



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, SEPTEMBER 18, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, September 18, 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
Keith Bailey
Mark Washburn
Rickie Allison

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager
Sherri Newhouse, Budget Director
Dawn Konieczny, Administrative Manager-PD
Walter Shumac, Community Service Director
Bob Rowley, Engineer
Kathleen Wells, City Attorney

Others Present:

Lynn Dalton, Benbrook News
Ed Gallagher
Bill Smith
Robert Clark
Jim Wilson
Charlie Anderson
Rick Whitehurst
Ron Rainey
Pat Taber
Will Higgins
Larry Stowe
and 2 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 Mayor Pro-Tem Rickie Allison.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held September 4, 2008

Motion by Mr. Bailey, seconded by Mr. Sauma to accept the minutes of the regular meeting held September 4, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION

EDC-2008-01 Ratify Benbrook Economic Development Corporation Budget for FY2008-2009

Mr. Ron Rainey made the following presentation on the Benbrook Economic Development Corporation Budget for Fiscal Year 2008-2009:

Scheduled Income:

• Projected Sales Tax Revenue	\$	920,000
• Projected interest Earned		15,000
• Railroad Controls Lease Payment		195,356
• Industrial Park Sign Rental		<u>1,350</u>
Total Scheduled Income	\$	1,131,706

Scheduled Expense

• Personnel Services	\$	222,513
• Postage		200
• Public Notices		250
• Telephone		1,500
• Dues & Memberships		4,468
• City of Benbrook Office Rental		8,250
• Maintenance (Vehicle/Gas)		6,838
• Interest Expense (First Bank)		<u>100,000</u>
Total Scheduled Expenses	\$	344,019

Total Scheduled Income/Expense

• Scheduled Income	\$	1,131,706
• Scheduled Expenses		<u>344,019</u>
• Total Revenue over Expenses		787,687
• Year End Fund Balance (Est.)		<u>300,000</u>
• Scheduled FY2008-09 Balance		1,087,687

Projected Income:

• Land Sales	\$	1,500,000
• Range Resources		108,000
• Richpenn Resources Intl., Inc.		<u>2,850,000</u>
		Total Projected Income 4,458,000
		Total Scheduled Income <u>1,131,706</u>
	\$	Total Anticipated Income 5,589,706

Projected Expense

• Total Projected Expense	\$	4,268,132
• Total Scheduled Expense		<u>344,019</u>
• Total Projected/Scheduled Expense		4,612,151

Total Income/Expense:

• Scheduled Income	\$	1,131,706
• Projected Income		4,458,000
• Scheduled Expense		344,019
• Projected Expense		<u>4,268,132</u>
		Total Income-Expense 977,555
		Year End Fund Balance (Est.) <u>300,000</u>
		Scheduled/Projected
	\$	FY2008-09 Balance 1,277,555

Discussion was held among members of City Council, Mr. Rainey and Benbrook Economic Development Corporation President Charlie Anderson.

Following discussion motion by Mr. Tully, seconded by Mr. Bailey to accept the Benbrook Economic Development Corporation Budget as presented.

Vote on the Motion:

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

Noes: Mr. Allison, Mr. Washburn, Mr. Sauma

Without a majority vote in favor of the motion the motion fails by a tied vote.

VIII. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2008-09 Adopt Ordinance rezoning Lots 15 and 16, Block 7, Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District (128 and 130 Del Rio Avenue)

Mr. Gattis gave the following report: Applicant Jerome Hilderbrand is requesting rezoning of Lots 15 and 16, Block 7 of Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District. The rezoning request is to permit duplex residential construction on each of the lots.

The proposed rezoning conforms to the Land Use Plan for Medium Density Multiple Family Restricted use.

The Planning and Zoning Commission considered this request at their August 14, 2008 meeting and recommend the approval to City Council.

Mayor Dittrich opened the public hearing at 8:14 p.m. No one spoke to the item. Mayor Dittrich closed the public hearing at 8:14 p.m.

Motion by Mr. Sauma, seconded by Mr. Washburn to approve the rezoning of Lots 15 and 16, Block 7, Benbrook Estates from “B” One Family to “CR” Multiple Family Restricted.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1269 being “AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY CHANGING THE ZONING CLASSIFICATION OF LOT 15 AND LOT 16, BLOCK 7, BENBROOK ESTATES, IN THE CITY OF BENBROOK, TARRANT COUNTY, TEXAS, FROM “B” ONE FAMILY DISTRICT TO “CR” MULTIPLE FAMILY RESTRICTED DISTRICT BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.”

SECTION 1.

Ordinance No. 808, as amended, is hereby amended to change the zoning classification of Lot 15 and Lot 16, Block 7, Benbrook Estates from “B” One Family District to “CR” Multiple Family Restricted District.

SECTION 8

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

PZ-2008-10 Adopt Ordinance amending the Benbrook Zoning Ordinance No. 808- Section 4 – Definitions and Section 27 – Landscaping and Buffer Requirements

PZ-2008-11 Adopt Ordinance amending the Benbrook Subdivision Ordinance No. 1122 (Title 16 of the Benbrook Municipal Code) by amending Chapter 16.08.010-Definitions and Chapter 16.28.010-Preservation of Trees and Native Vegetation; and the addition of Chapter 16.28.012 – Street Tree Requirements

Mr. Gattis gave the following report on Items PZ-2008-10 and PZ-2008-11: The Planning and Zoning Commission recommended approval of the amendments to the Subdivision Ordinance in March, but tabled action on proposed amendments to the Tree Preservation requirements.

Staff compiled applicable tree ordinances from over 40 different cities in the Metroplex for review in work session held in April and June. The Planning and Zoning Commission recommended approval of the proposed ordinance in August, 2008.

Section 16.28.010-Tree Preservation is completely rewritten. The new provisions strengthen the permitted requirements, designate differing types of trees (protected, quality, and secondary trees), establish preservation and mitigation requirements for new developments, and stricter enforcement provisions.

Permits are required to remove protected or quality trees and to remove more than five trees on a residential lot. Protected and large secondary trees must be preserved or mitigated. Mitigation depends on tree type and development size. A three-year maintenance bond is required for mitigation trees.

A new section to the Subdivision Ordinance establishes requirements for planting street trees within new developments. The new section proposed:

1. Street trees in lieu of canopy requirements for residential areas
2. One tree per lot in single-family
3. One tree every 50 feet in multi-family and commercial
4. The tree type is specified, but must be varied between blocks for diversity
5. Trees are to be planted between the curb and sidewalk
6. Provisions for conflicts with utilities
7. Maintenance responsibilities for property owners.

The proposed provisions include minimum landscape coverage and minimum canopy coverage, depending on the zoning. The new provisions only apply to new developments, new buildings over 2,500 square feet, or expansions of buildings over 30 percent. The new provisions for landscaping and canopy cover are in addition to existing requirement, but are cumulative.

The Planning and Zoning Commission recommends that the City Council adopt the proposed ordinances amending the Zoning and Subdivision Ordinances.

Mayor Dittrich opened the public hearing on Items PZ-2008-10 and PZ-2008-11 at 8:30 p.m. No one spoke to the item. Mayor Dittrich closed the public hearing at 8:30 p.m.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1270 amending the Benbrook Zoning Ordinance, No. 808- Section 4-Definitions and Section 27-Landscaping and Buffer Requirements.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1270 being **“AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY AMENDING SECTION 27-LANDSCAPE AND BUFFER REQUIREMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; 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 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.

Motion by Mr. Bailey, seconded by Mr. Washburn to adopt Ordinance No. 1271 amending the Benbrook Subdivision Ordinance as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1271 being **“AN ORDINANCE AMENDING TITLE 16 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY AMENDING 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 3

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.

IX. REPORTS OF CITY MANAGER

G-1799 Financial report for month ending August 31, 2008

Sherri Newhouse gave the following report: General Fund revenues for the month of August totaled \$611,965. Through the end of August, total collections were \$12,554,968 or 99.13% of the amount budgeted. Current revenue collections exceed the prior year by \$1,040,680.

General Fund expenditures totaled \$899,380. Through August, total expenditures were \$11,003,398 or 88.33% of the original budget. Revenues exceeded expenditures by \$1,551,570.

August revenues for EDC were \$106,860 with most of the amount coming from Sales Tax. Expenditures were \$53,779. Through the end of August, expenditures exceed revenues by \$393,968.

At August 31, 2008 the City had investments of \$12,762,499.

Motion by Mr. Sauma, seconded by Mr. Allison to accept the monthly financial report for the month of August, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1800 Adopt Ordinance approving budget figures for Fiscal Year 2008-2009

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1272 approving budget figures for Fiscal Year 2008-09.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1272 being **“AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, APPROVING BUDGET FIGURES FOR THE FISCAL YEAR 2008 THROUGH 2009; APPROVING AND ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009; 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-1801 Ratify property tax revenue reflected in the 2008-2009 budget

Sherri Newhouse gave the following report: H.B. 3195, approved in the last legislative session, impacts the 2008-09 Budget adoption process. H.B. 3195 interjects truth-in-taxation disclosure concepts to the budget process. Any budget enacted after September 1, 2007 must meet the following requirement regarding property tax revenue: “Adoption of a budget that raises more property revenue than was generated the previous year requires two votes by the City Council: (a) one vote to adopt the budget and (b) a separate vote to ratify the property tax revenue increase reflected in the budget.”

The 2008-09 budget will raise more property taxes than last year by \$455,420 or 5.12%. Of that amount, \$284,470 is tax revenue raised from new property added to the tax roll this year.

Motion by Mr. Allison, seconded by Mr. Bailey to ratify the property tax revenue increase reflected in the 2008-09 budget.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1802 Adopt Ordinance fixing and levying ad valorem tax for 2008

Motion by Mr. Sauma, seconded by Mr. Washburn to adopt Ordinance No. 1273 fixing and levying ad valorem tax for 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1273 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, 2008 AND ENDING SEPTEMBER 20, 2009, AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED, AT THE RATE OF \$06775 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, 2008, 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-1803 Interlocal Agreement with Fort Worth Independent School District for two School Resource Officers

Dawn Konieczny gave the following report: The Benbrook Police Department provided one full-time School Resource Officer for the Fort Worth Independent School District since 1996. In 2007, one additional full-time officer was added due to the growing population at the three schools located in Benbrook. These officers serve as liaison between the police department and the staff at Western Hills High School, Benbrook Elementary and Westpark Elementary. During the holidays and summer breaks, the officers perform regular patrol duties. The Fort Worth Independent School District subsidizes fifty percent (50%) of the salary, benefits, overtime, and training for both officers.

Motion by Mr. Bailey, seconded by Mr. Sauma to approve the Interlocal agreement between the City of Benbrook and the Fort Worth Independent School District for two (2) full-time School Resource Officers to be funded at fifty percent by the City and 50% by FWISD.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1804 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, the City of Benbrook engages the Benbrook Water Authority to bill and collect residential refuse and storm water utility accounts. Because the BWA already bills these customers for water and sewer service, an economy of scale is created that benefits the City, the Authority and ultimately the citizens of Benbrook. This agreement is approved on an annual basis.

While an escalator clause is not included in our current Agreement, the staff is proposing to increase the reimbursement to the BWA to 49.58 cents per bill. This represents a 5.6% increase over last year, which is equivalent to the increase of the Consumer Price Index and also reflects the increased cost in postage last year.

The term of the proposed agreement is for one year beginning October 1, 2008 and ending September 30, 2009.

Motion by Mr. Allison, seconded by Mr. Washburn to approve the Interlocal Agreement with Benbrook Water Authority.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1805 Interlocal Agreement with Benbrook Water Authority for Street Repair Services

Mr. Shumac gave the following report: The Benbrook Water Authority is responsible for street repairs when there is a water or sewer failure. Since October 2000, the City has repaired street cuts for the BWA through an annual Interlocal Agreement.

This year's agreement includes an increase of 5.6%, from \$8.28 to \$8.74 per square foot. This adjustment reflects the annual increase in the Consumer Price Index.

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

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

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1806 Recommend contractor for 33rd Year Community Development Block Grant (CDBG) project

Bob Rowley gave the following report: The 33rd Year Community Development Block Grant (CDBG) project is the construction of sidewalks and wheelchair ramps on portions of User, Warden, Wade Hampton, Park Center and Cozby North Streets. These streets are within the City's CDBG target area. The City was awarded \$89,772 in Federal funds for this year, plus \$75,268 in carryover funds from previous project years, for a total construction funds available of \$165,040. The City provided in-house engineering services as the City's matching contribution.

Tarrant County opened bids on August 27, 2008. Access Paving, Inc. was the low bid of \$120,200.00. Staff estimates for this project was \$150,788.

The City has not worked with the low bidder. However, staff has contacted the references for Access Paving and has not received any negative comments.

Motion by Mr. Sauma, seconded by Mr. Bailey to recommend that Tarrant County award the 33rd Year CDBG project to Access Paving, Inc. in the amount of \$120,200.00.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1807 Authorize Agreement with Trinity Gardens Homeowners Association for Detention Pond Maintenance

Mr. Gattis gave the following report: When the Trinity Gardens subdivision was built in 2002, a detention pond was required to reduce the amount of peak flow leaving the site downstream. Under the regulations in effect at that time, the Home Owners Association (HOA) was responsible for maintenance and operation of the pond, and was required to collect and maintain funds for the repair and maintenance of the pond.

The City has since adopted the integrated Storm Water Management (iSWM) standards that will require most developments to build detention ponds to control both flooding and water quality.

In October 2007, the City established its Storm Water Utility that includes a monthly fee based on storm water runoff. While the storm water utility was established primarily for capital projects and debt service, the residents perceived that they were being billed twice, once for the Storm Water Utility and once by the HOA for pond maintenance and operation.

In February 2008, the City Council authorized a revision to Administrative Regulation CD-4 to allow the City to assume maintenance responsibilities for certain detention ponds. This was done to reflect the fact that the City was now requiring many of these detention ponds, that the City was in a better position to perform the maintenance activities, and to resolve the perception of double-billing.

The proposed agreement provides that the City will maintain and now the pond and make any necessary structural repairs. The HOA will be responsible for any additional landscape and ornamental maintenance above and beyond the City's obligation.

Motion by Mr. Allison, seconded by Mr. Washburn to authorize the Mayor to execute the agreement with Trinity Gardens Home Owners Association for detention pond maintenance.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

VII. INFORMAL CITIZEN COMMENTS

XIII. ADJOURNMENT

Meeting adjourned at 9:02 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary