



**CITY OF CENTERTON  
SPECIAL  
CITY COUNCIL MEETING  
AUGUST 19, 2020**

**(1) Roll Call-**

The Special City Council Meeting was called to order by Mayor, Bill Edwards at 6:00 p.m. Those Present and answering roll call were Mayor Bill Edwards, Misty Elam, Keith Higginbotham, Robin Reed, Josie Reed and Darren Warren. Wayne Low was absent. Those present and not answering role call were City Clerk Todd Wright, City Attorney Brian Rabal, HR Coordinator Jocelyn Diaz, Police Chief Cody Harper and Police Captain Christopher Kelley.

**(2) Ordinance-**

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

Mayor Edwards addressed the Council, stating that this Ordinance is to accept the Final Plat of the Ashmore Landing Subdivision. He said it was recommended for approval by the Planning Commission on 8/04/2020, but was tabled at the 8/11/2020 City Council Meeting due to a Letter of Credit being provided, in place of a Cash Performance Bond, as was approved by PC. He said we now have the Cash Performance Bond.

Senior Planner Nicole Gibbs addressed the Council, stating that as part of the Ordinance, an agreement has been included with the Performance Bond. She said the Building Safety Department wanted clarity with the grading work to be done. She said Building Permits will not be issued until the work has been completed, per the agreement.

City Attorney Brian Rabal said he reviewed the agreement and approves of it.

Alderman Robin Reed wanted to make sure the drainage concerns from residents

in Maple Estates had been addressed, recognizing that Ashmore is not responsible for it and has alleviated the majority of the issue.

Gibbs responded, stating that the vast majority of the stormwater that used to travel through the Drainage Swale is directed through the Ashmore drainage system. She said there is about 15' of the southernmost Ashmore lots, which is still being directed into the Swale. She said the Drainage Analysis from Ashmore is still being reviewed and the action of the Maple Estates Developer is still unknown.

Cody Harper, resident of Maple Estates, stated that there is a meeting scheduled for next week, between the developers. He said he would like to know what the result of the Drainage Analysis is before the Ashmore Final Plat is approved, but understands that it is not likely, due to timing. He said Ashmore has eliminated the majority of the drainage issue. He said the hold-up now is the calculation from Ashmore, to see how the Swale will be affected, whether it becomes a trickle channel or can go away all-together.

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

**Robin Reed made a motion to read the ordinance by title only, with a 2<sup>nd</sup> from Josie Reed. 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 2<sup>nd</sup> from Misty Elam. All council members voted in favor and the motion carried. Robin Reed made a motion to adopt the ordinance with a 2<sup>nd</sup> from Keith Higginbotham. All council members voted in favor and the motion carried.**

### **(3) Discuss Personnel Issue –**

Mayor Edwards addressed the Council, stating that Anthony Keck was recently terminated from the Police Department. He said Mr. Keck has made a request to the City, to appeal that termination. He read from the Employee Handbook: “If an employee feels the termination was not justified, the employee can request a meeting with the City Council by requesting through the Mayor in writing within 5 business days of the termination”. He said Mr. Keck did request a meeting within 5 business days. He said this avenue is available to non-department head employees. He said Department Heads can make an Appeal to the Council. He said non-department head employees can only address the Council, stating why they feel unjustly terminated. He said this is not a Question and Answer Session.

Drew Miller, representing Mr. Keck, made a presentation to Council, stating that Mr. Keck was terminated on 8/04/2020, and requested a meeting with Council on 8/06/2020. He said it was brought to his attention by Mr. Rabal earlier today, that

there may be a conflict of interest with Mr. Miller representing Mr. Keck, as he also previously represented Chief Cody Harper. He said after meeting with Mayor Edwards, Mr. Rabal and Chief Harper, he decided it was too close to call, but was likely a potential conflict. He gave some details. He said he felt Mr. Keck's rights still need to be protected, and recommended that he be able to have time to secure other representation. He said Mr. Rabal did not agree that more time was necessary, and felt this should be addressed this evening. Miller asked Council, considering the circumstances, to allow Mr. Keck time to secure other legal representation and to reschedule this meeting for another time.

Misty Elam said she questioned a conflict of Mr. Miller representing Mr. Keck, after having represented Mr. Harper. She asked if this change would affect Mr. Keck financially regarding support by the FOP. Mr. Miller said he would not charge anything for what he has done for Mr. Keck, regarding this issue, so he would be starting from the beginning. Elam said she would support Mr. Keck being able to secure other representation. She asked that it be done in a reasonable time, and re-stated that this is not an Appeal; we are only listening to the employee and making a recommendation to the Mayor, who would make the final decision.

Robin Reed agreed with Misty Elam that Mr. Keck should be able to secure other representation.

Brian Rabal stated that Mr. Miller should have run a Conflict-Check as soon as he was retained. He said he met with Chief Harper this morning, and was unaware of a potential conflict, as it is not his duty to make that determination. He said the call this afternoon to Mr. Miller was a courtesy call. He said Mr. Keck is entitled to representation, but it is not required in this instance. He said Council can make a determination whether to continue this evening.

Darren Warren said this is not a Court of Law, so anything stated in this meeting may be used in the future, regarding any potential type of lawsuit. He asked if this is going to create a conflict with anything said tonight. He asked if we could still address the termination. Mr. Rabal said he is not privy to exactly what the conflict of interest is. Warren said that what he reads from State Statute and City Policy is that Council can only affect a decision regarding Department Heads, and the Department Heads make a decision on individual employees. He said he didn't feel it matters what he thinks or says, as Council does not hire and fire. He said those decisions are made by the Mayor or the Department Heads. He said he recommends allowing Mr. Keck to find legal representation, which is not in conflict, if he feels it is necessary.

Robin Reed asked Mayor Edwards if an employee could appeal to the City Council.

Mayor Edwards said (due to it not being a Department Head) this is not an Appeal. He said Council can listen to the employee and could make a **recommendation to support the termination, a recommendation to reinstate, or no recommendation at all.**

Robin Reed asked Mr. Keck if he would like the opportunity to seek representation. Mr. Keck stated that he would like the opportunity to secure other legal representation.

**Robin Reed made a motion to reschedule this item for 9/09/2020 at 6:00 pm, to allow for Mr. Keck to secure other legal representation, with a 2<sup>nd</sup> from Misty Elam. All council members voted in favor and the motion carried.**

**(3) Other Business – Executive Session – Personnel Business –**

**Josie Reed made a motion to enter into Executive Session to discuss Personnel Business at 6:43 pm, with a 2<sup>nd</sup> from Keith Higginbotham. All council members voted in favor and the motion carried.**

**Misty Elam made a motion to return from Executive Session at 7:16 pm, with a 2<sup>nd</sup> from Robin Reed. All council members voted in favor and the motion carried.**

**Keith Higginbotham made a motion to promote Jocelyn Diaz to the position of Human Resource Director at an annual salary of \$55,000.00, with a 2<sup>nd</sup> from Josie Reed. There was a roll call. All Council Members voted in favor and the motion carried.**

**(4) Adjourn-**

Keith Higginbotham made a motion to adjourn at 7:17 p.m. with a 2<sup>nd</sup> from Josie Reed. All council members voted in favor and the motion carried.

---

Bill Edwards, Mayor

---

Todd Wright, City Clerk

