

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
FEBRUARY 10, 2009**

MEMBERS PRESENT:

MAYOR HERMAN EARWOOD
MAYOR PRO TEM STEVE HOLLAND
COUNCIL MEMBER JACK ADKISON
COUNCIL MEMBER JOE CREWS
COUNCIL MEMBER R.R. "BOB" MINTER
COUNCIL MEMBER SHERRIE UPTMORE DAST

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
LIEUTENANT AVIN CARTER
SECRETARY SUSAN STEWART
BUILDING INSPECTOR STEVE SANDERS
ATTORNEY MATTHEW WALLIS (FOR 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, February 10, 2009 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION

Council Member Crews gave the Invocation.

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

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

4. READING OF PROCLAMATION(S) BY MAYOR

None.

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 ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION: COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.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

6. 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 CITY COUNCIL MEETING JANUARY 27, 2009

B. BILLS PAYABLE FOR PERIOD ENDING FEBRUARY 10, 2009

Council Member Crews made a motion to approve Consent Agenda Items A and B. Motion seconded by Council Member Minter. All voted "Aye."

PERSONAL APPEARANCES AND OTHER ITEMS REQUIRING COUNCIL APPROVAL/ACTION:

7. CONSIDER APPROVAL OF E.D.C. 3RD QUARTER REPORTS THRU DECEMBER 31, 2008

EDC President Gordon reported the Revenue and Expenditures for the 3rd quarter of the Economic Development Corporation.

Council Member Crews made a motion to approve the 3rd quarter reports of the EDC through December 31, 2008 as presented. Motion seconded by Council Member Dast. All voted "Aye."

CS Gregory reported that Office Manager Bagwell verified with the bank that interest for the month of December was only .05% resulting in low interest as indicated in the report. CS Gregory also reported that EDC Coordinator Bill Crews is paid with one payroll check through the Fire Department and EDC reimburses the Fire Department account for his EDC salary.

8. CONSIDER APPROVAL OF CRIME DISTRICT 3RD QUARTER REPORTS THRU DECEMBER 31, 2008

President Steve Holland reported the Revenue and Expenditures for the 3rd quarter of the Crime Control and Prevention District.

Mayor Pro Tem Holland made a motion to approve the 3RD quarter reports of Crime District as presented. Motion seconded by Council Member Dast. All voted "Aye."

9. CONSIDER APPROVAL OF PLAN OF ACTION REQUIRED FOR THE ISSUANCE OF PERMITS AT 4833 OHIO GARDEN RD.

CS Gregory reported meeting with the property owner, Jene Vega, and assisted her in completing an owner repair summary for both the main structure and the rear building. Completion of the siding on both buildings is estimated at a value of \$10,000. The remainder of the repairs for interior work on the main structure is valued at \$24,000.

Jene Vega, 4833 Ohio Garden Rd., was present to request an additional six months to complete repairs.

Mayor Earwood reminded Council and the property owner that civil penalties would continue until the siding on the rear building is complete as a cost of \$10.00 per day, now totaling approximately \$3,500.

Council Member Dast inquired as to whether or not the City could require time specific goals. CS Gregory stated that monthly progress inspections would be required and if at anytime progress was not being made the permit would be revoked.

Council Member Crews made a motion to approve six-month permits at 4833 Ohio Garden in order to complete both the front and rear buildings per the summary worksheets provided to Council. Motion seconded by Council Member Dast. All voted "Aye."

After the motion, Council Member Crews asked CS Gregory if the estimated values were in line with the amount of work to be done. CS Gregory's response indicated that the remaining value of the project would be difficult to determine. Council Member Crews cautioned the property owner, Jene Vega, that only work authorized under the permits would be allowed and any additional work would require additional permitting.

Mayor Pro Tem Holland asked if permit renewal would affect the civil penalties. Attorney Wallis verified that civil penalty assessment would not be affected by permit renewals.

10. CONSIDER APPROVAL OF A HOME OWNERS OCCUPATION PERMIT FOR MASSAGE THERAPY AND OFFICE USE AT 1800 INSPIRATION LANE

Jim and Patricia Benner, 1800 Inspiration Lane, were present to request permission to use a 10'x15' room in their home to operate a therapeutic massage business. Jim Benner withdrew his request for a home office. Patricia Benner presented herself as a Licensed Massage Therapist. Mrs. Benner stated that only one scheduled appointment is made per hour and no overlap in clientele waiting time would occur.

Don Istook spoke on behalf of the Home Owner's Association, stating that there is not a restriction that would prohibit this type of business.

CS Gregory reported that in the requirements for Home Occupations in the Zoning Ordinance there was no specific prohibition against a therapeutic massage business. However, a therapeutic massage business was not specifically mentioned as an allowable use in the zoning district where 1800 Inspiration Lane is located. Therefore, CS Gregory determined since the Zoning Ordinance provides that unless a use is specifically mentioned; it is therefore prohibited. It was discussed amongst the Council that such a business, though not specifically mentioned elsewhere in the Zoning Ordinance, is not prohibited by name under the requirements for a Homeowners Occupation and therefore could be permitted.

CS Gregory recommended that if approved, should the homeowners violate any of the requirements for a homeowner's occupation, the City could cancel their occupancy permit. Mayor Pro-Tem Holland stated that the City should mandate that the requirements be upheld and if not, the permit should be cancelled.

JoAnn Gordon, 1824 Inspiration Lane, encouraged the Council to approve the request of Mr. and Mrs. Benner.

Mayor Pro Tem Holland requested adding Massage Therapy to the list as a permitted use the next time the Zoning Ordinance was considered for text amendments. Mayor

Earwood stated that he felt that this particular use should not be included in future amendments, but instead let the Council consider each request on a case-by-case basis.

Mayor Pro Tem Holland made a motion to approve a home occupation permit for Massage Therapy at 1800 Inspiration Lane and that the provisions in the Zoning Ordinance be followed. Motion seconded by Council Member Dast. All voted "Aye."

11. CONSIDER APPROVAL OF GREMISS COMPUTING SERVICES FOR COMPUTER TECHNICAL SUPPORT FOR THE CITY'S COMPUTER SYSTEM

CS Gregory stated that no written agreement between the City and Gremiss Computing Services (Jim Hull) could be located. CS Gregory stated that past expenditures total approximately \$6,000 per year at an average of 140 hours of support per year. Staff recommends continuing with Gremiss since Jim Hull is familiar with the current system. Council Members discussed that payment up front for work not done was not a good business practice and suggested paying for the services on a monthly basis.

Council Member Dast made a motion to approve to enter into a contract with Gremiss Computing Services for technical support to be paid in twelve equal monthly installments, provided that the contract includes a "30-day out for no reason" clause and a "10-day out" should a problem occur. Motion seconded by Council Member Crews. All voted "Aye."

12. DISCUSSION AND/OR ACTION ON CITY'S 60TH ANNIVERSARY AS REQUESTED BY COUNCIL MEMBER CREWS

Council Member Crews announced a tentative date of April 4, 2009 to celebrate the City's 60th Anniversary at the Community Center. Planned events include live entertainment, a slide show presentation, and an invitation to all past Mayors, Council Members, Fire and Police Chiefs and City Administrators.

No action was taken.

13. CONSIDER APPROVAL TO CONTRACT WITH HALL-ALBERT CONSTRUCTION COMPANY FOR EMERGENCY PIPE-BURSTING OF THE SEWER MAIN IN THE 4800 BLOCK OF SHERWOOD

CS Gregory stated that the 6-inch sewer main in the rear of the properties between Almena and Sherwood in the 4800 block has partially collapsed and periodically backs up into the residents' houses. Due to health and safety of the general public, Staff has deemed this an emergency and requests approval to contract with Hall Albert to pipe-burst the sewer main.

Council Member Adkison made a motion to approve to contract with Hall-Albert Construction for the emergency pipe-bursting of the 550 feet of sewer main in the 4800 block of Sherwood/Almena in the amount of \$41,280. Motion seconded by Council Member Crews. All voted "Aye."

14. CONSIDER APPROVAL TO WAIVE OR REDUCE PERMIT FEES FOR THE PORTABLE BUILDINGS BEING MOVED IN BY CISD.

Mayor Earwood recommended the Council consider reducing or waiving the permit fees for Castleberry ISD to locate two portable buildings on the property at Castleberry Elementary.

Mayor Pro Tem Holland made a motion to reduce the permit fess for the portable buildings being moved in by Castleberry ISD to a flat fee of \$1,000 and to refund any difference. Motion seconded by Council Member Dast. All voted "Aye."

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

15. **PUBLIC HEARING:** SUBSTANDARD ENFORCEMENT ACTION REGARDING STRUCTURE(S) LOCATED ON THE PROPERTY AT **1732 LAWThER**

At 8:00 p.m. Mayor Earwood opened the public hearing regarding the property located at 1732 Lawther.

Enrique Blanco, owner of the property at 1732 Lawther for approximately 4 weeks, was present to request time to make the required repairs to the structures. Mr. Blanco admitted to the Council that he did not research the property with either the City or Tarrant County prior to purchasing the property.

Building Inspector Sanders showed photos of the property located at 1732 Lawther and cited plumbing, electrical, and structural violations that constitute a hazard to the health and safety of the general public. Inspector Sanders reported that on November 19, 2008, a Substandard Property Notice was posted on the property.

Citizen Lauren Tanner, 401 Merritt, spoke in opposition of allowing the owner to repair the property, stating that the property could not be repaired to a "respectable standard."

Citizen Jim Benner, 1800 Inspiration Lane, spoke in opposition of allowing rehabilitation of the property, stating concern about environmental issues including asbestos issues.

At 8:23 p.m. Mayor Earwood closed the public hearing regarding the property located at 1732 Lawther

16. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **1732 LAWThER** 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 made the following motion "I move that the City Council find that the Building(s) located at 1732 Lawther 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 are endangered; and 2) Find that the building(s) is not feasible of repair and therefore ORDER the Buildings to be demolished and the debris removed BY THE OWNER within 30-days of the date of this order and the LIENHOLDER OR MORTGAGEE to within an additional 30-days if the owner does not comply; and 3) if the OWNER fails to demolish or remove the building within 30 days from the date of this order and LIENHOLDER OR MORTGAGEE to within an additional 30 days if the owner does not comply, the City shall demolish the building at its expense and place a lien on the property to recover its costs. Motion seconded by Council Member Adkison. All voted "Aye."

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

17. CONSIDER APPROVAL OF **RESOLUTION NO. 644-09** APPROVING THE TML LEGISLATIVE AGENDA FOR THE 2009 LEGISLATIVE SESSION

CS Gregory explained that the proposed resolution itemizes which bills the TML Legislative Agenda would oppose, support, or endorse.

Council Member Dast made a motion to approve Resolution No. 644-09 approving the TML Legislative Agenda for the 2009 Legislative Session. Motion seconded by Council Member Adkison. All voted "Aye."

18. CONSIDER APPROVAL OF **RESOLUTION NO. 645-09** APPROVING A LEGISLATIVE AGENDA

Mayor Earwood gave an overview of the proposed resolution that would authorize Tarrant County to levy taxes and fees, such as vehicle registration fees and license fees, only after approval of the voters.

Council Member Crews made a motion to approve Resolution No. 645-09 approving a legislative agenda supporting local option fees and taxes to fund transportation including Rail North Texas. Motion seconded by Council Member Dast. All voted "Aye."

[At this time, Mayor Earwood recommended the Council consider early adjournment of the meeting due to inclement weather. Mayor Earwood gave the opportunity for any questions or discussion on remaining Agenda Items and Public Comments.]

[Refer to Agenda Item No. 21 for an update request.]

STAFF REPORTS:

19. STAFF REPORT ON SUBSTANDARD PROPERTIES AT:

- 5116 KESSLER RD.
- 4837 SHERWOOD
- 1705 LONG
- 4820 KESSLER
- 5020 TULANE
- 741 LYNDA
- 5116 TULANE
- 1611 NANCY

20. **STAFF REPORT:** SUBSTANDARD PROPERTIES UNDER CONSIDERATION

- 4804 KESSLER
- 4618 OHIO GARDEN RD.
- 5513 BAYLOR AVE.

21. **STAFF REPORT:** SNOW CONE STAND ON THE PARKING LOT AT 5116 RIVER OAKS BLVD.

Council Member Crews requested an update on progress at the snow cone stand located at 5116 River Oaks Blvd. Building Inspector Sanders reported that the building has been completed and the only remaining project is to provide for one handicap parking space.

PUBLIC FORUM:

22. 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:

23. 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

None called for.

RECONVENE:

24. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

None.

ADJOURN:


25. ADJOURN

At 8:40 p.m. Council Member Minter motioned to adjourn the meeting, seconded by Council Member Crews. All voted "Aye."

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary