



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, JUNE 19, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, June 19, 2008 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Dan Tully
Ron Sauma
James Schull
Keith Bailey
Mark Washburn

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager

Others Present:

Lynn Dalton, Benbrook News
Ed Gallagher
Bob Rowley
Cathy Morris
Bill Smith
Thomas Johnson
Joe Kimball
Robin Gage
Sonya Wood
Leslie Worthington
Rena Wymore
Joe Morgan
Sherae Thompson
Chris Price
and 14 other citizens

I. CALL TO ORDER

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

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Pastor Lonnie Huett with Restoration Family Church
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held June 5, 2008

Motion by Mr. Sauma, seconded by Mr. Schull to accept the minutes of the regular meeting held June 5, 2008 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2008-05 Adopt Ordinance rezoning Lot 22, Block 3, Benbrook Estates from "B" One Family District to "CR" Multiple Family District (219 Bandera)

Dave Gattis gave the following report: The owner applicant is Thomas Johnson. The current zoning for Lot 22, Block 3, Benbrook Estates is "B" One Family and the proposed zoning is for "CR" Multiple Family Restricted District.

The Land Use Plan has shown the area as "Medium Density Residential" since the 1980's to stimulate redevelopment of the area. No other lots on the street have been rezoned to "CR", though both lots on the corner of Bandera and Mercedes have existing duplexes.

No one is entitled to a zoning change by right, but City Council should weigh the benefits and detriments of the rezoning request in making its decision.

After holding a public hearing, the Planning and Zoning Commission recommends that the City Council approve the request to rezone Lot 22, Block 3, Benbrook Estates from "B" One Family to "CR" Multiple Family Restricted.

Mayor Dittrich opened the public hearing at 7:35 p.m.

Mr. Joe Kimball, spoke as representative of Thomas Johnson. He advised that since the mid-1970's the City's Long Range Plan has shown the area behind the commercial aspects as Multifamily Residential to stimulate growth. Most of the homes in the neighborhood were built in the 1950's. Mr. Kimball advised the exiting structure has been damaged in a fire and must be removed. The plan is to build a 12,073 square foot, 3 bedrooms, 2 baths, 2 car garage duplex with a finished appraised value of \$200,000. It is estimated that each side of the duplex will lease for \$900.00 to \$1,000.00.

Mr. Kimball requested City Council approve the rezoning request per the City's Long Range Plan to "CR" Multi-Family Residential.

The following citizens spoke against the rezoning:

Sonya Wood, 214 Bandera; Chris Price, 213 Bandera; Robin Gage, 211 Bandera; Joe Morgan, 214 Bandera; Leslie Worthington, 209 Bandera; Roy Mosley, 223 Bandera; and, Sherae Thompson, 212 Bandera.

Reasons stated for the request to deny the rezoning were: increase of traffic to the area, the street does not have duplexes at this time and residents do not believe a duplex is suitable for the area, concern that the property values in neighborhood would decrease; renters moving in and out; increase of crime, possibility that Mr. Johnson would rent to a sex offender. During the discussions, a petition was presented to City Council objecting to the rezoning.

In rebuttal, Mr. Kimball stated that the lease for the property is an annual lease at an average rental rate of \$1,000.00 and does not believe families would be moving in and out. He stated the average rental rate of the existing single family structures in the neighborhood is \$600.00 per month. Mr. Kimball stated there is no basis that the duplex will cause a decline in property values. He stated the area is declining now because of rental rates.

Mayor Dittrich closed the public hearing at 8:21 p.m.

Mr. Gattis informed City Council that because a petition had been presented protesting the rezoning, staff would recommend the item be continued until the July 3, 2008 meeting. He advised this would allow staff time to determine if the petition would require a super-majority vote on the issue.

Motion by Mr. Sauma, seconded by Mr. Washburn to continue the rezoning request until July 3, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

PZ-2008-06 Adopt Ordinance vacating and abandoning a 10-foot wide utility easement on Lot 1, Block 7, The Meadows Addition (8029 Meadows Drive)

(Councilmember Mark Washburn left the room)

Dave Gattis gave the following report: The applicant, Marshall Carminati, is proposes to replat an existing platted lot and an unplatted tract into two newly-reconfigured residential lots.

An existing 10-foot utility easement will conflict with the buildable area on the newly-created western lot. No utilities are within the affected easement and the franchised utilities have no objection to the vacation.

Motion by Mr. Bailey, seconded by Mr. Schull to adopt the Ordinance vacating a portion of the 10-foot utility easement and authorize the Mayor to execute the Quitclaim Deed.

Vote on the Motion:

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

Noes: None

Absent from Room: Mr. Washburn

Motion carries 5-0-1

Mr. Washburn returned to meeting.

Ordinance No. 1262 being **“AN ORDINANCE VACATING AND ABANDONING A TEN-FOOT WIDE UTILITY EASEMENT LOCATED ON A PORTION OF LOT 1, BLOCK 7, THE MEADOWS ADDITION; DECLARING THAT THE PROPERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTEREST AND CONTROL IN THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.”**

PZ-2008-07 Adopt Ordinance vacating and abandoning a 35-foot wide utility easement and drainage easement and a portion of a 20-foot wide utility and drainage easement on Lot A, Block B, Hilltop Heights Addition; and an Ordinance vacating and abandoning a portion of an interim drainage easement on Lot A, Block 8, Hilltop Heights Addition (9259 Benbrook Boulevard)

Dave Gattis gave the following report: Greenway Enterprises owns the lot between Tractor Supply and Marc’s Muffler, with plans to build an O’Reilly’s Auto Parts Store. The existing lot has a 35-foot wide utility and drainage easement along the channel, while the remainder of the lot shown as an Interim Drainage Easement.

To build the store, the applicant is requesting vacation of a portion of the permanent and interim easement. The City Engineer has approved the changes to the drainage and the applicant is working with the Benbrook Water Authority to relocate the BWA utilities within the easement.

Motion by Mr. Schull, seconded by Mr. Bailey to adopt the ordinance vacating a portion of the 35-foot and 20-foot utility and drainage easement; to adopt the ordinance vacating a portion of the interim drainage easement; and, to authorize

the Mayor to execute Quitclaim deeds for both easements on Lot A, Block 8, Hilltop Heights Addition.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1263 being **“AN ORDINANCE VACATING AND ABANDONING A PORTION OF THIRTY-FIVE FOOT WIDE UTILITY AND DRAINAGE EASEMENT AND A PORTION OF A TWENTY FOOT WIDE UTILITY AND DRAINAGE EASEMENT, BOTH IN THE JOEL FISH SURVEY, ABSTRACT NO. 1876, ALSO BEING DESCRIBED AS A PORTION OF LOT A, BLOCK 8, HILLTOP HEIGHTS ADDITION; DECLARING THAT THE PROPERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTEREST AND CONTROL IN THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.”**

Ordinance No. 1264 being **“AN ORDINANCE VACATING AND ABANDONING A PORTION OF AN INTERIM DRAINAGE EASEMENT IN THE JOEL FISH SURVEY, ABSTRACT NO. 1876, ALSO BEING DESCRIBED AS A PORTION OF LOT A, BLOCK 8, HILLTOP HEIGHTS ADDITION; DECLARING THAT THE PROPERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTEREST AND CONTROL IN THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.”**

V. REPORT OF CITY MANAGER

G-1784 Finance Report for month ending May 31, 2008

Mr. Wayman gave the following report: Year-to-date General Fund Revenues amounted to \$10,740,767. Revenues for the month of May totaled \$595,966. Current revenue collection exceeds the prior year by \$75,448.

Year-to-date General Fund Expenditures amounted to \$8,457,439. May expenditures totaled \$1,328,141. At May 31, revenue exceeds expenditures by \$2,283,327.

The Benbrook Economic Development Corporation revenues were \$539,172 while expenditures were \$1,031,643 through the end of May.

Investments were \$13,799,830 at May 31, 2008. This entire amount is available immediately if needed.

Motion by Mr. Tully, seconded by Mr. Washburn to accept the monthly financial report for the month of May 31, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

VI. INFORMAL CITIZEN COMMENTS

VII. RECESS INTO EXECUTIVE SESSION

Pursuant to Texas Government Code Section 551.071, Consultation with City Attorney – Possible Litigation

Mayor Dittrich recessed the open meeting at 8:31 p.m. Council convened into Executive Session pursuant to Texas Government Code Section 551.071 for consultation with the City Attorney regarding possible litigation.

VIII. RECONVENE INTO OPEN SESSION

Mayor Dittrich reconvened the meeting at 9:24 p.m. with no action from Executive Session.

IX. ADJOURNMENT

Meeting adjourned at 9:24 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary