

Dyer City Council Meeting
September 22, 2020

At 5:30 pm Mayor Morse called meeting to order and the pledge of allegiance was said.

Roll Call:

Alderman Randy Beard-present
Alderman Katherine Fry-present
Alderman Donna Staton-absent
Alderman Nancy Smith-present
Alderman Myrna Burns-present
Alderman Robert Porter-present

Public Forum:

Variance Request.

1. Red Hill Road Lot 3 Single-Family Residential to Multi-Family.
Jason Harrell and Betty Matthews residing at 1500 North 12th Street in Van Buren AR 72956 are trying to build a duplex in Lot 3 on Red Hill Road. It will be a nice lot with 2 units and each unit will have its own driveway each side is 2 bedroom and 1 bathroom approximately 1800 square feet. Outside will be brick and he offered to allow everyone to see plans he had with him.

Bryan Johnson resides at 121 Heard Branch Lane Dyer AR 72935 adjacent to the lot in question and my complaint is the area is for a subdivision for single family dwelling and I moved there with it being a single family dwelling and I would not expect having a multi-family unit in a family subdivision.

Brittany Howerton resides at 105 Heard Branch Lane Dyer, AR 72935 I moved out there with our family to the single-family residence and did not want to live on top of other people.

Janie Elam resides at 1205 Heard Branch Lane Dyer, AR 72935, my husband and I purchased that lot because it was a single-family residential area. The current owners purchased this lot to place a tiny

home on it and there was a scuttle around this, but it was resolved, and they are thankful. Conditions that the current owners have allowed the lot to get into specifically is allowing it to grow up and when it is mowed it looks like it has been brush-hogged.

Jason Harrell apologized for the way the lot was cut.

Alderman Katherine Fry questioned if there was another landowner that was dividing the lots and what is it zoned?

Veronica stated the lot was zoned as a single-family residential area and there are 2 other owners besides him.

Sean Brister City Attorney explained that this situation is unique in that the planning commission was combined with the City Council duties and this is a public hearing to determine how to handle this situation.

We can approve it as presented or modify it by majority vote and recommend adopting it as a council or disapprove it. When you vote you will need to state a reason why you are voting as you are. You have to state an objective reason, such as it cannot contradict the character of the neighborhood, not adversely impact the character of the neighborhood, increase traffic flow and impact safety. It will not be final tonight it will have to come back to the council next month depending the action you take. If you deny it, they can appeal next month. This would be a zoning change and we would have to draft an ordinance to change this.

Alderman Robert Porter asked if we had an R2 defined in our zoning and Sean Brister answered him stating we did not have an R2 anywhere in the city and it is defined in the zoning. Alderman Robert Porter states so if I understand this correctly if we do not have a R2 in our Zoning we would have to vote that in as the commission before we could vote on this, correct?

R1 is family residential district. Permitted use is detached one family dwellings, churches, schools, libraries, general purpose farm, nursery, private club not for profit, municipal recreation or water supply use, accessory structures or uses pertinent to that.

R2 is one family dwelling, two family dwelling, church, park, playgrounds, school, kindergarten, hospital, nursing home, doctor's office, dental clinics and accessory structures.

R3 is one family, two family, multifamily dwellings geared more toward apartment complexes, church, school, park kindergarten and hospital.

R4 is one family dwellings and manufactured homes.

What would happen if you were to approve this would be an ordinance that would amend your city map to draw up for that lot.

Mayor Morse asked if we are ready for vote.

Alderman Randy Beard-NO- affect character of the neighborhood.

Alderman Katherine Fry-No- I feel like you would have people moving in and out all the time.

Alderman Nancy Smith-No- it has been that way for so long and I understand people want new growth and I am not sure we could satisfy x amount of people down that way. I will change my vote to yes.

Alderman Myrna Burns-No- Single family residential area is what everyone is used to, and I think we should keep.

Alderman Robert Porter-No- I believe it would interrupt the character to that part of town.

Motion failed.

Variance Request 2.

Lot 1 Ridge view estates (Horizon Lane) M-1 (mixed use between commercial and residential) does not include multi family residential.

Asking for it to include multifamily area.

Bryan Hood with HMI LLC from Alma and we have ownership of Lot 1 which is zoned as mixed use which could be commercial or residential. We noticed it does not have the multi-family use and we are requesting that it be added with this request. We own several and they are respectable units. They would be 3 bedroom and 2 bath unit, and the grounds will be maintained. The structure will have quite a bit of value. The tenants will be ones with clean background checks and credit checks. Mr. Hood presented value appraisal of the first 4 units in

School House Prairie that belong to their company. We would like the variance and an opportunity to be good neighbors and be a good asset to the community. I would like to point out that this is a mixed-use zone and we could put a commercial building there today, but we would rather put a duplex in that lot. Mr. Hood presented supporting documentation of the current plan of the structure to build in that area. Sean Brister explained that a commercial business such as a retail establishment selling goods and services, office buildings hotels and motor hotels, restaurants, processing and manufacturing facility, wholesale, warehouses and storage units of non-combustible materials, automobile repair and storage. The R1 definitions and allowances can be here as well. Mr. Hood is asking for variance that would allow a nice duplex that would add value to your neighborhood. Alderman Randy Beard asked about the parking situation for the duplex families. Mr. Hood explained that there would be driveways, garages and possibly the street as already being done. If approved, groundbreaking is not going to be done anytime soon.

John Bull and I am the newest member of the neighborhood on Horizon,

John Bull and I am the newest member of the neighborhood on Horizon. I paid \$225,000 for that house and I have nothing against the rest of you but If I knew there was to be a duplex built, I would have never bought it. I bought a house with a clause that would keep sheds out of people's front yards and to keep multi-families out of the neighborhood. We all have agreed to this. If he wants to put a Jiffy Lube or a convenience store there that is fine. The fact is the middle of the night you have a lot of (speech garbled). We all have spent millions of dollars in our homes and if the duplex is built it will devalue our property. He offered to allow Mr. Hood to buy his home, (speech garbled). Mr. Bull pleads that the council not to allow this to happen, he threatened us with commercial buildings before.

Mr. Hood wants to point out that the renters may be people who want to downsize and have all maintenance be done for them and could be a 55+ community.

Larry Underwood lives on Horizon Lane, he moved to Dyer after he left the military. He will put his home up for sale if a duplex is built in that lot.

Alderman Katherine Fry asked how this property got left out of the covenant with the rest of the property and Sean Brister states that the covenant is unrelated to this issue.

I am Wendy, Chucks wife and I bought this house knowing it was a single-family resident and I like the neighborhood and like the people. How this lot got out of that and has these exemptions, that isn't right. This is not right, it was sold to me and it makes me feel secure and I don't want people that aren't invested long term, he can't guarantee people will be there long term. And the threat that it could be used as commercial that's sad. That would ruin the area.

Ron Hill 130 Day Break lane Dyer I have been there 15 years and when we signed the contract's we had covenants we signed and notarized saying we were in single-family residential areas. This is in the contracts and the building contracts. I really like our neighborhood and like Dyer and think multi-family homes would be a bad deal.

Mayor asked for vote

Alderman Randy Beard-NO based upon concerns of traffic and safety.

Alderman Katherine Fry-NO based on too much in and out and the same reason as last vote.

Alderman Nancy Smith-No- I agree it should remain single-family residential areas

Alderman Myrna Burns-NO- the area is single-family residential area.

Alderman Robert Porter-NO- I believe it would be better off remaining the same.

Approval of August 2020 Minutes

A motion to approve August 2020 minutes was made by Alderman Robert Porter and seconded by Alderman Katherine FRY

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

Approval of August 2020 Financial

We have a different format to the financials, the first column is what was done in the month of August, the next column is the year to date, the next column is the budget dollars and Alderman Randy Beard stated there was some items that we did not have a budget amount for. We have a different format to the financials, the first column is what was done in the month of August We have a different format to the financials, the first column is what was done in the month of August, the next column is the year to date, the next column is the budget dollars and Alderman Randy Beard stated there was some items that we did not have a budget amount for. When we moved from QuickBooks to CSA, we tried to find line items, it will be the same as if we go over on budget and go to amend, we will add that new line item and amend the budget with it.

The next column is the variance showing if we were under or over. The last column will show the percentage left in the budget. Veronica asked if the council liked this presentation better or if it needed to be changed. The council stated they liked this version better.

Alderman Robert Porter asked what the Dues and subscriptions were, and Veronica explained that they were for CSA and RVS support and police department has to pay for some of their searches monthly.

Alderman Porter asked if he is reading this correctly Dues and subscriptions are setting at 250% of what was budgeted. Veronica

explained this reason was due to subscriptions for CSA which came after the budget was approved. Alderman Porter states so this will be amended in the budget.

Alderman Randy Beard asked about the General Fund there was \$2400 charge and Veronica explained the fireworks show in July was this.

Alderman Randy Beard asked about the excise tax and why was it up.

Veronica states that this is the amount we have to pay the state when we collect water and sanitation and it goes up when we sell more water and down when we sell less. We do not collect taxes on sewer.

Alderman Robert Porter asked why the electric usage is so high,

Veronica stated that there was a rate increase. I had sent June payments in and they never receive them, and I doubled the payments in July, and I am waiting to see if we get a credit before we cancel those checks out.

A motion was made by Alderman Robert Porter to approve August 2020 financials and Alderman Randy Beard seconded.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns- abstained

Alderman Robert Porter-yes

All yea.

Mayor Report: None

Administrative Assistant/Public Works- Veronica Robins

You have my water audit and an email from the auditor, and I have a question about a couple of findings they found, 1 was on receipts for proof of cash. I asked her what 2 accounts that did not agree under receipts and dispersals and also on the meter account has a running balance that has been maintained since before 2006. Her response was the water reserve account and the problem were the general ledger

took the money out of the account took the amount out in 2019 but did not didn't take it out of transfers until it was received into that account in the next year. That was in December when the checks were written, and I was off and upon my return I took them to the bank, so it happened in December and January. FHA account had the same issue payment taken out in December, but I didn't deposit/process it until January.

On the Meter Deposit there is a running balance of almost \$40,000 I did a meter deposit report today and, on my computer, I have \$10,000 in that account. The bank has almost \$20,000. What they said is that we need to fund that meter account back up to that dollar amount and I have discussed this with Sean that they have as the running balance. This goes way back before I was ever hear and I don't have \$40,000 deposits in my computer system. They base their running balance on the checks written and deposits that were put in. So, if the checks were never written or the deposits were never put in. There are a lot of accounts that do not have any deposit entered in the system. We have also refunded several and when I refund more, we really won't have near the \$40,000. Alderman Robert Porter asked if this was related to when we had excess on the deposits, and it rolled into general and used on River Road and Veronica stated no. This has to do with past history and notes not being taken and things not being logged on the computer. I cannot tell whose money we are supposed to have and whose money we are not supposed to have except starting in 2006. This has been ongoing with several past audits with the meter account being under funded. I want to get that finding off of our audit, Sean can you explain how we can do that? Sean Brister stated I think we will have to go thru Leg Audit and Veronica will have to go thru the system with the actual number of meters and if everyone had their deposit and back that up with the ordinance outlining how much people are refunded if they pay on time for a year and that number we need to fund that and pass an ordinance to approve that amount and if leg audit agrees maybe we can have an accurate amount going forward.

The problem is the meter deposit account is not the City's money, it is held in trust for everyone that has a water meter.

Alderman Randy Beard asked what is going to happen to the money, is it just going to sit there? Can we put it in an interest-bearing account and Veronica told him no we could not it could not be put in an interest-bearing account because it is the people's money and we cannot make money off their money?

Alderman Katherine Fry asked if they didn't instruct us to get rid of some of that money and Veronica stated that was the accounts that were overfunded which were depreciation accounts. We do not have any records to go from one who paid deposits from 1969 to 2005.

From the day we got water and we started getting deposits we do not have records until 2006. We have \$10,000 deposits in the computer and over \$18,000 in the bank. Veronica asked Sean what we needed to do, and he stated the council needs to direct you to run the reports and come up with the number that is accurate. Veronica states that she had already started doing this, so I guess just need to work with you on this. If you come up with that number, I can draft an ordinance and we can see if legislative audit will allow us to reset the amount. I would like to say this for the record because people are saying we are stealing out of the office, the auditors reported no findings of theft all the money is there, and I want this on record.

Alma donated a bunch of meters to us and the laptop in the amount of 119 units. We got the wand and they can read the meter with the wands the part we do not have is the computer box that downloads the data from the wand. With this meter people cannot say they are getting air. The reason Alma is doing away with these is because they are making a big upgrade. I am asking to spend money out of water reserve on 16 new meters, 2 wands and the box we need. We will be putting these meters where the old digital meters are failing so bad. If we have someone who thinks they are paying for excess water this will eliminate. The life expectance for these are 20 years and they have a full warranty.

A motion was made by Alderman Randy Beard to approve the purchase of the kit, meters and software for \$6000 from Water Reserve and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

We have not been receiveing a Franchise tax from Arkansas Valley Electric and they are serviceing residents in our rural city. City Attorney drafted this Ordinance so we could benefit from a Franchise Tax.

A motion was made suspend the reading rule for Ordinance 2020-09-22-01 and read by title only by Alderman Randy Beard and seconded by Alderman Robert Porter.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

A motion to approve Ordinance 2020-09-22-01 AN ORDINANCE WHEREBY ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION AND THE CITY OF DYER, ARKANSAS, A MUNICIPAL CORPORATION, AGREE THAT ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION SHALL CONTINUE ITS ELECTRICAL SYSTEM IN CERTAIN AREAS AND WITHIN THE CORPORATE LIMITS OF THE CITY OF DYER, ARKANSAS, AS SAID CORPORATE LIMITS ARE NOW LOCATED OR AS MAY HEREAFTER LOCATED IN THE AREA ASIGNED TO ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION BY THE ARKANSAS PUBLIC SERVICE

COMMISSION: TOGETHER WITH ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH SAID SYSTEM INCLUDING THE ERECTION AND MAINTENANCE OF ITS PLANT, CONSTRUCTION AND APPURTENANCES THERETO, ALONG ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES WITHIN SAID OPERATING AREAS HERETOFORE ALLOCATED BY THE ARKANSAS PUBLIC SERVICE COMMISSION WITHIN SAID CORPORATE LIMITS AS SAME ARE NOT LOCATED OR AS MAY HEREAFTER BE LOCATED WITHIN THE AREA ASSIGNED TO ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION BY THE ARKANSAS PUBLIC SERVICE COMMISSION: THAT THE CITY OF DYER, ARKANSAS SHALL RECEIVE QUARTERLY-ANNUAL PAYMENTS FROM THE ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION, FOR OTHER PURPOSES: AND, TO DECLARE AN EMERGENCY.

Alderman Robert Porter made the motion to approve the Ordinance
2020-09-22-01

AN ORDINANCE WHEREBY ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION AND THE CITY OF DYER, ARKANSAS, A MUNICIPAL CORPORATION, AGREE THAT ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION SHALL CONTINUE ITS ELECTRICAL SYSTEM IN CERTAIN AREAS AND WITHIN THE CORPORATE LIMITS OF THE CITY OF DYER, ARKANSAS, AS SAID CORPORATE LIMITS ARE NOW LOCATED OR AS MAY HEREAFTER LOCATED IN THE AREA ASIGNED TO ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION BY THE ARKANSAS PUBLIC SERVICE COMMISSION: TOGETHER WITH ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH SAID SYSTEM INCLUDING THE ERECTION AND MAINTENANCE OF ITS PLANT, CONSTRUCTION AND APPURTENANCES THERETO, ALONG ACROSS, ON, OVER, THROUGH, ABOVE AND UNDER PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES WITHIN SAID OPERATING AREAS HERETOFORE ALLOCATED BY THE ARKANSAS PUBLIC SERVICE COMMISSION WITHIN SAID CORPORATE LIMITS AS SAME ARE NOT LOCATED OR AS MAY HEREAFTER BE LOCATED WITHIN THE AREA

ASSIGNED TO ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION BY THE ARKANSAS PUBLIC SERVICE COMMISSION: THAT THE CITY OF DYER, ARKANSAS SHALL RECEIVE QUARTERLY-ANNUAL PAYMENTS FROM THE ARKANSAS VALLEY ELECTRIC COOPERATIVE CORPORATION, FOR OTHER PURPOSES: AND, TO DECLARE AN EMERGENCY.

Alderman Robert Porter seconded the motion.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

A motion was made to declare this Ordinance 2020-09-22-01 an emergency and put into place immediately was made by Alderman Randy Beard and seconded by Alderman Robert Porter.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

Do you think we should go thru with Fall Festival or not?

Alderman Nancy Smith asked with everything going on do you think we will get an attendance? Alderman Randy Beard states I would not recommend it. How would this work with Social Distancing? Last year we served over 400 hot dogs and if it rained, we could not move it to the Community Building or the Fire Department because of close quarters. Alderman Robert Porter stated he had an alternate suggestion for a parade driving thru the streets and families and children receive candy that way. We could do floats in fall decorations.

Administrative assist stated to Alderman Porter we could work on that and see what we could come up with.

A motion was made to omit the Fall Festival as previously held by Alderman Katherine Fry and seconded by Alderman Myrna Burns.

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

BHE gave chairs to the city offices.

Hand to hand gave food to the city.

Story Time sponsored by Citizens Bank and Tammy Coombes 1 x month for children age 2-10, no child will be turned away even if older.

City Clean up September 26, 2020 beginning at 7 am behind City Hall until around 1 pm. We got this cheaper this year than any other year.

Approx. \$1400.

October 5, 2020 City Workers are coming back and I am not sure we are going to unlock the door just yet.

City Attorney: Sean Brister

Annexation update no change since last month report. Pending court hearing and depositions.

Police Chief: No Report

Fire Department Chief: No Report

Old Business:

Ordinance is still pending decision from Little Rock regarding moving the Court to Mulberry Complex.

Resolution for sale of property on Rhodes Street is pending a better legal description of the property.

New Business

Resolution for Mileage. After review Alderman Randy Beard made a motion to table and seconded by Alderman Robert Porter

Roll Call:

Alderman Randy Beard-yes

Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

A motion made to adjourn was made by Alderman Robert Porter and seconded by Alderman Randy Beard.

Roll Call:

Alderman Randy Beard-yes


Alderman Katherine Fry-yes

Alderman Nancy Smith-yes

Alderman Myrna Burns-yes

Alderman Robert Porter-yes

All yea.

Mayor 

Rec/Treasurer 