

Council Member Sonia Harvey  
Ward 1 Position 1

Council Member D'Andre Jones  
Ward 1 Position 2

Council Member Mark Kinion  
Ward 2 Position 1

Council Member Mike Wiederkehr  
Ward 2 Position 2



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

Council Member Sloan Scroggin  
Ward 3 Position 1

Council Member Sarah Bunch  
Ward 3 Position 2

Council Member Teresa Turk  
Ward 4 Position 1

Council Member Holly Hertzberg  
Ward 4 Position 2

**City of Fayetteville Arkansas  
City Council Meeting  
November 01, 2022**

**A meeting of the Fayetteville City Council was held on November 01, 2022 at 5:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.**

**Mayor Jordan called the meeting to order.**

**PRESENT: Council Members Sonia Harvey, D'Andre Jones, Mark Kinion, Mike Wiederkehr, Sloan Scroggin, Sarah Bunch, Teresa Turk, Holly Hertzberg, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Treasurer Kara Paxton, Chief of Staff Susan Norton, Chief Financial Officer Paul Becker, Staff, Press and Audience.**

**Council Member Harvey arrived after Roll Call at 5:33 PM. Council Member Bunch arrived after Roll Call at 5:36 PM.**

**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 Sales Tax was very strong and overall, the City was up over 16% for the period. He stated the City was up by thirteen and a half percent compared to last year for Sales Tax and all in all the City was up 11% compared to Budget at that point in time for Revenue. He spoke of how in September

there was talk in regard to what the General Fund budget will look like. He believes the City will recommend \$65 million for the General Fund and it looked like the revenue received would be able to support it. He stated revenues are roughly where he expected them to be when he looked at them in July. He spoke of how the City is up roughly 15% in the Street Fund which was driven primarily by gasoline sales. He stated the Parking Fund was up 12% and fines were minimal at 10% over budget. He stated Water and Sewer was up 9% and 3% of that could be contributed to the increase in rates. He mentioned the Trash and Recycling Department was lagging under budget for most of the year but picked up and was roughly 1% over the budget estimate. He stated fuel at the Airport sales were up over 30% compared to last year. He explained that the economic activity in the City through August was very strong. He mentioned that since there was a Razorback game in Fayetteville on the same date as the Budget Workshop, November 12, 2022, and explained that if the Council wanted to reschedule the date of the workshop to let him know.

There was brief discussion amongst the Council Members regarding what day would work best for rescheduling the Budget Workshop.

**Agenda Additions:** None

**Consent:**

**Approval of the October 4, 2022 City Council Meeting Minutes and the October 18, 2022 City Council Meeting Minutes.**

***APPROVED***

**Samsara, Inc.:** A resolution to approve a Master License, Service Agreement, and Quote from Samsara, Inc. for the purchase of vehicle monitoring equipment and services pursuant to a Sourcewell Cooperative Purchasing Contract on an as needed basis.

***Resolution 249-22 as recorded in the office of the City Clerk***

**Police Department Ammunition State Contract:** A resolution to approve the purchase of ammunition as needed by the Fayetteville Police Department from various manufacturers, pursuant to the State of Arkansas ammunition contract, for an initial term through January 23, 2023 and as renewed by the State each year through January 23, 2029.

***Resolution 250-22 as recorded in the office of the City Clerk***

**Hazmat Revenue from Washington County:** A resolution to approve a budget adjustment in the amount of \$4,169.00 recognizing hazmat services revenue received from Washington County and increasing the related expense budget.

***Resolution 251-22 as recorded in the office of the City Clerk***



**Big Bear Shredding:** A resolution to authorize the destruction of certain records shown on the attached affidavit pursuant to relevant sections of the Arkansas Code related to maintenance and destruction of accounting and other city records.

*Resolution 252-22 as recorded in the office of the City Clerk*

**TSW, Inc., Walker Park Master Plan:** A resolution to authorize a contract with TSW, Inc., pursuant to RFQ 22-01, Selection 10, in the amount of \$94,500.00, to provide master plan design services for Walker Community Park, to approve a project contingency in the amount of \$5,000.00, and to approve a budget adjustment - Park Improvement Bond Project.

*Resolution 253-22 as recorded in the office of the City Clerk*

**Rodney Ryan Park Sidewalk:** A resolution to approve a budget adjustment in the total amount of \$16,615.00 recognizing park land dedication fees from the Southwest Park Quadrant to be used for improvements to Rodney Ryan Park.

*Resolution 254-22 as recorded in the office of the City Clerk*

**Graybar Electric Company, Inc.:** A resolution to approve the purchase of electrical conduit, wire and fittings from Graybar Electric Company, Inc. in the amount of \$42,911.15 plus applicable taxes and freight charges, pursuant to an OMNIA Partners Cooperative Purchasing Contract.

*Resolution 255-22 as recorded in the office of the City Clerk*

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

**Unfinished Business:**

**Amend §118.01 Applicability, §151.01 Definitions and §163.18 Short-Term Rentals:** An ordinance to amend §118.01 **Applicability** of the *Fayetteville City Code*, and §151.01 **Definitions** and §163.18 **Short-Term Rentals** of the *Unified Development Code* to remove the conditional use permit requirement for Type 2 short-term rentals, and to repeal the sunset provision. *At the October 4, 2022 City Council Meeting, this ordinance was left on the First Reading. At the October 18, 2022 City Council Meeting, this ordinance was left on the Second Reading.*

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

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

**Jonathan Curth**, Development Services Director gave a brief description of the ordinance and spoke of workload versus fees, estimated loss of revenue from noncompliant unlicensed Short-Term Rentals, what peer cities and other cities in Arkansas were doing as it related to fees and penalties, what manner of alternative limits could be provided or proposed for the density and concentration of Short-Term Rentals in Fayetteville and recommendations to move forward. Jumping right in with workloads versus fees to start with, there's two processes that Short-Term Rentals currently go through in Fayetteville, particularly Type 2 Rentals, which again are those primarily used as Short-Term Rentals and not permanent residences. The first is a Conditional Use Permit process that goes to our Planning Commission, it includes a \$100 application fee plus five dollars for us to craft a Public Notification sign. There is an estimated five to nine hours of staff time which that \$100 fee does not cover. That wide variability is largely indication of the level of familiarity with many of these applicants with City processes, they certainly take a lot more coaching and support than those that are much more familiar with Development in the City. On the Business Licensing side, there's a \$35 application fee; this does depend if people are late or early in their submittal and then a \$20 Life Safety Inspection that our Building Safety group performs. That does largely cover the staff time, again there is some variability. It depends on the applicant, how well prepared they are for their inspections or for their application. By in large, Business Licenses largely cover staff time and Conditional Use Permits do not. Moving onto Estimated Revenue loss, these are rough numbers. We kind of backed into it by knowing exactly how many licensed Short-Term Rentals we have in Fayetteville and the average amount that's collected monthly in HMR amount which is just shy of \$20,000. There are an approximate 320 unlicensed operators in the Fayetteville area, that's using Airdna data that's been referenced at these meetings before by industry operators. If you were to go and work backwards into those numbers, there's an approximate \$15,000 that's left on the table. As far as peer and Arkansas cities go, looking at first into the licensing perspective, it's not too wide of a range of prices. Most of them are about \$100, at least in Arkansas, ranging upwards to \$500. There's an involved annual inspection, Hot Springs is a notable exception where they do it based on how many people occupy the units up to a maximum of \$400. On a peer city basis, we looked at those outlined in the memo shared with you Fort Collins, Colorado; Asheville, North Carolina and Lawrence, Kansas. They were not too wide of a variability; Lawrence was the \$17 License Fee where they put most of their money in the annual renewals and I think that was part of the philosophy of getting people compliant with a low entry fee but then keeping them compliant with that higher fee. As far as enforcement, that's where the variability became much more significant. There were a large number of cities that depended on a daily penalty similar to Fayetteville where we're at \$250 a day. Some cities did it based on a per violation basis, a lot of cities incorporated the utility disconnection penalty if things became extreme. Outside the state is where we saw some more different approaches to those not observing the standards including the ability for the city to revoke frequent violators ability to operate a particular property or that individual to operate a Short-Term Rental for extended periods of time, including Lawrence, Kansas which had a habitual violator clause which said if you have three licenses revoked you could never operate a Short-Term Rental in the city again. Moving onto the bulkiest part of the conversation; what are other ways we could regulate the concentration or density of Short-Term Rentals in Fayetteville. Those who lived through our first visiting of this Ordinance may recall this was probably one of the most challenging to consider. There's a lot of different metrics that can't be used, a lot of cities have tried a lot of different techniques. Starting at the finest grain at a street or block level, that was considered the most thoroughly the last time Short-Term Rentals were considered and it was found

to be one of the most unworkable or most challenging where an individual could get a license just to hold it out of spite for lack of a better term, to prevent anyone else from operating on their street. There were equity concerns with that. Similarly, not every block or street in Fayetteville is created the same. We have some that are an eighth of a mile long and may have dozens and dozens of units, we have some that are 400 feet long that may have 8 units on it. To have a quota by street block was very difficult. Similarly, in zooming out to the neighborhood level, that was determined to be unworkable for different reasons. Fayetteville, because of its varied history from older neighborhoods to newer ones, doesn't always have clear defined neighborhood boundaries. Some of those are relics I've learned of the University Listserv, when the University of Arkansas used to host a community neighborhood email lists that weren't necessarily defined by historical neighborhood boundaries. That could be done but it's something that would take a long time and to be appropriately done would need to require neighborhood engagement and agency over where they felt their boundaries exist and being and end. Moving up to the highest level by Zoning District, that is perhaps the most workable one. However, it does have some challenges in itself depending on whether the appropriate definition of a cap is based on the number of units in a district or the percent of units City wide that would be allowed in a given District if that makes sense. It depends on the avenue of policy that the Council would see as most appropriate in that application, whether all District's get a percent of the overall allowance or if every individual Zoning District gets a specified number that may or may not be reviewed on a given basis. There was question of reducing the current limit which is 2% of the city's housing units, and that's based on American Community survey data. If you're not familiar with that, it's the subset of census department data that's released annually, of which we've got the most recent numbers just this week. Looking at those numbers, currently, even including the estimates we have on noncompliant Short-Term Rentals, they could all come in under that 2% cap. If that was reduced however, I've heard 1% suggested, that would not allow all of the noncompliant Short-Term Rentals to come into compliance if that was reduced. That is certainly a consideration. Moving onto a proposal that Staff vetted internally, it's an alternative that may be workable and I wanted to touch on it again after mentioning it at Agenda Session, is the potential to keep Conditional Use Permits but do it for Residentially Zoned Districts. The flip side of that would be removing the Conditional Use Permit requirement for Mixed Use or Commercial Zoning Districts like those mostly found in Downtown and along our Corridors. Coupling that would be the adoption of Use Conditions, so Planning Staff and the Planning Commission could consider things other than just general compatibility, which is what they have to consider today. There could be specific considerations for whether there's on street parking, whether there are pedestrian facilities like sidewalks and even if there's existing Short-Term Rentals elsewhere in the immediate vicinity. How that would translate is approximately, we looked at how many Conditional Use Permits have come through at the Planning Commission so far since July when the startup period ended the Planning Commission has considered 80 of those 67 were in Residential Zoning Districts, so it would be able a fifth or less that if the trend continues that would not go to the Planning Commission moving forward. As for the Sunset Clause, Staff does recommend that it be extended for six months. We don't think there's value in losing the entire ordinance that's been crafted at this point but we also have concerns about extending it indefinitely. We want to use that six months to engage proactive compliance and go after the ones we know exist out there that are operating without a license but also solicited input from third party compliance and enforcement groups so we can evaluate which represents the best cost saving for the City. What staff would like to propose for consideration on the 15<sup>th</sup> is the potential adoption of that extension of the Sunset Clause, if there are appropriate

revised fee costs, revised penalties and that last piece I described with the Conditional Use Permit. That would require, since this is the Third Reading, tabling to the November 15<sup>th</sup> meeting. I did want to put that on your radar and I believe that's all I have. I'm happy to take questions.

**Council Member Turk:** Jonathan, could you go back two slides I want to make sure I understood that correctly. 67 of the 80 would still have to go through the Planning Commission, is that correct?

**Jonathan Curth:** Correct. Using the data, we have, which at this point I recognize is still fairly young, yes. 80 – 85% if this trend continues would still be going to the Planning Commission for that full Public Notification and full Public Hearing.

**Council Member Bunch:** I just want to make sure; you're not suggesting that anybody that already has gone through the process and gotten their permit, that this applies to them? If we went with this Zoning, where we're looking at different Zonings, is that going to throw anybody in that Zoning back to starting over again?

**Jonathan Curth:** Only if they allowed their license to lapse and they wanted to come back. If they have an existing license you would have it until you allowed it to lapse.

**Council Member Wiederkehr:** I voted no on the Third and Final Reading because I anticipated with tonight's presentation that there would be significant changes to what has been presented to us and that we would have to Table versus have a presentation allow revision to the ordinance and then consider the ordinance. We are on a Third and Final Reading and yet the ordinance is going to be revised as originally submitted, I believe that's correct.

**Jonathan Curth:** Mayor, would you like for me to answer that?

**Mayor Jordan** stated he would like Jonathan to answer the question and briefly spoke of the process for Tabling items that were left on Readings.

**Jonathan Curth:** There are three options. The proposal in front of the Council tonight remains the same one that the Commission forwarded several weeks ago, which is to remove the Conditional Use Permit requirement. There's general acknowledgement that is not something the Council, I can't speak for all of you, but generally there's no interest in removing that requirement. That is one option of course because that's what's on the table. The second option is to amend the Ordinance tonight if you do specific language and you could adopt it. The third would be as Council Member Wiederkehr noted; because it's on the Third Reading it would have to be tabled to the November 15<sup>th</sup> meeting. That is what Staff is encouraging, but we also like concrete feedback on what language we can bring back to you on the 15<sup>th</sup>. Our aspiration has always been to not put the Council in the position where you need to adopt it with an emergency clause. If we can bring back what the Council anticipates seeing by the 15<sup>th</sup>, then it could be adopted that evening and go into effect before the sunset clause enacts in December.

**Council Member Kinion:** It would be absolutely possible for us to extend the sunset clause if it came to that, right?

**Mayor Jordan:** Yes.

**Council Member Kinion:** Or is the date set that it could not be extended?

**City Attorney Kit Williams:** Yes, in case you would not be able to make decisions on those other options that they gave about fees and everything else, you could amend this ordinance just to extend the sunset clause which would then give you enough time. The Staff would have to bring in a new ordinance with their new things they're suggesting, but that would give them plenty of time. When I was drafting this up I went six months from now rather than into June so that if they wanted into June I would change that. You could if you wanted to just extend that and then work on these other items.

**Council Member Kinion:** There's another option that I have in my mind. We don't use our Ordinance Review Committee a lot, but if we have something we have a lot of different ways to look at, we could have a meeting where we could dedicate time specifically to this and look at unintended things that would be in each one of these options.

**City Attorney Kit Williams:** Certainly, that's what the Ordinance Review Committee was created to do. We've looked at this before in Committee. I don't know if it was Ordinance Review Committee or a Special Committee for this that was done, Jonathan?

**Jonathan Curth:** It was Ordinance Review.

**City Attorney Kit Williams:** Okay, so we would be going back. This was a confusing and difficult issue at the start and it has remained.

**Council Member Kinion:** That is exactly why I thought of this. If you'll remember, we didn't have experience with this and went there. There was confusion. Now that we have experience, again we didn't know the unintended consequences. We know some consequences of the way that this would work now that we have experience and again, I'm not on that Committee. The Chairman would have to call it I think. It's a way that we could get through it quicker.

**City Attorney Kit Williams** stated the Ordinance Review Committee could work with Jonathan and the Planning Department so there could be a common agreement. He spoke of how the ordinance would still have to be heard by the Council for final approval.

**Council Member Turk** was concerned about the unlicensed Short-Term Rentals. She was interested in bringing forward ideas at the next City Council meeting or the meeting after that would incentivize the unlicensed Short-Term Rentals to get into compliance. She spoke of how she is not on the Ordinance Review Committee but she would be happy to work with staff to put her ideas out there so that action can be taken.

**Council Member Kinion:** I agree with your sentiment.

**City Attorney Kit Williams:** I would say, not the next meeting though, if you have a meeting in between then, that gives the Ordinance Review Committee at least a chance to look at this and



work with staff. The problem with continuing to the next meeting is there's really no time for that. I would say maybe not the next meeting but the meeting after that there could be some chance for some work.

**Council Member Turk:** Kit, I'm fine with that but then if we pass those penalties, enforcement or compliance techniques then we would have to have an emergency rule, right? So that the sunset clause does not expire?

**City Attorney Kit Williams:** I don't think that's correct. To have an ordinance that is general and permanent, requires a 31 day wait. The original one did; it was general and permanent, at least up to 20 months. This one is specific just for this one ordinance, it's changing one thing in the ordinance. Just extending the suspension date, the sunset clause. It probably would be effective immediately even though it's always safer if you do it in plenty of time so there's no issue about that. It would be effective immediately and so the suspension date would not end everything.

**Jonathan Curth:** Mr. Mayor, may I ask Mr. Williams to clarify a question on that?

**Mayor Jordan:** Yes.

**Jonathan Curth:** Just out of curiosity Mr. Williams, if the Council were to enact additional amendments, not just extend the sunset clause but potentially adding penalties or changing fees, would that still be considered?

**City Attorney Kit Williams:** No, those are substitutive changes. It's not just effecting the effective or ending date, it's substitutive changes so that would require the 31 days.

**Council Member Kinion:** Do we need to make a motion to send it to Ordinance Review Committee? How does that work?

**Mayor Jordan:** You usually just ask the Chair if they want to take it to Ordinance Review, don't you Kit?

**City Attorney Kit Williams:** Yes, you don't have to direct there but the Ordinance Review Committee is on notice that the rest of the council would like you to take a look at it. I don't know if they've even had a meeting this year.

**Council Member Scroggin:** We have not had a meeting; I was the last chair but it's been 18 months. We can set something up but it's not going to be this week.

**City Attorney Kit Williams** stated they could have a meeting after the next council meeting.

**Council Member Scroggin:** Yes, that is something we can make happen.

The City Council received three public comments regarding this ordinance.

**Council Member Harvey** moved to table the item until the December 6, 2022 City Council meeting and sent the ordinance to the Ordinance Review Committee. **Council Member Jones** seconded the motion. Upon roll call the motion passed unanimously.

*This ordinance was tabled to the December 6, 2022 City Council meeting.*

**Reindl Properties, Inc.:** A resolution to authorize Mayor Jordan to sign a Letter of Intent defining development agreement terms with Reindl Properties, Inc. for a public private partnership for construction of the mixed-use building planned to provide ground floor active uses for the Ramble Civic Plaza on the southern end of the site. *At the October 18, 2022 City Council Meeting, this resolution was tabled to the November 1, 2022 City Council Meeting.*

**Susan Norton**, Chief of Staff stated the presenters would focus on parking tonight and that Justin Clay would be the first presenter. She spoke of how she has sent several emails throughout the week and answered questions. She stated once Justin Clay was done Rob Sharp and Brian Reindl would speak.

**Justin Clay**, Parking Manager gave a brief presentation of parking. He stated we have approached 90% overall capacity for parking in the Entertainment District during large events. He used the Walton Arts Center as an example and stated that for 2022, there was 90% utilization in the lot and it filled up 70% of the time when conducting parking for events. He spoke of how the Spring Street Parking Deck's average utilization is around 76% and that it was filled up around 40% of the time. He stated 89 patrons reserved parking for the Walton Arts Center in 2022 and around 72% of those patrons showed up in their reserved spaces. He stated these facilities typically fill up in the evenings on Thursday, Friday and Saturday. He believed we should institute programs that do not add to the demand and that valet parking could mitigate that. He stated there will be 55 open spaces when the Police Department moves and there are 100 spaces in the City's employee parking lot available on the weekends.

**Council Member Turk:** Justin, could you go back a couple of slides? I appreciate the percentages and all the information that you put together, but in the next presentation could you highlight how many spaces are remaining? I know each lot size is different and I couldn't tell if the 549 spaces were the total number of spaces or how that actually stacked up.

**Justin Clay:** I appreciate the question; the 549 spaces represent the total amount of spaces within each of these off street parking facilities. That averages combining them all together.

**Council Member Jones:** Would this be the only hotel in Northwest Arkansas with valet parking?

**Justin Clay:** I don't know. That might be a good question for the developer.

**Susan Norton:** I believe Chung researched that for us, the hotel that's coming in Bentonville.

**Devin Howland**, Director of Economic Vitality: I can speak to one that I know is currently under construction in Downtown Bentonville where they have not broken ground yet, there's been plenty

of articles on it. It's at the intersection of Central and A, just southeast of the Bentonville Square. It is a 135 room hotel that Ropeswing is doing and the parking plan for that is representing 492 spaces that publicly surround that within half a block. There are numerous lots there. As to the hotels that do, I'm sure there are. I can't speak to that but I know there is one that's coming online that is solely relying on that.

**Council Member Jones:** I'm thinking, with Northwest Arkansas and Fayetteville growing at such a fast pace, it's interesting that there is no valet parking being offered at hotels so thank you for sharing that.

**Mayor Jordan:** Devin, there's a hotel coming in that's 100% valet?

**Devin Howland:** There's no plan. There's bicycle parking that's being planned on the side. In regard to their parking plan, it's solely offsite.

**Brian Reindl, Developer:** Mayor and City Council, thank you for considering our hotel project. In August of 2021, the City put out a Request for Proposals and I knew 100% there was going to be a building in front of my building; the Metro District. I decided if there's going to be a building there, maybe I should put a proposal in and maybe it should be me that builds it. I put in a proposal for the hotel and I guess I was naïve, but I didn't think anybody would be against the hotel because we haven't had one in 50 years. Ever since we were selected, all I've heard is parking, parking and more parking. We don't want to be a burden on the Downtown, we don't want to be a burden on the Walton Arts Center and obviously if you're investing \$50 million dollars you want to make sure you have adequate parking for your customers or they won't come back or be happy. We responded to everybody's concerns by reducing the number of rooms from 170 to 134, we also decided to add a layer of onsite parking and then we explained our valet parking plan. I've got some charts, I hope I have time to show them to you guys but if I don't I can send them to you. We're going to submit a logical plan that even during peak demand will not overload the parking system. We have asked Justin Clay, and you can bring him back up here if you want to, but I asked him if he thought the hotel would create an enormous problem for the Downtown parking and his answer was absolutely no if there's an adequate valet parking system put into place. The whole idea of potentially rejecting this project simply because of parking is backward. By that same logic we would have rejected putting the Walton Art's Center Downtown 30 years ago because they would be sucking up 1,000's of parking spaces from the local businesses. We would view every business that leaves town as a net positive because it's good for the Walton Art's Center parking. We would view every business that opens, like the Tin Roof, as a net negative because they would be taking Walton Art's Center parking. Don't we want a vital, active, robust Downtown? When the Walton Art's Center has a large event, they'll use 600 parking spaces from the local businesses. Rather than the City taking the strategy of no new growth Downtown, maybe it's time the Walton Art's Center created some parking strategies of their own and of which we would be willing to work with them with our valet parking to help them. The bottom line is, we don't want to hurt the Walton Arts Center, we don't want to hurt Downtown and we can demonstrate clearly that we will not. This is not based on emotion or feelings; it's based on industry standards and the clear demonstration of how we're going to handle the valet parking. If you disagree, then I need somebody to show me the evidence because we're going to show industry standards. How many people bring a car when they come to a Downtown hotel and then how many people allow you to

valet those cars? We're going to valet them outside of this zone that everybody's worried about. To end this on a positive note, I'm excited about bringing this new awesome and incredible hotel to Downtown Fayetteville. We will provide bathrooms for the park, we will have a restaurant, coffee shop, roof top bar, we'll help activate the park, we'll have eyes on the park to help prevent crime and we'll produce a lot of tax revenue for the City. I know we'll be a positive addition and a fantastic amenity for the City Downtown. Whatever the Council decides tonight, I want to thank the City Staff and the Mayor. They've been a tough customer and they haven't given me anything free or easy, but they've been fair and they've operated in good faith. I think they've represented the City well.

**Council Member Jones:** Brian, thank you for investing in Fayetteville. You made a point and if you could clarify, initially was it 170 or 174 beds?

**Brian Reindl:** Initially we were thinking 170 and now we've cut it to 134. We've added a layer of parking which is no less than 32 spots and it could be as many as 45. It's going to depend on the design.

**Council Member Jones:** From the very start, you've been open to compromising, correct?

**Brian Reindl:** Absolutely.

**Council Member Jones:** That's very admirable, thank you.

**Rob Sharp,** Architect gave a brief slideshow presentation to answer the questions the City Council asked him during the last City Council meeting. He stated they have not selected what brand the hotel will be but he assured Council it would be a high-quality hotel. He spoke with the consultants regarding meeting room capacity and they advised they would need a 200 seat ball room to do the kind of events they wanted and that 4,000 square feet would accommodate that. He stated it was too early to know what the restaurant service schedule would be, but they would work toward complimenting the existing culinary scene. He answered there will be a fitness center but no pool. He explained that there was an exhibit attached showcasing the parking requirements for the building if Fayetteville had parking requirements for commercial buildings. He mentioned that employee parking will be managed by participating in the Downtown Employee Parking System. He stated the valet parking concept would be to move cars from the intense zones to where there's an active supply and he could go through that later if the council needed him to. He stated the City of Fayetteville had design authority over the public restrooms. He stated that Reindl Properties will have their own landscape architect and they would be hired when the civil engineer is hired. He answered the question asked in regards to who will pay to construct the bicycle trail and who will pay for the easements of the trail with the following statement: "Our Letter of Intent, when we got the Request For Proposals from the City, showed the building at the south edge of the park and the bicycle trail constructed on the south edge of the park. One of the key ideas of our proposal was, if you would move your trail, if you'd let Brian sell you the land for the trail against his building, you could make a bigger park and we could move the building to the south and to the west and the Selection Committee thought that that was a good idea so we'd like to keep with that idea." He stated they had not picked a management company to operate the hotel but that it's highly likely they will choose Hospitality America. He mentioned they do not have a contract with

Windsor Aughtry and they would not until they got through the green light period and flushed out the deal more thoroughly. He stated they would create 45 jobs for the hotel portion alone and that does not include the restaurant or coffee shop space. He explained that recycling and trash would be in the unloading facilities are on the west side of the building and well hidden. He briefly spoke of the diagrams showing shade studies of how the hotel would affect The Ramble through a slideshow presentation. He stated that valet parking and micro mobility was the future because structured parking is hard to pay for. He explained that with E-Scooters, E-Bikes and Apps you could extend your valet range to half a mile because you could get the car and go back again in a five-six minute time period. He stated there is no valet parking in Northwest Arkansas yet but that Brian Reindl is going to start the valet company. He continued to describe the excess parking areas they intend to use for the hotel in the presentation that are underutilized.

**Brian Reindl:** If you look at this slide, there's going to be two slides, one of them is looking at average parking usage. We have 134 rooms and at 70% occupancy is what we're saying average, this would be our goal to be 70% occupied, would mean there would be 94 rooms occupied. If you multiple that times 70% that would bring a car, that means there would be 66 cars that would come down on average. Out of the 66 cars, also 70% will let you valet them. That's industry standard. Same thing with the other industry standard where it says 70% occupancy and that 30% of them were going to Uber, that's an industry standard. You take out the 43 cars that'll let us valet them outside of that zone, it leaves you 23 car impact. Peak parking usage is all the rooms are occupied. You got 134 rooms, 70% will bring a car and 30% will Uber, again that gives you 94 cars. 70% will let you valet which is 66 cars which leaves you 28 car impact. We have a 23 or a 28 car impact, not a big impact. You also cannot forget that all those people that are staying with us would've come down and used some parking anyways because they were going to be out on the bypass, on I-49, and they were going to come down to Bordinos or something downtown. Also, don't forget, we didn't even talk about the 32-45 spaces that we're going to provide ourselves.

**Susan Norton:** That is our presentation for tonight. We have a lot of staff here for council questions.

**Council Member Turk:** The information you provided about the cars; I don't believe that's in our packet, can you share that? Can you cite the industry standard reference that you're referring to?

**Brian Reindl:** Windsor Aughtry, our hotel consultants, gave us those numbers.

**Council Member Turk:** Okay. If you could send the link to where that information is because I'd like to find out the quote "industry standard" because those could all be really large cities.

**Brian Reindl:** I specifically asked because they own two hotels; one in Columbia, South Carolina and one in Baton Rouge. Those are the ones we're basing it off of because they're also college towns.

**Council Member Hertzberg:** Are any of those spaces provided by the hotel going to be used for valet or are you valeting out?



**Brian Reindl:** We don't really know what we're going to use those for yet. They're going to be flex spaces because we don't know if there's going to be some more retail. There's been some talk about maybe a yoga studio being there so we're trying to not even include those in the impact.

**Council Member Jones** thanked Brian Reindl for providing details and information.

**Council Member Wiederkehr:** I appreciate the answers as well. I asked the majority of those questions so I don't think I'm interested in wasting your time and I don't think you're interested in wasting mine and I appreciate that. We've got hotel room parking but that next layer to peel back is going to be retail, number of employees, banquet hall dining and things of that nature I would be interested in. But that's just the next layer, the concern I have is we're not accounting for surface spaces you're removing for your existing businesses. No one's going to valet to eating pancakes at my favorite breakfast restaurant so I would hate for you to drive your existing businesses out of business just as well. I'm curious about how we're going to address them. We now have head in parking where we're also, from my experience dining at your facilities, there's a lot of daytime truck delivery activity. The hotel will only increase that. I'm going to be looking for how you're going to sophisticatedly handle those drop offs when those delivery trucks are used to delivering in front. My admonition for staff is going to be we're not spontaneously and voluntarily saying let's move our trail and purchase land from you. I'm not sure we have a Letter of Intent that addresses an appraisal for that land. We have the appraisal for the hotel land and so that's going to be a tricky step for me.

**Susan Norton:** I believe the appraisal was to address any land that traded his.

**Council Member Wiederkehr:** That'll be important because it's in our original scope for this project, or a project not this one, we weren't going to have the cost of relocating our trail and so the expense of doing that is an expense that I'll be very interested in us getting a better fine tuning to. We can't come back to the residents of Fayetteville and say we end up with a wash by the time we trade it.

**Brian Reindl:** Well the trail, we're moving it on my land but then I'm buying land from the City so that's where your money's going to come. You were going to have a trail on your own land, well that land is now going to be sold to me at a premium and then you're going to buy the trail at a premium. When we do the appraisal, we'll do an appraisal for both pieces.

**Council Member Wiederkehr:** The concern for me is the original City proposal didn't necessitate relocating the trail. That's a new expense that was not built in the original idea the City had for a building in that location. I'm wanting to raise that as a point, the others are handling deliveries but I'd rather you not address that tonight I'd rather you and your architect have an opportunity to look at that as a completely separate issue from valet parking. You're handling the valet parking issue very well, I'm looking for the other parking demands to make sure we don't forget.

**Brian Reindl:** As far as the restaurant, the coffee shop and the roof top bar; we were thinking that we would be treated like anybody else. If somebody else wanted to open up a coffee shop they would be able to open up a coffee shop. If somebody else wanted to open up a bar, they would open a bar. The customers and the employees would participate in the downtown city parking as

it is and then the employee parking system that we have in place. We were looking at it as two different things; One of them is the hotel, that was the one I was trying to focus on and say let's take care of this so you're comfortable with the amount of parking that we're going to be using. The other one is just, hey we're opening up a coffee shop, a rooftop bar or a restaurant. Why would we be treated differently than anybody else?

**Rob Sharp:** On the terms of the bicycle trail and terms of whose building and who was going to pay for it, the Request for Proposals we received from the committee showed this bypass trail. Showed it being built. Showed it on City land. This is not a new expense we're adding to the books, this was already on the books. This is a relocation of an expense the City's already allocated, the only difference is it's in a superior location because it allows a bigger park. In terms of the access in loading, if we could go through the Exhibit that's in your packet, we can go through the detail. We could do the Tech Plat Review which is better. The loading will work, the trash will work, there will be fire rescue areas that will meet the code. All these details have been thought through and the reason is because Mr. Reindl's been down there for 20 years dealing with parking and trash. He knows how difficult it is and this building used to be an industrial facility, it had loading docks on three sides. We know how to move things in and out of that spot. If people want to look at worst case scenario tractor trailer, we have those diagrams. It's something that's important. It's a detail to get right, you don't want to have a nice hotel and then have diesel fumes in front of it. We do have a plan to address that and again I'd rather talk about it at Tech Plat than talk about it here. I think we can consider larger issues here, but we do have the concern that it'd work.

**Brian Reindl:** You were talking about the parking of my existing customers, obviously nobody is more worried about that than me with my existing buildings. I cannot let this building kill the goose that lays the golden eggs, so we're worried about it. If you look at the back of that building there's a deck on there we plan to tear off and we're going to be able to create some more parking onsite in the back of that building.

**Council Member Bunch** asked if the Parks & Recreation Director, Alison Jumper, was available to share her thoughts on the project and proposed park.

**Alison Jumper,** Parks & Recreation Director: This is a new type of park for Fayetteville. It's much more urban than what we're used to developing, which we're very excited about. We also want to do it right. Some of the things that we have found that work really well with urban parks are that they are created for a variety of uses. They have very active edges which often contain building frontages that allow public access to areas like restaurants, cafes and retail. Those type of services help keep the park active, they support informal surveillance and they provide proximate access to assistance if needed which ultimately creates a safer park. We've found that it's not uncommon for things like hotels, restaurants and even convention centers to be collocated with an urban park or an urban plaza in urban areas because those uses are compatible.

**Council Member Turk:** Are you concerned with the seven story building being right in the middle of The Ramble and creating a barrier and lack of continuity between the Lower Ramble and the rest of the Arts Corridor? How do you see that?

**Alison Jumper:** I see the trail as the ribbon that connects all of these spaces and the greenspace that surrounds that. I don't see it as a barrier, I see it as a terminus for that portion of the park. It creates a sense of enclosure and it helps keep more eyes on the park because that front side will be pretty active.

**Council Member Jones** requested Molly Rawn, with Experience Fayetteville, to speak to the quality of life the hotel could bring to the City of Fayetteville.

**Molly Rawn,** Executive Director of Experience Fayetteville: I was here to be a listener this evening but I'm happy to stand up and I never want to shy away from an opportunity to talk about our great City and all the great things that are happening there. Many of you may have noticed that I have not been to this podium before to talk about this issue, I wasn't at the last meeting. Frankly that's because I had concerns and I didn't know where I stood on this project. It's not lost on any of you that this has been divisive, I think more divisive than it should have been. That always hurts my heart because I have great friends and colleagues that feel passionately about this issue and I don't think there's anybody in the room tonight that is going to speak before you all that doesn't want what's best for our City. I know everybody comes up with pure intentions and I truly believe that. One of the things I do want to address specifically, since you asked, that has been said as I have heard a couple of people questioned whether or not a new hotel is needed or if the City can accommodate and has the business to accommodate another hotel and the answer to that question is yes. We do, we can and we will. Those aren't my feelings, that's not just my opinion about it, that's what the data show. Yes, absolutely, if people have concerns about the hotel. I mentioned to you earlier I had struggled with concerns and I wasn't quite certain how I felt. At no point did I ever question whether or not we needed this development because I believe we do. I know there are concerns, I have faith that you all and Mr. Reindl and Mr. Sharp who have been here tonight are working with a reputable company and will help elevate those concerns. Parking concerns should not be dismissed, they're important. Particularly to make sure the hotel parking doesn't do anything that is going to take away and damage the availability of parking for people on Dickson Street. I'm confident we can get there but I don't think we can get there unless we move forward. If we just continue to talk about it and table it, nothing will happen. To me this seems like the great next step that we need to take to be able to make other things fall into place.

**Council Member Jones:** In your role, do you hear people say they wish we had other hotel options downtown?

**Molly Rawn:** Yes.

**Council Member Jones:** They're having to go to The Graduate and then probably other places as well, correct?

**Molly Rawn:** I don't know what you mean by having to go. We have great properties in Fayetteville, we have wonderful hotels. The Graduate being one of them. People get to go and stay there and they have a wonderful experience when they go. I certainly think we have the market to be able to accommodate more rooms if that's what you're asking.

**Council Member Jones:** Absolutely. Someone once said that people go to Dickson Street to visit but not spend the night. I said well they're probably not spending the night because there are very few options. If we were to give them options it sounds like they will take advantage of those, of that option.

**Molly Rawn:** It certainly seems like you have investors that believe that, right?

**Council Member Jones:** Right.

**Mayor Jordan:** Let's hear from the public.

**Dash Goth, 3407 Bracken Ridge:** I'm 83 years old and my steps have gotten a lot shorter on this parking. I'm very familiar with the parking in the City of Fayetteville, I have an office building on College Avenue and the City let Feed and Folly restaurant go in with zero parking. Their tenants were going to go across the street four lanes of College Avenue to the parking lot behind the Courthouse's condos. Now they just built 145 apartments on Township with only 148 parking places. Now the Walton Arts Center parking lot, I wish we had it and the deck. Trust me, we need them. The Walton was full last night and two weeks ago it was full. Now we're going to build a hotel there. I'm appalled that for the most successful parking lot in Washington County, we're going to get a hotel with inadequate parking and a homeless park. Thank you.

**Bo Counts, Ward 2** briefly spoke of his experience on Block Street from the past month and how 3700 customers came through his business for the Nightmare on Block Street event. He stated they had no issues parking. He questioned what is really being argued about parking wise because 134 customers in a hotel was nothing compared to 1,000 customers at a theatre or a restaurant. He stated a Downtown is about evolving and changing. He mentioned that he has a business and his staff pays for parking just like everybody else.

**Dot Nealy, Ward 3 North Mission** stated that it was a good thought to have more hotel accommodations Downtown. She has concern regarding where the business owners, employees and residents will park. She believes we need to get this right the first time and we should give this time and talk more about it.

**Hugh Earnest, Resident** stated he worked for Mayor Dan Coody many years ago and during that time there was discussion of using the parking lot for more than parking. He commended the staff, Council and voters for improving the Downtown area and he was supportive of the hotel plan.

**Ted Belden, 504 East Lafayette** clarified that he was involved in a hotel project in Downtown Fayetteville. He explained that they are spending over \$2.6 million dollars in the new parking deck to add additional parking availability. He does not understand how valet parking will work. He stated if the rates were not raised in the parking deck's in the guests will park there for \$5 instead of valeting for \$25. He questioned if other private developers and restaurants owners will have the ability to use the valet parking lots that are available.

**Mike Johnson, 324 North Olive Avenue** stated he has looked at this from several points of view, including; Associate Vice Chancellor of Facilities at the University and as a member of the Walton

Arts Center Council. He questioned if the City Council approved the specific conceptual design that was shown as a concept of the Civic Plaza and where the specific details about the conceptual design would be found. He is concerned we do not know what we're getting into with the Letter of Intent. He stated the proposal lacks details about the building and he encouraged the City to make sure we have good clarity in what we would be getting into with this development. He encourages the Council to take their time and do research to identify what is wanted. He mentioned that parking is a vital issue and urges the Council to factor that in with everything. He briefly spoke of accessibility and how there is an ADA requirement for a lot of things.

**Josiah Leon**, Ward 2 East Rebecca Street briefly spoke of his history as a professor at the University and how he loved the work that is being put into developing Fayetteville and the whole Region. He believes this hotel proposal is a no-brainer and spoke of his experience with events and how this could provide lodging next to the University for future event. He mentioned that his perspective from the University is for this proposal.

**James Jones**, 2189 North Libby Lane: My wife and I relocated here permanently three years ago. I am a firm believer in development. The artist's rendering looks good but as others have stated tonight the devil is in the details. The more we can work through some of these things before we make an official decision and move forward in the Letter of Intent, we're better served. Parking is a problem and my concern is trying to put a second hotel. We've talked about a hotel near the Choo Choo Train and if that's going to come to fruition and if we're talking about a second hotel, we're putting a lot of things in a very congested area. I would love to see more development around the square. Bring more people into a larger area of downtown instead of what's more concentrated in Dickson Street. I love coming to downtown. I've been pleased with the development on Block Street over the last few years and find myself and friends coming to dine at Block Street. I don't spend as much time on Dickson Street but I see so much great opportunity and potential and a hotel would be ideal in a less congested area of town. Is this the highest and best use for utilizing this park property? As we develop more green space and as it's connected to The Ramble, I'm excited about that. Initially in the Request for Proposals, and only one entity responds to it, I ask myself, 'Are we beginning to rush things?' I request we take a harder and longer look at this and work through some of the details before we move forward in a Letter of Intent.

**Carl Collier**, 2165 Manor Drive stated he has a business on Dickson Street. He immediately noticed in the proposal that the ratio of parking spaces to rooms is .2 parking spaces per room. He briefly explained employee parking and the nation average of parking to room ratio being 1.24. He would like the Council to take their time, he does not want to vote tonight and he's surprised it made it past the Planning process with the discrepancy of parking to room rate.

**Steve Carr**, Board Chairman for Community Creative Center: I am representing the Board of Directors and Staff at the Community Creative Center to unanimously voice our objection at this point in time to the construction of the commercial hotel building on the south of the Upper Ramble located in the middle of the Arts District. The Community Creative Center is the only arts maker space in the Fayetteville Arts District. We are concerned about the negative impact this building will have on our students, our business and the ability to meet our mission of providing art experiences to the community. We have many reasons we are concerned about this project but the main two are we feel it has changed from its original mission and the destruction of our business



and the families of the Fayetteville community we serve. The current hotel project potentially might have been misrepresented to the voters. Many of us attended the Planning meetings and throughout the ideation stage, the building at the south end of the Arts Plaza was suggested as a performance gathering space with art, gallery space, public restrooms, etc. And not as a commercial hotel. We ask the City and the City Council to return to the original goals of the project, reconsider how the Plaza would unite the Arts District and how it was designed to bring the community together by providing beautiful and inviting spaces for all who enter. We feel the hotel project will be a permanent destruction to our organization and our business model. We feel this way because the safety of our 5,000 students and patrons who come to the Community Creative Center each year will be at risk due to the daily influx of 200 plus hotel guests which will include cars, uber and valet drivers, deliveries, trucks and buses. Spring Street and the area in front of Nadine Baum will become an alleyway with no safe access for school buses, cars along with parking for seniors who many times attend our facility, and the other patrons being dropped off for our classes and workshops. We have a substantial summer camp program where we use the studio and the outside area with the kids. Many families and parents entrust us. The ability to take care of their kids during summer recess in a safe and manageable way. This project will cause a tremendous concern for us to execute our summer camp mission for the families of Fayetteville. We are a nonprofit, but we are also a business with bills and employees to pay and currently we offer the bulk of our classes and workshops during evenings and weekends. It's also the busiest time for hotels and asking our patrons to navigate through congestion the hotel will bring and fighting for access to the building and parking spots potentially will be a negative challenge for our patrons we fell. Finally, the Community Creative Centers Director of Outreach Partnerships, Anita Cowen, spoke at the last Council meeting with the full authority of the board. She mentioned the impact of unsightly hotel infrastructure to Spring Street and the Arts District. Mr. Rob Sharp replied to our concerns this past weekend and while we are very grateful for his attention we are seeking more in depth information of the logistical impact of the hotel requirements. Basically, an explanation of the logistics of support vehicles, delivery docks, laundry facilities, trash dumpsters, grease traps, etc. Basically, all the things to run a 130 plus room hotel so they will not distract from the beauty of the Upper Ramble. Like many people here tonight, parking is a great concern for the Community Creative Center and at the last Council meeting a few speakers in favor of the hotel seem to be unconcerned about the hotel not providing adequate parking and that the hotels valet parking will work itself out. That may be true for the hotel and their valet parking but has the potential to be devastating for us at the Community Creative Center along with other organizations like the Walton Arts Center, Georges and many other businesses there. The hotel will occupy many spaces for their cars occupying the spots over night for the weekend and our workers and students potentially will not have an option to park. As an organization, we're not opposed to progress and supporting new additions to the Fayetteville community. We love our neighbors and we work very well with them. We just feel like this project has the potential to be a detriment to our business.

**Kyle Rose, 545 East North Street:** I'm not here to speak for or against this proposal. I'm not here to speak for or against parking. I'm here to speak about the Letter of Intent in its current form and even with the most recent revisions that Vicki and her team have provided recently. I'm an attorney. I should note I'm not your attorney, you have your own. This is not legal advice. I do want to commend City Attorney Kit Williams and his team of doing an excellent job and pointing out that even though this Letter of Intent is styled as a Letter of Intent and even though the majority of Letters of Intent imply they are not binding contracts, my interpretation and Mr. William's

interpretation as well, is that this Letter of Intent is a binding contract. It creates a binding obligation for the City to sell the property at fair market value. Now, what that price is we don't know exactly what the footprint of this building is going to be. We don't know exactly what the use of this building is. We don't know exactly how parking is going to be handled. And that's normal at this stage in the process, it's normal to not have all of these answers. What's not normal is to pair all of those unknowns into a legally binding contract and that's what I want to discuss and call that to your attention and issue my concerns with that set up. Rob mentioned it, the only thing I will make about parking is what's in the Letter of Intent where it discusses that the City agrees to provide access to excess parking spots. That's the only thing in the Letter of Intent that really addresses this and I don't know what an excess parking spot is. Does that mean if it's open at that particular time, it's excess? Does that mean it's never in use, is that excess? I don't know but there's binding legal obligation on the City to provide access to excess parking spots and if the City decides not to do it or if their interpretation is that the City hasn't followed through on that promise, then there are legal risks there for the City. As many people have mentioned here tonight, there are a lot of issues with parking and other things that are still to be addressed and figured out. There's a lot of time to do this and to do it right. Having a hotel in Downtown Fayetteville, especially something that activates that Civic Plaza at night, could bring a lot of benefits to businesses. We got to do it right and if you're going to style this Letter of Intent as a binding commitment, which is doesn't have to be, then all of these things that we're talking about today and that you've been talking about for the previous couple of weeks, they need to be that Letter of Intent. The Letter of Intent should reflect the proposal that we saw today. Once this agreement is signed that opportunity is out the door. They have to construct it in accordance with the City's laws, permits and ordinances but they had to do that anyway. To the extent that there are requirements to the extent the City wants to place conditions or have some sort of say either in this parking arrangement or any of the other issues that have been discussed and presented to the City Council, now is the time to do it. If this were a nonbinding Letter of Intent, yeah we could agree to a lot of these things just at a very general level and then work through the details as the time comes but that's not how this Letter of Intent is structured. It is a binding obligation where we don't know what all of those binding obligations are other than you're going to sell the property at fair market value, some footprint of a property and you're going to provide access to parking spaces. What I would ask and encourage the City Council to do is make sure that appropriate thought is put into these things and that agreement is reflected in the actual document itself.

**Cynthia Courage Hallow**, 2054 North Barrington: I'd like to reiterate some of the views that have been expressed about the significance of this decision, and the long-range short term and long range ramifications of what might happen. Looking at the big picture and looking to the Request for Proposals that was issued in August, I had wondered about how a building, which is what the Request for Proposals was about, within the concept of the Cultural Arts Corridor become a hotel? There was one response to the Request for Proposals, there weren't options, there weren't considerations for choices of other facilities or opportunities. We're discussing a hotel, and we need to think about that hard in terms of making that happen, especially if land is sold and the City suddenly loses control of land that's in the middle of an Art Corridor. The future you can't predict. You can't predict how businesses go or what happens, and I don't believe we should be considering the sale or purchase of land in this proposal, for one. There are other considerations, too, about parking and everything that's been discussed. I have concerns about the short and long-term harm that will come from the building of a hotel within the Arts Corridor. These concerns include the

massive structure of a seven-story hotel obstructing light and casting shadows on the Corridor itself. We envisioned this as a different type of space in terms of looking at the quality of life that people could appreciate and experience within the center of the City. The selling of public land, as I mentioned in the middle of the Arts Corridor and the loss of city control, the decrease in parking spaces and impact on businesses already suffering from lack of parking, the traffic and culture of hotel activity degrading the quality of leisurely enjoyment of public space as well as the negative impact on the local businesses in proximity to the hotel. These are all good reasons to reconsider this proposal prior to making a decision very difficult to undo in the future. Many people I've spoken to about this believe that this is a bait and switch and have a heavy heart about the possible misrepresentation of the vote on the Bond. The Bond that was voted for was for the development of an Arts Corridor to include the vision of a Civic Center that would benefit public local businesses and the arts. No hotel was mentioned in the Bond Measure or even implied. To reiterate the City's willingness to sell public land for the future furthers concern. We should not have Civic Space divided by public private property that the City has little control of in the future. It was not the belief nor intent of the development of these collaborative building projects within the Arts Corridor as understood in the original plan voted upon. The Request for Proposal issued in August was for a building on the South end of the Civic Center. This Request for Proposals had only one response and that was for a hotel. It was not reissued to solicit more responses or options. I appreciate your vote against this proposal with a recommendation that a new Request for Proposals be issued with more specificity and congruence to the original vision and plan for the cultural Arts Corridor as represented to the voters. Thank you for your consideration and your service.

**George Niblock Junior**, Small Business Owner: Parking issues are near and dear to my heart because they've broken us at times and caused us to flee the square about 20 years ago, to where we currently are. I can't be as passionate as Carl Collier, who did an amazing job, but parking is so important, especially for our older people. That really needs to be taken into consideration.

**Todd Martin**, 326 North Limestone Drive: I am the lucky person that gets to have business interest in three different wards in our city. I met my wife in Fayetteville, Arkansas at the University in the mid-80s. It took us 30 years to get back here when we professionally could decide that we could live wherever we wanted to live, and we chose Fayetteville. It has been the great love location of our life. It's an exciting place, and we are vested in every way possible to make it the best place to live that is in the United States, and of course you all are doing a great job in a lot of ways. From a real purpose standpoint in five years and fifty weeks, five years and fifty weeks this city celebrates its 200<sup>th</sup> anniversary of being founded. It's not far away and yet I sit back and wonder what are we going to be looking at as a city when we're looking at that 200<sup>th</sup> anniversary? We have a lot of competition in the North to us and I'm heavily concerned about that. Because of that, when I look at our opportunities on development, I want to see development. I want to see more development downtown. We're talking about a hotel here; in this case I'd want to see opportunities for more development in hotels downtown. I am pro-development with regards to that, we can offer things in Fayetteville that no other community in Arkansas can offer, let alone any other community in Northwest Arkansas. Our downtown is a really special place. During the pandemic my wife and I made the uncertain choice of buying a couple of businesses, one of them being Theos, which is in the middle of Dickson Street, or in the middle of the Dickson Street Entertainment District, and it has been a good choice for us. Before that, whenever parking came up, I was never concerned. Didn't matter, didn't affect me. I could get down to Dickson and find a

parking space where I wanted to go, and what I wanted to go out to eat. But now with an office right off Rawson Avenue with a business right here in the middle of the Entertainment District. I know that what Justin gave earlier in his presentation, parking is a critical issue in the Entertainment District. It's something we have to be aware of. As I look at the development process, and yes, I want to see several hotels here. I'd love to see a hotel on the old Mountain Inn site. The right hotel and the right proposal in the Civic Plaza is a great idea because that brings more revenue, more economic development and more purchasing power into downtown. My good friend Bo Counts gave a very passionate talk about how many people that they're serving at Pinpoint and I'm thrilled over that. And yes, Block Street has transformed. Dickson Street is transforming. We want to celebrate new business and new development, but we have to be aware that we can't do damage with parking and start impacting access for the businesses that are there. When I purchased the Theo's restaurant in 2020, we bought a restaurant with no parking. We have ten spaces in the back that are dedicated to the condos that are above Theos. We have to deal with parking as an issue every single day. We had to give up valet during Covid and we've not re-established it but we are looking at it. The decisions we're having to do around parking and shared parking and conversations have an economic impact for us specifically on this issue. You've heard the legalities of the binding concepts of this letter intent, which give me a lot of pause, particularly if what it guarantees the city must provide from a standpoint in parking. In my life I've had an opportunity to widely travel across the country and stay in a lot of different hotels in a lot of different situations. What I can tell you is, is that I use a lot of valet parking and I get irked when I have to wait 15 minutes to get my car back. If I have something close that's cheaper, I may go and use it, and I may not. I love downtown areas that are in close proximity, have a hotel close proximity that I can walk to a bar, and that's something that's very important. In this instance I'm going to urge you to vote against this Letter of Intent tonight, because we need a better proposal that includes underground parking that would add only 5% to the overall project cost and takes the consultant issues we've heard about with Uber without a major airport, and denies that 30% of Uber is realistic for Fayetteville. College towns without a major airport is not going to have a lot of people uber to inner City airports, so I urge you to vote against it. Let's see a better proposal.

**Shelley Simmons**, 1010 North Park Avenue: I'm a member of the Walton Arts Center Council. Prior to moving to Fayetteville in 2017, I was involved in the redevelopment of downtown Siloam Springs. I understand the important role parking plays in development. The challenges here are different than they were in Siloam Springs, but we did have our parking challenges there as well. I understand that you're working to balance demands from groups with very different points of view and interest at a time when we, as a community, are seeing some really remarkable growth in development in the area. As a Council Member yourselves, you are committed to making sure that we are planning as responsibly as possible for the future of the Downtown District of our city and I thank you for that. Many of the recent plans for the downtown area come out of this concern for a vibrant downtown in Fayetteville and that planning must also include the same thoughtful and measured approach when it comes to parking, because if the developers are no longer required to include parking in their plans, then that shifts the onus to the city to address this very important issue. For Walton Arts Center, 50% of our patrons come from outside of Washington County so they are driving. The vast majority of those who come from within Washington County are also driving. I live in Wilson Park, I come downtown often at night and I'm driving because I'm coming home late. There's a big hill between my home and the Art Center and Dickson, and all the things on this side so I drive. Adequate Parking is key to our success as a city, and whether it is for

accessibility or convenience, parking is something our patrons expect. I am a champion for downtown development but I do believe we need to ask the right questions where parking is concerned. We need to define all of the details and address the potential challenges upfront now so our community can benefit from the opportunities our downtown has and will have to offer.

**Steve Clark**, President CEO of Fayetteville Chamber of Commerce: I was here two weeks ago and I heard a lot of what all of you said, particularly what the city attorney said. I don't think you paid attention to it and so at the Chamber, because if you don't know we're for pro-growth, I have not done my job. You know we are for pro-growth but we're up for pro-growth that's responsible and done in a way that benefits everyone who lives here. I see the attorney said this not a Letter of Intent. I know Mr. Rose pretty well as equally and I respect his skills as a lawyer, but I'm going to take him out of the equation. The city attorney hasn't been sitting in that job just two weeks. That area of law, municipal law, is a specialized area of law. Lots of lawyers who can give you their opinions about letters of intent never will give it to you with the same opinion and merit and weight as your city attorney. What he said resonated strong with most of you and most of you know I'm a lawyer and a former law professor, so I know about the subject myself and I ask you, I plead with you before you decide to adopt something; Go back, read the fine print, and figure out what is there that benefits everyone in Fayetteville, not the developer. My second point is pretty quick. We're already doing this in Fayetteville, we have a business. It is flourishing, and, thank God, it is. In my opinion one of the best in Fayetteville. That business is at the end of Mountain Street, across College Street, sitting next to the old Washington County jail, and there are times at night you can't get in. That owner put in that business when this city said, you don't need parking. None. He said, are you playing with me? No parking, we don't care. There have been a series of complaints to that owner, to the city, and the cities been background so we got to do something about this parking, this is a real problem. The city came back to that same owner, "So, by the way, you need a handicap spot." And you said, No, wait a minute, you said I don't need parking. We need that parking. You either do or you don't and that's the problems we're facing today with just this issue, and for me and for the Chamber, we think that's worthy of noting. We haven't worked out all the bugs with that. The business is successful in spite of that, the businesses around us tell us their businesses suffer because of that. The Fayetteville police are regular attendees, not for dining, but for fender benders. You need to pay attention to that. The third thing is simply, we've talked about, and I understand the city has said and did say tonight that the developer is happy with the resolution as to parking. You're trying to serve the wrong master. There are 90,000 plus people of us here and I take great offense that's a generational issue because I have a 28 year old grandson who sits in a wheelchair. He has a better mind than I do. He has more talent than I do, but he gets around very difficult. He has a hard enough time now. If you want to come to Dickson, there's not one handicapped spot on the street itself, unless you changed it in the last month that I've missed. We've got them off the street. He's a stand-up comic, he could work on Dickson. He's the only stand-up comic, you know, in a wheelchair. The last thing I would say to you and then I'll go home; where the devil is the fire? We're up here like, If we don't do this tonight, Good Lord! Fayetteville will be forever scarred. We will be wondering how in the world we ever made such a drastic decision that impacted us so significantly. I'm asking you to please don't do it, the Chamber is asking you to please don't do it. If it's worthy of doing it'll stand the test of time.

**Ben Clark**, Owner of B-Unlimited: I know most of these people here actually, and most of you up there, too, as well. Friction is good and it makes our city better. I understand the issues that



everyone's talking about too as well. I understand we're getting stuck on some of these details that a lot of the Planning Commission takes care of. I'm building a big building right now in south Fayetteville and trust me, they're not going to let me slide and not have a handicap spot or not have the right loading dock and all that stuff. I believe in what the city is doing and the departments that you all have formed can work out these details. I know that B-Unlimited, we had our Christmas party last year at Theater Squared and built it up, boy would I have loved to send some of those employees right over to that hotel. But no, we still parked everywhere and then a lot of them had to drive home. We need more hotel rooms. I mean, t's just it. We could have two hotels down there if you asked me. The other thing is just before this conversation we had, we talked about the Airbnb problem. It's supply and demand. We need a hotel and that'll solve the Airbnb issue too, as well, inside and outside of some of these neighborhoods. The cars are going to be there regardless. People that I bring in, just like the university and stuff, but they're staying on the outskirts of the Interstate. They're still going to drop in and park because that's where they're going, and that's where they like to congregate. Let's move forward with progression in Fayetteville. We've been talking about this for years, even past Mayors it sounds like now, but I think it's time.

**Sarah Marsh, 1085 West Cato Springs Road:** I am encouraging you to support this proposal because it is consistent with the plan we took to the voters. It supports the vitality of downtown and the success of the Cultural Arts Corridor. When people stay downtown they can walk to downtown businesses. This is consistent with the Park once strategy that has supposedly been a priority of this city. The proposed design supports our community goal of creating a superbly walkable environment and we need additional hotel units, especially options that are viable without renting a car. I'm fortunate I get to travel a lot and when I look for a place to stay, I look for a place next to things I want to see where I do not have to rent a car. That's almost impossible in Fayetteville. We were just talking about the short term rental issue, our lack of hotel rooms is resulting in more Airbnbs and its displacing our long term residents, which is creating additional pressure on our housing markets and pushing housing costs up above what our average workers can afford. This is a good time to remind the Council there were several proposals to include affordable housing components in the Cultural Arts Corridor, and the same people who are advocating against this hotel fought the proposal to include workforce housing on that site and many of them are chair organizations that do not pay their workers enough to afford to live in downtown. Thinking back to the discussions that preceded taking the Cultural Arts Corridor bond proposal to the voters, the Walton Arts Center and Dickson Street merchants, they threw a hissy fit about parking initially, and they threatened to kill this incredible opportunity to develop a world class cultural amenity if we didn't build another parking deck. We acquiesced and we committed to build another parking deck which resulted in the loss of an important business downtown; The Arsagas. Now that's still not enough. In the eight years I served on this council, there are very few votes I regret but that's one of them. We never should have caved to their demands then and you shouldn't now. What is more important? Our quality of life, creating a place where people want to be or making it easy to drive your single occupancy vehicle to get there? This focus on parking over quality of our urban environment is myopic. Didn't the city adopt an energy action plan that establishes a goal of reducing vehicle miles traveled? Instead of requiring more parking from new businesses, we should be requiring existing businesses to provide alternatives to single occupancy vehicles. What do you want your legacy to be? A vibrant hotel or a parking lot? Would you look back on this decision, will you feel better about delivering on this promise to the voters to build a vibrant cultural center or acquiescing to the Old Boys Club? I encourage you to be brave, to be

bold, to move this city forward and to build the world class community that the citizens want and deserve. Please approve the hotel.

**Garner Stoll**, 333 East Prospect: Some of you may recall I used to be a city employee but tonight I'm happily retired. I'm here as a long term resident of Fayetteville. Most of what you heard tonight has nothing to do with a Letter of Intent. This Letter of Intent should just simply be amended. The resolution should be amended. You should say it's a Letter of Intent, it's not a contract. Contracts come later. I've worked for other cities where I was responsible for redevelopment. I've been through this many, many times. A Letter of Intent is a green light to spend the money to work out the details that everybody's talking about tonight. What is relevant to the Letter of Intent, and you've also heard a lot of misinformation about that, does it implement your master plan? Does it implement what was showing on the Cultural Arts master plan? The answer is, yes, precisely. That plan was proposing an urban plaza. Urban Plaza's don't always work. They usually don't work because they are not active. Nobody owns it. They're not open to the street. They don't have 24 hour uses nearby. That's why that building was placed where it is, yet Brick is the plaza, and it activates the plaza, and it's essential to the plan, and it was in the plan, and the voters voted for that plan. Other benefits, I know you're aware of this, but they need to be re iterated. Hotels are critical to redevelopment of downtowns. Hotels are critical to the economic development of a city. Your staff report talks about how much tax money it will bring in. It also will use existing parking more fully. Parking has been talked about a lot tonight. I've lived here five years. I've been in this area many times on Friday night and Saturday night. I'm a frequent customer of Theatre Squared and the Performing Arts Center. I have never had a problem parking. The most challenging parking situation I had was when my wife and I were late on a Saturday night, and it was rainy, and we had to park on the top floor of the Spring street garage. Hardly a crisis situation. I have visited every single business on Dickson Street. We frequent the downtown plaza; I've never had a problem parking. I'm not saying parking is not an issue, it is. Parking is an issue but moving forward with this letter intent doesn't preclude any parking solutions. Not a single one, except possibly one that I don't even like to think about. Which is, are we going to anchor this civic plaza with a parking garage? I don't think so. You went through an extensive selection process for the garage that is under construction, and that certainly was never considered. I don't think that's on the agenda. If you assume that that's not on the table, I cannot see how moving forward with this letter of intent properly amended to say that it's a letter intent, it's not a contract contracts come later, sale comes later, the closing comes later. It's a Letter Intent authorizing the developer to spend the money to work out those details. It's typical for redevelopment projects.

**Anna Larry Kelly**, 409 North Willow Street: I'm a professor of Business at the University of Arkansas and I'm current Chair of the Walton Arts Center Council. I am excited about the new amenities that are coming to Fayetteville. The lower ramble, I tell everyone I see, is a green space wonder. The library editions are world class and I believe the Civic Plaza has potential for wonderful events, hotels, restaurants and meeting spaces. I believe that any and all of these amenities can bring vibrancy to our downtown and enhance the quality of life. But amenities require sufficient infrastructure, and parking like it or not, is a key part of that. I don't know if we have sufficient parking capacity in downtown Dickson Street, and I don't believe anyone in this room knows the answer to that question right now. We have new information coming in all the time, we saw that tonight, and I know there's more coming in. I've heard from many people that I respect that there is sufficient even ample parking downtown. I've heard from other people I respect

that they're reluctant to come to Dickson Street, especially during peak usage times because of parking shortages. To me when we see such widely divergent opinions, this suggests that people are operating either from their own personal experience or from a philosophical position more than from facts and information. I'm still one of those people who believes in facts, and I would argue the best way out of our current parking quagmire is to slow down, talk to each other, get the facts, and come together and try to work through this when we have all of those facts on the table. We have an independent consultant working on a parking study. This study is guided by a Steering Committee composed of diverse constituents, including members of the City, Walton Arts Center, University and business owners. I would suggest we hold off on approving the Letter of Intent for this hotel until we have a chance to get the facts from that study which should be available in December. One of the things I treasure about the City of Fayetteville is we're not afraid of a good debate and more often than not those debates help us to get it right, and then usually at least for a while peace returns to our little village. I ask that we hold for a beat. We get some facts from this parking study, and from the other information that the developers have been asked for, and we try to come back together and work to get it right. We've done this before, when we sit down and work together through our debates, and I think we can do it again. Thank you for listening.

**Jay Alexander**, Windsor Aughtry Company: I wanted to clarify where the 70% on the parking ratio came from. That came from actual data at hotels that we own in Columbia, South Carolina, Rhoda, Virginia, Baton Rouge, Louisiana, Greenville, South Carolina, and our data shows that 70% of occupied rooms have vehicles with them. Now, where that comes from, how that happens, you have business travelers that may carpool together. If it's graduation weekend, you may have the parents, the grandparents, siblings, they carpool together. But an actual example, I'm a South Carolina gamecock, and I came to the Arkansas, South Carolina game in September. I will say we went to Dickson Street, I think we went to Doe's and had a steak at Doe's and I was wearing Carolina shirts, and I had a number of people come up and thank me for coming and making the trip, and hope that we had a great experience, and so I commend you for your culture and just the great experience that we had. But there were seven of us buddies from college, and we had five rooms, we stayed in Rogers and we had one vehicle; a minivan. We felt really cool coming into town. But we have one vehicle and five rooms at the hotel, so that's what kind of skews that ratio down to less than a one to one room to parking need. Brian Reindl has a lot of risk in making sure the parking works because if it doesn't work, you're not going to have satisfied hotel guests. If it's a branded hotel, the franchisor will also scrutinize the parking situation because they don't want that to be a mess either.

**Council Member Bunch:** Did we do anything exceptional or unique with this Request for Proposals versus the Request for Proposal's that we have with the rest? How do we do a Request for Proposal? How long does it take, what was put out and what came back in an application? Lots of people have questioned the Request for Proposals process and, as far as I know, it's the same for any government application that we might have.

**Paul Becker**, Chief Financial Officer: This was the same as all of the other ones. We developed the Request for Proposals, we develop what we're looking for as a project for that particular space. I reached out to the Engineering Department and we looked at that and I said, is this possible because the location of the current proposal is located very close to that. I said, are there other projects that work or other things that we could do and I was assured that there were. This proposal

was put together just like the rest of them were. It was put out, it was advertised, it was open to other proposers and none applied. Sometimes that happens.

**Council Member Bunch:** When was the application put out and how long was it out there before we closed the application process?

**Susan Norton,** Chief of Staff: The Request for Proposals was issued August 29, 2021 and the responses were received October 26, 2021.

**Paul Becker:** They're advertised in the paper and they go out for proposal. It happened and we only got one proposal at this point in time. We certainly would've entertained more had they been there.

**Council Member Bunch:** This is a standard practice we follow. How long have we been following practices like this?

**Paul Becker:** I can't answer for sure, it was before I was here and that's 16 years. It probably goes back 16-20 years. Something like that.

**Council Member Bunch:** It's not uncommon for other cities to use a similar type of process and we've been doing this successfully for at least 16 years.

**Paul Becker:** I think our process, we're more careful to solicit bids and more careful in having a pool of people to look at them and make a final recommendation that most cities, and the places that I worked, I think the process is actually more open.

**Council Member Bunch:** Once we got the proposals in, how long did we investigate and talk back and forth with this one proposal that we had before we decided to go with this one proposal?

**Susan Norton:** I was on that Selection Committee as was Peter Nierengarten and several Staff. I believe when we got the response back in October, then the Committee took a while, it usually takes a while to review and make sure that we have questions answered. Then we invited Rob and Brian, the respondents, to a sort of interview meeting. When was that Peter?

**Peter Nierengarten,** Environmental Director: The holidays last year interrupted that process a little bit. Susan is correct, we invited the proposal team in to do an interview with us which is standard in our process for Request for Proposals selections. We listened to their interview and their proposal and the Selection Committee, that was made up of several staff members, ultimately voted on whether or not they wanted to recommend the proposal to City Council. That was an affirmative vote and then we entered into a series of negotiations around Letter of Intent language and that began in February of this year, 2022. We've been working with the development team on all of the items that are in the Letter of Proposal, it started something smaller than what you see before you today. Through that process we took that Letter of Proposal, that Letter of Intent, and their proposal and we visited with a number of stakeholders in and around the Downtown area, including our Cultural Arts Corridor Steering Committee, the group made up of all the stakeholders on the entire project and we shared the proposal with them and we took their input and added their

concerns to the Letter of Intent. We visited with the Arts Council and a number of other downtown organizations and associated entities to understand what concerns they might have. That process has carried us forward from February when we began working on that with the development team on that Letter of Intent through when it was first introduced to you all last month.

**Susan Norton:** In March we had a special presentation to the Walton Arts Center Facilities Committee, and we've been reacting and working with the Walton Arts Center and the Facilities Committee ever since.

**Council Member Bunch:** Okay, so we had a presentation to the Walton Arts Center?

**Susan Norton:** We had a presentation to the Walton Arts Center Facilities Committee at Peter Lane's request in March.

**Council Member Bunch:** Sorry, I'm trying to get this all figured out in a linear fashion and people say there's a lot of moving parts. Yeah, there are a lot of moving parts but there's also this amount of time that's passed. Sometimes I need my memory refreshed a little bit. The presentation to Walton Arts Center, that was when in March?

**Susan Norton:** It's on the website, but it was mid-March.

**Council Member Bunch:** March of this year?

**Susan Norton:** Yes.

**Council Member Bunch:** When did the Walton Arts Center decide they were going to do a parking study? Do you remember when that was?

**Justin Clay, Parking Manager:** The first I recall hearing about that was in September of this year. One other element I'll add with respect to the Request for Proposal's Process is when we received the one proposal, it was mentioned as part of the response, the Selection Committee did spend some time debating, well we only have the one proposal we don't have another proposal to compare it against. But ultimately, when it came down to trying to decide whether or not to move that proposal forward to you all or not, what we as a Selection Committee decided is that we laid out a series of criteria in our Request for Proposals that we were asking for in terms of this proposal. We wanted building on the South end of the Plaza that provided active uses and complimented our Civic Plaza space, we had ground floor uses that we wanted active so that there was permeability with that space so that people from that building would use our park space and people from the park space could use that building. A number of criteria in that Request for Proposals. When we laid the one proposal we had next to that criteria, it checked all of the boxes in terms of what we were wanting and what our criteria was for that Request for Proposals and so that's why we as a Selection Committee decided to recommend that to you all for consideration and develop that Letter of Intent so that you all could make the final determination on whether or not you want to authorize the Mayor to sign that Letter of Intent.



**Council Member Bunch** stated the discussion helped refresh her memory and the memory of the other Council Members. She mentioned that a complaint she is hearing is that the Request for Proposals process is flawed and she is not convinced of that. She questioned why everyone is complaining now when they had months where this could have been discussed. She stated she was trying to look at that as open mindedly as she could. She stated the voters voted on a possibility and they could not say it would not be a hotel because they didn't know what would go in there. She does not feel that was misrepresented. She explained that she would like to hear if any members of the Council felt as though something was done wrong so it could be discussed.

**Council Member Turk:** Was a hotel specified in the Request for Proposals?

**Peter Nierengarten:** A hotel was not specified. It was listed as one of many possible uses we felt would provide activity to the space.

**Council Member Turk:** The first time the public learned about the hotel was kind of downstream in some of the process here that you've just described?

**Susan Norton:** No, actually, it was at the January 2019 City Council Meeting when we brought you all the final conceptual designs from Nathan at Nelson Byrd Woltz and it shows of the potential uses, many potential uses. It's that one picture, Mayor if you'd like I can bring it up?

**Mayor Jordan:** Yes, bring it up because they've got a list of what was the possibilities.

**Peter Nierengarten:** When we were working to develop our criteria for the Request for Proposals, we looked back to that 2019 rendering, which is what the voters voted on for the Civic Plaza, and that list of building uses that's been public since 2019 did include hotel among other uses. Those same lists of uses are what we put in the Request for Proposals for respondents to consider.

There was brief discussion between Susan Norton and Peter Nierengarten on how to display the slide showcasing the list of possibilities from the 2019 rendering.

**Council Member Turk:** Was there another business or an owner in the area, could they have qualified for the requirements of the Request for Proposals? Or was there just one business or owner that met all the qualifications and requirements of the Request for Proposals?

**Peter Nierengarten:** We designed it in a way that made it open and available to any and every potential developer that might want to propose on the project. There were no restrictions on it that made it exclusive to only the adjacent property owner, if that's what you're asking. There was no exclusivity in the Request for Proposals.

**Council Member Turk:** If I recall, and maybe I have this wrong so please correct me, they had to have delivery access and those sorts of things that only Reindl was able to provide.

**Peter Nierengarten:** The intent with the Request for Proposals was to be able to use the City's property to provide that access if it wasn't being built by an adjoining property owner. There was access that could've been acquired on our property because we own the property all the way out

to West Avenue, so it would've been possible for a non-adjointing property owner to build a building on that site and have access to it.

**Susan Norton:** I have brought up the picture if you all would like; this is in the middle of the presentation. This is on the website where all of the chronology of the historical documents live and this was represented to you all at a January 2019 Agenda Session to convey to you what the final conceptual design would be that Nelson Byrd Woltz would move ahead with. That was the final conceptual design, they then began the conceptual design and we're now up to 90% of that design.

**Peter Nierengarten:** North is up on this drawing and on the bottom on the South end, number 12, is the multi-story building. You've seen it in the renderings as well at the back of the rendering. You can see the list of uses that we identified as possible uses for that building and that's the same list that we used in the Request for Proposals.

**Council Member Bunch:** Was this something that we voted on as a Council or did we just overlook at it at Agenda Session?

**Susan Norton:** When you voted you authorized Nelson Byrd Woltz to take the design forward. This was not a vote; this was brought to you as here is the final from the community participation in December that came and then Nathan had the spinal concepts and brought them to you all the next time. Throughout the project's history, each time you had to vote on something that was going to go toward the Plaza, then Peter would have brought that. There were several votes that you all had this item in front of you. What kind of votes did we have on this?

**Peter Nierengarten:** I would say the most important vote that you all voted on was the authorization of \$32 million dollars' worth of bonds to build the Civic Plaza along with numerous design contract amendments with our consultants to move us forward through the progression of the design phases on this portion of the project.

**Council Member Jones:** I wasn't on the council when the bond was voted upon. I'm hearing that the voters were misled but it sounds like, what Council Member Bunch said, that the City has done its due diligence. From what I understand, nothing was concrete, right? It was just called a building. No one said it was going to be something else and now it's not, correct?

**Mayor Jordan:** What the council had decided, we did not know exactly what it was going to be. We had a list of things that it could be and when I presented this, and I presented this to the public, honestly this is months of this going before- we had about six of these when we started.

**Susan Norton:** If you're talking about the conceptual designs, yes. In 2018 that's when the public looked at and the NBW conveyed through public meetings the five different conceptual designs and then this one was selected by whoever came through that process and then was authorized in December of 2018 as the final.

**Mayor Jordan:** Then we brought it to the council to make sure you all were okay with it. Some of you Council Member's weren't on the council then but some of you were.

**Council Member Kinion:** I was on the council and it did come to us. It had all of these possibilities and that's where the confusion is coming from. It has all the possibilities but somewhere in the timeline, people did not realize the hotel was the possibility to be considered. That's the public perception and I don't think any other alternative was discussed openly as an option so it kind of feels like it's been pushed on them.

**Mayor Jordan:** Susan, when did we put it on the website?

**Susan Norton:** Every time the consultants came to town we published the new information on the website. This information would have been there before it actually came to you and throughout the process. Anyone can look at the timeline on the website, it has every document, every drawing, every concept and everything that had been discussed should anyone wish to go back.

**Council Member Kinion:** Right. I'm trying to see where the fire started. What we have here before us was office maker space, art galleries, café restaurant, parking underneath, housing and hotel. It seems like we've seen the hotel because there were no other people that came with any of these other concepts, right? That's how we got here. But, it does seem like it was a very focused decision and we can decide tonight or anytime. If this isn't what we want then we need to say it out loud. What I'm hearing tonight is that we have before us a conceptual design, we have a Letter of Intent that needs some work so it's really a Letter of Intent, we have a concern that we want to be a regional entertainment center if I'm hearing this right and if we're regional we're talking about everyone going up North these days. If people want to come down South we need to have a place to park them if we want them to come here, that's what I'm hearing, I'm not saying yes or no or anything. That's why parking is such an issue. We want that money and these surrounding counties to come into Fayetteville because we feel like, and I hear it all the time, that everyone in Fayetteville is spending their money up North. I spend some money up there but I've always found parking too. What we have before us, we have a concept it's the only one that was presented to be considered and we're considering it, and we have a Letter of Intent to move forward because we've considered it and we're ready to move forward. I don't think we're ready to move forward. There needs to be a real discussion so the public understands; yes, this was in a document. You might not have seen it because all the wahoo started once that Request for Proposals came in and that was the only one we had to consider. That's kind of how I see it so we do have a Parking Study that's going to be coming in and it's going to be recent and all eight of us on here, a lot of us have a good background in statistics and analysis, and we'll be able to look at it and see if it's something that is valid using the variables that we find important in the study. I don't know what those variables are right now. Tonight, we could either amend this, but I think it's pretty quick to do it on the spot, to be a Letter of Intent or we can wait a little bit; two weeks maybe. We've already got a suggestion from our Attorney of a possible Letter of Intent. I will admit I don't want to move forward because I don't really understand why it changes it from what it was to what it is and it's going to take more. What I'm saying is, that's how I see it and because I see it that way we need to table this for two weeks.

**Council Member Jones:** I keep hearing delay, delay and delay. I want to dispel the myth that, even though I wasn't on the council then, the council did something wrong or didn't make the public aware because it sounds like you did your due diligence. I've listened to the concerns, I've read the emails and I did my very best to respond to most of them but I feel like a part of me is, I

understand the parking study and the parking challenges, but I also understand the bigger picture. The bigger picture is the growth and development of Fayetteville and I've talked to so many people besides the Walton Arts Center. I've talked to a lot of businesses and they are in support of it. They do recognize that there is a problem with parking and they don't minimize that. That is a challenge and barrier. However, I don't think anyone is turning away because of that. I feel that if we delay this, my concern is and I don't want to accuse anyone of anything, I hope that if this is delayed it's not a tactic to delay progress. I hope that we're able to move forward because if we're expecting a perfect project, that's not going to happen. I feel as if Mr. Sharp and Mr. Reindl have done everything that we've asked them to do in a short amount of time. My other concern is, if another business comes before us will we give them this much energy? I believe that we had ample opportunity to have this discussion prior to now and my concern is I feel like all of a sudden this happened and it's interesting. I feel like it's even happening around election time. I don't want this to be political. If we're going to wait then it needs to be about the people of Fayetteville and what's going to improve the quality of life for all of us. I appreciate what Mr. Reindl and Mr. Sharp have done. If there are amendments to be made, I think that we can do that tonight. So many people in Fayetteville and those who visit are waiting on this. We promised the voters that we were going to do this and if my memory serves me correctly, I think about those voices because someone said well all the voices weren't included. Well interesting enough there was no polling location in Ward 1 when this took place so if you want to talk about voices being left behind we need to include that in the conversation as well. If we're going to bring that up we have to be fair and say, yes, all voices were not included. I do think that the City of Fayetteville that due diligence has been done and in respect of the work that Mr. Sharp, Mr. Reindl and the City have put forth. We need to move forward if we can. I'm hearing so many different things and I'm not paying attention to those things that I'm hearing. I want what's in the best interest of Fayetteville. The parking study; what are we going to find that's different? What would be the perfect solution? I keep feeling like every week there's something different. They go back to the drawing board and they give us what we need. I feel as if we're trying to find a problem and the City has done everything that they can do legally. Now it's time for us to move forward and I don't feel comfortable delaying this any longer because I don't want it to become a political issue. I want this to be in the best interest of everyone in Fayetteville.

**Council Member Bunch:** We did a Parking Study in 2017 and you did that map where you showed the walk shed, or whatever they call it, where you move in how many minutes it takes you to get to the Entertainment District from these different areas. How big was our area of the Parking Study? I know we focused on Downtown and there were parts of it that dealt with the Entertainment District and parts of it dealt with Downtown. But that covered all of Downtown didn't it? You are working with the Walton Arts Center on their Parking Study, what is the area of their Parking Study?

**Justin Clay:** It's primarily the Entertainment District. It goes a little bit further to the East to encompass Block Avenue but it's Lafayette, down St. Charles to Block to Meadow and then back up. Whatever that is on the Western boundary, University over to Arkansas.

**Council Member Bunch:** It goes from College, along Lafayette, to Block and then to the University.

**Justin Clay:** It doesn't go as far as College. Block is the Eastern boundary.

**Council Member Bunch:** It doesn't go all the way to College?

**Justin Clay:** Right. Lafayette on the North.

**Council Member Bunch:** It really just centers around a couple streets off of Dickson and doesn't include the Square?

**Justin Clay:** Right. It does not. Aside from Block Street and a portion of Meadow Street, it doesn't go into our Downtown Square Business District.

**Susan Norton** stated Justin Clay has the image if the council would like for it to be pulled up.

**Council Member Bunch:** One of the things I know from parking studies or any type of study is we hire a professional, someone who dedicates themselves to crafting this really deep dive into data. Deeper than City Employees can do because they're actually doing their jobs and don't have time to spend weeks and months on this type of thing. We hire a professional and they'll map out the areas where there could be parking problems and areas where there is a parking shortage and possibly excess parking that is not being utilized. Then they make suggestions on how we might improve our parking. With our big Parking Study, I don't know what this smaller Parking Study is going to find because it doesn't go out to cover areas where there might be extra parking. I don't know what we will find with that Parking Study that the Walton Arts Center is doing and my hats off to them for doing that. I don't know how it's going to help us as a city because we have parking lots and things that might be utilized that are just outside the boundaries of that.

**Council Member Turk:** Just to reaffirm Justin, the parking study that was done by the City was done five years ago in 2017, so we've got a lot of new businesses now that we didn't have five years ago. I appreciated that study you did, I'm a data hound. I like to do the deep dive with a lot of information and we've got this Parking Study that is not just sponsored by the Walton Arts Center but also by the downtown businesses so it's a little larger than just the Walton Arts Center that's sponsoring that. I am concerned that we are making a very rushed decision tonight. We need more time and more information. We just got handed a lot of information right before the meeting that takes a lot of time to digest and I listened to our City Attorney. This is a binding agreement; it might be called a Letter of Intent but it sounds like the functionality of it is a contract. We only get a change to get this right one time. This is really significant and I would say that about any development, whether it was a hotel or whatever else among that list would be put in there. If it's the most expensive piece of property in Fayetteville or Northwest Arkansas or even in the State, it's very valuable that we spend our time and deliberation and we do not rush. I don't think we've done enough due diligence. I would like to table this tonight. I don't see a reason why we need to vote on it tonight. I think we need to give more information and more time. We've heard a lot. I don't know about you guys but I've probably got 100 emails, so if I'm getting 100 emails from our residents, and most of them are against the hotel, then I think we need to look a little more carefully at that. I'm also concerned that there are still, even with the City's process tried and true and similar to what has been done in the past that we still only had one respondent. That concerns me. I like to be able to have choice and in this case I guess the choice was to pull the Request for



Proposals or to accept it. I don't think that's a very thorough choice, especially when the property is worth so much and it's so central to the bond issue, to the Cultural Arts Corridor. We need to be very careful that we get his right. I would like to table this.

**Council Member Jones:** Susan, what's the process? How much time do we need if we decided to table it what's the timeline?

**Susan Norton:** Thank you for that question. Wade would you please talk about the timeline. What I think you're asking has to do with the timeline for the finalization of the Civic Plaza going out for bid because that's what we're waiting for here.

**Wade Abernathy, Bond Projects & Construction Manager:** Everybody's got a different perspective and my perspective is time and money, especially related to the Civic Plaza. There are components on the south end of the Plaza that need to be finalized and included in the scope for the Plaza bid in January. Some of those are the stage, infrastructure for the stage, temporary trail route, finished elevations of the South end of the Plaza, really what we need to know is what we're going to build to. Otherwise we're just making assumptions and assumptions will cost us money. Escalations are still occurring in the market. As early as today I was notified to expect pricing increases the first of the year. Delays on the bidding and therefore locking in the price will impact the project budget negatively and as you know we've experienced this on some of our other bond projects. Supply chain issues and material availability is also a concern. We've experienced over one year delivery schedules on items on some of our other bond projects. This is difficult to overcome when you have a completion schedule. I don't predict any relief anytime soon because we have a regional supply issue due to large construction projects such as the Walmart Headquarters, Crystal Bridges and the new Tyson Headquarters.

**Council Member Jones:** I appreciate that. Let me ask this question; we're saying we want more time. Time to know what? What exactly are we hoping to accomplish? What are we needing more time? What do we need to know about? The selection process we can't do over. What exactly are we hoping to gain when we get additional time?

**Council Member Turk:** I do think we need that parking study completed. That is one piece of information that I would like. I would also really like to know exactly what the occupation rate is for these other hotels around here. It sounds like there's a huge demand well it sure would be nice to see what The Graduate Hotel's occupation rate is and on which days, how that works so we understand the market better. I don't feel like we've gotten all the information we need. A cost benefit analysis. What if we didn't put a hotel there? What if there was some other city owned property or some other kind of business that's there? We have a very valuable resource, that should be very well considered. We work for the public. We are trying to protect the public's interest to get the best bang for the buck for the public. We need to drive this, not developers, although they're very helpful and they make things happen. As a city, we need to be driving that. We need to be in the front seat. I don't feel like we have done that in many ways. We need more details all ironed out and displayed, especially if this Letter of Intent is a contract then great specificity needs to occur so we know what the City's responsibilities are, can we meet those responsibilities, why are we making a deal with just this one company and not with other businesses? There are a lot of open ended questions that need to be answered before we move forward with this.

**Council Member Jones:** I think they answered the question about why we're not doing business with other companies. That was addressed tonight. Let's say hypothetically something else comes up and Wade just mentioned time is money and we talk about being a good steward of the public's money and we talk about public trust, well that's something we should consider as it relates to this project. Time and money. Details do matter but I'm concerned about the fact that if they address these concerns then when they come back well I have more concerns, I have more concerns and I have more concerns. That's my concern.

**Council Member Turk:** That's part of the process is this back and forth within the public setting. This is a very healthy discussion that we're having tonight and could continue to happen for the next couple of weeks or a month. It could be that we decide we don't want a hotel there. Maybe that's not a good fit, that's a possibility. There's a lot of things that's very open. The City owns the property so what happens if we don't have a hotel down there? What happens if we don't build a stage right away? What I haven't heard area Plan B, Plan C and a Plan D. That's usually what I like to see; okay well here are some options here so if you don't choose to do this maybe the City would want to do that. I haven't heard any of that I've just heard; here's where we're going, get on board and approve it. I don't think that is fair to our citizens especially when we've had so many emails and so much conversation in the last couple of weeks. Part of that is because we, and I mean the collective we, were not really getting out there and talking about this is a hotel or this is a possibility of a hotel. It caught people off guard a little. I think Covid and all of our usual communication and structure that we operate in has disrupted things so I think there's a lot of reasons why we're having so much interest right now.

**Council Member Jones:** If we think about waiting, tabling or getting more information on this there should be a deadline and that deadline should be conducive to what Wade told us. I'm prepared to vote tonight and I'm not prepared to vote on a perfect process because it doesn't exist. Even considering the information that I've received from different people with diverse opinions, I'm prepared to vote tonight.

**Council Member Bunch:** Council Member Turk, you had mentioned a cost benefit analysis. What exactly do you mean by that and what would be the scope of that? How long would that take, what would you put in that and what would that entail to you?

**Council Member Turk:** I'd like to figure out how much the appraised value is, the estimated appraised value on this piece of property as a starting point. Then look at a range of different costs or different potential uses because under this proposal we're going to have to move that bike trail. That's going to be an expense to the City so I'd like to be able to understand all of those costs and know exactly what we're getting into. We've seen how much it will cost to build a hotel from Mr. Reindl, we've seen that estimate. I haven't really seen anything else about how much the cost of that property will be, what's the estimated cost of relocating the trail, what are some other costs, what are the costs of some of the other things that were going to be required to do? All of those kinds of things would be very helpful. Maybe it's not as cost beneficial to the City to have hotel there or maybe it is. We haven't sorted that out. I haven't seen that. That's the kind of information that I'd like to have when we're making such an important decision.

**Council Member Bunch:** I also feel like all of the things that you're mentioning are things that you want exact things on. I don't see how we can get the exact cost of anything until we are moving forward toward an end goal of a hotel, restaurant or whatever we decide goes in there. Cost is only an estimate until you actually start it. The value of the property, that requires an appraisal and if it makes you feel comfortable we can get a couple of commercial appraisals. Those are used to value county property, state property, city property, they're used by lenders to determine loan values. If we had three appraisals, that's something we could easily do and it's not a super expensive process to invest in. I feel like we can move forward with this and if we have questions or concerns we can address them in the Letter of Intent if we need to but then we will go through the process as it evolves. That Letter of Intent, I'm not shocked that there are elements in that that are not firmly defined but also could be binding at the same time. Maybe that's just my background is a little different from some people on the Council, I think that can be made to be whatever we want. I do have a fear that we've gone through this process, we've done as a City what we were supposed to do and what the developers have done has been driven by us asking questions of them and them coming back and answering our questions. I'm concerned about moving the goal post constantly because when we put together a Request for Proposals, it's not like we just have a hat of different suggestions and we pull them out and stick them together. It's pretty detailed. Every time the City has asked any questions these people have come back and they've answered them and given us the information we have asked for. They've tried to anticipate things we might ask for and I'm worried that delaying this ensures that they don't put a hotel there. It will make it so cost prohibited because we've slowed it down so much that no one can put anything in there.

**Council Member Turk:** Let me be clear, I'm asking for estimates. I know we can't get specific numbers, I understand that. Having more transparency about how much that property is worth, what the different uses could be. Maybe the hotel is not the right use or maybe it's the perfect use, I don't know. We haven't explored that enough.

**Council Member Wiederkehr:** I'd be happy to vote no on the Letter of Intent tonight, but I'd rather not. What we're potentially missing is that for any hotel to be built it has to have a return on that investment. A hotel is more likely in my opinion to provide a return on investment for a developer. I don't mind a building being there, I have no problem with it being a hotel. I'm not holding anyone up. The Chief of Staff will vouch, if not Mr. Sharp, that I've been sending emails with questions, comments and concerns since the month of April. I'm not holding anybody up. I've got a boat load of wonderful information in the last week and so I feel like that was credible, competent responses to my questions. I'm not going to claim any ownership to holding anybody up, I've been asking the best questions that I could ask. Mr. Sharp humorously indicated that maybe 85% of the questions were mine and I told him I expected a really good Christmas card this year for doing all of that work on behalf of his project. Parking is an issue only because we have fears about impacts on other businesses and no one is sharing the fear that I have. Once we throw out attainable affordable housing in this community, essentially the primary way that that's ever going to happen is to write down the value of City owned land and rent it or lease it to someone below market and to turn a surface parking lot that the city owns into an affordable housing project. We need to be looking long term at that because that impacts the parking if we dually out of our mouths say we have both goals; we want a vibrant Downtown and we want affordable housing, unless a church or someone donates that land it's going to be City land that we lease to someone who commits to produce that form of housing. The Letter of Intent we have from our City

Attorney, we have it from two retired individuals, a Development Services Director and the gentleman that managed Facilities for the University of Arkansas who have told us that this is not a standard Letter of Intent. It's a binding contract. That gives me a lot of heartburn. I am not ready to enter into a contract for this project at this time. I don't think anyone on this dais should be willing to do that. I would be completely comfortable if we amended the Letter of Intent as the City Attorney has advised us. I would be comfortable entering into that Letter of Intent, making Mr. Reindl, the Developer of record, assuring him that we're not going to dance with any other partners and he gets the first and only opportunity to produce the project that he's willing to commit to that answers our questions, solves the problems, comforts the community that satisfies people that parking is being addressed long term responsibly. Even acknowledging some of that parking may go away. Yes, the trail movement gives me a little bit of heartburn because I'm not excited about purchasing land from Mr. Reindl. It is his land, but it is his design that moves our trail onto his land. I would like to explore some alternatives about that, but if that's the sticking point for me that's nothing. That can be solved. Parking is a big deal, it is the easiest of the issues to solve on this project. Although I'm the guy that preaches parking is what will bite you in the rear end if you don't plan for it ahead of time. We simply will not sell the land to Mr. Reindl unless he satisfies us that he has solved that long term, not to the detriment of his neighbors, and that's the way it ought to be. While I asked questions about parking and deliveries, because the real issue for me is in deliveries and a shared drive aisle with people arriving, deliveries, customers, head in parking for existing businesses and restaurants backing out, that's a lot of moving parts in a shared space. I have concern about that, that's solvable. Nothing for me kills this project or this deal. There are smart people in this room, smart people on his project team and there's capability there. I could have gotten answers three months ago but I'm too nice. I don't have any explanation for that, I'm getting them this week and it's overwhelming amount of information. I only got 86 emails Council Member Turk, I didn't get 100. I only got 86, not counting tonight's emails. There is no reason why Mr. Reindl cannot succeed but I'm not willing to agree to the current Letter of Intent as it's currently proposed and I have grave concerns if we as a Council would be comfortable agreeing with that. That said, none of this is insurmountable. We ought to be able to get there. Thank you for allowing my turn to comment.

**Council Member Harvey:** I want to thank everyone for coming out and talking and voicing your concerns. This has been really helpful and I know we're all tired, but I think it's very helpful and very good for us to know where everyone stands on it. I want to thank Justin Clay, because what I wanted to come here tonight to listen to was what are the resources for parking from the City that has been stated that is going to be used in the Letter of Intent and do we have said parking? Well according to the data, we have plenty. To me that was my main concern because that's the main concern I've heard. I have the data in order to make the decision. The Letter of Intent is a question, however I have a question for City Attorney Kit Williams. Is our Letter of Intent also the contract? Are we also going to do a contract, do we know?

**City Attorney Kit Williams:** No, the contract would be what is actually before you in black and white. It did not incorporate the Request for Proposals, it could have, but that would have made it more confusing. One problem I have with this supposed Letter of Intent, which is a contract, is that it has too much ambiguity in it. Some of that was addressed by a letter to you all from the attorney working for this. I addressed that also, but there is a lot of ambiguity in a contract like that and it appears to me that Vickie Bronson is the drafter of that. I would like to put something

in a contract so it would say that this will not be construed against the drafter. A normal legal rule of law is that if you draw up a contract and it's ambiguous or unclear, then it's going to be interpreted against your interest and in favor of the other party. Sometimes I see contracts where the attorneys don't want that to happen so they put a clause in there saying, this was a jointly agreed to and drawn up contract and it's not to be interpreted against either party. Right now this Letter of Intent has several things that are very unclear in it, it has several things that are clear; how tall the building will be, what it's design will be and some of the stuff it will be made out of, where it sits on the land and so it has the most important things clear but a lot of other details that are not clear. They should be cleared up because they're going to be enforceable and I don't like an unclear contract. I'd rather have it clear so that both sides really know ahead of time before they sign that this is what the agreement is. It needs some more work.

**Council Member Harvey:** My understanding in general, a Letter of Intent is just that. It's surer, it's more amended and more the gist of what the project is. Can we amend the Letter of Intent to say this is a Letter of Intent and we will follow it with a contract? To me, a Letter of Intent is not the place to do a contract, and then we could go into those details?

**City Attorney Kit Williams:** If you look at Black's Law Dictionary, it says a Letter of Intent is not supposed to be enforceable. It's basically an invitation or a guide, but not enforceable. We had one before concerning the parking deck and on October 17<sup>th</sup>, I sent you all this memo quoting that language. It's exactly the language that the proposal the other side have placed in that particular Letter of Intent to make sure it was a Letter of Intent and not enforceable. You could attach this as the proposed amendment, of course everything you change, just like if they want to change something they'll have to agree. It doesn't automatically make that but you could attach this clause into the contract which probably will make it a Letter of Intent. Probably make it not enforceable, that's what this says. It's kind of contrary to some of the other language that says shall and will; mandatory language that you find in contracts. I don't recommend that. I recommend let's make the Letter of Intent, which is actually a contract, a little clearer and handle some of the issues that are still out there on that rather than just trying to make it unenforceable and then go on from there. Eventually, Mr. Reindl will want something that's enforceable before he starts spending a lot of money and so it would be a better and faster way to try to do proper amendments to this proposal rather than really turn it into a Letter of Intent where it's not enforceable.

**Susan Norton:** Kit, could I ask you if you've observed in your reading, what area's you would request more specificity? I've heard the most interesting back and forth about the definition of Letter of Intent that either it is or isn't more or less specific. Now we're back to wanting specifics and I understood that you were out of town, thank you for catching up I appreciate that, Assistant City Attorney Blake Pennington did review and the existing Letter of Intent was satisfactory for answering the questions and that time. If you could help me understand some of the specificities you are looking for that we haven't already answered that would be appreciated, and any suggested language since Mr. Reindl is here and we are ready to try to amend.

**City Attorney Kit Williams:** I pointed out several problems in it in my memo of October 18<sup>th</sup>, which I sent to you and the Council.



**Susan Norton:** I'm sorry, what recent ones? Because I believe those that were in your October 18<sup>th</sup> memo are the ones that Blake Pennington said we had addressed.

**City Attorney Kit Williams:** Blake Pennington said what?

**Susan Norton:** Blake Pennington reviewed the existing Letter of Intent while you were out, looking for whether our Letter of Intent as it currently states, represented the clarification you were asking for. I believe we got his concurrence that it did contain it.

**City Attorney Kit Williams:** I'll have to talk to Blake about that, but except for one item it did not address that. Recently Vickie Bronson did send another letter that had several suggested changes. I didn't want to overload you all but I wanted to point out in a memo I sent today after I received this other letter, some of the things I thought might be very important, really not even dealing with the money but dealing with the use more than anything else. For example, I would like the contract to leave the power with the City Council to control any outdoor amplified music. The Plaza is flat and there's no big structures on either end and amplified music is going to go all over that Plaza. I felt it would be much better to have the City Council in control of that rather than having it even at the Planning Commission level, because that can be appealed and so you really don't have the power. I also talked about the fact that they had changed the Letter of Intent to my criticism that they had not even said they were going to have a restaurant, that was one of the possibilities and of course I believe that to the parts of the building that will be activated to visitors through the Plaza are going to be restaurants and bars. Not the Hotel, that's where people are going to stay in the hotel. I felt like Mr. Reindl probably should at least agree to put in a restaurant and café that he had put down on his own exhibit that he gave to you as part of this Letter of Intent and so I thought that language should be changed to at least say that, you're going to do what you indicated in your exhibit. There are many other things that I would like to see looked at and considered. I pointed out most of them in that other memo, for example, doing a cost share 50/50 split for the water and sewer mains when in fact the only thing we're going to have in there is a bathroom. They're going to have 134 bathrooms.

**Susan Norton:** I'm sorry, I need Wade to address that item about Water Sewer because that's not actually factually correct.

**City Attorney Kit Williams:** Oh, it didn't say split?

**Wade Abernathy:** No, it said whatever would benefit Mr. Reindl he would pay for and whatever would benefit the City the City would pay for. For example, if we were to need water on the South end of the Plaza for irrigation or any other amenities, then we could split that water service into that part of the Plaza.

**City Attorney Kit Williams:** What I would like to see, if it's turns out to be a contract, I think we should consider what the prorated share is going to be, assuming what we're going to do and assuming what they're going to do. I think it can be pretty accurate.

**Wade Abernathy:** If we don't need anything on the South Plaza, it's all on him. So, we wouldn't be sharing.

**City Attorney Kit Williams:** Well we do need it for the bathroom.

**Wade Abernathy:** Well that's part of the development.

**City Attorney Kit Williams:** Regardless, I'd like to see that and also when it talks about pro-rata share of when you build a bathroom for the foundation and everything up, it'd be nice to know what they believe is a fair pro-rata share that could be agreed to before the contract.

**Wade Abernathy:** That's going to be hard to do without a Letter of Intent. We've changed that language to where all we want is a white box finished. That gives us control of all the finishes and fixtures, so we can put it in just like all of our other parks.

**Susan Norton:** Council Member Harvey asked the question, will there be another contract and the answer is yes. Even though we can argue about the intent of this particular document and whether it's called a contract or a Letter of Intent, it's point is to be the first step. A contract with all the real estate terms is coming, this is not the end of the negotiation.

**Wade Abernathy:** We'll have to get approval from you all to sell the land.

**Council Member Jones:** Is it possible, Mayor Jordan, to bring up Mr. Sharp? I would like to hear his concerns about the Letter of Intent.

**Rob Sharp:** A lot of items came to light after the public discussion and then after the Council discussion. I can shed some light on some of it because I've been working on the project for a little more than a year. First of all, the issue of the Letter of Intent, the Request for Proposals asked the applicants to provide either a final proposal or an interim agreement. After discussion with the Steering Committee we agreed that an interim agreement was what we wanted to do, that we would go from interim agreement and flesh out the details then go to a final sale. What we're trying to do with this Letter of Intent is an interim agreement, we probably made an error calling it a Letter of Intent. The Letter of Intent was drafted, we took the deal points from the Request for Proposals and we put them in a list we gave the City and then Mr. Reindl negotiated all the points, then we sent it to Vickie Bronson and she drafted it. So, your attorney drafted this document. I know that the City Attorney works very hard to keep everybody out of trouble and he put up a red flag with some of these items. The items that he brought up are all very good ideas and the things like amplified music, is there 5,000 square feet of restaurant on the ground floor or 2,000 or are there two or three restaurants on the ground floor? I feel that the way to deal with those items is we have offered to go through the PZD process, which means every one of these development details is going to come before you again. You can put it in the minutes, we do not want to control amplified music on that Plaza. We are happy to let the City be the judges of that. So, put it in the minutes and when we do the PZD you'll see that language, that the amplified music is not allowed by right. We'll be very careful about that, we're not building this hotel to make noise. We're going to be the alternative to jello shots and dollar pizza. We're going to be where grown-ups go on Dickson Street and so we're not trying to be the loudest place on Dickson Street, we can't win that war. I wish that Vickie Bronson and Kit Williams had gotten together earlier and worked out these things. This Letter of Intent keeps evolving but it's had so many evolutions that we're at the final moment. We're talking about amplified music and the size and number of the restaurants. We have a deal

that we can get to and the thing that's really good about this Letter of Intent is that it's extremely transparent. What we're saying is we're going to pay you exactly what the land is worth, we are going to split the cost of the appraisal, we're going to split the cost of the surveys, all that stuff costs a terrific amount of money and no one is going to spend that money on the promise that maybe the City will think it's a good idea in the future. We have to have some kind of commitment from you all. That's what we're asking for. In terms of the public knowing, when we reported to the Steering Committee, the press sniffed it out immediately. They published all the pictures, they published the hotel and all the renderings. It's been in the public realm for a long time so it is not something that was hidden from view. I'll point out that this City has always supported the Walton Arts Center, they've always prioritized Walton Arts Center parking. Mr. Reindl is going into this deal knowing that that will continue. He's not counting on getting his fair share of the parking, he's coming behind the Walton Arts Center and existing businesses to use the parking that's not being used. We can keep studying this but we're going to keep finding the same thing. The thing that we need to remember is delay kills deals. We're in a situation of rising interest rates, rising construction costs, the staff has put a terrific amount of time and energy to bring you a full fleshed out proposal. We've gotten a flurry of people concerned about parking at the last minute, I understand it. When we break ground on this hotel in two years, when the thing is standing in four years, we're going to be a different town. We think we're going to be a better town for it. We will never get there if we keep study it, if we keep nitpicking it. There's a time in our agreement to nitpick it, we need to nitpick it. When you get your final real estate contract it'll be thick and everyone will be happy with it or it won't get signed. When you get your PZD documents, you'll have 50 pages of evidence and specific details. We cannot do that until we get a commitment and that's what we're asking for. Mr. Reindl has gone through the whole process and done everything right on top of he has a 20 year track record of doing good projects. It's very discouraging to hear that we need to take more time, we need to think about it and what's the hurry. I would hope that you could pass what we have and work with us to make it better. When we're here for PZD, make it better. When we're here for the final agreement, make it better. Now is the time to commit and I hope you do that tonight.

**Council Member Bunch:** My thoughts were, when we got a six page email from Kit on October 18<sup>th</sup> and then we got the page and a half from him today, I read that to mean we had resolved the first issues that took up the six pages and now we're down to this.

**City Attorney Kit Williams:** I certainly felt like the use issues and the amplified music issue was albeit the most important long term issue. More important even than money. That's why I addressed those things.

**Council Member Bunch:** I feel like if we start with the big email and then the next email is much smaller, then I think we've probably gotten some of the issues resolved in the big email. Kit, is there anything in this that you see in the second email that you sent today that we will not be able to cover in a PZD agreement?

**City Attorney Kit Williams:** It would be much better addressed in the actual real agreement. PZD is a zoning decision and we can argue about various conditions on that, but if you have an agreement that already says you're going to approve this then you don't have as much leeway in a PZD as you would if you're looking at a blank canvas because you'll already have an agreement

that says it looks like this and everything else and these are it's uses so when it comes to the uses and including how to do the amplified music, some of those thing would be good to have in the actual agreement.

**Council Member Bunch:** We keep going back to amplified music, I know to people that live Downtown that's a pretty big issue. It's been something that we've discussed a lot but that seems like something that we could say, okay if we're going to vote to table this we vote to table it. Or we vote to add it to the Letter of Intent or something like that. It's not something that, if we're just talking about something like amplified music, that seems like something that would be a small issue to get resolved.

**City Attorney Kit Williams:** It's something I think they could certainly agree to, you heard that they're not wanting to do that. As your attorney, I'm always looking at a potential worst case scenario and I would like to keep the City Council in control and that's why I drafted a language for that.

**Council Member Bunch:** To me that doesn't seem like a hard thing to add in and they've said they don't want to control the music.

**Council Member Harvey:** My concern is that a lot of the things were talking about need the Letter of Intent so that we can continue to make the decisions. It's a gray, hard area because it's a giant decision. We've seen it come through the process and I feel like at this point, from what I've heard now with the contract and how we can continue to clarify and ensure that can be part of the process, but again with the Letter of Intent it's the big picture. The big picture to me is that we have a place for visitors to come to Fayetteville in the Arts Corridor and we've missed out for ten years with Crystal Bridges. We have all the artists, all the creatives, and I'm just going to claim it; we export all of that. They take all of the stuff that we make, do and create and they take it over there and put it on display at Crystal Bridges. We need a stage here, we need people here, we need for them to sleep, eat and spend money here. This was the perfect idea. We didn't know what was going to come up but a hotel is a great idea. They've come to the Arts Council and we've received a letter from the Arts Council. The support that we're receiving that I'm hearing from the creative economy in terms of what is the big idea of a hotel is exactly what we need for a destination arts place. With the information I have, I'm going to move that we approve the resolution.

**Council Member Jones:** I'm going to second that, but before I do that, Mayor Jordan. As the leader of this City and as the visionary of this City, I would love to hear from you as it relates to your thoughts on moving forward.

**Mayor Jordan:** The process wasn't flawed. We've talked about this in public meeting after public meeting. Susan can give you a list of the people that they presented four or five of these different designs and they picked this design. It was on our website in January 29, 2019, four months before we had that vote because I wanted to be sure that everybody was on board. Granted, I didn't mention a hotel. I didn't because I did not know what that was going to be. I had a list of things it could be and you saw what I saw. I showed, to the public, I did 18 public hearings in four months to get everybody's input. On the process, it wasn't flawed and there wasn't no switch and bait, I didn't lie to anybody or try to bamboozle anybody. I gave them what I had. Show that picture,

Susan. This is what I showed people. This is what was on our website. This was on the Fayetteville Flyer, many years ago. That was something that we can be proud of. I brought this to the Council, that's a fact. Some of you Council members weren't there but some of you were there. I want to clear that up. The Mayor didn't try to bamboozle anybody. I didn't appreciate hearing that because that's not true. I'm watching hotels go in; two in Bentonville, two in Rogers and one's going in in Springdale. We don't have anything in our Downtown area, Council Member Harvey's right, the time has come. We talk about getting 86 emails, you know how many emails I got during the LGBTQ Ordinance? Around 1800 and 75% of those were against it. I want you to know this Council had the heart and the courage to pass that ordinance and I want to thank Sarah Marsh for reminding me. I'm watching hotels go in and we need a hotel. I'm going to support this hotel, I'm going to be out there and upfront with it because I need it. This City needs it. I'll support another one that goes in too, if there's two that goes in there or eight that goes in the Downtown area I'll support them all. We need them. I believe there's enough for all of us. We took this to the Urban Land Institute, the national group, to check that and they said this is a good looking project. What I told the people, that there was going to be a multi-story, multi-use building on the South end and then there will be a smaller building on the North end. I didn't know what they were going to be and that's what I told the people. We showed that picture around. Another thing I want to address because a hotel will get more eyes on the park, a hotel will help us with this ADU discussion we're kicking around. One of the reasons people use ADU is because they don't have a good quality hotel in this City right now. I mean, The Graduate is good, we have a few but we don't have a major hotel in that Downtown area besides The Graduate. I heard people say they were charging \$1,000 a night. Did I hear that right?

**Susan Norton:** You meant short term rental. You accidentally said ADU, but you mean short term rentals.

**Mayor Jordan:** I mean short term rentals. It's late, I'm tired. Short term rentals, it will help us with that. The City needs to take bold action and the City needs to be courageous, or you can take rank with those timid souls that know neither any wins nor any losses, that live their whole life out in mediocracy. I don't intend to live my life out in mediocracy, nor do I intend to lead this City to mediocracy.

**Council Member Jones:** Amen.

**Council Member Wiederkehr:** Mayor, no one is really opposed to the hotel. Is there any reason why this Council wouldn't want to include Kit's non-binding agreement paragraph in this Letter of Intent before it's voted on?

**Mayor Jordan:** I don't have anything.

**Council Member Scroggin:** Is that a motion? Because I would second it if it's a motion so we can get this moving.

**Council Member Wiederkehr:** That's a motion.

**Council Member Scroggin:** Thank you, I second it.

**Susan Norton:** There was a motion and a second before that.

**Council Member Wiederkehr:** It's to amend the motion to authorize the Mayor to sign the Letter of Intent.

**City Attorney Kit Williams:** We have a couple issues here. There was a motion just to pass the resolution and your motion would be to actually change the entitled Letter of Intent so that's probably not a proper motion to amend. I don't think yours would be in order of theirs, it would still be on the floor. A motion to table would take precedence but not a motion to amend a resolution.

**Council Member Wiederkehr:** I would need to request the original person making the motion to amend their motion, it sounds like.

**Council Member Harvey:** You're asking if I would amend or retract my motion and then you could add yours as well? I think that would be in order.

**City Attorney Kit Williams:** If you wanted to talk about the actual Letter of Intent language, then I think that would have to be a second motion rather than a motion to amend passing the resolution so if you withdrew your motion he could make his.

**Council Member Harvey:** Let me go ahead and retract my motion so you can add your amendment, Council Member Wiederkehr.

**Council Member Jones:** I'll need to second it right? I retract my second.

**City Attorney Kit Williams:** At this point there is not a motion on the table so a motion from you, Council Member Wiederkehr, would be in order.

**Council Member Wiederkehr:** I would move that we amend the proposed Letter of Intent to include the City Attorney's paragraph titled non-binding agreement from his October 17, 2022 memo to Council to be a part of the proposed Letter of Intent.

**Council Member Bunch:** Would you read that?

**City Attorney Kit Williams** read the non-binding agreement memo he sent to the Council on October 17, 2022.

**Council Member Scroggin:** I second that, I'm hoping this can get move forward. A lot of the questions we have about what the appraisal is going to come back can be answered after the Letter of Intent is signed and they can't really be explained until after.

**Council Member Harvey moved to approve the resolution. Council Member Jones seconded the motion. After discussion, the motion and second were withdrawn.**



**Council Member Wiederkehr made a motion to amend the Letter of Intent to include nonbinding agreement language as read. Council Member Scroggin seconded the motion. Upon roll call the motion passed unanimously.**

**City Attorney Kit Williams:** Unless you want to make other changes to the Letter of Intent, which is now a Letter of Intent, then you would have before you the question of the resolution itself.

**Council Member Kinion:** This was a great discussion for all this time. It's a relatively simple solution, since we're just adding a paragraph and I do trust it will do the trick. We still have a lot of work ahead of us to be sure that the parties that have expressed interest are heard. I never said I was against a hotel, I just said I was against the Letter of Intent, the way it was written. I will support it as it's been amended.

**Council Member Scroggin** gave his thanks to everyone for coming out. He believes we need to continue to look at parking in general. He stated he looks forward to moving this on to the next step.

**Council Member Turk** believes we need more time and more information on this item. She does not support it.

**Mayor Jordan:** One thing I do want to say; when I took this office and I became the Mayor of this City, you know what the number one item was in the Downtown area? Parking. Flash forward 14 years later and you know what we're talking about? Parking and I've built a parking deck and I've got one not quite finished and we're talking about yet another one. So, parking has always been an issue and it will be an issue. You can't stop the progress of the City just on one issue. One item. We have to move forward.

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

*Resolution 256-22 as recorded in the office of the City Clerk*

**VAC 22-022 (3615 N. Steele Blvd/JJ's Live):** An ordinance to approve VAC 22-022 for property located at 3615 North Steele Boulevard in Ward 3 to vacate a portion of a utility easement. *At the October 18, 2022 City Council Meeting, this ordinance was left on the First Reading.*

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

*City Attorney Kit Williams read the ordinance.*

**Jonathan Curth**, Development Services Director gave a brief description of the ordinance. He stated he does not have any new updates for the item. He mentioned Brett Roberts, the representative for the applicant, was available and attending the meeting online.

**Mayor Jordan** asked if the representative would like to speak to the Council. After further discussion, Susan Norton stated no one was available online.

**City Attorney Kit Williams:** I guess he has one more chance to make a meeting.

**Susan Norton:** The applicant has raised his hand.

**Brett Roberts**, Representative: My understanding is this Vacation is simply before the Council again on the second reading to ensure that, JJ's the Applicant, understands the condition of use. I believe we do and I don't know that the Council has any questions that the staff wouldn't address but I'm available if necessary.

**City Attorney Kit Williams:** I was the one that asked that you all be present and I want to read you the second condition of this Vacation to make sure that you as an official representative of the owner understands; it says the Applicant agrees that in event that at any time in the future the utility company needs to do work in the area of the utility easement being vacated, and if the canopy posts located along the building set back line approximately five feet South of the utility easement line, would interfere with the performance of their work, Applicant will temporarily remove the canopy posts and the Applicants expense to allow the work to be performed without interference. I just wanted to make sure that you as the official representative of the Applicant understands that duty that you are assuming.

**Brett Roberts:** Absolutely, Mr. Williams, I appreciate that. We certainly do.

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

*City Attorney Kit Williams read the ordinance.*

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

*Ordinance 6623 as Recorded in the office of the City Clerk*

**New Business:**

**Subrecipient Agreement WCRC Dead Horse Mountain Rd. Land Purchase:** A resolution to authorize Mayor Jordan to sign a Subrecipient Agreement with the Watershed Conservation Resource Center for the purchase of about 223 acres of land near Dead Horse Mountain Road

utilizing American Rescue Plan Act funds in the amount of \$1,445,400.00, and to approve a budget adjustment.

**Council Member Turk:** I'm bringing this before us tonight because we're at risk of losing the opportunity to purchase this land. Beaver Water District has committed \$800,000 of the total amount. ARPA Funds can be used to improve water quality. The West Fork of the White River deposits water into Beaver Lake which supplies all of Northwest Arkansas and is really critical to the economic development of our Region. This piece of property is 223 acres and it is directly adjacent to the City's 98 acres that was purchased in 2019. It has 2.5 miles of riverfront and has 22 acres of wetland. Restoring the riparian zone, not having this flood often and keeping this area intact is really critical to the continued improvement of water quality that goes into Beaver Lake. I'm looking forward to hearing from staff on some of the details on the contract arrangement, but this is very important and an appropriate use of ARPA Funds.

**Mayor Jordan:** Council Member Turk, do you have an applicant?

**Council Member Turk:** I hope the applicant is here. Sandi, would you like to come up and tell us more about it?

**Sandi Formica,** Executive Director of Watershed Conservation Resource Center: I have three categories of benefits, one is the environmental benefits. This project supports water quality and protection of the West Fork of the White River. Its flood plain is important to the City of Fayetteville to ensure that we have clean drinking water now and in the future. The expansive floodplain in 22 acres are important natural features that work for us and they serve to filter out sediment nutrients from floodwaters, which in turn helps to protect Northwest Arkansas's drinking water source; Beaver Lake. 40% of the City drains to the West Fork White River, little bit to the White but mostly to the West Fork White River. All of that storm water ends up in West Fork. This floodplain helps to treat the storm water runoff that we create through our urbanization. Natural resources are disappearing at a rapid rate, floodplains are a vulnerable landscape and once their function is lost the impacts are irreversible. Protecting this 223 acre property would set a positive precedent, it's forward thinking on how we should manage floodplain areas. Most of the parcels in the Town Branch Watershed, so you guys all know Town Branch, and Beaver Lake Watershed associated with Fayetteville, they're small parcels. This is a very rare opportunity to get a large parcel of land that can protect our water quality in one purchase. Wetland habitat is scarce in Northwest Arkansas, especially in the White River Basin. Over 22 acres of wetlands are important for treatment of stormwater to improve water quality and they're also important for fish and wildlife. Protection and restoration of the floodplain will help de-mitigate the effects of climate change, the flood plain acts as a natural carbon sink. It helps to reduce heat affect and also is flood relief. There are many more benefits besides that. The purchase to protect the floodplain helps de-mitigate the hydrological impacts of development where we're creating more impervious surface in Fayetteville and it helps to keep the City on a path of sustainable development. From an economic standpoint, the property is adjacent to low to moderate income areas. Having public access to a natural area benefits these areas and also the entire community of Fayetteville. The use of ARPA Funds to purchase a property with leverage of over \$800,000 match with Beaver Water District, protection of the floodplain, result in reduction of sediment loads to Beaver Lake our drinking water source, this reduction in sediment and nutrients has a direct impact of our drinking

water cost so it directly relates to how much people are going to pay for their water. River recreation is a growing recreational activity and we have this treasure flowing through our City that will contribute to Fayetteville's tax revenue through creating an access point. There's very little access to this river at this time. The purchase of this property will include restoration and conservation efforts that will benefit the surrounding communities and public by providing a greenspace to engage in natural resource education, walking trails, access to the river, fishing, birding and enjoying nature. Throughout the COVID pandemic, the outdoor areas of our communities were inundated with people and families looking to find safe healthy ways to recreate for physical and mental health. Greenspaces have proven to be a valuable community asset and will continue to be needed as our communities grow.

**Paul Becker**, Chief Financial Officer: The resolution as written authorizes the Mayor to sign the agreement contingent on a final signature on the subgrantee agreement. That's where we stand at this point in time. It is an eligible use of ARPA Funds.

**Council Member Turk**: I thought last week, Susan when we were talking about this, that staff was going to make a recommendation on the ownership. How that was going to be structured.

**Susan Norton**, Chief of Staff: I believe Steven, Kit and Blake have been working on that.

**Council Member Turk**: If we could have a discussion about that, that would be nice.

**Paul Becker**: It's at the point where I happened to be out of town but I sent an email that I was concerned there was in the subgrantee agreement that it was conserved that we had an agreement on the deed that it would be conserved. That's what we're working on right now to make sure that's done before the Mayor signs the subgrantee agreement.

**Council Member Turk**: Paul, just to clarify, that means the City would be on the deed?

**Paul Becker**: No, the City would not be on the deed.

**Steven Dotson**, Internal Auditor: The City would be on the deed. We'd be tenants in common.

**Council Member Wiederkehr**: Clean water is in the top three uses for ARPA Funds, this is environmentally a smart thing to do. Rather than having to build a facility to clean water, we're going to purchase land and it will do that for free for the next 100 years after it's purchased. It represents, because of the Beaver Water District Grant, in lieu a 57% return on investment immediately by them co-joining with this. I thank the people that were smart enough to come up with this agreement.

**Council Member Kinion**: I endorse that. I tell you what, this is a good economical choice. A good investment and already a return. We certainly need the protection. The City and the association have worked hard on improving the water quality and the West Fork of the White River, we have now sewage being treated in Fayetteville which helps and we've done a lot of stream restorations so this is certainly a project that enhances everything that's already happening. It's a great deal.

**Council Member Bunch:** I like the fact that we have the opportunity to do this and it ties in with land we already have. It gives us a bigger area of protection, this is a good use of the funds and I'm appreciative of the people that brought this forward.

**Council Member Harvey** briefly spoke of how public comment had not been taken yet.

**Council Member Harvey:** I'm one to support clean water. It's important we support this for the future of Fayetteville and conserve land when we have the opportunity, I'm and glad that ARPA allows us to do that. One of the pieces that stands out about your application to me is your equity piece and making access to the lower income neighborhoods because that was a big part of ARPA as well. We love to see that piece come to fruition besides the entire project.

The City Council received six public comments regarding this resolution.

**Council Member Harvey:** Would it be possible to see a map of the actual space? Do you have something Council Member Turk that you can reference for us to see the geography that we're talking about?

**Council Member Turk:** It was in our packets but it was kind of down a little bit so it looks like they're going to bring it up for us. It's pretty impressive.

**Council Member Harvey:** I wanted to let that soak in. Since I've been in office, Dead Horse Mountain has been quite a big issue. We've heard of a lot of flooding and we've seen a lot of flooding. This is definitely the right step to help prevent and protect homes and livelihoods. I'll be supporting this and I want to thank Council Member Turk for bringing this forward. With ARPA Funds it's been taking time so I want to thank you all to the applicants for being so patient and having Council Member Turk to advocate for you. When I asked about how the ARPA Funds were being dispersed and how was that going, I was able to reach out to Steven and he let me know that these funds have not been dispersed and I was very surprised. I would like to make an amendment that in addition to doing this that we allow all the ARPA Funds that we have approved for them to receive their funding because we approved a lot of funding. I got a great email about why we haven't released that funding but this is an emergency item but so is all of the other COVID related, all these people have been providing these emergency services and so I feel in my heart that this is the right thing to do. I have no reservation but I also feel that I want to be equitable to all of the other people who've been experiencing COVID issues. I wanted to add an amendment that we release the funds and that we allow those applicants to show any documentation they have from 2020 that lost revenues because things are just going slow and you're bringing your item is helping to bring that forward. I want to also allow everyone else to receive funding as well.

**Council Member Turk:** I agree. We really need to get those funds out but we don't have an itemized list, we had that workshop on September 7<sup>th</sup> and we agreed on quite a few things but we never voted on it. I would suggest that maybe you do a walk-on at the Agenda Session so at our next Council Meeting we could vote on those specific items.

**Paul Becker:** We're working right now on the items that we talked about at the work session. We have a schedule to bring them forward, we'll bring at least one of them forward at the next Agenda

Session and then the one after that we'll bring the other ones we've discussed. We're still waiting on documentation for some of the ones that requested loses to prove those loses so we're working on those and bringing them forward. Some will be in November and some will be in December but we're working on those right now, the vouchers and all of the things we discussed. I don't think we need an amendment on that at this point in time.

**Council Member Harvey:** Okay. How is the grant administrator process going? Is that going to help as well?

**Paul Becker:** We do have a Grant Administrator on board. The Grant Administrator right now is working very hard on working individually with the claimants for getting the documentation to us. We hired the Grant Administrator three weeks ago and she's working now doing a very good job.

**Council Member Harvey:** I don't think I need to make the amendment right now but if anyone has any thoughts or comments on that I know we're all very tired but that was something I had in mind. I'll hold on my amendment at this moment.

**Mayor Jordan:** And the amendment would've been? Council Member Harvey please explain for me.

**Council Member Harvey:** I asked if ARPA Funds that we approved have been released to people because I thought we approved quite a bit of funds.

**Council Member Turk:** We agreed on them but we didn't vote because it was a workshop.

**City Attorney Kit Williams:** The only way the City Council really makes an official action is by passing a resolution or an ordinance.

**Council Member Harvey:** The workshop wasn't an official vote, thank you. That's what I'm recalling but I'm now realizing you're right.

**Paul Becker:** The workshop was intended to discuss and see what the Council would support before we would then bring it forward. We can't have a workshop and have a vote on that unless it's open to the public, so we talked about that. We didn't have the documentation at that point in time because we weren't going to spend the time to pursue it so that's why we're getting all the documentation in order now.

**Council Member Harvey** expressed her appreciation for the explanations.

**Council Member Turk** expressed her appreciation to Sandi, Matt and everybody at Beaver Water District and everybody that showed up to the meeting.

**Council Member Hertzberg** thanked everyone for attending the meeting and voicing their support.



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

***Resolution 257-22 as recorded in the office of the City Clerk***

**Amend §162.01 (Z) Unit 25 Offices, Studios and Related Services:** An ordinance to amend §162.01 (Z) *Offices, Studios, and Related Services* of the *Fayetteville Unified Development Code* to add Personal Services.

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

**Jonathan Curth**, Development Services Director gave a brief description of this item. He stated staff supports Planning Commission's proposal to modify Use Unit 25 to include the Personal Services. He stated an issue of concern about Dry Cleaning was brought up at the Planning Commission and at Agenda Session. He explained that a lot of people do not understand there are a lot of environmental consequences and considerations associate with Dry Cleaning. He consulted with Planning Staff and they have no opposition to amend Dry Cleaning away if that remained a concern to the City Council. He stated the Planning Commission unanimously recommended in favor of this item and staff supported it as well. There has been no public comment on the request. He is available for questions.

**Council Member Turk:** After we had the Agenda Session, I went online and looked up the issues with dry cleaning. Dry cleaning mostly is using perchloroethylene (PERC) it is a potential human carcinogen and it's a cleaning solvent. Symptoms include exposure, depression, central nervous system, damage to the liver and kidneys, impaired memory, confusion and dizziness. There's a whole list of issues with dry cleaners and a lot of the studies have been done with the workers themselves. You have to get a special hood and ventilation system. With most things, I don't think that, at least here in Fayetteville, that we have adequate state and federal oversight to regulate these. I would ask that we amend this proposal and remove dry cleaning at an abundance of caution for neighborhood areas and still leave dry cleaning and a Conditional Use Permit issue.

**Jonathan Curth:** This is getting into a very deep dive in the code, but as someone who's interpreted it in the past, I think it would be beneficial to include the language excludes dry cleaning because often time when you go from sections of code that repeat each other over and over again and suddenly something like this is missing it leaves it open to interpretation whether it could be allowed unless there's an explicit clause saying that it's not. If the Council or Council Member Turk is agreeable to that.

**Council Member Turk:** I'm definitely agreeable to excluding dry cleaning or using the language that you recommend for clarity.

**Council Member Bunch:** I don't have any problem with taking that out. I don't go to the dry cleaners much anymore. The last time I did go I do know the place where I picked up my dry cleaning was not the place that did the dry cleaning so I don't know. I don't have any problem with removing this because I understand the concern.

**Council Member Harvey:** What I thought you were going to say, because I've heard about this but I don't know if it exists in Fayetteville, that there's green dry cleaners. If we take out dry cleaners then the green ones maybe can't do their things. If it's conditional then they can say we're a green drycleaner, is that correct?

**Jonathan Curth:** Correct.

**Council Member Harvey:** I would support that amendment, Council Member Turk.

**Mayor Jordan:** We're going to put an amendment that it's Conditional Use on drycleaners?

**Council Member Turk:** That's correct. You're right Council Member Harvey, I forgot to mention that these organic drycleaners they don't use PERC or some of these other hazardous chemicals. They've tried to take a much more environmentally friendly approach but how we regulate that or codify that in an ordinance might be challenging.

**Council Member Bunch:** I do think the daycares, I know how hard it has been in the past for people to get a simple daycare put in their home where they're going to take care of just a couple kids. I'm absolutely in support of that, I can't believe we didn't have this made easier earlier on because that has always been a challenge for people who want to take care of just four or five kids. They've got to deal with parking and all these other things.

**Jonathan Curth:** In the Mayor and Council's defense, you all did consider an ordinance about two years ago to make in home daycares much easier. We basically deferred to the State standard and if anyone wants to go be on that then it might slip into a land use consideration locally.

**Mayor Jordan:** We're going to leave in everything but the drycleaners. Do we need to have a separate amendment or can we just?

**City Attorney Kit Williams:** Yes, I thought there was an amendment to remove dry cleaning so that needs to be the first vote.

**Council Member Turk moved to amend the ordinance to remove dry cleaning. Council Member Harvey seconded the motion. Upon roll call the motion passed unanimously.**

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

*City Attorney Kit Williams read the ordinance.*

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

*City Attorney Kit Williams read the ordinance.*

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

***Ordinance 6624 as Recorded in the office of the City Clerk***

**Announcements:**

**Susan Norton**, Chief of Staff spoke about the Historic Preservation Plan Survey being online on the Speak Up portion of the City of Fayetteville website. She reminded the Council the Agenda Session meeting was moved to Thursday, November 10<sup>th</sup> due to the election being held on Tuesday, November 8<sup>th</sup>.

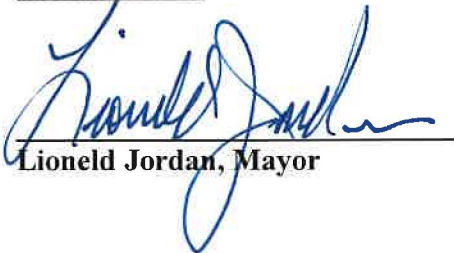
**City Council Agenda Session Presentations:**


**Agenda Session Presentation - Sales Tax Report, Paul Becker and Energy Report, Peter Nierengarten.**

**Agenda Session Presentation: Annual Energy Action Plan Update - Peter Nierengarten.**

**City Council Tour: None**

**Adjournment: 10:55 P.M.**

  
Lioneld Jordan, Mayor

  
Kara Paxton, City Clerk Treasurer

