



**CITY OF CENTERTON
VIRTUAL
CITY COUNCIL MEETING
DECEMBER 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, Planning Director Lorene Burns, Police Chief Cody Harper, Fire Chief Matt Thompson, Director of Public Works Rick Hudson, Chief Building Inspector Robert Coffelt and Centerton Utilities Director Frank Holzkamper.

(2) Public Hearing – Partial Utility & Drainage Easement Vacation - Lot 143 Tamarron Subdivision –

Mayor Edwards introduced the item to the Council, stating that there will likely be public input. He said we did receive one comment back from adjacent property owner Brandy Bradford, expressing no issue with the Vacation, as long as there are no issues with drainage, due to elevation changes.

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

Public Comments –

Nick Jones -1631 Abbey Lane – Expressed support for the Vacation Request. He said he was unaware he had a 25' Utility & Drainage Easement in his back yard. He said he just found out about it recently, and it is half of his back yard. He said he feels it is a dis-service to the property owner, and to the city, to allow such Easements.

Cody Ellis – 1641 Sweetbriar Way – Stated that he just found out about this easement this morning. He said the paperwork he was provided with when he

about his house, showed a 7' Easement all the way around. He said he has since found out it is a 25' Setback or Easement or whatever you want to call it. He said it is a problem for him that he received incorrect information when he purchased his house. He said now he cannot put in a pool or a shed. He said he would not have purchased this home had he known. He said it hinders his property value. He asked if a petition could be used to overturn the Platted Easement for the entire subdivision. City Clerk Todd Wright said Easement Vacations are directed by State Statute. Mayor Edwards said he will provide the State Statute when this item comes up later in the meeting. He said a portable shed can be placed within the easement.

Ryan Booth – 1460 Amber Way – Spoke in favor of the request, as long as there is agreement from the adjacent neighbors.

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

(3) Council Minutes –

Josie Reed made a motion to Approve the Minutes of the November 10, 2020 City Council Meeting, with a 2nd from Misty Elam. All Council Members voted in favor and the motion carried.

Planning Commission, Parks and Recreation & Water & Sewer Minutes –

Keith Higginbotham made a motion to Acknowledge Receipt of the Minutes of the November 3, 2020 & November 17, 2020 Planning Commission Meetings, October 20, 2020 A&P Meeting, the October 12, 2020 Parks and Recreation Meeting & October 20, 2020 CWSD Meeting, with a 2nd from Wayne Low. All Council Members voted in favor and the motion carried.

(4) City and Court Financials- Mayor Edwards stated that 92 % through the year we have received 103.25 % of our Budgeted Revenue. He stated that our Expenditures were at 89.62 %. He detailed some of the city financials.

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

Wayne Low made a motion to Accept the November, 2020 City & Court Financials, with a 2nd from Josie Reed. All Council Members voted in favor and the motion carried.

(5) Department Reports -

The Department Reports were in the Council Packet. Mayor Edwards asked the Council if there were any questions.

Robin Reed asked if we had received the CARES ACT Funding we applied for – Financial Director Pam Grant stated that we received \$376,962.86 and it is listed in the Budget under Federal Aid.

Robin Reed asked Police Chief Cody Harper about the three Chevrolet Tahoe's that show to be vacant on his Department Report. Harper said those are the cars that have been replaced this year, and they are in the process of being decommissioned and to be sold.

Josie Reed recognized Chief Harper for the Reports from the new Software System. She also recognized the Fire Department for the new lower ISO Rating.

(6) Ordinances -

- **Ordinance 2020-67- AN ORDINANCE AMENDING CENTERTON MUNICIPAL CODE, SECTION 2.14.03, TITLED COMPENSATION.**

Mayor Edwards addressed the Council, stating that this Ordinance is to amend Municipal Code, Section .28.08. He said the City Council is to review the compensation of the Mayor in December of each year.

Financial Director Pam Grant provided Council with a proposed salary of \$92,152.32, which includes the \$1.00 increase for all employees, which was previously approved by Council, as well as the up to 4% Merit Increase.

Wayne Low recommended that we do the same for the Mayor as we have done for the rest of the Employees in the city, with the \$1.00 increase and the up to 4% increase.

Josie Reed agreed, pointing out the growth of our city and the responsibility that goes along with that. She said Mayor Edwards goes above and beyond his assigned duties for the citizens and the businesses in our community. Wayne Low agreed

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

Wayne Low made a motion to read the Ordinance by title only, with a 2nd from Josie Reed. All Council Members voted in favor, except for Robin Reed who Abstained, 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 2nd from Wayne

Low. All Council Members voted in favor, except for Robin Reed who Abstained, 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, except for Robin Reed who Abstained, and the motion carried.

- **Ordinance 2020-68- AN ORDINANCE AMENDING CENTERTON MUNICIPAL CODE, SECTION 2.16.03 FIXING THE SALARY OF THE CITY CLERK.**

Mayor Edwards addressed the Council, stating that this Ordinance is to amend Municipal Code, Section .28.08. He said the City Council is to review the compensation of the City Clerk in December of each year.

Financial Director Pam Grant provided Council with a proposed salary of \$17,060.16, which includes the \$1.00 increase for all employees, which was previously approved by Council, as well as up to the 4% Merit Increase.

Mayor Edwards spoke in favor of the increase for City Clerk Todd Wright, stating that this has been a difficulty year with many added meetings. He said he has done an outstanding job. Wayne Low agreed.

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

Wayne Low made a motion to read the Ordinance by title only, with a 2nd from Josie Reed. All Council Members voted in favor, except for Robin Reed who Abstained, 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 2nd from Wayne Low. All Council Members voted in favor, except for Robin Reed who Abstained, 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, except for Robin Reed who Abstained, and the motion carried.

- **Ordinance 2020-69- AN ORDINANCE TO REZONE CERTAIN LANDS WITHIN THE CENTERTON CITY LIMITS, BELONGING TO THREE PISTOLS LLC, FROM AGRICULTURAL (A-1) TO HIGH DENSITY RESIDENTIAL SINGLE-FAMILY (R-3 SF) AND HIGHWAY COMMERCIAL (C-2) TO HIGH DENSITY MULTI-FAMILY RESIDENTIAL (R-3 MF).**

Mayor Edwards addressed the Council, stating that this Ordinance is to rezone certain land on Centerton Blvd. from A-1 to R-3 SF and C-2 to R-3 MF, and was

recommended for approval by the Planning Commission at their 11/17//2020 meeting, with a public comment recommending that a Traffic Study be done.

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 Misty Elam. All Council Members voted in favor 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 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 2020-70- AN ORDINANCE CLOSING AN EIGHTEEN FOOT(18') PORTION OF THE TWENTY FIVE FOOT (25') PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED ALONG THE REAR PROPERTY LINE OF LOT 143 IN THE TAMARRON SUBDIVISION,, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS; AKA 1501 ANISTON ROAD.**

Mayor Edwards addressed the Council, stating that this Ordinance is to request vacation of 18' of the 25' Utility & Drainage Easement at 1501 Aniston Road, for installation of an in-ground pool. He said it was denied by the Planning Commission at their 12/01/2020 meeting. He detailed the 2005 Tamarron Subdivision Final Plat for Council, stating that it shows a 25' Utility & Drainage Setback/Easement in the rear yards and 7' on the sides. He said the Plat states that the Lot Setbacks shown on this Plat are hereby provided by the property owner for Utilities, Franchise Utilities, Cable TV, Drainage and Access and other purposes. He said all utilities at that time were placed in the rear yards. He said between 2012 and 2014 the utility companies started requesting to be placed in front yards. He provided a diagram from Mr. & Mrs. Penner, showing the proposed layout for a pool, skirt and detached concrete deck, along with a fence and 3 existing utilities. He said we have heard back from Cox Communications, but not from Century Link.

Planning Director Lorene Burns said we have received several diagrams from the Penner's and the dimensions are not all clear. She said this request does not include the space they will need for the concrete deck. She said a utility would normally support something like a small patio, but this is an additional 3' concrete deck around the entire pool. She said that Century Link gave Planner Dianne Morrison Lloyd a verbal "No", but we have nothing in writing. She said this house does have an unusual layout.

Kristal Penner said the rear property line is 18” behind their back fence. She said the Century Link line is 8’ from the rear fence, the 12” pool collar is 7’ from the rear fence and the floating concrete pool deck is an additional 3’ wide. Mr. Penner said the City Ordinance basically states that a concrete pad can be within an easement, but if the easement must be accessed, it is at the property owner’s expense. He said it would be considered part of the primary structure if it was connected in any way, and would not be allowable. He said the Century Link line is in the area they would be putting the pool and would need to be relocated at their expense. He said he was given this information at City Hall by the Planning Director, as well as a diagram of their lot, before closing on their loan. Penner said he was told that given the accessory structure setbacks, they were allowed to put a pool in, and the structure of the pool could not be outside of the setbacks. He said he was also told that the concrete pad would be allowable, so long as it was not part of the pool structure. He said he was told that the homeowner takes responsibility for any costs of removal and repair, should it be necessary to access that easement for any reason. Planning Director Lorene Burns said that she did not speak to him until the Application had been submitted. She said she did speak to him about Utility Easements versus Accessory Structures. Mr. Penner agreed that he did speak to someone else initially. Mrs. Penner said they are willing to move the pool closer to the house and have a little less decking, but they could lose access to their shed.

Chief Building Inspector Robert Coffelt said making this pool fit in the space has a lot to do with the pool builder. He said the decking cannot interfere with the pool’s grounding system. He said that is why the decking is typically not allowed in the easement. He said fiberglass pools are different than poured pools.

City Clerk Todd Wright said the other concern, as voiced by Joey Ingle in the PC meeting, was that this is not only a Utility Easement, but also a Drainage Easement for this property and this portion of the subdivision. He said Ingle felt the City could possibly be liable for any damage caused by drainage coming from this vacated easement.

Mayor Edwards asked if we needed to Table this request until we have heard from all of the utilities, gotten more detailed measurements, and possibly look at moving the pool closer to the house. He said we could also take a look at the Drainage Report.

Keith Higginbotham asked Mrs. Penner if they could consider relocating the storage building, or changing the door, to allow for more space for the pool. Mrs. Penner said they cannot move the building due to the slope of the yard, but they could look at moving the door.

Wayne Low mentioned the fact that the Penner’s may be fine to have the pool deck removed/repared, but a future owner may not be as understanding. He asked the information possibly be written into the deed. He said these easements are not

unique to Centerton or even to this subdivision. He said other utilities may require this easement in the future, and that each utility has space requirements for their lines.

Darren Warren stated that this was a common practice in the past to have “blanket easements” for utilities and drainage. He asked that the Planning Staff to make sure we are requiring that these easements only be allowed where they are needed. He recognized that this particular easement already has 3 utilities in it. He agreed that we should look at tabling this request, so we can gather more information.

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

Darren Warren made a motion to Table the Ordinance, to allow for a response from CenturyTel, to look at possibly moving the pool, to verify the pool grounding and to review the drainage, with a 2nd from Wayne Low. All Council Members voted in favor, except for Robin Reed, who voted NO, and the motion carried.

- **Ordinance 2020-71- AN ORDINANCE ACCEPTING DEDICATION OF A PUBLIC UTILITY EASEMENT AND 20’ OF PUBLIC RIGHT-OF-WAY ALONG MAIN STREET BY THE RENA J. COPELAND REVOCABLE TRUST FOR PROPERTY LOCATED IN S04-T19N, R31W, CITY OF CENTERTON, BENTON COUNTY, ARKANSAS;**

Mayor Edwards addressed the Council, stating that this Ordinance is to Annex land on Main Street, south of McDonalds, for a sewer project.

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 Keith Higginbotham. 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 Josie Reed. 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.

- **Ordinance 2020-72- AN ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN TERRITORY BELONGING TO THE JACQUETA ANN MYERS TRUST TO THE CITY OF CENTERTON; APPROVING THE SCHEDULE OF SERVICES TO**

BE EXTENDED TO SAID AREA; AND ASSIGNING SUCH AREA TO WARD 3 AND ZONING A S AGRICULTURAL (A-1).

Mayor Edwards addressed the Council, stating that this Ordinance is to voluntarily annex land at Bliss Street, Kinyon Road and Keller Road. The said the County has signed off on it and sent it off to the State.

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. Keith Higginbotham 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 Wayne Low. All Council Members voted in favor and the motion carried.

(7) Resolutions -

- **Resolution 2020-36- A RESOLUTION AMENDING SECTION III FLOW IN STORM DRAINS OF THE MOST CURRENT EDITION OF THE CENTERTON STORMWATER MANAGEMENT AND DRAINAGE MANUAL OF THE CITY OF CENTERTON, ARKANSAS.**

Mayor Edwards addressed the Council, stating that this Resolution is to add some more amendments to our Stormwater Management & Drainage Manual. He said we made some amendments last month as well, and the changes are listed in the Dropbox packets.

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 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 2nd from Misty Elam. All Council Members voted in favor, and the motion carried.

- **Resolution 2020-37- A RESOLUTION APPROVING AN AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF CENTERTON, ARKANSAS, AND THE BENTON COUNTY SOLID**

WASTE DISTRICT, REGARDING THE OPERATION OF THE CONVENIENCE CENTER.

Mayor Edwards addressed the Council, stating that this Resolution is to approve \$14,000.00 in funding for 2021, for the operation of the Solid Waste Convenience Center, as they are experiencing funding issues due to a legal dispute. He said all of the cities that use the facility are helping to fund the operation. He said this will be paid and reviewed quarterly, and if there is a resolution of the legal matter, this funding will be discontinued. A Fee Schedule was included.

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. 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.

- **Resolution 2020-38- A RESOLUTION APPROVING AN AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF CENTERTON, ARKANSAS AND THE CITY OF LOWELL, ARKANSAS, REGARDING CAD IMAGE TREND INTERFACE.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve an Agreement of Understanding between Centerton and Lowell for CAD Software for the Fire Department. He said we will pay the initial fee, and then we will be splitting it with the City of Lowell.

Fire Chief Matt Thompson briefly gave details.

City Attorney Brian Rabal asked if the Agreement has been drafted yet, as he has not seen it to review. Mayor Edwards said it has not. Rabal recommended that we table the resolution until the agreement has been drafted and he has a chance to review it.

Financial Director Pam Grant said she has an e-mail from the Lowell Fire Chief stating that he spoke with his Financial Director and they agree to pay this. They only need a copy of the software invoice and an invoice from us.

Rabal said we can reduce that to the form of an agreement, but we are asking Council tonight to approve an agreement that we don't actually have.

Mayor Edwards asked if we could vote to allow Chief Thompson to purchase the software and then bring the Resolution back next month for approval. Rabal agreed with that option.

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

Keith Higginbotham made a motion to approve the purchase of the software, but Table the Resolution until next month, when there is an agreement, with a 2nd from Misty Elam. All Council Members voted in favor, and the motion carried.

- **Resolution 2020-39- A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK, AS REPRESENTATIVES OF THE CITY OF CENTERTON, ARKANSAS, TO ENTER INTO AN EQUIPMENT RENTAL AGREEMENT WITH J.A. RIGGS TRACTOR COMPANY, SPRINGDALE, ARKANSAS, FOR RENTAL OF A COMPACT TRACK LOADER MODEL 289D3.**

Mayor Edwards addressed the Council, stating that this Resolution is to approve a rental agreement for a Track Loader for the Street Department. He said we do not have an agreement in-hand yet, but will not take delivery until we have a reviewed agreement.

City Attorney Brian Rabal stated that this is likely a standard agreement, but asked that in the future, we have the agreement in-hand before approving.

Director of Public Works Rick Hudson said this is a Standard Lease Agreement and asked Council for permission to order the Track Loader and he will have a Lease Agreement at the next meeting.

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, subject to approval of the agreement by the City Attorney, with a 2nd from Wayne Low. 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.

(8) Approve Purchase of a ¾ Ton Truck for the Street Department -

Mayor Edwards addressed the Council, stating that this request is to purchase a ¾ ton Dodge 2500 truck for the State Bid price of \$36,641.00, to pull the Track Loader.

Rick Hudson explained his need for a ¾ ton truck to haul large equipment. He said he has the funds in his budget.

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

Robin Reed made a motion to Approve the purchase of the ¾ ton Dodge 2500 at the State Bid price, with a 2nd from Josie Reed. There was a Roll Call. All Council members voted in favor and the motion carried.

(9) Accept Resignation of Tiffany Morris from the Planning Commission-

Mayor Edwards addressed the Council, stating that Tiffany Morris was moving from the City of Centerton and therefore resigned her position on the Planning Commission.

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

Wayne Low made a motion to Accept the Resignation of Tiffany Morris from the Planning Commission, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

(10) Appoint Tony Davis to the Planning Commission-

Mayor Edwards addressed the Council, stating that he, PC Chairman Jeff Seyfarth, Planning Director Lorene Burns and Senior Planner Nicole Gibbs interviewed three (3) candidates for open the position on the Planning Commission and are recommending Tony Davis to the Council for the term expiring 6/30/2021, which is the remainder of the Term Tiffany Morris had.

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

Wayne Low made a motion to Appoint Tony Davis to the Planning Commission, with the Term expiring 6/30/2021, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

(11) Discuss Swearing-In of Council Members –

Mayor Edwards stated that he has spoken to the County Clerk and he is willing to Swear-In the Council Members, or they may schedule an appointment at the Benton County Courthouse, and be Sworn-In there. He said this needs to be done prior to our next City Council Meeting on 1/12/2020. He said the Council Members should have received an Oath of Office and a Certificate of Election in the mail. He asked them to also make time to visit with Financial Director Pam Grant.

(12) Discuss A&P Commission Appointment from Council –

Mayor Edwards said we currently have two (2) Council Members on the A&P Commission.

Josie Reed and Darren Warren agreed to remain on the A&P Commission, with Terms to expire 12/31/2022.

(13) Acknowledge ISO Rating Update –

Mayor Edwards addressed the Council, stating that the Fire Department and Water Department have worked together and gotten our City ISO Rating down to 2, effective 3/01/2021. He said the County Rating went down to 4. He expressed gratitude to all involved.

Fire Chief Matt Thompson thanked all involved. He said he will send out a detailed report to the Council.

Council members expressed gratitude to Chief Thomson and his team.

(14) Acknowledge Updated Rates from Morrison Shipley for Engineering Services –

Mayor Edwards addressed the Council, presenting new rates from Morrison Shipley. He said this is just information for Council as part of the contract renewal.

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

(15) Public Comments – None

(16) Other Business –

1) Salary Recommendations –

HR Director Jocelyn Diaz addressed the Council, recommending the following salary changes with details:

- **Parks Supervisor - \$.50/hour Increase and remain Hourly w/ 6-month Probationary Period – Effective 1/01/2021**

- **Public Works Assistant Director - \$1.00/hour Increase w/ 90-day Probationary Period – Effective 1/01/2021**

Wayne Low made a motion to Approve these Salary Changes and Stipulations as presented, with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

2) Recognition of City Council Service for Robin Reed –

Mayor Edwards thanked Robin Reed for 10 years of service on the Centerton City Council and recognized her for her dedication and service to the community. Staff and Council thanked Robin for her service.

(17) Announcements -

- **No Coffee with the Mayor in December**
- **No Christmas Parade this year – Due to COVID-19**
- **12/18/2020 – Bell Ringing 4-7pm w / other Cities**
- **1/05/2021 – Planning Commission (Virtual Meeting) 6:00pm**
- **1/12/2021 – City Council Meeting (Virtual Meeting) 6:00 pm**
- **1/19/2021 – Planning Commission (Virtual Meeting) 6:00pm**

(18) Adjourn -

Wayne Low made a motion to Adjourn at 8:08pm with a 2nd from Misty Elam. All Council members voted in favor and the motion carried.

Bill Edwards, Mayor

Todd Wright, City Clerk