



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Public Safety Council Committee

Tuesday, October 15, 2024

5:00 PM

Municipal Center, 300 S. Church

1. CALL TO ORDER

2. ROLL CALL (ELECTRONIC ATTENDANCE) CONFIRMED BY CITY CLERK APRIL LEGGETT

Present 7 - Mitch Johnson; David McClain; Chris Moore; Brian Emison; Janice Porter; Chris Gibson and LJ Bryant

3. APPROVAL OF MINUTES

[MIN-24:090](#)

Minutes for the Public Safety Committee meeting on Tuesday, September 17, 2024

Attachments: [Minutes](#)

A motion was made by Chris Gibson, seconded by Chris Moore, that this matter be Passed . The motion PASSED with the following vote.

Aye: 6 - David McClain; Chris Moore; Brian Emison; Janice Porter; Chris Gibson and LJ Bryant

4. NEW BUSINESS

RESOLUTIONS TO BE INTRODUCED

[RES-24:139](#)

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO CONDEMN PROPERTY LOCATED AT: 2106 COTTON STREET, JONESBORO, AR 72401 PARCEL # 01-144271-20700

Sponsors: Code Enforcement

Attachments: [2106 Cotton Inspection Report](#)
 [2106 Cotton Map](#)
 [2106 Cotton Pre Condemnation Notice](#)
 [2106 Cotton Pre Condemnation Notice Returned Sig Card](#)
 [22268940-IMG 2255](#)
 [22268952-IMG 2267](#)
 [22268955-IMG 2270](#)
 [22268959-IMG 2273](#)
 [22268960-IMG 2274](#)
 [22268963-IMG 2276](#)
 [22268974-IMG 2285](#)

A motion was made by Chris Gibson, seconded by Chris Moore, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - David McClain;Chris Moore;Brian Emison;Janice Porter;Chris Gibson and LJ Bryant

5. PENDING ITEMS

6. OTHER BUSINESS

Councilmember David McClain said, chairman I have one thing in particular. Carol, do you have an update or anything for the Citizens Bank? And the reason, I'll state why I'm asking that question here in just a second. City Attorney Carol Duncan said, I mean, what I understand is we are still waiting for Nabholz to get us their final draft of the plan with an estimate of cost. We're expecting to have that tomorrow. And then notice, we have to start our condemnation procedures. And we have to follow our rules, we started under the emergency procedure to take some steps obviously to protect public safety. But our ordinance requires once you start that process, you still go through your condemnation process. And so that requires notices and things like that, and that's going out. But we're waiting on, we want to include a packet that has the information Nabholz, the information from our inspectors that has gone in and then the information of course from the engineer, all together and then... Councilmember David McClain said, so what's Nabholz? City Attorney Carol Duncan said, there a construction company. Councilmember David McClain said, I mean what are they, are they going in to fix. City Attorney Carol Duncan said, to secure. Councilmember David McClain said, secure. City Attorney Carol Duncan said, the structural engineer recommended or said that it had to be, first you had to build the wall, which we've done, then you have to secure it, and then you can look at removing the panels. But you can't start removing the panels until you've secured it. I'm assuming, I'm not a structural engineer, but I'm assuming that's because there's a danger of it collapsing once you start taking it apart. So, you have to secure it first, so that's their first step. Councilmember David McClain said, the only reason I'm asking, I appreciate you giving me that. The only reason I'm asking is I would, and I know nobody's here from administration yet. But I would like to see, and you tell me if we're going too fast. But I would like to have numbers as far as what it would take to take that building down, how much would that cost. City Attorney Carol Duncan said, we're not there yet. Councilmember David McClain said, I know, but if we could, maybe start to solicit those. City Attorney Carol Duncan said, well I think what we have to do is first start our condemnation process, and then we look at trying to get in front of a judge. That gives us hopefully an injunction. But we are looking at our options that allows us to open up the other three walls to determine rather they're in some state of disrepair. Like rather

they starting to separate as well. Like we know there's nothing we can see from the outside, but until you look on the inside, you're not going to know is my understanding. So, this is just step one, is securing the part we know is a problem. Then step two I visited with the Municipal League, I visited with the attorneys that we've hired as outside legal counsel. And we really think it important that we get something in front of a judge, that says we understand it was all built the same way and that our structural engineer can potentially testify to why it's important to look at the other three walls. To see where they are in the process of deterioration. We're fairly certain that they probably are deteriorating in some way. But we don't know if it is to the point of a emergency, where we can go in and take that down at this point or whether we just need to do this and then proceed from there. That's what we're looking at.

Councilmember Chris Moore said, let me ask you a couple of questions. When you said Nabholz, who is contracting with Nabholz to pay Nabholz? City Attorney Carol Duncan said, the city, under the authority that council gave them. It's my understanding, I mean Brain here now. I've not been involved in that process. Councilmember Chris Moore said, so my point and I don't, David may be getting to the same point, and I agree with David on the fact that I would like to know right now, how much we're looking at. What's the worst-case scenario? City Attorney Carol Duncan said, and I think that's what we're expecting to know in the morning. My understanding is, they've given a preliminary number verbally, perhaps, and then they're going to give us something in writing tomorrow. Councilmember Chris Moore said, now where some people and where I may deviate from some of the rest of council, I'm not looking to repair somebody's building. City Attorney Carol Duncan said, no, and that's not what we're talking about. Councilmember Chris Moore said, I'm not looking to repair it to secure it, it's clean cut to me. If it's a safety issue, I want to start the condemnation process, when that runs out, if nothing has been done, and we know that the building is a danger right now. Now if the owner of the building wants to pay Nabholz to come in and secure it that's fine. City Attorney Carol Duncan said, and that's what the notice involves right? Under our condemnation procedure, that's what the notice involves is giving them that. We're required to give them notice to come in and make the correction themselves. Councilmember Chris Moore said, my understanding at the last council meeting, we approved two things for the mayor. One was to give him the right to hire legal counsel, pay reasonable legal counsel fees. And the other was to give him the right to hire an engineer and pay reasonable engineering fees, including building the wall. City Attorney Carol Duncan said, and securing the building for public safety, is what I understood. Councilmember Chris Moore said, I didn't understand going in and doing demolition and securing the building as part of that. I understood that we gave him the authority to hire an engineer to make a decision, hire lawyers to intervene in the case, and to construct the wall that immediately protects the, but not to actually work on the building itself. City Attorney Carol Duncan said, that's not what I understood, but we can go back and look at what passed. Councilmember Chris Moore said, sure. City Attorney Carol Duncan said, by council. Councilmember Chris Moore said, that would be my position on it. I don't want to work on their building. City Attorney Carol Duncan said, well it's not working on it, it's taking down the part that's a public safety hazard. It's not fixing it, it's removing it. But you have to stabilize it, it is my understanding, before you can start removing it you have to stabilize the wall or its going to collapse. Councilmember Chris Moore said, yeah well, the wall collapsing is why we built the temporary safety barrier on the front. City Attorney Carol Duncan said, I still don't think that's what we want to happen, I think we want to take it down safely.

Councilmember David McClain said, so I guess it back to my question, can we start to solicit, at least, how much it would cost to take it down safely, the full. City Attorney Carol Duncan said, we've done that, that what we're expecting to get tomorrow. That

was my understanding, the beginning phase of it maybe not. Chief Administrative Officer Brian Richardson approached the podium and said, what we're expecting to receive is an estimate and a do not exceed price. On phase, the first phase is stabilizing the loose exterior elements that could fall off. Rather, that be doing a removal phase or just in a sitting outside phase, just fall on its own. So that is the primary first objective for construction professionals. According to the structural engineer report, that would be phase one. Phase two would be to actually remove the exterior panels, that our potential a fall hazard. And at that point that would just be sealed back up. I guess the immediate safety hazard that's has been identified would be remedied. As soon as we get kind of those estimates, like Mrs. Duncan said, we're going to notify the business interest that have any affiliation with that property. This is our intent. We have not signed a contract with anybody to do any work yet. Our intent is to come in and make necessary, to perform necessary actions to secure the outside of the building, cause our priority is to remove the safety hazard. Hopefully reopen, at least somewhat, Main Street so we can engage with legal to actually take long term steps towards an ultimate remedy on that building. City Attorney Carol Duncan said, what I'm looking at, from a litigation standpoint, is twofold. Number one, can we in addition to or maybe in place of, all though I want to keep the option open to pursue a lien on the property underneath. But with the question of ownership of the building verses ownership of the land, I would like to have another avenue and we're looking at rather it's just a civil lawsuit to recoup the money that we spend in securing the building in this process. But we need to, along with that, start our condemnation process. They go hand in hand, they're two different things but they will go at the same time, so it's important that we follow our code on condemnation. Even though we have the emergency ability to go in and secure a public safety hazard right into a beta hazard immediately. We also still want to follow our condemnation procedures so that should we decide to want to put a lien, on the property underneath, we also have that avenue as an option.

Councilmember Chris Moore said, here's what I don't want us to get into, I want to know how much it's going to cost before we hire Nabholz. I don't want to spend \$200,000 going up there and removing the front of the building, doing some form of reinforcement or abatement of those concrete columns, if we can tear the building down for \$800,000 or \$900,000 dollars. Because I don't want to spend \$200,000 now, come back, be in this same position in six months and spend another \$200,000. I'm ready to move on and clear the safety issue. City Attorney Carol Duncan said, and I think the difference is, we have to have a structural engineer that's willing to say that the whole building has to come down. And I don't know that we legally, until we get in front of a judge, can open up the other three walls. That's our question. Do we have any evidence to open those walls.

Councilmember Chris Moore said, well let me ask you this question Carol. So, we have a structural engineer who's already told us we have a hazard. City Attorney Carol Duncan said, on one side of the building. Councilmember Chris Moore said, That's right. If the owner of the building refuses to address that hazard, are we not, are we then not able to take condemnation steps. City Attorney Carol Duncan said, well that what I just said, we are going to start the process. Councilmember Chris Moore said, yeah but I mean what part of your conversation involves we have to start on the baby steps, and we can't go straight to the top. For instance on the Icehouse, we could of probably have come in secured the whole building and eliminated what was technically the safety issue, but we went straight to condemnation, and we removed the entire property, could we not use that same strategy? City Attorney Carol Duncan said, possibly, if a structural engineer agrees that the whole property is suitable for condemnation. And that's where we've got to get to. But I think so. Councilmember

Chris Moore said, so the witness test and the legal standpoint the whole thing has to be. City Attorney Carol Duncan said, I don't know if it has to be the whole thing, but there's no case law on it. We've been doing research on that, but there no case law that talks about a partial or a percentage of the building that has to be unsafe in order for the whole thing to come down. Or should we take the least, should we take down the part we know is a problem, of course we don't know yet, the other three sides are a problem. Right. We don't know that until we look at them, or structural engineer looks at them. So, there is a lot of what ifs involved in it, and they say that are they, does it come down to the fifth floor or does it come all the way down. I don't know the answer to that until a structural engineer talks to us about it, but it maybe that we bring it all down. What I'm telling you, is that the Municipal League felt more comfortable if we get a injunction from a court, with a court order allowing us to proceed. But we're working on all those things at the same time. Councilmember Chris Moore said, when do you anticipate that the estimate would come from Nabholz? Chief Administrative Officer Brain Richardson approached the podium and said, I think that we'll either have them this evening or first thing in the morning. I haven't checked my email in the last couple of hours. But I don't know if anything will come through today. We did talk with them on the phone earlier and they're discussing possible do not exceed and continuance, that they have to allow for that they don't necessarily think are going to come into play. For instance, if during the process something falls out and they break something on the road, like a fire hydrate or something like that. They have to kind of account for that to be a possibility and do not exceed in their contract. They have to take a lot of variables in place. We can get an estimate on their number of hours that they think it might take, and have it estimated on the high end. Obviously communicate that with the council. And if we need to have a further emergency meeting to discuss that, whatever we need to do. Because our priority is just trying to restore back to normalcy as quickly as possible. Councilmember Chris Moore said, that's my goal too. I know we have a 45-day condemnation process and we're going to eat that up pretty quick and I can easily see Nabholz, and I mean nothing against Nabholz reputable company. I can see them giving us a price but once they're up there, and they get it all opened up, and they decide there's more that has to be done or else we have a big gaping hole up there on the front. I mean there's several, I mean, it's going to be hard to find a stopping point of taking the front off of a building. And if we can find legal grounds to eliminate the safety hazard, by removing the building as opposed to going in working on somebody else building, that's what I'm going to prefer. Even if it's the more expensive option.

things I thought, and I felt like we could use the funds for this. Was, could we use the ARPA money, or we should look at using some of that ARPA money that we have. I know we're going to allocate some tonight, but we'll have over \$4,000,000 left. If my math is correct, over \$4,500,000 left, this would be no cost essentially to us. So one-time money, use that to take that structure down, I don't know if we could still place the lien. But at the same time, we'll have quite a bit of funds left to do that. I would encourage, you know, when you guys are trying to decide on how we pay for that, I think it would be wise to use that. I think everybody agrees that it's time to take that down and take some action, so I think that would give us a good opportunity with those funds to do that. And again, at no cost to us. Chief Administrative Officer Brain Richardson approached the podium and said, it's certainly a possibility that a remedy either for whatever that might look like to bring that property to where it can be rehabbed or reused or brought down or re-developed. Whatever that end game might be. It's very possible that an option on the table comes forth that the city plays some sort of partnership in that. You know I deferred it to Mrs. Duncan on this, but there has to be some sort of city benefit. A tangible city benefit, in order to use public funds on private property. You know that is something that we would obviously need to discuss

in a meeting like this or in City Council and with legal counsel, exactly where those hard lines are. Because if we're not careful here, the last thing we want to do is put taxpayer's dollars at risk and get involved in something that maybe we overstepped some bounds here. So, I think, I don't disagree, but I think that's important that we definitely heed the advice of the legal, you the attorneys on this. City Attorney Carol Duncan said, my concern is, just that we follow our standard procedure, because we don't want to not be able to defend a taking in lawsuit. Right. Where then a jury awards them money for us taking property that we cannot prove we had the right to take, under our ordinances and under state law, number one. And then we end up spending the money to remove a structure and paying damages for a taking, like that's the worst-case scenario. Or a long litigation over that. And then part two is just, I really think, you know we found some case law, and we're looking at the option of instead of and maybe in addition to the lien process. I'm not ruling out that we would still place a lien on the property underneath, but right now the big argument is, you know, could you place, who owns the building and that's still in litigation right. So, the other question is, once you take down the building can you place a lien on the property. And I want to ensure that we have another avenue to try to recoup our money. Which is a civil lawsuit, where maybe we ask a judge to hold them jointly and severally liable. My office is exploring rather there are code violations and criminal remedies that we could site them for, for the fact there's a public safety issues and certainly, I think that both the owner, whoever owns whatever part, of the property, should be aware that if something fell and harms someone. There could be a criminal negligence, like a criminal statute that they can be charged with, because they know this is a hazard and they're not doing anything about it. So, there are like, it's always been complicated, but it still very complicated. Certainly, both my staff and our outside legal counsel are look at all the and the Municipal League, they asked us to give them some time to do their own research and come back together with some of their thoughts on the matter. So, like we have three different legal teams, that are working on every possible option to either take down the building, make the building safe enough to where we can reopen Main Street, and or recoup our money for any and all of that. So that's kind of where we are. Chief Administrative Officer Brian Richardson approached the podium said, ultimately, we feel it's fair that council be well apprised of the risk of either, what were potentially going to spend and not ever get back, any possible liabilities for takings, if that becomes an issue. Or any other kind of liability that the city could be exposed to. I would say before any major decisions are made and construction begins, that we can definitely get with council, obviously, on any expenditures and any process. Cause ultimately, we need to make sure we're doing things, not only the most efficient way, but the way that protects the public interest. City Attorney Carol Duncan said, and that council can make an informed decision on how much money you're willing to spend and possibly not recoup and is it worth it. You know what I mean, at some point you weigh the odds, and you risk the litigation, and you move forward. But I think we need to make sure we have all our ducks in a row and know exactly what we're risking and what we're potentially spending. And what our options are so, I mean we're just trying to get it all together to present it to you so that an informed decision can be made overall. Councilmember David McClain said, that's why I said that the funds that are there, there's not a whole lot of restriction in terms of, I mean, I think the only restrictions I saw, can't offset taxes and cannot fund any pensions. So, I think that would be... City Attorney Carol Duncan said, I do think there's a the potential that ARPA Funds could be available. We were also looking at that if there was the potential for CDBG, like a variety of other funds that might be available to offset our cost initially even if we're able to recoup those later.

Councilmember Chris Moore said, I don't think how or if we could pay to tear the building down is the real discussion. That's not the discussion. I mean there's a couple

things that come to my mind that of all the condemnations we've done over the last two years, I'm not aware of a single one we went in and shored up somebody's house or did some type of temporary repair on it or anything else. We went right for condemnation and not to my knowledge, we hadn't had a single litigation case on any of those have we. Councilmember Chris Gibson said, and probably one that has not been this dangerous. Councilmember Chris Moore said, I'm just. City Attorney Carol Duncan said, we've had a lot of litigation on Icehouse. And it's still pending. Councilmember Chris Moore said, Brain how many houses have we condemn in the last two years probably? I saw the mayor say something about it in the debate last night. Chief Administrative Officer Brain Richardson said, gosh over 200 in the last two years, a lot. Councilmember Chris Moore said, well let's just say 200, cause I feel safe at that number. Not a single one of those 200 did we go in and do any kind of remediation, as far as the structure or securing it or hiring an engineer or anything else. And did any of those wind up in litigation Carol? City Attorney Carol Duncan said, Icehouse. Councilmember Chris Moore said, well I mean the Icehouse, I think, is a case on it on. City Attorney Carol Duncan said, I think this is more comparable to Icehouse than it is to a house. That someone has abandoned. Councilmember Chris Moore said, I mean our standard procedure is not to come in and repair on somebody's building. Let me ask you this. When Brain comes back with the estimated from Nabholz, are we immediately going to present that the man that claims to own the building? Bruce Burrows. City Attorney Carol Duncan said, both of them, yes that part of our condemnation process. Councilmember Chris Moore said, will his refusal to immediately hire Nabholz to remedy the problem, will that put us on better legal standing? City Attorney Carol Duncan said, well that is why I want us to follow our condemnation procedure cause I think yes. Councilmember Chris Moore said, well I'm talking about even with the condemnation procedure, when Brain has the estimate tomorrow and we immediately contact the building owner and say look, this is the cost, his refusal to take action, is that not going to put us on better ground. City Attorney Carol Duncan said, and that's the plan, that's why we've made that, that why we were waiting to have. I want all the information sent, what we think Nabholz expects the cost to be, which obviously we're not inquiring them to hire Nabholz either, right. But this is just the estimate we have gotten. And here's what the structural engineer said and here's what all of our people that have been in the building have said, here's our pre-commendation report. Pre-commendation report and letter just like we would do on any condemnation that we do. That's what's intended to go out tomorrow. Here's all the stuff we have, we notified you verbally about this, whatever day we went in. Days have been a blur for me on the Citizens Bank since it started but whatever day we went in originally, they were notified. Right? And so, they have had verbal notice, but this is just giving them formal notice. Councilmember Chris Moore said, they've had notice since the first day we all met down there. To my knowledge, they haven't taken any action. City Attorney Carol Duncan said, none that we know of and that's the verbal notice. But this the official what our code requires, pre-condemnation notice.

Code Enforcement Specialist David Cooley approached the podium and said, one of the biggest points I want to touch on, and Carol mentioned it for a second, is unlike every other condemnation we've done, the property is owned by a different person than the building. Any other property, we are able to demolish the residents, commercial building, whatever it is, and then we can put the lien on the property, and they can't do anything with it. They can't pull a permit; they can't do anything and then we can end up putting that lien on with their taxes and it will get paid one way or another. This has two parties, that Carol and all of them are doing a bunch of research to find out, if we do a complete demolish can we hold the property owner, who is a completely separate entity, responsible and file that lien on their property. Councilmember Chris Moore said, I'm not worried about the lien. We obviously have miscommunication here; I don't

care if we ever reclaim one dollar. We have a man who claims to own the building and by all rights until proven otherwise. City Attorney Carol Duncan said, we have two people who claim to own the building. Councilmember Chris Moore said, yeah but one is on standing that has a contract, unless the judge gives superior title to the other, he'll be the owner of record. The second guy doesn't claim to own the building, he's asking the judge to give him the building because the first owner didn't pay the rent, but we have somebody that owns the building we can serve notice on. City Attorney Carol Duncan said, we intend to service both, we intend to sue both and have them be held jointly and servable liable, for the damages we spend. Councilmember Chris Moore said, what time frame are we going to give him when we present him, are we going to give him 48 hours to immediately start. City Attorney Carol Duncan said, no, we're giving the same thing that we're required to give under our code, which is 7 days. Which is why if we do it tomorrow it would be next Wednesday. Essentially. Councilmember Chris Moore said, how will we serve that? Will we serve that in person to cut the time down? Will we deliver it to his counsel? City Attorney Carol Duncan said, I don't know not that we've made that plan yet, but yes, we will. Councilmember Chris Moore said, we know his counsel, we've met with his counsels. City Attorney Carol Duncan said, we know how to serve him. Councilmember Chris Moore said, I'm not trying to be short here, but this has been a problem that has gone on for almost 20 years. Now we have business owners on Main Street who are suffering from lack of action. So, I don't care if we have to suck up the whole amount I want something to happen down here to bring this to a resolution. Even if we have nobody to put a lien on at the end. City Attorney Carol Duncan said, that's what we been working on the for the last two weeks. Or whatever day we went in. Was it two weeks?

Chief Administrative Officer Brian Richardson approached the podium and said, just to wrap a bow on this, as soon as we get back a close to range estimate, cost estimate for both the stabilization and the removal, we will share that with council. And we can debate over if the emergency resolution, authorizes to engage on that, I have to defer it to Carol on that. But I would say if it's a number that council feels significantly uncomfortable with, we can have a discussion about that. Councilmember Chris Moore said, I'm sure we're going to be uncomfortable with all of it. Carol did Womack and them, file a motion to intervene this week? City Attorney Carol Duncan said, no. Councilmember Chris Moore said, why is that? City Attorney Carol Duncan said, you would have to ask Womack, but we've been discussing all of our options. We don't know that intervening is going to be the option we want to follow. It may be filing our own lawsuit and asking for an injunction. Councilmember Chris Moore said, can we not do both? City Attorney Carol Duncan said, if we don't have standing to intervene then no. Councilmember Chris Moore said, because I mean, intervening in the case is to ask the judge to try to pre-decide superior title. City Attorney Carol Duncan said, it is, but I don't know that we have standing to intervene in the case. That's what they're researching. So far, they have not found standing for us to intervene in that case. So rather than wait on that, we want to get ready to file something ourselves. Councilmember Chris Moore said, gotcha.

7. PUBLIC COMMENTS

8. ADJOURNMENT

A motion was made by Chris Gibson, seconded by Chris Moore, that this meeting be Adjourned. The motion PASSED with the following vote.

Aye: 6 - David McClain; Chris Moore; Brian Emison; Janice Porter; Chris Gibson and LJ Bryant