



BELLA VISTA

A place to call home

MEETING: **CITY COUNCIL WORK SESSION**

DATE AND TIME: **Monday, June 20, 2016 – 5:30 P.M.**

Location: **City Hall Conference Room**
101 Town Center, Bella Vista, Arkansas

- I. **CALL TO ORDER:** This meeting has been given public notice in accordance with the Section 25-19-106 of the Freedom of Information Act, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.

- II. **ROLL CALL:** Mayor Peter Christie, Aldermen Frank Anderson, John Flynn, Allen King, Becky Morgan, James Wozniak and Larry Wilson

- III. **NEW BUSINESS:**
 - A. **ORDINANCE NO-** AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES. **(Third reading) Tabled from May meeting.**

 - B. **ORDINANCE NO-** AMENDING SECTION 2-345 SALE OR EXCHANGE OF PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO CLARIFY AMBIGUITIES.

 - C. **ORDINANCE NO-** AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 109-166 REGULATING ACCESSORY STRUCTURES AND SECTION 109-248 REGULATING FENCE LOCATION, AND FOR OTHER PURPOSES. **(Second Reading) This was tabled at the April meeting.**

 - D. **ORDINANCE NO-** WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH THE BELLA VISTA PROPERTY OWNERS ASSOCIATION, INC. FOR BILLING

SERVICES RELATED TO SOLID WASTE COLLECTION, AND FOR OTHER PURPOSES.

- E. ORDINANCE NO-** ACCEPTING AND CONFIRMING EASEMENTS AND RIGHTS-OF-WAY DEDICATED TO THE PUBLIC ON PARCEL 18-08019-004 (9424 E. McNELLY RD) AND PARCEL 18-8019-007 (9400 E. McNELLY RD), AND FOR OTHER PURPOSES.
- F. ORDINANCE NO-** AMENDING MUNICIPAL CODE REGULATIONS CONCERNING PUBLIC NOTIFICATION PROCEDURES IN SECTION 109-38(d)(2) FOR CONDITIONAL USE PERMITS, SECTIONS 109-40(c)(2) AND (e)(5) FOR ZONING ORDINANCE AMENDMENTS, SECTION 109-42(c) FOR VARIANCES, AND SECTION 109-45 FOR GENERAL NOTIFICATION REQUIREMENTS; AND FOR OTHER PURPOSES.
- G. R2016- RESOLUTION-** ESTABLISHING SALARIES FOR MAYOR, ALDERMAN, AND CITY CLERK, BEGINNING JANUARY 1, 2017.
- H. R2016- RESOLUTION-** APPOINTING MEMBER TO THE BOARD OF ZONING ADJUSTMENT TO FILL VACATED POSITION.

ADJOURNMENT

*** Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please contact the City Clerk at 479-876-1255.

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: March 28, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Amending Section 18-20(b) of the Municipal Code Regulating the Dumping of Tree Cuttings and Other Materials, and For Other Purposes

SUBMITTED BY: Christopher Suneson, PLA

SUMMARY EXPLANATION: Under Ordinance 2008-03, the City adopted several provisions regulating nuisances including allowing the dumping of tree cuttings, tree trunks, fill dirt, and other materials to reclaim gullies and ravines. This ordinance was later codified in section 18-20(b) of the municipal code. The current language of this section reads:

“The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be permitted to reclaim gullies and ravines upon application to, and approval by, the city planning commission under the following conditions:

- (1) Written certification by the applicant that he is the legal owner of the property or that he has the written permission of the property owner.*
- (2) Access must be completely restricted to the applicant only.*
- (3) All material must be covered by fill dirt and smoothed over at intervals not to exceed two weeks.*
- (4) Compliance with any drainage ordinance passed by the city.*

Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

The City later adopted Ordinance 2011-14, which regulated land alteration activities including the filling activities that would allow the reclamation of ravines and gullies upon permit issuance from the Department.

The legislation that follows would strike most portions of this section of code to eliminate potential confusion of 1) whether the planning commission or staff issues permits for these activities and 2) methods to obtain a permit to perform these activities.

ATTACHMENT: ORDINANCE RESOLUTION OTHER

RECOMMENDATION: Staff recommends approval of this ordinance.

ACTION REQUESTED:
Motion to adopt

ORDINANCE NO. 2016- __

City of Bella Vista, Arkansas

AN ORDINANCE AMENDING SECTION 18-20(b) OF THE MUNICIPAL CODE REGULATING THE DUMPING OF TREE CUTTINGS AND OTHER MATERIALS, AND FOR OTHER PURPOSES

WHEREAS, the City Council adopted Ordinance 2008-03, regulating the dumping of tree cuttings, trunks, dirt, and other materials, which was latter codified to Section 18-20(b) of the municipal code; and

WHEREAS, the section provides for residents to apply for a permit to reclaim gullies and ravines upon approval by the Planning Commission; and

WHEREAS, the City Council subsequently adopted legislation under Ordinance 2011-14, which similarly and more completely regulates filling activities, which was later codified to Sections 107-373 through 107-388; and

WHEREAS, there is a conflict between the two referenced sections with regard to permitting authority regulating land alteration activities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

Section 1: That Section 18-20(b) of the municipal code shall be amended to read as follows:

“(b) The dumping of tree cuttings, tree trunks, fill dirt and other appropriate fill material may be allowed to reclaim gullies and ravines upon obtaining a permit pursuant Sections 107-373 through 107-388 of the municipal code. Failure to comply with the above conditions will be grounds for revocation of the permit and may result in the issuance of a citation pursuant to subsection (a) of this section. Any area currently used as a location for the dumping of stumps, vegetation waste or dirt at the time of the adoption of the ordinance from which this article is derived shall be exempt from the requirements of this subsection.”

PASSED THIS ___ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

ORDINANCE NO. _____

CITY OF BELLA VISTA, ARKANSAS

AMENDING SECTION 2-345 SALE OR EXCHANGE OF CITY PROPERTY OF THE CODE OF ORDINANCES OF THE CITY OF BELLA VISTA TO CLARIFY AMBIGUITIES

WHEREAS, the current Section 2-345 of the Code of Ordinances dealing with the sale or exchange of City property is unclear with regard to its intended meaning; and

WHEREAS, amending the section will provide much needed clarity for City administration;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: Section 2-345 of the Code of Ordinances of the City of Bella Vista, Arkansas is hereby amended so that after amendment, the Section shall read as follows:

“Sec. 2-345. Sale or exchange of city property.

Municipal supplies, materials, or equipment deemed surplus to the needs of the City may be sold or exchanged as provided in this Section.

- (a) An item or combination of items of an estimated fair market value of less than \$5,000 may be sold or exchanged by the Mayor.
- (b) An item or combination of items of an estimated fair market value of \$5,000 or more may be sold or exchanged by the Mayor:
 - (1) upon authorization by the City Council after competitive bidding; or
 - (2) after a waiver by the City Council of competitive bidding, if competitive bidding is deemed not feasible or practical; or
 - (3) at a public auction after authorization by the City Council.”

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

Requested by: Mayor
Prepared by: Jason Kelley, Staff Attorney

PROPOSED ACCESSORY STRUCTURE REGULATIONS: The following language was requested by Alderman Flynn and Anderson to replace the existing language under consideration.

Section 109-3. Definitions. The following definitions are hereby added in the appropriate location alphabetically which shall read as follows:

Front plane, means the plane of the front elevation of the principal façade(s) of the principal structure extending to the side property lines.

Rear plane, means the plane of the rear elevation of the principal structure extending to the side property lines.

Side plane, means either of the two planes of the two side elevations of the principal structure extending to the front and rear property lines.

Stable, means a facility which boards livestock.

Sec. 109-42. Variances.

(b) Administrative review of minor variance.

(1) Applicability. The director of community development services may grant minor modifications of these regulations in compliance with the following standards:

~~b. Height of a wall or fence may be increased up to 25 percent, but in no case shall a minor modification allow a fence height greater than eight feet in height.~~

~~c. Height of a building may be increased up to ten percent~~

Sec. 109-166. - Accessory buildings.

(a) *Nonresidential buildings.* An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.

(1) *Attached accessory buildings.* An accessory nonresidential building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.

(2) *Height.* Accessory nonresidential buildings shall not exceed the maximum height of twenty-five (25) feet or the highest elevation of the primary structure whichever is less. Such height of the primary structure shall be measured from the side of the structure visible from the public right-of-way.

(3) *Size.* Detached accessory nonresidential buildings shall not exceed 720 square feet in area, regardless of location on the same lot or on an adjacent lot.

(4) *Detached accessory buildings on the same lot.*

a. No more than three (3) detached accessory buildings may be erected on the same lot.

b. Detached accessory nonresidential buildings shall be placed ten (10) feet away from the principal building.

b. Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, and shall be constructed at or behind the front plane of the principal building. Exceptions:

1. Such structures may be placed within building setbacks if it is screened from public view with an opaque screen.

2. For parcels in residential zones at or above four (4) acres in area, detached accessory nonresidential buildings may be placed forward of the front plane of the principal building.

(5) Detached accessory buildings on adjacent lots.

a. In residential districts, no more than one (1) detached accessory building may be erected on a lot adjacent to a lot containing a principal residential structure under the same ownership. Such limitation shall apply to all lots under the same ownership adjacent to the lot containing the principal residential structure.

b. Detached accessory buildings on adjacent lots shall be limited to 720 square feet in area.

(6) Stables. Stables shall be considered accessory nonresidential structures and shall meet the setback requirements as set forth in the zoning district in which they are located.

(7) Accessory buildings absent principal buildings. Except as provided in Section (5)a of this section, this Code shall not be interpreted so as to permit, as of right, or through any conditional use or variance, an accessory nonresidential building use on a lot not containing a principal building. Any such accessory building use shall only be permitted in coordination with the location of a principal building.

(b) Accessory dwellings.

(1) Residential districts. Detached dwelling units shall meet the setback requirements for the zoning district in which it is located. The detached dwelling unit shall be no larger than 50 percent of the size of the primary structure and no taller than the height of the primary structure.

(2) C-1 and C-3 Districts. Density limitations for attached residential uses in the C-1 District shall follow that of the R-3 District. Density limitations for the C-3 District are set forth in the bulk and area regulations for the C-3 District.

(3) C-2, I-1 and I-2 Districts. Density limitations shall follow that of the R-3 District. The building site and yard area must be separate and distinct from off-street parking spaces and setback areas required for the principal structure and shall include a minimum of 4,200 square feet of land area. The residential structure shall be located to meet required setbacks from exterior boundaries of the total tract.

PROPOSED FENCE REGULATIONS: The following language was presented to City Council at the May 16, 2016, work session and was suggested by Staff. The ~~strikeout~~ and bold text additions in Section 109-248(b) are requested revisions by Alderman John Flynn.

Sec. 109-42. Variances.

- (b) *Administrative review of minor variance.*
 - (1) *Applicability.* The director of community development services may grant minor modifications of these regulation in compliance with the following standards:
 - ~~b. Height of a wall or fence may be increased up to 25 percent, but in no case shall a minor modification allow a fence height greater than eight feet in height.~~

Sec. 109-248. Fence location.

- (a) *Generally.* No fence shall be erected on any property without the consent of all owners of the property. Fences shall not encroach onto adjoining property not owned by the owner of the fence, nor shall any fence encroach upon any right-of-way. Fences may be located directly adjacent to existing fencing or attached to such fencing with the consent of the fence owner.
- (b) *Front yard.*
 - (1) For purposes of this subsection, the term 'front yard' shall be defined as any portion of a lot forward of the footprint of the primary structure on the lot. In the case of corner lots, the 'front yard' shall be delineated by the orientation of the primary pedestrian entry to the structure.
 - (2) For residentially zoned lots less than ~~one (1) acre~~ **four (4) acres** in area, fences shall be limited to four (4) feet in height in the front yard.
 - (3) For residentially zoned lots ~~one (1) acre~~ **four (4) acres** or more in area, fences taller than four (4) feet in height may be erected in the front yard, if the fence is located to delineate a property boundary and does not provide seclusion or privacy from public view. Such fences shall not exceed eight (8) feet in height.
 - ~~(4) For all other zoning districts, fences erected in the front yard shall not exceed eight (8) feet in height.~~
- (c) *Rear and side yards.*
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.
 - (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
 - (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section §109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.

- (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.
- (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

ORDINANCE NO. 2016- __

City of Bella Vista, Arkansas

AN ORDINANCE AMENDING MUNICIPAL CODE SECTION 109-166 REGULATING ACCESSORY STRUCTURES AND SECTION 109-248 REGULATING FENCE LOCATION, AND FOR OTHER PURPOSES

WHEREAS, the City Council has determined that current regulations affecting the placement and height of accessory structures are in need of revision and referred the question of how best to do so to the Planning Commission; and

WHEREAS, the Planning Commission held several work sessions to determine how to best regulate the placement and height of accessory structures; and

WHEREAS, the Planning Commission held several work sessions to determine how to best regulate fencing; and

WHEREAS, the Planning Commission held separate public hearings for accessory structure regulations and fence regulations on Monday, March 14, 2016, where it heard comments from the public on the proposed regulations and recommended approval of the both sets of amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

Section 1: That Section 109-166 of the municipal code shall be amended to read as follows:

Sec. 109-166. - Accessory buildings.

- (a) *Nonresidential buildings.* An accessory nonresidential building may be erected detached from the principal building, or, except when a stable, may be erected as an integral part of the principal building.
 - (1) *Attached accessory.* An accessory building attached to a main building shall be made structurally a part and have a common wall with the main building and shall comply in all respects with the requirements of this article applicable to the principal building.
 - (2) *Setbacks.* Detached accessory nonresidential buildings shall meet all setbacks for the zone as designated, and shall not extend beyond the front plane of the house. In the case of corner lots, accessory structures must not be placed between a street right-of-way and the side plane of the house unless the structure is located behind the rear plane of the house.
 - (3) *Height.* Accessory buildings shall not exceed the maximum height of twenty-five (25) feet nor the highest elevation of the primary structure whichever is less.
 - (4) *Barns and stables.* Barns and stables shall be considered nonresidential accessory structures and shall meet the setback requirements as set forth in the zoning district in which they are located.

Section 2: That Section 109-248 of the municipal code shall be amended to read as follows:

Sec. 109-248. - Fence location.

- (a) *Private property.* All fences shall be located on private property and shall be built with the consent of the property owner. The fence installer and/or property owner shall be

responsible to correctly locate property boundaries. Fences shall not encroach onto adjoining property or rights-of-way.

- (b) *Front yard.*
 - (1) A fence shall not be located in the front yard but may be positioned in compliance with other regulations of this section.
 - (2) For corner lots, only one street right-of-way shall be considered the front of the lot. For purposes of this section, the front shall be defined by the orientation of the primary pedestrian entry to the structure.
- (c) *Rear and side yards.*
 - (1) A fence that does not cross any portion of the front yard may begin on a rear or side property line at the full height of the fence, but shall not exceed eight feet (8') in height from the ground below the fence.
 - (2) When placed along a side property line, a fence shall not be placed any closer to a street right-of-way than the front building setback of the parcel on which it is located or the adjacent parcel, whichever is less restrictive.
 - (3) A fence may be located in the rear or side yard, but shall be in compliance with other regulations of this section.
- (d) *Sight triangle.* Fences constructed near driveways and street intersections shall stay clear of all sight triangles in order to provide a reasonable degree of traffic visibility. See Section §109-3 for the definition and reference dimensions of a sight triangle.
- (e) *Easements.*
 - (1) *Utility easements.* Construction of fences in utility easements is permitted, but the fence installer and/or property owner assumes some risk by doing so. The fence enclosing utility easement shall have a gate installed to permit access to the easement.
 - (2) *Drainage easements.* Fences shall not impede the normal flow of stormwater and shall not cross an open drainage channel. Fences proposed in drainage easements shall be approved on a case by case basis.
 - (3) *Access easement.* Fences shall not be constructed over a public access easement. Fences proposed over private emergency access easements must be approved by the fire department to ensure adequate access for emergency vehicles and equipment at all times.

PASSED THIS ____ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, Director of Community Development Services

ORDINANCE NO _____

CITY OF BELLA VISTA, ARKANSAS

WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH THE BELLA VISTA PROPERTY OWNERS ASSOCIATION, INC. FOR BILLING SERVICES RELATED TO SOLID WASTE COLLECTION, AND FOR OTHER PURPOSES

WHEREAS, the City of Bella Vista has made use of the Bella Vista Property Owners Association, Inc. as a billing agent for solid waste services since the City began providing solid waste services; and

WHEREAS, efficiency in billing and simplicity for residents is provided by using the services of the Bella Vista Property Owners Association, Inc. to provide one all-encompassing bill to residents; and

WHEREAS, formal competitive bidding is not feasible or practical in that there are no other entities in the City that could provide this efficiency and simplicity for City residents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1. The City Council of the City of Bella Vista, Arkansas hereby determines that the above circumstances make formal competitive bidding not feasible or practical and therefore waives the requirement of formal competitive bidding and authorizes the Mayor and City Clerk to enter into a contract with the Bella Vista Property Owners Association, Inc. in the amount of \$0.75 per billing account per month for the provision of billing services related to solid waste collection. This authorization shall be deemed effective as of January 1, 2016.

PASSED THIS _____ DAY OF _____, 20_____.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON, CITY CLERK

Requested by Mayor
Prepared by Jason Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: June 27, 2016 – Regular Meeting

AGENDA ITEM:

ITEM TITLE: An Ordinance Accepting and Confirming Easements and Rights-of-Way
Dedicated to the Public on Parcels 18-08019-004 (addressed 9424
E. McNelly Road) and 18-08019-007 (addressed 9400 E. McNelly
Road) and for other purposes

SUBMITTED BY: Christopher Suneson, PLA, AICP

SUMMARY: The Planning Commission reviewed PLA-2016-23811 on June 13, 2016, where it received a unanimous vote to accept the required easement and right-of-way dedications depicted.

The survey instrument incorporated into the ordinance adjusts a property line between two subject parcels. The parcels are in sectional land that has never had easements dedicated. The City's subdivision regulations requires the dedication of easements and right-of-way when subdividing land.

ATTACHMENT: Ordinance Resolution Other

RECOMMENDATION: Staff recommends approval of this ordinance, and is requesting that the City Council waive its normal three (3) readings to expedite the dedications to the public as well to accommodate a loan closing that is scheduled to occur as soon as the plat can be signed and recorded at the County offices.

ACTION REQUESTED: Motion to adopt

ORDINANCE NO. 2016-_____

ACCEPTING AND CONFIRMING EASEMENTS AND RIGHTS-OF-WAY DEDICATED TO THE PUBLIC ON PARCEL 18-08019-004 (9424 E. McNELLY RD) AND PARCEL 18-8019-007 (9400 E. McNELLY RD), AND FOR OTHER PURPOSES.

WHEREAS, A.C.A. 14-301-102 requires that publicly dedicated easements within the City be accepted and confirmed by an ordinance specifically passed for that purpose; and

WHEREAS, the Planning Commission reviewed the dedication plat on June 13, 2016 where it gained unanimous support.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Bella Vista, Arkansas:

Section 1: The public easements and rights-of-way shown in the attached Exhibit 'A', which is made a part hereof, are hereby accepted and confirmed for public use.

PASSED THIS ___ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

**BUSINESS OF THE CITY COUNCIL
BELLA VISTA, AR**

MEETING DATE: June 27, 2016

AGENDA ITEM:

ITEM TITLE: Amending Regulations Concerning Public Notification Procedures in Municipal Code Section 109-38(d)(2) for Conditional Use Permits; Municipal Code SectionS 109-40(c)(2) and (e)(5) For Zoning Ordinance Amendments; Municipal Code Section 109-42(c) for Variances; Municipal Code Section 109-45 for General Notification Requirements; and for other purposes

SUBMITTED BY: Christopher Suneson, PLA, AICP

SUMMARY: The Planning Commissioners tasked staff to review and compare the City's legal notification requirements to those of Bentonville, Rogers, Centerton, and Benton County. After providing that information at a work session, the Commission directed staff to draft language reflecting fewer public notification requirements.

Currently the applicants pay for a newspaper publication, post at least one 4'x4' sign on the property, and send certified mail to adjacent owners in a 400-foot radius.

The following ordinance language would simplify these requirements, depending on the type of application requiring public notice:

- Conditional use permit (Zoning Code Section 109-38):
 - City now publishes in the newspaper
 - City now posts sign in yard
 - Applicant still sends certified mail owners in 200-ft. radius
- Rezoning (Zoning Code Section 109-40):
 - City now publishes in the newspaper
 - City now posts sign in yard
 - Applicant still sends certified mail owners in 200-ft. radius
- Variances (Zoning Code Section 109-42):
 - City now publishes in the newspaper
 - City now posts sign in yard
- General notifications (Zoning Code Section 109-45):
 - New subsection (d) provides details for each type of legal notification

ATTACHMENT: Ordinance Resolution Other

RECOMMENDATION: Planning Commission recommend approval of the changes created by this ordinance at its regular meeting on June 13, 2016.

ACTION REQUESTED: Motion to adopt

ORDINANCE No. 2016-__

AMENDING MUNICIPAL CODE REGULATIONS CONCERNING PUBLIC NOTIFICATION PROCEDURES IN SECTION 109-38(d)(2) FOR CONDITIONAL USE PERMITS, SECTIONS 109-40(c)(2) AND (e)(5) FOR ZONING ORDINANCE AMENDMENTS, SECTION 109-42(c) FOR VARIANCES, AND SECTION 109-45 FOR GENERAL NOTIFICATION REQUIREMENTS; AND FOR OTHER PURPOSES

WHEREAS, the City Council passed Ordinance 2009-23 to adopt the Zoning Ordinance Section 300.06; and passed Ordinance 2011-11 to amend the public notification requirements of said sub-section; and which sub-section 300.06 was later codified to Section 109-38 (Conditional Use Permits) of the municipal code with sub-sections (a) through (e);

WHEREAS, the City Council passed Ordinance 2009-23 to adopt the Zoning Ordinance Section 300.08; and passed Ordinance 2011-11 to amend the public notification requirements of said sub-section; passed Ordinance 2014-20 to amend the public notification requirements when the Planning Commission initiates an amendment; and which sub-section 300.08 was later codified to Section 109-40 (Zoning Ordinance Amendments) of the municipal code with sub-sections (a) through (e);

WHEREAS, the City Council passed Ordinance 2009-23 to adopt the Zoning Ordinance Section 300.10; and passed Ordinance 2011-11 to amend the public notification requirements of said sub-section; and which sub-section 300.10 was later codified to Section 109-42 (Variances) of the municipal code with sub-sections (a) through (h);

WHEREAS, the City Council passed Ordinance 2009-23 to adopt the Zoning Ordinance Section 300.15; and passed Ordinance 2011-11 to amend the public notification requirements of said sub-section; and which sub-section 300.15 was later codified to Section 109-45 (General Notification Requirements) of the municipal code with sub-sections (a) through (h); and

WHEREAS, these sections provide the procedures and requirements for public notifications for conditional use permits, zoning ordinance amendments, variances, and general public notifications.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, AR:

Section 1: That Section 109-38(d)(2) of the municipal code shall be amended to read as follows:

“(2) Public notification shall occur pursuant to Subsections 109-45(d)(1) through (3) before a conditional use application may be reviewed by the planning commission.”

Section 2: That Section 109-40(c)(2) of the municipal code shall be amended to read as follows:

“(2) Public notification and hearing. The planning commission shall hold a public hearing on the proposed amendment. Public notification for property owner-initiated zoning ordinance amendments shall occur pursuant to Subsections 109-45(d)(1) through (3) before such an application may be reviewed by the planning commission.”

Section 3: That Section 109-40(e)(5) of the municipal code shall be amended to read as follows:

“(5) Additional Notification for Map Amendments. Changes in zoning district classifications illustrated on the Zoning Map initiated by the planning commission shall be made in the following manners:

- a. The City shall, pursuant to the legal notification requirements listed in Code Subsections 109-45(d)(1) and (2), alert the public to all planned amendments to either the Zoning Ordinance or the Zoning Map.
- b. In the case of multiple tracts of land, at least one (1) sign required by Section 109-45(d)(2) shall be posted along each road adjoining the parcels under consideration and at least one (1) sign shall be

posted along any roads classified as Collector, Minor Arterial, or Major Arterial.”

Section 4: That Section 109-42(c) of the municipal code shall be amended to read as follows:

“(c) Public notice and hearing. Public notification shall occur pursuant to Subsections 109-45(d)(1) and (2) before a variance application may be reviewed by the Board of Zoning Adjustments.”

Section 5: That Section 109-45 of the municipal code shall be amended to read as follows:

“(a) Timeframe. In calculating the time period for public notification, the day of publishing, posting, or mailing shall be counted toward the total number of days required herein. The day of the hearing shall not be counted toward this total.

“(b) The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of the applicable sections. Substantial compliance for these public notices shall be determined by the director of the department of community development services.

“(c) In the event the applicant does not provide notice as required herein, the requested application may not be considered until all notification requirements are met.

“(d) Public notification and hearing.

(1) Published notice. The staff of the department of community development services shall publish a notice of public hearing in a newspaper of general circulation in the city, at least one time, 15 days prior to the hearing. This public notice shall include:

- a. The application type being sought;
- b. The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);
- c. The time, date and place of the public hearing;
- d. The property owner's and/or developer's name; and
- e. City contact location where information about the application may be reviewed by interested parties.

(2) Posted notice.

- a. The staff of the department of community development services shall post a sign on the property for which the application is being sought at least 7 days prior to the date of the public hearing. Additional signs may be required to be posted when multiple street frontages occur on the subject parcel(s).
- b. The sign shall be in plain view of and easily readable from a public or private street.
- c. Such sign shall be clearly visible, unobstructed to the passing general public, and posted on or near the existing front property line.

(3) Written notice or petition.

- a. The applicant shall be required to notify, by either certified mail (with return receipts) or by petition, all property owners within 200 feet of the boundary of the subject property of his application. Such notifications must occur no less than 15 days prior to the established date of the public hearing. If the applicant is unable to determine the adjacent property owners, the staff of the department of community development services may assist identifying them.
- b. The written notice or petition shall contain all of the following information:
 1. The application type being sought by the applicant;
 2. The location including legal description and address (if no address is available, a description which is clear to the average lay person will suffice);
 3. The time, date, place, and location of the public hearing;
 4. The property owner's and/or developer's name; and
 5. City contact location where information about the application may be reviewed by interested parties.
- c. When a petition is used instead of certified mail for notifying adjoining owners, it shall also

include:

1. Each adjoining property owner's name and address shall be pre-printed on the petition;
 2. Each signature should be placed on a line next to the respective address; and
 3. Each signature should be followed by the date the signature was attached to the petition.
 4. If multiple individuals are listed as adjacent owners, all owners should be listed separately on the petition, but only one signature for the respective address is required.
- d. The postmarked certified receipts and/or petitions shall be submitted to the staff of the department of community development services pursuant to the city development calendar along with:
1. A map showing the location of the property in question as well as the owners within 200 feet of the property; and
 2. A letter from the applicant certifying that the map shows a complete list of those property owners."

PASSED THIS ___ DAY OF _____, 2016.

Motion to adopt made by:

Ayes:

Nays:

Motion:

APPROVED:

Mayor Peter Christie

ATTEST:

Wayne Jertson
City Clerk

APPROVED AS TO FORM:

Jason B. Kelley, Staff Attorney

Prepared by: Christopher Suneson, PLA, AICP, Director of Community Development Services

RESOLUTION NO. _____

CITY OF BELLA VISTA, ARKANSAS

ESTABLISHING SALARIES FOR MAYOR, ALDERMAN, AND CITY CLERK, BEGINNING JANUARY 1, 2017

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:

SECTION 1: The annual salary compensation, beginning January 1, 2017, for the elected officials of Mayor, Alderman, and City Clerk shall be as follows:

Mayor- \$82,064.02 annually
Alderman- \$6,211.16 annually
City Clerk- \$9,102.00 annually

SECTION 2: Benefits qualifications for full-time elected officials, as established by previous Resolution, shall remain unchanged.

PASSED THIS _____ DAY OF _____, 2016.

APPROVED:

PETER CHRISTIE
MAYOR

ATTEST:

WAYNE JERTSON
CITY CLERK

CITY OF BELLA VISTA

101 TOWN CENTER / P.O. BOX 5655
 BELLA VISTA, ARKANSAS 72714
 OFFICE: 479-876-1255 FAX: 479-876-1734
 www.bellavistaar.gov



BELLA VISTA
A place to call home

Application for Commission or Board Appointment

Instructions: Fill out the entire applicant information and sign your name in the appropriate box. Unsigned applications will not be considered. Check one Board or Commission on which you are willing to serve. A resume may be attached.

Applicant Information	
Name:	Larry Wilms
Address:	109 Mayfair Dr
City:	Bella Vista
State:	AR
Zip:	72719
Home Phone Number:	479/876-1991
Work Phone Number:	479/795-2750 x21
Cell Phone Number:	
Email:	
Occupation:	Planning Asst.
Place of Employment:	City of Centerton
Number of years you lived in Bella Vista:	
Board or Commission	Duties
<input type="checkbox"/> Planning Commission	<ul style="list-style-type: none"> Reviews and approves development proposals for compliance with City Codes; Makes recommendations to the City Council for rezoning applications; Makes recommendations to the City Council on long range, City-wide plans; Members must be City residents and serve for a four (4) year appointment; and Members attend two (2) regularly scheduled meetings per month (1st Wednesday and 2nd Monday).
<input checked="" type="checkbox"/> Board of Zoning Adjustment	<ul style="list-style-type: none"> Reviews and decides appeals of staff interpretations of the Zoning Code; Hears and decides petitions for variances from the Zoning Code; Determines zoning district boundaries where discrepancies exist; Members must be City residents and serve for a <u>three (3) year appointment</u>; and Members attend one (1) regularly scheduled meeting per month if there is business to conduct (<u>3rd Wednesday</u>).
<input type="checkbox"/> Board of Construction Appeals	<ul style="list-style-type: none"> Reviews and decides appeals of staff interpretations of the technical codes related to building construction; Hears and decides petitions for variances from technical codes; Members must be City residents and serve for a three (3) year appointment; and Members attend one (1) scheduled meeting per month if there is business to conduct.
<input type="checkbox"/> Public Safety Committee	<ul style="list-style-type: none"> Provides guidance, education and training to the public and City regarding emergency management & wildland fires issues; Develops community wildfire prevention plan; Plans for Public Safety Day & FireWise Day Meetings held on the first Wednesday of each month
<input type="checkbox"/> Library Advisory Board	<ul style="list-style-type: none"> Oversees the operations of the Library and Appoints the Library Director; Members must be City residents and serve for a five (5) year term after initial appointment; and Meetings held at least once per calendar quarter, or more often as necessary.

1. What qualifications and experience do you have that make a contribution to the Board or Commission selected?

Former city engineer; Previously have served on a number of Planning Commissions as a Voting Member and as a Professional Resource person.

Have served on several Boards of Zoning Adjustment, including a former member of the Bella Vista BZA after the City initially organized. It was necessary to resign due to conflicts with work assignment(s) negating my ability to continue giving needed attention and meeting attendance.

2. Briefly explain your interest in being appointed to the selected Board or Commission.

Bring extensive experience on and with BZA's as prior member and as Applicant or Applicant's Representative when a practicing consulting engineer.

I have desire to 'give back' service to my City by serving on this Board.

By my signature below, I indicate my willingness to serve on the Board or Commission checked in the box above. I also indicate my understanding of the time commitment involved. I further authorize the City to consider the foregoing statements in considering an appointment.

Signature: _____

Date: _____

Please return completed applications to the City Hall offices between 8:00 am and 4:30 pm.

RESOLUTION NO. R2015-_____

**APPOINTING MEMBER TO THE BOARD OF ZONING ADJUSTMENT
TO FILL VACATED POSITION**

WHEREAS, the City Council passed Ordinance 2009-23 to adopt the Zoning Code and passed Ordinance 2011-04 to adopt amendments to the Zoning Code which added positions to the Board of Zoning Adjustment;

WHEREAS, the Board of Zoning Adjustments now consists of seven members who serve staggered three-year terms that expire on October 1 of each year;

WHEREAS, Position 2 on the board is currently vacant;

WHEREAS, the current term for Position 2 is due to expire on October 1, 2017; and

WHEREAS, members of the Board of Zoning Adjustments are appointed by the Mayor and approved by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS, based on the recommendation of the Mayor, that the following individual with the term expiration noted shall be appointed to the Board of Zoning Adjustment:

<u>Position</u>	<u>Name</u>	<u>Term Expiring October 1:</u>
2.	Mr. Larry Wilms	2017

Passed this _____ day of _____, 2016.

APPROVED:

Peter Christie
Mayor

ATTEST:

Wayne Jertson
City Clerk