



**CITY OF CENTERTON  
VIRTUAL  
CITY COUNCIL MEETING  
SEPTEMBER 8, 2020  
6:00 PM**

**(1) Roll Call** - Those Present, via Zoom, 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, City Attorney Brian Rabal, Financial Director Pam Grant, HR Director Jocelyn Diaz, Senior Planner Nicole Gibbs, Police Chief Cody Harper, Fire Chief Matt Thompson, Fire Marshal Paul Higginbotham, Director of Public Works Rick Hudson, Chief Building Inspector Robert Coffelt, Animal Control Supervisor Cody Wilson and Centerton Utilities Director Frank Holzkamper.

**(2) Council Minutes –**

**Wayne Low made a motion to Approve the Minutes of the August 11, 2020 City Council & August 19, 2020 Special City Council Meetings, with a 2<sup>nd</sup> from Josie Reed. All Council Members voted in favor and the motion carried.**

**Planning Commission & Water & Sewer Minutes –**

**Wayne Low made a motion to Acknowledge Receipt of the Minutes of the August 4, 2020 & August 18, 2020 Planning Commission Meetings and the July 21, 2020 & August 7, 2020 CWSD Meetings, with a 2<sup>nd</sup> from Misty Elam. All Council Members voted in favor and the motion carried.**

**(3) City and Court Financials-** Mayor Edwards stated that 66.67 % through the year we have received 70.47 % of our Budgeted Revenue. He stated that our Expenditures were at 64.13 %. He detailed some of the financials.

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

**Keith Higginbotham made a motion to Accept the August, 2020 City & Court Financials, with a 2<sup>nd</sup> from Wayne Low. All Council Members voted in favor and the motion carried.**

**(4) Department Reports -**

The Department Reports were in the Council Packet. There were no questions about the Reports.

**(5) Ordinances -**

- **Ordinance 2020-43- AN ORDINANCE CLOSING FIVE FEET(5') OF THE FIFTEEN FOOT (15') PUBLIC UTILITY EASEMENT LOCATED ALONG THE REAR PROPERTY LINE OF LOT 117 IN THE TUSCANY PH 2 SUBDIVISION, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS; AKA 1311 MONTIERI DRIVE.**

Mayor Edwards addressed the Council, stating that this Ordinance is to vacate 5' of the Utility Easement at 1311 Montieri Drive for installation of an in-ground pool. He said the Request was denied by the Planning Commission at their 8/18/2020 meeting. He said the property owner has reduced the request from 8' to 5'. He said if they built a pool outside of the UE, they would not need permission from the Planning Commission or City Council.

Valerie Rohrer (Applicant), Ron Shumate (Pool Contractor) and Eric Heller (Engineer) were on this call, to answer any questions.

Valerie Rohrer requested the Council's approval for this 5' UE Vacation, stating that she was unaware when she purchased her home that such a large easement existed in her rear yard. She said all of the franchise utilities have signed off on this request. She said she felt the widening could happen on the other side of Main Street, which is all fields.

Eric Heller stated that the franchise utilities are all going in the front yards now. He said he felt the UE should have never been platted in the first place. He said they are still allowing at least 45' from the center of Main Street, meeting the Master Street Plan requirements. He said that it seemed that the City is taking the safest approach with a rear-yard easement, which will likely never be used, and has been signed-off by all of the franchise utilities.

Todd Wright said he believes part of the concern, from the City's standpoint is, from the example of the improvement of the intersection at Seba Road and Hwy 102B, the amount of space it takes to move utilities within that UE, whether it be

Franchise Utilities, or larger utilities, such as Water and Sewer; making sure we have the ROW we need for the future. (Wright lost internet connection).

Wayne Low spoke about the City possibly having to re-purchase the UE in the future, but his statement was missing from the recording, due to a loss in internet connection.

Rick Hudson (first part of the conversation missing, due to lost internet connection) acknowledged Wayne Low's point about re-purchasing UE or ROW, but stated that the road could be shifted in one direction or another to accommodate these things when we have a 90' ROW. He said he hoped Council would take future development into account.

Nicole Gibbs wanted to clarify what the Planning Commission based their decision on. She said there is no plan for Hwy 102B currently, but the point that was made, is that the UE is in place and is platted with this lot from the beginning. She said if the City vacates the UE, we lose the rights to use it. She said if the City does need the UE in the future, we would have to re-purchase it. She said the PC's perspective is that the UE is in place, and it is not in the public's best overall interest to vacate it at this time.

Keith Higginbotham questioned what the use of the UE would be, if the franchise utilities have all signed off. Gibbs said they are signing off at this time, because they have no plans at this time, but they are no considering any change to Hwy 102B. She said we know that Hwy 102B is not going to stay a two-lane road forever, and the improvements done at Seba Road were very tight. She said the area in question is only hundreds of feet north, and we might need this space. She said nothing has been designed at this time, but we would be giving up rights to space we currently have, if we vacate this UE. Higginbotham also asked how utilities would even access the back yards. Gibbs said the Utilities have rights, and there are gates along the wall. Rick Hudson said they will take the path of least resistance. He said if we grant 5' to this property owner, we will have to grant it to the rest of the property owners along there.

Robin Reed pointed out that the farm land across the street has already been purchased, with plans to develop, and their UE is already in place. She also said that Hwy 102B is a State Highway and the City has no control over when that happens. She said that is why the UE was included in the Final Plat. She recommended that the applicant put in a smaller pool. Josie Reed agreed

Mrs. Rohrer stated that the City already has a large portion of her back yard, and she is only asking for 5'. She pointed out her husband's physical limitations.

Misty Elam said she understood Mrs. Rohrer's frustration, stating that there are Utility Easements in all cities, not just Centerton. She also stated that she felt we should grant her the 5' of vacation od easement.

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

**Misty Elam made a motion to read the Ordinance by title only, with a 2<sup>nd</sup> from Keith Higginbotham. All Council Members voted in favor, except for Wayne Low and Robin Reed, who voted NO, 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 Josie Reed. All Council Members voted in favor, except for Wayne Low and Robin Reed, who voted NO, and the motion carried. Keith Higginbotham made a motion to adopt the Ordinance with a 2<sup>nd</sup> from Misty Elam. All Council Members voted in favor, except for Wayne Low and Robin Reed, who voted NO, and the motion carried.**

- **Ordinance 2020-49- AN ORDINANCE ACCEPTING THE FINAL SUBDIVISION PLAT OF ORCHARD PARK SUBDIVISION PHASE 5, CREATING LOTS 112-138 & TRACT “E”, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Ordinance is to accept the Final Plat of Orchard Park Phase 5. He said this is a continuation of the Orchard Park Subdivision on Walters Road and Hwy 72, and was recommended for approval by the Planning Commission at their 9/01/2020 meeting, with no public comments.

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 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. Misty Elam made a motion to suspend the rule requiring the reading of the Ordinance on 3 separate occasions with a 2<sup>nd</sup> from Robin Reed. 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 Josie Reed. All Council Members voted in favor and the motion carried.**

**(6) Resolutions -**

- **Resolution 2020-22- A RESOLUTION APPROVING AN AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF CENTERTON, BENTON COUNTY, ARKANSAS, AND SCHUBER MITCHELL HOMES TO COMPLETE THE PAVING OF WALTERS ROAD.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve an Agreement of Understanding between the City of Centerton, Benton County and Schuber Mitchell Homes, to complete the paving of Walters Road.

Rick Hudson said the City and County already had an agreement in place and have been working together, and Schuber Mitchell Homes has joined in this agreement. He said the work will begin as soon as we can free up the manpower.

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, contingent upon contract review by the City Attorney, with a 2<sup>nd</sup> from Misty Elam. 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 2<sup>nd</sup> from Robin Reed. All Council Members voted in favor, and the motion carried.**

- **Resolution 2020-23- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN AGREEMENT WITH NORTHWEST ARKANSAS PARAMED TRANSFER LLC. SPRINGDALE, ARKANSAS, FOR AMBULANCE SERVICE.**

Mayor Edwards addressed the Council, stating that this Resolution is to enter into an agreement with Northwest Arkansas Paramed Transfer LLC for Ambulance Service for Centerton and the western area. He said they are the ambulance service for Northwest Hospital. He said with this agreement, Centerton would get two (2) ambulances. He said they will initially be housed at Fire Station #1 on Hwy 102. He said he and Chief Thompson are looking at the possibility of housing one (1) of those ambulances at Station #2 on Hwy 72, in the future. He said he has put out RFQ's for architects to see what that would take. He said he hopes to bring that to Council next month, and would possibly be looking at completing that in early spring 2021. He said Northwest Hospital will be building a facility nearby and they will be housing a transport ambulance. He said the City Attorney is still reviewing the contract.

City Attorney Brian Rabal said he has reviewed the contract and has several concerns. He said he has spoken with Chief Thompson, who has reached out to Northwest and they have reached out to their attorneys. He said there are certain things in the agreement which do not coincide with what has been presented to us. He recommended that we Table the item at this time. He mentioned a section in the agreement that speaks about Mutual-Aid agreements, and the lack of a notice requirement. He detailed his concerns.

Chief Thompson stated that Northwest has Mutual-Aid Agreements with other cities and services, and we do as well. Rabal said that should be included in the contract. He said we have more to lose with this agreement than the others involved, as we are asking for two (2) ambulances.

Misty Elam said she supports the agreement, as long as the City Attorney approves it. Wayne Low agreed.

There was discussion about timing for approval. Chief Thompson said the agreement is between Centerton, Benton County, Cave Springs and Highfill. He said Cave Springs won't be taking it before their Council until the 4<sup>th</sup> week of September. It was agreed that we could hold a Special City Council Meeting if necessary.

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

**Misty Elam made a motion to Table the Resolution, allowing further Contract review by the City Attorney, with a 2<sup>nd</sup> from Wayne Low. All Council Members voted in favor and the motion carried.**

- **Resolution 2020-24- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN AGREEMENT WITH MORRISON SHIPLEY ENGINEERS, BENTONVILLE, ARKANSAS FOR CIVIL DESIGN AND SURVEYING SERVICES TO PREPARE CONSTRUCTION PLANS FOR THE MCKISSIC TRAIL PROJECT PHASE 2 IN THE CITY OF CENTERTON, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Resolution is to enter into an agreement with Morrison Shipley Engineers for Civil Design and Surveying Services for the McKissic Trail Project Phase 2. He said they Designed and Surveyed Phase 1. He said we are doing this in phases, due to the cost. He said Phase 1 has been approved and is going out for bid soon. He said we can apply for Grant Funding, but they normally like to see a design.

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 2<sup>nd</sup> from Misty Elam. 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 2<sup>nd</sup> from Robin Reed. All Council Members voted in favor, and the motion carried.**

**(7) Surplus Street Department Equipment -**

Mayor Edwards addressed the Council, stating that this is to approve the Surplus of the following items from the Street Department. He said these items are no longer being used. Rick Hudson said this equipment is either worn out or unsafe to use.

- Leon Plow Model #770 – Serial # 2270008
- Miller Coneqtec Model # APX300 – Serial # fx2213
- Edge Broom Model # 501655 – Serial # 0633036
- John Deere Plow Model # LPB721D1 – Serial # 111101026

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

**Keith Higginbotham made a motion to Approve the Surplus of the listed items from the Street Department, with a 2<sup>nd</sup> from Darren Warren. All Council members voted in favor and the motion carried.**

**(8) Surplus 2011 Dodge Charger (565264) and 2014 Chevrolet Tahoe (195064) -**

Mayor Edwards addressed the Council, stating that this is to approve the Surplus of two (2) vehicles from the Police Department. He said the 4 new Durango's have come in, and we would like to surplus the two (2) vehicles listed above. He said we will try to sell them on Gov Deals.

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

**Wayne Low made a motion to Approve the Surplus of the listed 2011 Dodge Charger and 2014 Chevrolet Tahoe, with a 2<sup>nd</sup> from Keith Higginbotham. All Council members voted in favor and the motion carried.**

**(9) Change Fire Department Training Officer from Part-Time to Full-Time -**

Mayor Edwards addressed the Council, stating that Chief Thompson approached him about moving the Part-Time Training Officer Position to a Full-Time Position, as the Deputy Chief of Training. He said we do have a very qualified applicant for the position. He said the starting salary will be \$58,723.60/yr (\$28.23/hr, based on 2080 hrs/yr) Chief Thompson said he will meet with HR Director Diaz tomorrow, to finalize the Job Description. There was discussion about Mutual Aid Training. Edwards said Council is just approving the position.

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

**Misty Elam made a motion to Approve the Full-Time Position of Deputy Chief of Training, with a 2<sup>nd</sup> from Robin Reed. All Council members voted in favor and the motion carried.**

**(10) Accept Updated Planning Commission Bylaws -**

Mayor Edwards addressed the Council, stating that the Planning Commission Bylaws were amended, to allow the Officers to serve Two-Year (2) Terms, instead of One-Year (1). He said this was approved by the Planning Commission at their Last meeting.

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

**Robin Reed made a motion to Accept the Updated Planning Commission Bylaws, with a 2<sup>nd</sup> from Wayne Low. All Council members voted in favor and the motion carried.**

**(11) Discuss Objects in the Roadway Ordinance – Basketball Goals -**

Mayor Edwards addressed the Council, stating that we received a lot of complaints about the Basketball portion of the Ordinance we passed last month. He said Code Enforcement acted on the ordinance, sending out over 90 letters to residents of the city, informing them of violation of the new Ordinance. He said he spoke to some other surrounding cities, some which had Ordinances and some which did not. He said most of them handle these on a case-by-case basis, and worked with the homeowners. He said the original intent of this ordinance was to get basketball goals out of the way of City Vehicles. He provided illustrations of some of the concerns, some that blocked part of the streets and some blocked sidewalks, and some block both. He mentioned that some mailboxes hang into the roadway, but Rick Hudson said those are made to break away, whereas the basketball goals do not, and can do major damage to people and/or property. He said these goals are top heavy. Mayor Edwards recommended a change to the Ordinance, stating “Basketball Goals shall be Removed from the Roadway when not in Use, and they cannot block the Sidewalk”. He also recommended meeting with residents individually to come up with a solution.

**Todd Wright** pointed out in one of the photos, where a basketball goal hung into the roadway, with cars parked on both sides of the road, and lawn clippings piled against the curb, where we would want a Street Sweeper to be able to access. He also pointed out that we have Emergency Vehicles, Trash Trucks and Mail Delivery Vehicles already weaving through parked cars, which is a prime reason to not have basketball goals in the roadway.



**Wayne Low** had a concern with mail boxes in the roadway, as well as City Sewer Access and bushes blocking sidewalks. He said he was not pleased with the way we notified the citizens. He recommended that we enforce those obstructions as well.

**Keith Higginbotham** stated that the streets are city property, and basketball goals are meant to be placed in the yard. He said most residents have a driveway they can play on. He asked if citizens were willing to pay for any damage to City Vehicles caused by a basketball goal in the roadway. He said it is not the City's responsibility to have to weave around these basketball goals. He said he can't support condoning children playing in the streets, as a representative of the city.

**Robin Reed** agreed with Wayne Low. She said there are many places in the city, where you can't see to make a turn, due to the overgrowth of bushes and mailboxes close to the road. She recommended announcing when Street Sweeper is coming, and nothing should block the roadway. She agreed that sidewalks should not be blocked. She also said vehicles should not be able to park on both sides of the street. She said we need to do what we can for both our citizens, Emergency Vehicles and our City Equipment to be safe.

**Darren Warren** said maybe we were too strict in how we presented the Ordinance, but we do not want the goals hanging into the roadway. He said when he was on the Planning Commission he recommended having a 5' Green Space and a 5' Sidewalk, which would have accommodated these goals in our newer subdivisions. He said he hopes that is being considered in our Comprehensive Plan. He said we need to work through this, and maybe we aren't ready for a change at this time.

**Rick Hudson** said the mailboxes in some of the photos provided are designed and approved to break-away. He said some of the basketball goals shown have concrete blocks, which can become projectiles, and the goals can fold back into a windshield, if hit by a vehicle. He said we will be going to 5' Green Space in the future, and are looking at allowing parking on one side of the street only, allowing for a Fire Lane. He said if we condone children playing in the street, we could possibly be responsible for any injuries. He said we have parks for children and need to continue to build more. He said when he was young; he played in his yard, and doesn't understand why children won't play in their back yards. He said the streets are designed for flow of traffic, not to be used as a playground. He said the street is a very unsafe zone for children to be in. He said he has a concern for the children of our community. He said he has multiple concerns about: objects being in the roadway, this area being City ROW, safety of City Equipment, and children safety by playing in the streets. He said we cannot condone children playing in the streets, as a City. He said we want to work together with our citizens for a solution.

**Robert Coffelt** said children do not belong in the streets. He said he drives the streets daily, and constantly has to dodge them. He recommended we look at requiring Parks in each new subdivision. He said he has to dodge “Kids at Play” signs constantly. He said kids constantly dart out behind and between cars. He also agreed that condoning kids playing in the streets could place liability on the City. He recommended putting basketball goals in the back yard, if the driveway has an incline. He said we should not condone children playing in the streets, and this should not even be a question.

**Courtland Halbrook** said the original intent of the change was for the Street Sweeper, and now Emergency Vehicles have been included in the discussion, evolving into a conversation about kids not being aloud to play in the streets. He said whether the basketball goals are in the streets or not, will have little influence over the children. He said it is really the responsibility of the parent, to make sure they are managing their children. He asked that the City be consistent about the problem they are trying to solve in regard to the basketball goals.

**James McCutcheon** said he agreed with Mr. Halbrook. He said “children shouldn’t play in the street” is a dated viewpoint. He said the responsibility falls on the parent. He said kids will play in the street whether the basketball goals are there or not. He said turning the goals sideways when not in use, to be out of the street, should also fall on the homeowner. He said building a thousand more parks won’t solve all of the problems. He asked that we look at a good solution, but not pick on children for being children. He said focusing on keeping the streets clear is a good objective for the City to look at. He said he thinks we can work together to find a solution.

**Tabitha Halbrook** said her back yard is very narrow, and they have an inclined driveway, leaving little options for their children to play. She said she thinks that the basketball goals and children playing in the street are two separate issues and should be two separate Ordinances. She said they supervise their children when they are outside, but admitted that there are children that are not supervised.

**Misty Elam** said she gets more complaints about cars in the roads than basketball goals. She said she agrees with Mr. Hudson and Mr. Coffelt, but would rather focus on the bigger issue of vehicles in the streets. She gave an example of a recent house fire in her neighborhood, and the difficulty for Emergency Vehicles to get through the neighborhood. She also felt we don’t have enough people to enforce all of these things.

**Rachael McCutcheon** said she didn’t think putting large groups of kids into parks right now is a good idea. She also said that kids playing together in the neighborhood are where a sense of community comes from.

**Mayor Edwards** said he met with Rick Hudson prior to this meeting and recommended giving property owners some contact information with the City, to

help us work together with them on finding a better placement for these goals. He said Hudson agreed.

**Keith Higginbotham recommended leaving Ordinance 2020-39 as is. Council agreed.**

**(12) City Hall Project Update -**

Mayor Edwards addressed the Council, stating that the City Hall Project went out to bid and came in at \$5.5 million. He said we have a \$4 million budget, and we are meeting with Nabholz Construction to cut costs. He said he has a City Staff Committee he is working with. There was discussion. He said he will keep the Council updated.

**(13) Public Comment - None**

**(14) Other Business - None**

**(15) Announcements -**

- **9/09/2020 – Special City Council Meeting @ City Hall 6:00pm**
- **9/15/2020 – Planning Commission (Virtual Meeting) 6:00pm**
- **9/17/2020 – Policy Manual Work Session @ 6:00pm**
- **9/19/2020 – Coffee with the Mayor (Virtual Meeting) 9:00am**
- **10/27/2020 – 2040 Comp Plan Meeting (Virtual Meeting) 6:00pm**

**(16) Adjourn -**

**Wayne Low made a motion to Adjourn at 8:15 PM with a 2<sup>nd</sup> from Robin Reed. All Council members voted in favor and the motion carried.**

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Bill Edwards, Mayor

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Todd Wright, City Clerk