

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
JANUARY 25, 2011**

MEMBERS PRESENT:

MAYOR HERMAN EARWOOD
MAYOR PRO TEM JOANN GORDON
COUNCIL MEMBER JOANN BUTLER
COUNCIL MEMBER JOE CREWS
COUNCIL MEMBER STEVE HOLLAND

MEMBERS ABSENT:

COUNCIL MEMBER BOB MINTER (MEDICAL)

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
BUILDING INSPECTOR STEVEN SANDERS
PUBLIC WORKS SUPERINTENDENT JAMES HATLEY
SPECIAL EVENT COORDINATOR SHIRLEY WHEAT
COMMUNITY CENTER DIRECTOR SHIRLEY BLOOMFIELD
FIRE CHIEF BILL CREWS
CODE ENFORCEMENT OFFICER PAUL MCALLISTER
SECRETARY SUSAN STEWART
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 25, 2011 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION

Council Member Holland delivered the Invocation.

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

Council Member Crews led the pledges of allegiance to the United States and the Texas Flags.

4. READING OF PROCLAMATION(S) BY MAYOR:

- Recognition of James Hix II

Mayor Earwood announced that although listed as a proclamation this was a letter of recognition.

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 CITY COUNCIL MEETING JANUARY 11, 2011
- B. BILLS PAYABLE FOR PERIOD ENDING JANUARY 25, 2011
- C. APPROVAL OF 1ST QUARTER INVESTMENT REPORT
- D. APPROVAL OF EDC 1ST QUARTER FINANCIAL REPORT

E. APPROVAL OF CCPD 1ST QUARTER FINANCIAL REPORT

Council Member Crews moved, seconded by Mayor Pro Tem Gordon, to approve consent agenda items A, B, C, D, and E 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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.

None.

PERSONAL APPEARANCES AND ITEMS REQUIRING COUNCIL APPROVAL/ACTION:

7. CONSIDER APPROVAL OF RESOLUTION # 689-2011 SUSPENDING ONCOR ELECTRIC RATE INCREASE

Susan Green, Representative for Oncor Electric Delivery, requested suspension or denial of a proposed rate increase by Oncor. CA Elam supported suspending the effective date of the proposed rate increase and stated that prior to the end of the 90-day suspension, the City could still deny the request.

Mayor Pro Tem Gordon moved, seconded by Council Member Crews, to approve Resolution Number 689-2011, suspending the proposed electric rate increase. All voted "Aye."

8. CONSIDER APPROVAL OF ADDITIONAL FRANCHISE FEE FROM ATMOS GAS

Marilyn Ackman, representative for Atmos Gas, explained that prior to January 1, 2009, Atmos collected a 4% fee from customers on franchise fees paid to the City for the use of City right of ways. Ms. Ackman presented the opportunity to re-establish the fee on franchise fees that would be recovered from the customer. In addition, Ms Ackman presented the opportunity to receive back-payment for the fee on franchise fees dated from January 2009 in an approximate amount of \$5,400.

CA Elam explained that this difference of opinion stems from the definition of gross receipts.

Ms. Ackman pointed out an election letter that was provided in the Council's packet requiring a "yes" or "no" answer to four questions. If all four questions were answered with a "yes" the fees would effectively return as they were prior to January 1, 2009.

Council Member Crews moved, seconded by Council Member Holland, to return the letter with all answers marked "yes." All voted "Aye."

Ms. Ackman stated that Atmos is dedicated to the safety of customers and employees. Ms. Ackman extended an invitation to Council, Fire and Police Departments to tour a new, state-of-the-art employee training center in Plano.

9. CONSIDER APPROVAL OF DETAILED PLAN OF ACTION FOR 90-DAY COMPLIANCE ON THE PROPERTY AT 4833 OHIO GARDEN RD.

A representative for the property was not present.

This agenda item was discussed after agenda item number 35.

Action for this agenda item was taken following executive session. Refer to agenda item number 36.

10. DISCUSSION AND/OR ACTION ON OCCUPANCY LOAD FOR SINGLE-FAMILY RESIDENTIAL OCCUPANCY (REQUESTED FOR BY MAYOR EARWOOD)

CS Gregory explained that the building code sets an occupancy load of one occupant per 200 square feet. CS Gregory added that the zoning ordinance defines a family as not more than three adults.

Mayor Earwood compared occupancy loads set for commercial buildings for safety reasons to residential homes. Mayor Earwood stated that the cost of services increase as the number of occupants increase.

CA Elam cautioned that enforcement of residential occupancy loads would be difficult to enforce and could be considered unconstitutional.

No action was taken.

11. CONSIDER APPROVAL OF REQUEST FROM THE COMMUNITY CENTER CO-DIRECTORS FOR COMMUNITY CENTER EVENTS AS FOLLOWS:

- (a) PROJECT GRADUATION
- (b) LIVE BANDS CONCERT
- (c) DANCE CLASS
- (d) BOXING EVENT

Shirley Wheat and Shirley Bloomfield gave an overview of four possible community center events.

Project Graduation has requested to use the Community Center, at no charge, on June 2, 2011 from 3pm to 10pm.

A Live Bands Concert was held at the Community Center in December and has requested to hold a Spring event with a financial split of 80% for the bands and 20% for the Community Center with all concessions going to the Community Center.

Dance instructor, Christina Wesley, has offered to hold dance classes on Mondays and Tuesdays with a financial split of 80% to the instructor and 20% to the Community Center. Council Members mentioned that some daytime events might interfere with the dance class. Ms Wesley acknowledged the possible conflicts and agreed that the dance classes could be re-scheduled. Council Members stated that all money should be collected by the Community Center and turned in to City Administration for reimbursement to the dance instructor.

Reyes Boxing Club would like to host a boxing event at the Community Center. It was discussed that this event would probably be held outdoors to accommodate the size of the necessary equipment and the number of possible attendees.

Council Member Holland moved, seconded by Council Member Butler, to approve 1) Project Graduation at the Community Center at no cost; 2) Live Band Concert with an 80/20 split; 3) Dance Class with an 80/20 split; and 4) for the Community Center Directors to pursue the boxing event and bring additional information back to the Council. All voted "Aye."

12. CONSIDER APPROVAL TO EXPEND FUNDS FROM THE FIRE DEPARTMENT DOLLAR DONATION FUND FOR THE PURCHASE OF HAND HELD RADIOS

FC Crews requested to replace five radios that are approximately twelve years old and are beyond repair.

Mayor Pro Tem Gordon moved, seconded by Council Member Butler, to expend funds from the Fire Department Dollar Donation Fund for the purchase of five hand-held radios as discussed in the amount of \$3,187.28. All voted "Aye."

13. RECOGNITION OF SUSAN STEWART ON ACHIEVEMENT AWARD FROM THE TEXAS MUNICIPAL CLERKS CERTIFICATION PROGRAM

Mayor Earwood recognized Susan Stewart for completion of the Municipal Clerks Certification Program.

No action was taken.

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

14. **PUBLIC HEARING CONTINUED FROM JANUARY 11, 2011: SUBSTANDARD ENFORCEMENT ACTION REGARDING STRUCTURE(S) LOCATED ON THE PROPERTY AT 4854 MONTROSE DR.**

Mayor Earwood announced that this public hearing was continued from January 11, 2011.

Inspector Sanders reported that all substandard violations have been abated.

Debra Yates, owner of the property at 4854 Montrose, was present to request the substandard fee be waived.

Discussion occurred related to expenses incurred by the City for filing notices with Tarrant County and for publication of the public hearings.

At 8:09 p.m. Mayor Earwood closed the public hearing.

15. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **4854 MONTROSE DR.** THAT MAY INCLUDE SECURING, VACATING OF OCCUPANTS, REMOVAL, REPAIRING OR DEMOLITION OF STRUCTURE(S) IN ORDER TO BE BROUGHT INTO COMPLIANCE WITH SECTION 3.07.004 OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED.

Council Member Crews moved, seconded by Council Member Butler, to reduce the substandard fee from \$150 to \$85. Member Crews and Member Butler voted "Aye." Member Holland and Mayor Pro Tem Gordon voted "Nay." Mayor Earwood exercised his right to vote in order to break a tie and voted "Aye." Motion passed.

It was added that the owner would be allowed 90-days to pay the \$85 substandard fee.

ORDINANCES / RESOLUTIONS AND OTHER ITEMS REQUIRING COUNCIL APPROVAL/ACTION:

16. CONSIDER APPROVAL OF **ORDINANCE # 871-2011** AMENDING ARTICLE 3.12 "SIGNS", SECTION 3.12.036 "PERMANENT SIGNS REQUIRING PERMIT", SPECIFICALLY UNDER NUMBER (2) "MENUBOARD SIGN" BY ADDING SUBSECTION (C) "EXCEPTIONS" THAT PROVIDES EXCEPTIONS FOR NATIONAL FRANCHISES AND/OR RESTAURANT CHAINS.

CS Gregory presented an ordinance that makes exceptions for menu-boards for franchises and chain restaurants.

Council Member Butler moved, seconded by Mayor Pro Tem Gordon, to approve Ordinance Number 871-2011 as presented. All voted "Aye."

17. CONSIDER APPROVAL OF **ORDINANCE # 872-2011** AMENDING THE FY 2010-2011 BUDGET FOR CITY DOLLAR FUND EXPENDITURES; AND PROVIDING FOR AN EFFECTIVE DATE.

Refer to agenda item number 12 for discussion.

Mayor Pro Tem Gordon moved, seconded by Council Member Crews, to approve Ordinance Number 872-2011 amending the 2010-2011 Budget for Fire Department Dollar Fund Expenditures in the amount of \$3,187.28. All voted "Aye."

STAFF REPORTS:

18. CODE ENFORCEMENT PAUL MCALLISTER ON CODE VIOLATIONS AT 1463 GREENBRIER

Mayor Earwood reminded the Council that the owner of the property at 1463 Greenbrier had previously appeared before the Council to request until December 2010 to replant some trees that the Code department had declared obstructions.

Code Enforcement Officer (COE) McAllister showed recent photos and reported that the property at 1463 Greenbrier remains in violation of the obstruction ordinance and city intends to obtain an administrative search warrant to abate the violations. COE McAllister stated that some of the trees had been removed. COE McAllister added that out of approximately 230 obstruction violations noticed, this is the only one that remains in violation.

Discussion occurred related to the validity of the violation. CA Elam stated that the obstruction ordinance could be enforced in a public right-of-way that does exist on private property.

The minutes were cited from the meeting that stated the property owner had agreed to replant the trees in December. CA Elam stated that although Council direction is important, if the property remains in violation of a city ordinance, it must be abated.

Council Member Crews expressed concern over the intent of the obstruction and "sidewalk" ordinances and enforcement of these ordinances.

Overall, Council Members agreed that although the trees may not be a visibility obstruction at this time, once fully leafed, a definite obstruction would be present. PC Chisholm agreed.

Mayor Earwood directed COE McAllister to contact the property owner in order to explain the ordinance and attempt to obtain compliance prior to obtaining a search warrant and exercising the abatement of the violation by the City.

No action was taken.

19. STAFF REPORT ON SUBSTANDARD PROPERTIES UNDER COUNCIL ORDER:

Mayor Earwood recognized George Fortin who has volunteered to assist the Code Enforcement Department.

- 4833 OHIO GARDEN RD. – Inspector Sanders reported that Staff had obtained entry to view progress and to document remaining substandard violations. Inspector Sanders stated that Staff informed the property owner that the City Council had ordered her to obtain a building permit by January 17, 2011. No permits have been obtained.

- 1129 ST. EDWARDS – Inspector Sanders reported no change.
- 1218 YALE STREET – Inspector Sanders reported that the owner of this property has contacted Staff and has requested to appear before the City Council for an amended order. The owner does not intend to demolish the structures.

20. REPORT ON SUBSTANDARD PROPERTIES UNDER ORDER OF BUILDING OFFICIAL:

- 5501 BLACK OAK LANE – Inspector Sanders reported that the Building Official had approved until January 25, 2011 to complete the repairs and obtain an approved certificate of occupancy. Council directed Staff to contact the property owner and bring to Council at the next regular meeting if compliance is not met.
- 1229 CHURCHILL – Inspector Sanders reported that all violations have been abated with the exception of a gas line that must be moved by Atmos.
- 5311 CORNELL – Inspector Sanders reported that this is HUD property and once the ownership changes, the property must be brought into compliance.
- 1621 LONG AVE. – Inspector Sanders reported continual progress that should be completed by the expiration date of February 7, 2011.
- 4854 MONTROSE – Inspector Sanders stated that this property was discussed during agenda item number 14.
- 4821 ALMENA – Inspector Sanders reported that the owner is in the process of completing the owner's repair summary and will obtain permits.
- 5048 OHIO GARDEN RD. – Inspector Sanders reported continual progress and noted that the building permit expires on February 26, 2011.
- 1205 ROBERTS CUT OFF RD. – Inspector Sanders reported that the property manager had allowed access to the structure for inspection. The owner will complete the repair summary sheet and obtain permits or demolish the structure.
- 5314 AMHERST – Inspector Sanders reported that a six-month building permit was issued that requires monthly progress checks. Discussion occurred related to this being a non-conforming two family in a single family-zoning district. CS Gregory explained that Staff has been allowing owners to register non-conforming structures outside of the one-year deadline upon advice from CA Elam. CS Elam stated that she would investigate the issue and confer with CS Gregory.
- 1712 LAWTHORP – Inspector Sanders reported that Christmas in Action has agreed to assist the property owner to bring the property into compliance. A plumbing permit has been obtained.

21. PROPERTIES UNDER INTENT TO SUBSTANDARD:

- 1716 LAWThER – Inspector Sanders reported that the owner of the property is deceased and a family member has agreed to voluntary substandard compliance.
- 5414 BAYLOR – Inspector Sanders reported that Staff has requested an administrative search warrant to obtain entry and complete a substandard checklist.

22. RELEASED FROM SUBSTANDARD:

- 5021 ALMENA – Inspector Sanders reported that the structures have been demolished.
- 4847 RIVER OAKS BLVD. – Inspector Sanders reported that the occupant has obtained an approved commercial certificate of occupancy.
- 4508 ALMENA - Inspector Sanders reported that they have obtained an approved certificate of occupancy.

QUESTIONS RELATED TO STAFF REPORTS INCLUDING:

23. POLICE DEPARTMENT MONTHLY ACTIVITY REPORT INCLUDING PATROL ACTIVITY, RESPONSE CALLS, NUMBER OF CRIMINAL INVESTIGATION CASES, WARRANTS ISSUED AND ANIMAL CONTROL CALLS FOR SERVICE INCLUDING CITATIONS ISSUED

No discussion or action.

24. FIRE DEPARTMENT MONTHLY ACTIVITY REPORT INCLUDING NUMBER OF CALLS FOR SERVICE

No discussion or action.

25. INSPECTIONS AND CODE COMPLIANCE MONTHLY ACTIVITY REPORTS INCLUDING NUMBER OF PERMITS ISSUED AND CODE VIOLATIONS WORKED

No discussion or action.

26. LIBRARY MONTHLY ACTIVITY REPORT INCLUDING NUMBER OF BOOKS, VIDEOS, PAPERBACKS, AND INCLUDING NUMBER OF PATRON ASSISTANCE

No discussion or action.

27. MUNICIPAL COURT INCLUDING COURT ACTIVITY FROM FINES, BONDS, WARRANT FEES, COURT TAXES, COURT FEES, ARREST FEES, COURT SECURITY FEES, COURT TECHNOLOGY FEES, PAYMENT PLANS, STATE COURT COSTS AND AGENCY COLLECTION FEES

No discussion or action.

28. **PUBLIC WORKS MONTHLY ACTIVITY REPORT** INCLUDING ROAD REPAIRS COMPLETED, SIGNS INSTALLED, WATER PRODUCTION, WATER MAIN AND SERVICE LEAKS REPAIRED, NUMBER OF FIRE HYDRANTS AND DEAD END LINES FLUSHED, NUMBER OF SEWER OVERFLOWS AND STOPPAGES, CUBIC TONS OF SOLID WASTE COMPACTED AND PUBLIC WORKS EQUIPMENT REPAIRS

No discussion or action.

29. **PARK BOARD MONTHLY ACTIVITY REPORTS** INCLUDING BALLFIELD RENTALS AND QUESTIONS PERTAINING TO MINUTES FROM THE PARK BOARD

No discussion or action.

30. **COMMUNITY CENTER ACTIVITY REPORTS** INCLUDING NUMBER OF COMMUNITY CENTER RENTALS, EVENTS AND ACTIVITIES

No discussion or action.

31. **CITY SECRETARY MONTHLY ACTIVITY REPORT** INCLUDING REVENUE FROM SALES TAX, DOLLAR DONATIONS, EDC SALES TAX, TEX POOL AND CRIME SALES TAX

No discussion or action.

32. **EDC MONTHLY ACTIVITY REPORT** INCLUDING FUNDED PROJECT UPDATES, UPCOMING PROJECTS AND BIG IMPROVEMENT GRANT APPLICATIONS

FC Crews presented an update handout of vacant commercial property.

No action was taken.

33. **STORM WATER TASK FORCE MONTHLY ACTIVITY REPORT** INCLUDING ACTIONS TAKEN UNDER THE MS4 PERMIT, COMMUNITY EDUCATION AND PROMOTIONAL EVENTS REGARDING STORM WATER PREVENTION POLLUTION

James Hatley, Storm Water Task Force Chairman, reported that the task force is identifying points of the drainage master plan that need improvement. CS Gregory added that one problem that the City is faced with is the drainage easements are privately owned.

PUBLIC FORUM:

34. 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**

None.

EXECUTIVE SESSION:

35. CONVENE IN EXECUTIVE SESSION PURSUANT TO CHAPTER 551, TEXAS GOVERNMENT CODE: THE COUNCIL RESERVES THE RIGHT TO CONVENE IN EXECUTIVE SESSIONS(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

[At 8:59 p.m. Mayor Earwood convened into executive session under Section 551.071-to seek advice from attorney.]

RECONVENE:

[At 9:27 p.m. Mayor Earwood reconvened into regular session.]

9. CONSIDER APPROVAL OF DETAILED PLAN OF ACTION FOR 90-DAY COMPLIANCE ON THE PROPERTY AT 4833 OHIO GARDEN RD

Mayor Earwood announced that a plan of action was not received from the property owner and therefore the owner is in violation of the Council Order issued on January 11, 2011.

36. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

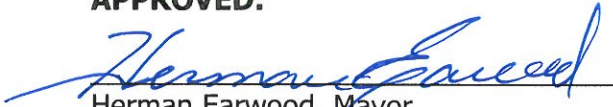
Council Member Holland moved, seconded by Mayor Pro Tem Gordon, to authorize CA Elam to pursue legal action that may include filing in district court as related to 4833 Ohio Garden in order to obtain compliance from the property owner.

ADJOURN:

37. ADJOURN

At 9:29 p.m. Council Member Crews moved, seconded by Mayor Pro Tem Gordon, to adjourn the meeting. All voted "Aye."

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary