



**CITY OF CENTERTON
CITY COUNCIL MEETING
AUGUST 14, 2018**

The City Council was called to order at 6:00 p.m. by Mayor Bill Edwards. The Pledge of Allegiance was recited. The prayer was offered by Keith Higginbotham. Those Present 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 roll call were City Clerk Todd Wright, Financial Director Pam Grant, City Attorney Brian Rabal, Director of Public Works Rick Hudson, Police Lieutenant Anthony Keck, Fire Chief Delton Bush, Planning Director Lorene Burns, Water & Sewer Superintendent Frank Holzkamper, Animal Control Supervisor Terry Sanchez and Chief Building Inspector Robert Coffelt.

- (1) **Council Minutes-** Josie Reed made a motion to approve the Minutes of the July 10th, 2018 City Council Meeting, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

- (2) **Planning and Water & Sewer Minutes-** Keith Higginbotham made a motion to acknowledge receipt of the Minutes of the June 26th, 2018 Planning Commission Meeting, July 9th, 2018 Special Planning Commission Meeting, and the June 19th, June 26th and June 27th, 2018 CWSD Meetings, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

- (3) **City and Court Financials-** Mayor Edwards stated that 58.33% through the year we have received 70.01% of our budgeted Revenue. He stated that our expenditures were at 58.04%. Mayor Edwards highlighted some of the financials for the Council. Robin Reed had questions for the street Department and Police Department. There was discussion. Robin Reed made a motion to accept the July, 2018 City and Court Financials, with a 2nd from Wayne Low. All council members voted in favor and the motion carried.

- (4) **Department Reports- Building Inspection-** The Building Inspection Report was in the Council member's Dropbox packets. **Planning-** The Planning Project Status Report was in the Council member's Dropbox packets. **Police-** The Police Department Report was in the council member's Dropbox packets. **Streets / Parks & Rec-** The Street Department and the Parks & Recreation Department Reports were in the council member's Dropbox packets. **Fire-** The Fire Department Report was in the council member's Dropbox packets. **Water & Sewer-** The CWSD Report was in the council member's Dropbox packets. **Animal Control-** The Animal Control report was in the council member's Dropbox packets.

Robin Reed asked why there were 2 sets of reports from the Police Department. Mayor Edwards said that Josie Reed had asked to see the 2017 Police stats, as well as those from 2018.

(5) **Ordinances-**

- **Ordinance 2018-42- AN ORDINANCE ACCEPTING THE FINAL PLAT OF GINN ESTATES, BEING A REPLAT OF TRACT 1, PLAT BOOK 2013, PAGE 218 CREATING MINOR SUBDIVISION TRACTS 3-7, INCLUDING 40' OF ADJACENT ROAD ROW DEDICATION ALONG MOTLEY ROAD, CENTERTON PLANNING AREA, IN PART OF SECTIONS 12 & 13 IN T19N-R32W, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept the Final Plat of Ginn Estates Subdivision, in the County, along Motley Road. Edwards said this Final Plat was approved and recommended to City Council for approval on 7/24/18 by the Planning Commission.

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 Darren Warren. 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 Josie Reed. All Council members voted in favor and the motion carried.

(6) Resolutions-

- **Resolution 2018-22- A RESOLUTION EXPRESSING THE CITY’S INTENT TO REIMBURSE FOR PRELIMINARY COSTS AND AUTHORIZING THE PREPARATION OF CERTAIN DOCUMENTATION FOR THE SUBSEQUENT APPROVAL OF THE CITY COUNCIL RELATED TO THE ISSUANCE OF THE CITY’S WATER AND SEWER SYSTEM REVENUE IMPROVEMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000.00 AND/OR ADDITIONAL BONDS FOR THE PURPOSE OF REFUNDING THE CITY’S OUTSTANDING WATER AND SEWER SYSTEM REVENUE BONDS (COLLECTIVELY THE “BONDS”) FOR THE PURPOSE OF FINANCING AND/OR REFINANCING THE COST OF ACQUISITION, EXPANSION AND CONSTRUCTION OF IMPROVEMENTS TO THE CITY’S WATER AND SEWER SYSTEM AND RELATED IMPROVEMENTS IN THE CITY OF CENTERTON, BENTON COUNTY, ARKANSAS; PROVIDING FOR THE EFFECTIVE DATE OF THE RESOLUTION, AND OTHER PURPOSES.**

Mayor Edwards addressed the Council, stating that this Resolution is to allow the Water & Sewer Department to come back to the Council at a later time, asking for a Bond, which we have spoken about previously. He said this Resolution allows for any expenses incurred currently to be reimbursed when the Bond is approved.

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

Robin Reed made a motion to read the Resolution by title only with a 2nd from Keith Higginbotham. All Council members voted in favor and the motion carried. Brian Rabal read the Resolution by title only. Wayne Low made a motion to adopt the Resolution with a 2nd from Keith Higginbotham. All Council members voted in favor and the motion carried.

- **Resolution 2018-23- A RESOLUTION TO AUTHORIZE THE ESTABLISHMENT OF A NEW BANK ACCOUNT AT FIRST NATIONAL BANK OF NWA, FOR THE CREATION OF A PARKS AND RECREATION ACCOUNT AND TO CLOSE THE PARKS AND RECREATION CHECKING ACCOUNT; TO DESIGNATE INDIVIDUALS AUTHORIZED TO PERFORM VARIOUS ACTIONS ON BEHALF OF THE CITY OF CENTERTON WITH REGARD TO SAID ACCOUNT; AND FOR OTHER PURPOSES.**

Mayor Edwards addressed the Council and explained the need for this Resolution to close a Parks & Recreation Savings Account, and open a Parks & Recreation Checking Account. Financial Director Pam Grant answered the Council's questions.

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

Josie Reed made a motion to read the Resolution by title only with a 2nd from Darren Warren. All Council members voted in favor and the motion carried. Brian Rabal read the Resolution by title only. Robin Reed made a motion to adopt the Resolution with a 2nd from Darren Warren. All Council members voted in favor and the motion carried.

- **Resolution 2018-24- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN AGREEMENT WITH BLACK HILLS ENERGY ROGERS, ARKANSAS, FOR UTILITY RELOCATION ON HIGHWAY 102B AND SEBA ROAD.**

Mayor Edwards addressed the Council and explained the need for this Resolution to enter into an agreement with Black Hills Energy to move utilities at Hwy 102B and Seba Road. Mayor Edwards said the total cost is \$421,416.91, of which \$346,531.13 is to be paid by the City through reimbursement of a Grant, with the remaining \$74,885.78 to be paid by the City. Edwards said this is an 80/20 Matching Grant, and this is the most expensive part.

Director of Public Works Rick Hudson pointed out that this is an estimated quantity amount, based on actual bid-price per component and could be plus-or-minus slightly from this amount. .

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

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

- **Resolution 2018-25- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN AGREEMENT WITH CARROL ELECTRIC BERRYVILLE,**

**ARKANSAS, FOR UTILITY RELOCATION ON KIMMEL ROAD
IN THE CITY OF CENTERTON, ARKANSAS.**

Mayor Edwards addressed the Council and explained the need for this Resolution to enter into an agreement with Carrol Electric to move utilities on Kimmel Road. He said their cost estimate is \$129,793.68, and there is an adjacent property owner that will be contributing a little over \$60,000.00 to this, leaving the remainder as the City's cost.

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

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

- **Resolution 2018-26- A RESOLUTION APPROVING A CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE LOCATED AT WEST HIGHWAY 72, CITY OF CENTERTON, ARKANSAS FROM CHARLES SLUYTER AND CHRISTINE SLUYTER.**

Mayor Edwards addressed the Council and explained the need for this Resolution to enter into an agreement with Charles and Christine Sluyter to purchase land on West Hwy 72, for the Centerton Water & Sewer Department, to install a 2nd water tower. Mayor Edwards said the cost of the land is \$400,000.00. He said there is a house with tenants, on the property, that will be leaving when their lease expires.

Water & Sewer Director Frank Holzkamper said they will be removing the rabbit houses, and are not sure what they will do with the house, once vacated. He said the commercial building will remain on the property for storage. Holzkamper said they will close on the land tomorrow, if this Resolution is approved tonight, and will then deliver the plans to the County, to get on their agenda, for approval. He said the Health Department will expedite this through. Holzkamper said there are 4 cities in Northwest Arkansas looking at building water towers, all at the same time. He said they are working to get the tank contractor to bid those 4 towers at the same time, to get better pricing. Holzkamper said the existing Water Tower on Hwy 72 will remain in service, but the elevated tower at the Water Department will no longer be able to function, and will be taken out of service, but will remain standing, as a landmark. He said the 2 functioning towers will give us an almost 5 million gallon capacity, as opposed to the 2.1 million gallon capacity we currently have.

Robin Reed made a motion to read the Resolution by title only, with a 2nd from Wayne Low. All Council members voted in favor and the motion carried. Brian Rabal read the Resolution by title only. Wayne Low made a motion to adopt the Resolution, with a 2nd from Keith Higginbotham. All Council members voted in favor and the motion carried.

- **Resolution 2018-27- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN AGREEMENT WITH DC SPARKS CONSTRUCTION, FAYETTEVILLE, ARKANSAS, FOR CONSTRUCTION OF THE ADDITION AND ALSO SPRINKLER SYSTEM FOR THE CENTERTON FIRE STATION.**

Mayor Edwards addressed the Council and explained the need for this Resolution to enter into an agreement with DC Sparks Construction, for the addition and sprinkler system for the Centerton Fire station. He said bids were taken and DC Sparks was successful in both the expansion (\$490,595.81) and the sprinkler system (\$117,101.60) bids. Mayor Edwards said there will be a mold remediation cost on top of these costs

Robin Reed made a motion to read the Resolution by title only, with a 2nd from Josie Reed. All Council members voted in favor, except for Keith Higginbotham, who Abstained, and the motion carried. Brian Rabal read the Resolution by title only. Wayne Low made a motion to adopt the Resolution, with a 2nd from Misty Elam. All Council members voted in favor, except Keith Higginbotham, who Abstained, and the motion carried.

Robin Reed made a motion to Amend the motion for the Resolution to also include mold remediation by DC Sparks Construction, with a 2nd from Josie Reed. All Council members voted in favor, except for Keith Higginbotham, who Abstained, and the motion carried. Brian Rabal read the Resolution by title only. Wayne Low made a motion to adopt the Resolution, with a 2nd from Misty Elam. All Council members voted in favor, except Keith Higginbotham, who Abstained, and the motion carried.

- (7) James Eldridge- Fireworks Concerns-** Mr. Eldridge was not present to express his concerns to the Council.

No Action Was Taken

(8) Accept Resignations of Craig Overton, Buddy Routt and Craig Overton from Parks & Recreation Advisory Board-

Robin Reed commended both Mr. Routt and Mr. Overton for their service on the P & R Advisory Board, and asked that the Mayor reach back out to Mr. Routt, before accepting his resignation. There was discussion.

Robin Reed made a motion to Accept the resignation of Craig Overton, from the Parks & Recreation Advisory Board, with a 2nd from Josie Reed. All Council members voted in favor and the motion carried.

(9) Acknowledge Receipt of the 2016 City Audit- Mayor Edwards stated that the Council members should have all received a copy of the 2016 City Financial Audit.

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

Josie Reed made a motion to acknowledge receipt of the 2016 City Financial Audit, with a 2nd from Darren Warren. All Council members voted in favor and the motion carried.

(10) Acknowledge Receipt of Centerton Credit Rating- Mayor Edwards stated that we have been meeting by phone and e-mail with Moody's Investors Service in regard to a credit rating for the City. Edwards stated that we have received a rating of Aa3. He said no action needs to be taken. A copy of the report from Moody's was in the Council's packets.

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

Robin Reed made a motion to acknowledge receipt of the 2016 Centerton Credit Rating, with a 2nd from Josie Reed. All Council members voted in favor and the motion carried.

(11) Acknowledge Receipt of the 2019 STBGP-A Grant- Mayor Edwards addressed the Council, stating that Director of Public Works Rick Hudson applied for an additional Grant for the traffic signal project at Main Street and Seba Road. He said that we were approved for \$495,000.00, to go toward the \$1.5 million traffic signal.

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

- (12) **Discuss Policies (Take Home Vehicle Policy and Administrative Leave)** - Mayor Edwards addressed the Council, asking for discussion and feedback on both a “Take Home Vehicle Policy” and an “Administrative Leave Policy” for the City. There was a sample version in the Council’s Dropbox packets. There was lengthy discussion. City Attorney Brian Rabal’s recommendation was to Table this item until there was more time to go through it and consider the thoughts of the Council.

Lieutenant Keck addressed the Council, stating that the #1 and #2 positions in the Police Department were on Administrative Leave and that he makes no bones about the fact that he still relies on Captain Arthur for a lot of the day-to-day questions that he doesn’t know the answers to. He said he would understand if that communication needed to be limited.

Darren Warren asked why he had not reached out to Chief Harper. Keck replied that Arthur is the one who has been making it happen, and was the one who was doing the work, when it comes to equipment, training, etc. Robin Reed asked if Chief Harper was more administrative, and Lieutenant Keck said absolutely.

Chief Building Inspector Robert Coffelt addressed the Council, stating that he was not treated that way when he was on Administrative Leave and was told to have no contact until his investigation was done. He pointed out that the Policy should likely have an “Extenuating Circumstances Clause”.

Darren Warren stated that he understood that people on Administrative Leave are still allowed to come into City Hall to purchase trash bags, etc. and he understands personal relationships. He said he does not like the ideas of individuals, who are under investigation, still being communicated with. He told Lieutenant Keck that he understands that he is in a huge learning curve and recommended reaching out to the Mayor or somebody else.

Robin Reed stated, as a retired Officer’s wife, she didn’t understand how he could get answers without speaking to another department. Keck said he didn’t know of any other departments that had the same technology as we do. He said he is just trying to keep this Police Department afloat.

Wayne Low asked if any of those communications are being communicated to include the Mayor. Keck said most communications are just a phone call or a text message, asking “Who do I reach out to? Where do I go for this?”

Robin Reed asked if Mr. Harper and Mr. Arthur were told to have no communication, as Mr. Coffelt was told. City Attorney Brian Rabal stated that he

felt it should be understood that when you are placed on Administrative Leave, it would be clear. Mayor Edwards stated that Mr. Harper had it put in writing to him, but with the re-instatement, we did not say “No Contact”. Edwards said we already had the equipment from both of them. Edwards said he personally did not see an issue with the contact between Lieutenant Keck and Captain Arthur. He said that Lieutenant Keck has reached out to him, with questions that neither of them had the answers to. Edwards said that neither Harper nor Arthur have access to City e-mail. He said he was fine with this item being tabled.

City Clerk Todd Wright addressed the Council, stating that what was approved by the Council in this transition period was for Mayor Edwards to act in a more administrative role with Lieutenant Keck, to help run the Police Department. Wright said that he felt any e-mail communications should include the Mayor. Wright said that this item was put on the agenda this evening as an item of discussion, and not an action item, so that we could have discussion. He said that it needs to be clear that Lieutenant Keck is running the Police Department, so he can run the department. Wright said that Lieutenant Keck will obviously need some help and repeated that the council approved Mayor Edwards to take a more administrative role to assist. Mayor Edwards said that he has been involved, as well as Financial Director Pam Grant and they have been working together. Wright said that, if he were Chief Harper, and he was receiving no contact and Captain Arthur was receiving all of the contact, while both of them were on Administrative Leave, he would not be comfortable with that.

Several of the officers stated that they have either seen or reached out to Chief Harper, with no response, and mentioned that he has not been present at any of the Public Meetings.

City Attorney Brian Rabal stated that one of his concerns for these communications is for the potential for spoliation, or the appearance that something is going on, when it is not, or give someone the opportunity for something to happen. He said it would be better to keep that a sterile environment. Darren Warren said that is absolutely his concern.

Robin Reed asked if, in the best interest of the Police Department for the Mayor to be copied on any e-mails to Kris Arthur.

Misty Elam stated that she did not want the appearance of anything being done under the table. Lieutenant Keck said he wanted everything to be as transparent as possible. Darren Warren said he would prefer e-mails, so we would have a trackable document. Grant asked if we are talking Personal e-mail or City e-mail.

Darren Warren stated that he not only wanted this policy for the current situation, but also to make it more clear for employees in the future.

Mayor Edwards said he has been included in a few e-mails between Keck and Arthur.

Lieutenant Keck said those are legitimate concerns and the logic is inarguable.

City Attorney Brian Rabal said we need to take a look at the associated liabilities before we make a decision.

Lieutenant Keck said that any future communication with Captain Arthur will be by e-mail, and he would also courtesy-copy the Mayor. Mayor Edwards said he was fine with a phone call. Misty Elam and Darren Warren were not in support of phone calls.

City Attorney Brian Rabal asked if there was an Internal Affairs Policy for the City. Pam Grant said she was working on it

Mayor Edwards said he has Pam working on all of the City Policies and he will send those out to the Department Heads to be reviewed as a group, so we have a nice, clean copy to present to the Council for their review. Robin Reed stated that she felt that we needed a full-time HR person.

Mayor Edwards asked if there was any feedback on the "Take Home Vehicle Policy". There was lengthy discussion, including how we arrived at the current policy of 15 miles from the City Limits, as well as how an exception was approved for Lieutenant Keck, due to the fact that he has his own Military Insurance, saving the City from having to provide it. There was discussion that 25 miles was a reasonable distance. It was stated that other Police Departments in Northwest Arkansas have varying policies.

Robert Coffelt asked if it should be based on distance or response time. There was discussion.

Keith Higginbotham asked Mayor Edwards to send the policies back out to the Council Members for review, to be placed back on the September City Council Agenda. Mayor Edwards agreed to do that. He stated that we all review the policies and come together in a Work Session or a Committee of the Whole.

Edwards stated that part of the reason we are in the situation we are in is because we either have policies that are not being followed or we don't have a policy. He said he wants to work together on this. Edwards said he respected Captain Arthur a lot and that he has been the go-to guy at the Police Department. He said he also had a lot of respect for Chief Harper. He said at one point Captain Arthur and Chief Harper were working very well together and getting things done. Edwards said he tries not to micro-manage his Departments and thought things were going well, but then all of the sudden there are all of these allegations of things happening over a period of time. He said we will get through this and that he has

the same interest as everybody else, to be able to move forward. Edwards said he thought re-instating them was the right thing to do, and hopefully everything will work out however it needs to work out.

Robin Reed pointed out the rapid growth of the City and the Police Department, and that it may look like we are making changes because of what's going on but it has just brought more to light, what we should have on our books.

Wayne Low stated that this is being discussed because of the situation, not the individuals. He said once this is resolved, everybody will know what the expectations are.

Robin Reed said that will true for every employee in the City, not just the Police Department.

Alex Wallace said he didn't think it would be as big of an issue, if it wasn't for the caliber of the 2 employees placed on Leave. He said all of the Police Departments in the State of Arkansas follow the same Statutes, but every Police Department is run completely different. Wallace said when you cut off communication 100% from the two people that are running the department; you have to expect the place to crumble. He said you can't just call Chief Simpson in Bentonville and aske how to run the department; it just doesn't work that way.

Keith Higginbotham said he has been through many highs and lows with this city and he has made his share of mistakes. He said if you make a mistake and don't learn from it, shame on you; but if you learn from it, it is a teachable situation. He said the situation is unfortunate, and asked that the Police Department to bear with us, as we get through this rough spot.

Detective Wallace said that it is rough, but they continue to protect and serve; they still have a job to do.

Robin Reed thanked the officers for sticking together.

- (13) **Other Business-** Financial Director Pam Grant addressed the Council, stating that the old Police Station building, which was torn down in October of 2017, still shows on our Fixed Assets List. She asked for the Council's approval to remove it from the Fixed Assets List.

Keith Higginbotham made a motion to remove the old Police Station Building from the Fixed Assets List, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried.

(14) Announcements-

- Coffee with the Mayor- 8/18/18 at 9:00 a.m. at City Hall.

(15) Adjourn-

Misty Elam made a motion to adjourn at 7:59 PM with a 2nd from Wayne Low. All council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk