



**CITY OF CENTERTON
SPECIAL
CITY COUNCIL MEETING
AUGUST 29, 2018**

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, Wayne Low and Darren Warren. Those present and not answering roll call were City Clerk Todd Wright, City Attorney Brian Rabal, Financial Director Pam Grant, Director of Public Works Rick Hudson and Police Lieutenant Anthony Keck.

(1) Discuss Settlement Offer for Steele Property Located at Seba Road and Highway 102B-

Mayor Edwards addressed the Council, stating that this item is to discuss a Settlement Offer on the Steele Property.

Rick Hudson addressed the Council, giving a brief history of this item, stating that several months ago we began the acquisition of right-of-way for installation of the traffic signal at the intersection of Seba Road and Highway 102B. He said the City had an appraisal done and approached the property owners (Steele and Coffelt) with an offer that was refused. Hudson said the property owners were asking basically 6-times what the appraisal was. He said there were negotiations, but they could not reach an agreement, so the City condemned the properties. Hudson said he initially asked the property owners to get their own appraisals, to counter ours, but they did not do that until after the fact, until the lawsuit was started. He said that the parties have since gotten appraisals that are more than ours was, but less than they were asking. Hudson said Steele's appraisal came back at \$139,000.00 and we negotiated to pay \$100,000.00 (72%) and they will cover their own legal fees and appraisal. Hudson said the Coffelt's appraisal was \$45,600 and we negotiated to pay \$40,000.00 and they will cover their own legal fees and appraisal.

Hudson stated that the reason that we are at this point, is that the Utility right-of-way is not ours. He said we have acquired our right-of-way and are prepared to go

through the court system if we need to, but questions our chances of being successful. City Attorney Brian Rabal said he has some concerns with their appraisal, but that it in his experience that jurors tend to be more sympathetic to individuals whose land is being taken. He said a juror would likely look at the higher dollar amount. Hudson said we would also have additional legal fees and time, and feels like we have come to a fair agreement.

Hudson said this project is up for bid, with the contract to be let on 9/11/18. He said we have to certify that all of the utilities are ready to move their items. Hudson said we did what we were supposed to do, and acquired and certified the right-of-way and reviewed all of the utility contracts. He said Carrol Electric failed to acquire right-of-way before they signed and accepted a notice to proceed, and then they started to acquire right-of-way. Hudson said Carrol came to him last week and said they are going to have to stop and renegotiate everything, and the price will go up considerably. He said this delay puts the \$1.7 million in grants in jeopardy. Hudson said in order to keep our funding; he called for a Special Meeting with the Highway Department and Carrol Electric, as well as calling Tony Steele in. He said Steele was unwilling to grant Carrol an easement outside of the City's right-of-way until this item was settled. Hudson said he is looking to settle this, so Carrol Electric can acquire their right-of-way, so they can continue their work and keep this project going. He said it is more money, but does not feel it is unreasonable. He agreed with Rabal that he has some concerns with their appraisals, but also with ours.

Robin Reed asked if we were only talking about the two properties at this time. Hudson said that is correct. He said the other property is not critical to us at this point.

City Attorney Rabal said his concern, which this item was just brought to him yesterday afternoon, was that once we set a dollar amount, it certainly sets a "Comp". He said he thinks, from a legal standpoint, we could have negotiated better, but could potentially lose this significant grant funding. Rabal said we have appraisals from the two properties, but not one from the third property. Rabal said that his concern was that this item tonight was set only for the Steele Property, and leading to a "Comp" being established, felt we should enter into a settlement negotiation with the Coffelt Property.

Mayor Edwards stated that the two properties in discussion tonight, on our Master Land Use Plan, are slated to be Commercial, with one already rezoned, and the third property is listed as Residential.

Hudson said that based on the price that the City bought property for last week, this is a fair price. Robin Reed asked if this money would come from reserves. Hudson said we have an 80/20 Grant, so we are only into this for 20% of the price, and he thinks we are still good. Mayor Edwards said he would be willing to

pull from reserves if needed, but pointed out that we already have money in escrow with the court.

Robin Reed was concerned about setting a precedent. Hudson said every one of these is different. Keith Higginbotham reminded Reed that if we don't do something and this drags out and goes to court, we could lose all the grant funding. Darren Warren said that looking at the 80/20 match; we are looking at roughly \$28,000.00, versus going to court and hitting that number pretty quickly. Hudson said if this is not cleared up by 9/11/18, he would have to put a utility restriction on the contract, which could cost the City another \$100,000.00 (10%). Mayor Edwards reminded the Council that there is \$32,000.00 in Escrow.

Keith Higginbotham made a motion to Approve the Settlement of \$100,000.00 for the Steele Property and \$40,000.00 for the Coffelt Property, with a 2nd from Darren Warren. All council members voted in favor and the motion carried.

There was discussion about how the condemnation process works.

City Attorney Brian Rabal asked that the Motion be amended to include the legal descriptions as indicated in the Condemnation Complaints.

Keith Higginbotham made a motion Approve the Settlement of \$100,000.00 for the Steele Property and \$40,000.00 for the Coffelt Property, with Legal Descriptions as indicated in the Condemnation Complaints, with a 2nd from Darren Warren. All council members voted in favor and the motion carried.

- (2) **Other Business-** Mayor Edwards addressed the City Council, stating that our Police Officers have been given an opportunity to work the stadium for the Bentonville West High School football games, at an overtime rate of time and a half, with the City being reimbursed \$41.00/hour (including LOPFI, Health Insurance, etc.) from the Bentonville School District. He said we have a couple of part-time officers that work for the City for \$12.00/hour. Edwards asked the Council to approve the two part-time officers to be able to work these games at the low end of our starting salary, which is \$16.10/hour; which at time and a half would be \$24.15/hour. Edwards said the other officers already get time and a half and make more than that. Lieutenant Keck said the opportunity is open to all of the officers. Financial Director said the Part-Time Officers can only make a certain amount per month, per LOPFI.

Keith Higginbotham made a motion to Approve the increase in pay for Part-Time Police Officers working the stadium for Bentonville West High School

Football Games to a Base Pay of \$16.10/Hour, resulting in a Time and a Half Rate of \$24.15/Hour, with a 2nd from Josie Reed. All Council members voted in favor and the motion carried.

Adjourn-

Darren Warren made a motion to adjourn at 6:30 p.m. with a 2nd from Keith Higginbotham. All council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk