

Bentonville City Council

Meeting Minutes

May 11, 2021

The City Council of Bentonville, Arkansas, met in regular session Tuesday, May 11, 2021, 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, Holly Hook, Chris Sooter, Bill Burckart, Aubrey Patterson, and Gayatri Agnew. 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 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. Mayor Orman reminded the council that all votes would be by roll call.

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

Mayor Orman called the meeting to order. Alex Rice, a Cub Scout from Pack 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 Sanchez to approve the minutes of the April 27, 2021 meeting as presented, second by Council Member Burckart. 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. Proclamation presented by Mayor Orman to recognize "Police Week" in Bentonville, Arkansas.
  
2. Proclamation presented by Mayor Orman to recognize "Emergency Medical Services Week" in Bentonville, Arkansas.
  
3. Street Overlay Presentation - Tony Davis, Street Manager.  
Dan Weese, City Engineer, and Dennis Birge, Transportation Director, filled in for Tony Davis.
  
4. Bentonville Public Library's 2020 Annual Report Presentation by Bentonville Public Library's Director, Hadi Dudley.
  
5. Planning:
  - 5a. Resolution No. 5-11-21 A: A resolution adopting revisions to the Future Land Use Plan from Medium-Density Residential to Low-Density Residential for specific areas (Project No. GPA21-0001).  
Mayor Orman recognized those that joined via zoom and in person to make a public comment regarding the item. Those who were in favor of the rezoning were Andy Johnson, Mark Brittain, Brian Johnson, Dave Fish, Bobby Carlson, and Mikel Hancock. Those who were against the rezoning were Graham Cobb, Katie Howe, Jonathan Atwell, Will Kellstrom, Bob Burckart, and Joe Schrauder.

Council Member Patterson asked for clarification of the Future Land Use Plan. Council Member Acree said that the culture of the street in question needs to be preserved.

Council engaged in a lengthy discussion on the process of rezoning multiple parcels versus a single parcel at a time and the need/implementation of an annual review of the Future Land Use Plan.

Council Member Burckart said that an annual review is not ideal, and that review should be a comprehensive systematic process, not individually. He also mentioned that there has not been downzoning in downtown Bentonville that he can recall.

Council engaged in further lengthy discussion on the current zoning of all parcels on E Street and its surrounding areas.

City Attorney Spence read the resolution by title only. Motion to approve by Council Member Sanchez, second by Council Member Burckart. There was a tie, so Mayor Orman broke the tie by voting yes. Motion carried (5-4), with Council Member Sooter, Council Member Burckart, Council Member Agnew, and Council Member Robinson voting no.

Mayor Orman explained that the city supports density in downtown Bentonville, but in this specific area, what has been redeveloped reflects low density, so she voted yes. She made it clear that the city needs to move forward not doing one-offs, and that the council needs to be consistent with the Future Land Use Plan.

Council Member Burckart said this is a very dangerous precedent for investors because they may not feel secure in their investment if there is a lack of predictability.

Mayor Orman explained that the developers or owners on E Street can still bring through a rezoning for their property to be reviewed.

Council Member Agnew asked for a timeline to review the Future Land Use Plan. Ellen Norvell, the Community Development Director, explained that the annual review would not be holistic because of the time it would take. If the council would like to review the entire downtown zoning, the Planning commission can look into the costs of doing so. Council Member Burckart said that the city should involve all individuals and stakeholders in the review process.

Mayor Orman explained that the plan is not to do one-offs, and the Planning Commission will come back to council with a timeline for review.

Council Member Robinson expressed concern for the item that just passed, saying that it will open the door for more one-off rezoning items to come through and asked what council members should do moving forward.

Council Member Sooter asked what council members should tell constituents in the meantime, and Mayor Orman said that she recommends saying that there is a plan to look at this bi-annually, and they will look at this beginning in December 2021.

Council Member Sanchez recommended that an outside analysis be conducted on the downtown Bentonville area and to put money towards conducting this study. Council Member Acree agreed and recommended using someone who is experienced in form-based codes.

Mayor Orman concluded that the city would review the budget and bring that information to the council.

- 5b. Ordinance No. 2021-104: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Single Family Residential to DN-3, Downtown High Density Residential (Project No. RZ21-0024).

[Applicant: Pinnacle Villas, LLC;

Location: 1004 and 1006 SE 3rd 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), with Council Member Burckart abstaining.

- 5c. Ordinance No. 2021-105: Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Single Family Residential to DE, Downtown Edge (Project No. RZ21-0025).

[Applicant: Emergent Property Management/Terra Firma Holdings, LLC;

Location: 110 SE 13th Street]

Mayor Orman recognized those that joined via zoom and in-person to make a public comment regarding the item. Those who favored the rezoning were Adriana Burnett and Zach Hixson, who represented Adriana Burnett. Latrisha Larner spoke against the rezoning.

Council Member Sanchez asked for clarification on the location of the property. Mayor Orman asked how the parking spaces decreased over time. Adriana Burnett explained that due to an added alleyway and a rezoning during construction, they lost several parking spaces at their location.

Council engaged in a lengthy discussion regarding the specific zoning around the property in question.

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).

- 5d. Ordinance No. 2021-106: Ordinance accepting a property line adjustment of Lots 1 & 2, Bennett Addition to the City of Bentonville, Arkansas (Project No. PLA21-0015).

[Applicant: Jazzmen Varney;

Location: 508 and 510 SW O 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).

6. Appeal to a Planning Commission decision for a rezoning request by Casey Roberts of land located on N Walton Boulevard (Parcels 01-09434-000, 01-01586-001, and 01-01586-002). A rezoning request from C-1, Neighborhood Commercial to C-2, General Commercial. The Planning Commission voted 5-2 to recommend to the City Council that the petition be denied and that said property not be rezoned from its present classification of C-1, Neighborhood Commercial to C-2, General Commercial.

Will Kellstrom, representing the applicant, asked to have the appeal postponed. City Attorney George Spence explained that Council Member Sanchez and Will Kellstrom asked before the meeting started to have the item tabled/delayed. He described three options that the council could pursue regarding the appeal.

Will Kellstrom stated that they need more time to find the best zoning fit for the property. Council Member Sanchez described the property in detail and reiterated the difficulty in finding the best zoning classification for it.

Motion to send back to the Planning Commission by Council Member Sanchez, second by Council Member Acree. There was no discussion. Motion carried (8-0).

7. Utility Board:

- 7a. Bid award for the On-Call boring and trenching services to Calcon, Inc. per the attached bid tab. Approved at Utility Board 4-0.

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

- 7b. Bid award IFB-21-19 for purchase of a 2021 John Deere 624P wheel loader as specified to Stribling Equipment of Springdale, AR, for a final amount of \$163,774.41. This is bid price minus trade-in for the old loader. The Bentonville Utility Board voted 4-0 to approve this item on April 27, 2021.

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

- 7c. Resolution No. 5-11-21 B: A resolution declaring certain property belonging to the City of Bentonville Water Resource Recovery Facility 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 (8-0).

- 7d. Resolution No. 5-11-21 C: A resolution authorizing the Mayor and Clerk to enter into an agreement with Garver Engineers for engineering services associated with the City of Bentonville Compost 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 (8-0).

8. Bid award for 750 underground wire to the lowest bidder in the amount of \$108,829.89.

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

9. Ordinance No. 2021-107: Ordinance vacating a utility easement located at 705 SE Yale Street of College Place Subdivision to the City of Bentonville, Arkansas, Benton County, Arkansas (VAC21-0006).

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. Resolution No. 5-11-21 D: A resolution setting a public hearing for May 25, 2021, to vacate an Alley Right of Way at Lot 25 of W.A. Burk's Addition (VAC21-0008).

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).

11. Reconciliation Change Order (RCO) for Town Vu Bridge Improvements project. The final contract amount is \$94,604.00 less than the currently contracted amount of \$811,198.00. Crossland Heavy Contractors, Inc. is also requesting an additional 18 calendar days be added to the contract time. The final contract amount after the RCO will be \$716,594.00.

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

12. Budget Adjustment to accept and recognize five insurance settlements from Arkansas Municipal League (ARML) and apply these settlement amounts to our Vehicle Maintenance account. The settlements are related to the following motor vehicle-related incidents, to include a February 25th event (amount \$2,141.77, Unit 2010-114) in which an officer backed into a fixed object, a March 8th event (amount \$4,411.99, Unit 2010-104) in which an officer damaged a vehicle during a response, a March 15th event (amount \$2,614.76, Unit 2010-44) in which an officer was rear-ended by a citizen motorist, and a March 16th event (amount \$5,997.87, Unit 2010-51 and amount \$11,070.60, Unit 2010-114) in which two vehicles were damaged during a felony arrest. These insurance settlements total \$26,236.99, after any applicable deductibles, and the settlement amounts will closely cover the cost of all repairs.

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



13a. Recommend City Council approve the addition of One (1) Building Inspector, Grade 20, and One (1) Building Permit Clerk II, Grade 17 to the City's 2021 Pay Plan. If approved, both of these positions will be filled by current staff via a promotion and a lateral transfer from existing positions.

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

13b. Budget Adjustment to cover the cost of transferring one employee from the Fire Department to the Building Inspection Department and to cover a promotion in the Building Inspection Department.

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).

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

Mayor Orman recognized Travis Matlock, Engineering Director, to give an update on the Bella Vista Dam damage from the recent flooding.

Travis Matlock described the damage from the flooding, specifically the 50-60-foot hole that opened up, and that they are working with WCRC, an engineering firm, and the Core of Engineers, to help stabilize the area of the hole. He reiterated that this is separate from any other area of the Bella Vista Dam.

Council Member Patterson asked what the timeline is to have the hole stabilized and if it has to do with public safety. Travis Matlock said that they should have plans within the next two to three weeks on possible solutions and that there is no public safety risk at this time since the area is not accessible to the public.

Council Member Hook asked if the entire area is blocked off, and Travis Matlock confirmed that it is. Council Member Hook also asked if the city has had a relationship with WCRF before, and Travis Matlock confirmed that they have.


Mayor Orman asked City Attorney George Spence for an update on the court case.

George Spence explained the current status of the court case and that he does not expect a decision on this by the end of the year.

Mayor Orman announced that the city will receive 6.9 million dollars through the American Rescue Plan and that they have an internal committee that will oversee the application of the funds.

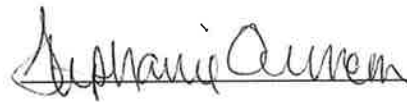
Council members reported on committees and boards they participate in related to the city.

The next Bentonville City Council meeting will be on May 25, 2021.



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Kirby Romines, City Clerk



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Stephanie Orman, Mayor

