

Bentonville City Council

Meeting Minutes

December 12, 2023

The City Council of Bentonville, Arkansas, met in regular session Tuesday, December 12, 2023, at 6:00 p.m., at City Hall, 305 S.W. A Street, Bentonville, Arkansas.

Present were Council Members Octavio Sanchez, Aubrey Patterson, Cindy Acree, Beckie Seba, Chris Sooter, Gayatri Agnew, Bill Burckart, and Holly Hook. Also present were Mayor Stephanie Orman, City Attorney Andrew Myers, City Clerk Kirby Romines, the press, city staff, and the audience. Several members of the city staff and the public attended remotely via Zoom.

Mayor Orman called the meeting to order. Mayor Orman led everyone present in the Pledge of Allegiance, which was followed by a moment of silence in support of our armed forces.

Motion was made by Council Member Sanchez to approve the minutes of the November 28, 2023, meeting as presented, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

Motion was made by Council Member Sooter to suspend the rules regarding the reading of all ordinances on three separate days and further that all ordinances and resolutions be read by title only, second by Council Member Sanchez. There was no discussion. Motion carried (8-0).

I. New Business:

1. Recognition - Community Council and Youth Council

2. Ordinance No. 2023-273: Ordinance amending and codifying the Stormwater Pollution Prevention and Erosion Control Standards; repealing redundant or conflicting codes; and for other purposes.

Council Member Burckart asked Dan Weese, the City Engineer if the City of Bentonville would remove those deemed to be part of this decision from the mapping system. Dan Weese explained the difference between the Waters of the United States and that the National Wetlands Inventory will stay on the mapping system and why that is since it is a reference to a federal map. Council Member Burckart asked to review and discuss this in more detail in the future. Mayor Orman mentioned that they could also get a legal opinion on this.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

3. Ordinance No. 2023-274: Ordinance to amend the Bentonville Municipal Code; enacting a chapter which creates a business registry; requiring all businesses and nonprofits with locations in Bentonville City Limits to be registered; and for other purposes.

Council Member Acree asked if there were any legal challenges possible with allowing early registrants but everyone after 25 to have a zoning review. City Attorney Andrew Myers said they do not see that as an issue. Council Member Sanchez said a business registry is just another thing for a business to manage. Council Member Acree asked about a Downtown Bentonville Inc. app. Shelli Kerr, Comprehensive Planning Manager, and Dana Sargent Schlagenhaft, Downtown Bentonville Inc. (DBI) Executive Director, explained that DBI is not creating an app or working with the City of Bentonville on creating an app for a business registry. Council Member Patterson commended Shelli Kerr and the Planning Department for addressing previous concerns and expressed their support for the registry.

Council Member Hook asked for clarification on the relationship between item three and item four and expressed that she is uncomfortable with passing this item at this time. City Attorney Andrew Myers explained that item four is contingent on item three passing.

Mayor Orman recognized Mitch Moore for public comment. Mitch Moore spoke against the item. Mayor Orman recognized Kalene Griffith for public comment, who spoke in favor of the item. Mayor Orman, Kalene Griffith, and the council discussed the A&P taxes. Council Member Burckart explained why they do not support this item.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Agnew, second by Council Member Patterson. There was no further discussion. There was a tie, so Mayor Orman broke the tie by voting to affirm. Motion carried (5-4), with Council Member Burckart, Council Member Sanchez, Council Member Seba, and Council Member Acree voting no.

4. Ordinance amending the Bentonville Municipal Code Chapter 18-IV Business Registry; requiring all short-term rentals located in Bentonville City Limits to register with the Business Registry; and for other purposes.

Mayor Orman recognized Mitch Moore for public comment, who spoke against the item. Council Members Seba and Burckart explained why they do not support this item. Council Member Patterson asked what the penalty would be if this item passed. Shelli Kerr explained that the penalty would be associated with the business registry penalty, which goes back to the standard penalty for any noncompliance with the city code. The council engaged in a lengthy discussion on whether or not short-term rentals should be required to register.

Mayor Orman commented that they see both sides of the discussion but also that the registration does help the City of Bentonville understand what is in the City of Bentonville and that it could help with planning. Council Members Seba, Burckart, and Sanchez mentioned that the addresses of short-term rentals are typically private and only available to guests and expressed safety concerns with addresses being made available to the public. City

Attorney Andrew Myers said they would have to confirm what short-term rental information specifically addresses would be required regarding FOIA requests.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sooter, second by Council Member Agnew. Council Member Acree made a motion to table the item until the FOIA question could be answered. Council Member Burckart asked to move forward with a vote, so Council Member Acree withdrew their motion to table the item. There was no further discussion. There was a tie, so Mayor Orman abstained from voting so the FOIA question could be researched and answered. Motion failed (4-4), with Council Member Burckart, Council Member Sanchez, Council Member Seba, and Council Member Acree voting no and Mayor Orman abstaining from the vote.

5. Resolution No. 12-12-23 A: A resolution authorizing the Mayor and City Clerk enter into an agreement with Need Junk, LLC d/b/a Junk-King, for the code compliance litter removal; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

6. Ordinance No. 2023-275: Ordinance waiving competitive bidding for the purchase of eighteen (18) Storm Siren Radios; authorizing the Mayor and City Clerk to enter into an agreement, not to exceed forty-four thousand eight hundred forty dollars and twenty-five cents (\$44,840.25), with Ka-Comm Inc. for this purchase; providing for the emergency clause; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

City Attorney Andrew Myers read the emergency clause on the ordinance. Motion to pass by Council Member Sanchez, second by

Council Member Acree. There was no discussion. Motion carried (8-0).

7. Resolution No. 12-12-23 B: A resolution authorizing the Mayor and City Clerk to enter into a grant agreement with the Bentonville Moves Coalition & City Thread in the amount of two thousand five hundred dollars (\$2,500.00); adjusting the 2023 Budget to recognize and appropriate said grant funds; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

Council Member Acree mentioned that it was their understanding that there are no city funds for this and that she recommends moving forward with this grant to see what options are available.

8. Resolution No. 12-12-23 C: A resolution amending the 2023 Budget reallocating operation funds for the Bentonville Animal Services in the amount of twenty-six thousand five hundred fourteen dollars and thirty-six cents (\$26,514.36); for the purchase of a cantilever shade structure; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (8-0).

Council Member Burckart mentioned that Bentonville Animal Services did a great job getting the cost down for this purchase.

9. Item removed: A resolution authorizing an increase to the 2021 agreement with GTS, Inc., for construction observation and testing services of the Bentonville Public Library expansion, in the total amount of forty thousand dollars (\$40,000.00), and for other purposes.

10. Resolution No. 12-12-23 D: A resolution authorizing the Mayor and City Clerk to enter into an agreement with Bibliotheca, in an amount not to exceed thirty-eight thousand two hundred fifty dollars (\$38,250.00), for the purchase of software licensing and support for existing Bentonville Public Library services; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

11. Ordinance No. 2023-276: Ordinance waiving competitive bidding for the purchase of ebooks for the Bentonville Public Library; authorizing the Mayor and City Clerk to enter into an agreement, not to exceed seventy-two thousand five hundred dollars (72,500.00), with Overdrive, Inc. for this purchase; providing for the emergency clause; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

City Attorney Andrew Myers read the emergency clause on the ordinance. Motion to pass by Council Member Sanchez, second by Council Member Acree. There was no discussion. Motion carried (8-0).

Council Member Burckart mentioned the donation opportunities available for the Bentonville Public Library expansion and that they would like to donate. Council Member Seba asked how people can donate. Hadi Dudley, Library Director, gave further details about donation and naming opportunities.

12. Appointment of Patti Constantakis to Bentonville's Advertising & Promotion Commission. This term will begin on January 1, 2024, and will expire December 31, 2027.

Motion to approve by Council Member Sanchez, second by Council Member Acree. There was no discussion. Motion carried (8-0).

13. Reappointment of Daniel Hintz for reappointment of a second term to Bentonville's Advertising & Promotion Commission. This term will begin on January 1, 2024, and will expire December 31, 2027.

Motion to approve by Council Member Sanchez, second by Council Member Acree. There was no discussion. Motion carried (8-0).

14. Resolution No. 12-12-23 E: A resolution adjusting the 2023 Budget to appropriate one hundred one thousand dollars (\$101,000.00) from Utility Fund Reserves into various accounts; appropriating twenty thousand dollars (\$20,000.00) from General Fund Reserves into various accounts; reallocating forty-seven thousand dollars (\$47,000.00) of budgeted funds from various sewer payroll accounts to various water payroll accounts; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (8-0).

15. Resolution No. 12-12-23 F: A resolution authorizing the Mayor and City Clerk to enter into an agreement with Key Risk - Berkley Casualty, for workers compensation insurance; amending the 2024 budget to appropriate eighty-six thousand eight hundred thirty-six dollars and twelve cents (\$86,836.12) from General Fund Reserves to various accounts covering the increase in cost; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (8-0).

16. Resolution No. 12-12-23 G: A resolution authorizing the Mayor and City Clerk to enter into a grant agreement with the Walton Family Foundation, in the amount of twelve thousand dollars (\$12,000.00), to install exit only lights at the Bentonville Municipal Airport; adjusting the 2023 Budget to recognize and appropriate said funds; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

17. Ordinance No. 2023-277: Ordinance vacating a utility easement located at Block 9, Lot 2 of Dogwood Place Subdivision of the City of Bentonville, Arkansas, Benton County Arkansas (vac23-0021).

Mayor Orman declared a public hearing open for comments. There was no response, so Mayor Orman declared the hearing closed.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (8-0).

18. Resolution No. 12-12-23 H: A resolution authorizing the Mayor and City Clerk to enter into Work Order No. 04 with O.R. Colan Associates, LLC., amending fees for appraisal services related to Rainbow Curve Improvements, in an amount not to exceed two hundred eleven thousand two hundred fifty dollars (\$211,250.00); and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

19. Resolution No. 12-12-23 I: A resolution authorizing the Mayor and City Clerk to enter into a change order to the agreement

with NEC, Inc. to cover extended construction cost at the intersection of Walton Boulevard and 12th Street/Tiger Boulevard; adjusting the 2023 Budget to appropriate seventeen thousand eight hundred twenty dollars and twenty-six cents (\$17,820.26) from Street Fund Reserves to Account #203810-47380 - Street Construction; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

20. Resolution No. 12-12-23 J: A resolution authorizing the Mayor and City Clerk to amend the professional services agreement with TEC Staffing Services to reflect the name change to HireQuest d/b/a Snelling; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

21. Ordinance No. 2023-278: Ordinance authorizing the Mayor and City Clerk to enter into an agreement with Downtown Bentonville Inc. for event production and related services; waiving the requirement of competitive bidding; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

Council Member Sanchez mentioned that the Downtown Bentonville Inc. agreement is good for the city and thanked the Downtown Bentonville Inc. team for their work.

22. Appointment of Allyson de la Houssaye and Kristen Kuhlow for the first term to the Parks and Recreation Advisory Board and the reappointment of Ryan Hollingsworth for a second term. Their terms will expire on December 31, 2026.

Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

II. Utility Board:

1. Resolution No. 12-12-23 K: A resolution awarding bid IFB-23-60 to Benton County Stone for the purchase of various street materials, in the amount of four hundred nine thousand seven hundred eighty-six dollars (\$409,786.00); and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

2. Ordinance No. 2023-279: Ordinance authorizing the Mayor and City Clerk to enter into an agreement with Holophane Lighting for the purchase of decorative lighting fixtures in the approximate amount of three million nine hundred ninety-four thousand seven hundred eighty-one dollars (\$3,994,781.00); waiving the requirement of competitive bidding; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

3. Resolution No. 12-12-23 L: A resolution authorizing the Mayor and City Clerk to enter into an agreement with Frost Oil, Co. for the purchase of fuel products; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

4. Ordinance No. 2023-280: Ordinance authorizing the Mayor and the City Clerk to enter into an agreement with Techline for the purchase of certain transformers in the amount of three hundred fifty-eight thousand six hundred seventy-eight dollars (\$358,678.00), plus applicable taxes; waiving the requirement of competitive bidding; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

5. Ordinance No. 2023-281: Ordinance authorizing the Mayor and the City Clerk to enter into an agreement with Mueller Company for the purchase of various water meters, in the approximate amount of seven hundred seventy-two thousand one hundred seventy-eight dollars and fifty cents (\$772,178.50); waiving the requirement of competitive bidding; and for other purposes.

Council Member Burckart asked if the new meters would undergo a different testing method. Preston Newbill, Deputy Director Water Utility, said they would go through a different testing method. Council Member Sanchez said it was mentioned in the Utility Board meeting that the new meters are reading well. Preston Newbill also explained how Muller has stepped up to the plate, especially regarding materials and labor. Council Member Sooter thanked Preston Newbill for their responsiveness to all matters. Council Member Patterson asked for a breakdown of the three types of water meters, and Preston Newbill explained the different sizes. Council Member Burckart mentioned how the different types would help infrastructure.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

6. Ordinance No. 2023-282: Ordinance waiving competitive bidding for the purchase of certain water meters for the Bentonville Inventory Department; authorizing the Mayor and City Clerk to

enter into an agreement, in the approximate amount of one hundred seventy-two thousand two hundred thirty-five dollars (\$172,235.00), with Henard Utility Products Inc., for this purchase; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

7. Ordinance No. 2023-283: Ordinance waiving competitive bidding for the purchase of various Sensus water meters for the Bentonville Inventory Department; authorizing the Mayor and City Clerk to enter into an agreement, in an approximate amount of one hundred fourteen thousand seven hundred seventy-five dollars and fifty cents (\$114,775.50), with Core and Main, for this purchase, and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

8. Ordinance No. 2023-284: Ordinance authorizing the Mayor and City Clerk to enter into an agreement with Superior Auto Group, for the purchase of five (5) half-ton trucks in the amount of two hundred twenty-five thousand three hundred dollars (\$225,300.00); waiving the requirement of competitive bidding; providing for the emergency clause; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

City Attorney Andrew Myers read the emergency clause on the ordinance. Motion to pass by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

9. Resolution No. 12-12-23 M: A resolution authorizing the Mayor and City Clerk to enter into an agreement with Arkansas State Highway Commission for relocation of utilities associated with ARDOT Project 090512; in the amount of twenty-four million fifteen thousand four hundred eighteen dollars and forty-eights cents (\$24,015,418.48); amending the 2023 Budget; and for other purposes.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

10. Ordinance No. 2023-285: Ordinance authorizing the Mayor and City Clerk to enter into an agreement with PW Tech, for the purchase of a Volute Dewatering Press drum overhaul for the Bentonville Water Resource Recovery Facility, in the amount of forty-six thousand four hundred twenty-seven dollars and thirty-four cents (\$46,427.34); waiving the requirement of competitive bidding; and for other purposes.

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

III. Planning:

1. Ordinance No. 2023-286: Ordinance accepting a lot split of Lots 1 & 2, Block A of Orchard Addition creating new Lots 9-17, Block A of Orchard Addition to the City of Bentonville, Arkansas; and for other purposes (Project No. LS23-0021).

[Applicant: JNJB LLC;

Location: 407 Southeast B Street & 410 Southeast C Street]

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

2. Ordinance No. 2023-287: Ordinance accepting a lot split of Lots 10 and 11 of Loesche Subdivision creating new Lots 12-16 of Loesche Subdivision to the City of Bentonville, Arkansas; and for other purposes (Project No. LS23-0058).

[Applicant: 404 GLV LLC;

Location: 801 Northwest 8th Street]

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

3. Ordinance No. 2023-288: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Low Density Single Family Residential to DN-2, Downtown Medium-Density Residential; and for other purposes (Project No. RZ23-0084).

[Applicant: Jacobs Group;

Location: 1104 Fillmore Street]

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (8-0).

4. Resolution No. 12-12-23 N: A resolution amending the City of Bentonville Future Land Use Map for a specific area from Low-Density Residential to High-Density Residential; and for other purposes (Project No. PUD23-0001).

Council Member Hook asked about previous pushback for this item and expressed concern about those concerns being addressed. Tyler Overstreet, Director of Planning and Community Development, explained adjustments that the applicant and architect made in response to the feedback at the Planning Commission meeting. Council Member Patterson asked if there was a notification for the item returning to the council. Tyler

Overstreet explained that the applicant is not required to resend a notification. Chris Baribeau with Modus Studio explained the parking ratio of the project and how it was adjusted after the Planning Commission's discussion, the pedestrian way, and the design and setback of the building. Tyler Overstreet and Mayor Orman mentioned a similar project as an example of similar conditions. Bill Butler, the applicant, gave further details regarding the project and the feedback from the surrounding neighbors.

The council, Tyler Overstreet, and Mayor Orman engaged in a lengthy discussion regarding parking downtown. Council Member Sanchez expressed concern about parking. Council Member Burckart mentioned that the City of Bentonville needs to look at public and private parking to understand parking within downtown Bentonville better.

City Attorney Andrew Myers read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (6-2), with Council Member Hook and Acree voting no.

5. Ordinance No. 2023-289: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Low Density Single Family Residential To PUD, Planned Unit Development; and for other purposes (Project No. PUD23-0001).

[Applicant: Market District II LLC;

Location: 1003 Southeast 4th Street]

City Attorney Andrew Myers read the ordinance by title only. Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-1), with Council Member Hook voting no.

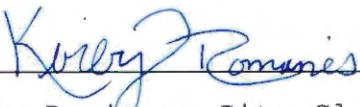
Council Member Acree mentioned that she would like the map change to come after the rezoning vote. Tyler Overstreet and Council Member Agnew said that the council adopted that policy, which can be revisited in January when they review council policies.

IV. Motion by City Council to cancel the December 26, 2023, City Council meeting and resume regular schedule on January 9, 2024.

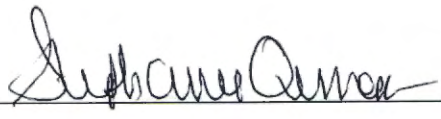
Motion to approve by Council Member Sooter, second by Council Member Hook. There was no discussion. Motion carried (8-0).

Mayor Orman adjourned the meeting. Motion to adjourn by Council Member Agnew, second by Council Member Hook.

The next Bentonville City Council meeting will be on January 9, 2023.



Kirby Romines, City Clerk



Stephanie Orman, Mayor

