

Bentonville City Council

Meeting Minutes

October 12, 2021

The City Council of Bentonville, Arkansas, met in regular session Tuesday, October 12, 2021, at 6:00 p.m., at City Hall, 305 S.W. A Street, Bentonville, Arkansas.

Present were Council Members Octavio Sanchez, Bill Burckart, Gayatri Agnew, and Chris Sooter, with Council Member Aubrey Patterson absent. Also present were Mayor Stephanie Orman, City Attorney George Spence, City Clerk Kirby Romines, the press, city staff, and the audience. Council Members Tim Robinson, Holly Hook, and Cindy Acree 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. Pandora Frizell, a Girl Scout from Troop 5279, 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 September 28, 2021, meeting as presented, second by Council Member Burckart. There was no discussion. Motion carried (7-0).

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 (7-0).

[Agenda item 1 was addressed at the October 11, 2021, Committee of the Whole meeting.]

2. Planning:

- 2a. Ordinance No. 2021-205: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of C-1, Neighborhood Commercial to C-2, General Commercial (Project No. RZ21-0060).

[Applicant: Lykins Leasing, LLC;

Location: NW 3rd Street and N Walton 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 (7-0).

- 2b(1).Resolution No. 10-12-21 A: A resolution amending the City of Bentonville Future Land Use Map for a specific area from Residential Estate and Agricultural to Low Density Residential (Project No. RZ21-0061).

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 (7-0).

- 2b(2).Ordinance No. 2021-206: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-E, Residential Estate to R-1, Low Density Single Family Residential (Project No. RZ21-0061).

[Applicant: Joseph Courtland Halbrook and Tabitha T. Halbrook;

Location: Allen 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 (7-0).

- 2c. Ordinance No. 2021-207: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of DE, Downtown Edge to DC, Downtown Core (Project No. RZ21-0062).

[Applicant: Scott Ventures, LLC;

Location: 306 South Main 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 (7-0).

- 2d(1).Resolution No. 10-12-21 B: A resolution amending the City of Bentonville Future Land Use Map for a specific area from General Commercial to Mixed-Use Commercial (Project No. RZ21-0063).

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 (7-0).

- 2d(2).Ordinance No. 2021-208: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of C-2, General Commercial to C-3, Mixed-Use Commercial (Project No. RZ21-0063).

[Applicant: 1120 South Walton Partners, LLC;

Location: 1120 S Walton 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 (7-0).

2e(1).Resolution No. 10-12-21 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. RZ21-0064).

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 (7-0).

2e(2).Ordinance No. 2021-209: 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. RZ21-0064).

[Applicant: Shasta Properties, LLC;

Location: S Vaughn Road & Motley 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 (7-0).

2f. Ordinance No. 2021-210: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Single Family Residential and PUD, Planned Unit Development To PUD, Planned Unit Development (Project No. PUD20-0002).

[Applicant: Wal-Mart Stores, Inc.;

Location: E Central Avenue & Katie Court]

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 (7-0).

- 2g. Ordinance No. 2021-211: Ordinance accepting a lot split of Lots 23, 24, 25 & 26 of Faircole Block Addition to the City of Bentonville, Arkansas (Project No. LS20-0065).

[Applicant: 404 GLV, LLC;

Location: SW Glover Street]

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 (7-0).

- 2h. Ordinance No. 2021-212: Ordinance accepting a lot split of Lots 11 & 12 Polson's Subdivision to the City of Bentonville, Arkansas (Project No. LS21-0043).

[Applicant: Seventh Living, LLC;

Location: 203, 207, and 209 SE 7th Street]

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 (7-0).

- 2i. Ordinance No. 2021-213: Ordinance accepting a lot split of Lots 13 & 14, Osage Hills Subdivision to the City of Bentonville, Arkansas (Project No. LS21-0050).

[Applicant: Route 71 Construction Company, LLC;

Location: Ginn 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 (7-0).

- 2j. Ordinance No. 2021-214: Ordinance accepting a property line adjustment of Lots 30, 31 & 32, block 6, W.A. Burk's Addition to the City of Bentonville, Arkansas (Project No. PLA21-0033).

[Applicant: Thomas Jr. and 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 (7-0).

- 2k. Ordinance No. 2021-215: Ordinance accepting a property line adjustment of Lots 20 & 21, Block 5 Clark's Second Addition to the City of Bentonville, Arkansas (Project No. PLA21-0034).

[Applicant: David and Alyson Brittain;

Location: 307 SW E 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 (7-0).

- 2l. Ordinance No. 2021-216: Ordinance accepting a final plat of Aurora Subdivision Phase II to the City of Bentonville, Arkansas (Project No. FP21-0005).

[Applicant: Aurora Development Company, LLC;

Location: S Morning Star 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 (7-0).

- 2m. Ordinance No. 2021-217: Ordinance amending Bentonville Municipal Code Appendix B Land Development Code, Sec 1300.04 establishment of a Tree and Landscape Advisory Committee.

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 (7-0).

3. Re-appointment of Ralph Weber to Position 5 on the Tree and Landscape Advisory Committee. Mr. Weber has been an active member of the committee for six years, and his knowledge and experience have been valuable assets. This will be Mr. Weber's third three-year term that begins January 1, 2022, and will expire on December 31, 2024. The Tree and Landscape Advisory Committee does not have term limits.

Motion to approve by Council Member Sooter, second by Council Member Burckart. There was no discussion. Motion carried (7-0).

4. Appointment of Mark Bray to fill the vacant Position 6 on the Tree and Landscape Advisory Committee. Mr. Bray has a master's degree in horticulture and was a county extension agent for Benton County for seven years. This will be Mr. Bray's first three-year term that begins January 1, 2022, and will expire on December 31, 2024.

Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-0).

5. Appointment of Stephen Gilbert to fill the newly created Position 7 on the Tree and Landscape Advisory Committee. Mr. Gilbert has a bachelor's degree in landscape architecture and grew up on a Georgia-Pacific forestry compound. This will be Mr. Gilbert's first three-year term that begins January 1, 2022, and will expire on December 31, 2024.

Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (7-0).

6. Utility Board:

- 6a. Ordinance No. 2021-218: Ordinance amending the electric rate schedule.

City Attorney Spence read the ordinance by title only. Motion to pass by Council Member Sooter, second by Council Member Sanchez. There was no discussion. Motion carried (7-0).

The agenda mentioned that this was an emergency ordinance, but subsequent inquiry revealed that there is no need for an emergency ordinance.

- 6b. Resolution No. 10-12-21 D: A resolution authorizing the Mayor and Clerk to enter into an agreement with Osmose Inc. to perform a joint use audit on Bentonville Electric Utility Department Systems.

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 (7-0).

- 6c. Budget adjustment recognizing payment for services for a joint use audit in the amount of \$49,124.45. Approved by the Utility Board 4-0.

Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (7-0).

- 6d. Presentation of the Agreed Upon Procedures between SWEPCO and the City of Bentonville by BKD, Inc. concerning the February 2021 SWEPCO invoice, which was affected by the 2021 winter storm. Presented to the Utility Board on 9/28/21.

Jake Harper, Director of Finance and Administration, introduced David Coleman with BKD, Inc., who presented their findings and said there were no issues with the bill received.

Council Member Burckart asked about specific details of the agreement between the city and SWEPCO. Brian Bond with SWEPCO mentioned that fuel cost was the primary driver of the costs from the February 2021 winter storm and explained what measures SWEPCO will take to be more prepared in the future to handle unprecedented circumstances.

Council Member Burckart also asked if SWEPCO has any contractual agreements that offer fixed rates for gas prices and how they will be proactive about increased costs during the winter months. Brian Bond said they don't have current agreements with fixed rates and explained the difficulties of getting real-time gas pricing.

Council Member Burckart and Brian Bond discussed their wind energy investment and its efficiency and if SWEPCO received emergency funding for the winter storm.

Jake Harper said the city will move forward to start paying the bill. Half of the bill will be paid from the City of Bentonville electric reserves and the other half they are working towards issuing a utility bond. Council Member Agnew asked if we have to do a bond and if so, why. Jake explained the financial details and reasoning behind issuing a bond. Council Member Burckart and Council Member Agnew requested to have multiple options to cover the remaining portion of the bill to the council. Jake Harper said that they are on board with having that conversation, but it will need to be had at a later date so their team can review the options requested.

- 6e. Ordinance No. 2021-219: Ordinance authorizing the Mayor and the City Clerk to enter into agreements with Utility Services Group for the repair of certain City of Bentonville water storage tanks 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 Burckart. There was no discussion. Motion carried (7-0).

- 6f. Budget Adjustment recommended by Staff for City Council approval to cover insurance deductible in the amount of \$25,000.00 and recognize revenues from FM Global Insurance claim up to \$669,480.00 to cover costs associated with Utility Service Co., Inc.'s agreement for material and labor to provide full repairs of the 3MG and 6MG water tanks. Funding the deductible will be from the Water Utility reserves. Utility Board approved 9/28/2021 by a vote of 4-0.

Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-0).

- 6g. Staff recommended City Council approval of Change Order No. 2 and Final Reconciliation of the Nomad Creek Sewer Interceptor project with Brothers Construction, recognizing a decrease of \$80,527.02, reducing the contract total from \$1,680,267.50 to \$1,599,740.48. Utility Board approved this item 4-0.

Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-0).

7. Ordinance No. 2021-220: Ordinance vacating a utility easement located at 603 SE Yale Street of College Place Subdivision Phase 8 to the City of Bentonville, Arkansas, Benton County Arkansas (VAC21-0024).

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 (7-0).

8. Resolution No. 10-12-21 E: A resolution setting a public hearing for October 26, 2021, for a Utility Easement Vacation requested for 3405 SE Macy Road of 71 Business Center (VAC21-0027).

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 (7-0).

9. Resolution No. 10-12-21 F: A resolution authorizing the Mayor and Clerk to enter into a master agreement with Garver, LLC for engineering services for the Bentonville Municipal Airport.

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 (7-0).

10. Resolution No. 10-12-21 G: A resolution declaring certain property belonging to the City of Bentonville, Arkansas as surplus property.

Council Member Burckart asked if the date of the auction was online. Purchasing Manager, Gladys Shoemake, said the first list goes live on October 18, and the link will be on the city website.

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 (7-0).

11. Resolution No. 10-12-21 H: A resolution authorizing the Mayor and Clerk to enter into an agreement with Jackson, Brown, Palculict Architects for architectural services related to the Bentonville Fire Department Training Facility.

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 (7-0).

12. Resolution No. 10-12-21 I: A resolution authorizing the Mayor and Clerk to enter into an agreement with Morrison-Shipley Consulting Engineers for professional services related to the Bentonville Fire Department Training Facility.

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 (7-0).

13. Resolution No. 10-12-21 J: A resolution authorizing the Mayor and Clerk to enter into an agreement with Clinard Construction Management for services related to the Bentonville Fire Department Training Facility.

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 (7-0).

14. Budget Adjustment in the amount of \$27,435.00 to Banner Fire Equipment Inc. to repair the hydraulic ladder turntable on a 2000 Model fire truck and transportation to and from Roxana, Illinois.

Council Member Burckart expressed concern about spending money on repairing a 20-year-old vehicle. Mayor Orman explained that there is now a 900-day notice for purchasing any large trucks, so repairs will need to be made to their current vehicles in the interim.

Motion to approve by Council Member Sanchez, second by Council Member Agnew. There was no discussion. Motion carried (7-0).

- 15a. Resolution No. 10-12-21 K: A resolution declaring certain property belonging to the City of Bentonville Fire Department as surplus property.

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 (7-0).

- 15b. Budget Adjustment in the amount of \$31,061.00 to replace a vehicle in the Building and Fire Safety Division. The vehicle that will be replaced was involved in an accident, and the insurance adjuster totaled the truck.

Motion to approve by Council Member Sanchez, second by Council Member Sooter. There was no discussion. Motion carried (7-0).

16. Ordinance No. 2021-221: Ordinance authorizing the Mayor and the City Clerk to enter into an agreement with Ozark Tennis Academy for tennis programming for the City of Bentonville Parks and Recreation Department 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 Agnew. There was no discussion. Motion carried (7-0).

17. Resolution No. 10-12-21 L: A resolution authorizing the Mayor and Clerk to enter into an agreement with Active Network LLC for a Point-of-Sale System, Registration, and Membership Software Management for the City of Bentonville Parks and Recreation Department.

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 (7-0).

18. Informational Presentation regarding Quilt of Parks Project.

Tim Summers, Nancy Martin, Lisa Clark, who presented a letter to the council from the 3rd Street Historic District (see page 16), Ramsey Ball, Craig Gilbert, and Josh Kyles spoke in favor of the alternative plan.

Laura Gheen, Michelle Dearing, James Melvin, and David Redfield, spoke in favor of the original plan.

Council Member Sooter asked if there was any other input from the community members who live or own businesses directly by the area of both plans. David Wright explained that the feedback they received was half for the alternative plan and half for the original plan.

Council Member Sanchez reminded the council that the original plan was in the bond, and David Wright explained that they were conceptual designs, and they are allowed to be adjusted. 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.

Council engaged in further discussion regarding the potential noise levels of each amenity, buffers between the surrounding businesses or homes, and the proposed amenities.

Mayor Orman asked what David wanted to do, and David asked that the council give their department a direction of where to go and asked for a poll of the council. Council Member Robinson said that he would abstain from the poll since he owns property in the area. The poll was a tie with Council Member Sooter, Burckart, and Agnew for the alternate plan and Council Member Acree, Sanchez, and Hook for the original plan (3-3). Mayor Orman asked David if there was some way to rework the design that would create more of a buffer so there could be a plan that would accommodate both viewpoints. Council went into detail about what that could look like. David Wright said they would work on something and get back with the council on a potential design.

19. Resolution No. 10-12-21 M: A resolution authorizing the Mayor and Clerk to enter into an agreement with Black Hills Energy for a right of way easement.

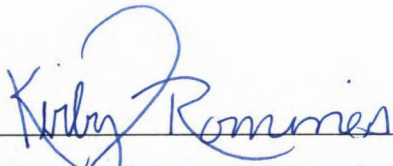
City Attorney Spence read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was no discussion. Motion carried (7-0).

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

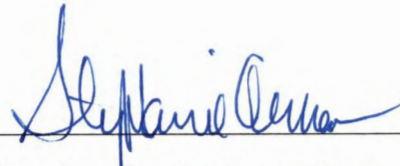
Jake Harper reviewed the 2022 budget process and reminded the council of the November 2nd public input meeting for the American Rescue Plan Act (ARPA) grant funds.

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

The next Bentonville City Council meeting will be on October 26, 2021.



Kirby Romines, City Clerk



Stephanie Orman, Mayor



October 12, 2021

Bentonville City Council Members and Mayor Orman,

The undersigned residents of the Bentonville Third Street Historic District respectfully request your vote and support for the Quilt of Parks Alternative plan. Our residential neighborhood lies one-half block south of the expansion location. It is our belief that a playground park is better suited to abut our residential district, and that the amphitheater and event park will be well-placed on Central Avenue, between the planned parking deck and the new hotel.

We ask the City Council to vote for the Alternative Plan for the Quilt of Parks.

Respectfully,

Michael and Elizabeth Clark, 108 SE 3rd Street

Terry and Kathy Muldoon, 231 South Main Street

Clayton and Margaret Marsh, 106 SE 3rd Street

Loren and Diane Harper, 109 SE 3rd Street

Joe and Sarah Clark, 205 SE 3rd Street

Ralph and Gwen Williams, 204 SE 3rd Street

Jon & Lori Terlouw, 207 SE 3rd Street

Celia Swanson, 209 SE 3rd Street

Alexander and Keely Brice, 303 SE 3rd Street

Matthew and Jenny McClure, 302 SE 3rd Street & 303 SE B Street