



**MINUTES  
OF THE MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY,  
MAY 21, 2009**

The regular meeting of the Benbrook City Council was held on Thursday, May 21, 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  
Charlie Anderson  
Jim Wilson

Also Present:

Andy Wayman, City Manager  
Joanna King, City Secretary  
Bren Meredith, City Attorney  
Sherri Newhouse, Budget Director  
Cathy Morris, Public Involvement Director  
Bob Rowley, City Engineer  
Patty Bissey, Marketing Director  
Walter Shumac, Director of Public Services  
David Ragsdale, Comptroller

Others Present:

Ed Gallagher, City Planner  
Christine Dittrich  
Etta Mae Bertelsen  
Karen Anderson  
Jeanine Wilson  
Ryan Wilson  
Steve Wilson  
John Artus  
John Castro  
Matthew and Janet Collard  
John and Martina Swann  
Steve Dawkins  
Bill Smith  
Vernon Gatlin  
Jess Jordan  
Joel Peel  
Karen Barber

Debbie Watkins  
Kyle Carr  
Buddy Bailey  
David Stanford  
Bart Shaw  
Danny Cummings

**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 Youth Pastor Buster Gandy with Wyatt Drive Baptist Church  
The Pledge of Allegiance was recited.

**III. MINUTES**

- 1. Minutes of the regular meeting held May 7, 2009**
- 2. Minutes of the special meeting held May 18, 2009**

Motion by Mr. Tully, seconded by Mr. Allison to approve the minutes of the regular meeting held May 7, 2009 and minutes of the special meeting held May 18, 2009.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**IV. OATH OF OFFICE TO NEWLY ELECTED CITY OFFICIALS**

Joanna King, City Secretary administered the Oath of Office to Mayor, Jerry Dittrich; Member of the Council, Place 2, Charlie Anderson; Member of the Council, Place 3, Keith Bailey; and Member of the Council, Place 5, Jim Wilson.

**V. CITIZEN PRESENTATION**

- 1. Dan Tully, Outgoing City Councilmember – address to City Council and citizens**

Mr. Dan Tully addressed City Council and citizens on his enjoyment and accomplishments during his past service to the City as a member of the Council, Economic Development Corporation Director and Tax Increment Financing Board member.

**VI. PROCLAMATION/AWARDS/RECOGNITION**

**1. Proclamation recognizing Royal Flying Corps**

Mayor Dittrich read a proclamation recognizing the Royal Flying Corps, stationed at Caruthers Field in Benbrook from 1917 and 1918.

**VII. REPORTS OF CITY MANAGER**

**A. GENERAL**

**G-1841 Approve financial report for month ending April 30, 2009**

David Ragsdale gave the following report: General Fund revenues for the month of April were \$421,247. Current revenues exceed the amount collected in the prior year by \$1,303,498.

April General Fund revenues totaled \$1,440,536. Through April, revenues exceed expenditures by \$3,893,961.

Investments were \$16,919,371 at April 30, 2009.

Motion by Mr. Sauma, seconded by Mr. Washburn to accept the monthly financial report for the month of April, 2009.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-1842 Approve Hotel/Motel Tax report for period ending March 31, 2009**

Davis Ragsdale gave the following report: Year-to-date Hotel/Motel Occupancy Tax collections amounted to \$84,443. Bed tax collections made up \$77,643 of that amount.

The Marketing and Visitor Center had charges of \$19,981. There were no other Hotel/Motel Occupancy Tax expenses. The Hotel/Motel Occupancy Tax Fund ended the period with a balance of \$428,149.

Motion by Mr. Allison, seconded by Mr. Bailey to approve the Hotel/Motel Occupancy Tax report for the period ending March 31, 2009.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-1843      Authorize Expenditure for Charter Community Grant for Heritage Fest Event**

Patty Bissey gave the following report: In 2007 and 2008, City Council approved the use of three of four scheduled annual Charter Communications Community grants to help fund the Benbrook Heritage Fest “Cowboy Roundup” event.

Charter Communications provides the grants in support of local community events and approves their use for Heritage Fest, with two requirements from the City:

1. That City Council identify the event it intends to fund with these grant monies; and
2. That Charter is recognized, through event marketing materials, as the donor of these charitable funds.

Heritage Fest visitors enjoy a free-admission, day-long event celebrating Benbrook’s history with western-theme games, historical re-enactors, a native village, chuck wagon cooking, a Kiddy Korral, and an evening concert. Benbrook non-profit organizations are provided free booth space for fundraising activities.

To encourage overnight stay, staff works with local hotels to offer discounted room rates for traveling festival vendors.

Benbrook is scheduled to receive the fourth Charter grant, in the amount of 9,353, in June 2009. Charter’s recent bankruptcy filing may freeze these grant funds and make them unavailable. Staff will not know the status of the grant funds until a formal request, approved by City Council, is submitted.

Motion by Mr. Allison, seconded by Mr. Anderson to allocate the June 2009 fourth and final Charter communications community grant, in the amount of \$9,353, for costs associated with the event.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-1844      Approve Road Assessment Study**

Bob Rowley gave the following report: The heavy trucks used in drilling for natural gas can damage City street pavements. The City currently requires that drilling companies execute a Road Maintenance Agreement that obligates 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 resulting damage may not be apparent for several years, making it difficult to demonstrate that the damage was directly caused by the drilling company.

Many cities are not 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. Cities that are using this approach, or are considering it include, Denton, Burleson, Fort Worth and Arlington.

On April 2, City Council approved a contact with C&P Engineering to perform a study to determine the appropriate Road Damage Assessment Fee schedule for use in Benbrook.

Working with the City Engineer, the consultant has completed his analysis and provided an engineering report. The consultant has calculated the reduction of pavement life for six different pavement types found in Benbrook and four different operational scenarios. The damage cost is based on the replacement cost of each type of pavement.

The proposed fee structure is separated into two categories. The first category is for a new pad site, which requires additional truck and heavy equipment traffic. The second category is for new wells on existing pad sites.

Motion by Mr. Bailey, seconded by Mr. Wilson to accept the Road Assessment Study.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

**G-1845      Adopt Ordinance amending Chapter 8.36 of the Benbrook Municipal Code – Gas Wells (Public Hearing)**

Cathy Morris gave the following report: The City’s Gas Drilling Ordinance was adopted in July 2006, which replaced an older Oil & Gas Ordinance that was adopted in the 1980’s.

Like other cities, Benbrook’s Ordinance established technical regulations to protect public safety and emphasized “quality of life” issues such as well setback distances, public notice, landscaping, roads and noise.

Since 2006, many Cities in the Barnett Shale have re-evaluated existing ordinances to more effectively manage urban gas drilling issues. Staff has monitored their development and proposes an update to our current ordinance.

Like the Ordinance adopted in 2006, the proposed Ordinance must fairly balance the rights of both the surface property owner and the mineral estate.

To streamline the permitting process and ensure that gas drilling and community growth are compatible, these are proposed amendments to our existing ordinance.

Currently, gas wells are classified as High-Impact, Urban or Rural. These classifications are based on distance setbacks from specifically protected buildings or areas, called Protected Uses. These classifications require progressively stringent operating and permitting procedures, with High-Impact wells triggering the highest standards.

Staff proposes simplifying this process by eliminating the three classifications and identifying two separate permitting processes:

1. Gas wells located within 600-feet of a Protected Use, and
2. Gas wells located greater than 600-feet from a Protected Use.

Staff proposes:

- Requiring the same highest standards for landscaping, noise regulations, fencing, and operations for all gas wells
- Expanding permit application requirements for all wells, to include additional items such as surface reclamation and noise mitigation plans

A Protected Use is a residence, religious institution, hospital, park or school. These uses are identified as those that warrant the greatest setback distance to mitigate possible impacts of gas drilling, such as noise and traffic.

For gas wells located greater than 600-feet from a protected use, staff proposes retaining the 600-foot well setback distance without requiring a waiver.

For gas wells located within 600-feet of a protected use, staff proposes retaining the waiver option, which allows operators to drill within 600-feet of a protected use, if they secure waivers from:

1. All protected use property owners within 600-feet, or
2. From City Council

However, staff proposes increasing the minimum allowable setback from 200-feet to 300-feet (with waivers) to properly reflect the International Fire Code setback requirements for fire response/evacuation purposes.

Staff is proposing that Protected Use setback distance remain at 600-feet, but the minimum allowable setback, with waivers, increase from our current 200-feet to 300-feet, to reflect the International Fire Code for these structures. Public buildings are defined as those buildings listed in the International Fire Code for Occupancy Group A, which requires 300-foot setback.

Also, to reflect the Fire Code, staff proposes the inclusion of the language “the nearest rail of an operating railway” in this right-of-way category, retaining the 75-foot setback.

Operators who are requesting a City Council waiver will conduct a community Public Educational Meeting prior to the City Council public hearing. This allows citizens an open forum to learn about an Operators plans to drill, ask questions, and obtain information on the drilling process.

Staff is also proposing enhanced newspaper notice, mailings, and on-site signage requirements to increase public awareness of drilling plans.

Part of the expanded permit requirements includes a Noise Management Plan. This requires Operators to identify potential operation noise impacts prior to drilling and detail how the impacts will be mitigated. This plan requires consideration of such variables as topography, and the nature and proximity of adjacent development.

Also, amendments include:

- Prohibiting truck deliveries and construction work at night or on Sundays, and
- Establishing approved sound mitigation materials for “lift” compressors at the drill site.

Currently, daytime work hours are defined as 6 AM to 7 PM. Staff proposes changing these hours to 7 AM to 7 PM. And allowing immediate issuance of citations for violations of the submitted Noise Management Plan.

The proposed ordinance establishes a timeframe for internal and perimeter fencing around the drill site, as well as requiring landscaping to be completed within 180 days of completion. For consistency, the Ordinance ties the landscaping and tree mitigation requirements to the City’s Zoning Ordinance.

Operators will be required to make a Road Damage Remediation payment at the time of Gas Well permitting, based on the road Study calculations.

Operators should obtain a separate permit and submit a copy of the surface use agreement for development of fracture ponds. The agreement should outline how the surface area will be restored or the pond maintained once drilling operations are complete. Tree mitigation is required around fracture ponds.

Staff proposes requiring a pipeline permit for all gas pipeline construction routes that will utilize City rights-of-way or Private Residential Areas.

Pipeline Operators should provide pipeline route information sufficient to locate pipelines in the future and be compatible with the City’s Geographic Information System. Operators are to provide a 10-day written notice prior to pipeline construction to all adjacent property owners and must immediately report to the City all pipeline incidents as defined in the Ordinance.

Cities are preempted from regulation gas pipeline safety standards, but may establish conditions for mapping, inventorying, locating, or relocating pipelines over, under, along, or across a public street or alley or private residential area.

Saltwater pipelines carry the saltwater by-product that occurs from natural gas production. This saltwater has no practical use and is typically trucked or piped to saltwater disposal wells locate throughout North Texas. By allow saltwater pipelines, trucking can be reduced, thus decreasing truck traffic and emissions. The proposed ordinance establishes construction standards for saltwater pipelines and requires a pipeline permit to cover route and street crossings.

Reduced Emission Completion allows for recovery of gas that would otherwise be vented or flared. The gas flow can be directed through separation equipment so that more gas is transported to market and not lost to the atmosphere. The proposed ordinance requires Reduced Emission Completion techniques or methods that minimize the amount of natural gas and associated vapors released into the environment.

The proposed amendments would enhance and strengthen technical regulations; require erosion control and grading plans, and require a surface reclamation plan to properly restore the drill site through clean-up, landscaping and maintenance.

Mayor Dittrich opened the public hearing at 8:18 p.m.

Mr. Dan Tully stated he believed the ordinance should require provisions for protecting areas that are currently undeveloped.

Mr. Jack Johnson questioned the compressor language as it applies to lift compressors. City Attorney advised that those Line Compressors are owned by the pipeline companies and regulated by the City's Zoning Ordinance.

Mayor Dittrich closed the public hearing at 8:25 p.m.

Motion by Mr. Wilson, seconded by Mr. Allison to adopt Ordinance No. 1286 amending Chapter 8.36 of the Benbrook Municipal Code with amendment to 8.36.130 by changing the 180 day time period from drilling completion to 210 days from spudding.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1286 being **"AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING CHAPTER 8.36 – "OIL AND GAS WELLS" OF THE BENBROOK MUNICIPAL CODE, BY RE TITLING THE CHAPTER TO "GAS DRILLING AND PRODUCTION", AND REVISING THE REGULATIONS**

**RELATED TO THE DRILLING AND PRODUCTION OF GAS WITHIN THE CITY INCLUDING REVISED REGULATIONS REGARDING DISTANCE, NOISE, PIPELINES AND TECHNICAL PROVISIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.”**

### **SECTION 5 PENALTY CLAUSE**

Any person, firm, association of persons, company, corporation, or their agents, servants or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not more than two thousand (\$2,000) dollars, and each day a violation or noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Texas Local Government Code §54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

**G-1846      Adopt Ordinance amending the Benbrook Municipal Code by adding Chapter 1.12.040 – Operator to Operator Transfer Fees and Road Assessment Fees**

Andy Wayman gave the following report: Staff recommends adding two Benbrook Gas Drilling Ordinance related fees to the Benbrook Municipal Code, Chapter 1.12.040-Benbrook Fee Ordinance. The new fees are:

1. An operator-to-operator fee of \$750 is recommended to reimburse the City for administrative costs associated with the change in ownership of a gas well. Upon change of ownership, City staff is required to update emergency contact information, approve and retain new insurance documentation, verify required well-site sign update, etc.
2. A road damage assessment fee is recommended to recover the proportionate share of roadway replacement caused by heavy vehicle traffic related to drilling activities. The fee will be collected prior to the issuance of a Gas Well Permit. The road damage assessment fee will be reserved in a separate fund and earmarked for specific roads used to calculate the fee.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1287 amending the Benbrook Municipal Code by adding Chapter 1.12.040, by adding an operator-to-operator transfer fee and road damage assessment fee.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1287 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 GAS DRILLING PERMIT FEES; 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.

#### **G-1847      Approve design contract with Hahnfeld Hoffer and Stanford Architects for the expansion of the Benbrook Community Center/YMCA**

Walter Shumac gave the following report: City Council approved a two-phase design process for the Benbrook Community Center/YMCA expansion on December 18, 2008. Phase 1 (Schematic design) is complete. Staff is proposing to proceed to Phase 2 (Construction Design Plans).

Hahnfeld Hoffer Stanford Architects Planners Interiors has submitted a contract for a 3,500 square foot expansion. The proposal is an AIA Abbreviated Standard Form Agreement and includes compensation for construction design documents in a lump sum amount of \$85,000 and reimbursable expenses not-to-exceed \$14,000. Because the project is moving forward, the City will not have to pay the architects the \$10,500 for the Phase 1 schematic design process. Hahnfeld Hoffer Stanford Architects Planners Interiors were also the designers of the existing facility.

BCC/YMCA improvements include renovations to the existing facility and an approximately 3,500 square foot expansion. The expanded portion will consist of

two new multipurpose rooms for aerobics, meetings, classes, etc, separated by a movable curtain wall. The existing fitness area will expand into the existing aerobics area, adding 1,500 square feet for a total area of over 4,500 square feet. The existing community room, which is over 1,700 square feet, will be renovated to expand the child-watch area. Currently, the architect's estimated construction cost is \$1,063,102.

For the project, the YMCA will spend an estimated \$250,000 for fixtures, furnishings, and equipment.

Motion by Mr. Allison, seconded by Mr. Sauma to approve a contract with Hahnfeld Hoffer Stanford Architects Planners Interiors for the construction design plans to expand the Benbrook Community Center/YMCA in a lump sum of \$85,500 and additional expenses not to exceed \$14,000 to be paid from the CIP Fund.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

## **B. CONTRACT**

### **C-246 Award contract for Classification and Comprehensive Study**

Sherri Newhouse gave the following report: The last formal comprehensive classifications and compensation study was performed in the summer of 2000. The consultant revised and reformatted the salary matrix used by the City.

The Job Classifications in the matrix have experienced minor modifications over the past eight years. The revisions primarily consist of adding classifications when new positions are created and/or when job responsibilities are significantly modified.

During the review of the 2008-09 Budget, City staff recommended including funds to perform a comprehensive classification and compensation study. City Council allocated \$25,000 in the 2008-09 Budget for completion. The study was requested for the following reasons:

- Employee retention
- Internal equity
- Identification of unique marker conditions
- Demonstrate City to Employee Commitment as stated in the City's Core Value Statement

Request for proposals were sent to six consulting firms. The City also advertised in the Benbrook News and posted on the City's website.

Four consulting firms provided proposals. Staff reviewed the proposals and determined that each consulting firm satisfied the specifications outlined in the RFP. The lowest cost proposal was submitted by Public Sector Personnel Consultants (PSPC) at a fixed project cost of \$20,000. PSPC also included optional services for an additional cost of \$1,500 to include worksite job information interviews or focus groups. Staff recommends Public Sector Personnel Consultants as the lowest cost for services proposed, experience in North Texas and commitment to the proposed schedule.

Motion by Mr. Washburn, seconded by Mr. Sauma to approve a contract with Public Sector Personnel Consultants to complete a comprehensive classification and compensation study for an amount not to exceed \$21,500.

Vote on the Motion:

Ayes: Mr. Anderson, Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Wilson, Mr. Washburn, Mr. Sauma

Noes: None

Motion carries unanimously.

#### **VIII. INFORMAL CITIZEN COMMENTS**

Mr. Bill Smith expressed appreciation to Mr. Dan Tully for his services during his term on City Council.

Mr. Buddy Bailey expressed appreciation to the Benbrook Police Department for assistance provided to his family during a personal time of need.

#### **IX. ADJOURNMENT**

Meeting adjourned at 9:55 P.M.

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Jerry B. Dittrich, Mayor

ATTEST:

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Joanna King, City Secretary