

**MINUTES**  
**BENBROOK ECONOMIC DEVELOPMENT CORPORATION**  
**Board of Directors**  
**Regular Meeting**  
**Benbrook City Hall**  
**January 28, 2008**

**I. CALL TO ORDER**

The regular meeting of the Benbrook Economic Development Corporation Board of Directors was called to order at 7:06 p.m., Monday, January 28, 2008 in the Council Chambers in City Hall at 911 Winscott Road. The presiding officer was President Charlie Anderson. A quorum was present, including the following:

Charlie Anderson, President  
Steve White, Vice President  
Carrol Crombie, Secretary  
Rick Whitehurst, Treasurer  
Dan Tully  
James Schull  
William Higgins

Staff Present: Ron Rainey, Executive Director  
Patty C. Bissey, Director of Marketing & Research

Also Present: Dwight Heard, BEDC Attorney  
Pat Taber, Citizen  
Ron Sauma, City Council  
Keith Bailey, City Council  
Larry Stowe, City Council  
Tammi Cauthen, First Bank  
Brad Bowen, Richpenn Resources  
Tom Eudaly, Richpenn Resources

**II. CONSENT AGENDA** (Items listed under the Consent Agenda are considered routine and are enacted in one motion. The exception to this rule is that a Board member, Citizen, or Executive Director may request one or more items to be removed from the Consent Agenda for separate discussion and action.)

- a. Minutes of BEDC Regular Meeting of December 17, 2007**
- b. Financial Report for Period Ending December 31, 2007**

Mr. Carrol Crombie made a motion to accept the Consent Agenda Minutes of BEDC Regular Meeting of December 17, 2007 and the Financial Report for period ending December 31, 2007. Mr. Dan Tully seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

### III. DIRECTORS REPORT

- a. Update Restaurant Site/Goliad Street Abandonment Request** - Director Rainey reported that City Council will consider the BEDC request to immediately abandon Goliad Street from Del Rio to the I-20 frontage road at its February 7, 2008, meeting. The abandonment of the street is required to combine three lots purchased from Gene Buckner to the east of Goliad with approximately 51,000 square feet being contributed by N3 Development Ltd. to Benbrook Realty Partners, L.P. The combined property will be platted into a single lot of approximately 80,000 square feet and is under contract to sell to Skibell Properties, LLC. Skibell will market the property for use by a sit-down, casual dining restaurant. N3 Development, Ltd. is attempting to obtain signatures required to amend the current lease agreement with Starbucks. The real estate closing will occur when the executed amendments are approved by Alamo Title Company underwriters. Two separate applications have been approved by the Fort Worth District Office for Texas Department of Transportation and forwarded to Austin for consideration by the TxDOT Commission. Mr. Rainey also reported that an appraisal was completed by Ben Dyess Associates and submitted to TxDOT as part of the application. Dyess valued the property at \$15 per square foot, but discounted the value by 75 percent since the property is of little value to anyone other than the adjoining property owner(s). TxDOT's right of way was determined by survey to be 0.0074 acre (322.34 square feet). Value of the surplus right of way was established by appraisal to be \$1,208.78 (\$3.75 per square foot).
- b. Update Benbrook Field Final Plat** - Mr. Rainey informed the EDC Final plat for Benbrook Field north of Mercedes Drive was submitted for review to the City of Benbrook Tuesday, January 8, and comments are expected to be received during the week of January 21, 2008. Plans are being reviewed by Benbrook Water Authority, all franchise utility companies and the City of Benbrook. Construction plans for Benbrook Field Drive and utilities was submitted to the City of Benbrook Wednesday, January 2, 2008. A copy of the Final Plat for Lots 1-4, Block 1, and Lots 1, 2A, 2B & 3-7, Block 2, which includes 35.3509 acres in the H. Covington Survey, City of Benbrook, Tarrant County, Texas, as prepared by David Petree, RPLS, was submitted by Dunaway Associates LP on behalf of the Benbrook Economic Development Corporation.
- c. Update Benbrook Field Drive Traffic Signal Request** - Director Rainey reported that a revised Traffic Impact Analysis has been prepared for the Texas Department of Transportation to support the requested traffic signal and Benbrook Boulevard improvements for future construction of The Home Depot. Mr. Rainey added that efforts are underway to schedule a meeting with TxDOT officials in an attempt to move the application forward. The revised TIA continues to warrant a traffic signal at Benbrook Field Drive and Benbrook Boulevard, according to TCB engineers.

#### IV. UNFINISHED BUSINESS

- a. **Consider Wal-Mart Purchase Agreement Amendment** - Executive Director Ron Rainey reported that a Fourth Amendment to the Purchase Agreement on behalf of Wal-Mart was submitted late afternoon on December 17, 2007. A meeting was scheduled Friday morning, January 25, 2008, with Haynes & Boone, Wal-Mart's outside legal counsel; BEDC attorney Dwight Heard; Dunaway Associates LP, Wal-Mart's contracted engineering firm; Tom Hudson, Wal-Mart's real estate broker for North Texas; Brad Bowen, Richpenn Resources International, Inc., BEDC's real estate broker/advisor, and EDC Staff to review all documents in preparation of a March 14, 2008, real estate closing.

Mr. Carrol Crombie made a motion to approve the Fourth Amendment to the Purchase Agreement and authorize Board President Charlie Anderson to execute the Amendment. Mr. James Schull seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- b. **Consider Home Depot Purchase Agreement Amendment** – Executive Director Ron Rainey reported that documents were being prepared by Forrest Smith, III, attorney with Kane, Russell, Coleman and Logan PC, on behalf of Home Depot to amend the current Purchase Agreement with the Benbrook Economic Development Corporation. A major change in the document is to remove development obligations from BBT (Richpenn) and shift those responsibilities to the Benbrook EDC. Home Depot officials have also agreed to change the construction of all public utilities, including Benbrook Field Drive, from a pre-closing to a post closing requirement. Officials with Home Depot have reported accelerated closing plans to allow for an April, 2008, real estate closing.
- c. **Consider First Bank Letter of Commitment** – Mr. Rainey informed the Benbrook EDC Board of Directors that Tammi Cauthen, First Bank Branch President - Benbrook, received approval to submit a Letter of Commitment to the Benbrook EDC with the LOC dated December 5, 2007. The 18-month, interest – only, loan is to be used for the construction of Benbrook Field Drive and public infrastructure required by a contract with Home Depot. The commitment is for \$1,500,000.00 with an interest rate floating with Wall Street Journal Prime Rate. An origination fee of .50% will be collected at closing. Collateral is to be a Security Agreement on Sales and Use Tax and cross collateralize the real estate loan referenced in Deed of Trust dates February 21, 2006. Benbrook Economic Development Corporation Board of Directors reviewed the Letter of Commitment in its December 17, 2007, meeting and determined approval would be premature due to its belief the amount of \$1,500,000 may be insufficient to construct the required utilities.

Mr. Rick Whitehurst made a motion to approve the First Bank Letter of Commitment and authorize Board President Charlie Anderson to execute the document. Mr. James Schull seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

## V. NEW BUSINESS

- a. **Consider Richpenn Resources International, Inc./BBT Crossing, Ltd./ Bo-Peek Limited Ancillary Agreement** – Director Rainey reported that BBT Crossing Ltd., the entity that executed a Developer Agreement with the Tax Increment Finance Board of Directors to develop Benbrook Field and Brookside Addition, determined in late 2007 the financial cost, and delayed TIF repayment, would not allow the entity to borrow funds sufficient to construct the required public infrastructure. BBT agreed to release plans and documents prepared by Dunaway Associates LP and David Petree Surveying to the BEDC if agreements could be reached and the BEDC agreed to pay outstanding invoices to both entities. The Benbrook EDC Board of Directors authorized Staff to pay for documents prepared by the two firms in an effort to submit the Final Plat for Benbrook Field and keep the schedule set by Home Depot. BEDC paid Dunaway Associates LP \$268,760.15 for “public utility” plan preparation and David Petree, RPLS, \$83,475.00 for survey work completed on Benbrook Field property in preparation of Final Plat submittal. E. John Jetsam, attorney representing Brad Bowen and numerous entities created for the Benbrook project, has prepared an Ancillary Agreement for Benbrook EDC Board of Director consideration, and possible execution. BEDC Attorney Dwight Heard has reviewed the Agreement and suggest there is no benefit to the BEDC in executing the agreement. BEDC Staff has visited with Deputy City Manager Dave Gattis about the TIF Developer Agreement and Gattis has requested an opinion from City Attorney Wade Adkins. The opinion is expected to inform the TIF Board as to its ability to execute dual TIF Developer Agreements within the same project area and reimburse multiple developers for its authorized and approved expenses.
  
- b. **Consider Letter of Intent for Benbrook Field Sites** –
  1. **Lot 1, Blk 1 (4.5494 Acres)** – Kevin McIntosh, Trinity Partners Commercial Real Estate, has received and submitted a Letter of Intent to purchase approximately 4.5494 acre site in Benbrook Field from the Benbrook Economic Development Corporation. The LOI was submitted by Jim Makens, President, The Makens Company, Bedford, Texas. The Purchase Letter of Intent is for Lot 1, Block 1, Benbrook Towne Crossing Addition, in the City of Benbrook, Tarrant County, Texas and containing approximately 4.5494 acres of land. The acreage calculates to 198,171.86 square feet. The LOI offers a purchase price of Seven Hundred Ninety Three Thousand Dollars (\$793,000.00) or \$4 per square foot. Price per square foot for land contracted to sell to Wal-Mart and Home Depot are each at \$3.85 per square foot. The property’s intended use is for the development of an LA Fitness health club and fitness facility. Closing for TMC Management Company and/or assigns, could extend to more than 150 days.

Mr. Dan Tully made a motion to reject the Letter of Intent. Mr. William Higgins seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

2. **Lot 3, Blk 2 (1.6821 Acres)** – Benbrook Economic Development Corporation received a Letter of Intent Thursday, January 17, from Kevin McIntosh, Trinity Partners Commercial Real Estate, with the LOI being submitted by The Makens Company. The LOI is for Lot 3, Blk 2 of Benbrook Towne Crossing Addition (Benbrook Field). The property is approximately 1.6821 acres with an offer of EIGHT HUNDRED EIGHTY THOUSAND DOLLARS AND NO/CENTS (\$880,000.00). Calculations translate the lot to 73,272.28 square feet and an offer price of \$12.01 per square foot. First Bank's release price for land fronting Benbrook Boulevard is \$11 per square foot. The Makens Company first approached the BEDC when it was the listing agent for the Ashland Company, owners of what is generally termed "the Valvoline site" north of McDonald's. The BEDC paid \$18.00 per square foot (\$333,533.00) for the Ashland property that measured 0.425 acres (18,509 square feet). Asking price for the lot had been \$29 per square foot. The former RaceTrac site on the east side of Benbrook Boulevard is under contract for \$650,000.00 for a 0.98 acre tract or \$15.23 per square foot. The tract is irregular and is requiring additional property to be acquired to develop two lots of approximately one acre each. The property is reportedly under contract to Tom Eudaly and Brad Bowen (Trinity Partners) who are working in conjunction with Hardesty Realty (David Hardesty) of Dallas. The developers are reportedly marketing to Blue Wave Car Wash and Chik-Fil-A. The site is planned for the development of a bank and was first presented to the BEDC when Richpenn Resources International, Inc. wanted to ground lease to Wachovia. Engineers for Wachovia have been in communication with City of Benbrook's Planning Department and efforts to ground lease are apparently still being sought.

Mr. Rick Whitehurst made a motion that the BEDC should not accept the \$12 per square foot offer as this would make the 1.6821 acre site the lowest price sale in recent years on Benbrook Boulevard. A contract for the sale of the BEDC restaurant site is for \$15 per foot and the appraisal for the lot fronting Benbrook Blvd. (a part of the Skibell sale) was valued at \$20 per square foot. The former Buckner property was appraised at \$15 per square foot. Mr. Steve White seconded the motion. President Charlie Anderson called the vote. The motion carried.

- c. **Consider First Bank Loan Extension** – Benbrook Economic Development Corporation's \$3,840,000 loan with First Bank is due to mature on February 4, 2008. Tammi Cauthen, Branch President – Benbrook, has stated the loan committee approved the six month extension and she will be requesting an additional three month extension under the same terms at the next loan committee session and will have a report for the February 25th BEDC Board of Directors meeting.

Mr. Rick Whitehurst made a motion to authorize the request for the additional three month extension to the First Bank loan. Mr. Carrol Crombie seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- d. Benbrook Field Development Bidding Requirements/Options** – Benbrook Economic Development Corporation has accepted the role of developer for Benbrook Field Drive and related public utilities to serve property located in Benbrook Field north of Mercedes. The role was accepted by default when Richpenn Resources International, Inc., determined it did not have the funding, or the borrowing ability, to complete the development with any anticipation of being reimbursed from the Tax Increment Finance District. Public entities typically have to adhere to mandated procedures to accept bids for public projects and the BEDC, along with the City of Benbrook, requested an opinion from City Attorney Wade Adkins as to the public project bidding requirements of the BEDC.

Mr. Carrol Crombie made a motion to instruct the BEDC Board of Directors to advise Home Depot to make the bids publicly announced and awarded in order to be eligible for reimbursement by TIF. Mr. Rick Whitehurst seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- e. Consider Changing May 19th BEDC Meeting Date** - Director Rainey reported International Council of Shopping Centers will be conducting its Spring Convention in Las Vegas, Nevada, from May 18 to May 21, 2008. The regular meeting of the Benbrook Economic Development Corporation's Board of Directors is scheduled for May 19, 2008. Staff is requesting a change in the May meeting date to allow for the continued annual participation at the ICSC conference.

Mr. Rick Whitehurst made a motion to change the May monthly BEDC meeting from May 19, 2008 to May 12, 2008. Mr. Carrol Crombie seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- f. Consider Changing June 16<sup>th</sup> BEDC Meeting Date** –

Mr. Whitehurst made a motion to change the June monthly BEDC meeting from June 16, 2008 to June 23, 2008. Mr. Steve White seconded the motion. President Charlie Anderson called the vote. The motion carried 6 – 1 with Mr. Tully voting no.

- g. Consider Approval For ICSC Attendance May 17 – 20, 2008** - Executive Director Ron Rainey took advantage of early registration discounts for the International Council of Shopping Centers annual Spring Conference by

registering in early fall, 2007. The registration is refundable, but the BEDC has participated in the conference for a number of years and has found the experience to be rewarding by allowing for recruitment and networking with developers and end users. The BEDC Board included the travel budget in its FY2007-08 budget under account number 5222 Travel Expenses. The annual conference begins on Sunday and ends Wednesday, May 18-21, 2008; however, BEDC staff plans to arrive in Las Vegas on Saturday, May 17, and return Tuesday night, May 20, upon approval by the Board.

Mr. Carrol Crombie made a motion to authorize the Executive Director to participate in the annual ICSC Spring Convention in Las Vegas, Nevada, being held May 18 through May 21, 2008, and charge the expense to Account Number 5222. Mr. Rick Whitehurst seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- h. Consider Benbrook Area Chamber of Commerce Sponsorship Request(s) -** Benbrook Economic Development Corporation has been approached by the Benbrook Area Chamber of Commerce requesting sponsorship in the Monday, June 9, 2008, golf tournament benefiting the BACC. The tournament will once again be held at Whitestone Golf Club. The BEDC paid \$2,000 to the Benbrook Chamber in 2007 as one of the major tournament sponsors and is being asked to commit to the same level in 2008.

Mr. Carrol Crombie made a motion to authorize Benbrook EDC Board of Directors to commit to the June 9, 2008, Benbrook Area Chamber of Commerce golf tournament sponsorship at the same level as in 2007. Mr. Rick Whitehurst seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

- i. Consider TexasOne Program Membership –** Office of the Governor Economic Development & Tourism Executive Director Aaron Demerson has invited the Benbrook Economic Development Corporation to join TexasOne, a marketing fund established to assist with the OEDT budget. The program is entering its fourth year and the BEDC has chosen not to participate in the previous three years. A membership at the Tier One level begins at \$1,000 per year for a 3-year commitment.
- j. Consider BRP GP, LLC Board of Mangers Changes -** Benbrook Economic Development Corporation Board of Directors control the BRP GP, LLC by appointing members of the Board of Managers to the “for profit” entity established to purchase and hold future BEDC property acquisitions. Ad valorem taxes continue to be collected on land owned by BRP GP, LLC and the TIF district does not lose value when the BEDC owns property within the district. Members of the Board of Managers currently include: Charlie Anderson, Steve White, Carrol Crombie. Dan Tully, J.D. Schull, James Amick and John Vander Pan, In an effort to keep the BEDC Board of Directors and the BRP GP, LLC Board of Managers appointed so that additional people are not required to attend

meetings of the two groups, it is recommended the BEDC Board of Directors pass a resolution replacing James Amick and John Vander Pan with newly appointed BEDC Board of Director members Rick Whitehurst and Will Higgins.

Mr. Carrol Crombie made a motion that the BEDC Board of Directors pass a resolution replacing James Amick and John Vander Pan with newly appointed BEDC Board of Director members Rick Whitehurst and William Higgins. Dan Tully seconded the motion. President Charlie Anderson called the vote. All voted aye and the motion carried.

**VI. OTHER MATTERS OF BUSINESS**

**VII. INFORMAL CITIZEN COMMENTS**

**EXECUTIVE SESSION – Pursuant to Section 551.071, Consultation with Attorney – Discuss exclusive broker/client relationship for Benbrook Field development.**  
Board President Charlie Anderson did not call the Executive Session to order.

**VIII. RECONVENE IN OPEN SESSION – No Executive Session called.**

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at approximately 9:31 p.m.

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Secretary

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Presiding Officer