

**MINUTES OF THE REGULAR MEETING  
RIVER OAKS CITY COUNCIL  
SEPTEMBER 8, 2009**

**MEMBERS PRESENT:**

MAYOR HERMAN EARWOOD  
COUNCIL MEMBER STEVE HOLLAND  
COUNCIL MEMBER JOANN BUTLER  
COUNCIL MEMBER R.R. "BOB" MINTER  
COUNCIL MEMBER JOANN GORDON

**STAFF PRESENT:**

CITY SECRETARY MARVIN GREGORY  
POLICE CHIEF DAN CHISHOLM  
FIRE CHIEF BILL CREWS  
BUILDING INSPECTOR STEVEN SANDERS  
SECRETARY SUSAN STEWART  
ATTORNEY MATTHEW WALLIS (FOR CITY  
ATTORNEY BETSY ELAM)

**MEMBERS ABSENT:**

MAYOR PRO TEM JOE CREWS (OUT OF TOWN)

**STAFF ABSENT:**

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, September 8, 2009 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION

Council Member Gordon delivered the Invocation.

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

Council Member Holland 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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION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 AUGUST 25, 2009

B. MINUTES OF SPECIAL CALLED CITY COUNCIL MEETING SEPT. 1, 2009

- C. MINUTES FROM PUBLIC FORUM SEPTEMBER 3, 2009
- D. BILLS PAYABLE FOR PERIOD ENDING SEPTEMBER 8, 2009
- E. APPROVAL OF MAYOR'S RECOMMENDATION TO APPOINT J.D. PICKETT AS ALTERNATE JUNK VEHICLE HEARING OFFICER

**Council Member Gordon moved, seconded by Council Member Minter, to approve consent agenda items A, B, C, D, and E as presented. All voted "Aye."**

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

*[Mayor Earwood announced that agenda item # 13 would be presented at this time.]*

- 13. CONSIDER APPROVAL OF THE AD VALOREM TAX RATE OF \$0.820000 PER \$100 OF PROPERTY VALUE FOR FISCAL YEAR 2009-2010

**Based on information presented at two previous public hearings and with no further discussion or comments, Council Member Holland made the following motion "I move that the property tax rate be increased by the adoption of a tax rate of \$0.820000, which is effectively a 2.75805 percent increase in the tax rate." Motion seconded by Council Member Gordon. All voted "Aye."**

*[At 7:06 p.m. Mayor Earwood convened into executive session pursuant to sections 551.071, 551.072, 557.074, and 551.076.]*

*[At 7:44 p.m. Mayor Earwood reconvened into regular session.]*

- 7. CONSIDER APPROVAL OF REQUEST BY KEVIN LAVENDER TO AMEND THE JUNE 23, 2009 COUNCIL ORDER ON THE SUBSTANDARD PROPERTY AT 1122 ST. EDWARDS

**Kevin Lavender**, owner of the vacant property at 1122 St. Edwards, was present to request an additional 60-days to complete the repairs and bring the substandard property into compliance. Mr. Lavender assured Council Members that a perimeter beam would be installed to stabilize the foundation within 10-days. Mr. Lavender stated that an additional value of \$5,000 would be included in the building permit.

Photos taken on September 8, 2009 were shown of the property at 1122 St. Edwards.

CS Gregory, in the capacity of Building Official, reported that the property was ordered, by the City Council, to be repaired within 60-days from the date of the public hearing on June 23, 2009. In addition, the Council Order included a provision that a report from a certified engineer must be submitted to the Building Official within 30-days from the date of the public hearing on June 23, 2009 stating that the foundation had been properly repaired. CS Gregory reported that the owner, Kevin Lavender, had failed to comply with the orders of the City Council given on June 23, 2009. CS Gregory reported

that on September 1, 2009, a notice of intent to demolish was sent by certified mail to all persons of interest as required.

CS Gregory reported that the substandard property has declined since the Council Order on June 23, 2009 and is currently in violation to the extent that the life, health, or safety of the general public is endangered and a nuisance.

CS Gregory reported that an updated title search, performed on September 3, 2009, indicates that Kevin Lavender is the owner of the property and there is not a lienholder of record.

**Council Member Holland moved, seconded by Council Member Butler, to deny the request of Kevin Lavender to amend the June 23, 2009 Council Order on the Substandard Property at 1122 St. Edwards. All voted "Aye."**

Mayor Earwood clarified that the property at 1122 St. Edwards remains under the original Council Order of June 23, 2009.

8. DISCUSSION AND/OR ACTION REGARDING CONSIDERATION OF AMENDING ZONING ORDINANCE ALLOWING GREENHOUSES AS AN ALLOWABLE USE FOR NURSERIES IN A C-2 AND C-3 ZONING DISTRICT

CS Gregory, in the capacity of the Zoning Administrator, recommended that this request be included with additional proposed text amendments to the Zoning Ordinance. CS Gregory stated that the process to amend the Zoning Ordinance should begin in October 2009.

**No action was taken.**

9. DISCUSSION AND/OR ACTION ON SUBSTANDARD PROPERTY AT 1129 ST. EDWARDS ST.

CS Gregory stated that the City Attorney has been in contact with the lienholder, Chase Bank. Chase Bank has indicated that as lienholder, they will either foreclose on the property or abandon the note.

CS Gregory reported that the taxes have not been paid on the property since 1996.

FC Crews offered information regarding a potential grant that is available to small cities that would allow the City (through EDC) to purchase the property, bring the property into compliance and sell the property as a re-development project.

Council Member Holland clarified that if Chase Bank abandons the note, the property would be returned to the unknown heirs and the City would continue with the burden of maintaining the substandard property.

Attorney Wallis stated that Chase Bank has contacted the City Attorney's office to inquire if the City has any interest in purchasing the property. If the City chooses to purchase the property, a clean title would be included along with the mineral rights.

**Council Member Butler moved, seconded by Council Member Minter, to authorize Mayor Earwood and CS Gregory to negotiate with Chase Bank regarding the potential purchase of the property at 1129 St. Edwards and represent to the Council prior to purchase. All voted "Aye."**

10. CONSIDER APPROVAL OF COLOR SCHEME OF THE FRONT GROUND STORAGE TANK AT 2257 ROBERTS CUT OFF RD. SCHEDULED TO BE REPAINTED THIS FALL

Council Members agreed that a color matching the existing elevated tower was the reasonable choice.

Mayor Earwood directed Staff to notify the neighbors of the upcoming project.

**No action was taken.**

11. CONSIDER REQUEST OF CITY SECRETARY TO SOLICIT BIDS FOR CITY BANKING SERVICES

CS Gregory recommended obtaining quotes from area banks based on bid specifications pursuant to the City's investment policy. CS Gregory reported a monthly charge of approximately \$374.82 went into effect beginning September 1, 2009.

Mayor Earwood recommended that Council Members Holland and Gordon and CS Gregory compile additional information surrounding Request for Proposal (RFP) required for the city's banking services to be competitively bid.

**No action was taken.**

12. CONSIDER APPROVAL OF REQUEST BY DON ISTOOK FOR CITIZENS FOR COMMUNITY INVOLVEMENT (CCI) TO BE LISTED WITH THE CITY AS A NON-PROFIT CHARITY ORGANIZATION.

Don Istook, CCI (Citizens for Community Involvement) President, reviewed the bylaws (adopted on June 1, 2009) and the mission statement of the group. The group is an unincorporated association with open membership. Mr. Istook requested the Council consider naming CCI as a civic group for the purpose of receiving a reduced rental rate at the Community Center. The group currently meets at various schools, and individual homes. Mr. Istook expressed concern that most homes do not provide access to handicapped individuals desiring involvement with CCI.

**Council Member Holland moved, seconded by Council Member Butler, to approve Citizens for Community Involvement (CCI) to be listed in the River Oaks Community Center Policy as an approved civic group. All voted "Aye."**

**ORDINANCES / RESOLUTIONS REQUIRING COUNCIL APPROVAL:**

13. CONSIDER APPROVAL OF THE AD VALOREM TAX RATE OF \$0.820000 PER \$100 OF PROPERTY VALUE FOR FISCAL YEAR 2009-2010

*[This agenda item was presented prior to agenda item # 7.]*

14. CONSIDER APPROVAL OF **ORDINANCE # 824-09** AFFIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING APRIL 1, 2009 AND ENDING MARCH 31, 2010 AT A RATE OF \$0.820000 PER \$100 OF PROPERTY VALUE.

CS Gregory read the following "This tax rate will raise more taxes for maintenance and operations than last year's rate. The tax rate will effectively be raised by 2.75805 percent and will raise taxes for maintenance and operations on a \$100,000 home by approximately \$37.30."

**Council Member Gordon moved, seconded by Council Member Butler, to approve Ordinance No. 824-09 affixing and levying municipal ad valorem taxes for the fiscal year beginning April 1, 2009 and ending March 31, 2010 at a rate of \$0.820000 per \$100 of property value. All voted "Aye."**

15. CONSIDER APPROVAL OF **ORDINANCE # 825-09** AMENDING ARTICLE 8.05 "GRAFFITI" OF THE RIVER OAKS CODE OF ORDINANCES (2006) TO COMPLY WITH STATE STATUTE

CS Gregory reviewed recent legislative changes that require the City to offer to remove graffiti free of charge prior to sending formal notice. The City is required only to cover the graffiti, not match the color scheme. If the owner refuses to accept the free removal, the City can then issue a notice to remove the graffiti within 15-days. At that point, failure to comply will result in the City abating the graffiti and charging the cost to the property owner.

**Jack Allen**, 312 Merritt, asked if the owner is allowed to abate the graffiti. CS Gregory responded that yes, the owner may refuse to accept the free removal by the City and abate the graffiti prior to the end of the 15-day notice.

**John Claridge**, 5355 Baylor, inquired about graffiti removal on brick. CS Gregory replied that the City of Fort Worth has offered some solutions.

**Council Member Gordon, seconded by Council Member Minter, to approve Ordinance No. 825-09 amending Article 8.05 "Graffiti" of the River Oaks Code of Ordinances (2006) to comply with state statute. All voted "Aye."**

16. CONSIDER APPROVAL OF **ORDINANCE # 826-09** AMENDING ARTICLE A.02 "SCHEDULE OF FEES AND CHARGES", SECTION A.02.001 "ESTABLISHED GENERALLY", SUBSECTION (k)(1) ISSUANCE FEES AND SECTION A.02.002 "REGISTRATION OF CONTRACTORS GENERALLY", SUBSECTION (c)(1) "PLUMBING CONTRACTORS" OF THE

**RIVER OAKS CODE OF ORDINANCES (2006) ESTABLISHING REGISTRATION AND PERMITTING EXEMPTIONS FOR PLUMBING CONTRACTORS PURSUANT TO STATE STATUTE AND INCREASING PLUMBING PERMIT ISSUANCE FEES.**

CS Gregory reviewed recent legislature that allows plumbing contractors to register without a registration fee. CS Gregory recommended the base permit fee be increased to \$37.50 to alleviate that lost revenue. The change allows a master plumber or journeyman plumber to obtain permitting through fax, email, or telephone without making a personal appearance. Plumbing licensing and insurance requirements can be verified online. When questioned by Council Holland, CS Gregory indicated that the base fee for a homeowner's plumbing permit would also be increased to \$37.50.

**Council Member Gordon moved, seconded by Council Member Minter, to approve Ordinance No. 826-09 amending Article A.02 "Schedule of Fees and Charges", Section A.02.001 "Established generally", Subsection (k)(1) Issuance fees and Section A.02.002 "Registration of Contractors Generally", Subsection (c)(1) "Plumbing Contractors" of the River Oaks Code of Ordinances (2006) Establishing registration and permitting exemptions for Plumbing Contractors pursuant to state statute and increasing plumbing permit issuance fees. All voted "Aye."**

**PUBLIC FORUM:**

17. 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**

**Royce Shields**, JV Hearing Officer, introduced **J.D. Pickett**, appointed Alternate JV Hearing Officer and his wife Janet.

**Tuesday Cooley**, car show coordinator, reported a successful event that resulted in 84 participants and an estimated 200 visitors.

**Don Istook, CCI President**, clarified that the group's bylaws state, "No officer or board member is entitled to any compensation for the performance of their duties."

**Don Istook, CCI President**, gave an open invitation to attend a "tail gate party" when the Castleberry Varsity Football Team plays Lake Worth on October 9, 2009. CCI will provide food and drinks. Mr. Istook disclosed that a similar event is in the planning stages for the final home game on October 30, 2009

**Mayor Earwood** introduced **Matthew Wallis** who is a legal representative in the absence of City Attorney Betsy Elam.

**Council Member Gordon** gave a reminder of the Charles Duke show at the Community Center this weekend, stating that a limited number of seats are still available.

**EXECUTIVE SESSION:**

18. 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

[At 7:06 p.m. Mayor Earwood convened into executive session prior to agenda item # 7.]

**RECONVENE:**

[At 7:44 p.m. Mayor Earwood reconvened into regular session.]

19. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

**No action was taken.**

**ADJOURN:**

20. ADJOURN

**At 9:03 p.m. Council Member Holland moved, seconded by Council Member Minter to adjourn the meeting. All voted "Aye."**

**APPROVED:**

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Herman Earwood, Mayor

**ATTEST:**

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Marvin Gregory, City Secretary