

Council Member Sonia Gutierrez
Ward 1 Position 1

Council Member D'Andre Jones
Ward 1 Position 2

Council Member Mark Kinion
Ward 2 Position 1

Vacant
Ward 2 Position 2



Council Member Sloan Scroggin
Ward 3 Position 1

Council Member Sarah Bunch
Ward 3 Position 2

Council Member Teresa Turk
Ward 4 Position 1

Council Member Holly Hertzberg
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Kara Paxton

**City of Fayetteville Arkansas
Special City Council Meeting
December 14, 2021**

A Special meeting of the Fayetteville City Council was held on December 14, 2021 at 4:30 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

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

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

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions: None

City Council Meeting Presentations, Reports and Discussion Items: None

Consent: None

Unfinished Business:

Nabholz Construction Corporation Change Order No.8 – 2019 Cultural Arts Corridor Bond Project: A resolution to approve Change Order No. 8 to the contract with Nabholz Construction Corporation in the amount of \$10,373,888.00 for the guaranteed maximum price related to the Cultural Arts Corridor Replacement Parking Deck Project, and to approve a budget adjustment - 2019 Cultural Arts Corridor Bond Project. *At the December 7, 2021 City Council Meeting, this Resolution failed.*

Mayor Jordan: Council Member Jones has asked to reconsider a vote. Is that correct?

Council Member Jones: Yes, that is correct.

City Attorney Kit Williams: Since you voted for the majority that turned down the vote on this resolution, you are empowered to make a motion to reconsider, if that's your choice.

Council Member Jones: Yes, I would like to make a motion to reconsider my no vote.

Council Member Jones moved to reconsider his previous no vote on the resolution. Council Member Scroggin seconded the motion. Upon roll call the motion passed 7-0. Council Members Harvey, Jones, Kinion, Scroggin, Bunch, Turk and Hertzberg voting yes.

City Attorney Kit Williams: We're right back at the same spot immediately before the City Council voted on this at the last meeting.

Wade Abernathy, Bond Projects & Construction Manager gave a brief description of the resolution. He thanked Ted Belden of Dickson Street West Investments, Sterling Hamilton of Sage Partners, Greg House of Depot, LLC and Dickson West Investments and Farmers & Merchants Bank for playing a vital role in this item. He gave a historical overview of the project. He stated the item tonight is for a guaranteed maximum price and the approval will allow them to move forward with the construction. He stated the item is time sensitive because the deadline for the subcontractors to hold their prices expires Friday. He spoke about the urgency to pass the resolution.

Ted Belden, Dickson Street West Investments spoke about the history of the item and the impact of this partnership to the Downtown redevelopment. He stated this project will bring additional investment into Downtown Fayetteville. He spoke about the green space and having good parking for citizens.

The City Council received three public comments regarding this resolution.

Council Member Turk: I received an email from an interested citizen. He had several questions that I'd like to see if we can get answers to tonight. Is there anything preventing Mr. House from selling his rights to develop the top floor of the parking deck?

Susan Norton, Chief of Staff: Ted Belden could answer on behalf of their entire entity. This is not a project between Mr. House and the city. It's a project between a corporation that is represented by several people.

Ted Belden: In the contract that has been negotiated, I don't believe there is anything that would prohibit us from doing that, but it certainly is not the intention or desire on our part. I don't believe there is anything that stipulates we would have to own it forever, in terms of our future rights to build above it. The costs have gone up and we thought the infrastructure improvements we were going to be spending to potentially build on top of the deck, at one time was half a million dollars. It's about a million, two, is what the developers have to pay for that extra infrastructure costs. We do intend to cooperate with the construction schedule now to build out the six floor parking, which will add an additional 34 parking spaces to the spaces that are going to be built by the city.

Council Member Turk: Can any of the LLC's or other entities involved, sell their property rights, the food court area or 14,000 square feet of ground level spaces?

Ted Belden: They could. This parking deck is going to become the horizontal profit regime, and we will have our 15,000 square feet in the commercial area of the building. We will hopefully rent those. I don't think it prohibits us from selling them.

Council Member Turk: His last question is, are there any of the increased cost due to the shared development rights? If so, are they being asked to pay more?

Ted Belden: Definitely yes. We are being asked to pay more. We are paying from \$500,000 to a million, two, on the infrastructure costs. I think our total share of the developer's cost is \$2.7 million.

Council Member Turk: I have one question for the city. Wade went through all the different contracts and details that have transpired, but right now, does the city own the land that this parking deck is going to be built on completely?

Susan Norton: Not until we close, which is scheduled to be right after this vote.

Council Member Turk: The investments the city has made already, have been on property that the city does not own yet. Is that correct?

Susan Norton: That's correct. The city has invested design work into the obligation the Council made to go ahead with this deal last March.

Council Member Bunch: It's not uncommon for someone who is looking at buying a piece of property, especially for a big commercial project, to invest some money up front to see if they could build the project in the first place.

Council Member Harvey stated she was unable to attend the last meeting. She stated this project is about 10 years overdue and that's because Crystal Bridges has been in the region for that long. She stated the variety and revenue that visitors and the opportunities our businesses have missed

because of that is an enormous and financial impact to the city. She stated every day that we delay this deck, we're delaying more opportunity. She stated we want to welcome people and their dollars. She stated investing in the deck, is investing in the creative economy. She stated we need this deck and hopes everyone will vote for it.

Council Member Kinion explained his position and stated it has nothing to do with the project itself, as far as its beauty or that it's going to be a great sense of place. He stated we are in a public/private relationship. He spoke about the fiscal responsibility in managing taxpayer's money. He stated this year, we are preparing to approve a deficit budget for the year that's coming up. He stated he knows we're going to cover our deficit, but at the same time, it's a risk we are taking. He stated as we move forward with this project, the location is already established, but he has to look at the point, is it fiscally responsible for us at this time to move forward in allocating money to a project that is a public and private relationship. He stated the deck itself is the city deck, but he would have liked to have seen more discussion on how this partnership with a private entity could have worked closer with us to manage the override. He stated he felt like he was pressured into voting one way or the other. He stated he wants the facts and alternatives with an open discussion on the possibilities. He stated he doesn't feel like that was what was presented to him or involved in, as they moved forward. He stated we were presented that there's a cost overrun, and we have to come to the rescue. He stated it's vitally important for us to move forward on this project, it is the manner in which we are accepting all the responsibility for something that is a private/public partnership. He stated he is not trying to inhibit the creative economy or inhibit a project that was passed by a bond. He stated he cannot support this because he does not think we looked at every available opportunity that would be available through a public/private relationship that we have in developing this property.

Council Member Scroggin: I agree. I don't like the process that we got here, but we need to look at the thing that's in front of us. I know some people want to talk about the other location, well guess what, concrete is still more expensive over there. I am hoping in four or five years, the vision that's been laid out in front of me will be wonderful down there. We could have done it quicker and probably saved the city some money, but it is a net positive for the citizens of Fayetteville. I will vote for it again.

Council Member Kinion: Location has nothing to do with my decision this evening.

Council Member Jones: The opportunity to reconsider, is based upon me being a champion of the Arts Corridor and being a champion of boosting Fayetteville's economy and respecting the voice of Fayetteville voters. I am going to change my vote to yes.

Council Member Turk stated she would like to clarify her position. She stated she has been concerned about the lack of transparency in the process from the beginning. She stated she is a huge supporter of the arts. She stated with the location, we didn't get a choice. She stated it was going to be on Dickson Street, and it was not fairly evaluated. She stated the other issue is all the swapping of properties. She stated the entire Depot building is on the National Register of Historic Places and under this deal, only half of it will be preserved. She stated the other half will not be preserved and that goes against what she understood Fayetteville to stand for. She stated we would like to protect our historic properties when the opportunity presents itself through the city. She

stated what she is objecting to tonight, is all of the secondary deals the citizens did not vote for. She stated they only voted for a parking lot and the Cultural Arts Center. She stated we have not done a fiscally good job because \$3.1 million overrun is significant.

Council Member Bunch stated she was remembering all the meetings but remembers going back when they first were looking at these locations and we beat them up over and over again. She stated it seems like we talked about this location and the process a lot. She stated she doesn't like overruns, but in our economy right now, everything is costing so much more. She stated this is not going to be the last one we see on our city projects we have going on. She stated early on we hired Attorney Vicki Bronson to help us negotiate the contract, which was an expert in helping negotiate this. She stated maybe we could have had more input as this was going on, but we had quite a few meetings about the different parts of the contract and how it was coming together. She stated we have to rely on city staff and the people we've hired to help us negotiate these things. She stated the location is the best location and it's unfortunate we're going to have cost overruns, but we just need to move forward on it.

Mayor Jordan: I have believed, and still believe this is a catalyst of change for this whole area. Environmentally, we are seeing stream restoration and we are going to be planting native trees. We're going to be replacing asphalt with pervious pavers. We are going to reduce stormwater runoff. Economically, you have heard from the Downtown Dickson Street businesses and the Walton Arts Center. One of the things I've heard from the Dickson Street businesses, they want to have a safe area. We are going to have a Police Sub-Station down there. It is going to be a gathering place for all. It will be a place where everybody is welcome and come enjoy the arts. It will be a place where everyone will be exposed to the arts and that's hugely important in this city. It is a catalyst for change. I would appreciate your vote tonight.

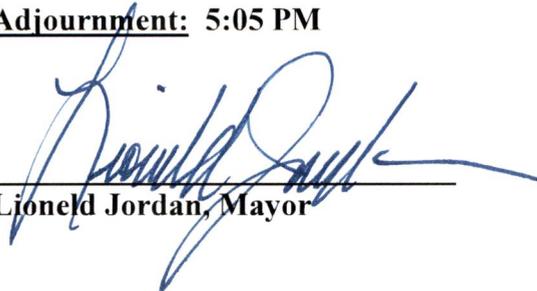
Council Member Harvey moved to approve the resolution. Council Member Jones seconded the motion. Upon roll call the resolution passed 5-2. Council Members Harvey, Jones, Scroggin, Bunch and Hertzberg voting yes. Council Members Kinion and Turk voting no.

Resolution 309-21 as recorded in the office of the City Clerk

New Business: None

Announcements: None

Adjournment: 5:05 PM


Lioneld Jordan, Mayor


Kara Paxton, City Clerk Treasurer

