



**MINUTES  
OF THE MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY,  
FEBRUARY 5, 2009**

The regular meeting of the Benbrook City Council was held on Thursday, February 5, 2009 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich  
Keith Bailey  
Rickie Allison  
Dan Tully  
Mark Washburn  
Ron Sauma

Also Present:

Andy Wayman, City Manager  
Joanna King, City Secretary  
Cathy Morris, Involvement Director  
Walter Shumac, Public Service Director

Others Present:

Ed Gallagher, City Planner  
Bob Rowley, City Engineer  
Ron Rainey, EDC Director  
David Wasson, BWA Manager  
Bill Smith  
Jim Wilson  
Karen Barber  
Jess Jordan  
and 5 other citizens

**I. CALL TO ORDER**

Meeting called to order at 7:30 p. m. by Mayor Dittrich.

**II. INVOCATION  
PLEDGE OF ALLEGIANCE**

Invocation was given by Dr. Larry Sanders with Trinity Hills Baptist Church.  
The Pledge of Allegiance was recited.

### **III. MINUTES**

#### **1. Minutes of the regular meeting held January 15, 2009**

Motion by Mr. Tully, seconded by Mr. Allison to accept the minutes of the regular meeting held January 15, 2009 as presented.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

### **IV. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL**

#### **CC-2009-01 Resolution – Supporting Local Option taxes and fees to fund transportation, including Rail North Texas**

Andy Wayman gave the following report: The Regional Transportation Council and Tarrant Mayors' Council is asking North Texas cities to adopt a model resolution encouraging the 81<sup>st</sup> Texas Legislature to allow local option fees and taxes to fund transportation, including Rail North Texas. The resolution being considered by City Council is the model resolution promulgated by both RTC and Mayors' Council.

Motion by Mr. Tully, seconded by Mr. Allison to adopt Resolution 2009-01 supporting Local Option taxes and fees to fund transportation, including Rail North Texas as presented.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn

Noes: Mr. Sauma

Motion carries 5-1.

#### **CC-2009-02 Regional Emergency Preparedness Planning Council Nominations**

Andy Wayman gave the following report: The Regional Emergency Preparedness Planning Council is seeking nominations for service on its Executive Board. City Council should consider whether it desires to make a nomination.

Motion by Mr. Sauma, seconded by Mr. Bailey to nominate Council Member Rickie Allison to the Regional Emergency Preparedness Planning Council.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**CC-2009-03 Resolution calling General Election on May 9, 2009 to elect Mayor, Place 1; Member of Council, Place 3; Member of Council, Place 5; and Member of Council, Place 7**

**CC-2009-04 Resolution calling Special Election on May 9, 2009 to elect Member of Council, Place 2 unexpired term**

Joanna King gave the following report: The Council positions in Mayor, Place 1; and Member of the Council in Places 3, 5 and 7 will expire in May 2009. There is also a vacancy in the unexpired term in Member of Council, Place 2.

In order to fill these terms it is necessary to call both the General and a Special Election for May 9, 2009.

Because election equipment may not be available to all entities holding elections on this uniform election date, Tarrant County's Election Administrator is requesting entities to enter into a joint election agreement.

The advantages of the Joint Election include: expanded early voting locations; voting equipment, election officials and polling places.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Resolution No. 2009-02 calling the General Election for May 9 2009; adopt Resolution No. 2009-03 calling the Special Election to fill the unexpired term in Place 2 for May 9, 2009; and, authorize the City Secretary to enter into a joint election contract with Tarrant County.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**V. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION**

**EDC-2009-01 Quarterly Financial Report for period ending December 31, 2008**

Ron Rainey gave the following report: Income for the period of October 1 through December 31, 2008 was \$252,084.24. Expenses for the same period were \$283,039.07 for a net quarterly loss of \$30,954.83. Most of this amount was due to the extension of a loan with First Bank through May 31, 2009 and payment of a 5% recent reduction of the principal.

Motion by Mr. Allison, seconded by Mr. Washburn to accept the quarterly financial report from Benbrook Economic Development Corporation for the period October 1 through December 31, 2008.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

## **VI. REPORTS OF CITY MANAGER**

### **A. GENERAL**

**G-1830      Adopt Ordinance Amending Title 15 of the Benbrook Municipal Code by adding Landscape Irrigation Regulations**

**G-1831      Approve Interlocal Agreement with Benbrook Water Authority for enforcement of Landscape Irrigation regulations within BWA jurisdiction**

David Wasson, Manager of Benbrook Water Authority gave the following report: In 2007, the Texas Legislature adopted HB1656 which amended Chapter 401 of the Texas Local Government Code to require that all cities with a population over 20,000 regulate the installation of landscape irrigation systems within their city limits and extraterritorial jurisdiction. The statute also requires that the City's rules conform to the Texas Commission on Environmental Quality (TCEQ) rules that are included in Title 30, Chapter 344 of the Texas Administrative Code. HB1656 also provided that water districts could voluntarily adopt the landscape irrigation rules.

Benbrook remains unique in that it is the largest municipality in Texas that has a separate water and sewer district that is conterminous with its boundaries. In 2004, The City and BWA modified a previous 1989 Memorandum Agreement to provide that the BWA was responsible for permitting and inspection of lawn sprinkler systems. It is the intent of both entities that the current split in responsibilities remain, but the Legislation clearly requires that the City must adopt landscape irrigation rules. In addition, although there is no extraterritorial jurisdiction at the present time, should the City acquire any ETJ through negotiations with Fort Worth, the BWA does not have jurisdiction within the ETJ.

Therefore, it is the intent of both entities to adopt identical rules regarding landscape irrigation systems, and adopt a new Interlocal Agreement that allows the BWA to regulate those systems within the city limits, but also allow the City to regulate such systems within the ETJ.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Ordinance No. 1282 amending Title 15 of the Benbrook Municipal Code by adding Landscape Irrigation Regulations.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

Motion by Mr. Sauma, seconded by Mr. Washburn to approve the Interlocal Agreement with Benbrook Water Authority for enforcement of Landscape Irrigation regulations with the Benbrook Water Authority jurisdiction.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1282 being: **“AN ORDINANCE AMENDING TITLE 15-BUILDING AND CONSTRUCTION OF THE BENBROOK MUNICIPAL CODE BY ADDING A NEW CHAPTER 15.52-LANDSCAPE IRRIGATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.”**

#### SECTION 4

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for all violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

#### SECTION 8

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

**G-1832      Approve Lease Agreement with XTO Energy, Inc. for mineral acquisition on 5.08-acres in the J.S. Wilburn Survey Abstract 1680**

Cathy Morris gave the following report: Vargas Energy, Ltd., on behalf of their partner, XTO Energy, Inc. is proposing a gas lease agreement with the City to acquire minerals on 5.08-acres on tracts 1G, 1H and 1J of the J.S. Wilburn Survey, Abstract 1680, located in the Benbrook Cemetery.

The terms of the lease are:

- A primary term of three years
- A Lessor's royalty of 25%
- A No Surface Use clause
- A lease bonus payment of \$2,500 per mineral acre, totaling \$12,700.

Motion by Mr. Tully, seconded by Mr. Washburn to accept staff recommendation authorizing the Gas Lease Agreement with Vargas/XTO Energy, Inc. for mineral acquisition of 5.08-acres in the J.S. Wilburn Survey Abstract 1680 with proceeds to be placed in the Core Value Fund.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-1833      Approve Interlocal Agreement with Tarrant County for 2009 Overlay Program**

Walter Shumac gave the following report: For a number of years, Tarrant County Precinct #1 has assisted the City with the annual Street Overlay Program. The 2008-2009 Budget included \$235,000 for this year's program. This amount includes the reconstruction of the City hall parking lot. However, that project will be under a separate Interlocal Agreement.

Tarrant County furnishes all labor and equipment to overlay various streets with two inches of asphalt. The program is scheduled to begin in the Spring.

Motion by Mr. Bailey, seconded by Mr. Sauma to approve the Interlocal Agreement with Tarrant County for the 2009 Overlay Program.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

## **B. CONTRACTS**

### **C-240 Authorize Contract with AT&T and Oncor Electric Delivery for utility relocations for Plantation East Creek project**

Walter Shumac gave the following report: The Plantation East Creek drainage project is the last remaining project from the 2004 bond program. The City obtained all necessary easements in 2007, but a redesign to incorporate the modular concrete block walls used on the Plantation West Creek necessitated the acquisition of 18 additional easements from the subsurface tie-backs and additional utility relocations. The last additional easements were obtained in mid-January.

Prior to electric and telecommunication deregulation by the Texas Legislature, franchised utilities were required to relocate their lines at their expense if they were located within a City right-of-way or easement and were in conflict with a City project. Since deregulation, this requirement applies only to road widening projects and the City's taxpayers are responsible for paying the utilities to move their lines for any other project, including drainage projects.

Three franchised utilities have overhead lines and poles in conflict with the widened drainage channel: Oncor Electric Delivery, AT&T, and Charter Communications. Oncor Electric's estimated cost is \$39,660 and AT&T's estimated cost is \$25,257 for a total utility relocation cost of \$64,917. Charter does not charge for utility relocations.

Motion by Mr. Sauma, seconded by Mr. Allison to authorize agreements with Oncor Electric Delivery and AT&T for utility relocations for the Plantation East Creek project.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

### **C-241 Authorize Contract with Tarrant Regional Water District to irrigate Dutch Branch Park**

Walter Shumac gave the following report: Irrigation water for Dutch Branch Park is currently furnished by the Benbrook Water Authority. The City irrigates approximately 20-acres of parkland. BWA currently charges the City \$2.06 per thousand gallons of water, but has recently announced a rate increase.

The Tarrant Regional Water District (TRWD) recently completed a 96-inch water main through the park parallel to Benbrook Boulevard, from Winscott Road to RM2871. The water main carries untreated lake water. When the water main was

constructed, the City requested a water tap be installed to allow the City of fill the existing duck pond behind Castle Park. The water could then be used to irrigate the park.

The proposed contact with TRWD allows the City to open the metered water tap and fill the stock pond to meet the City's irrigation needs. TRWD will charge the City \$0.66 per thousand gallons of water. All infrastructure and metering is installed and the contract is for a ten (10) year period.

Motion by Mr. Tully, seconded by Mr. Allison to approve the contract with Tarrant Regional Water District to irrigate Dutch Branch Park.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**VII. INFORMAL CITIZEN COMMENTS**

**VIII. ADJOURNMENT**

Meeting adjourned at 8:15 P.M.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**