

Bentonville City Council

Meeting Minutes

September 28, 2021

The City Council of Bentonville, Arkansas, met in regular session Tuesday, September 28, 2021, at 6:00 p.m., at City Hall, 305 S.W. A Street, Bentonville, Arkansas.

Present were Council Members Cindy Acree, Octavio Sanchez, Holly Hook, Bill Burckart, Gayatri Agnew, and Chris Sooter. Also present were Mayor Stephanie Orman, City Attorney George Spence, City Clerk Kirby Romines, the press, city staff, and the audience. Council Member Tim Robinson and Council Member Aubrey Patterson attended remotely and participated by Zoom.

Due to the situation related to COVID-19, several members of the city staff and the public attended remotely by Zoom.

Several individuals signed in to speak at the meeting in person, and several individuals joined via Zoom to speak to agenda items.

Mayor Orman called the meeting to order. Ethan Chapman, a Boy Scout from Troop 525, 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 Acree to approve the minutes of the September 14, 2021, meeting as presented, second by Council Member Sanchez. 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).

[Agenda items 1 and 2 were addressed at the September 27, 2021, Committee of the Whole meeting.]

3. Recognition by City Council of Lisa and Scott Crossett, who reside at 208 NW F Street. The property's landscaping was nominated by a Bentonville resident and is the September Residential Landscaping of the Month award winner.

Mayor Orman and Ellen Norvell recognized Lisa and Scott Crossett.

4. Recognition by City Council of Northwest Church located at 301 SW Unity Blvd. The property's landscaping was nominated by a Bentonville resident and is the September Commercial Landscaping of the Month award winner.

Mayor Orman and Ellen Norvell recognized Northwest Church.

5. Resolution No. 9-28-21 A: Request that the City Council adopt a formal resolution to recognize, commend, and congratulate Police Chief Jon Simpson on his retirement from the City of Bentonville Police Department, effective September 30, 2021. This resolution recognizes Jon Simpson for more than 27 years of dedicated and decorated service to the Bentonville Police Department. This resolution also wishes Jon Simpson much health, happiness, and continued success in all of his future endeavors.

Mayor Orman recognized Police Chief Jon Simpson and presented him with a framed resolution.

Mayor Orman read the resolution aloud. There was no discussion. Motion carried unanimously (8-0).

6. Ordinance No. 2021-188: Ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas, and making same a part of the City of Bentonville, and assigning same to wards.

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

After the council meeting, it was discovered that the ordinance concerning this item (Item 6) included errors. Those errors were corrected in the final version. Based on the advice of the City Attorney, the council was sent an email describing the error and how it was being corrected and offered the opportunity to object to the method of correction.

7. Ordinance No. 2021-189: Ordinance accepting the annexation of certain territory to the City of Bentonville, Arkansas, and making same a part of the City of Bentonville, and assigning same to wards.

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).

8. Planning:

- 8a. Ordinance No. 2021-190: 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 (Project No. RZ21-0053).

[Applicant: Carenda Cobb;

Location: 302 SW D Street]

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

- 8b. Ordinance No. 2021-191: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to R-1, Low Density Single Family Residential (Project No. RZ21-0048).

[Applicant: Ross and Kristi Bull;

Location: 8395 Windsong Lane]

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

- 8c(1).Resolution No. 9-28-21 B: A resolution amending the City of Bentonville Future Land Use Map for a specific area from Residential Estate to Medium-Density Two Family and Townhome Residential (Project No. RZ21-0055).

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

- 8c(2).Ordinance No. 2021-192: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to R-3, Medium-High Density Multifamily Residential (Project No. RZ21-0055).

[Applicant: Highland, LLC;

Location: Vaughn Road]

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).

- 8d. Ordinance No. 2021-193: 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 (Project No. RZ21-0056).

[Applicant: Thomas & Judith Terrell;

Location: 1111, 1113, 1115 NE Monroe 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).

- 8e(1).Resolution No. 9-28-21 C: A resolution amending the City of Bentonville Future Land Use Map for a specific area from Residential Estate to Medium Density Residential (Project No. RZ21-0057).

City Attorney Spence 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).

- 8e(2).Ordinance No. 2021-194: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to R-3, Medium-High Density Multifamily Residential (Project No. RZ21-0057).

[Applicant: David S. Murray, Nina L. Murray-Williams, and Elizabeth A. Murray;

Location: SW Regional Airport 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).

8f(1).Resolution No. 9-28-21 D: A resolution amending the City of Bentonville Future Land Use Map for a specific area from High-Density Residential to Downtown Commercial (Project No. RZ21-0058).

City Attorney Spence 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).

8f(2).Ordinance No. 2021-195: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-3, Medium-High Density Multifamily Residential to DE, Downtown Edge (Project No. RZ21-0058).

[Applicant: Ozark Trail Development, LLC;

Location: 421 SE A 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).

8g. Ordinance No. 2021-196: 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 (Project No. RZ21-0059).

[Applicant: Matt & Noelle Tice;

Location: NE Monroe 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).

- 8h. Ordinance No. 2021-197: Ordinance accepting a lot split of Lots 18 & 19 of Clark's 2nd Addition to the City of Bentonville, Arkansas (Project No. LS21-0046).

[Applicant: Cobb Living Trust;

Location: 302 SW D 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).

- 8i. Ordinance No. 2021-198: Ordinance accepting a final plat of Trail Ridge Subdivision to the City of Bentonville, Arkansas (Project No. FP21-0003).

[Applicant: Boulder & Beam LLC;

Location: SW 2nd Street & NW Trail Ridge Road]

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).

- 8j. Ordinance No. 2021-199: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agricultural to PUD, Planned Unit Development (Project No. RZ21-0051).

[Applicant: Buffington Barron, LLC;

Location: SW Regional Airport Boulevard and SW Fair View Boulevard]

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

9. Ordinance No. 2021-200: Ordinance vacating alley right of ways at 407 SE G Street being a part of Young's Addition of

Bentonville to the City of Bentonville, Arkansas, Benton County Arkansas (VAC21-0021).

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 Burckart. There was no discussion. Motion carried (8-0).

10. Ordinance No. 2021-201: Ordinance vacating a utility/drainage easement located at 2606 NW 6th Street of Cross Creek Phase II Subdivision to the City of Bentonville, Arkansas, Benton County Arkansas (VAC21-0022).

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 Burckart. There was no discussion. Motion carried (8-0).

11. Ordinance No. 2021-202: Ordinance vacating a utility easement located at 4503 SW Marble Cove of Cornerstone Ridge Subdivision Phase 4 to the City of Bentonville, Arkansas, Benton County Arkansas (VAC21-0023).

Mayor Orman declared a public hearing open for comments. Mike Mitchell asked for approval of the item.

Mayor Orman asked if there were any other public 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 Burckart. There was no discussion. Motion carried (8-0).

12. Resolution No. 9-28-21 E: A resolution setting a public hearing for October 12, 2021, for a Utility Easement Vacation requested for 603 SE Yale Street of College Place Phase 8 (VAC21-0024).

City Attorney Spence 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).

13. Resolution No. 9-28-21 F: A resolution authorizing a property tax levy for the City of Bentonville, Arkansas, for the year 2021 to be collected in the year 2022.

City Attorney Spence 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).

14. Budget Adjustment to fund identified Category 1 potential expenses under the American Rescue Plan Act (ARPA). \$3.4 million of ARPA funds have been received by the city in 2021 and are available.

Jake Harper, Director of Finance and Administration, spoke on the ARPA funds categories and their inclusion.

Council Member Agnew asked the timeline of the public input relative to the 2022 budget and if the items mentioned are in the 2022 budget. Jake explained that they are not showing in the 2022 budget, and moving forward, if one is in the budget, they will take the item out of the ARPA category.

Council Member Hook asked for clarification on the amount allotted for citywide PPE and more information regarding the NWA Council potential agreement. Council Member Sooter mentioned that Visit Bentonville has also been approached by the NWA Council on a separate agreement. Jake relayed that they would request as much information as possible for review before bringing it to the council.

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

15. Discussion on Premium Pay for City Employees.

Jake Harper presented the details of the premium pay proposal.

Council Member Agnew asked if the premium pay is only applicable to current employees, and Jake confirmed that it would be for current employees only. Council Member Burckart and Council Member Acree expressed concern for local small businesses and the financial struggle they have experienced due to COVID-19 and said that the city should support small businesses.

Council Member Hook mentioned that there were relief efforts and stimulus funds for small businesses to help pay employees in 2020. Council Member Robinson also said these small business loans and funds that small businesses could apply for.

Mayor Orman explained that the funds the city received have specific requirements that have to be met when allocating the funds. Jake Harper mentioned that one of the requirements was for the city to not overlap with other governmental entities. The county is currently working on assistance for small businesses. Jake Harper also mentioned that there are additional funds, so there will be another public input meeting on recommendations for allocating those funds.

Council Member Agnew and Council Member Sooter expressed their desire for the premium pay to move forward sooner rather than later. Mayor Orman said that if that was what the council would like to do, they would bring it to the council for approval in November.

16. Recommendation to appoint the Chair of the Committee of the Whole as the City Council's representative on the City's depository board. This board is a requirement by state law 19-8-106.

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

17. Request to approve the addition of one (1) police officer position to our current staff of 84 sworn officers, effectively changing our authorized headcount to 85.

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

- 18a. Bid Award requested by Parks and Recreation Staff for City Council's approval of IFB-21-68, in the amount of \$99,830.00, to Crossland Heavy Contractors Inc. for the purchase of services to re-build a section of the Applegate trail near SW 2nd Street.

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

- 18b. Budget adjustment in the amount of \$99,830.00 to fund the purchase of services to repair a section of the Applegate trail damaged in the April flood event.

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

19. Information presentation by David Wright, Parks and Recreation Director, regarding Quilt of Parks Project.

David Wright gave the public survey results, and the majority of the votes were for the master plan alternative.

Council Member Robinson asked about the Parks and Recreation Advisory committee vote and David said it was a 6-3 vote in favor of the alternative plan and mentioned comments from both viewpoints.

Council Member Hook and Council Member Sanchez mentioned their concern regarding the reliability of the public survey data. Council also discussed that the original plan was reflected on the bond, but the specific design itself is not legally binding since they were concept drawings. David Wright reminded the council that the intent of the alternative plan was not to

mislead anyone but to let the public know that there was another option that the design firm mentioned, so they wanted to present both options to the public.

Mayor Orman recognized those that joined via zoom and in person to make a public comment regarding the item. Those who spoke in favor of the original plan were Michelle Dearing, Laura Gheen, Luke Wetzel, Brenda Compton, and Steve Barbas.

Council Member Agnew and Council Member Hook thanked those who gave their public comment and their perspective. Council engaged in a lengthy discussion regarding each plan's design, details, and pros and cons.

Council Member Sooter asked to delay the vote on the item so council members and David Wright could seek input from business owners and residents surrounding the future project area.

David Wright said they would reach out to residents and businesses to get more feedback and present it at the next council meeting.

- 20a. Ordinance No. 2021-203: Ordinance authorizing the Mayor and the City Clerk to purchase two "remoteLocker" systems for Bentonville Public Library from Bibliotheca and waiving the requirement of competitive bidding.

Council Member Patterson asked Hadi Dudley, the Library Director, how adding remoteLocker systems would impact their staff workload. Hadi Dudley said it would have a minimal impact since certain staff members currently visit the locations regularly.

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).

- 20b. Approval of a budget adjustment in the amount of \$46,656 for Bentonville Public Library to accept and expend the American Rescue Plan Act (ARPA) grant funds totaling \$42,405.00.

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

21. Ordinance No. 2021-204: Ordinance authorizing the Mayor and the City Clerk to purchase four "selfCheck 1000" systems for Bentonville Public Library from Bibliotheca and waiving the requirement of competitive bidding.

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

22. Resolution No. 9-28-21 G: A resolution expressing the desire of the Bentonville City Council to remove the Lake Bella Vista Dam and allow Little Sugar Creek to become a free-flowing stream.

Mayor Orman recognized those that joined via zoom and in person to make a public comment regarding the item. Those who spoke in favor of allowing Little Sugar Creek to become a free-flowing stream were Beth Keck, Lowell Collins, Ken Leonard, Paula Hixson, Dave Marks, Nancy Gilmore, and Ellen Turner. Richard Dees noted the difference in verbiage of removing versus rebuilding the dam as referenced in the resolution.

Council Member Burckart explained that the agreement in the deed has the restrictions and stipulations in writing and that it is the city's responsibility to honor the agreement.

Council Member Acree asked David Wright what the plan is if the dam is taken down and if there is any negative impact to the area. David Wright explained that if the resolution passes, a design firm would need to be selected, a design would need to be completed, and several other preliminary steps would need to be taken. However, the resolution gives the city the ability to start planning.

The council engaged in further lengthy discussion on what the resolution means.

City Attorney George Spence said the dam would not be removed until after the court case depending on the ruling, so this resolution would be the council expressing their desire and intent to remove the dam subject to the ruling of the court case.

City Attorney Spence read the resolution in its entirety. Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-1) with Council Member Burckart voting no.

Mayor Orman adjourned the meeting. Motion to adjourn by Council Member Acree, second by Council Member Sanchez. Motion passed unanimously.

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

The next Bentonville City Council meeting will be on October 12, 2021.



Kirby Romines, City Clerk



Stephanie Orman, Mayor

