



**MINUTES
OF THE MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY,
SEPTEMBER 17, 2009**

The regular meeting of the Benbrook City Council was held on Thursday, September 17, 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
Mark Washburn
Ron Sauma
Charlie Anderson
Jim Wilson

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager
Sherri Newhouse, Budget Director
James Mills, Police Chief
Walter Shumac, Director of Public Services
Cathy Morris, Public Involvement Director

Others Present:

Ed Gallagher, City Planner
Ron Rainey, EDC Director
Karen Barber, Benbrook News
Mary Ann and Jonathan Glynn
Bill Smith
Richard Schell
Pat Taber
Dan Tully
Carrol Crombie
Tammi Cauthen
Debbie Watson

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 Pastor Steven Reed with Restoration Family Church
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held August 20, 2009

Motion by Mr. Allison, seconded by Mr. Bailey to accept the minutes of the regular meeting held August 20, 2009 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

2. Minutes of the regular meeting held September 3, 2009

Motion by Mr. Sauma, seconded by Mr. Anderson to accept the minutes of the regular meeting held September 3, 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.

IV. CITIZEN PRESENTATION

1. Richard Schell – Texas Chapter of American Planning Association – Certificate of Achievement for Planning Excellence

Mr. Richard Schell appearing on behalf of the American Planning Association Texas Chapter presented the City with the 2009 Certificate of Achievement for Planning Excellence. The certificate recognizes planning standards demonstrated by the City's planning staff and the support exhibited by the City Council and Planning and Zoning Commission.

2. Mary Ann Glynn – Request waiver of Ordinance No. 1227 – Sex Offender Residency Restriction

Mary Ann Glynn requested City Council grant a waiver to allow her husband to live with her in the residence at 118 Del Rio Street. She stated the home is 1,820 feet from the closest child safety zone but within the 2,000 foot restriction of City Ordinance No. 1227.

Ms. Glynn stated her husband is considered a moderate risk level registered sex offender. She stated if the request is granted, Mr. Glynn would be willing to abide by any other restrictions the City Council feels necessary, such as staying indoors during certain times of days.

Following discussion, motion by Mr. Wilson, seconded by Mr. Sauma to deny the request to grant a wavier of City Ordinance No. 1227.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

V. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION

EDC-2009-04 Consider Benbrook Economic Development Corporation Budget for Fiscal Year 2009/2010

Mr. Ron Rainey, Executive Director for the Benbrook Economic Development Corporation stated that due to emergency health issues, the Budget for the Fiscal Year 2009/2010 has not been approved by the Corporation. He stated the budget will be considered by the Corporation on September 21, 2009 and will then be presented to City Council on either October 1 or 15, 2009.

Mr. Rainey requested City Council extend the current budget until such time it is presented from the Corporation.

Motion by Mr. Allison, seconded by Mr. Bailey to extend the Benbrook Economic Development Corporation Budget until October 15, 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.

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1865 Accept finance report for month of August 2009

Sherri Newhouse gave the following report: General Fund revenues for the month of August were \$520,263. Revenues collected through the end of August were \$13,469,058 or 100.29% of the original budget. Through the end of August, revenues were \$914,090 ahead of the amount received last year.

General Fund expenditures for August were \$788,102. Total expenditures through the end of August amounted to \$11,732,068 or 87.50% of the original budget. Revenues exceed expenditures by \$1,736,990.

At August 31, 2009 the City had \$14,808,089 invested at varying interest rates.

Motion by Mr. Washburn, seconded by Mr. Anderson to accept the financial report as presented.

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-1866 Adopt Ordinance approving budget figures for Fiscal Year 2009/2010

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1292.

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. 1292 being **“AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, APPROVING BUDGET FIGURES FOR THE FISCAL YEAR 2009 THROUGH 2010; APPROVING AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009 AND ENDING SEPTEMBER 30, 2010, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT, PROJECT AND ACCOUNT; ACCEPTING AND APPROVING THE EMPLOYEE CIVIL SERVICE CLASSIFICATIONS; REPEALING CONFLICTING ORDINANCES;**

PROVIDING A SAVINGS CLAUSE AND SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.”

G-1867 Adopt Ordinance fixing and levying ad valorem tax for 2009

Motion by Mr. Sauma, seconded by Mr. Washburn to adopt Ordinance No. 1293.

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. 1293 being **“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENBROOK, TEXAS, FIXING AND LEVYING MUNICIPAL AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009 AND ENDING SEPTEMBER 30, 2010, AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT THE RATE OF \$0.6575 PER ONE HUNDRED DOLLARS (\$100.00) ASSESSED VALUE ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF BENBROOK, TEXAS, AS OF JANUARY 1, 2009, TO PROVIDE REVENUES FOR THE PAYMENT OF CURRENT EXPENSES AND TO PROVIDE AN INTEREST IN DEBT SERVICE FUNDS ON ALL OUTSTANDING DEBTS OF THE CITY; DIRECTING THE ASSESSMENT THEREOF; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND INTEREST THEREON; PROVIDING FOR PLACE OF PAYMENT; PROVIDING FOR APPROVAL OF THE TAX ROLLS PRESENTED TO THE CITY COUNCIL; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE AND DECLARING AN EFFECTIVE DATE.”**

G-1868 First Public Hearing and review on continuance of Minor Curfew

Chief Mills gave the following report: In July 1994, the City of Benbrook enacted a curfew ordinance to restrict the hours an individual under the age of seventeen can be in a public place. The restricted hours are from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day and 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday. State law requires a review of municipal curfew ordinances every three years to determine if the ordinance should be abolished, continued, or modified. State law further requires a review of the ordinance's effect on the community and on problems the ordinance was intended to remedy. The Local Government Code stipulates that the City Council shall conduct public hearings on the need to continue the ordinance.

Consideration of the curfew ordinance is two phased and includes (1) the September 17, 2009 public hearing and (2) an additional public hearing followed by formal City Council action at the October 1, 2009 City Council meeting. City Council last reviewed the ordinance in November 2006.

The Benbrook Police Department believes that the curfew ordinance has assisted in the department in late night crime prevention. Benbrook police officers have issued the following citations for curfew violations in the past three years.

Year	No. of Citations
2007	57
2008	54
2009	65

During the same period of time, minors have been arrested for committing the following number of crimes during the hours of curfew:

Year	No. of Arrests
2007	17
2008	15
2009	10

Bedford, Burleson, Crowley, Euless, Everman, Forest Hill, Fort Worth, Hurst, Kennedale, North Richland Hills, Saginaw, Southlake, Watauga and White Settlement have enacted curfew ordinances. These Tarrant County cities are either in close proximity to or are similar in size to the City of Benbrook.

Arlington, Grapevine, Keller and Mansfield are also in close proximity or similar in size to the City of Benbrook. These cities have not enacted a curfew ordinance.

Mayor Dittrich opened the public hearing at 7:58 p.m. Mr. Bill Smith stated the ordinance is very effective and believes it should be continued.

With no other speakers, Mayor Dittrich closed the public hearing at 7:59 p.m.

G-1869 Authorize Interlocal Agreement with Benbrook Water Authority for Refuse and Storm Water Fee Billing and Payment Collection Services

Walter Shumac gave the following report: Through an Interlocal Agreement (ILA), the City of Benbrook contracts with the Benbrook Water Authority (BWA) to bill and collect residential refuse and storm water utility accounts. Because the BWA already bills these customers for water and sewer service, an economies of scale is created that benefits the City, the Authority, and ultimately the citizens of Benbrook.

The proposed ILA establishes a reimbursement of the BWA of 49.58 cents per bill. This amount is identical to last year.

In addition, the City will be accessed its proportionate share of the credit card processing fee for residents paying with credit cards. BWA processes credit card payments through a merchant service provider. The provider charges a percentage on each transaction based on the type of card and type of transaction. The BWA will provide the monthly summary page from the merchant services

provider for verification purposes. BWA estimates the City's share of the monthly credit card processing fee at \$135/month.

The term of the proposed ILA is one year, beginning October 1, 2009 and ending September 30, 2010.

Motion by Mr. Washburn, seconded by Mr. Anderson to approve the Interlocal Agreement with the Benbrook Water Authority for residential refuse and storm water utility billing.

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-1870 Authorize Interlocal Agreement with Benbrook Water Authority for Street Repair Services

Walter Shumac gave the following report: When the Benbrook Water Authority (BWA) has water or sewer line failure under a street, the BWA excavates the street and makes the line repairs. After the line repairs are completed, the BWA is responsible for restoring the damaged street. These street repairs are commonly referred to as "street cuts". Starting in FY 2000/2001, the City of Benbrook has repaired street cuts for the BWA through an Interlocal Agreement (ILA).

The proposed ILA is identical to last year's and extends the term one year. The repair cost is \$8.74/square foot. Yearly adjustments normally reflect the Consumer Price Index but this year no increase was warranted.

BWA street cuts constitute approximately 15% of the total street cuts repaired by the City in a year. Because of the efficiencies of scale associated with the street cut process, the repairs are easily absorbed without significantly affecting operations.

Motion by Mr. Bailey, seconded by Mr. Sauma to approve the Interlocal Agreement for the City of Benbrook to repair street cuts for the Benbrook Water Authority.

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-1871 Authorize Interlocal Agreement with City of Fort Worth for Household Hazardous Waste Program

Cathy Morris gave the following report: This year marks the 10th year that Benbrook has participated in the Fort Worth Environmental Collection Center Household Hazardous Waste program.

The City hosts collection events twice yearly where residents bring unwanted household chemicals, paint, lawn chemicals, batteries, light bulbs and cleaning solvents, for proper disposal.

In addition to the collection events, residents can also take chemicals directly to Fort Worth Environmental Collection Center year-round by simply providing proof of Benbrook residency. Beginning this year, a voucher from the City is no longer required to take items directly to Fort Worth.

Our current Interlocal Agreement with the City of Fort Worth expires on September 30, 2009 and must be renewed to continue in the program. There are no proposed changes in the new agreement, with the disposal rate remaining at \$47 per household.

If approved tonight, the next Benbrook collection event takes place Saturday October 24th from 9-11am at Dutch Branch Park, in the parking lot behind PAR 3 Golf.

Motion by Mr. Washburn, seconded by Mr. Wilson to approve the Interlocal Agreement with the City of Fort Worth Environmental Collection Center for Fiscal Year 2009-2010.

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-1872 Adopt Ordinance amending Chapter 1.12 of the Benbrook Municipal Code by revising Administrative Fees on Property Abatement and Gas Well Inspections

Cathy Morris gave the following report: Staff evaluates and proposes updates to the fee schedule in Chapter 1.12 of the Benbrook Municipal Code annually, based on operational changes and increased costs.

This year, staff is proposing the following updates:

The Gas Well Permit Fee is currently \$5,000 per application. Staff recommends increasing the fee to \$6,500 to adequately cover the costs of external review and inspections.

The Annual Gas Well Inspection Fee is currently \$500. Staff recommends increasing the fee to \$750 to adequately cover the costs of annual gas well inspections.

And, currently, the City does not charge an administration fee for abating public nuisance properties. Staff proposes adding an Abatement Fee of \$200, which would apply to properties in the City subcontracts for clean-up.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt the ordinance amending Chapter 1.12 of the Benbrook Municipal Code by increasing the Gas Well Permit Application fee, the Annual Gas Well Inspection fee, and by adding an Abatement 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. 1294 being “AN ORDINANCE AMENDING CHAPTER 1.12 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY REVISING THE FEE SCHEDULE FOR THE GAS WELL PERMIT FEE AND THE ANNUAL GAS INSPECTION FEE; AND BY AMENDING THE FEE SCHEDULE TO INCLUDE AN ADMINISTRATIVE FEE FOR ABATING PUBLIC NUISANCE PROPERTIES, PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING 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 PENALTY

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 EFFECTIVE DATE

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-1873 Adopt Ordinance amending Chapter 9.32 of the Benbrook Municipal Code to include provisions for graffiti removal

Cathy Morris gave the following report: Currently, property owners are required to remove graffiti from property that is visible from any public property, right-of-way or private property. Prior to issuing a citation, property owners are served notice and required to remove graffiti within 21 days.

Recent changes in State law require certain provisions to municipal graffiti ordinances.

The State law:

- Preempts local ordinances
- Requires City's to offer free graffiti removal
- If property owners refuse free removal, City's may serve notice. Property owners are then give 15 days from date of notice to remove the graffiti
- If they fail to remove the graffiti, the City may remove the graffiti and charge expenses to the property owner
- Property owners have a right to an administrative hearing to contest those charges

Motion by Mr. Sauma, seconded by Mr. Anderson to amend Title 9, Chapter 9.32 of the Benbrook Municipal Code to include provisions for graffiti removal.

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. 1295 being **“AN ORDINANCE AMENDING TITLE 9, CHAPTER 9.32-GRAFFITI, OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY INCLUDING PROVISIONS REQUIRED BY STATE LAW; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.”**

SECTION 6. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, and it is so ordained.

V. OTHER MATTERS OF BUSINESS

VII. INFORMAL CITIZEN COMMENTS

VIII. ADJOURNMENT

Meeting adjourned at 8:14 P.M.

APPROVED

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary