

**MINUTES OF THE REGULAR MEETING  
RIVER OAKS CITY COUNCIL  
MAY 24, 2011**

**MEMBERS PRESENT:**

MAYOR HERMAN EARWOOD  
MAYOR PRO TEM JOANN GORDON  
COUNCIL MEMBER JOANN BUTLER  
COUNCIL MEMBER JOE CREWS  
COUNCIL MEMBER STEVE HOLLAND  
COUNCIL MEMBER BOB MINTER (PRESENT UNTIL 7:41 P.M.)

**STAFF PRESENT:**

CITY SECRETARY MARVIN GREGORY  
POLICE CHIEF DAN CHISHOLM  
BUILDING INSPECTOR STEVEN SANDERS  
PUBLIC WORKS DIRECTOR JAMES HATLEY  
FIRE CHIEF BILL CREWS  
OFFICE MANAGER PAULA BAGWELL  
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, May 24, 2011 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

**2. INVOCATION**

PWD Hatley delivered the Invocation.

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

Building Inspector Sanders led the pledges of allegiance to the United States and the Texas Flags.

**4. READING OF PROCLAMATION(S) BY MAYOR:**

- SALUTE TO MILITARY
- MOTORCYCLE ACCIDENT AWARENESS

Mayor Earwood stated that the Salute to the Military Proclamation was read at a previous event.

Mayor Earwood read a proclamation declaring May 2011 as Motorcycle Safety and Awareness Month. Mayor Pro Tem Gordon presented the proclamation to "Jimmers" and "Short-Stack" who were in attendance as representatives for area motorcycle riders.

**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 MAY 10, 2011
- B. BILLS PAYABLE FOR PERIOD ENDING MAY 24, 2011

**Council Member Crews moved, seconded by Council Member Butler, 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 ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.

**None.**

**ITEMS REQUIRING COUNCIL APPROVAL/ACTION:**

**7. CONSIDER APPROVAL OF RESOLUTION NO. 704-2011 CANVASSING ELECTION RETURNS AND DECLARING THE RESULTS OF THE GENERAL ELECTION HELD ON MAY 14, 2011 FOR THE PURPOSE OF ELECTING A MAYOR AND CITY COUNCIL MEMBERS PLACES 1, 3 AND 5**

CS Gregory read the official canvass report as follows: For the Place of Mayor – Herman Earwood 246 votes; For Council Member Place 1 – JoAnn Butler 223 votes; For Council Member Place 3 – Joe Crews 201 votes and John Claridge 126 votes; For Council Member Place 5 – JoAnn Gordon 237 votes.

**Mayor Pro Tem Gordon moved, seconded by Council Member Minter, to approve Resolution No. 704-2011 canvassing the election returns and declaring the results of the General Election held on May 14, 2011 for the purpose of electing a Mayor and City Council Places 1, 3, and 5. All voted "Aye."**

**7. CONSIDERANDO LA APROBACION DE LA RESOLUCION NO.704-2011 SONDEANDO LAS DEVOLUCIONES DE LA ELECCION Y DECLARANDO LOS RESULTADOS DE LA ELECCION GENERAL QUE SE LLEVO A CABO EL 14 DE MAYO DEL 2011 PARA EL PROPOSITO DE ELEGIR AL ALCALDE Y LOS LUGARES 1,3 Y 5 PARA CONSEJALES DE LA CIUDAD**

SC Gregory leyó el reporte oficial del sondeo de la siguiente manera: Para el Lugar del Alcalde – Herman Earwood 246 votos; Para Concejal Lugar 1 – JoAnn Butler 223 votos; Para Concejal Lugar 3 – Joe Crews 201 votos y John Clardige 126 votos; Para Concejal Lugar 5 – JoAnn Gordon 237 votos.

**La Sub-Alcalde Gordon hizo moción secundada por el Concejal Minter, para aprobar la Resolución No. 704-2011 sondeando las devoluciones de la elección y declarando los resultados de la Elección General celebradas el 14 de Mayo del 2011 con el propósito de elegir al Alcalde y Concejales Lugares 1, 3 y 5. Todos votaron "Sí."**

**8. STATEMENT OF ELECTED/APPOINTED OFFICIALS, "OATH OF OFFICE" AND CERTIFICATE OF ELECTION FOR MAYOR AND CITY COUNCIL MEMBERS PLACES 1, 3 AND 5**

CS Gregory administered the Statement of Elected Official and the Oath of Office to Mayor Herman Earwood; Council Member Butler, Place 1; Council Member Crews, Place 3; and Council Member Gordon, Place 5.

**8. DECLARACION DE LOS OFICIALES ELEGIDOS/DESIGNADOS, "JURAMENTO DE OFICIO" Y CERTIFICACION DEL ALCALDE Y DE LOS CONSEJALES DE LA CIUDAD LUGARES 1, 3 Y 5**

SC Gregory administro la Declaración de los Oficiales Elegidos y el Juramento de Oficio al Alcalde Herman Earwood; Concejal Butler, Lugar 1; Concejal Crews, Lugar 3; y Concejal Gordon, Lugar 5.

**9. ADJOURN FOR RECEPTION**

At 7:20 p.m. Mayor Earwood adjourned for a brief reception.

**10. RECONVENE INTO REGULAR SESSION AFTER RECEPTION**

At 7:28 p.m. Mayor Earwood reconvened into regular session.

**PERSONAL APPEARANCES AND ITEMS REQUIRING COUNCIL APPROVAL/ACTION:**

**11. CONSIDER ELECTION OF A MAYOR PRO-TEMPORE FOR THE 2011-2012 TERM YEAR**

**Council Member Crews moved, seconded by Council Member Butler, to allow JoAnn Gordon to remain as the Mayor Pro Tem. All voted "Aye."**

**11. CONSIDERANDO LA ELECCION DE EL SUPLENTE DE EL ALCALDE PARA EL PERIODO DE LOS AÑOS 2011-2012**

**Concejal Crews hizo moción, secundado por Concejal Butler, para permitir a JoAnn Gordon a permanecer como Sub-Alcalde. Todos votaron "Sí."**

Mayor Earwood announced that the agenda would be rearranged to accommodate speakers due to inclement weather.

**PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:**

**16. PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR RIVAS MEXICAN RESTAURANT AT 5442 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED. (CASE # PZ2011-02)**

At 7:30 p.m. Mayor Earwood opened the public hearing.

Juan Rivas, Manager at Rivas Mexican Restaurant, was present to request a specific use permit to sell beer, wine and mixed drinks on the premises.

CS Gregory reported that the Planning and Zoning Commission voted 2-for and 3-opposed to recommend approval of the specific use permit. ZA Gregory reported eight written responses in total, with 1 in opposition and 7 in favor of the request.



Council Member Crews noted that 43-50 parking spaces are required. Mr. Rivas presented written permission from another business owner in the area allowing him use of their parking lot for a total of 61 parking spaces.

CS Gregory explained a provision in the zoning ordinance that allows for "auxiliary parking" within 500-feet.

At 7:39 p.m. Mayor Earwood closed the public hearing.

**17. ACTION FROM PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR RIVAS MEXICAN RESTAURANT AT 5442 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED. (CASE # PZ2011-02)**

**Council Member Crews moved, seconded by Mayor Pro Tem Gordon, to approve the Specific Use Permit at Rivas. Mayor Pro Tem Gordon and Members Butler, Crews, and Minter voted "Aye." Member Holland voted "Nay."**

At 7:41 p.m. Council Member Minter left the meeting.

**14. PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR LUCKY RIVER INC. AT 5001 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED. (CASE # PZ2011-01)**

Mayor Earwood announced that Council Member Minter had filed a conflict of interest form with the City Secretary for this public hearing.

At 7:42 p.m. Mayor Earwood opened the public hearing.

The applicant was present to request a specific use permit to sell beer and wine as the previous business owner had been allowed.

CS Gregory reported that the Planning and Zoning Commission voted 3-for and 2-opposed to recommend approval of the specific use permit without a drive through. ZA Gregory reported that there were two written responses in opposition of the request. ZA Gregory stated that a super majority vote of the City Council would be required since responses were received from the property owners notified within 200-feet that exceeded 20% of the land area notified.

The applicant addressed the parking issue, stating that Angel's had given him permission for customers to park in front of their business. Council Members cautioned that Angel's may not satisfy the provision for auxiliary parking since they only have four parking spaces that they use until the close of business at 6:00 p.m. The applicant indicated that he could satisfy the parking requirement of 23 spaces including parking at each gas pump.

At 8:04 p.m. Mayor Earwood closed the public hearing.

15. **ACTION FROM PUBLIC HEARING: SPECIFIC USE PERMIT (SUP) REQUEST FOR THE SALE OF ALCOHOLIC BEVERAGES (BEER & WINE) FOR LUCKY RIVER INC. AT 5001 RIVER OAKS BLVD. IN ACCORDANCE TO SECTION 23 A.G. # 3 OF ZONING ORDINANCE # 766-07 AS AMENDED. (CASE # PZ2011-01)**

Council Members again discussed the necessary parking requirements and concluded that 24 spaces are required.

**Mayor Pro Tem Gordon moved, seconded by Council Member Butler, to approve the Specific Use Permit for Lucky River Inc with the provision of no drive through and beer and wine may be sold for carry out only. Mayor Pro Tem Gordon and Members Butler and Crews voted "Aye." Member Holland voted "Nay."**

Council Member Holland pointed out that a parking variance was not granted and the required number of spaces must be provided.

12. LYNN STAVINOKA OF PERDUE, BRANDON, FIELDER, COLLINS & MOTT, LLP REGARDING APPROVAL TO PAY DELINQUENT TAXES OWED TO THE OTHER TAXING ENTITIES FOR THE PROPERTY AT 5201 OHIO GARDEN ROAD.

Lynn Stavinocha explained that the property at 5201 Ohio Garden that was purchased by the City in 2009 has delinquent taxes that were not settled with the purchase. The purchase included delinquent tax accrual prior to 1997. At this time, \$16,796.37 in delinquent taxes is owed, of that approximately \$4,000 is owed to the City. Ms. Stavinocha noted that interest would continue to accrue if left unpaid.

Mayor Earwood suggested that money budgeted for the purchase of the property on St Edwards be used to satisfy this debt.

**Council Member Butler moved, seconded by Mayor Pro Tem Gordon, to pay the delinquent taxes owed on 5201 Ohio Garden Road as discussed. All voted "Aye."**

Mayor Earwood directed Staff to place the transfer of funds related to this agenda item on the next agenda for the regular meeting of the City Council.

13. CONSIDER APPROVAL TO WIDEN BARBARA ROAD FROM PALMETTO TO ISBELL AND CONSIDER APPROVAL FOR CITY TO EXPEND FUNDS TO INSTALL SCHOOL ZONE LIGHTS AND SIGNAGE FOR THE NEW A.V. CATO SCHOOL BEING BUILT IN FORT WORTH.

Mickey Thomas, Thomas Engineering LLC, was present with a site plan handout to request to widen Barbara Road at the expense of the school district. The proposal includes a right lane, a left lane, and a continuous left turning lane in the center. The proposal also includes the installation of school zone lights at the expense of the City in the amount of approximately \$5,000.

Citizen Nancy Crews requested that a stop sign be installed at Barbara Road and Palmetto Road. Mr. Thomas stated that he would introduce the request to the appropriate authority.

**Council Member Crews moved, seconded by Mayor Pro Tem Gordon, to approve to widen Barbara Road from Palmetto to Isbell and to expend funds to install school zone lights as presented. All voted "Aye."**

Kathy Rodden questioned the reason that Barbara Road was not widened up to Churchill and how City knew the future traffic requirements. Mayor Earwood explained that the traffic studies conducted by engineers include traffic projections that conclude only that portion of Barbara Road be widened.

Council Member Holland mentioned crossing guards. Mayor Earwood stated that since the majority of the streets surrounding the new school are in Fort Worth, the school district may assume that responsibility.

**STAFF REPORT:**

**18. STAFF REPORT ON SUBSTANDARD PROPERTIES UNDER COUNCIL ORDER:**

Mayor Earwood gave the opportunity for questions on any staff reports.

- 4833 OHIO GARDEN RD. – Inspector Sanders reported that Staff is attempting to perform weekly inspections. Sanders reported that Mrs. Vega refused an inspection at the scheduled time and a citation was issued. Sanders reported that a homeowner's plumbing permit was issued that expires at the same time as the building permit on July 18, 2011. Sanders reported that he informed Mrs. Vega that a mechanical and an electrical permit must be obtained.
- 1129 ST. EDWARDS – No report was given.
- 1218 YALE ST. – No report was given.
- 1716 LAWTHORP – No report was given.
- 1713 LONG AVE. – Inspector Sanders reported that the public health emergency conditions have been abated. The property remains in substandard condition and must obtain an approved certificate of occupancy prior to occupancy.

**19. REPORT ON SUBSTANDARD PROPERTIES UNDER ORDER OF BUILDING OFFICIAL:**

- 5311 CORNELL – No report was given.
- 4821 ALMENA – No report was given.
- 5314 AMHERST – No report was given.
- 1712 LAWTHORP – No report was given.

- 5414 BAYLOR – No report was given.

**QUESTIONS RELATED TO STAFF REPORTS INCLUDING:**

20. **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.**

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

**No discussion or action.**

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

**No discussion or action.**

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

**No discussion or action.**

24. **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.**

25. **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.**

26. **PARK BOARD MONTHLY ACTIVITY REPORTS** INCLUDING BALLFIELD RENTALS, GRANT UPDATES AND QUESTIONS PERTAINING TO MINUTES FROM THE PARK BOARD.

**No discussion or action.**

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

**No discussion or action.**

28. **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.**

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

**No discussion or action.**

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

**No discussion or action.**

**PUBLIC FORUM:**

31. 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**

**EXECUTIVE SESSION:**

32. 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: **Litigation on substandard property at 4833 Ohio Garden Rd.**
- 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 8:42 p.m. Mayor Earwood convened into executive session under 551.071-Pending or contemplated litigation on substandard property at 4833 Ohio Garden Rd. and 551.074-Personnel matters.]

**RECONVENE:**

[At 8:58 p.m. Mayor Earwood reconvened into regular session.]

33. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

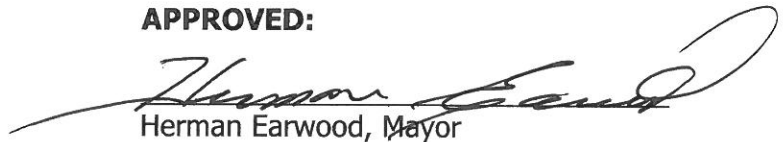
**No action was taken.**

**ADJOURN:**

34. ADJOURN

**At 8:58 p.m. Mayor Pro Tem Gordon moved, seconded by Council Member Crews, to adjourn the meeting. All voted "Aye."**

**APPROVED:**



Herman Earwood, Mayor

**ATTEST:**



Marvin Gregory, City Secretary