



**MINUTES
OF THE MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY,
APRIL 2, 2009**

The regular meeting of the Benbrook City Council was held on Thursday, April 2, 2009 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Rickie Allison
Mark Washburn
Ron Sauma
Dan Tully

Also Present:

Andy Wayman, City Manager
Sherri Newhouse, Budget Director
Dave Gattis, Deputy City Manager
Walter Shumac, Public Services Director
Wayne Carlisle, Chief Building Official

Others Present:

Ed Gallagher, City Planner
Jerome Garza
Jennifer Pope
Jim Wilson
Karen Barber
Pamela Brandenburg
Charlie Anderson
Kyle Carr
Debbie Watson
Jack Johnson
Steve Reed
Robert Lawrence
Joann Chew
Eric Jackson
Barry Zajac
Bill Hammond
and fifteen 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 Mr. Steve Reed.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held March 5, 2009

Motion by Mr. Allison, seconded by Mr. Tully to accept the minutes, as submitted, of the regular meeting held March 5, 2009.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PROCLAMATION/AWARD/RECOGNITION

1. Recognition – Wayne Carlisle (for the City of Benbrook) – Public Works Response Team – Hurricane

2. Receive Appreciation Award from Bike DFW

V. CITIZEN PRESENTATION

1. Complete Count Committee for 2010 Census

Mr. Jerome Garza and Ms. Jennifer Pope of the U. S. Census Bureau gave a presentation on the Complete Count Committee for 2010 Census.

VI. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL

CC-2009-06 Adopt Resolution 2009-06 – Complete Count Committee

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Resolution 2009-06 to establish an ad hoc committee, the Complete Count Committee.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

CC-2009-07 Make Appointment to Benbrook Economic Development Corporation Board of Directors

Motion by Mr. Tully, seconded by Mr. Allison to elect Mr. Dennis Woods to the Benbrook Economic Development Board of Directors and to administer the oath of office at the next regularly-scheduled meeting of the Benbrook Economic Development Corporation meeting.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

CC-2009-08 Adopt Resolution Opposing HB 4441 Relating to Railroad Commission Authority

Mr. Wayman gave the following report. Passage of HB 4441 would relegate municipalities to a mere advisory role in the regulation of natural gas, liquid hydrocarbon, hazardous materials, and gathering pipelines and all facilities appurtenant to those pipelines – including the regulation of aesthetics and the use of City-owned rights-of-way. He recommended that Resolution 2009-05 be adopted to demonstrate the City of Benbrook’s opposition to HB 4441.

Motion by Mr. Sauma, seconded by Mr. Tully to adopt Resolution 2009-05 opposing HB 4441 relating to Railroad Commission Authority.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Resolution No. 2009-05 being “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS OPPOSING HB 4441 RELATING TO THE AUTHORITY OF THE RAILROAD COMMISSION OF TEXAS TO ESTABLISH STANDARDS REGARDING CERTAIN PIPELINES AND APPURTENANT FACILITIES; AND PROVIDING AN EFFECTIVE DATE.**”

VII. REPORTS OF THE City Manager

A. GENERAL

G-1838 Accept Financial Report for Month Ending February 28, 2009

Mr. Ragsdale gave the following report: General Fund revenues for the month of February totaled \$1,816,624. Most of this amount came from taxes (\$1,682,060) with the largest portion (77%) coming from Property Taxes. Through February, total collections exceed the prior year’s totals by \$987,253. General Fund expenditures totaled \$885,514. Year-to-date expenditures amounted to \$5,207,598. Through February, revenues exceed expenditures by \$4,613,802. Investments were \$17,152,562 at February 28, 2009.

Motion by Mr. Washburn, seconded by Mr. Allison to accept the monthly financial report for the month of February 2009 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1839 Accept Comprehensive Annual Financial Report for 2007-08

Mr. Ragsdale gave the following report: For City Council's information and consideration the City's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2008 is presented. The Finance Department prepared the report which has been reviewed and approved by Weaver and Tidwell, L.L.P., the City's independent auditor. The Auditor's Opinion is included on pages 1 – 2 of the CAFR.

As presented in previous years, the Finance Director has prepared the CAFR, which includes the audit as well as other related and more detailed information. Staff anticipates the current CAFR will meet all requirements for the City to receive a Certificate of Achievement for Excellence in Financial Reporting for the twenty-fifth consecutive year.

FINANCIAL HIGHLIGHTS

- Although the 2007-08 Budget projected a surplus of \$208,000, the City ended the year with a surplus of \$974,030. This pushed total General Fund reserves to \$7,339,904 or 61.55% of total expenditures.
- Revenues were \$233,370 over the original budget. Despite building permits and fees being almost \$114,000 under budget, Sales Tax (\$90,000), Fines (\$76,000), Use of Money & Property (\$65,731), Fire Service Contracts (\$64,727) and Ambulance Fees (\$82,293) more than made up the difference.
- The balance of the increase was due to the department heads returning \$532,198 (4.46%) from their budgets.
- The assets of the City exceed its liabilities by \$48,543,239 at the close of business on September 30, 2008.
- The City's total capital assets decreased by \$74,136 to \$53,546,205. Most of this decrease was due to lower capital improvement expenditures and no developer contributions.
- As of September 30, 2008, the City reported a combined ending balance of \$12,852,541. Over 66% of this amount is unreserved and available for use within the City's designation and policies.
- Long-term debt increased due to the issuance of the Storm Water bonds.

REPORT CONTENTS

This is the City's fourth report that conforms to GASB 34 reporting requirements. It is also the fifth time the report has been prepared for electronic distribution. The Introductory Section of the report will look the same as previous years.

Financial Section

The Financial Section contains the Auditor's Opinion on pages 1 -2, the Management's Discussion and Analysis (MD&A) on pages 3 – 7, the Basic Financial Statements on pages 8 – 33, the Required Supplementary Information on pages 26 – 28, and the Combining and Individual Fund Statements on pages 34 – 42. The MD&A is basically a summary of the entire report.

Statements of Net Assets

GASB 34 was enacted to provide a more comprehensive evaluation of a municipality's long-term financial position. Prior to GASB 34, cities only considered deposits and investments. After GASB 34, cities evaluate capital assets (buildings, roads, bridges, drainage improvements, etc.) and depreciate these assets. The City's total capital assets are \$98,988,975, with \$45,442,770 fully depreciated. In theory, the greater the depreciation number the more critical it is for the government to invest in the replacement of these capital assets.

Statement of Activities

This statement (page 9) presents the cost for each operational area less any revenue produced by that area. As you may note, no area of the City's operation pays for itself.

Statistical Section

This was the second year for the new Statistical Section (pages 43 – 60) requirements. This section contains information on financial trends, revenue capacity, debt capacity, demographic and economic indicators, and other operating information.

BUDGET ADJUSTMENTS

Although overall totals were well under the original budgeted amounts, various divisions/projects exceeded the adopted budget. State law and City policies require City Council to approve three budget adjustments. A summary of these adjustments follow:

- 1) Non-Departmental was over budget by \$2,836.
- 2) City Council authorized a budget of \$124,000 for the Winscott Road Traffic Signal. The actual project came in at \$139,810.91, less the \$10,500 from Weatherford, for a final cost of \$129,310.91. This caused the project to be over budget by \$5,310.91. Interest income from street bonds was used to cover the entire amount.

3) The Fire Department received \$173,361.24 in Grant Funds for various projects. The department expended \$173,217.42 or \$143.82 less than received. The department spent \$1,801 of their General Fund budget for these projects. In order to comply with grant requirements, City Council will need to transfer (\$1,657.18) to the Grant Fund.

EDC COMMENTS

Weaver and Tidwell's audit letter recommends segregating the custody, approval and reconciliation functions of the EDC for improved internal control. The auditors suggest (1) implementing a dual review and approval process for vendors, purchases and invoices prior to payment, (2) a reconciliation of credit card statements by someone other than the purchaser, and (3) the creation of a log to record all incoming cash receipts prior to being submitted for deposit and entered into the general ledger.

NEW REQUIREMENTS

The City will continue to implement new requirement in the coming years. Next year, the City must implement its Other Post Retirement Benefits (OPEB) study along with other Government Accounting Standards Board regulations.

Motion by Mr. Allison, seconded by Mr. Sauma to: (1) accept the CAFR for the fiscal year ended September 30, 2008; (2) approve a budget adjustment from Public Services to General Government of \$2,836; (3) approve the final total of \$129,310.91 for the Winscott Road Traffic Signal; and, (4) approve the transfer of \$1,657.18 from the General Fund to the Grant Fund.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1840 Adopt Ordinance Changing the Name of Par Road No. 1, Park Road No. 2, and Park Road No. 3 in Dutch Branch Park

Mr. Shumac gave the following report: At the November 6, 2008 meeting, City Council authorized Staff to begin the process of changing the names of Park Road No.1, Park Road No. 2, and Park Road No. 3 in Dutch Branch Park. The proposed name changes will reduce confusion for the public and public safety responders by eliminating three similar street names in close geographic proximity. The City Council directed Staff to change the names of the three streets to Creekside Drive, Cary Conklin Drive, and Lake Shore Drive, respectively.

The Creekside Drive and Lake Shore Drive reflect the geographical features of the park. Cary Conklin Drive recognizes the 33-year involvement of former City Manager Cary Conklin in developing the athletic complex in Dutch Branch Park.

With adoption of the ordinance approving the name changes, the Street Department will fabricate and install new street signs at a nominal cost using funds from the street maintenance budget. Routinely, the new street name is displayed with the old street name (new name on top) for approximately 12 months to allow the public to become accustomed to the new street names.

Staff has notified and received no comments from the Corps of Engineers, utility suppliers, and other entities having interest in street name changes. Staff will record the Ordinance with the Tarrant County Clerk and advise interested entities of the City Council's approval of the street name changes.

Motion by Mr. Tully, seconded by Mr. Washburn to adopt Ordinance No. 1284 changing the names of Park Road No.1, Park Road No. 2, and Park Road No. 3 to Creekside Drive, Cary Conklin Drive, and Lake Shore Drive as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1284 being **“AN ORDINANCE CHANGING THE NAMES OF PARK ROAD NO. 1, PARK ROAD NO. 2 AND PARK ROAD NO. 3 WITHIN BENBROOK TO CREEKSIDE DRIVE, CARY CONKLIN DRIVE AND LAKE SHORE DRIVE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.”**

G-1841 Adopt Ordinance Amending Chapter 1.12 of the Benbrook Municipal Code Regarding Gas Pipeline Franchise Fees

Mr. Gattis gave the following report: A natural gas midstream pipeline company has requested permission to place a natural gas gathering pipeline in and across City rights-of-way in several locations. A midstream company is one that operates between the exploration and production activities and the refining and marketing activities, which includes the transportation of crude oil and natural gas by pipelines.

Currently, the City does not allow private “for-profit” companies to use public rights-of-way without obtaining fair compensation through a franchise agreement or other license agreement. All of our other utilities (such as Atmos) have obtained a franchise agreement from the City which allows use of the City's rights-of-way and easements but requires payment of a percentage of total revenues. Based on a midstream company's revenue structure and singular

purpose to transport natural gas from wells to market, staff proposes a license fee for the right-of-way use.

The City has surveyed other cities and determined that some cities use an annual linear foot license fee (e.g. Burleson charges \$2.26 per linear foot), while others (e.g. Fort Worth) charge a one time \$46/linear foot based on a 20-year use. The staff believes that it will be simpler and more efficient to administer a one-time fee, at \$46 per linear foot. Gas companies will be required to execute a license agreement that provides additional protection to the City.

Motion by Mr. Sauma, seconded by Mr. Tully to adopt Ordinance No. 1285 amending Chapter 1.12 of the Benbrook Municipal Code regarding gas pipeline franchise license fees establishing a \$46/linear foot right-of-way use fee for natural gas pipelines as presented with funds to be placed in the Core Value Fund.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1285 being “AN ORDINANCE AMENDING CHAPTER 1.12 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY REVISING THE FEE SCHEDULE FOR THE CITY OF BENBROOK, BY ESTABLISHING A RIGHT-OF-WAY LICENSE FEE FOR NATURAL GAS PIPELINE WITHIN CITY RIGHTS-OF-WAY; 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 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 involving zoning, fire safety or public health and sanitation, including dumping of refuse, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other 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.

B. CONTRACT

C-243 Approve Contract with Tim's Landscape, Inc. for Landscape Maintenance

Mr. Shumac gave the following report: In early March, staff solicited bids for the annual mowing contract for grounds at various City buildings and property. Three bids were received: Tim's Landscape Inc. at \$1,395.00 per month, I&E Services, Inc. at \$1,990.00 per month, and Sunterra Landscape Services at \$1,978.22 per month.

Tim's Landscape submitted the low bid of \$1,395.00 per month. The contract will begin April 6th and will end November 6, 2009. The contractor is responsible for mowing and trimming weeds at these City-owned properties: City Hall at 911 Winscott Road, Fire Station at 528 Mercedes, Senior Citizens Building at 1010 Mercedes, Police Station at 1080 Mercedes, Community Center (Lion's Club) at 229 San Angelo, and Benbrook Cemetery at 825 Mercedes Street.

Adequate funds are included in the Parks Department budget.

Motion by Mr. Washburn, seconded by Mr. Allison to approve the contract with Tim's Landscape, Inc. for landscape maintenance of City properties to be paid from Account 01-4301-5219as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

C-244 Authorize Contract with C&P Engineering for Road Damage Assessment Study Associated with Gas Well Drilling

Mr. Shumac gave the following report: The heavy trucks used in drilling for natural gas (drilling rigs, water trucks, etc.) can damage City street pavements. The City currently addresses this by requiring that the drilling company execute a Road Maintenance Agreement that requires the company to repair any damage to roadways caused by the use of heavy trucks. Damage is usually assessed by a before and after inspection of the road surface. Many times, the damage that is caused may not be apparent for several years and it would be difficult to demonstrate at a later date that the damage was directly caused by the drilling companies.

Many cities are now using an upfront payment for road damage. Using standard engineering methods, the additional wear on a roadway by a heavy vehicle can be calculated and a fee developed for the proportionate share of roadway replacement caused by that heavy vehicle. Cities that are using this approach, or are considering it, include Denton, Burleson, Fort Worth and Arlington.

Staff requests retaining C&P Engineering to perform a study to determine the appropriate fees for use in Benbrook. C&P is the firm that did the studies for the four cities cited above and demonstrates a unique set of qualifications and experience to accomplish the analysis. C&P has proposed a fee of \$16,100 to perform the analysis. An additional \$4,600 will be required for certain pavement test calculations by Alpha Testing. The total cost, therefore, is \$20,700.

This amount was not included in the 2008-09 Budget, but the staff believes it is in the best interests to proceed with the study to implement the fee in a timely manner as new drilling permits are considered. The costs could be recouped by an adjustment in future gas well fees.

Motion by Mr. Tully, seconded by Mr. Sauma to authorize the City Manager to execute an agreement with C&P Engineering to perform a Road Damage Assessment study for Benbrook, in the amount of \$20,700, to be paid from account 01-5401-5211 and a comparable amount transferred from unappropriated reserves.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

VIII. INFORMAL CITIZEN COMMENTS

IX. ADJOURNMENT

Meeting adjourned at 8:50 P.M. followed by a worksession to discuss the Benbrook Community Center/YMCA Expansion.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary