

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
AUGUST 9, 2011**

MEMBERS PRESENT:

MAYOR HERMAN EARWOOD
MAYOR PRO TEM JOANN GORDON
COUNCIL MEMBER JOANN BUTLER
COUNCIL MEMBER JOE CREWS
COUNCIL MEMBER BOB MINTER

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
LIEUTENANT GREG STOCKTON
BUILDING INSPECTOR STEVE SANDERS
PUBLIC WORKS DIRECTOR JAMES HATLEY
SECRETARY SUSAN STEWART
ATTORNEY STEVE WOODS

MEMBERS ABSENT:

COUNCIL MEMBER STEVE HOLLAND (WORK CONFLICT)

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, August 9, 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

Ron Tovar led the pledges of allegiance to the United States and the Texas Flags.

4. READING OF PROCLAMATION(S) BY MAYOR:

None.

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 THE REGULAR CITY COUNCIL MEETING JULY 26, 2011
- B. MINUTES OF SPECIAL CALLED COUNCIL MEETING AUGUST 2, 2011
- C. BILLS PAYABLE FOR PERIOD ENDING AUGUST 9, 2011

Council Member Crews requested that Staff research a different method for printing the bills. The print is small and difficult to read on the computer.

CM Crews moved, seconded by CM Butler, to approve consent agenda items A, B, and C 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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.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. TARRANT COUNTY PUBLIC HEALTH DEPARTMENT REQUESTING APPROVAL OF **ORDINANCE # 895-2011** CONTRACTING WITH THE TARRANT COUNTY PUBLIC HEALTH DEPARTMENT FOR PERMITTING, REGULATING AND INSPECTING WITHIN THE CORPORATE LIMITS OF THE CITY OF RIVER OAKS ANY FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD ESTABLISHMENTS, MOBILE FOOD UNITS AND ROADSIDE FOOD VENDORS; ADOPTING A FEE SCHEDULE AND APPROVAL OF **ORDINANCE # 896-2011** REGULATING SWIMMING POOL, SPA OR INTERACTIVE WATER FEATURES

David Jefferson, Tarrant County Environmental Health Manager, explained that the proposed ordinances coordinate with recent changes in the state statutes that have also been adopted by Tarrant County.

Mayor Pro Tem Gordon moved, seconded by CM Butler, to approve Ordinance # 895-2011 and Ordinance # 896-2011 as presented. All voted "Aye."

8. CONSIDER APPROVAL OF AN INTERLOCAL AGREEMENT TO PARTICIPATE IN THE CITY OF FORT WORTH'S HOUSEHOLD HAZARDOUS WASTE PROGRAM FOR FY 2012

CS Gregory stated that the Interlocal Agreement for household hazardous waste disposal with the City of Fort Worth is unchanged from last year.

CM Crews moved, seconded by Mayor Pro Tem Gordon, to approve an Interlocal Agreement to participate in the City of Fort Worth's Household Hazardous Waste Program for FY 2012 subject to review by the City Attorney with Sharon Conyers and Marvin Gregory as the contacts. All voted "Aye."

9. CONSIDER APPROVAL TO ENTER INTO AN AGREEMENT WITH MMG BUILDING & CONSTRUCTION SERVICES LLC FOR THE DISPOSAL OF WASTES

PWD Hatley reported an increase of approximately \$4.40 per week **month** in the current cost of servicing the portable toilet at the Community Center.

Mayor Pro Tem Gordon moved, seconded by CM Minter, to enter into an agreement with MMG Building Construction Services LLC for the disposal of wastes as presented. All voted "Aye."

10. CONSIDER APPROVAL TO WAIVE ELECTRICAL PERMIT FEE FOR ELECTRICAL WORK AT 1712 LAWTHORP BY CHRISTMAS IN ACTION

Mayor Earwood requested that an agenda item be presented to Council that would allow CS Gregory to approve the waiver of permit fees for groups such as Christmas in Action.

Ron Tovar, Christmas in Action, was present to request the permit fee be waived for electrical work at 1712 Lawther that will be funded by Christmas in Action.

CM Butler moved, seconded by Mayor Pro Tem Gordon, to waive the electrical permit fee for electrical work at 1712 Lawther by Christmas in Action. All voted "Aye."

11. DISCUSS 2010 TAX RATE, TAKE RECORD VOTE AND SET PUBLIC HEARINGS

CS Gregory explained that the effective tax rate is \$0.853006 which would provide approximately the same amount of revenue as last year. The rollback tax rate is \$0.921247 which is the maximum allowed. It was mentioned that public hearings may not be required if the effective tax rate is the option selected by the Council.

CM Crews moved, seconded by CM Butler, to post the 2011 tax rate at .853006 per \$100 and to schedule public hearings as necessary contingent on CS Gregory researching the requirement for public hearings. All voted "Aye."

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

12. **PUBLIC HEARING:** IN ORDER TO RECEIVE TESTIMONY AND COMMENTS FROM THE PUBLIC REGARDING THE PROPOSED SITE PLAN APPLICATION OF **KEITH STEELE D/B/A PRINT & SIGN DESIGN AT 5177 RIVER OAKS BLVD.** ALLOWING A 760 SQUARE FOOT ACCESSORY BUILDING TO BE LOCATED ON THE PROPERTY IN A C-2 COMMERCIAL DISTRICT (ZONING CASE SP 2011-0001)

At 7:34 p.m. Mayor Earwood opened the public hearing.

Keith Steel, owner of Print Sign and Design, was present to explain the purpose of the structure is to provide shade, allowing him to extend his working hours that have been minimized due to the extreme hot weather. Mr. Steel acknowledged that the structure had been erected and he would make any changes required by the Council.

Inspector Sanders summarized the site plan proposal to allow a 760 square foot accessory structure to remain. The structure meets the setback requirements for C-2 of 25-feet in the front and 10-feet on the side when it abuts residential property. CS Gregory mentioned that the Planning and Zoning Commission had a concern that this structure is referred to as an accessory structure, an awning and a carport. CS Gregory explained that the terms could be interchangeable with awnings and carports being a type of accessory structure. CS Gregory added that the Zoning Ordinance only sets requirements for accessory structures in residential zoning districts. In commercial zoning districts, accessory structures must be approved through site plan application. CS Gregory stated that only one written response was received and it was favorable. It was mentioned that the owner may desire to enclose the structure as a later date.

CS Gregory stated that the applicant would be required to apply for another site plan application in order to enclose the structure. CM Crews noted that the structure was built prior to obtaining a permit. Staff explained that the applicant followed the site visit procedure with the Building Inspector, who was unaware that the project must be approved through site plan approval. CS Gregory relayed a concern of the Planning and Zoning Commission that work is occurring outside of an enclosed area which is in violation of the Zoning Ordinance. CS Gregory stated that the primary job of printing is performed within the building.

At 7:41 p.m. Mayor Earwood closed the public hearing.

13. **ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF THE PROPOSED SITE PLAN APPLICATION OF **KEITH STEELE D/B/A PRINT & SIGN DESIGN AT 5177 RIVER OAKS BLVD.** ALLOWING A 760 SQUARE FOOT ACCESSORY BUILDING TO BE LOCATED ON THE PROPERTY IN A C-2 COMMERCIAL DISTRICT (ZONING CASE SP 2011-0001)

CM Butler moved, seconded by CM Crews, to approve the proposed site plan application of Keith Steel dba Print & Sign Design at 5177 River Oaks Blvd allowing a 760 square foot accessory building to be located on the property in a C-2 Commercial District (Zoning Case SP 2011-0001). All voted "Aye."

14. **PUBLIC HEARING:** SUBSTANDARD ENFORCEMENT ACTION REGARDING STRUCTURE(S) LOCATED ON THE PROPERTY AT **5406 DARTMOUTH AVE.**

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

A representative for the property was not present at the hearing.

Inspector Sanders described substandard violations as shown in photos taken on August 9, 2011 that depict electrical and plumbing violations. The building was originally identified as substandard based only on the exterior inspection. Since that time, the owner has replaced the siding and rotten wood without obtaining proper permitting. Sanders testified that although somewhat improved, the property remains in violation of the property maintenance code that renders the property as a hazard to the health, safety, and general welfare of the public.

At 7:49 p.m. Mayor Earwood closed the public hearing.

15. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **5406 DARTMOUTH AVE.** THAT MAY INCLUDE SECURING, VACATING OF OCCUPANTS, REMOVAL, REPAIRING OR DEMOLITION OF STRUCTURE(S) OR ADOPTION OF RESOLUTION IMPLOING A FEDERAL AGENCY TO ABATE ALL SUBSTANDARD VIOLATIONS IN ORDER TO BE BROUGHT INTO COMPLIANCE WITH SECTION 3.07.004 OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED

CM Crews made the following motion " I move that City Council find that the building(s) located at 5406 Dartmouth based on evidence presented at the hearing is Substandard and: 1) that the conditions set forth in the Building Official's Report exist to the extent that the life, health, property, or safety of the

public (and occupants of the building(s), if applicable) are endangered; and 2) That the building(s) is/ are feasible of repair and therefore ORDER the Buildings to be repaired BY THE OWNER within 30 days and the LIENHOLDER OR MORTGAGEE to within an additional 30-days if the owner does not comply; and 3) ORDER that the building be repaired in conformance with the requirements of Section 3.07.004 of the River Oaks Code of Ordinances (2006) as amended or demolished by the Owner and the debris removed within 30 days or by the Lienholder or Mortgagee to within an additional 30-days if the Owner does not comply and further find that if the building is not repaired within that time, that there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given; and 4) ORDER that the substandard fee of \$150.00 be paid upon permit issuance. Certificate of Occupancy will not be finalized until all substandard fees are paid in full; and 5) Further Order that the OWNER be responsible to obtain proper permitting and that the OWNER be responsible to pay a double permit fee for failure to permit."

16. **PUBLIC HEARING:** SUBSTANDARD ENFORCEMENT ACTION REGARDING STRUCTURE(S) LOCATED ON THE PROPERTY AT **1205 CHURCHILL RD.**

At 7:52 p.m. Mayor Earwood opened the public hearing.

Inspector Sanders cited substandard violations as shown in photos taken on August 5, 2011 when Staff issued an administrative search warrant. The violations include health, plumbing, electrical violations and major structural violations. Staff has not had any contact from the current owner, Wells Fargo.

Mayor Earwood announced that this public hearing would remain open and be continued on August 23, 2011 in order to allow Wells Fargo sufficient time to respond.

17. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **1205 CHURCHILL RD.** THAT MAY INCLUDE SECURING, VACATING OF OCCUPANTS, REMOVAL, REPAIRING OR DEMOLITION OF STRUCTURE(S) OR ADOPTION OF RESOLUTION IMPLOING A FEDERAL AGENCY TO ABATE ALL SUBSTANDARD VIOLATIONS IN ORDER TO BE BROUGHT INTO COMPLIANCE WITH SECTION 3.07.004 OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED

No action was taken.

18. **PUBLIC HEARING:** SUBSTANDARD ENFORCEMENT ACTION REGARDING STRUCTURE(S) LOCATED ON THE PROPERTY AT **5314 ½ AMHERST**

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

Inspector Sanders cited substandard violations for two accessory buildings as shown in photos taken on August 1, 2011. The first structure is a second living quarter. The owner has replaced some of the siding and the windows on this structure. The interior has significant electrical and plumbing violations. The second accessory building is a storage building that is not feasible of repair and will be removed by the owner. Council Members expressed concern

that the second living quarters is no longer allowed by ordinance. CS Gregory stated that it is registered as legal non-conforming structure that can be used for immediate family but cannot be rented.

Nancy Vargas Quiroz was present to request six months to complete the repairs to one structure and to remove the other structure. Ms. Quiroz verified that the second living quarters will not be rented.

At 8:13 p.m. Mayor Earwood closed the public hearing.

19. ACTION FROM PUBLIC HEARING: CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **5314 ½ AMHERST** THAT MAY INCLUDE SECURING, VACATING OF OCCUPANTS, REMOVAL, REPAIRING OR DEMOLITION OF STRUCTURE(S) OR ADOPTION OF RESOLUTION IMPLOING A FEDERAL AGENCY TO ABATE ALL SUBSTANDARD VIOLATIONS IN ORDER TO BE BROUGHT INTO COMPLIANCE WITH SECTION 3.07.004 OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED

CM Crews made the following motion " I move that City Council find that the building(s) located at 5314½ Amherst based on evidence presented at the hearing is Substandard and: 1) that the conditions set forth in the Building Official's Report exist to the extent that the life, health, property, or safety of the public (and occupants of the building(s), if applicable) are endangered; and 2) That the building(s) is/ are feasible of repair and therefore ORDER the Buildings to be repaired BY THE OWNER within 180 days and the LIENHOLDER OR MORTGAGEE to within an additional 30-days if the owner does not comply; and 3) THE BOARD from the hearing has accepted the detailed plan and time schedule for the work as presented during the hearing by the OWNER, LIENHOLDER OR MORTGAGEE and the contents of that plan will be included with this order; and ORDER 4) that the building be repaired in conformance with the requirements of Section 3.07.004 of the River Oaks Code of Ordinances (2006) as amended or demolished by the Owner and the debris removed within 180 days or by the Lienholder or Mortgagee to within an additional 30-days if the Owner does not comply and further find that if the building is not repaired within that time, that there is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given; and 5) Order that the substandard fee of \$150.00 be paid upon permit issuance. Certificate of Occupancy will not be finaled until all substandard fees are paid in full."

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

20. CONSIDER APPROVAL OF ORDINANCE # 894-2011 AMENDING CHAPTER 8 "OFFENSES AND NUISANCES" BY CREATING ARTICLE 8.08 "PROHIBITIONS OF AUDIO AND VIDEO RECORDERS INSIDE MUNICIPAL BUILDINGS"; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Earwood stated that this request is supported by the City Judge due to several videos of City Staff that were put on YouTube. The proposed ordinance requires permission prior to audio or video recording in municipal buildings.

CM Butler moved, seconded by CM Crews, to amend Chapter 8 "Offenses and Nuisances" by creating Article 8.08 "Prohibitions of audio and video recorders inside municipal buildings" effective after publication. All voted "Aye."

Sherrie Dast pointed out that Council Meetings are recorded and could be subject to open records requests.

21. CONSIDER APPROVAL OF **ORDINANCE # 897-2011** APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S FOURTH ANNUAL RATE REVIEW MECHANISM ("RRM") FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION

CS Gregory stated that the proposed ordinance regulates the rate review process with Atmos Energy through a steering committee.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve Ordinance # 897-2011 as presented. All voted "Aye."

22. CONSIDER APPROVAL OF **ORDINANCE # 898-2011** AMENDING ARTICLE 13.02 "UTILITY POLICY" DIVISION 2 "WATER SERVICE POLICY" SPECIFICALLY IN SECTION 13.02.033 "PAYMENT ARRANGEMENTS" REVISION SECTION 13.02.033 (f) and (g) BY ESTABLISHING APPROVAL OF TIME LIMITS ON A CASE BY CASE BASIS IN EXCESS OF 30-DAYS

CS Gregory presented the ordinance that amends the utility policy allowing designated City Staff to approve extended payment arrangements for up to 180-days.

Mayor Pro Tem Gordon moved, seconded by CM Butler, to approve Ordinance # 898-2011 as presented. All voted "Aye."

PUBLIC FORUM:

23. 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**

Attorney Steve Woods stated that the property at 4833 Ohio Garden is in litigation and he cautioned Council Members not to respond at this time. Mr. Woods stated that the representative for the property was present to provide information only.

Craig Lesok, attorney, presented a power of attorney given to David Vega from his father Aracadio Vega.

David Vega stated that he has hired a contractor that will set schedules in order to complete the work at 4833 Ohio Garden. Mr. Vega stated that he has acquired a structural engineer to evaluate the structural integrity of the structure. Mr. Vega presented a rough draft of a plan to complete the work. Mr. Vega requested three weeks to prepare a detailed and accurate timeline for completion. Mr. Vega stated that he anticipates the scope of work to take three months. Mr. Vega presented pictures of the property in its current condition. Mr. Vega requested to renew the current permit at no cost. Mr. Vega requested that the search warrants be discontinued at the time since he would allow inspections. Bobby Tims, contractor, summarized the rough draft for repairs. Mayor Earwood cautioned Mr. Vega and Mr. Timms to obtain a permit prior to commencing with the work.

EXECUTIVE SESSION:

24. 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 8:40 p.m. Mayor Earwood convened into executive session under 551.071-Pending or contemplated litigation on substandard property at 4833 Ohio Garden Rd. and Section 551.074 Personnel matters]

RECONVENE:

[At 9:09 p.m. Mayor Earwood reconvened into regular session.]

25. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

No action was taken.


ADJOURN:

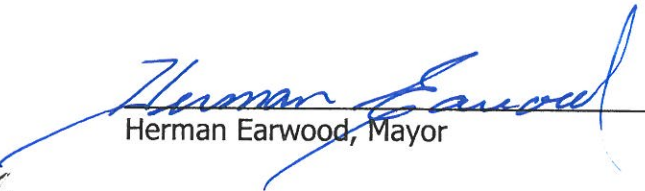
26. ADJOURN

At 9:09 p.m. CM Butler moved, seconded by Mayor Pro Tem Gordon, to adjourn the meeting. All voted "Aye."

APPROVED:

ATTEST:



Marvin Gregory, City Secretary

Herman Earwood, Mayor