

Bentonville City Council

Meeting Minutes

September 22, 2020

The City Council of Bentonville, Arkansas, met in regular session Tuesday, September 22, 2020, at 6:00 p.m., at the Bentonville Community Center, 1101 Southwest Citizen's Circle, Bentonville, Arkansas.

Present were council members Cindy Acree, Octavio Sanchez, Chad Goss, Chris Sooter, Bill Burckart, Jonathan Terlouw, and Aubrey Patterson. Also present were Mayor Stephanie Orman, City Attorney George Spence, the press, city staff and the audience. Council Member Tim Robinson attended remotely and participated by Zoom.

Due to the situation related to COVID-19, several members of the city staff and the public also attended remotely by Zoom. Mayor Orman reminded Council that all votes would be by roll call.

Mayor Orman announced that public comments on agenda items would be taken as we came to the item. Several signed in to speak at the meeting in person, and several joined via zoom to speak to agenda items. Several submitted their public comments via email, including Tara Rawlins (see page 14) and Yvonne Armstrong (see page 15) regarding the Bella Vista Dam Removal. Pam Underwood and Karen Wilson of Rainbow Homebuyers LLC. submitted their public comment via email for item three in addition to speaking in person (see pages 12-13).

Mayor Orman called the meeting to order. The Mayor led everyone present in the Pledge of Allegiance 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 September 8, 2020 meeting as presented, second by Council Member Goss. 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).

1. Informational presentation to provide an update on the progress of the Master Street Plan revisions. The Consultants, Garver Engineers, presented by zoom.

Mayor Orman introduced Dennis Birge, Transportation Engineer. Dennis Birge introduced Ron Petrie, Zach Moore, and Justin Seabaugh with Garver Engineers, who presented the Master Street Plan revisions.

Council Member Patterson said she appreciated the overview.

Council Member Goss said that he liked the one-pager and asked if the council will have access to the white papers on key projects. Dennis Birge stated that they do plan on putting them out on all the key projects, and they hope to have a booklet of them on file.

Council Member Acree asked if they will overlay this with the results from the drainage study. Dennis Birge said that they do plan on doing that. They are working very closely with Dan Weese, City Engineer, to make sure they can work together on this project.

Council Member Burckart asked about the status of traffic counts on Elk Road. Dennis Birge said their plan was to get the Master Street Plan in front of council first, then reach out to surrounding cities and counties to match up their plans with the City of Bentonville's plan and proceed from there.

Dennis Birge said that he will send out this presentation to council.

2. Planning:

- 2a. Ordinance No. 2020-181: Ordinance accepting an easement plat of Lot 13 of Pickens Subdivision to the City of Bentonville, Arkansas (Project No. PLA20-0046).

[Applicant: Crystal Pickens, LLC;

Location: NE John DeShields Boulevard]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (8-0).

- 2b. Ordinance No. 2020-182: Ordinance accepting a property line adjustment of Lots 17-22, Block 14 and Lots 20-21, Block 15 of WA Burks Addition to the City of Bentonville, Arkansas (Project No. PLA20-0036).

[Applicant: Crowhow, LLC;

Location: Fillmore Street]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (8-0).

- 2c. Ordinance No. 2020-183: Ordinance accepting a property line adjustment of Lots 1-3 of Walmart Subdivision 4 to the City of Bentonville, Arkansas (Project No. PLA20-0045).

[Applicant: Wal-Mart Stores, Inc.;

Location: SE 14th Street and SE J Street]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

- 2d. Ordinance No. 2020-184: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to R-1, Single Family Residential (Project No. RZ20-0037).

[Applicant: Trenton and Sarah Harmon;

Location: 1730 SW Gator Boulevard]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Acree, second by Council Member Goss. There was no discussion. Motion carried (8-0).

- 2e. Ordinance No. 2020-185: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to C-1, Neighborhood Commercial (Project No. RZ20-0039).

[Applicant: Trenton and Sarah Harmon;

Location: 1730 SW Gator Boulevard]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

- 2f. Ordinance No. 2020-186: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to R-3, Medium Density Residential (Project No. RZ20-0038).

[Applicant: James and Dana Stanley and Ora Veneda Stanley Estate;

Location: 1701 SW 14th Street]

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

3. Ordinance No. 2020-187: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Single Family Residential to DN-2, Downtown Medium-Density Residential (Project No. RZ20-0030).

[Applicant: Rainbow Homebuyers, LLC;

Location: 202-204 SW E Street]

Mayor Orman recognized members of the public in attendance at the meeting in person who signed up to speak to agenda item three. Jeff Gruener, Gail Harrington, Page Jernigan, Richard Skates, Steve (last name is not clear on recording), and Maggie Dupont spoke against the item. Karen Wilson, one of the co-owners of 202-204 SW E Street, Rainbow Homebuyers LLC., spoke in favor of the item. See Karen Wilson and Pam Underwood's submitted public comments on pages 12-13.

Council Member Terlouw asked Dennis Birge about the drainage study. Dennis explained that they have been looking at this area a lot. They do not have a solution at this time that is not extremely expensive, but they are looking into something that can be done in sections and be the most effective.

Council engaged in a lengthy conversation on the implications if the property was not to be rezoned verses if it is to be rezoned. Ellen Norvel, Interim Planning and Services Building Director, said that it could stay as a non-conforming use, but the property owners would not be allowed to make any improvements to it as an R-1, or it can be torn down and built as a single-family home. As a DN-2, it can be a single-family or two-family. Since it is on the end block, it can be a townhouse.

Council engaged in a lengthy conversation about the use and application of the Land Use Plan in accordance with the current agenda item.

City Attorney George Spence said that If council wants to make any changes going forward, he thinks they can do that, but this is the current map for this specific rezoning.

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (6-2), with Council Member Patterson and Council Member Sanchez voting no.

4. Resolution No. 9-22-20 A: A resolution endorsing the permanent installation of artwork titled "A Tribute to the Almost Forgotten Osage Prairie" by Jonathan Perrodin and funded by the Public Art Advisory Committee, on public property at Lake Bentonville Park.

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

- 5a. Approval of a Bid Award to the lowest bidder (Oleke Construction) in the amount of \$196,045.00 for IFB-20-57 for the remodel of the Community Development Building to provide additional office space on the 2nd floor and for repair of the roof. The bid amount includes the Base Bid of \$186,045.00. The City will also be adding a \$10,000.00 owners construction

contingency to bring the total potential contract amount to \$196,045.00.

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

- 5b. Approval of a budget adjustment for the remodel of the Community Development Building to provide additional office space on the 2nd floor and for repair of the roof. The project cost is \$249,045.00, which includes \$186,045.00 for the low bid for renovations, \$10,000.00 owners construction contingency, \$54,000.00 previously approved budgeted funds for roof repair, and an estimated \$53,000.00 to budget for FF&E, signage, security cameras, A/V monitors, and non-construction contingency.

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

6. Resolution No. 9-22-20 B: A resolution authorizing a property tax levy for the City of Bentonville, Arkansas for the year 2020 to be collected in the year 2021.

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

7. Ordinance No. 2020-188: Ordinance vacating a Public Access Easement located at Applegate North Addition (1714 SW 2nd Street) to the City of Bentonville, Arkansas, Benton County Arkansas (VAC20-0022).

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

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

8. Resolution No. 9-22-20 C: A resolution setting a public hearing for October 13, 2020 for a Utility Easement Vacation requested for LOT 8 of Griffin Addition (VAC20-0012).

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

9. Resolution No. 9-22-20 D: A resolution setting a public hearing for October 13, 2020 for a Utility Easement Vacation requested for LOT 11 of Demings Addition (VAC20-0021).

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

10. Resolution No. 9-22-20 E: A resolution accepting Right-of-Way donation from LS19-0039 - Lot 13 Development to the City of Bentonville, Arkansas.

This right-of-way (ROW) dedication was required through the development process to increase the ROW width to the Master Street Plan requirements.

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

11. Appointment of Shane Stephens to a 4-year term on the Ozark Regional Transit Board of Directors. The term will expire in October of 2024.

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

12. Appointment of Mark Slaughter to a 3-year term on the Airport Advisory Board. The term will expire on October 5, 2023.

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

13. Reappointment of Mike Frost to a 3-year term on the Airport Advisory Board. The term is his second term and will expire on October 5, 2023.

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

14. Resolution No. 9-22-20 F: A resolution authorizing the Mayor and Clerk to enter into a real estate contract with Crowhow, LLC. For the sale of certain real property in the City of Bentonville.

The .88 acres of land between SE D and SE D Streets south of SE 7th Street are set to sell for \$1,046,463.00.

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

- 15a. Approval of change order No. 1 for the SE Taxiway Airport project.

Dennis Birge, Transportation Director, sent a memorandum to Mayor Orman and City Council that states that "This is a reduction in cost and items to allow for 100% FAA grant funding to cover the cost of this project. These lighting items are not required at this time and will be implemented in future projects."

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

- 15b. Approval of a budget adjustment accepting funds awarded from FAA grant for the construction of the Airport's SE Taxiway Extension. This budget adjustment recognizes the grant to pay for the new contract amount in item 16a and Work Order #9 of the Garver Master Agreement.

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

16. Resolution No. 9-22-20 G: A resolution authorizing the Mayor and City Clerk to enter into Addendum 3 to Master Development Agreement Global Home Office Project.

Mayor Orman recognized Dennis Birge to speak. Dennis Birge explained that item 16 is an agreement for development that is required to do certain public improvements. That is why they are partnering with Walmart Stores, Inc. to make specific improvements around the project that would benefit the city as a whole.

Council Member Patterson asked for clarification in the eminent domain process and if this would come to council. Dennis Birge said they would handle it in a similar fashion as they would for a street project. They would hire 3rd party negotiators to negotiate right of way easement acquisitions and work with them to negotiate that. Dennis Birge said an example of when this has been done would be certain right turn lanes around J Street. He also explained that the developer would pay for this in the agreement.

Council Member Sanchez expressed similar feelings as Council Member Patterson about the practice of eminent domain for what he thought was a private project, but after studying more, he understands that these improvements will be good for the city's infrastructure and limited in scope.

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

17. Resolution No. 9-22-20 H: A resolution authorizing the Mayor and Clerk to enter into an agreement with Black Hills Energy for the relocation of gas utilities.

The agreement would be with Black Hills Energy Arkansas, Inc., for utility improvements and relocations related to the Town Vu Bridge Replacement project. The estimated cost provided within the agreement for the relocation of 220-ft of 4-in high-pressure gas pipe is \$32,146.97.

City Attorney Spence read the resolution by title only. Motion to pass by Council Member Sanchez, second by Council Member Goss. There was no discussion. Motion carried (8-0).

18. Approval of the IFB-20-55- Line Item #50 Bid Award to Anixter. Council previously approved the Line Item #50 Bid Award to Wesco during the August 11, 2020, Council Meeting; however, post-award, a mathematical error was identified in Staff's calculation of the Line Item #50 per unit prices in the Anixter and Wesco bid submissions, resulting in identification that Anixter submitted the low-bid for this Line Item. The corrected pricing calculation resulted in a \$995.54 increase in the price per unit from what was previously approved. There are no other changes or issues in the IFB-20-55 Bid Award.

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

19. Resolution No. 9-22-20 I: A resolution adopting certain amendments to the policy and procedure manual for the Bentonville Police Department.

This new policy is designated as General Order 18, Body Worn Cameras. The policy directs officers and supervisors in the proper use and maintenance of body-worn cameras, as well as directing how video will be utilized as a quality control mechanism and as evidence. The policy submitted is based upon model policies made available to all Arkansas law enforcement agencies by the Arkansas Association of Chiefs of Police. These model policies were developed in partnership with numerous state agencies to include the Arkansas Municipal League and the Arkansas Attorney General's Office, as well as the Arkansas Commission on Law Enforcement Standards and Training. The policy, as submitted, was formatted to fit the existing policy manual and received review to ensure comparison to other local jurisdiction body-worn camera policies.

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

- 20a. Approval of Bid Award IFB-20-39, in the amount of \$95,492.00, to Multi-Craft Contractors to replace two failing pool heaters at the Bentonville Community Center.

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

20b. Approval of a budget adjustment in the amount of \$95,492.00, for replacement of pool heaters at the Bentonville Community Center.

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

Mayor Orman adjourned the meeting. Motion to adjure by Council Member Burckart, second by Council Member Goss.

Council members reported on committees and boards they participate in related to the City.

Council Member Burckart expressed the urgency of downtown drainage needs and how it should be the highest priority of the drainage study. Mayor Orman asked Dan Weese to speak on the drainage downtown. Dan Weese said that they have finished the first phase and should be able to come to the council for approval on small improvements in the next four to six weeks.


Kirby Romines, City Clerk


Stephanie Orman, Mayor



From: [Pam Underwood](#)
To: [CC Comments](#); [Planning](#)
Subject: Agenda Item 3, Rainbow Homebuyers Appeal
Date: Monday, September 21, 2020 1:45:47 PM

Dear Council Members, Planning Department and Mayor Orman,

RE: Rainbow Homebuyers LLC - Agenda Item 3

We have reviewed the three letters written by Planning Commission members Sanders, Haynie and Kerr. We want to voice our objection to Mr. Sander's and Mr Haynie's comments on their desire for certain streets to remain R-1 and DN-1. We don't believe there was a public record of their meeting or their communications in year 2016 or 2017 pertaining to their plan of holding certain streets low density residential. In 2018 a new community plan was developed and Rainbow Homebuyers consulted that plan that is public information. Mr. Sanders and Mr Haynie make reference to our street as being one of those streets to be denied moderate density zoning. In late 2019, 447 and 455 SW "E" street were approved for DN-2 zoning. Several parcels starting with 503 SW "E" were granted DN-2 zoning. Sander's comment on SE "C" street to remain low density is also in question. In October 2019, 306 SE "C" which is a large parcel stretching to SE "B" street was approved DN-2. Also 502 SE "C" street was approved with DN-2 zoning. These two streets are most comparable to our address in location. Any street location Sanders mentioned beyond NW 5th is not comparable in location and thus value. Main Street is superior in location to SW E Street and is zoned Downtown Edge. West Central Avenue is superior in location, however there are 3 parcels zoned R-3 and one funeral home in R-1 zoning. Thank you for your consideration in this matter.

Respectfully submitted,

Pam Underwood and Karen Wilson
Rainbow Homebuyers LLC.

The following email was sent to council members last Thursday and we would like for that email to be of record.

Dear Council Members,

You will be hearing our appeal to the planning commission decision regarding our zoning request on our property at 202-204 SW "E" Street on Tuesday. According to the 2018 community plan page 54, SW "E" Street is designated as being in an area of neighborhood transformation. This street is experiencing some redevelopment due to age and condition of housing, proximity to amenities and cost of land. We are providing three recent sales along SW "E" Street in which older structures were demolished for new development:

301 SW "E" Street, Sale Date Dec 2019 \$300,000 9148 sf Land \$33 SP per SF rd
405 SW "E" Street, Sale Date July 2020 \$340,000 10,890 sf Land \$31 SP per SF rd
410 SW "E" Street, Sale Date June 2020 \$304,000 10,890 sf Land \$28 SP per SF rd

The first sale is located closest to our property. Each purchaser above had additional costs in demolition of existing older homes. Land values have risen each year. At these sold prices,

our land (100' x 157') would likely have a value of \$450,000. At the current land valuation, our property is underutilized and redevelopment would need to occur to further return on investment. Redevelopment and change is happening in the downtown neighborhoods due to proximity to amenities, valuations and supply and demand. The lead county residential appraiser has supported my estimates of \$28 to \$30 per sf of land for the 2021 appraisal cycle for downtown vicinity neighborhoods and the last four months are not on record, yet.

As applicants, we were not given the opportunity to speak at our hearing. Five neighbors spoke against our rezone request. A majority of the public spoke of storm water runoff and were not in favor of any change. We are familiar with storm water runoff from our roof currently and we have gutters and drains for rain events. Our topography is lower than street level (Glover and 2nd Street) and the property to the south (206 SW "E") Our property does not contribute to their storm water runoff issues. Our neighbor at 206 SW "E" who spoke of drainage does not have any gutters or drains to divert the water away from their home. There is no code for drainage in redevelopment of a single lot. As owners, we have taken steps to aid in storm water runoff on our property. One neighbor spoke of flat sea level New Orleans and the overflow parking from the funeral home in years past. Our property is sufficient in size to handle parking onsite as it does currently. The funeral home overflow parking on Glover Street does not pertain to our rezone request. Three of the five neighbors had residences fronting Central Ave. The Central Ave public that spoke do not want change and describe the area as single family residential when in fact our 1978 Duplex, Callison Lough Funeral Home and Sander's Apartments are in their immediate view. We believe that there will be no negative impact on property values when redevelopment occurs due to land valuations. There is no difference in height limitations between R-1 and DN-2. The public who spoke at our hearing simply do not want change because we have been good stewards of our property for 13 years.

We believe we did not get recognized to speak and support our request in our hearing due to the contention between planning commission member Rod Sanders and the Planning Staff's support for our request for DN-2 zoning. We give additional comments regarding the hearing process in our letter to city council dated September 7, 2020. Thank you for your consideration in this matter.

Respectfully submitted,

Pam Underwood and Karen Wilson
Rainbow Homebuyers LLC.

From: [Tara Rawlins](#)
To: [CC Comments](#)
Subject: Vote for Dam Removal - Make Priority
Date: Tuesday, September 22, 2020 9:20:58 AM

Dear Bentonville City Council & Madam Mayor,

Please prioritize this issue by taking a vote to remove the failed Bella Vista dam. Please cast your vote YES to remove the failed dam on the Little Sugar Creek.

The non-functioning Lake Bella Vista dam clogs Little Sugar Creek's natural channel and blocks the beneficial transport of sediment and woody debris from flowing downstream where it would provide habitat and food supply. The work involved with clearing the debris from the dam is expensive, ongoing and dangerous.

The presence of the failed dam makes canoeing, kayaking and fishing more difficult and cuts off our community from our own natural Ozark waterway, denying residents much-needed recreational opportunities.

In its current condition, Bentonville's damaged dam is a liability. The longer the dam remains in its current condition, the greater the risk it poses to the community.

The only solution that makes sense at this location on Little Sugar Creek is dam removal. The City of Bentonville's recent judgment ruled that the City of Bentonville was under no obligation to perpetually rebuild the broken-down dam on Little Sugar Creek. Cooper Realty has continuously saddled the taxpayers with an unsustainable dam that has been a costly maintenance nightmare.

Tara Rawlins
CEO/Founder, RAW Marketing
(479) 866-1544
Tara@RAWMarketingllc.com

"Content is fire; social media is gasoline."

– Jay Baer, Bestselling Author, Marketing Expert and Founder of Convince & Convert

From: [YVONNE ARMSTRONG](#)
To: [CC Comments](#)
Subject: Free Little Sugar Creek
Date: Sunday, September 20, 2020 1:05:57 PM

Please vote to remove the dilapidated dam at Little Sugar Creek.

Thank you!
Yvonne Armstrong