

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
SEPTEMBER 27, 2011**

MEMBERS PRESENT:

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

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
FIRE CHIEF RON SHORT
BUILDING INSPECTOR STEVE SANDERS
PUBLIC WORKS DIRECTOR JAMES HATLEY
SECRETARY SUSAN STEWART
ATTORNEY STEVE WOODS

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 27, 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

CM Butler led the pledges of allegiance to the United States and the Texas Flags.

4. READING OF PROCLAMATION(S) BY MAYOR:

- National Night Out

Mayor Earwood read a proclamation declaring October 4, 2011 as National Night Out.

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 COUNCIL MEETING SEPTEMBER 13, 2011
- B. BILLS PAYABLE FOR PERIOD ENDING SEPTEMBER 27, 2011
- C. CONSIDER APPROVAL OF MAYOR'S RECOMMENDATION FOR THE HIRING OF KRISTINA ASHTON AS CUSTOMER SERVICE CLERK 2
- D. CONSIDER APPROVAL OF MAYOR'S RECOMMENDATION TO PROMOTE CORINA MOLINAR AS UTILITY BILLING CLERK
- E. CONSIDER APPROVAL OF RESIGNATION OF PAUL MCALLISTER AS THE CITY'S CODE ENFORCEMENT OFFICER

CM Crews moved, seconded by CM Butler, to approve consent agenda items A, B, C, D, and E, with the requested correction to the minutes as emailed to the Council. All voted "Aye."

Mayor Pro Tem Gordon inquired about overflow from the Sansom Park Animal Shelter to the White Settlement Animal Shelter. CS Gregory replied that this would be discussed at an upcoming meeting with Sansom Park.

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 ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION: COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION.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. CITIZEN COMPLAINT OF RAYMOND DAVILLA REGARDING STAFF NOT ALLOWING YARD SALE EXCEPTIONS

A representative was not present. No discussion occurred.

No action was taken.

8. CITIZEN APPEARANCE OF CHRIS MCLELLAN AT 5412 THOMAS REQUESTING A VARIANCE OF THE STAGE 2 "WATER ALERT" SECTION 13.07.038(b)(G) THAT PROHIBITS THE FILLING OF NEW SWIMMING POOLS.

Chris McLellan was present to request permission to fill an in-ground pool that he had begun installing prior to the initialization of the water restrictions. Mr. McLellan presented a letter from the pool company indicating that damage could occur to the pool if it remains unfinished and unfilled. It was mentioned that the pool would take approximately 12,500 gallons of water.

CM Butler moved, seconded by Mayor Pro Tem Gordon, to allow Chris McLellan to fill the pool. All voted "Aye."

9. PRESENTATION OF ENGAGEMENT LETTER AND CONSIDERATION OF CONTRACTING WITH C.R. PARR AND ASSOCIATES FOR FINANCIAL COMPILATION SERVICES FOR AUDIT PREPARATION OF THE CITY'S 2010-2011 FISCAL YEAR FINANCIALS.

Sheryl Wardashki, C.R. Parr and Associates, was present with William C. Spore to present the engagement letters of each firm for auditing compilation and auditing services.

CM Holland moved, seconded by CM Crews, to approve the engagement letter of contracting with C. R. Parr and Associates for financial compilation services for audit preparation of the City's 2010-2011 Fiscal Year Financials. All voted "Aye."

10. PRESENTATION OF ENGAGEMENT LETTER AND CONSIDERATION OF CONTRACTING WITH WILLIAM C. SPORE P.C. FOR AUDIT OF THE CITY'S 2010-2011 FISCAL YEAR FINANCIALS.

Refer to agenda item #9.

CM Holland moved, seconded by Mayor Pro Tem Gordon, to approve the engagement letter of contracting with William C. Spore for audit of the City's 2010-2011 Fiscal Year Financials. All voted "Aye."

11. CONSIDER APPROVAL TO AMEND THE AUGUST 12, 2011 30-DAY REPAIR ORDER OF THE BUILDING BOARD OF APPEAL ON THE SUBSTANDARD PROPERTY AT 5406 DARTMOUTH THAT THAT MAY INCLUDE SECURING, VACATING OF OCCUPANTS, REMOVAL, REPAIRING OR DEMOLITION OF STRUCTURE(S).

Michael Hefley, owner of 5406 Dartmouth, was present to request additional time to complete the required repairs.

Inspector Sanders reported that the hot water heater must be brought up to code, battery operated smoke detectors must be installed, and all junk and debris must be removed. It was stated that Mr. Hefley could obtain a home owner's plumbing permit to repair the hot water heater.

Mr. Hefley stated that he had received a copy of the required repairs when he paid the substandard fee and permit fee. Mr. Hefley indicated that he would complete the repairs.

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) further Order that the OWNER be responsible to obtain proper permitting by the close of business on September 30, 2011 and that failure to comply would result in the procedure to assess civil penalties." Motion seconded by Mayor Pro Tem Gordon. All voted "Aye."

12. CONSIDER APPROVAL TO RENEW THE CITY'S MEMBERSHIP WITH TARRANT REGIONAL TRANSPORTATION COALITION.

Mayor Earwood stated that the City had begun participation in this coalition a few years ago at the request of County Commissioner Johnson.

Mayor Pro Tem Gordon moved, seconded by CM Butler, to continue participation in TRTC in the amount of \$742. All voted "Aye."

13. CONSIDER APPROVAL OF JOB DESCRIPTION FOR PUBLIC WORKS DIRECTOR.

CS Gregory reviewed the revised job description for a Public Works Director.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve a job description for the Public Works Director. All voted "Aye."

14. CONSIDER APPROVAL OF EMPLOYMENT CONTRACTS FOR COMMUNITY CENTER CO-DIRECTORS.

Mayor Earwood stated that the function and job description of the Community Center Directors is to maintain the daily operations from 9:00 am to 3:00 p.m. on Monday, Wednesday, and Friday. Additional festivals and special events should be considered volunteer opportunities.

CM Crews expressed concern that the special events such as the gospel show and the haunted house are related to their main job function. CM Crews pointed out that in 1Ce of the proposed contract it stated "Promote and operate the city sponsored community center events including but not limited to the annual Halloween Haunted House, 5th Quarter, arts and craft shows, Movie Night, shows, musicals, performances and other community center events as authorized by the Community Center Policy and/or City Council." CM Crews mentioned the possibility of the directors each working 25-hour shifts with volunteers.

Mayor Pro Tem Gordon stated that the haunted house, 5th quarter and similar events are City events and are not Community Center events.

Much discussion occurred related to the separation of Community Center events and City events.

Attorney Woods asked who tracks the director's hours. CS Gregory stated that the directors complete a time sheet that is turned into the payroll department. Attorney Woods requested that a paragraph be added under 3 "Salary" that requires the submittal of time sheets.

CM Holland moved, seconded by CM Butler, to approve employment contracts for Community Center Directors, striking 1CE and adding 3C requiring time sheets. CM Butler, CM Holland, CM Minter, and Mayor Pro Tem Gordon voted "Aye." CM Crews voted "Nay."

15. CONSIDER APPROVAL OF EMPLOYMENT AGREEMENT FOR FULL-TIME, NON-EXEMPT EMPLOYEES OF THE CITY THAT QUALIFY FOR CERTIFICATION PAY

CM Holland asked if the percentage reimbursement was included in the contract; CS Gregory affirmed.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve the employment agreement for full-time, non-exempt employees of the City. All voted "Aye."

16. DISCUSSION AND/OR ACTION ON EXPENDING FUNDS OUT OF GAS ROYALTIES TO REPLACE THE ROOF AT THE CITY HALL COMPLEX.

Mayor Earwood requested that this agenda item be postponed.

No action was taken.

17. CONSIDER APPROVAL OF CITY HOLIDAY SCHEDULE AND SET THE DATE FOR THE ANNUAL EMPLOYEE'S CHRISTMAS BANQUET

No discussion occurred.

Mayor Pro Tem Gordon moved, seconded by CM Butler, to set the date for the annual employee's Christmas Banquet for December 9, 2011 at 7:00 p.m. and to approve the Holiday Schedule as presented. All voted "Aye."

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

18. CONSIDER APPROVAL OF **ORDINANCE # 903-2011** AMENDING ARTICLE 13.07 "WATER CONSERVATION AND DROUGHT CONTINGENCY PLANS" BY REPEALING THE FORMER PROVISIONS AND INCORPORATING REVISED PROVISIONS IN DIVISION 2 AND DIVISION 3 OF THAT ARTICLE.

CS Gregory stated that the proposed ordinance mirrors the contract with Tarrant Regional Water District and the City of Fort Worth. This drought contingency plan has only three stages instead four stages in the current plan. Stage one of the current plan is voluntary conservation which will remain in effect year round. CS Gregory stated that the plan would be effective after notification and publication.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve Ordinance # 903-2011. All voted "Aye."

19. CONSIDER APPROVAL OF **ORDINANCE # 904-2011** AMENDING ARTICLE 13.04 "SEWER SYSTEM", SECTION 13.04.013 "SEWER SERVICE RATES", OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED, ADOPTING AN UPDATED SEWER RATE SCHEDULE.

CS Gregory reported a decrease in sewer rates that will be effective on the November bill for October usage.

Mayor Pro Tem Gordon moved, seconded by CM Butler, to approve Ordinance # 904-2011. All voted "Aye."

CM Holland requested that this information be published.

20. CONSIDER APPROVAL OF **RESOLUTION NO. 709-2011** AUTHORIZING ECONOMIC DEVELOPMENT CORPORATION (EDC) EXPENDITURES FROM THE OCTOBER 1, 2011 THRU SEPTEMBER 30, 2012 OPERATING BUDGET AS QUALIFIED FOR PROJECTS MORE THAN \$10,000.00 (SECOND READING)

No discussion occurred.

Mayor Pro Tem Gordon moved, seconded by CM Crews, to approve Resolution # 709-2011. All voted "Aye."

21. CONSIDER APPROVAL OF **RESOLUTION #. 711-2011** ADOPTING A POLICY ON COMPUTING ETHICS.

CS Gregory pointed out that the police department uses Facebook as a tool and has requested that the Department Head be allowed to approve usage since they are responsible for the operations of their particular department instead of the Mayor or the City Administrator as indicated in the proposed resolution.

CM Butler Crews moved, seconded by CM Butler, to approve Resolution 711-2011 with the stated change. All voted "Aye."

22. CONSIDER APPROVAL OF **RESOLUTION # 712-2011** WAIVING PERMIT FEES FOR WORK PERFORMED UNDER THE HABITAT FOR HUMANITY.

Mayor Earwood requested that Habitat for Humanity receive the same consideration as Christmas in Action for permit fee waivers. CM Crews mentioned Neighbor Helping Neighbor as well.

CM Butler moved, seconded by Mayor Pro Tem Gordon, to approve Resolution 712-2011. All voted "Aye."

STAFF REPORT:

23. STAFF REPORT ON SUBSTANDARD PROPERTIES UNDER COUNCIL ORDER:

Inspector Sanders gave the following updates on substandard properties:

- 4833 OHIO GARDEN RD. – This property is under a District Court 90-day order to comply that expires November 10, 2011. There have been no inspections requested.
- 1129 ST. EDWARDS – No change to report.
- 1716 LAWTHORP – Council approved an additional 60-days for the completion of repairs that expires November 23, 2011.

- 5406 DARTMOUTH – This item was discussed during agenda item # 11.
- 5314 AMHERST – This is an accessory structure that is vacant. Council ordered repair of the property within 180-days with monthly progress checks. Owner has paid the substandard fee. Staff will red tag the property and allow 48-hours to schedule an inspection.

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

- 1205 CHURCHILL – This property is vacant. The debris has been removed as ordered by the Council. Stewart reported that Wells Fargo has indicated that they will repair the property prior to returning it to HUD.
- 5311 CORNELL – This property is vacant. The accessory building has been demolished. The owner has been granted a 30-day extension to complete the repairs.
- 4821 ALMENA – This property is vacant. Continual progress with only painting and carpeting remaining. Work must be complete and obtain a certificate of occupancy by October 17, 2011.
- 1712 LAWTHOR – This property is occupied. Christmas in Action is working with the owner to bring the property into compliance. The plumbing and electrical are up to code. Work must be complete by February 23, 2011.
- 5414 BAYLOR – This is a HUD property, no enforcement action will occur until ownership changes.
- 720 WINTERS – This property is occupied. Owner has paid the substandard fee and a building permit has been issued that expires December 7, 2011.
- 4904 LAWTHOR – This property is vacant. Owner has paid the substandard fee. Active permits include a building permit and plumbing permit that expire September 30, 2011.
- 1629 HILLSIDE – This property is occupied. The voluntary compliance fee has been paid. Neighbors Helping Neighbors is assisting with the repairs. Dean Throne and Joe Bunch are anticipated to perform the electrical repairs. CM Crews requested that a Resolution be presented to the Council that would waive permit fees for Neighbors Helping Neighbors.
- 1409 Lawrence – This property is vacant. Notice from the Building Official to repair within 30-days has been sent to the owner.

Attorney Woods briefed the Council on some recent case law that indicates that the City Council does not have the authority to declare a property as a public nuisance and consequently order demolition. It was recommended that only severe cases be ordered to be demolished by the City Council at this time.

QUESTIONS RELATED TO STAFF REPORTS INCLUDING:

25. **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.

PC Chisholm mentioned National Night Out events at 4800 Ohio Garden, 1029 Yale, 5316 Taylor, and 5512 Sam Calloway.

Mayor Pro Tem Gordon inquired about overflow from the Sansom Park Animal Shelter to the White Settlement Animal Shelter. PC Chisholm replied that although this is a reality, it is not the normal circumstance. PC Chisholm mentioned that Sansom Park would like to expand their animal shelter.

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

FC Short mentioned a CPR class would be held in the Fire Department training room near the end of October at \$40 per participant.

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

No discussion or action.

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

No discussion or action.

29. **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.

30. **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.

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

No discussion or action.

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

No discussion or action.

33. **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.

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

No discussion or action.

35. **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:

36. 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**

John Address stated that TCC offers CPR classes for \$15. Mr. Address mentioned using gas royalty money for an animal shelter.

EXECUTIVE SESSION:

37. 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. **Department Head Evaluations (Police Chief Dan Chisholm, Fire Chief Ron Short, Public Works Director James Hatley, Librarian Mary Earwood and City Secretary Marvin Gregory)**
- d. Section 551.076 Deliberation regarding security devices

[At 9:26 p.m. Mayor Earwood convened into executive session under 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. Department Head Evaluations (Police Chief Dan Chisholm, Fire Chief Ron Short, Public Works Director James Hatley, Librarian Mary Earwood and City Secretary Marvin Gregory)]

RECONVENE:

[At 9:47 p.m. Mayor Earwood reconvened into regular session.]

38. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

No action was taken.

ADJOURN:


39. ADJOURN

CM Holland mentioned the annual MPS Run on October 22, 2011.

At 9:50 p.m. CM Crews moved, seconded by Mayor Pro Tem Gordon, to adjourn the meeting. All voted "Aye."

APPROVED:

ATTEST:


Marvin Gregory, City Secretary


Herman Earwood, Mayor