



**CITY OF CENTERTON
VIRTUAL
CITY COUNCIL MEETING
AUGUST 11, 2020
6:00 PM**

(1) Roll Call - Those Present, via Zoom, and answering Roll Call were Mayor Bill Edwards, Keith Higginbotham, Wayne Low, Darren Warren, Misty Elam, Robin Reed and Josie Reed. Those present and not answering Role Call were City Clerk Todd Wright, City Attorney Brian Rabal, Planning Director Lorene Burns, Senior Planner Nicole Gibbs, City Planner Donna Wonsower, HR Coordinator Jocelyn Diaz, Police Chief Cody Harper, Fire Chief Matt Thompson, Director of Public Works Rick Hudson and Chief Building Inspector Robert Coffelt.

(2) Public Hearing –

• **Vacation of Utility Easement 1351 Little Osage Ave –**

Mayor Edwards introduced the item to the City Council.

Robin Reed made a motion to Open the Public Hearing, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

Mayor Edwards asked if there were any public comments or questions. There were none.

Josie Reed made a motion to Close the Public Hearing, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried.

Mayor Edwards asked the Council if there were any questions. There were none.

• **Vacation of Utility Easement 1311 Montieri Drive –**

Mayor Edwards introduced the item to the City Council.

Darren Warren made a motion to Open the Public Hearing, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

Mayor Edwards asked if there were any public comments or questions. There were none.

Wayne Low made a motion to Close the Public Hearing, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

Mayor Edwards asked the Council if there were any questions. There were none.

(3) Council Minutes –

Josie Reed made a motion to Approve the Minutes of the July 14, 2020 City Council Meeting, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried.

Planning Commission & Water & Sewer Minutes –

Robin Reed made a motion to Acknowledge Receipt of the Minutes of the July 7, 2020 & July 21, 2020 Planning Commission Meetings, June 16, 2020 & July 10, 2020 CWSD Meetings and the July 13, 2020 Parks & Recreation Meeting, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

- (4) City and Court Financials-** Mayor Edwards stated that 58.33 % through the year we have received 62.45 % of our Budgeted Revenue. He stated that our Expenditures were at 56.05 %. He detailed some of the financials, pointing out that Building Permits are up, and the Planning Department is staying very busy.

Mayor Edwards asked the Council if there were any questions. There were none.

Wayne Low made a motion to Accept the July, 2020 City & Court Financials, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried.

(5) Department Reports-

The Department Reports were in the Council Packet.

- **Ambulance Service RFQ's – Matt Thompson** – Thompson said they had three (3) ambulance services turn in their qualifications. He said Benton County, Centerton, Cave Springs and Highfill met together last week, to determine the best qualified option. He said Northwest EMS was determined as the best option for the City and this area. He asked for the

blessing of the City Council to begin working on a contract with the Mayor to bring back to them. He said the RFQ's didn't ask for pricing, but it appears that this option might be more cost effective than our current option. He said this will place two (2) ambulances inside the city, helping with service and response time. He said the contract will include the two (2) ambulances, placing one in west Centerton and one on Hwy 72. He said there was discussion at budget time about getting Station #2 ready for full-time firefighters. There was also discussion about run counts, to determine the best locations for ambulance service. There was discussion about 3-year contract timelines and termination notice.

Robin Reed made a motion to allow the Mayor and Fire Chief to negotiate with Northwest EMS for Ambulance Service, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

- **Traffic Signal Main Street and Seba Road** – Darren Warren asked about the delay with the traffic Signal at Main/Seba. Rick Hudson said there was a Utility issue with the Carrol Electric lines, and they are making a change in the design of one of the illuminary arms.

(6) Ordinances -

- **Ordinance 2020-40- AN ORDINANCE TO REPEAL ORDINANCE NO. 2020-39, TO REMOVE ANY INCONSISTENCY BETWEEN THE CITY'S ORDINANCES, AND THE GOVERNOR'S EXECUTIVE ORDER 20-43, AND DECLARING AN EMERGENCY.**

Mayor Edwards addressed the Council, stating that this Ordinance was to repeal the City's Mask Ordinance. He said since our Mask Ordinance was approved, the Governor issued Executive Order 20-43, which is a Mask Mandate, requiring a mask, and having enforcement by penalty. He said repealing our Ordinance is an effort to not confuse our citizens. There was discussion.

Mayor Edwards asked the Council if there were any questions. There were none.

Wayne Low made a motion to read the Ordinance by title only, with a 2nd from Josie Reed. All Council Members voted in favor, and the motion carried. Brian Rabal read the Ordinance by title only. Robin Reed made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Misty Elam. All Council Members voted in favor, and the motion carried. Keith Higginbotham made a motion to adopt the Ordinance with a 2nd from Wayne Low. All Council Members voted in favor, and the motion carried. Brian Rabal read the Emergency

Clause. Keith Higginbotham made a motion to adopt the Emergency Clause, with a 2nd from Josie Reed. All Council Members voted in favor, and the motion carried.

- **Ordinance 2020-41- AN ORDINANCE AMENDING CENTERTON MUNICIPAL CODE, SECTIONS 13.04.01 TITLED “COMMISSION CREATED” AND 13.04.02 TITLED “TERMS AND APPOINTMENTS OF MEMBERS”, AND DECLARING AN EMERGENCY.**

Mayor Edwards addressed the Council, stating that this Ordinance is to amend the Code, to allow for a 9th Planning Commission Member. He said we also updated the Bylaws.

Darren Warren asked if the Planning Department recommended the nine (9) members. Mayor Edwards said they did.

Mayor Edwards asked the Staff and Council if there were any questions. There were none.

Misty Elam made a motion to read the Ordinance by title only, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried. Brian Rabal read the Ordinance by title only. Robin Reed made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried. Wayne Low made a motion to adopt the Ordinance with a 2nd from Misty Elam. All Council Members voted in favor, except for Darren Warren and Robin Reed, who both voted NO, and the motion carried. Brian Rabal read the Emergency Clause. Keith Higginbotham made a motion to adopt the Emergency Clause, with a 2nd from Wayne Low. All Council Members voted in favor, and the motion carried.

- **Ordinance 2020-42- AN ORDINANCE CLOSING SEVEN FEET (7') OF THE TWENTY FOOT (20') PUBLIC UTILITY EASEMENT LOCATED ALONG THE REAR PROPERTY LINE OF LOT 40 IN THE OSAGE CREEK PH 2 SUBDIVISION, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS; AKA 1351 LITTLE OSAGE LANE.**

Mayor Edwards addressed the Council, stating that this Ordinance is to vacate a portion of the rear Utility Easement at 1351 Little Osage Lane. He said the request was initially for vacation of easements on both the side and rear of the property, but Planning Commission and Centerton Utilities recommended

approval of only the 7' vacation in the rear of the property, at their 8/04/2020 meeting. Edwards questioned some verbiage in the Ordinance about the easement not being used in the last 5 years, as this is a fairly new subdivision.

Robin Reed said she attended the Planning Commission meeting and understood the property owners to be willing to do whatever it takes to fit the pool in their yard, even if it meant not vacating any easements. She said she supported not allowing them to vacate property to the east, but also questioned vacating the easement in the rear, as it appears to be a corner lot. She said did not want to set precedence in the city. She recommended that the property owner come back with a plan that would work without the easement vacation.

Wayne Low agreed, stating that our citizens are asking for other telecommunications options, so we may have to buy back the easement, or issues could be created for the homeowner's pool. He also expressed concern with the price of purchasing easements and ROW for future street expansion.

Lorene Burns said it is very difficult to vacate any street-side easement, as it is the corridor for our City Utilities, as well as the Franchise Utilities. She said any accessory structures are not allowed in the street-side setback, so they would still need to go through a variance process. She said Planning Staff does not support cookie-cutter easement vacations in the city. She said if a person wants to have a pool, they should purchase a lot that supports it. She said the other option is an above-ground pool. She said once an easement is vacated, you can't get it back. She said this vacation might possibly not create an issue, but it does bottle-neck the easement down to 13' and then opens it back up to 20' again. She said some Franchise Utilities may not be in the easement yet, such as AT&T. She said CenturyTel has not responded yet. She said the property to the south would not be affected. She said Carrol Electric is currently in the easement, and they generally require 5' on either side of their lines. She said there is likely still room for telecommunications in the easement.

City Attorney Brian Rabal said he is not comfortable with this vacation, due to the fact that we have not had a written response from all of the potential utilities. His recommendation, at the very least, would be to Table the item.

Mayor Edwards pointed out that the PC did not feel there was any hardship, as far as a Variance Request would be concerned. He also said, if the vacation is approved, PC recommended that the lot be replatted.

Mayor Edwards asked the Council if there were any questions. There were none.

Wayne Low made a motion to Reject Ordinance, with a 2nd from Robin Reed. There was a Roll Call. All Council Members voted in favor and the motion carried.

- **Ordinance 2020-43- AN ORDINANCE CLOSING EIGHT FEET (8') OF THE TWENTY FOOT (20') PUBLIC UTILITY EASEMENT LOCATED ALONG THE REAR PROPERTY LINE OF LOT 117 IN THE TUSCANY PH 2 SUBDIVISION, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS; AKA 1311 MONTIERI DRIVE.**

Mayor Edwards addressed the Council, stating that this Ordinance is to vacate a portion of the Utility Easement at 1311 Montieri Drive. He said this was discussed by the PC at their 8/04/2020 meeting, and they recommended Tabling the item until they had more information from the property owners.

Robin Reed said she didn't feel the City Council should approve this Ordinance, if the Planning Commission still had questions.

Mayor Edwards asked the Council if there were any questions. There were none.

Misty Elam made a motion to Table the Ordinance, with a 2nd from Robin Reed. There was a Roll Call. All Council Members voted in favor and the motion carried.

Valerie Rohrer, property owner, addressed the Commission, asking if the PC had any questions for her. She said Century Link has come to her home and stated that they did not have any lines in her yard, and no intentions to, in the future. She said she thought all of the Utilities have signed off. Mayor Edwards stated that the PC had Tabled the item, asking for more information. He said the City Council has also Tabled the item, asking that this item go back to PC, for their consideration. Donna Wonsower said the plan that was presented to Planning Staff, showed the Pool structure being outside of the 8', and recommended that Mrs. Rohrer look back into that.

- **Ordinance 2020-44- AN ORDINANCE TO REZONE CERTAIN LANDS WITHIN THE CENTERTON CITY LIMITS, BELONGING TO STEELE DEVELOPMENT INC, FROM AGRICULTURAL (A-1) TO HIGH DENSITY RESIDENTIAL SINGLE-FAMILY USE (R-3 SF).**

Mayor Edwards addressed the Council, stating that this Ordinance is to rezone land off of Bliss Street from A-1 to R-3 SF. He said this was recommended for approval by the Planning Commission at their 8/04/2020 meeting, and there were no public comments.

Mayor Edwards asked the Council if there were any questions. There were none.

Keith Higginbotham made a motion to read the Ordinance by title only, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried. Brian Rabal read the Ordinance by title only. Josie Reed made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried. Wayne Low made a motion to adopt the Ordinance, with a 2nd from Keith Higginbotham. All Council Members voted in favor, and the motion carried.

- **Ordinance 2020-45- AN ORDINANCE ACCEPTING THE FINAL SUBDIVISION PLAT OF FOREST PARK PHASE 3 REPLAT OF LOTS CP1 AND CP2, CREATING LOTS 184-188, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to replat five (5) lots in the Forest Park Subdivision. He said this was recommended for approval by the Planning Commission at their 8/04/2020 meeting, and there were no public comments. He said the Utility Infrastructure has already been installed.

Mayor Edwards asked the Council if there were any questions. There were none.

Keith Higginbotham made a motion to read the Ordinance by title only, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried. Brian Rabal read the Ordinance by title only. Wayne Low made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried. Misty Elam made a motion to adopt the Ordinance, with a 2nd from Keith Higginbotham. All Council Members voted in favor, and the motion carried.

- **Ordinance 2020-46- AN ORDINANCE ACCEPTING THE FINAL SUBDIVISION PLAT OF ASHMORE LANDING SUBDIVISION, CREATING RESIDENTIAL LOTS 1-67 AND DETENTION LOT A, CITY OF CENTERTON, S09-T19N-R31W, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to approve the Final Plat of the Ashmore Landing Subdivision. He said this was recommended for approval by the Planning Commission at their 8/04/2020 meeting, and there were some outstanding items. He said the Developer has made an agreement with the City, to grade Lots 26-42, as a whole, according to the Grading Plan approved by the City. He said once the grading has been completed, ECE will provide a Letter of Certification, after which the City will conduct an on-site inspection. He said once approved, a Letter of Credit will be released. He

said no Building Permits shall be issued by the City for Lots 26-42, until the Grading has been approved and Letter of Credit has been released. He said the Record Drawings shall reflect the new Lot Grading. He said there are also Maintenance Bonds and Performance Bonds attached to this project.

Donna Wonsower addressed the Council, stating that the southern lots were not graded to the Approved Grading Plan, and the Developer has proposed a Revised Grading Plan. She said PC approved a Performance Bond for \$13,800.00 for the grading, however, the Developer has provided a Letter of Credit, instead of a Bond. She said a Performance Bond was what PC approved.

Robin Reed said she thought we were not accepting Letters of Credit. Darren Warren said a Letter of Credit is like Cash. Brian Rabal said we have had issues where banks have revoked a Letter of Credit with no notice; He said he is not in favor of Letters of Credit. He said Bonds are a more conservative way to go for a Municipality. He said this is also was not what was approved by PC. Council agreed.

Mayor Edwards asked the Council if there were any questions. There were none.

Keith Higginbotham made a motion to Table the Ordinance, with a 2nd from Wayne Low. There was a Roll Call. All Council Members voted in favor and the motion carried.

- **Ordinance 2020-47- AN ORDINANCE ACCEPTING PUBLIC DEDICATION OF PUBLIC UTILITY EASEMENTS AND AN ADDITIONAL 10' OF RIGHT-OF-WAY ALONG VAUGHN ROAD AND VARIABLE RIGHT-OF-WAY ALONG HOLLOWAY ROAD BY BENTONVILLE SCHOOL DISTRICT NO. 6 OF BENTON COUNTY, ARKANSAS, PER LOT SPLIT PLAT FOR PROPERTY LOCATED IN S05-T19N-R31W, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept UE and ROW from a Tract Split on Vaughn Road and Holloway Road by the Bentonville School District near Grimsley Junior High. He said this was recommended for approval by the Planning Commission at their 7/21/2020 meeting, and there were no public comments.

Mayor Edwards asked the Council if there were any questions. There were none.

Wayne Low made a motion to read the Ordinance by title only, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried. Brian Rabal read the Ordinance by title only. Misty Elam made a motion to suspend the rule requiring the reading of the Ordinance on 3

separate occasions with a 2nd from Keith Higginbotham. All Council Members voted in favor and the motion carried. Wayne Low made a motion to adopt the Ordinance, with a 2nd from Misty Elam. All Council Members voted in favor, and the motion carried.

- **Ordinance 2020-48- AN ORDINANCE ACCEPTING DEDICATIONS OF PUBLIC UTILITY EASEMENTS AND 40' OF PUBLIC RIGHT-OF-WAY ALONG BROOKSIDE ROAD BY GREG AND KIMBERLY WOODS, PER ROW AND EASEMENT DEDICATION PLAT FOR PROPERTY LOCATED IN S09-T19N-R31W, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS..**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept UE and ROW on Brookside Road. He said this was recommended for approval by the Planning Commission at their 7/21/2020 meeting, and there were no public comments.

Mayor Edwards asked the Council if there were any questions. There were none.

Josie Reed made a motion to read the Ordinance by title only, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried. Brian Rabal read the Ordinance by title only. Keith Higginbotham made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried. Robin Reed made a motion to adopt the Ordinance, with a 2nd from Josie Reed. All Council Members voted in favor, and the motion carried.

(7) Resolutions -

- **Resolution 2020-21- A RESOLUTION TO ESTABLISH MAXIMUM SPEED LIMITS ON SPECIFIED ROADS, STREETS, EASEMENTS, HIGHWAYS, WAYS OR PLACES USED FOR VEHICULAR TRAVE, ACCESS OR PARKING.**

Mayor Edwards addressed the Council, stating that this Resolution is to set speed limits on Keller Road (45 MPH from Bliss Street to north of Seba Road) and Holloway Road (35 MPH from Main Street to Vaughn Road).

Mayor Edwards asked the Council if there were any questions. There were none.

Keith Higginbotham made a motion to read the Resolution by title only, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried. Brian Rabal read the Resolution by title only. Josie Reed made a

motion to adopt the Resolution, with a 2nd from Keith Higginbotham. All Council Members voted in favor and the motion carried.

(8) Appoint Ben Lewis to the Centerton Planning Commission Term to Expire June 30, 2022 -

Mayor Edwards addressed the Council, stating that we approved an Ordinance earlier this evening, allowing for a 9th Member on the Planning Commission. He said we had 13 applicants for the previous open position and Ben Lewis has been selected to fill the 9th position. Ben Lewis addressed the Council.

Mayor Edwards asked the Council if there were any questions. There were none.

Robin Reed made a motion to Appoint Ben Lewis to the Centerton Planning Commission, Term to Expire June 30, 2022, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

(9) Set Meeting for Employee Appeal – The Employee Appeal Meeting was set for an Open Meeting at City Hall 8/19/2020 at 6:00 PM.

(10) Public Comment - None.

(11) Other Business –

- **Travel Ban Status –** Mayor Edwards stated that we passed an Emergency Ordinance in March 2020, giving the Mayor Emergency Powers, which also contained some COVID-19 instructions for employees. He said all of this is now covered by Federal Law. He said we did have a Travel Restriction, for Essential Travel only, which has expired. He said we now have our Departments only going to Essential Training only. He said most Training has been cancelled, or is being provided virtually.

Robin Reed said the Arkansas Parks & Recreation Association Convention is still being planned to go forward in Ft. Smith, in early September 2020. She said there is no Virtual option. There was discussion about whether this Convention is Essential. Reed asked if we could have people sign waivers. Keith Higginbotham and Wayne Low were against waivers, for the safety of others. Robin Reed asked if she could attend on her own. Keith Higginbotham said he felt the City should not be responsible for any expenses. Wayne Low agreed.

Keith Higginbotham made a motion to allow travel for Essential Employee Training only, and any Non-Employee would not be sanctioned, endorsed or compensated for expenses by the City, with a 2nd from Wayne Low. There was a Roll Call. All Council members voted in favor, except for Robin Reed, who voted NO, and the motion carried.

- **Parks & Recreation Bylaws** – Robin Reed recommended that the Parks & Recreation Advisory Board review their Bylaws. Mayor Edwards agreed, stating that it is a normal process for our Boards and Commissions to review their Bylaws.

(12) Announcements -

- **8/15/2020 – Coffee with the Mayor (Virtual Meeting) 9:00am**
- **8/18/2020 – Planning Commission (Virtual Meeting) 6:00pm**
- **8/19/2020 – 8/21/2020- AML Conference (Virtual)**
- **9/01/2020 – Planning Commission (Virtual Meeting) 6:00pm**
- **9/08/2020 – City Council (Virtual Meeting) 6:00pm**
- **9/15/2020 – Planning Commission (Virtual Meeting) 6:00pm**

(13) Adjourn -

Wayne Low made a motion to Adjourn at 7:45 PM with a 2nd from Keith Higginbotham. All Council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk