

Bentonville City Council

Meeting Minutes

April 14, 2009

The City Council of Bentonville, Arkansas met in regular session on Tuesday, April 14, 2009 at 6:00 p.m. at the Community Development Building, Planning Commission Chambers, 305 SW "A" Street, Bentonville, Arkansas. Present were Council Members Mary Baggett, Jim Grider, Shane Perry, Chris Sooter, Ed Austin, Brad Crain, James Dotson, and Bill Burckart. Also present were Mayor Bob McCaslin, City Clerk Suzanne Grider, City Attorney George Spence, the press, city staff, and the audience.

Mayor Bob McCaslin called the meeting to order and asked everyone to join him in saluting our nation's flag. After the pledge, there was a moment of silence for our military forces and the invocation was given by Council Member Shane Perry.

Motion was made by Council Member Baggett, seconded by Council Member Sooter to approve the minutes of the March 24, 2009 meeting as written. Motion carried (8-0).

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of all ordinances and resolutions on three separate days and further move that they be read by their title only. Motion carried (8-0).

- I. Financial Overview by Denise Land, Finance Director. (Monday Night Only).**
- II. Quarterly Report by Rich Davis, Bentonville/Bella Vista Chamber of Commerce. (Monday Night Only).**
- III. Bentonville Police Dept. For your information item on Monday Night. Grant application in the amount of \$48,972 for the purchase of a ProQA a medical dispatching system.**
- IVa. City Attorney George Spence read by title only Ordinance #(2009-29) amending the Master Street Plan identifying north and east connections from the NE "J" Street Interchange.**

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title. Motion was made by Council Member Grider, seconded by Council Member Burckart that the ordinance do pass. Motion carried (8-0).

- IVb. City Attorney George Spence read by title only Ordinance by its title only #(2009-30) amending Chapter 14 Zoning code Article 801 Signs and Billboards to regulate neighborhood garage sales signs.**

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Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Austin that the ordinance do pass. Motion carried (8-0).

- V. **Presentation of conceptual plans for two proposed parking lots in Downtown Bentonville. Lot 1 to be located in the vicinity of SE 2nd St. and "A" Street. Lot 2 to be located in the vicinity of 200/300 block of north of NW 2nd St. (Monday Night Only).**

- VI. **City Attorney George Spence read by title only Resolution #(04-14-09A) authorizing the mayor and clerk to enter into an offer and acceptance for the purchase of real property from Downtown Development, Inc. in an amount not to exceed \$50,054.00 plus applicable closing costs.**

Motion was made by Council Member Austin, seconded by Council Member Grider to adopt the resolution. Motion carried (8-0).

- VII. **City Attorney George Spence read by title only Resolution #(04-14-09B) authorizing the mayor and clerk to accept the assignment of a real estate contract from Downtown Development, Inc. for the purchase of a parcel located at 206 SE "A" Street, in an amount of \$215,000 plus applicable closing cost from Joe and Pat Looney.**

Motion was made by Council Member Austin, seconded by Council Member Grider to adopt the resolution. Motion carried (8-0).

- VIII. **City Attorney George Spence read by title only Resolution #(04-14-09C) authorizing the mayor and clerk to accept the assignment of a real estate contract from Downtown Development, Inc. in an amount of \$85,000 plus applicable closing costs located at 302 NW 2nd St. from Lorene Powers located at 302 N.W. 2nd St.**

Motion was made by Council Member Austin, seconded by Council Member Sooter to adopt the resolution. Motion carried (8-0).

- IX. **City Attorney George Spence read by title only Resolution #(04-14-09D) authorizing the mayor and clerk to enter into an offer and acceptance for the purchase of real property from the First United Methodist church of Bentonville, in an amount not to exceed \$221,451.21 plus applicable closing costs located at 208 NW 2nd St.**

Motion was made by Council Member Austin, seconded by Council Member Baggett to adopt the resolution. Motion carried (7-1) with Council Member Perry abstaining.

- X. **City Attorney George Spence read by title only Resolution #(04-14-09E) authorizing the mayor and clerk to enter into an offer and acceptance for the purchase of real**

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property from the First United Methodist Church in Bentonville located at 306 NW 2nd St. in an amount not to exceed \$198,657.05 plus applicable closing cost.

Motion was made by Council Member Baggett, seconded by Council Member Grider to adopt the resolution. Motion carried (7-1) with Council Member Perry abstaining.

- XI. City Attorney George Spence read by title only Resolution #(04-14-09F) authorizing the mayor and clerk to enter into an offer and acceptance for the purchase of real property from Backstrom Funeral Service, Inc. located at 2706 South Walton Blvd. in an amount not to exceed \$1,290,000.00 plus applicable closing costs.**

Motion was made by Council Member Sooter, seconded by Council Member Austin to adopt the resolution. Motion carried (8-0).

- XII. City Attorney George Spence read by title only Resolution #(04-14-09G) renaming NE "S" St. and SE "S" Street to NE Martin Luther King Jr. Parkway and SE Martin Luther King Jr. Parkway in recognition of the civil rights leader.**

Motion was made by Council Member Perry, seconded by Council Member Grider to adopt the resolution. Motion carried (8-0).

Consent Agenda: Items 13, 14, 15, 18, 19, 21, 22, 23, 24.

13. Award Bid 09-26A and Bid 09-26B to Cruse Uniform and Equipment and Fleet Safety both of Little Rock. The total for both bids is \$24,660.83. See attached sheets for breakdown of each vendor: item, quantity and amount.
14. Appointment of Brian Baldwin to complete Howard Kerr's unexpired term on the Bentonville Airport Advisory Board. Term to expire 9-27-2012.
15. Council approval of a budget adjustment for \$10,871.20 grant from the State of Arkansas Department of Aeronautics for the purchase and installation of security fencing around the fuel farm and automation of the southern access gate at the Bentonville Municipal Airport.
18. Award bid to Spring Green Lawn Care for 6-step fertilizer program and 3-step horticulture program for City parks, athletic fields, and offices in the amount of \$31,393.00.
19. Budget Adjustment to install motor operated gate for fueling access drive. The motor operated gate improves access, in particular after hours access for the Fire Department. The gate also allows for better utilization of the real estate for storage of inventory materials.
21. Award bid # 09-25 to Henard Utility Products, INC. of Searcy, AR for a sewer combination cleaner truck, in the amount of \$212,825.00, includes trade-in of 1999 Vactor sewer combination cleaner truck; trade-in value \$35,000. Budgeted amount \$285,000.00.
22. Award bid #09-23 to Landers Ford of Benton AR for a 1 1/2 ton flat bed dump truck in the amount of \$33,533.00. This truck will replace a 13 year old vehicle currently at the Street Department. Also this particular vehicle was not available on the "state bid program". The original budget was in the amount of \$52,000 which included outfitting the unit with a radio, beacon light and snow removal equipment. The Street Department

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- recommends awarding of Bid #09-23 to purchase this unit.
23. Award bid #09-23 to Truck Center of Arkansas Springdale AR for a 2 ton dump truck in the amount of \$67,065.00. This truck will replace a 14 year old vehicle currently at the Street Department. Also this particular vehicle was not available on the "state bid program". The original budget was in the amount of \$78,000 which included outfitting the unit with a radio, load tarp and snow removal equipment. The Street Department recommends awarding of Bid #09-23 to purchase this unit.
24. This is a proposed list of City streets to be overlaid for the 2009 overlay program. The majority of the streets will require milling some of the old asphalt away to prepare for the new asphalt and we will return the curb and guttered streets to their original design as not to cause drainage issues by filling in the gutter lines. The original budget for 2009 is in the amount of \$300,000. When this goes out to bid it will be done by a "per ton price" which will allow for additional streets to be overlaid if funding is available. Other Departments who have asphalt projects budgeted for 2009 will be added to this list to achieve the lowest per ton price for the City overall by means of quantity.

Motion was made by Council Member Austin, seconded by Council Member Grider to approve the consent agenda as listed above. Motion carried (8-0).

Resume Regular Agenda:

- XVI. City Attorney George Spence read by title only Ordinance #(2009-31) authorizing the mayor and city clerk to enter into an amended agreement with David Powell for improvements associated with construction of a hangar at the City of Bentonville Municipal Airport reducing the City's financial responsibility to \$41,269.25.**

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Perry that the ordinance do pass. Motion carried (8-0).

- XVII. City Attorney George Spence read by title only Resolution #(04-14-09H) authorizing the mayor and clerk to enter into an agreement with Dave Powell, Summit Aviation for the sale of the maintenance hangar building located on Bentonville Municipal Airport property and enter into a land lease agreement for the property on which the maintenance hangar building sits in exchange for the sum of \$75,000.**

Motion was made by Council Member Austin, seconded by Council Member Burckart to adopt the resolution. Motion carried (8-0).

- XX. City Attorney George Spence read by title only Resolution #(04-14-09I) declaring certain property belonging to the City of Bentonville, Arkansas as surplus property. (1992 Case Backhoe and 1999 Vactor Sewer Cleaning Truck from the water and sewer dept.)**

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Motion was made by Council Member Sooter, seconded by Council Member Grider to adopt the resolution. Motion carried (8-0).

Council Member Burckart recommended to the council to suspend or even to make it retroactive back to when the Tischler Study was done to save \$1,000 until our economics in the area are better.

Council Member Austin stated it was his recommendation to leave it as it is written with the study from Tishler it has withstood the times.

Community Development Director Troy Galloway stated there would be potential for folks to slip through the cracks. There would be a lot of manual inputting to manipulate the software.

Staff Attorney Camille Thompson stated that the effective date was drafted to deal with the complex issue of the fees. They are assessed at the time the building permit is issued. the change would have to be inputted manually and this would invite errors. A date certain would be the best.

Council Member Perry stated that he appreciates Council Member Burckart's comments. We are looking at reducing these items tonight. If you believe there is an error in calculating these, then we have an obligation to follow up on his comments. Is there a mathematical error?

Council Member Burckart stated it is philosophical on the three year average. I want to help reduce the cost to people in the future and do not want to hold the process up.

XXV. City Attorney George Spence read by title only Ordinance #(2009-32) amending park impact fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Sooter that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Austin, seconded by Council Member Sooter to approve the emergency clause. Motion carried (8-0).

XXVI. City Attorney George Spence read by title only Ordinance #(2009-33) amending Fire/EMS impact fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Austin that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Grider, seconded by Council Member Dotson to approve the emergency clause. Motion carried (8-0).

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XXVII. City Attorney George Spence read by title only Ordinance #(2009-34) amending water impact/capacity fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Austin, seconded by Council Member Crain that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Crain, seconded by Council Member Dotson to approve the emergency clause. Motion carried (8-0).

XXVIII. City Attorney George Spence read by title only Ordinance #(2009-35) amending sewer impact/capacity fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Austin that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Burckart, seconded by Council Member Grider to approve the emergency clause. Motion carried (8-0).

XXIX. City Attorney George Spence read by title only Ordinance #(2009-36) repealing police impact fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Perry that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Dotson, seconded by Council Member Grider to approve the emergency clause. Motion carried (8-0).

XXX. City Attorney George Spence read by title only Ordinance #(2009-37) repealing library impact fees in the City of Bentonville, Arkansas and declaring an emergency.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Baggett that the ordinance do pass. Motion carried (8-0). Motion was made by Council Member Perry, seconded by Council Member Grider to approve the emergency clause. Motion carried (8-0).

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XXXI. City Attorney George Spence read by title only Ordinance #(2009-38) to establish an identity theft prevention program for the City of Bentonville, Arkansas; to comply with Federal Regulations relating to address discrepancies; to comply with Federal Regulations relating to red flags and identity theft; to provide for severability; and for other purposes allowed by law.

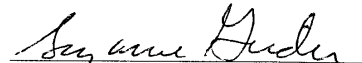
Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Sooter, seconded by Council Member Crain that the ordinance do pass. Motion carried (8-0).

XXXII. City Attorney George Spence read by title only Ordinance #(2009-39) amending Section 10.32.03 (A) of the Bentonville Municipal Code to remove the cap on penalties for late payments of utility bills.

Motion was made by Council Member Austin, seconded by Council Member Crain to suspend the rules regarding the reading of this ordinance on three separate days and further move that this ordinance be read by its title only. Motion carried (8-0). City Attorney George Spence read the ordinance by its title only. Motion was made by Council Member Grider, seconded by Council Member Perry that the ordinance do pass. Motion carried (8-0).

Motion was made by Council Member Grider, seconded by Council Member Austin to adjourn the meeting. Motion carried (8-0).


Bob McCaslin, Mayor


Suzanne Grider, City Clerk