

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
OCTOBER 27, 2009**

MEMBERS PRESENT:

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

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
OFFICE MANAGER PAULA BAGWELL
BUILDING INSPECTOR STEVE SANDERS
SECRETARY SUSAN STEWART

MEMBERS PRESENT:

COUNCIL MEMBER STEVE HOLLAND (OUT OF TOWN)

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 27, 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

Citizen Jay Tanner led the pledges of allegiance to the United States and the Texas Flags.

4. **READING OF PROCLAMATION(S) BY MAYOR:** MUNICIPAL COURT APPRECIATION WEEK

Mayor Earwood read a proclamation declaring November 2nd – November 6th, 2009 as Municipal Court Week.

Mayor Earwood recognized CCDAC (Castleberry Community Drug Free Awareness Coalition) and President Nancy Crews and read a proclamation declaring October 23rd – October 30th, 2009 as Red Ribbon Week.

CCDAC President Crews announced a balloon release at the high school football game commemorating Red Ribbon Week.

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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION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 OCTOBER 13, 2009
- B. MINUTES OF SPECIAL CALLED MEETING OCTOBER 19, 2009
- C. BILLS PAYABLE FOR PERIOD ENDING OCTOBER 27, 2009
- D. APPROVAL OF 2ND QUARTER INVESTMENT REPORT
- E. APPROVAL OF CRIME CONTROL & PREVENTION DISTRICT 2ND QUARTER REPORT
- F. APPROVAL OF THE HIRING OF PUBLIC WORKS EMPLOYEES
- G. APPROVAL OF DISBURSEMENT TO FT. WORTH AUTO SUPPLY (B.I.G. PROGRAM)
- H. APPROVAL OF DISBURSEMENT TO RIVER OAKS FLOORING (B.I.G. PROGRAM)

Council Member Gordon moved, seconded by Council Member Butler, to approve Consent Agenda Items A, B, C, D, E, F, G, and H as presented. All voted "Aye."

PERSONAL APPEARANCES AND ITEMS REQUIRING COUNCIL APPROVAL/ ACTION:

7. CONSIDER APPROVAL OF ENGINEER'S RECOMMENDATION AWARDING THE CONTRACT FOR PAINTING OF THE GROUND STORAGE TANK AT 2257 ROBERTS CUT OFF RD.

Bill Lohrke, Senior Project Manager for E. S. & C. M., recommended to award the contract for painting of the ground storage tank at 2257 Roberts Cut Off Rd to J & A Painting. J & A was the second low bidder at \$64,950. The lowest bidder, Fryer Construction Company, did not meet the bid specifications.

Mayor Pro Tem Crews moved, seconded by Council Member Minter, to approve the engineer's recommendation to award the contract for painting of the ground storage tank at 2257 Roberts Cut Off in the amount of \$64,950 to J & A Painting as presented. All voted "Aye."

8. CONSIDER APPROVAL TO CONTINUE MEMBERSHIP IN THE ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

CS Gregory stated that ERCOT has been instrumental in introducing litigation on behalf of municipalities, deregulation, and rate increases at a reasonable rate of \$100 annually.

Council Member Gordon moved, seconded by Council Member Butler, to approve the continuation of membership in ERCOT in the amount of \$100 as presented. All voted "Aye."

9. CONSIDER APPROVAL OF MID-YEAR BUDGET REPORT FOR FISCAL YEAR 2009-2010

CS Gregory reviewed the proposed Mid-Year Budget Adjustments of the General Fund as follows:

- Code Codification of Ordinances, budgeted amount \$3,000; requesting an additional \$3,000
- Publications due to the Charter Election, budgeted amount \$6,500; requesting an additional \$ 2,000
- Tarrant County Elections due to the Charter Election, budgeted amount \$6,800; requesting an additional \$ 3,000
- Street Striping, budgeted amount \$8,000; requesting an additional \$3,000
- Road Repairs, budgeted amount \$60,000; requested an additional \$16,000
- Sanitation Vehicle Repair, budgeted amount \$17,000; requesting an additional \$5,000
- Community Center Part Time Salary, budgeted amount \$ 11,011; requesting an additional \$ 11,470 for increased hours
- FICA, due to increased hours at the Community Center, budgeted amount \$846; requesting an additional \$878
- TMRS, new account for Community Center due to increased hours, budgeted amount \$0; requesting \$1,613

Mayor Pro Tem Crews moved, seconded by Council Member Gordon to approve the Mid-Year Budget Report as presented. All voted "Aye."

ORDINANCES / RESOLUTIONS REQUIRING COUNCIL APPROVAL:

10. CONSIDER APPROVAL OF **ORDINANCE # 829-09** AMENDING THE 2009-2010 FISCAL YEAR BUDGET

Refer to Agenda Item # 9 for discussion.

Council Member Gordon moved, seconded by Council Member Minter, to approve Ordinance # 829-09, amending the 2009-2010 Fiscal Year Budget, as presented. All voted "Aye."

11. CONSIDER APPROVAL OF **ORDINANCE # 830-09** AMENDING ARTICLE VIII, "JUNKED AND ABANDONED VEHICLES", OF CHAPTER VIII OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED

CS Gregory gave an overview of Ordinance # 830-09 that with the proposed changes would bring the current Junked Vehicle Ordinance into compliance with the State Statute as follows:

- Definition of Junked Vehicle revised
- Hearings are no longer mandatory, a hearing will be held by request only
- Hearing request shall be addressed to the Permit Department c/o the Permit Clerk
- Definition of Dismantled or Partially Dismantled revised
- Definition of Inoperable revised
- Forms revised

Mayor Pro Tem Crews moved, seconded by Council Member Gordon, to approve Ordinance # 830-09 amending Article VIII, "Junked and Abandoned Vehicles" of Chapter VII of the River Oaks Code of Ordinances as presented. All voted "Aye."

12. CONSIDER APPROVAL OF **RESOLUTION # 663-09** AUTHORIZING CHEATHAM AND ASSOCIATES ENGINEERING TO RECOMMEND TO TARRANT COUNTY THE ACCEPTANCE OF HAL-ALBERT CONSTRUCTION, AS THE LOW BIDDER ON THE TARRANT COUNTY URBAN ENTITLEMENT, CDBG-R (RECOVERY ACT) FOR THE CITY OF RIVER OAKS; AWARDING THE CDBG-R PROJECT TO HAL-ALBERT CONSTRUCTION AND REPEALING RESOLUTION #661-09 AS ADOPTED ON SEPTEMBER 22, 2009

This Resolution was incorrectly posted as Resolution # 663-09. The correct number is Resolution # 664-09.

Council Member Gordon moved, seconded by Mayor Pro Tem Crews, to approve Resolution #663-09, authorizing Cheatham and Associations to recommend to Tarrant County the acceptance of Hal-Albert Construction, as the low bidder on the Tarrant County Urban Entitlement, CDBG-R project and repealing Resolution # 661-09 as adopted on September 22, 2009. All voted "Aye."

13. CONSIDER APPROVAL OF **RESOLUTION # 664-09** FOR THE ELECTION OF MEMBERS OF THE BOARD OF THE TARRANT APPRAISAL DISTRICT

This Resolution was incorrectly posted as Resolution # 664-09. The correct number is Resolution # 665-09.

CS Gregory stated that a resolution is necessary if the City Council should choose to cast votes for Tarrant Appraisal Board of Directors.

Mayor Pro Tem Crews recommended that Council Members investigate the candidates further and revisit this agenda item since the voting deadline is December 14, 2009.

No action was taken.

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

14. PUBLIC HEARING CONTINUED FROM SEPTEMBER 22, 2009: SUBSTANDARD ENFORCEMENT ACTION REGARDING PROPERTY AT 5060 RIVER OAKS BLVD.

Mayor Earwood announced that this public hearing was still open and continued from September 22, 2009.

CS Gregory stated that a permit to remove the underground tanks has been obtained and the work should be complete within a few weeks.

Wael Al-sahili was present to request time to install a fence around the property.

Mayor Pro Tem Crews reminded Mr. Al-sahili of the substandard property procedure to bring the property to a mowable lot, including removal of the canopies and cement.

CA Elam questioned whether this property had previously been declared substandard and hazardous to the public. CS Gregory responded that the structure had been previously destroyed by fire and the lot was not ordered cleared at that time since the owner was intending to rebuild.

At 7:46 p.m. Mayor Earwood convened into Executive Session pursuant to Section 551.071, Section 551.072, Section 551.074, and Section 551.076.

At 8:07 p.m. Mayor Earwood reconvened into Regular Session.

At 8:07 p.m. Mayor Earwood closed the public hearing.

15. ACTION FROM PUBLIC HEARING: CONSIDER COUNCIL ORDERS ON THE PROPERTY AT 5060 RIVER OAKS BLVD. 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 property located at 5060 River Oaks Blvd. based on evidence presented at the hearing, is substandard and: 1) 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) That the owner has been given an opportunity in the past to abate the substandard violations cited on the property, and there is no reasonable probability that the substandard violations cited on the property will be abated within a reasonable period of time if additional time is given; and therefore ORDER that all structures and improvements including but not limited to fuel dispensing pumps, canopy (if canopy is inside the pump island), underground fuel tanks and other miscellaneous equipment as is located on or under the property at 5060 River Oaks Blvd. be either demolished or removed from the

property and all debris removed from the property and the lot be brought to a uniform surface by the OWNER within 60 days from the October 27, 2009 hearing date and the LIENHOLDER OR MORTGAGEE of record that are required to receive notice to within an additional 30-days if the owner does not comply; and 3) If the OWNER fails to remove all structures or improvements from the property as directed within 60 days from the October 27, 2009 hearing date and the LIENHOLDER OR MORTGAGEE of record, that are required to receive notice, to within an additional 30-days if the owner does not comply, the City may remove all structures and improvements from the property at its expense and return the property to a vacant lot and place a lien on the property to recover its costs or may assess civil penalties pursuant to Section 3.07.013 of the River Oaks Code of Ordinances (2006) as amended following an Administrative Hearing. Motion seconded by Council Member Minter. All voted "Aye."

Mayor Earwood clarified that the concrete must be a smooth level surface and all signage must be removed.

16. **PUBLIC HEARING CONTINUED FROM OCTOBER 13, 2009:** 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.

Mayor Earwood announced that this public hearing was still open and continued from October 13, 2009.

A representative for the property at 905 Roberts Cut Off was not present.

Mayor Pro Tem Crews recalled that at the meeting on October 13, 2009, the representative was given the option to remove the building or provide specifications to comply with the current regulations.

At 8:14 p.m. Mayor Earwood closed the public hearing.

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

Mayor Pro Tem Crews moved to accept the recommendation of the Planning and Zoning Commission and deny the site plan approval for the property located at 905 Roberts Cut Off. Motion seconded by Council Member Gordon. All voted "Aye."

18. **PUBLIC HEARING:** SUBSTANDARD ENFORCEMENT ACTION REGARDING PROPERTY AT **5406 DARTMOUTH AVENUE**

At 8:15 p.m. Mayor Earwood opened the public hearing.

Michael Hefley, 5406 Dartmouth, was present to request time to remove the substandard accessory building.

CS Gregory stated that a substandard fee of \$150.00 would be required.

At 8:19 p.m. Mayor Earwood closed the public hearing.

19. **ACTION FROM PUBLIC HEARING:** CONSIDER COUNCIL ORDERS ON THE PROPERTY AT **5406 DARTMOUTH AVENUE** 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 accessory building 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 accessory building is not feasible of repair and therefore ORDER the owner to demolish or remove the accessory building and all debris within 30 days and the LIENHOLDER OR MORTGAGEE of record, that are required to receive notice, to within an additional 30 days if the owner does not comply; and 3) if the OWNER fails to demolish or remove the accessory building within 30 days and LIENHOLDER OR MORTGAGEE of record, that are required to receive notice, to within an additional 30 days if the owner does not comply, the City shall demolish the accessory building at its expense and place a lien on the property to recover its costs. Motion seconded by Council Member Minter. All voted "Aye."

Mayor Pro Tem Crews moved, seconded by Council Member Gordon, to waive the demolition permit fee of \$50. All voted "Aye."

STAFF REPORTS:

20. STAFF REPORT ON SUBSTANDARD PROPERTIES AT:

- 4833 OHIO GARDEN RD. – Inspector Sanders reported no change and no permits have been issued. CA Elam offered to confer with CS Gregory regarding this property.
- 1129 ST. EDWARDS – Inspector Sanders reported no change. CS Elam stated that a report would be available at the next City Council Meeting regarding this property.

- 1122 ST. EDWARDS – Inspector Sanders reported that the structure on this property has been satisfactorily demolished and a new owner has purchased the land.

21. SUBSTANDARD PROPERTIES UNDER VOLUNTARY COMPLIANCE AT:

- 4804 ARC – Inspector Sanders reported that the electrical and plumbing are up to the current code. A mechanical permit has been issued with an expiration date of 11/6/2009. An order to repair issued by the Building Official expires on 11/11/2009.
- 724 THERSA – Inspector Sanders reported that this property has changed ownership and the new owner will obtain permits to bring the property into compliance.

22. REPORT ON PROPERTIES UNDER SUBSTANDARD CONSIDERATION AT:

- 5017 LANGLEY – Inspector Sanders reported that a title search is in progress.

QUESTIONS RELATED TO STAFF REPORTS INCLUDING:

23. 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 reported that the River Oaks Police Department won the weight loss challenge against the City of White Settlement Police Department.

No action was taken.

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

No discussion or action.

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

No discussion or action.

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

No discussion or action.

27. 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.

28. **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.

29. **PARK BOARD MONTHLY ACTIVITY REPORTS** INCLUDING BALLFIELD RENTALS AND QUESTIONS PERTAINING TO MINUTES FROM THE PARK BOARD

No discussion or action.

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

No discussion or action.

31. **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.

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

EDC President and Council Member JoAnn Gordon reported the awarding of two BIG (Business Improvement Grant) payments to River Oaks Flooring and Fort Worth Automotive.

No action was taken.

33. **STORM WATER TASK FORCE MONTHLY ACTIVITY REPORT** INCLUDING ACTIONS TAKEN UNDER THE MS4 PERMIT, COMMUNITY EDUCATION AND PROMOTIONAL EVENTS REGARDING STORM WATER PREVENTION POLLUTION

Storm Water Task Force Chairman Don Istook reported that the Board is concentrating on educational efforts and is hosting a workshop on October 31, 2009.

CS Gregory reported that the City has just begun the third year of a five year storm water plan that must be completed by August 13, 2012.

No action was taken.

PUBLIC FORUM:

34. 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**

Mayor Earwood summarized that the mission of the Complete Count Committee is to educate the public about the importance of accurately completing the census.

Mayor Earwood announced that the Community Center is hosting a Haunted House through October 31, 2009.

Mayor Earwood also announced that the Community Center is hosting a BBQ Cookoff and Craft Fair on November 7, 2009.

Mayor Pro Tem Crews read a letter from Robert Brown, 1025 Lydick Lane, complimenting Christmas in Action, Citizens for Community Involvement, the River Oaks Fire Department, and the River Oaks Sanitation Department for a job well done in removing a tree from his property that fell during recent storms.

Mayor Pro Tem Crews announced that the City of River Oaks has a facebook page and a twitter account to aid in public awareness. CA Elam cautioned Council Members about deliberation on social networks such as the ones mentioned.

Mayor Earwood announced that Council Member Gordon would present educational information related to the Charter Election at the Community Luncheon on October 27, 2009.

Don Istook announced that Citizens for Community Involvement would host a tail gate party prior to the high school football game on October 30, 2009 and encouraged fans to wear white t-shirts to "white out" the competition.

Don Istook announced that the Lions Club would host a Pancake Breakfast on October 31, 2009.

CS Gregory reported that letters have been mailed to all utility customers notifying them that the City of River Oaks is in total compliance with the TTHM levels and continues to maintain superior water quality.

EXECUTIVE SESSION:

35. 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

Executive Session was convened during Agenda Item 14.

RECONVENE:

Regular Session was reconvened during Agenda Item 14.

36. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION


Refer to Agenda Item 15 for action taken pursuant to executive session.

ADJOURN:


37. ADJOURN

At 8:54 p.m. Mayor Pro Tem Crews moved, seconded by Council Member Gordon to adjourn the meeting. All voted "Aye."

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary