



SPECIAL CITY COUNCIL MEETING

May 25, 2022 at 6:00 PM

City Hall

MINUTES

CALL TO ORDER

Mayor Keeney called the meeting to order at 6:00 PM. Present were Council Member Bob Fant, Council Member Angela Perea, Council Member John Wright, Council Member Dan Cross, and Council Member Katherine Hudson. Also present were City Clerk/Treasurer Jennifer Allen, Fire Department Head Chance Wright, Building Official Clay Wilson, and City Attorney Justin Eichmann. Council Member Bob Bova was absent.

APPROVAL OF AGENDA

Mayor Keeney asked for a motion to approve the agenda. Motion made by Council Member Wright, Seconded by Council Member Hudson.

Voting Yea: Council Member Fant, Council Member Perea, Council Member Wright, Council Member Hudson, Council Member Cross.

PUBLIC COMMENT

Mayor Keeney stated on May 5 in the early morning hours the creek along Hewitt, tributary 4, breached over and then through the railroad tracks and flooded duplexes and abandoned building next to them on Hewitt, Roxanne, and Staci, in chest high water 4-5 feet deep. This made it impossible to get people out. The properties have flooded at least 4 times in recent memory, the last time was in 2017. This time was completely different. It only took 5 1/2" of rain in a brief period of time to cause this catastrophic flooding. Further investigation is needed to determine if there is anything we can do as a City to prevent this from happening again. We do not want to be the City that lets somebody die down there because we did not exhaust every avenue to try to prevent it. There may be steps we can take to mitigate this issue which is the reason for this meeting. The purpose of the moratorium is to give the City time to explore every option.

Fire Chief Chance Wright described the events of that evening and the rescue operation. They were dispatched at 3:15 AM. Because the water was so high and moving so swiftly, it was life threatening to the first responders and the boat could not be deployed safely to attempt any rescues until the water started to recede. This was an act of God that no one had any control over.

James Geurtz, City Engineer, and Flood Plain Administrator said that box culverts were put in at Elmore when Johnson Mill Boulevard was built. At that time FEMA changed the area from being in the 100-year flood plain to being in the 500-year flood plain. After the flood in 2017, which was declared a federal disaster, the City partnered with the state to restudy the area. The study came back in the fall

of 2018 stating the properties along Hewitt should be in the in the 100-year flood plain and was submitted to Washington County, the State of Arkansas and FEMA. The issue is Washington County has not completed an approved hazardous mitigation plan and FEMA is behind on the mapping which is not expected until the fall of 2023. The result is because these properties are not in the 100-year, they do not fall under the National Flood Insurance requirements. The City of Johnson code does allow the local Flood Plain Administrator to look at the existing field conditions and say the exact boundaries on the map are not correct and adopt the boundaries for this area putting it back in the 100-year flood plain. This would require anyone who comes in to get a building permit for this area to also get a flood plain development permit. In the code, an itemized list of the cost to repair a structure is required and if the cost to repair is more than 50% of the market price of the structure it would be required to come up to the new flood plain code, which in this case for residential units, is raising the finished floor 2 feet above the base flood elevation. Any permits issued would not happen until after the moratorium.

Mayor Keeney asked if there were any questions from the Council for the Fire Chief or the City Engineer. He then opened the floor to the public for comment from the people present. Thirteen total properties are in the affected area; present was Chris Elder and Attorney Travis Story, Chris Warner, Elizabeth Klein, a representative from Prosperity Holdings, 2 renters, and 2 other individuals who did not speak. The situation was discussed at length with input and questions from around the room. Most of the development in Springdale, which is where the watershed starts, everything flows south of Springdale downstream to us. The more development, the more water that is pushed downstream.

City Attorney Justin Eichmann explained the executive order issued by Mayor Keeney permits the City to suspend regulations of the City pursuant to the clean up. Allows City to coordinate with other entities to see what the regional action is going to be taken. The basis for a moratorium is police powers, health safety and welfare of the citizens of the City. Police powers are confirmed by state statute.

Mayor Keeney explained that the railroad is not a levee, and only the railroad can do anything with the tracks. To date, all they have ever done is fix it back so they can move freight. Railroads are regulated at the federal level and do not have to abide by anything the City requests. After the last flood, Mayor Keeney called everyone from the local level to the federal regulatory board to no avail. City Attorney Justin Eichmann explained that everything having to do with the railroads is extremely complicated and convoluted. The track that serves as a sort of levee does not do that very well and there is nothing, we as a City can do to change that.

There was then discussion of the need for 180-day moratorium as opposed to 90 days or another timeframe.

NEW BUSINESS

- 1. RESOLUTION NO. 2022-03: A RESOLUTION TO ESTABLISH A TEMPORARY MORATORIUM ON THE ISSUANCE OF BUILDING AND OCCUPANCY, BUILDING AND TRADE PERMITS FOR CERTAIN PROPERTIES LOCATED ON OR ABOUT HEWITT ROAD IN THE CITY OF JOHNSON, ARKANSAS.** Council Member Fant made a motion to amend Section 2 of Resolution 2022-03 changing the timeframe from one hundred eighty days (180) to ninety (90) days. Seconded by Council Member Wright. Voting Yea: Council Member Fant, Council Member Wright, Council Member Hudson. Voting No: Council Member Perea, Council Member Cross. Three Yea Votes,

Two No Votes, must have four votes to pass, Mayor Keeney voted Yea so the motion to amend the timeframe passed. Mayor Keeney asked for a motion to pass Resolution 2022-03 as amended. Motion made by Council Member Wright, Seconded by Council Member Fant. Voting Yea: Council Member Fant, Council Member Perea, Council Member Wright, Council Member Hudson, Council Member Cross.

Mayor Keeney asked for contact information for each property owner present so he could stay in contact.

MOTION TO ADJOURN

Mayor Keeney asked for a motion to adjourn the meeting. Motion made by Council Member Wright, Seconded by Council Member Fant.

Voting Yea: Council Member Fant, Council Member Perea, Council Member Wright, Council Member Hudson, Council Member Cross.

Meeting was adjourned at 7:13 PM.

Respectfully Submitted,

Jennifer Allen CMC, CAMC
City Clerk/Treasurer

Chris Keeney, Mayor