



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, APRIL 17, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, April 17, 2008 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Rickie Allison
Dan Tully
Larry Stowe
Keith Bailey
Ron Sauma
James Schull

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager
David Ragsdale, Comptroller

Others Present:

Dorcas Neuman, Benbrook News
Ed Gallagher, Planner
Cathy Morris, Administrative Analyst
Bob Rowley, Engineer
Walter Shuman, Public Service Director
Wayne Carlisle, Chief Building Inspector
Bill Smith
Mark Washburn
Linda Elliott
Committee members with Relay for Life
Scott Wilhelm
And 5 other citizens

I. CALL TO ORDER

Meeting called to order at 8:10 p. m. by Mayor Dittrich. Meeting delayed due to weather.

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Deputy City Manager Dave Gattis.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held April 3, 2008

Motion by Mr. Tully, seconded by Mr. Sauma to approve the minutes of the regular meeting held March 20, 2008

Vote on the Motion:

Ayes: Mr. Bailey, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

IV. PROCLAMATION, AWARDS, RECOGNITION

1. Proclamation – Relay for Life

Mayor Dittrich presented Linda Elliott with Relay for Life a proclamation the week of April 21, 2008 through April 25, 2008 as Benbrook Goes Purple in an effort to engage the community and promote a level of excitement leading up to this year Relay for Life event.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2008-03 Amendments to the City of Benbrook Zoning Ordinance Number 808, as amended

Dave Gattis gave the following report: Each year or so, the staff reviews the zoning ordinances for any necessary changes that might be required or considered. This year, the staff is proposing the following changes to the zoning regulations:

1. Addition of definitions of "Approach/Departure Clearance Surface Slope", "Conical Surface", "Overlay District", and "Transitional Surface"; the creation of a new "NAS Overlay District"; and the addition of height restrictions that may affect operations at the NAS Fort Worth JRB. These provisions are being proposed to conform with the recommendations of the Joint Land Use Study which tries to prevent incompatible development encroachment surrounding the Naval Air Station. It is the staff's intent to bring a zoning change to include the appropriate property in the NAS Overlay Zone at a future meeting.
2. Minor revision of the definition of "Building Area" to "Buildable Area"; clarification of definitions of "Efficiency Apartment", "Flag", "Floodplain", "Sign Area"; revision to the applicability of yard regulations in G-Commerce District; minor revisions to permitted and conditional uses in the MU-Mixed Use District regarding drive-through businesses and artists studios; clarification of auxiliary parking requirements.
3. Revision to the applicability of architectural standards buildings less than 1,200 square feet of floor area.

The Planning and Zoning Commission recommends that the City Council adopt the ordinance amending the Zoning Ordinance.

Mayor Dittrich opened the public hearing at 8:29 p.m. No one from the audience spoke to the item. Mayor Dittrich closed the public hearing at 8:30 p.m.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Ordinance No. 1257, amending the City of Benbrook Zoning Ordinance.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe. Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1257 being “AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY AMENDING SECTION 4-DEFINITIONS, SECTION 5-DISTRICTS, DISTRICT BOUNDARIES AND DISTRICT USES; SECTION 18-“G” COMMERCE DISTRICT; SECTION 20A-“MU” MIXED USE DISTRICT; SECTION 21-“PD” PLANNED DEVELOPMENT DISTRICT; SECTION 23-SUPPLEMENTARY DISTRICT REGULATIONS; SECTION 24-PARKING AND VEHICULAR CIRCULATION STANDARDS; SECTION 27-LANDSCAPE AND BUFFER REQUIREMENTS AND ADDING A NEW SECTION 21A-“NAS” OVERLAY DISTRICT; 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 12

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 16

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.

**PZ-2008-04 Amendments to the City of Benbrook Subdivision Ordinance
Number 1122, as amended – Title 16 Subdivisions**

Dave Gattis gave the following report: Each year, the staff reviews the Subdivision Ordinance for any necessary changes. This year, the staff is proposing the following amendments:

1. Minor clarification of the definitions of “Floodplain”, iSWM™ (and inclusion of trademark of iSWM™ symbol throughout the ordinance) and clarification of definition of floodplain in numerous locations.
2. Allowance of additional plat submittal sized for sketch plats, preliminary plats and final plats.
3. Updated statutory references for financial surety documents.
4. Additional language regarding the ownership and maintenance responsibilities for private and common areas, and revision of the common area maintenance fund requirements for detention ponds.

Revisions to tree mitigation requirements were tabled by the Planning and Zoning Commission were tabled for further study.

The Planning and Zoning Commission recommends that the City Council adopt the ordinance amending the Subdivision Ordinance.

Mayor Dittrich opened the public hearing at 8:37 p.m. No one from the audience spoke to the item. Mayor Dittrich closed the public hearing at 8:38 p.m.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1258 amending the City of Benbrook Subdivision Ordinance.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1258 being **“AN ORDINANCE AMENDING TITLE 16 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY AMENDING CHAPTER 16.08-DEFINITIONS; CHAPTER 16.16-PLAT PROCEDURES, STANDARDS AND SPECIFICATIONS; CHAPTER 16.20-ENGINEERING PLANS AND STAND SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION; CHAPTER 16.24-DEVELOPER’S AGREEMENT, FINANCIAL ASSURANCE AND CONSTRUCTION CONTRACTS FOR PUBLIC IMPROVEMENTS; AND CHAPTER 16.28-DESIGN STANDARDS AND REQUIREMENTS; PROVIDING FOR VIOLATIONS, PENALTIES AND INJUNCTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; 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 7
PENALTY CLAUSE**

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 15
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

VI. REPORT OF CITY MANAGER

A. GENERAL

G-1772 Financial Report for month of March 2008

David Ragsdale gave the following report: General Fund Revenues for the month of March were \$938,099. At March 31, total revenues were \$9,772,246 or 77% of the budgeted amount. Total revenue collection is now \$411,670 ahead of the previous year.

General Fund Expenditures for the month of March were \$932,712. Total expenditures were \$5,886,334 at March 31. Revenues exceed expenditures by \$3,885,912.

Revenues for the Debt Service Fund through March 31 were \$1,179,735. Total expenditures totaled \$999,909.

The Benbrook Economic Development Corporation revenues were \$351,435. Expenditures were \$894,888.

Capital Projects revenue amounted to \$1,432,119. The certificates of obligation issue brought in one million dollars and the storm water fee has produced \$391,352. Expenditures totals were \$628,516.

Special Assessments revenues were \$10,396 while expenditures amounted to \$47,378.

At March 31, 2008 the City had \$15,131,864 invested at varying interest rates.

Motion by Mr. Sauma, seconded by Mr. Stowe to accept the financial report for the period ending March 31, 2008.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1773 Hotel/Motel Tax Report for period ending March 31, 2008

David Ragsdale gave the following report: Total revenues collected were \$68,824. Bed tax made up \$63,936 of this amount and interest provided \$4,888.

The Chamber submitted \$3,215 in salary and shared overhead expenses for January. The City had charges of \$9,252 for salaries, office furniture, supplies, and travel/training expenses.

Motel 6 submitted expenses of \$6,927 for advertising related expenses. Only \$5,700 of this amount will be reimbursed due to the budget.

Motion by Mr. Bailey, seconded by Mr. Allison to approve the Hotel/Motel Tax Report for the period ending March 31, 2008.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

G-1773 Approve the granting of license agreement to Texas Midstream Gas Services (Chesapeake Energy) under Whitestone Golf Course to transmit natural gas

Mayor Dittrich announced that the applicant had withdrawn the request for license agreement.

G-1774 Ordinance Adopting the 2006 International Building Code Series and fee amendments

Mr. Gattis gave the following report: The City of Benbrook currently operates under the 2003 International Code Council series, which includes:

2003 International Building Code

2003 International Residential Code
2003 International Energy Conservation Code
2003 International Fire Code
2003 International Plumbing Code
2003 International Fuel Gas Code
2003 International Mechanical Code

These codes are revised every three years to provide for the inclusion of newly-approved materials and methods of construction. The National Electric Code is on a different schedule.

Staff proposes adopting the 2006 series, with regional and local amendments. Regional amendments are recommended by the North Central Texas Council of Governments to reflect area building practices. Local amendments are recommended by City staff to reflect specific issues.

Staff recommendations are:

International Building Code

- Numerous minor regional amendments
- Local amendment to require CO for commercial buildings to allow inspection
- Eliminate 20 percent discount for residential structures in Building Permit Fees

International Residential Code

- Regional amendments to address Texas climate and insulation factors
- Local amendments affecting swimming pool barriers and water heaters

International Energy Conservation Code

- Regional amendments to address Texas climate
- Added benefit of noise reduction

International Plumbing Code

- Minor regional amendments
- Local amendment to address lawn sprinklers for BWA

International Fuel Gas Code

- Minor regional amendments

International Fire Code

- Changes from 2003 to 2006 affect fire alarms systems
- Regional amendments

International Mechanical Code

- Minor regional amendments

Motion by Mr. Tully, seconded by Mr. Schull to adopt Ordinance No. 1259 adopting the 2006 International Code Series with regional and local amendments and to amend the method of computing residential building permit fees.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1259 being “AN ORDINANCE AMENDING CHAPTERS 1 AND 15 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY ADOPTING THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE AND LOCAL AMENDMENTS; ADOPTING THE 2006 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE AND LOCAL AMENDMENTS; ADOPTING THE 2006 EDITION OF THE INTERNATIONAL PLUMBING CODE AND LOCAL AMENDMENTS; ADOPTING THE 2006 EDITION OF THE INTERNATIONAL MECHANICAL CODE AND LOCAL AMENDMENTS; AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FUEL GAS CODE AND LOCAL AMENDMENTS; AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AND LOCAL AMENDMENTS; AND ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FIRE CODE AND LOCAL AMENDMENTS; PROVIDING FOR THE MODIFICATION OF THE CODES TO INCORPORATE LOCAL AMENDMENTS; PROVIDING FOR THE RECORDING OF THE BUILDING, RESIDENTIAL, ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, FUEL GAS, AND FIRE CODES AS A PUBLIC RECORD, AND ADOPTING REVISED FEES FOR VARIOUS BUILDING PERMITS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.”

SECTION 19

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 23

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-234 Interlocal Agreement with North Central Texas Council of Governments and Gabriel Roeder Smith & Company for Actuarial Shared Services

David Ragsdale gave the following report: GASB 45 requires employers to complete an actuarial valuation of all “other post employment benefits” (OPEB) to determine their costs. The City has very few OPEB costs, however, allowing employees to remain on the group health insurance policy (at their cost) is determined to be an “implied subsidy”, and a cost must be determined for this benefit. After the cost has been determined, the City may be required to provide a method of funding these costs.

Since area cities generally lack the expertise to do actuarial analysis and to prevent every city from having to bid and contract for these services, the North Central Texas Council of Governments (NCTCOG) agreed to solicit bids for actuarial services. The primary objective is to leverage a better price by hiring one actuarial firm to provide services to all of the cities. NCTCOG contracted with Gabriel Roeder Smith & Company (GRS) to provide actuarial services at a reduced rate. Cities must sign an Interlocal Agreement with NCTCOG for the services.

The estimated cost of the OPEB analysis is \$6,760 for the basic study. However, additional cost may be necessary after the initial study is completed. Some cities have had to complete additional analysis at \$780 per study. The City may also have to pay GRS travel expenses if those become necessary.

Motion by Mr. Tully, seconded by Mr. Allison to authorize the City Manager to sign the Interlocal Agreement with the NCTCOG and GRS for Actuarial Shared Services at a cost not to exceed \$10,000.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

C-235 Award Contract for traffic signal installation at Winscott Road and Old Benbrook/Beckman Drive

Mr. Shumac gave the following report: Traffic on Winscott Road near the intersection of Old Benbrook Road has increased over the past several years. There are also a number of pedestrians that cross at this intersection. City Council budgeted \$125,000 for FY2007/2008 to design and construct a traffic signal at the Winscott Road and Old Benbrook Road/Beckman Drive intersection. A traffic study was completed which showed that a traffic signal at this location was warranted.

Kimley Horn and Associates completed the engineering design in March at a cost of \$18,000.

The project includes the installation of four mast arms and traffic signals at the intersection opposite a private driveway for Weatherford International, a pedestrian pedestal on the Z. Boaz Park corner, installation of ADA curb ramps and associated sidewalk, and the necessary signal controller, electrical connections and pavement markings. Included in the construction contract is the removal of the existing mid-block crosswalk and flashing pedestrian signal.

Weatherford International has requested the construction of an 8-foot wide, 6-inch thick sidewalk on the west-side of Winscott Road. This will aid Weatherford in transporting materials across Winscott road using forklifts. Since the sidewalk is not a standard walkway, Weatherford International has agreed to fund all sidewalk portions beyond that of a standard City sidewalk, or approximately \$10,500.

The project includes the installation of a video detection system to actuate the signal, to be provided by the City. Staff estimates the cost of the video detectors will be approximately \$7,000 through a TxDOT contract.

Bids were opened on April 3, 2008 and two bids were received. Durable Specialties, Inc. was the low bid of \$111,000. Staff and the City's consultant have reviewed the bid and believe it is reasonable.

City Council budgeted \$124,000 to fund the project. Weatherford International has agreed to fund \$10,500 toward the project. The total expenses of \$129,000 less the \$10,500 from Weatherford nets a total cost of \$118,500. The remaining funds will be used to purchase the video detectors (approximately \$7,000), with any cost overruns coming from the Street Maintenance account.

Following discussion, motion by Mr. Schull, seconded by Mr. Allison to approve the construction contract with Durable Specialties, Inc. at a cost of \$111,000 to be charge to the Capital Projects Fund.

Vote on the Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe

Noes: Mr. Sauma

Motion carries 6-1.

C-236 Consider Amendment to Engineering Contract with Teague Nall and Perkins, Inc. for design of Plantation East Creek Drainage Project

Mr. Gattis gave the following report: The last remaining project from the 2004 Bond election is the construction of Plantation East Creek drainage project between Tara Drive and Springbranch Drive. The City authorized an engineering design contract

with Teague Nall and Perkins, Inc. (TNP) in February 2005 for a lump sum fee of \$99,800, plus up to \$30,000 in surveying costs.

While the City was obtaining easements for Plantation East Creek, the City began construction of the Plantation West Creek improvements in February 2007. The contractor proposed to change the gabion walls to modular concrete block walls. After considerable review by City staff and the City's engineer, the staff approved the change order replacing the gabion walls with modular concrete blocks in May 2007. Because the change to modular walls was initiated by the contractor, the contractor paid to design the new walls and compensated the City engineer (TNP) \$15,000 for the revision of the plans.

It was agreed to delay the completion of the Plantation East Creek plans until the staff felt comfortable with the results of the change in the Plantation West Creek project. The staff has been happy with the modular block walls and the modular walls have the benefit of being more aesthetically pleasing and they take up less horizontal surface width than the gabion walls. The width of the easement is not reduced because of the required underground tie-backs.

In November 2007, TNP requested an increase in their design fee of \$28,500, which raises the total lump fee to \$128,300. TNP based the request on the need to redesign the project from a gabion wall to a modular block wall system, and the need to rerun all of the hydraulic models based on the new design. The staff recognizes that additional design effort will be required and that it would not be cost-effective to redesign the project with a new engineer; however, staff was concerned about the magnitude of the increase since it was nearly twice what it cost to redesign Plantation West Creek and the Plantation East Creek project has a shorter length than does Plantation West.

Staff met with representatives of Teague Nall and Perkins in January 2008 to express our concern over the fee increase. TNP said that they would review the request would not be any more than what was proposed.

In March, TNP submitted a request for an increase of \$30,000, for a total fee of \$129,800. This includes the additional cost from TNP, as well as design costs from Pavestone for the structural design of the modular block wall. The Pavestone costs were not included in the Plantation West project since Pavestone absorbed those costs.

Staff is also concerned about the apparent increase in costs for the project. The last construction cost estimate provided by TNP to the City was \$960,000, including contingencies.

Staff has no recommendation regarding the contract amendment to increase the design fee by \$30,000 for the design of the Plantation East Creek project to a lump sum fee of \$129,800.

Mr. Gattis informed the City Council that Scott Wilhelm with TNP had called and was stuck in traffic due to weather.

Following discussion, motion by Mr. Sauma, seconded by Mr. Allison to deny the \$30,000 increase in design fee for the Plantation East Creek project.

During discussion Mr. Scott W arrived at the meeting. Discussion was held with Mr. Wilhelm to justify the cost increase.

Mr. Wilhelm advised the staff's report outlines the reasons for the request and answered to City Council that if there were any other increases due to the design, Teague Nall and Perkins, Inc. would absorb those costs.

Secondary motion by Mr. Allison, seconded by Mr. Bailey to approve the \$30,000 increase requested by Teague Nall and Perkins for the design of the Plantation East Creek project.

Vote on the Secondary Motion:

Ayes: Mr. Schull, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe

Noes: Mr. Sauma

Motion carries 6-1.

VII. OTHER MATTERS OF BUSINESS

VIII. INFORMAL CITIZEN COMMENTS

IX. ADJOURNMENT

Meeting adjourned at 10:00 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary