

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
JANUARY 10, 2012**

MEMBERS PRESENT:

MAYOR HERMAN EARWOOD
MAYOR PRO TEM JOANN GORDON
COUNCIL MEMBER JOANN BUTLER
COUNCIL MEMBER STEVE HOLLAND
COUNCIL MEMBER JOE CREWS
COUNCIL MEMBER R.R. "BOB" MINTER

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
FIRE CHIEF RON SHORT
PUBLIC WORKS DIRECTOR JAMES HATLEY
COMMUNITY CENTER DIRECTOR SHIRLEY WHEAT
COMMUNITY CENTER DIRECTOR SHIRLEY BLOOMFIELD
OFFICE MANAGER PAULA BAGWELL
POLICE LIEUTENANT AVIN CARTER
SECRETARY SUSAN STEWART
CITY ATTORNEY BETSY ELAM

1. CALL TO ORDER

With a quorum present, Mayor Earwood called the Regular Meeting of the River Oaks City Council to order at 7:00 p.m. on Tuesday, January 10, 2012 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

3. PLEDGE OF ALLEGIANCE TO UNITED STATES FLAG AND THE TEXAS FLAG

Mayor Earwood introduced David Sheppard and his son Cameron Sheppard. Cameron was recently acknowledged by the Castleberry School Board for outstanding reading performance in the regional reading bee.

Cameron Sheppard led the pledges of allegiance to the United States and the Texas Flags.

2. INVOCATION

Public Works Director Hatley delivered the Invocation.

4. READING OF PROCLAMATION(S) BY MAYOR:

Mayor Earwood announced that a proclamation was presented to Castleberry ISD School Board Members in honor of School Board Recognition Month.

5. CONSENT AGENDA: ALL ITEMS UNDER THIS SECTION ARE RECOMMENDED FOR APPROVAL FOR THE "CONSENT AGENDA". THESE ITEMS ARE OF A ROUTINE NATURE AND REQUIRE ONLY BRIEF DELIBERATION BY COUNCIL.

- A. MINUTES OF REGULAR COUNCIL MEETING DECEMBER 13, 2011
- B. BILLS PAYABLE FOR PERIOD ENDING JANUARY 10, 2012

- C. CONSIDER APPROVAL OF THE BIG IMPROVEMENT GRANT APPLICATION AS RECOMMENDED BY E.D.C. FOR KEITH STEELE ON THE PROPERTY AT 5175 RIVER OAKS BLVD.
- D. CONSIDER APPROVAL OF THE BIG IMPROVEMENT GRANT APPLICATION AS RECOMMENDED BY E.D.C. FOR KEITH STEELE ON THE PROPERTY AT 5177 RIVER OAKS BLVD.

Mayor Earwood requested that consent agenda items C and D be removed from the consent agenda for further discussion.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve consent agenda items A and B as presented. All voted "Aye."

6. **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.

Mayor Pro Tem Gordon summarized the recommendation of the EDC for the properties at 5175 River Oaks Boulevard and 5177 River Oaks Boulevard. The applicant had submitted two applications for BIG projects. Tarrant Appraisal District and the City Water Department indicate only one piece of property addressed as 5177 River Oaks Boulevard. According to the BIG program guidelines, only one request may be approved. The applicant has withdrawn his request for 5175 River Oaks Boulevard. EDC Board Members have scheduled a workshop for March 5, 2012 to consider changes to the BIG program.

Mayor Pro Tem Gordon moved, seconded by CM Minter, to deny the BIG application for 5175 River Oaks Boulevard and to approve the BIG application in the amount of \$10,000 for 5177 River Oaks Boulevard. All voted "Aye."

Mayor Pro Tem Gordon requested that Staff invite the businesses in River Oaks to participate in the workshop.

PERSONAL APPEARANCES AND ITEMS REQUIRING COUNCIL APPROVAL/ACTION:

7. CONSIDER APPROVAL OF THE 2011 DELINQUENT TAX REPORT AS PRESENTED BY LYNN STAVINOHA OF PERDUE, BRANDON, FIELDER, COLLINS & MOTT, LLP.

Tax Attorney, Lynn Stavinoha, delivered the delinquent tax report as follows: As of December 20, 2011, there were 181 outstanding accounts totaling \$111,064.83 in delinquent taxes owed to the City. Of those, \$5,500.74 is related to bankruptcy; \$77,087.02 is in litigation; \$1,939.15 is related to bad addresses; and \$25,473.48 in other action pending.

Mayor Pro Tem Gordon moved, seconded by CM Holland, to accept the delinquent tax report as presented. All voted "Aye."

8. DISCUSSION AND/OR ACTION ON THE DELINQUENT TAX SALE PERTAINING TO THE PROPERTY AT 1129 ST. EDWARDS AS PRESENTED BY LYNN STAVINOHA OF PERDUE, BRANDON, FIELDER, COLLINS & MOTT, LLP.

Tax Attorney, Lynn Stavinoha, gave an update on the property at 1129 St Edwards. The property is eligible to be sold for delinquent taxes on the steps of the court house in February. Ms. Stavinoha explained the process and the options available to the City if the property does not receive any bids.

CM Holland moved, seconded by CM Butler, to approve the delinquent tax sale of 1129 St. Edwards. All voted "Aye."

9. DISCUSSION AND/OR ACTION ON AMENDING UTILITY BILLING FOR MULTIPLE UNITS AS PROVIDED FOR IN THE CODE OF ORDINANCES.

CS Gregory explained that Staff had recently discovered approximately sixteen accounts that are not being billed correctly for additional living units on the same piece of property.

[At 7:33 p.m. Mayor Earwood left the dais, and Mayor Pro Tem Gordon assumed the role of presiding officer.]

CS Gregory stated that the current ordinance states when there is more than one unit, each unit must be charged for water, sewer, and sanitation based on the number of units. CS Gregory offered the suggestion that account holders could request an inspection to prove that additional structures are not occupied, although this would be difficult to verify on an ongoing basis.

[At 7:37 p.m. Mayor Earwood returned to the dais.]

CS Gregory cited the definition of single-family as having only one kitchen (stove, sink and refrigerator) on the property.

Staff was directed to notify the affected parties in writing of the ordinance and to process with proper billing as the ordinance specifies.

No action was taken.

10. CONSIDER APPROVAL OF THE RETIREMENT NOTICE OF POLICE CHIEF DAN CHISHOLM.

Mayor Earwood and Council Members expressed individual appreciation to Police Chief Chisholm for his many years of dedicated service.

Mayor Earwood suggested that a joint retirement party and welcoming celebration take place for PC Chisholm, Linda Claridge and Bob Minter, should he choose not to seek re-election.

PC Chisholm expressed gratitude for the opportunity to serve as the Police Chief. He stated his faith in Lieutenant Carter and the rest of the department to continue providing quality service to the citizens. PC Chisholm thanked Linda Claridge for her many years of service as his assistant.

CM Crews moved, seconded by Mayor Pro Tem Gordon, to approve the retirement of Police Chief Dan Chisholm. All voted "Aye."

11. CONSIDER APPROVAL OF THE MAYOR'S RECOMMENDATION FOR THE REORGANIZATION OF THE RIVER OAKS POLICE DEPARTMENT.

Mayor Earwood gave his recommendation to replace Police Chief Chisholm with Lieutenant Avin Carter.

Lieutenant Carter presented a re-organization plan that includes promoting Sergeant Spieldenner to a newly created position of Deputy Chief, another newly created position of CID Sergeant and the promotion of Dispatcher Candi Mouton to Administrative Assistant. Lieutenant Carter explained the reorganization plan that leaves one open position for a patrol officer. Lieutenant Carter stated his expectation of increased productivity.

CA Elam stated that the reorganization could be approved as a concept and placed on the next agenda to discuss specific employees in executive session, specifically the high ranking positions of Police Chief and Deputy Police Chief.

CM Holland moved, seconded by CM Butler, to approve the reorganization of the River Oaks Police Department as recommended by the Mayor. All voted "Aye."

12. DISCUSSION/ACTION REGARDING SCHEDULING HEARINGS FOR THE REZONING OF PROPERTIES IN THE 700 BLOCK OF ISBELL RD.

CS Gregory requested Council direction to consider rezoning the property in the 700 block of Isbell to Single-Family R-5. CS Gregory mentioned that R-5 does allow for manufactured housing.

CM Butler moved, seconded by Mayor Pro Tem Gordon, to direct staff to initiate the rezoning of the 700 block of Isbell. All voted "Aye."

13. UPDATE ON FIRE MERGER AS PRESENTED BY MAYOR PRO-TEM GORDON AND COUNCILMAN STEVE HOLLAND.

Mayor Pro Tem Gordon gave an update on the possible fire department merger of River Oaks, Westworth Village, and Sansom Park. All three entities appear to be interested. Sansom Park is reported to be in the process of building a new city hall and fire station. The issue at hand appears to be the responsibility of funding. FC Short reported an upcoming meeting between the fire chiefs on Friday January 13, 2011. FC Short stated

his recommendation for each entity is to pay an equal amount of approximately \$210,000.

No action was taken.

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

14. **PUBLIC HEARING CONTINUED FROM DECEMBER 13, 2011:** IN ORDER TO RECEIVE PUBLIC COMMENT AND TESTIMONY ON THE **SITE PLAN PROPOSAL** IN COMPLIANCE WITH SEC. 25 "SITE PLAN REQUIRED" OF THE CITY'S ZONING ORDINANCE AS REQUESTED FOR BY VEGA FAMILY TRUST IN ORDER TO OPERATE A RECYCLING FACILITY AT 715 ISBELL RD. LEGALLY DESCRIBED AS BEING BLOCK 3, LOT 15; WEATHERFORD RW S/D LOCATED IN AN "I" INDUSTRIAL ZONING DISTRICT. **(ZONING CASE # SP2011-0002).**

Mayor Earwood announced that this public hearing was continued from December 13, 2011.

Mayor Earwood stated his understanding was that the request had been withdrawn by the applicant.

David Vega was present to verify the withdrawal.

At 8:39 p.m. Mayor Earwood closed the public hearing.

15. **ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF THE PROPOSED **SITE PLAN PROPOSAL** IN COMPLIANCE WITH SEC. 25 "SITE PLAN REQUIRED" OF THE CITY'S ZONING ORDINANCE AS REQUESTED FOR BY VEGA FAMILY TRUST IN ORDER TO OPERATE A RECYCLING FACILITY AT 715 ISBELL LEGALLY DESCRIBED AS BEING BLOCK 3, LOT 15; WEATHERFORD RW S/D LOCATED IN AN "I" INDUSTRIAL ZONING DISTRICT **(ZONING CASE # SP2011-0002).**

No action was taken.

16. **ADMINISTRATIVE HEARING:** PURSUANT TO SECTION 3.07.013013 OF THE RIVER OAKS CODE OF ORDINANCES IN ORDER TO ASSESS A CIVIL PENALTY AGAINST THE PROPERTY OWNER AT **1205 CHURCHILL RD.** FOR FAILURE TO COMPLY WITH AN ORDER ISSUED BY THE BOARD PURSUANT TO [SECTION 3.07.007](#) OF THE RIVER OAKS CODE OF ORDINANCES (2006).

At 8:40 p.m. Mayor Earwood opened the public hearing.

CS Gregory reviewed the previous order of the City Council from August 23, 2011 to repair the substandard property at 1205 Churchill that expired on November 21, 2011. No permits have been obtained. The Council order had required the immediate cleanup of the inside of the structure, removing all junk and debris. Civil penalties may be assessed in the amount of up to \$1,000 per day for each day that the property is in violation. The property is owned by a bank and is not a homestead.

Tom Bracket, attorney for the owner (Wells Fargo), was present stating that he was also present for the City Council meeting on August 23, 2011. Mr. Bracket stated that he had conveyed the requirements to his client. Mr. Bracket stated that his client feels that the repairs have been made and they had requested an inspection with the City Building Inspector. Mayor Earwood stated that if the work has been completed, it was done without proper permitting through the City. Mr. Bracket stated that his client was unaware that permits were required. Secretary Stewart reported that she had documentation that the orders and checklist were mailed to Wells Fargo and emailed to a representative of Wells Fargo. Stewart added that she verbally told the representative that building, mechanical, plumbing and electrical permits were required. Stewart stated that a third party contractor had attempted to open water service on January 4, 2012 but was denied by staff for failure to present a plan of action and obtain proper permitting. Mr. Bracket then requested additional time. It was noted that working without proper permitting carries a penalty of double fees. CS Gregory verified that the property is feasible of repair. CM Crews mentioned that the property condition is declining. Discussion occurred related to the civil penalties. CS Gregory stated that the evidence must show that the property owner was notified of the contents of the order issued pursuant to section 3.07.004 and that the property owner committed an act in violation of the order or failed to take action necessary for compliance with the order.

At 8:59 p.m. Mayor Earwood closed the public hearing.

17. **ACTION FROM THE ADMINISTRATIVE HEARING:** CONSIDER ORDERS TO ASSESS A CIVIL PENALTY PURSUANT TO SECTION 3.07.013 AGAINST THE PROPERTY OWNER AT **1205 CHURCHILL RD.** FOR FAILURE TO COMPLY WITH AN ORDER ISSUED BY THE BOARD PURSUANT TO [SECTION 3.07.007](#) OF THE RIVER OAKS CODE OF ORDINANCES (2006).

CM Crews made the following motion "I move that the Board find that the Building(s) located at 1205 Churchill Rd. based on evidence presented at the Administrative Hearing of January 10, 2012, is in violation of the Substandard Building Order issued on August 23, 2011 that allowed Wells Fargo Bank N.A. until November 21, 2011 to abate all Substandard Conditions and further move to find that: 1) the property owners, Wells Fargo Bank N.A. @ 3746 Stateview Blvd. MAC# X7801-014, Ft. Mill, SC 29715, have not provided proof that the property at 1205 Churchill Rd. in River Oaks, Tarrant County, Texas is the owner's lawful homestead; and 2) the property owner was notified of the contents of the order issued pursuant to Section 3.07.007 of the River Oaks Code of Ordinances (2006) as amended; and 3) the property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order for a period of 50 days after the deadline date of November 21, 2011 ; and THEREFORE MOVE TO ORDER: 1) that civil penalties be assessed in accordance to Section 3.07.013 of the River Oaks Code of Ordinances (2006) as amended against the owner, Wells Fargo Bank, N.A. pursuant to the August 23, 2011 Substandard Building Order as extended thru November 21, 2011 in the amount of two-hundred dollars (\$200) per day beginning on January 11, 2012 and continuing for each day

thereafter that the property remains in violation through February 12, 2012 and if the order is not released by February 12, 2012, civil penalties shall then be escalated an additional one-hundred dollars (\$100) per day for each additional 30-day period of time after February 12, 2012 until all the actions under the Substandard Building Order is released; and 2) after the civil penalty is assessed, the city secretary shall file with the district clerk of the county in which the property is located a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty; and 3) the civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this subsection is final and binding and constitutes prima facie evidence of the penalty in any suit." Motion seconded by CM Butler. All voted "Aye."

18. **PUBLIC HEARING:** IN ORDER TO RECEIVE PUBLIC INPUT ON THE 38TH YEAR (FY 2012) COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE CITY OF RIVER OAKS.

At 9:02 p.m. Mayor Earwood opened the public hearing.

PWd Hatley passed out questionnaires to all in attendance, for public input, regarding the City's proposal for the 38th year CDBG Program. The reported tabulations of the public questionnaires resulted in Sewer Lines ranking number 1, followed by Water Lines. Staff's recommendation for this year's project was in accordance with the Sanitary Sewer Outreach (SSO) Initiative Agreement with TCEQ which mandates the City to renovate all deteriorated sewer lines over the next 10-years. Staff recommended the replacement of the sewer line on Byrd in the amount of \$144,695 plus engineering. Staff anticipates CDBG funding in the amount of up to \$86,000 and recommended the City pledge an additional \$70,000 to complete the project.

At 9:08 p.m. Mayor Earwood closed the public hearing.

19. **ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF **RESOLUTION # 721-2012** AUTHORIZING THE CITY SECRETARY TO SUBMIT THE 38TH YEAR CDBG PROJECT SUBMITTAL FOR THE CITY OF RIVER OAKS TO TARRANT COUNTY COMMUNITY DEVELOPMENT.

Council Member Crews made the following motion, "I move to adopt Resolution #721-2012 authorizing the Submittal of the City's CDBG project proposal of approximately \$155,695 for the 38th year CDBG Program (FY2012) as recommended by the Public Works Director, authorizing the City Pledge of \$70,000 to the project and designating Cheatham and Associates as the Project Engineer." Motion seconded by Mayor Pro Gordon. All voted "Aye

ITEMS TO BE CONSIDERED FOR COUNCIL ACTION:

20. DISCUSSION AND/OR ACTION REGARDING COMMUNITY CENTER ACTIVITIES, EVENTS AND OPERATIONS AS FOLLOWS:

A. CONSIDER APPROVAL TO USE PAY PAL FOR COMMUNITY CENTER TICKET SALES

Community Center Directors suggested paypal as an alternative method for processing credit card payments at the Community Center. CS Gregory stated the credit card terminal process for the Community Center that was initiated by Staff should be complete within 30-days.

[At 9:19 p.m. CM Minter excused himself from the meeting.]

B. CONSIDER APPROVAL FOR USE OF BUILDING FOR CHILDREN'S ACTIVITIES WITH YADIRA GARCIA (OF VILLAS DE GARCIA) AND SANTIAGO GARCIA (OF ACCU TAX)

Community Center Directors presented a request for Yadira Garcia and Santiago Garcia to host children's activities two days a week at the Community Center. Council Members mentioned many concerns that included liability issues, lack of possible required training, and health department regulations if food was served.

C. DISCUSSION AND/OR ACTION ON THE REQUEST TO RENT COMMUNITY CENTER ON MARCH 24, 2012 FOR WRESTLING EVENT WHERE PROCEEDS WOULD BE COLLECTED AND RECEIVED BY THE WRESTLING SPONSOR.

Community Center Directors presented the request to hold a wrestling event at the Community Center. The requestor would rent the facility, set up the event, and clean up after the event. CM Holland expressed concern over the potential loss of control with a rental versus the event being sponsored by the City. It was mentioned that the rental policy should address all concerns related to alcohol, profanity and other undesirable behavior.

D. CONSIDER APPROVAL TO SCHEDULE THIS YEAR'S EASTER EGG HUNT

Community Center Directors requested to hold the annual Easter Egg Hunt the week before Easter weekend this year to avoid competition with other community activities.

E. DISCUSSION AND/OR ACTION ON PLANS FOR NEXT YEAR'S CHRISTMAS PARADE AND CRAFT FAIR.

Community Center Directors requested Council direction for the Christmas Parade and Craft Fair. Christmas Parade Chairman Royce Shields was not in attendance. Secretary Stewart mentioned that Chairman Shields is more than willing to continue as chairman; however he is content if the City desires to discontinue the parade.

F. CONSIDER APPROVAL FOR SPLASH DAYS THIS SUMMER ON SATURDAYS

Community Center Directors suggested moving summer splash day from Friday to Saturday.

Mayor Earwood mentioned that Royce Shields had suggested an infant swing at the Community Center. Community Center directors expressed concern that an infant swing would be used by the older children potentially causing damage.

CM Holland made the following motions:

- A. To wait on proceeding with Pay Pal**
- B. To deny the children's activities**
- C. To allow the rental of the Community Center for the wrestling event**
- D. To approve the Easter Egg Hunt schedule as presented**
- E. To discontinue the Christmas Parade until further notice.**
- F. To approve Saturday summer splash days**

Motion was seconded by Mayor Pro Tem Gordon. All voted "Aye."

PUBLIC FORUM:

21. CITY COUNCIL INVITES CITIZENS TO SPEAK ON ANY TOPIC; HOWEVER, UNLESS THE ITEM IS SPECIFICALLY NOTED ON THIS AGENDA, THE CITY COUNCIL IS REQUIRED UNDER THE TEXAS OPEN MEETINGS ACT TO LIMIT ITS RESPONSE WITH A STATEMENT OF SPECIFIC FACTUAL INFORMATION, RECITING THE CITY'S EXISTING POLICY ON THAT ISSUE, OR DIRECTING THE PERSON MAKING THE INQUIRY TO VISIT WITH CITY STAFF ABOUT THE ISSUE. **NO COUNCIL DELIBERATION IS PERMITTED**

David Vega asked if with the new leadership changes of the Lieutenant and other promotions, the Police Department would be required to undergo sensitivity training to become more diplomatic with their new positions. Mayor Earwood stated that he has known them for nine years, he had listened to the recording and if he were the police chief he would not tolerate it. Mayor Earwood added that there are others that need sensitivity training. CM Crews stated that any type of training that is required would be implemented.

John Claridge thanked Hub Makarwich, James Myrick and Jimmy Warriner for installing the awnings at Mc Gee Park.

EXECUTIVE SESSION:

22. CONVENE IN EXECUTIVE SESSION PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE: THE COUNCIL RESERVES THE RIGHT TO CONVENE IN EXECUTIVE SESSION(S) FROM TIME TO TIME ON ANY POSTED AGENDA ITEM TO RECEIVE ADVICE FROM ITS ATTORNEY AS PERMITTED BY LAW DURING THIS MEETING. THE COUNCIL MAY CONVENE IN EXECUTIVE SESSION TO DISCUSS THE FOLLOWING:

- a. Section 551.071 Pending or contemplated litigation or to seek advice from attorney:
- b. Section 551.072 Discussion regarding possible sale, lease or acquisition of real estate:
- c. Section 551.074 Personnel matters – To deliberate the appointment, employment, evaluation, reassignment of duties, discipline or dismissal of a Public Officer or Employee or to hear a complaint or charge against an Officer or Employee
- d. Section 551.076 Deliberation regarding security devices

None called for.

RECONVENE:

23. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

None.

ADJOURN:

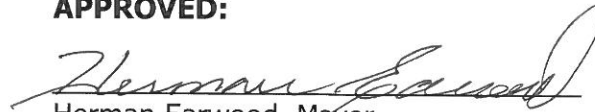
24. ADJOURN

At 10:06 p.m. CM Crews moved, seconded by Mayor Pro Tem Gordon, to adjourn the meeting.


Mayor Earwood once again expressed appreciation to PC Chisholm.

All voted "Aye."

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary