

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
OCTOBER 13, 2009**

MEMBERS PRESENT:

MAYOR HERMAN EARWOOD
MAYOR PRO TEM JOE CREWS
COUNCIL MEMBER STEVE HOLLAND
COUNCIL MEMBER JOANN BUTLER
COUNCIL MEMBER R.R. "BOB" MINTER

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
FIRE CHIEF BILL CREWS
SECRETARY SUSAN STEWART
CITY ATTORNEY BETSY ELAM

MEMBERS ABSENT:

COUNCIL MEMBER JOANN GORDON (OUT OF TOWN ON BUSINESS)

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, October 13, 2009 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION

Mayor Pro Tem Crews delivered the Invocation.

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

City Attorney Elam 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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION

Mayor Pro Tem Crews requested the removal of Consent Agenda Item F for further discussion.

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 SEPTEMBER 22, 2009

B. MINUTES FROM TOWN HALL MEETING OCTOBER 1, 2009

- C. BILLS PAYABLE FOR PERIOD ENDING OCTOBER 13, 2009
- D. APPROVAL OF THE 2ND QUARTER EDC REPORT
- E. APPROVAL OF CONTRACT WITH TARRANT COUNTY ELECTIONS
- F. APPROVAL OF DISBURSEMENT TO ANGEL'S AUTO REPAIR (B.I.G. PROGRAM)

Mayor Pro Tem Crews moved to approve Consent Agenda Items A, B, C, D, and E as presented. Motion seconded by Council Member Butler. All voted "Aye."

Council Member Holland requested that the Council discuss payment options to Tarrant County Fire Alarm prior to the next payment. Council Member Holland expressed concern over paying for a full year of service not yet received.

- F. APPROVAL OF DISBURSEMENT TO ANGEL'S AUTO REPAIR (B.I.G. PROGRAM)

EDC Coordinator Crews presented a summary of invoices presented by Angel's for reimbursement that totaled \$11,336, making the City's contribution \$5,568.00

Mayor Pro Tem Crews asked if proof had been provided that invoices had actually been paid. EDC Coordinator Crews responded that only the invoices had been provided. CA Elam added that the contract allows for the City to require proof of payment for the invoices. Mayor Pro Tem Crews requested that proof of payment be provided prior to reimbursement.

Mayor Pro Tem Crews moved to approve Consent Agenda Item F, reimbursement to Angel's, once proof of payment is produced, in the amount of \$5,668.00. Council Member Minter seconded the motion. All voted "Aye."

PERSONAL APPEARANCES AND ITEMS REQUIRING COUNCIL APPROVAL/ACTION:

[Mayor Earwood announced that Agenda Item 9 would be presented at this time.]

- 9. CONSIDER APPROVAL WITH TWO ROCKS TO EXTEND THE LEASE FOR MINERAL RIGHTS ON CITY PROPERTY

Kyle Smith was present to request an extension of oil and gas lease on the Community Center Property. The current lease expires on October 24, 2009. Mr. Smith proposed to extend the lease until July 1, 2010 with the royalties increasing to 25% and a bonus of \$500 per acre.

CA Elam requested to review the contract. Mr. Smith assured CA Elam that the lease was unchanged other than the exceptions noted.

Council Member Holland moved to approve to extend the lease for mineral rights on City Property for the time specified as discussed. Motion seconded by Mayor Pro Tem Crews. All voted "Aye."

Kyle Smith extended an invitation for anyone with questions or concerns to visit the local Two Rocks Office at the corner of Sam Calloway and River Oaks Blvd.

7. CONSIDER APPROVAL TO EXPEND FUNDS FROM THE PARK DOLLAR DONATIONS FOR PARK SIGNAGE AT WOOLRIDGE PARK, FENCE IMPROVEMENTS AT MCGEE PARK AND TREE SHAPING AT COATES PARK

Park Board Chairman Makarwich was present to request the Council consider approving the use of dollar donation funds for three projects as follows: 1) Two signs at Woolridge Park to advertise and promote the proposed Woolridge Park Project; 2) Install a fence at McGee Park that would screen the park from the adjacent residential neighborhood; and 3) Tree trimming and grooming project at Coates Park.

Mayor Pro Tem Crews moved to approve to expend funds from the Park Dollar Donation Fund for signage at Woodridge Park, fence improvements at McGee Park, and tree shaping at Coates Park as presented. Motion seconded by Council Member Holland. All vote "Aye."

8. CONSIDER APPROVAL OF CONSTRUCTION PLANS FOR THE WOOLRIDGE PARK IMPROVEMENT PROJECT AS RECOMMENDED BY THE PARK BOARD

Park Board Chairman Makarwich delivered the recommendation of the Park Board for approval of the Construction Plans for Phase 1 of the Woolridge Park Project.

Council Member Butler moved to approve the construction plans for the Woolridge Park Improvement Project as presented. Motion seconded by Council Member Holland. All voted "Aye."

9. CONSIDER APPROVAL WITH TWO ROCKS TO EXTEND THE LEASE FOR MINERAL RIGHTS ON CITY PROPERTY

This Agenda Item was presented prior to Agenda Item 7.

10. CONSIDER APPROVAL TO EXPEND FUNDS FROM THE FIRE DEPARTMENT DOLLAR DONATIONS FOR THE PURCHASE OF AUTOMATIC EXTERNAL DEFIBRILLATORS (AED) AND OTHER AED APPARATUS

Mayor Pro Tem Crews moved to approve to expend funds from the Fire Department Dollar Donation Fund for the purchase of Automatic External Defibrillators (AED) and other AED apparatus. Motion seconded by Council Member Minter. All voted "Aye."

11. CONSIDER APPROVAL TO EXPEND FUNDS FROM THE LIBRARY DOLLAR DONATIONS FOR THE INSTALLATION OF ELECTRONIC LOCKS ON THE LIBRARY CONFERENCE ROOMS

Mayor Earwood presented the request of the Library to secure two conference rooms by installing electronic locks on the conference room doors in the amount of \$600 including installation.

Mayor Pro Tem Crews moved to approve to expend funds from the Library Dollar Donation Fund for the installation of electronic locks on two library conference rooms as presented. Motion seconded by Council Member Butler. All voted "Aye."

12. CONSIDER APPROVAL TO REVISE THE AUGUST 25, 2009 CONTRACT APPROVAL REGARDING THE BUSINESS IMPROVEMENT GRANT APPLICATION REQUEST OF GOODYEAR TIRE AND SERVICE AT 5170 RIVER OAKS BLVD. BY DON MARTIN

EDC Coordinator Crews presented the request of Don Martin to increase the previously approved Business Improvement Grant (BIG) amount by approximately \$2,000. The total cost of the project is now \$15,727 with the contribution of the City totaling \$7,863.50.

Mayor Pro Tem Crews moved to approve the revision of the Business Improvement Grant Application Request of Goodyear Tire with the City contribution amount of \$7,863.50 as presented. Motion seconded by Council Member Holland. All voted "Aye."

Mayor Pro Tem Crews encouraged Staff to emphasize to Business Improvement Grant applicants the importance of having a representative present at EDC Meetings and City Council Meetings.

CA Elam relayed that according to paragraph 9 of the standard Business Improvement Grant Contract, the City could require verification of the costs of the improvements and capital expenditures related to the project.

EDC Coordinator Crews responded yes to Council Member Holland's inquiry that Mr. Martin, the applicant, had provided all pertinent tax related documents.

13. DISCUSSION AND/OR ACTION ON CHANGING WEB HOSTS (AS PRESENTED BY CHIEF CREWS)

FC Crews presented options to the Council for consideration to change the web host provider after an extended outage that not only affected City email but also the City website. FC Crews reported that the web designer had cautioned City Staff of the potential perils of using a bargain web host company including the loss of important data. FC Crews offered to compare data backup processes by web hosting companies versus City Staff performing the backup process and re-present the information to the Council.

No action was taken.

14. CONSIDER APPROVAL OF RECOMMENDATION TO HIRE A PART TIME DISPATCHER IN THE POLICE DEPARTMENT

PC Chisholm requested the Council consider approving the employment of part time dispatcher, Carla Poole.

Council Member Holland moved to approve the recommendation to hire a part time dispatcher in the Police Department as presented. Motion seconded by Mayor Pro Tem Crews. All voted "Aye."

ORDINANCES / RESOLUTIONS REQUIRING COUNCIL APPROVAL:

15. CONSIDER APPROVAL OF **ORDINANCE # 828-09** AMENDING THE SIGN ORDINANCE ALLOWING SPECIAL CITY EVENT SIGNAGE ON CITY PROPERTY AND/OR IN CITY RIGHT OF WAY EASEMENTS

Mayor Pro Tem Crews recommended that the proposed ordinance differentiate signage for "Community Center Events" from "Special Events." Mayor Earwood suggested the verbage be changed to "City Events."

Council Member Holland noted that the ordinance requires Council approval of all special events. (Refer to Agenda Item 16 for additional discussion related to this statement.)

Mayor Pro Tem Crews moved to approve Ordinance # 828-09 amending the Sign Ordinance allowing for City Event Signage on City Property and/or in City Right of Way Easements with the word "special" removed as discussed. Motion seconded by Council Member Butler. All voted "Aye."

16. CONSIDER APPROVAL OF SCHEDULING FOR SPECIAL EVENTS AS PRESENTED BY SHIRLEY WHEAT

Special Events Coordinator Shirley Wheat reviewed proposed special events as follows:

- October 15, 2009 – Castleberry School Bonfire at the Community Center at no cost to the City and no admission fee
- October 17, 23, 24, 30 and 31, 2009 – Haunted House at the Community Center at a cost of approximately \$500 and an admission fee of \$5 per person
- November 6 and 7, 2009 – BBQ Cook-off with Bluegrass entertainment and Craft Fair at the Community Center at a cost of approximately \$100 for stew and cornbread, a participant fee of \$10 per cooking team, and no admission fee
- December 4, 2009 – Winter Festival and Craft Fair at the Community Center with a booth fee of \$25 per booth and no admission fee
- February 13, 2010 – Valentine Dinner and Dance with more information related to cost to be presented at a later date.

Mayor Pro Tem Crews moved to approve the 2009 special events as presented, the discreet consumption of alcohol during the BBQ cook-off, and requested the 2010 events be re-presented to the Council when additional information is available. Motion seconded by Council Member Butler. All voted "Aye."

17. CONSIDER APPROVAL OF **RESOLUTION # 662-09** IN ORDER TO PURSUE EECBG FUNDING MADE AVAILABLE THROUGH ARRA

Mayor Earwood introduced Jim Benner, citizen and former City of Austin employee, who has volunteered many hours pursuing grant opportunities for the City of River Oaks.

Jim Benner was present to request the Council consider approving the proposed resolution that is required in order to continue submittal of an energy efficiency grant of up to \$35,000.

Mayor Pro Tem Crews moved to approve Resolution # 662-09 to pursue EECBG funding made available through ARRA as presented. Motion seconded by Council Member Minter. All voted "Aye."

18. CONSIDER APPROVAL OF **RESOLUTION #663-09** RECOMMENDING THE AWARDING OF THE 35TH YEAR CDBG PROJECT FOR SEWER LINE IMPROVEMENTS ON MELBA AND MONTROSE

CS Gregory presented the proposal to award Hall Albert, low bidder, the 35th year CDBG project for the sewer line replacement on Melba and Montrose.

Council Member Butler moved to approve Resolution # 663-09 to recommend awarding the 35th CDBG project for sewer line improvements on Melba and Montrose as presented. Motion seconded by Mayor Pro Tem Crews. All voted "Aye."

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

19. **PUBLIC HEARING: SUBSTANDARD ENFORCEMENT ACTION REGARDING PROPERTY AT 1728 HILLSIDE DR.**

At 8:37 p.m. Mayor Earwood opened the public hearing.

Photos were shown of the property at 1728 Hillside. CS Gregory reported substandard violations including structural, plumbing, electrical, and health violations that constitute a hazard to the public health, safety and welfare of the general public. CS Gregory reported that the property appears to be feasible of repair. The homeowner has not contacted City Staff regarding the property. CS Gregory reported having a conversation with a possible lienholder who had begun the foreclosure process but then allowed the homeowner to remain in control of the property. CS Gregory reported that notice of substandard condition and notice of this public hearing have been posted on the property since mailed notices are being returned unclaimed.

At 8:42 Mayor Earwood closed the public hearing.

20. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **1728 HILLSIDE DR.** THAT MAY INCLUDE SECURING, VACATING, 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

Mayor Pro Tem Crews made the following motion: "I move that the City Council find that the building located at 1728 Hillside 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) find that the building(s) on the property at 1728 Hillside are feasible of repair and therefore ORDER the building(s) be repaired in conformance with the requirements of Section 3.07.004 of the River Oaks Code of Ordinances (2006) as amended within 30-days of the hearing by the owner or by the Lienholder or Mortgagee of record that are required to receive notice, within an additional 30-days if the Owner does not comply. Motion seconded by Council Member Holland. All voted "Aye."

Mayor Pro Tem Crews directed Staff to proceed with the Administrative Hearing process to assess civil penalties of up to \$1,000 per day if compliance is not met within the 60-days as allowed in the Council Order.

21. **PUBLIC HEARING:** CONSIDER REQUEST OF GIGGLES THERAPY AT 905 ROBERTS CUT OFF RD. REGARDING SITE PLAN APPROVAL IN ORDER TO LOCATE A 120 SQUARE FOOT ACCESSORY STRUCTURE ON PROPERTY ZONED C-1 COMMERCIAL ZONING

At 8:47 p.m. Mayor Earwood opened the public hearing.

Daniel Rodriguez, Director of Operations for Giggles Therapy, was present to request the Council consider allowing the 120 square foot accessory building to remain.

CS Gregory reported that the building was placed on an asphalt driveway without proper permitting. CS Gregory stated that an expansion or addition on commercial property requires site plan approval. CS Gregory reported that Section 14.1 of the Zoning Ordinance requires that all exterior building wall construction be at least 75% masonry.

Mayor Earwood stated that the Planning and Zoning Commission recommended to the City Council to deny the site plan approval.

CS Gregory stated that a super majority vote of the City Council would be required since the Planning and Zoning Commission denied the request. CS Gregory recommended that a time limit be established for commencement and completion of the project if approved.

Mayor Earwood suggested that Mr. Rodriguez investigate possible solutions and cost involved to bring the building into compliance.

Mayor Earwood announced that this public hearing would remain open and be continued at the next Regular Meeting of the City Council on Tuesday, October 27, 2009 at 7:00 p.m.

22. **ACTION FROM PUBLIC HEARING:** CONSIDER APPROVAL OF REQUEST OF GIGGLES THERAPY AT 905 ROBERTS CUT OFF RD. REGARDING SITE PLAN APPROVAL IN ORDER TO LOCATE A 120 SQUARE FOOT ACCESSORY STRUCTURE ON PROPERTY ZONED C-1 COMMERCIAL ZONING

No action was taken.

COUNCIL REPORTS:

23. REPORT BY MAYOR PRO TEM JOE CREWS ON RCC ACTIONS

Mayor Pro Tem Crews gave a presentation to promote awareness and the accomplishments of the Regional Coalition Committee (RCC). One of the goals of RCC is to obtain community support and understanding related to noise generated by military facilities that lead to military base closures and thereby affecting the local economy. Mayor Pro Tem Crews mentioned a trend to move all non-essential services off of military base. Mayor Pro Tem Crews reported that this committee is recognized throughout the United States as a model organization.

Mayor Pro Tem Crews mentioned the upcoming air show events on April 24 and 25, 2010 and the 100th Anniversary of Naval Aviation Air Show on April 16 and April 17, 2011.

PUBLIC FORUM:

24. 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**

Council Member Holland gave a reminder of the annual National MPS Run this Saturday at LaGrave Field.

Police Chief Chisholm announced that the River Oaks Police Department is currently ahead of the White Settlement Police Department in the weight loss challenge.

Hub Makarwich questioned the steel plates currently in front of the Fire Department. CS Gregory responded that a pre-construction meeting is being planned regarding the repair of Glenwick.

Hub Makarwich reported that McGee Park was recently vandalized.

EXECUTIVE SESSION:

25. 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:

26. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

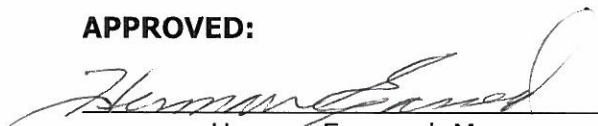
None.

ADJOURN:

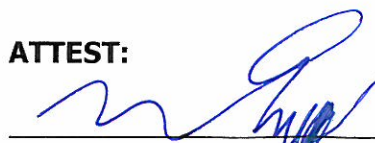
27. ADJOURN

At 9:26 p.m. Mayor Pro Tem Crews moved, seconded by Council Member Minter to adjourn the meeting. All voted "Aye."

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary