon roll call the motion passed 7-0. **Council Members Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin** voting yes.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. **Council Members Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin** voting yes.

Ordinance 6502 as Recorded in the office of the City Clerk

Amend §118.01 Applicability and §163.18 Short-Term Rentals: An ordinance to amend §118.01 **Applicability** of the *Fayetteville City Code* and §163.18 **Short-Term Rentals** of the *Unified Development code* to extend the Short-Term Rental start-up period from six months to nine months.

City Attorney Kit Williams read the ordinance.

Jonathan Curth, Development Services Director gave a brief description of the ordinance. He stated what he is proposing tonight is an approval of a three month extension to what was adopted as a six month startup period. He stated this would extend that through February 21st. He stated this will hopefully see all the existing permits approved that meet their life safety inspections and have their appropriate documentation. He stated it will hopefully afford the opportunity for other Short Term Rentals, that preliminary numbers suggested are operating in Fayetteville close to 600 in total and afford them the opportunity to submit their applications. He stated this will bring them above board, prior to the ordinance going into effect and there being potential for having to take enforcement actions on them.

Mayor Jordan: This is an ordinance, which basically extends the startup period from six months to nine.

Council Member Turk: Jonathan, we talked about trying to get the word out a little bit more. Have you discussed that, or do you have any strategies? It would be disappointing to be in the same situation in three more months, where we don't have very many Type 1 or Type 2's coming forward, and they have to go through the Planning Commission and get a CUP.

Jonathan Curth: I followed up with the planner who is managing this project, previously. They had reached out to the larger organizations, such as Airbnb, Vrbo, in an effort to utilize them as a platform to inform their customers to notify them. Their responses were fairly boilerplate, unfortunately. They noted that they make sure their people using their platform are required to meet local standards. I want to pursue a more aggressive public notification standpoint, whether that's through the city's social media website or otherwise. We did want to see what the Council did tonight before we did give advice on whether they would have until February or whether they need to be thinking about that in the near term. I plan on pursuing that line of questioning on the platforms.

Council Member Turk: Thank you for following up on that. It's a bit disappointing because that would have been a great way to make sure the word got out.

Council Member Hertzberg: I'd like to propose we leave it on the First Reading, so we can talk about it again and maybe that could increase awareness.

City Attorney Kit Williams: Before the City Council leaves it on the First reading, they should realize that the six month period of time is going to expire this month. Even though I think that I can make a good argument this is an ordinance that will take effect immediately, even though it's amending the code, which usually means it's 31 days before it takes effect. If you want to extend this startup period of time, it would be better to do it tonight, but if you want to do it you'll have to do it this month before the current period expires or else it's going to cause a big bureaucratic problem for the Planning Department to try to get this done.

Mayor Jordan: I still have the option to call on a Special City Council meeting before the end of the month.

Council Member Bunch: If we were to table this, how exactly are we going to get the word out? What is that going to entail if we table it? I don't know what that's going to be, and I don't know that we really need to table it.

Council Member Hertzberg: I just think that if it's on the agenda longer, some people who might not be here tonight, might look at the next Council meetings agenda. It might help.

Mayor Jordan requested to know what the timeline was.

City Attorney Kit Williams: We have another regularly scheduled meeting before this expires. The reason I think it can be taking effect immediately is that, even though it looks like it's

permanent in effect, a startup date is always a single thing that happens, and then after that it occurred, even though it's still in the code, it's not effective anymore. That would be my argument to say, it's effective immediately. I'd be more comfortable the sooner we did it, the better, but that's a reasonable argument to say, it will be effective immediately without an Emergency Clause.

Mayor Jordan: Is the time up?

Susan Norton, Chief of Staff: The next City Council meeting will be the 16th and the time expires on November 21st.

Council Member Hertzberg: I will personally move it forward at the next City Council meeting.

This ordinance was left on the First Reading.

Ward Two, Position Two Vacancy: A resolution to call a Special Election to fill a vacancy of the City Council Member for Ward 2, Position 2 of the City of Fayetteville.

City Attorney Kit Williams: We've had to face this issue once before when a Council Member resigned from his position. The State law gives the City Council two options. One option is to call for a Special Election. There are provisions saying when and where that's going to have to be and the procedures for that. The other option would be for the City Council to elect a new City Council Member themselves to serve out the remainder of Council Member Petty's term, which is somewhat over three years from now. As I stated in my memo of October 25th to you, the first thing you probably need to do is select your option. There would need to be a motion from a Council Member to either call for a Special Election, so the citizens have a right to vote to select a new Council Member or to make a motion to have the City Council Members elect the Council Member replacement themselves.

Council Member Scroggin: While some of the people I've seen are absolutely wonderful, with three years ahead of us, the citizens need to have a vote on that. I hope some of the people that sent their resumes, throw their hat in and run for an election. The citizens need to have a say.

Council Member Bunch: I agree with Council Member Scroggin. We have received letters of interest from some really spectacular people. Since we're getting ready to go into budgeting, I wish we had the option of putting someone in the position, so we would have at least two voices from Ward 2 and then still have the Special Election, but that's not possible. I'm in favor of the Special Election.

Mayor Jordan: The public can speak on the topic of whether you would prefer an election or an appointment. This is not a place for campaigning. This is a place for either saying you are in favor of an election or an appointment. Tell us why you are in favor of election or an appointment.

The City Council received one public comment regarding this resolution.

Council Member Jones: What would be the cost of an election? I think Kara sent it out. Kit, what happens if there's a runoff?

City Attorney Kit Williams: We can't give you an exact figure for the cost. A full city wide Special Election has cost between \$16,000 and \$20,000. This is an election that is only in Ward 2. It will be significantly less than a city wide election. I don't think it'll be necessarily a quarter of it, but it might be a third. It would be almost certainly less than \$10,000. There is a possibility of numerous candidates run and then there would have to be a runoff. I would think the cost of the runoff would be very similar to the cost of the Special Election.

Council Member Jones: The Special Election is tentative for February 8th?

City Attorney Kit Williams: Yes.

Council Member Jones: The runoff election would be 30 days after that?

City Attorney Kit Williams: I think it is three weeks after that, 21 days.

Council Member Jones: Where will the voting take place? Will it be in Ward 2 or the courthouse?

City Attorney Kit Williams: I would imagine early voting will be able to be taken place in the courthouse. I think the election on the day of February 8th will be at polling places in Ward 2.

Kara Paxton, City Clerk Treasurer: Regarding the runoff of the last one we have access too at this moment, it was about \$9,137. So, roughly \$10,000 for a Ward runoff.

Council Member Hertzberg: Even though this election might cost quite a bit of money, it's money well spent. This is a three year term we're trying to fill. The Ward 2 residents should have a say in that.

Council Member Kinion moved to have a Special Election. Council Member Scroggin seconded the motion. Upon roll call the motion passed 7-0. Council Members Bunch, Turk, Hertzberg, Harvey, Jones, Kinion and Scroggin voting yes.

City Attorney Kit Williams: Mayor, we have the resolution that's in the packet that calls for the Special Election. Do you want me to read the body of it? You've already read the title.

Mayor Jordan: Yes.

City Attorney Kit Williams read the resolution.

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

Resolution 277-21 as recorded in the office of the City Clerk

Announcements:

Susan Norton, Chief of Staff: Council and the public will recall we've had a vaccine incentive campaign. It closed, as far as the applicability on October 15th. The last day to pick up the money, if you applied before November 1st, is November 5th.

Mayor Jordan: Do you have the numbers? I would like to let the Council know how successful this program has been.

Brad Hardin, Fire Chief: 2,334 was the total number of applications received. The total number that's been paid out is 1,500 so far.

Susan Norton: 1,500 have been paid out. There were some duplicates and there were some that were not eligible. We'll know the final number after this Friday.

City Council Agenda Session Presentations:

Agenda Session Presentation: Economic Development Consulting Contract Update.

Agenda Session Presentation: Entrepreneurship and Innovation Contract Update.

City Council Tour:

Date: November 1, 2021

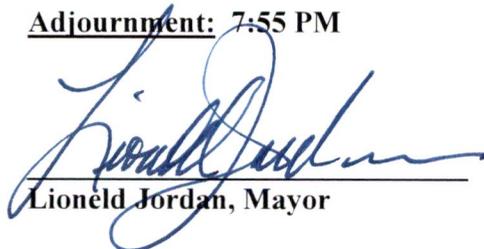
Time: 4:30-5:00 PM

Address: 481 S. Happy Hollow Rd.

Parking: Parking is available on-street along East 5th Street.

Request: Rezone from RSF-4 to RSF-18

Adjournment: 7:55 PM


Lioneld Jordan, Mayor


Kara Paxton, City Clerk Treasurer

