



**CITY OF CENTERTON
CITY COUNCIL MEETING
NOVEMBER 13, 2018**

Public Hearing- Water and Sewer Bonds-

Mayor Edwards introduced the item to the Council, stating that W&S have applied for \$17 million in Bonds. He said the City has not had a rate adjustment in over 5 years and the residential rates on this are exactly the same, and we are required to reaffirm the rates of the current Ordinance.

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

Mayor Edwards opened the Public Hearing for public comments, and asked if there were any questions or comments from the public or the Council. 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.

The City Council was called to order at 6:02 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 role 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, Centerton Utilities Director Frank Holzkamper, Animal Control Supervisor Terry Sanchez and Chief Building Inspector Robert Coffelt.

Mayor Edwards opened the meeting by offering an apology to the City Council and City Employees for actions in the previous City Council Meeting by City Employees. He said

he understood that there were frustrations at the meeting. He said if there were any items on the agenda that anyone wished to speak on, they are welcome to come to the podium, state their name for the Minutes, and address the Council. He asked that nobody yell from the back of the room.

- (1) **Council Minutes-** Wayne Low made a motion to approve the Minutes of the October 9th, 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-** Robin Reed made a motion to acknowledge receipt of the Minutes of the September 25th, 2018 Planning Commission Meeting and September 18th, 2018 CWSD Meeting, with a 2nd from Josie Reed. All Council members voted in favor and the motion carried.

- (3) **City and Court Financials-** Mayor Edwards stated that 83% through the year we have received 90.79% of our Budgeted Revenue. He stated that our Expenditures were at 82.66%. Mayor Edwards highlighted some of the financials for the Council. Josie Reed made a motion to accept the October, 2018 City and Court Financials, with a 2nd from Robin Reed. 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.

(5) **Ordinances-**

- **Ordinance 2018-51- AN ORDINANCE AMENDING CENTERTON MUNICIPAL CODE, SECTION 10.12.08, ADJUSTING SEWER**

RATES; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

Mayor Edwards addressed the Council, introducing this Ordinance.

Frank Holzkamper addressed the Council, stating that this Ordinance is to reaffirm our current rate structure. He pointed out that we have not had a rate increase in over 5 years and this does not include any rate increase. (**Note:** There was an adjustment made to the users of the system consuming 300,000 gallons and above).

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 2nd from Darren Warren. 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 Misty Elam. All Council members voted in favor and the motion carried. City Attorney Brian Rabal read the Emergency Clause. Robin Reed made a motion to adopt the Emergency Clause, with change stating “the Centerton City Council believes that this Ordinance is necessary to ensure the financial integrity...”, and removing “the need to adjust sewer service rates...” with a 2nd from Darren Warren. All Council members voted in favor and the motion carried.

- **Ordinance 2018-52- AN ORDINANCE AMENDING MUNICIPAL CODE, CHAPTER 14, SECTION 4.14, TITLED “SCHEDULE OF USES”; ADDING SECTION 14.04.12 PLANNED UNIT DEVELOPMENT AND CORRECTING SCRIVENER’S ERRORS IN TITLE 14; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept changes to the Schedule of Uses, adding PUD, and making some Scrivener’s error corrections. Edwards said there was a Public Hearing held for these items, where they were approved and recommended to City Council for approval by the Planning Commission on 10/23/18. He said all of the changes were included in the Council Packets.

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 Keith Higginbotham. 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. Keith Higginbotham made a motion to adopt the Ordinance with a 2nd from Darren Warren. All Council members voted. City Attorney Brian Rabal read the Emergency Clause. Josie Reed 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 2018-53- AN ORDINANCE TO REZONE CERTAIN LANDS, IN S3-T19N-R31W WITHIN THE CENTERTON CITY LIMITS, BELONGING TO VFAM GROUP, INC.; FROM AGRICULTURAL (A-1) TO HIGH DENSITY RESIDENTIAL DUPLEX (R-3 D).**

Mayor Edwards addressed the Council, stating that this Ordinance is to Rezone land off of Kimmel Road. Edwards said this item was approved and recommended to City Council for approval on 10/23/18 by the Planning Commission.

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. 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. 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.

- **Ordinance 2018-54- AN ORDINANCE ACCEPTING THE PUBLIC STREET OF CEDAR STREET AND PUBLIC DRAINAGE AND UTILITY IMPROVEMENTS CONSTRUCTED WITH DEVELOPMENT OF LOTS 2 & 3, WILLOW CROSSING PHASE 1 (COMMERCIAL AND TOWNHOMES PUD); AND ASSOCIATED WARRANTY BONDS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept Infrastructure Improvements, a Public Street, and Warranty Bonds of. The Warranty Bonds are as follows: Water & Sewer- \$171,043.88 (50% of

\$342,043.88 for 1 year); Streets- \$71,134.10 (100% for 2 years); Drainage- \$17,372.50 (100% for 2 years).

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. Wayne Low 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. Robin Reed made a motion to adopt the Ordinance with a 2nd from Keith Higginbotham. All Council members voted in favor and the motion carried.

(6) Resolutions-

- **Resolution 2018-31- CITY OF CENTERTON, BENTON COUNTY, ARKANSAS- A RESOLUTION APPROVING THE RELEASE OF THE EASEMENT FILED FOR RECORD IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF BENTON COUNTY, ARKANSAS ON NOVEMBER 25, 1974, BOOK 481 AT PAGE 714.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve the release of an Easement on Allen Road.

Frank Holzkamper addressed the Council, stating that we no longer need that Easement, since we no longer send our waste water to Bentonville.

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 Darren Warren. 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 Misty Elam. All Council members voted in favor and the motion carried.

- **Resolution 2018-32- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN**

**EQUIPMENT RENTAL AGREEMENT WITH STRIBLING
EQUIPMENT, SPRINGDALE, ARKANSAS, FOR RENTAL OF A
310SL BACKHOE/LOADER.**

Mayor Edwards addressed the Council, stating that this Resolution is to authorize a rental agreement for a backhoe/loader for the Street Department. He stated that we have not received the Official Lease Agreement yet, but he will have it reviewed by City Attorney Brian Rabal, as soon as we get it. There was discussion about how well the leased equipment works for the Street Department.

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. Josie Reed made a motion to adopt the Resolution with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

- **Resolution 2018-33- A RESOLUTION APPROVING AN AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF CENTERTON, ARKANSAS AND THE CITY OF BENTONVILLE, ARKANSAS, REGARDING IMPROVING ALLEN ROAD.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve an Agreement of Understanding with the City of Bentonville for improvement to Allen Road. He said we will do the work of paving Allen Road, and Bentonville will reimburse the City for the section in the Bentonville city limits, in the amount “not to exceed” \$16,441.95. Mayor Edwards said we would absorb the rest of the cost. He said we are working together and Bentonville has already approved it on their end.

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 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 2018-34- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ACCEPT**

IRREVOCABLE STANDBY LETTERS OF CREDIT 1243 AND 1247 FROM FIRST SECURITY BANK ON BEHALF OF CAN-ARK DIAMOND REALTY GREENHOUSE LLC, FOR DEFERMENT OF IMPROVEMENTS ON THE WATERCOLOR APARTMENTS PROJECT.

Mayor Edwards addressed the Council, stating that this Resolution is to accept Letters of Credit from Can-Ark Diamond Realty LLC for deferred site improvements to the Watercolors Apartments Project. He said the amounts of the Letters of Credit are \$100,858.00 and \$62,218.88.

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 Wayne Low. 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 Josie Reed. All Council members voted in favor and the motion carried.

(7) Discuss Vehicle Purchases for Police, Building Inspection, Code Enforcement and Fire Departments-

Mayor Edwards addressed the Council, stating that we discussed 4 vehicle purchases to be made this year, at our City Budget Meeting last week. He said he reached out to some dealers that still had some 2018 State Bid vehicles available on their lots. He said he put the listings, including specifications, in the Council Packets. The Vehicles are as follows:

Building Inspection- (1) 2018 Jeep Renegade- \$17,995.00 (on State Bid), (2) 2018 Jeep Renegade- \$19,500.00 (currently on the lot, with more accessories).

Code Enforcement- 2018 Dodge Ram- \$23,432.00, for new Code Enforcement position.

Fire- 2018 Dodge Ram- \$25,484.00 (with accessories), for new Fire Marshall position.

Mayor Edwards said he was asking for approval for the purchase of these 4 vehicles at this time.

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

Robin Reed made a motion to Approve the 4 vehicle purchases, as agreed upon, with a 2nd from Wayne Low. All Council members voted in favor and the motion carried.

Police- Mayor Edwards said these vehicles are hard to find. There was lengthy discussion, involving the Mayor, Council, Lieutenant Keck and other Police Officers, regarding different types of Police vehicles. The topic landed on looking for either all-wheel drive Dodge Chargers, Ford Interceptors or Chevy Tahoe's. Mayor Edwards said he would communicate with Lieutenant Keck, throughout his search.

Mayor Edwards asked for the Council's approval to continue looking for, and purchase two (2) Police vehicles (one for the new Officer approved in the Budget Meeting, and one to replace one of the higher mileage cars in the current fleet), with a cap of \$28,000.00 for each vehicle.

Robin Reed made a motion to Approve the purchase of 2 vehicles for the Police Department, with a cap of \$28,000.00 for each vehicle, with a 2nd from Josie Reed. All Council members voted in favor and the motion carried.

(8) Approve Christmas Bonus for 2018-

Mayor Edwards addressed the Council, stating that we have issued this bonus every year that he has been Mayor, and it was started by the previous Mayor. He said we like to give this out around Thanksgiving. He said the structure is as follows:

\$500.00- For Employees with over 1 Year of service with the City.

\$250.00- For Employees with 6 Months to 1 Year of service with the City.

\$125.00- For Employees with less than 6 Months of service with the City.

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

Robin Reed made a motion to Approve the 2018 Christmas Bonus amounts, as agreed upon, with a 2nd from Wayne Low. All Council members voted in favor and the motion carried.

(9) Discuss Settlement for Zumstein Right-of-Way-

City Attorney Brian Rabal addressed the Council, stating that he understood that this was discussed a little bit at last week's City Budget Meeting. He said the Zumstein's had an appraisal and original offer of around \$72,000.00. He said he spoke to their Attorney and indicated that this would be the last time we would meet, with any type of settlement authority, prior to trial. Rabal said they have presented an offer to the City of \$60,000.00. Rabal said our numbers are pretty close, as far as the actual property goes, but the Zumstein's are alleging additional damages to the home. He said Case Law allows for them to do that. He said it will come down to what number a jury would find for. He said he has spoken to several other City Attorney's and Judges, who said the jury's tend to favor the Property Owner over the Benton County Municipalities, in these types of cases. He said the question is that the number the jury would land on would be somewhere between our number and their number, so do we want to come back with another offer to the Zumstein's. Rabal said Trial is currently set for 11/27, and the Judge is expecting to hear something from us tomorrow. He said he can't say whether \$60,000.00 is a good number or not, when it comes to a Jury Trial. He said there is some basis for the additional expenses that they are requesting, that were not provided for in our appraisal.

Mayor Edwards said our Appraisal for the land was for around \$21,000.00 and the Zumstein Appraisal was for around \$22,000.00. He said they have also asked for around \$47,000.00 in additional Severance Damage Claims.

City Attorney Rabal said there were three (3) property owners at this intersection, along with the City owning the other property. He said three (3) Condemnations' were filed and Settlement's have been reached with Tony Steele and the Coffelt's on their properties.

Cindy and Joe Zumstein were present at this meeting and engaged in discussion with the Council regarding this situation. Cindy Zumstein said they were unaware of the impending modification to the intersection when they purchased the home. Alderman Darren Warren said he had no issue with paying them for the value of the property, but struggled with paying an additional amount for noise abatement, when the home is already at the intersection of an Arterial Road and a State Highway. Rabal stated that one of the questions for the jury could be whether the Zumstein's conducted their due diligence when purchasing the home, such as looking at the Master Street Plan. He said their claim is that this completely changes the character of their home. Alderman Robin Reed said she thought the previous homeowner should have told them what was going to happen with that intersection and she didn't know how we couldn't pay them what they are asking for. Warren said this intersection modification is going to likely significantly increase their property value, which is a benefit to them, and they obviously knew there was a highway when they bought their house. Alderman Wayne Low agreed, stating that this has been planned for a long time, whether it was communicated to them or not, and it is on the Master Street Plan. He said he was

not happy with the additional amount, but understood there is a risk if it goes to a Jury Trial. There was discussion about possible Jury findings and legal fees.

Alderman Robin Reed asked if this money would come from Reserves. Mayor Edwards said it would come from the 2017 Street Improvement Bond. Edwards said that the City has to pay \$339,000.00 for the improvement of this intersection, and the \$60,000.00 would go toward that amount, one way or the other. He said we already have around \$22,000.00 in Escrow for this item, as part of the Condemnation, so we are really only looking at the difference.

Director of Public Works Rick Hudson said we are looking at Federal Money and we are limited on what we can do with Federal Money. He said, that being said, the only thing we could offer is based on an appraisal we have. He said the other 2 property owners came up with new appraisals to justify their settlement amounts, and we paid Appraised Value for their land. He said we are working on an 80/20 Grant, and in this situation, we are also talking about a devaluation of their home. Hudson said he will need to make a call tomorrow, to make sure the Federal Money will pay for the devaluation of the home within this 80/20 Grant, or if the City will have to take this on itself. Financial Director Pam Grant said that if it were not covered in the 80/20 Grant, because it is considered a Street Improvement she would have to verify with Audit, whether it would need to come out of the Street Savings Account.

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

Robin Reed made a motion to Approve the Settlement of the Zumstein Right-of-Way, in the amount of \$60,000.00, with a 2nd from Wayne Low. There was a Roll Call. Misty Elam, Darren Warren and Josie Reed voted NO; Keith Higginbotham, Wayne Low and Robin Reed voted Yes. Mayor Edwards voted YES, and the motion carried.

(10) **Other Business-** None

(11) **Announcements-**

- 11/17/18- Coffee with the Mayor 9:00 AM
- 11/22/18- Community Thanksgiving Dinner 11:00 AM to 1:00 PM
- 12/05/18- Comprehensive Plan Kickoff Meeting for Council 6:00 PM
- 12/08/18- Christmas Bazaar

(12) Adjourn-

Wayne Low made a motion to adjourn at 7:16 PM with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk