



**CITY OF CENTERTON
CITY COUNCIL MEETING
JUNE 11, 2019**

- (1) **Pledge** - The Pledge of Allegiance was recited.

- (2) **Prayer** - The prayer was offered by Keith Higginbotham.

- (3) **Roll Call** - Those Present and answering Roll Call were Mayor Bill Edwards, Keith Higginbotham, Wayne Low, Darren Warren, Josie Reed, Misty Elam and Robin Reed. Those present and not answering role call were City Clerk Todd Wright, City Attorney Brian Rabal, Financial Director Pam Grant, Director of Public Works Rick Hudson, Police Chief Cody Harper, Fire Chief Delton Bush, Planning Director Lorene Burns, Animal Control Supervisor Terry Sanchez, Chief Building Inspector Robert Coffelt and Centerton Utilities Director Frank Holzkamper.

(4) **Council Minutes –**

Keith Higginbotham made a motion to approve the Minutes of the May 14th, 2019 City Council Meeting, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

Planning and Water & Sewer Minutes –

Keith Higginbotham made a motion to Acknowledge Receipt of the Minutes of the May 7th and May 21st, 2019 Planning Commission Meetings, April 16th and May 1st, 2019 CWSD Meetings, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried.

- (5) **City and Court Financials-** Mayor Edwards stated that 42% through the year we have received 55.15% of our Budgeted Revenue. He stated that our

Expenditures were at 51.94%. Mayor Edwards detailed some of the May revenue and expenditures for the Council:

Wayne Low made a motion to Accept the May, 2019 City and Court Financials, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

(6) Department Reports-

The Department Reports were in the Council Packets.

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

(7) Ordinances -

- **Ordinance 2019-17- AN ORDINANCE ACCEPTING THE FINAL SUBDIVISION PLAT OF MORNINGSIDE ESTATES PHASE 2, LOTS 59-103, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to approve the Final Plat of the Morningside Estates Subdivision Phase 2. He said it was recommended for City Council Approval at the 5/21/19 Planning Commission Meeting.

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. Wayne Low made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2nd from Darren Warren. 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.

- **Ordinance 2019-18- AN ORDINANCE ACCEPTING THE FINAL SUBDIVISION PLAT OF ORCHARD PARK SUBDIVISION PHASE 1, LOTS 1-34, LOT "A" AND RESIDUAL TRACT "A", CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to approve the Final Plat of the Orchard Park Subdivision Phase 1. He said it was recommended, with contingency, for City Council Approval at the 5/21/19 Planning Commission Meeting. He asked that this Ordinance be approved contingent upon some Performance Bonds being approved and received. He said there were still e-mails going back and forth this afternoon.

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 Misty Elam. 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 Keith Higginbotham. All Council Members voted in favor and the motion carried. Robin Reed made a motion to adopt the Ordinance, with the Performance Bond Contingency, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

- **Ordinance 2019-19- AN ORDINANCE ACCEPTING RIGHT-OF-WAY DEDICATIONS ALONG KIMMEL ROAD, DAISY ROAD, AND FUTURE EXTENSION OF WOMACK ROAD, BY FEATHERSTON FAMILY TRUST PER TRACT SPLIT PLAT FOR PROPERTY LOCATED ON THE SE CORNER OF KIMMEL AND DAISY ROADS, S03-T19N-R31W, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept Right-of-Way Dedications on Kimmel and Daisy Roads and future Womack Road, by the Featherston Family Trust. He said this was approved at the 5/21/19 Planning Commission Meeting.

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

(8) Resolutions -

- **Resolution 2019-13- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT WITH CEI ENGINEERS, INC. FOR CONCEPTUAL MASTER STREET PLAN AND MASTER BIKE/PEDESTRIAN TRAILS PLAN MAP FOR THE CITY OF CENTERTON, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve a continued agreement with CEI for the Master Street Plan and Master Trails Plan. He said there has been a lot of discussion between the Department Heads, and they realized that we went over our original approved amount by \$8300.00, due to some changes, a Public Input Meeting and a Public Hearing. Edwards said that Director of Public Works Rick Hudson has proposed some changes to the maps, and Planning Director Lorene Burns suggested that there be a Public Work Session with the Planning Commission to try and work through the Maps. He said he is proposing \$15,000.00 to try and complete this project. He said he will bring it back before Council if there are to be any more needs. Edwards said he reached out to the folks working on the Comprehensive Plan and they recommended doing these plans in tandem with their plan. There was discussion.

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 Misty Elam. All Council Members voted in favor and the motion carried.

- **Resolution 2019-14- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN EQUIPMENT RENTAL AGREEMENT WITH JA RIGGS TRACTOR CO, SPRINGDALE, ARKANSAS, FOR RENTAL OF A MODEL 140M3 MOTOR GRADER .**

Mayor Edwards addressed the Council, stating that this Resolution is to approve a rental agreement with JA Riggs for a Road Grader for the Street Department. He said the lease on our current road grader expires in September.

Director of Public Works Rick Hudson addressed the Commission, stating that this agreement will be for a new road grader, which is larger than the one we

currently have. He detailed the benefits of this agreement, over keeping the current grader.

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 Josie Reed. 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 Misty Elam. All Council Members voted in favor and the motion carried.

- **Resolution 2019-15- A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF CENTERTON TO UTILIZE FEDERAL-AID TRANSPORTATION ALTERNATIVES PROGRAM FUNDS;**

Mayor Edwards addressed the Council, stating that this Resolution is to allow him to apply for part of a \$300,000.00 80/20 Grant, to work on the trail on Allen Road, going north on Town Vu Road into Bentonville. He said he has also reached out to the Wal-Mart Family Foundation and Northwest Regional Planning, so that if we get this Grant, we can apply with the Wal-Mart Family Foundation for matching funds.

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 Robin Reed. 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 Wayne Low. All Council Members voted in favor and the motion carried.

(9) Discuss Police Take Home Car Policy -

Police Chief Cody Harper addressed the Council, stating that there are 3 proposed changes to the Police Take Home Car Policy. He detailed those changes as:

- **Time Limit-** Take home cars will be given at the authority of the Chief of Police. This change is to clear up questions about whether a Take Home Car should be given at 3 months or 6 months, etc.
- **Distance from Police Department-** The distance limit for a Take Home Car is 15 miles from the Police Department, within the State of Arkansas. The current Officers with Take Home Cars are grandfathered in at their current address.

- **Time Period-** Take home vehicles shall be left at the department when the assigned officer is scheduled to be away from the department for an extended period of more than seven (7) days.

Robin Reed made a motion to Approve the changes to the Police Take Home Car Policy, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried.

(10) Discuss Police and City Recording Policy –

Mayor Edwards addressed the Council, stating that the Police and City Recording Policies are exactly the same, with the exception that the Police Policy is in Police format. He said the Policies will apply to City Employees, Department Employees and includes the recording of Elected Officials.

Police Chief Cody Harper said the only difference between the two Policies is that the Policy also references other policies, such as Body-Worn video cameras, as well as the Mandate for Custodial Interviews. He recommended removing the Custodial Interview section from the City policy. The Council agreed. Harper said the “working-copy” of this policy came from the Arkansas Department of Health, with some modifications. He said it is being used in the State of Arkansas by a State Agency. He said it has been reviewed by the City Attorney.

Robin Reed asked if all employees will be made aware of this policy. Harper said all employees will be made aware, and will sign that they understand the policy.

Harper read a portion of the policy for the Council. There was discussion about personal devices and city devices.

Josie Reed made a motion to Approve the Police and City Recording Policies, with recommended change, with a 2nd from Robin Reed. All Council Members voted in favor and the motion carried.

(11) Discuss Planning Attorney –

Mayor Edwards addressed the Council, stating that we approved \$10,000 in the 2019 Planning Budget for Contract Labor to be used for a Planning Attorney. He said there is a listed Scope of Work and Request for Qualifications. He said there are a lot of things in the Planning Department that are very specific, and we would like for someone to work on our Codes. He said he had Planning Director Lorene Burns reach out to City Attorney Brian Rabal to discuss this option.

Edwards said if we did move forward with a Planning Attorney, any Ordinances or Resolutions that come through would still need to be reviewed by the City Attorney. He said that Rabal advised him that he could do the work for the Planning Department and if there were any areas where he could not, he would reach out and we could look at other options.

Robin Reed asked Rabal if he was already attending the Planning Commission Meetings. Rabal said he was currently attending the Planning Commission Meetings. He said he wants to do this work and understood that this money that was budgeted for Planning was to be used if there was an area that he felt uncomfortable with and needed to reach out to someone. He said he wants the majority of his Practice to be City-related. He said the Law is ever-changing and he is not going to have all of the answers. He said that is what legal research is for.

Keith Higginbotham said as long as this did not affect what Rabal is already doing, he did not see a reason to pay another Attorney to do work that would have to be approved by Rabal. Josie Reed agreed.

Darren Warren pointed out that the Comprehensive Plan will be wrapping up, creating a kick-off point potentially for a lot of Ordinances and many other things. Rabal said depending on what issue comes up, he may suggest another attorney. He agreed that Planning encompasses many different things. Warren asked if we should already have someone in our back pocket, with some Statements of Qualification. Rabal said if you are dealing with an outside attorney, you are going to be dealing with their conflicts of schedule as well. He said you are not likely to just call and get an answer 24/7. Warren said he is not saying that Rabal is not familiar with State Statute; he is just recommending looking at someone who specializes in Master Street Plans, etc. Rabal said the two specialties in Law are Patent and Maritime, and he is licensed to practice as much as anyone else. He said he has been doing this for 11 years and doesn't know anyone he could recommend to do just Planning.

City Clerk Todd Wright stated that he works both with Planning and City Council, and there is a lot of work involved with Planning, and timing is everything for Developers. He said he sees needs on both sides of this issue. He asked Rabal if he was going to be available most times, with all he is already doing. He also asked Planning Director Lorene Burns if she would be able to get things to Rabal in a timely manner, with all the deadlines she is trying to hit. Rabal said part of his conversation with Burns was asking for some notice, as he is also in Court at times, prosecuting for the City. He said he would like to see some deadlines and be given more notice. Wright said there are a lot of moving parts in Planning, with things bumping and changing; it's ready, it's not ready, it needs more research, etc. He said you also have Water & Sewer, Streets, and all other departments involved, so it is very in-depth. He said it will require a lot more of Rabal's time.

Lorene Burns addressed the Council, stating that she did try to speak with Rabal, but he just yelled at her. Rabal said he will dispute that. She said the he told her if she followed through with this, he would sue the City. She said she thought he was joking, but he said he was serious. She said the reason she is looking for a Planning Attorney now is because with all of the upcoming Code changes, Rabal is going to get slammed. She said she already can't get Ordinances to him quick enough. She said in the Planning world everything goes fast, and down to the last minute. She said it is hard to call Rabal and get an answer. She said she feels we need someone with experience in Planning, Zoning and Property Law. Misty Elam said we could pay major bucks to have someone on call 24/7, but we don't have the budget for that. Burns said with a previous City Attorney, she could call and get someone else on staff. Rabal said if there is something urgent, he prefers a phone call, over an e-mail.

Robin Reed asked if there could be some deadlines, to give more time. Burns said it is not always just the Planning Department, sometimes she is waiting on information from another department(s). Keith Higginbotham said he would stand behind the Planning Department being more firm with their deadlines. Todd Wright said that there is some gray-area there, where you are trying not to be run over, and at the same time, wanting to work with Developers so they will continue to build in your city. Burns said she needs the Departments and the City to back her up, because she is tired of being left hanging out there, being the "hard-nosed" one, causing problems. Todd Wright said we have discussed tightening up the deadlines, and holding the Developers more accountable, in our Planning Commission Meetings as well. He said one "bottleneck" is when a Developer isn't ready, and comes back later expecting to go to the top of the pile, when in reality there are 10 other Developments that have moved in front of them. Burns said the Planning Staff is short-staffed currently, but we will be hiring a new person, and Nicole Gibbs will be coming back at the end of the month. She said the Developers have been very understanding.

Todd Wright said that Rabal said he would prefer that the City be more of his business, and in order for that to happen, he has to give the City more of his time. Wright said part of that is "Court Time" and some of it is "Personal Time", or whatever, hopefully with most of it being 8-5 M-F. He said inevitably some things are done "after hours or over the weekend. Wright said on the Planning end, we need to give as much notice as we can get, meaning sometimes we need to put the brakes on a Development, because we can't get a legally binding answer for "tomorrow night's meeting", because we need an answer today. He said, on the flip-side, we are also trying not to run Developers off. Keith Higginbotham said the other option is for the Developer to pay for a Special City Council Meeting, like we are doing next week.

Misty Elam recommended that Burns, Rabal and Mayor Edwards get together and figure out what works best for everyone, and get a plan to make it work. She

said it sounds like there is friction that needs to be worked through. Robin Reed agreed, saying it needs to be all of the Department Heads getting together and working as a Team. Mayor Edwards agreed to get together.

Burns asked Rabal if he was comfortable with the Scope of Work. Rabal said he was. Todd Wright said he thinks Rabal is intelligent enough to know that there is a learning curve with what he is being asked to do. Mayor Edwards pointed out that there are specialized Planning Training opportunities available. Rabal said he has attended several trainings, on his own dime. He pointed out that often these questions are situational, and it is unrealistic to think you can just pick up the phone and get an immediate answer every time. Wayne Low said you are not likely to get a “quick answer” to a last minute question, even if you were working with a large firm.

Keith Higginbotham made a motion to continue to use Brian Rabal as the Planning Attorney, with the option of Rabal reaching out to the Mayor if he has needs to outsource, with a 2nd from Wayne Low. There was a Roll Call and all Council Members voted in favor and the motion carried.

Mayor Edwards asked Brian Rabal if any outsourced person would work through his office. Rabal said that is the way he would prefer it. He said his office would compensate them and then he will bill the City, similar to when he can't be present for a City Meeting. Rabal said there will definitely be times that we will need to utilize someone from outside.

Jeremy Isom- Mr. Isom addressed the Council asking if the Position for a Planning Attorney was being denied at this time. The Council stated YES.

(12) Replace 2007 Jeep Liberty-

Mayor Edwards addressed the Council, stating that the Fire Department was using the City's 2007 Jeep Liberty to travel to and from training in Conway and had a blow out of one of the tires, causing major damage to the vehicle. He said we had it towed from Conway. He said due to the age and the mileage the vehicle was totaled by the Municipal League. He said we got \$6600.00 for the vehicle, including a \$1000.00 deductible, so we have \$5600.00 left. Edwards said the Fire Department does send their people to training on a regular basis, and asked for the Council's approval to replace that vehicle with Nissan Versa on State Bid, at \$14,015.00. Edwards reminded the Council that we did sell a truck earlier in the year for around \$8000.00, which could help offset the cost of the Versa.

Darren Warren made a motion to purchase a Nissan Versa at the State Bid price of \$14,015.00, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried.

(13) Other Business-

- Darren Warren mentioned new “Decision-Maker” State Legislation that is going into effect July 1, 2019. There was discussion.
- Keith Higginbotham asked that as we continue to grow, we look at the option of covered protection for City vehicles. Mayor Edwards said we could keep that in mind.

(14) Announcements -

- **6/15/19- Coffee with the Mayor- 9:00 AM**
- **6//19/19- Special City Council Meeting- 6:00 PM**

(15) Adjourn -

Keith Higginbotham made a motion to adjourn at 7:36 PM with a 2nd from Wayne Low. All Council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk