

**MINUTES OF THE REGULAR MEETING
RIVER OAKS CITY COUNCIL
MARCH 13, 2012**

MEMBERS PRESENT:

COUNCIL MEMBER JOE CREWS
COUNCIL MEMBER JOANN BUTLER
COUNCIL MEMBER R.R. "BOB" MINTER

STAFF PRESENT:

CITY SECRETARY MARVIN GREGORY
POLICE CHIEF DAN CHISHOLM
ASST FIRE CHIEF CHRIS HAWKINS
OFFICE MANAGER PAULA LUCK
CITY ATTORNEY BETSY ELAM
BUILDING INSPECTOR STEVEN SANDERS
PUBLIC WORKS DIRECTOR JAMES HATLEY

MEMBERS ABSENT:

MAYOR HERMAN EARWOOD
MAYOR PRO-TEM JOANN GORDON
COUNCIL MEMBER STEVE HOLLAND

THE CITY COUNCIL MAY PRIOR TO CALLING THE MEETING TO ORDER ELECT FROM AMONGST ITS QUORUM OF MEMBERS THE ACTING MAYOR ONLY FOR THIS MEETING IN THE EVENT THE MAYOR AND MAYOR PRO-TEM ARE BOTH ABSENT. THE ACTING MAYOR WILL ALSO RETAIN HIS/HER VOTING RIGHTS AS A COUNCIL MEMBER.

1. CALL TO ORDER

Council Member Crews informed everyone that Mayor Earwood, Mayor Pro-Tem Gordon, and Member Holland were not present. Therefore; he will be acting as Mayor for this meeting and can also retain his voting rights as a Council Member.

With a quorum present, Council Member Crews called the Regular Meeting of the River Oaks City Council to order at 7:00 p.m. on Tuesday, March 13, 2012 at the River Oaks City Hall, 4900 River Oaks Blvd., River Oaks, Texas 76114.

2. INVOCATION

Public Works Director Hatley delivered the Invocation.

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

Police Chief Chisholm led the pledges of allegiance to the United States and the Texas Flags.

4. READING OF PROCLAMATION(S) BY MAYOR:

- POISON PREVENTION WEEK
- APRIL AS RIVER OAKS CLEAN UP MONTH

Council Member Crews read the proclamations.

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 FEBRUARY 28, 2012
- B. BILLS PAYABLE FOR PERIOD ENDING MARCH 13, 2012

Council Member Butler moved, seconded by Council Member Crews, to approve consent agenda items A and B as presented. All voted "Aye."

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 **ITEMS TO BE WITHDRAWN FROM CONSENT AGENDA FOR SEPARATE DELIBERATION:** COUNCIL RESERVES THE RIGHT TO REMOVE ANY ITEM ON THE CONSENT AGENDA FOR FURTHER DELIBERATION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. **DRAWING TO DETERMINE THE ORDER IN, WHICH THE NAMES OF CANDIDATES ARE TO BE PRINTED ON THE BALLOT FOR THE CITY MUNICIPAL ELECTION TO BE HELD ON MAY 12, 2012.**

At this time, candidates drew numbers for which order their names will be placed on the ballot:

- 1-Joe Ashton
- 2-Sherrie Uptmore Dast
- 3-Walter Caraway

7. **RIFA PARA DETERMINAR EL ORDEN, EN EL CUAL SE IMPRIMIRAN LOS NOMBRES DE LOS CANDIDATOS EN LA TARJETA ELECTORAL, PARA LA ELECCION MUNICIPAL DE LA CIUDAD, QUE SE LLEVARA A CABO EL 12 DE MAYO DEL 2012.**

En este momento, los candidatos sortearon números para que el orden de sus nombres sea colocado en la boleta:

- 1-Joe Ashton
- 2-Sherrie Uptmore Dast
- 3-Walter Caraway

8. CONSIDER APPROVAL TO EXPEND PARK DOLLAR DONATION FUNDS TO INSTALL A WINDSCREEN WITH POLY CAP FENCE GUARD AROUND THE BALL FIELDS AT MCGEE PARK.

Steve Sanders with LYSA explained the purpose of windscreen in that it will block air and light that comes into the ball field. This windscreen will have the River Oaks logo on it in the center field. There will be a top cap railing at the top to cover the spikes. The total cost for windscreen and top cap railing for both fields will be \$3,506.27 for materials only. LYSA will be doing the installation. If needed, LYSA will go before the Park Board the first part of April 2012 at their regular meeting. Council Member Crews mentioned that the normal process is for the Park Board to bring it before the Council. But this is a safety issue that needs to be resolved now. Steve Sanders mentioned he was asked to act on this quickly. This will take 2-3 weeks to complete this project. CS Gregory said he was going to ask the EDC Board to pay for this project, but since the firework grant was denied, he felt it wasn't a good idea.

Council Member Butler moved, seconded by Council Member Minter to approve installing a wind screening around the outfield fence with a top cap railing to be paid out of Park Dollar Donation in the amount of \$3,506.27. All voted "Aye".

9. CONSIDER APPROVAL TO ADJUST WATER BILL AT 603 HARRISDALE DUE TO MAJOR LEAK AS REQUESTED BY ROBERT WAGGONER AND/OR CAROL WAGGONER WELLS.

Pass with no action. No representation was present.

PUBLIC HEARINGS / ACTION FROM PUBLIC HEARINGS:

10. PUBLIC HEARING: IN ORDER TO RECEIVE CITIZEN COMMENTS ON THE SIGN VARIANCE REQUEST BY Q-TEL (KINGDOM ICE) IN ORDER TO INSTALL A 50 SQUARE FEET ATTACHED SIGN INSTEAD OF THE REQUIRED 18 SQUARE FEET SIGNAGE PERMITTED ON THE 225 SQUARE FOOT ICE BUILDING LOCATED IN FRONT OF THE PROPERTY AT 4817 RIVER OAKS BLVD. IN VIOLATION OF SEC. 3.12.083 "ATTACHED SIGN" (D) "MAXIMUM AREA" OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED REQUIRING THAT AN ATTACHED SIGN NOT EXCEED 0.75 SQUARE FEET FOR EVERY ONE FOOT OF WIDTH OF BUILDING OR LEASE SPACE. (VA 312-005).

At 7:15 pm, Council Member Crews opened the Public Hearing.

Greg Miller with Q-Tel (Kingdom Ice) was present. The ice house is a standing billboard. It has the penguin logo and the prices of the bags of ice. Also has "reverse osmosis for ice and water system". This building is covered in rock and stucco. Most buildings have signs on both sides of the buildings. This building will

have a sign on only one side. This sign needs to be larger than what the city's code requires.

Don Istook, 1700 Inspiration Lane, building owner of 4813 Green Oaks and also business owner of River Oaks Café said Mr. Speigel currently owns the strip center that the River Oaks Café is located in. Mr. Istook talked with Mr. Siegel about the ice house. Mr. Speigel said he did not take into consideration the traffic issues, etc. Mr. Istook mentioned the ice house blocks the existing pole sign. He suggests denying any further variances. The parking lot and the signage already looks cluttered with this ice house. Mr. Istook as a tenant and also as a building owner is very upset. He can see where water can leak and create problems. There will be more traffic caused by vehicles and by large trucks. Mr. Istook stated for the record he is against this variance.

Council Member Crews read: Following the public hearing, council must find in granting a variance that a literal enforcement of the sign regulations will create an unnecessary hardship or practical difficulty; the unnecessary hardship or practical difficulty is unique to the property and not self-imposed; the variance will not inquire and be wholly compatible with the use and development of adjacent properties; the granting of the variance will be in harmony with the spirit and purpose of the sign article.

Council Member Crews mentioned he has a problem approving a sign larger than the ordinance requires for many reason. Council Member Butler would like not to see the price of the ice on the sign. CS Gregory mentioned the city complied with all provisions of the ordinance notifying everyone within 200'. There was only one written objection received and with the objection of Mr. Istook here tonight, that constitutes there being two objections.

At 7:27 pm, Council Member Crews closed the Public Hearing.

11. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF THE SIGN VARIANCE REQUEST BY Q-TEL (KINGDOM ICE) IN ORDER TO INSTALL A 50 SQUARE FEET ATTACHED SIGN INSTEAD OF THE REQUIRED 18 SQUARE FEET SIGNAGE PERMITTED ON THE 225 SQUARE FOOT ICE BUILDING LOCATED IN FRONT OF THE PROPERTY AT 4817 RIVER OAKS BLVD. IN VIOLATION OF SEC. 3.12.083 "ATTACHED SIGN" (D) "MAXIMUM AREA" OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED REQUIRING THAT AN ATTACHED SIGN NOT EXCEED 0.75 SQUARE FEET FOR EVERY ONE FOOT OF WIDTH OF BUILDING OR LEASE SPACE. (VA 312-005).

Council Member Crews moved, seconded by Council Member Butler to deny the request for a sign variance. The ordinance will remain as is. All voted "Aye".

12. ADMINISTRATIVE HEARING: PURSUANT TO SECTION 3.07.013013 OF THE RIVER OAKS CODE OF ORDINANCES IN ORDER TO ASSESS A

CIVIL PENALTY AGAINST THE PROPERTY OWNER AT 1409 LAWRENCE RD. FOR FAILURE TO COMPLY WITH AN ORDER ISSUED BY THE BOARD PURSUANT TO SECTION 3.07.007 OF THE RIVER OAKS CODE OF ORDINANCES (2006).

At 7:28 pm, Council Member Crews opened the Administrative Hearing.

CS Gregory stated he has received contact from Title Company but nothing from Chase Bank. Building Inspector Sanders showed and explained pictures of the property indicating what violations were present.

At 7:37 pm, Council Member Crews closed the Administrative Hearing.

13. ACTION FROM THE ADMINISTRATIVE HEARING: CONSIDER ORDERS TO ASSESS A CIVIL PENALTY PURSUANT TO SECTION 3.07.013 AGAINST THE PROPERTY OWNER AT 1409 LAWRENCE RD. FOR FAILURE TO COMPLY WITH AN ORDER ISSUED BY THE BOARD PURSUANT TO SECTION 3.07.007 OF THE RIVER OAKS CODE OF ORDINANCES (2006).

City Attorney Elam mentioned the city could go up to \$1,000 a day. Council Member Crews mentioned that since it has been 51 days, the city can impose \$51,000 as of today for the owner's failure to take an action necessary for compliance of the Substandard Building order. Council Member Butler suggested \$100 a day starting with today and move forward.

Council Member Crews moved, seconded by Member Butler found that the Building(s) located at 1409 Lawrence Rd. *based on evidence presented at the Administrative Hearing of March 13, 2012*, is in violation of the Substandard Building Order issued on November 23, 2011 from the November 22, 2011 public hearing that allowed J.P. Morgan Chase Bank NA until January 21, 2012 to abate all **Substandard Conditions** and further find that:

1. the property owners, J.P. Morgan Chase Bank N.A. % Chase Manhattan Mortgage @ 200 W. Old Wilson Bridge Rd., Worthington, Ohio 43085-2247 have **not** provided proof that the property at **1409 Lawrence Rd.** in River Oaks, Tarrant County, Texas is the owner's lawful homestead; and
2. the property owner was notified of the contents of the order issued pursuant to Section 3.07.007 of the River Oaks Code of Ordinances (2006) as amended; and
3. the record property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order for a period of **51 days** after the deadline date of January 21, 2012 ; and

THEREFORE THE BUILDING BOARD OF APPEALS (CITY COUNCIL) ORDERS THAT:

1. civil penalties be assessed in accordance to Section 3.07.013 of the River Oaks Code of Ordinances (2006) as amended against the owner, **J.P Morgan Chase Bank, N.A.** pursuant to the November 22, 2011 Substandard Building Order as extended thru January 21, 2012 in the amount of ***one-hundred dollars (\$100) per day beginning on March 14, 2012 and continuing for each day thereafter that the property remains in violation and furthermore civil penalties shall continue in the amount of one-hundred dollars (\$100) per day*** until all the actions under the Substandard Building Order is released; and
2. after the civil penalty is assessed, the city secretary shall file with the district clerk of the county in which the property is located a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty; and
3. the civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this subsection is final and binding and constitutes prima facie evidence of the penalty in any suit.

14. PUBLIC HEARING: TO RECEIVE PUBLIC COMMENT AND TESTIMONY ON THE ADOPTION OF THE APRIL 1, 2012 - SEPT. 30, 2012 RIVER OAKS MUNICIPAL STORM WATER UTILITY SYSTEM OPERATING BUDGET PURSUANT TO ORDINANCE # 913-2012 AND BY ESTABLISHING FEES PURSUANT TO ORDINANCE # 914-2012.

At 7:44 pm, Council Member Crews opened the Public Hearing.

CS Gregory mentioned that last council meeting a Public Hearing was held to establish Ordinance 913-2012 to set fees and establish an operating budget. Calculated on a 90 percentile rate of impervious area in commercial and non-residential we should collect approximate revenue of \$34,000 for 82 acres of land times the acre rate of \$69.03 at \$0.00177 per square foot of impervious area and another estimated revenue income of \$66,000 from our residential customers at \$4 per tract. CS Gregory figures we should collect \$99,900 for the remainder of the year and earn \$100 in interest. We should expend \$100,000 a year; which leaves a balanced budget. The effective date will be April 1st, 2012. The April 2012 water bills will not be mailed out until May 2012.

At 7:48 pm, Council Member Crews closed the Public Hearing.

15. ACTION FROM PUBLIC HEARING: CONSIDER APPROVAL OF ORDINANCE # 918-2012 ADOPTING THE RIVER OAKS MUNICIPAL STORM WATER UTILITY SYSTEM OPERATING BUDGET FOR THE PERIOD APRIL 1, 2012 THROUGH SEPTEMBER 30, 2012.

Council Member Butler moved, seconded by Council Member Minter to adopt Ordinance #918-2012. All voted "Aye".

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

16. CONSIDER APPROVAL OF ORDINANCE # 919-2012 EXPANDING THE 2011-2012 FISCAL YEAR GENERAL FUND OPERATIONAL BUDGET FOR EXPENDITURES FROM THE PARK DOLLAR DONATION FUND AND PROVIDING AN EFFECTIVE DATE.

Council Member Butler moved, seconded by Council Member Crews to adopt Ordinance #919-2012. 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

Steve Sanders thanked the Park Board for help with the clean up over the weekend.

Nancy Crews announced the CCDAC Fundraiser will be April 12th, 2012. There will be a program April 10th, 2012 at the high school.

CS Gregory announced the Hazardous Collection mobile will be here April 21st, 2012 in the City Hall parking lot from 9 am – 11 am.

Council Member Crews announced the swearing in ceremony for the new Police Chief and Deputy Chief will be April 3rd, 2012 at 6:30 pm at the Community Center.

Police Chief Chisholm announced the retirement ceremony for him and Linda Claridge will be March 29th, 2012 from 4:30 – 7:00 pm at the Community Center. There is 44 total years of service for both. Also, this Saturday at the Fort Worth Police Training Center and there will be an open house that is free to the public. Also, our Police Department has received a grant from 911 for a new computer and a chair in the dispatch office.

EXECUTIVE SESSION:

18. 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:

19. CONSIDER APPROVAL OF ANY ACTION FROM EXECUTIVE SESSION

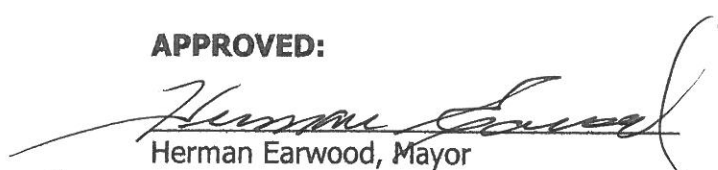
None.

ADJOURN:


20. ADJOURN

At 7:56 pm, Council Member Crews moved to adjourn the meeting. No one seconded. All voted "Aye".

APPROVED:


Herman Earwood, Mayor

ATTEST:


Marvin Gregory, City Secretary