



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, OCTOBER 18, 2007**

The regular meeting of the Benbrook City Council was held on Thursday, October 4, 2007 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

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

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
David Ragsdale, Finance Director
Ed Gallagher, Planner

Others Present:

Dorcas Neuman, Benbrook News
Bill Smith
Thomas Johnson
Tom Eudaly
Pat Gray
John and Mary Larson
And 4 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 Dr. Larry Sanders with Trinity Hills Baptist Church
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the special meeting held September 28, 2007

Motion by Mr. Bailey, seconded by Mr. Tully to approve the minutes of the special meeting held September 28, 2007 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

2. Minutes of the regular meeting held October 4, 2007

Motion by Mr. Sauma, seconded by Mr. Schull to approve the minutes of the regular meeting held October 4, 2007.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2007-09 Consider Land Use amendments of the Comprehensive Plan for Planning Area "C", reducing Medium Density Multi-Family and increasing Commercial land uses (110, 112, 116 ,118 and 120 Del Rio Avenue)

Ed Gallagher gave the following report: Planning Area "C" is the 1,717-acre between Benbrook Boulevard and the Trinity River, and extending south from Loop 820 to the Corps of Engineers lake property. Tom Eudaly and Trinity Partners are requesting a change from Medium Density Multifamily Land Use Plan designation to Commercial for a 1.38-acre area along the west side of Del Rio Avenue by extending the Commercial area fronting on Benbrook Boulevard to Del Rio Avenue.

The 1.38-acre involved represents a relatively small change in the 1,717-acre planning area and a reduction of ten potential medium density dwelling units. The change would cause only a very slight reduction of the current 21.41 land percentage for multifamily uses throughout the City.

The amount of land designated to change in each of the two use categories involved is not a significant quantity. More significantly however, the proposed change represents an encroachment of a potentially incompatible land use into an existing residential neighborhood.

Principle 3.2.1 in Section 5, Goals, Objectives and Strategies of the Comprehensive Plan states, "Site design techniques, such as buffers or screens, access and building orientation, should be employed to mitigate negative intrusions on residential areas." Principle 3.2.1 also appears in Section 6, Land Use of the Comprehensive Plan in 6.3.1, Protection of Existing Neighborhoods.

The existing and planned land use to the north and west of the proposed change is commercial, but the existing land use to the south is low density residential and to the east the planned land use is medium density residential. With the proposed amendment, homes that now face or side to residential uses will face or side to commercial use. Considering the topography to the west, the most incompatible structure impacting the remaining residential neighborhood will be a rather tall retaining wall.

Following the guidance of Principle 3.2.1, the proposed Land Use Plan change can be accommodated providing adequate care is maintained in the design of the buffer, including retaining wall location and setback, retaining wall appearance, and landscaping. The buffering design techniques are appropriate considerations in the subsequent zoning approval.

The Planning and Zoning Commission held a public hearing at their September 13, 2007 meeting and recommended approval of the request.

Mayor Dittrich opened the public hearing at 7:38 p.m.

Mr. Tom Eudaly requested the Land Use Plan amendment. Mr. Eudaly stated

Mayor Dittrich closed the public hearing at 7:40 p.m.

Motion by Mr. Tully, seconded by Mr. Sauma to approve the Land Use Plan amendment to Planning Area "C" changing the 1.38-acre area on the west side of Del Rio Avenue from Medium Density Residential to Commercial.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

PZ-2007-10 Adopt Ordinance rezoning Lots 7, 8, 9, 10 and 11, Block 7, Benbrook Estates from “B” One Family District to “HC” Highway Corridor District (110, 112, 116, 118 and 120 Del Rio Avenue)

Mr. Gallagher gave the following report: Tom Eudaly is the applicant in the rezoning of Lots 7 through 11, Block 7, Benbrook Estates from “B” One Family District to “HC” Highway Corridor Commercial District. Subject to rezoning, the applicant has contracts to purchase each lot from the five current owners. With the just approved Land Use Plan amendments, the rezoning of the 1.38-acre site conforms with the Comprehensive Plan and meets the requirements of Section 211.004 of the Local Government Code.

With the rezoning, the five lots are anticipated to be combined with the vacant adjacent Lot 17 fronting on Benbrook Boulevard to increase the depth of the highway frontage property. Collectively the five single family zoned lots back and side to commercial zoned property with highway frontage to the west and north. The five lots adjoin residential property to the south and are across Del Rio Avenue from residential property.

The most significant consideration in the rezoning is the arrangement presented with introduction of new commercial zoning along Del Rio Avenue and the neighboring residential property. Future commercial development will be oriented to Benbrook Boulevard. However, as presented, commercial activity could be oriented to both the highway and Del Rio Avenue or just to the principally residential street. Rezoning to extend the depth of the commercial zoning in a through pattern to Del Rio Avenue should include design consideration to mitigate the impact on the remaining residential property.

The Planning and Zoning Commission utilized Principle 3.2.1 of the Comprehensive Plan, that states “Site, design techniques, such as buffers or screens, access and building orientation, should be employed to mitigate negative intrusions on residential areas” in formulating conditions that accompany a favorable recommendation of rezoning. The conditions of the Commission to mitigate negative impacts on residential property are no commercial businesses face or have driveways on Del Rio Avenue, a tiered retaining wall with the first tier observing a three-foot setback from Del Rio Avenue and the south side, with a five-foot minimum depth for each tier and a minimum eight-foot radius at the southeast corner of the sections of the tiered wall, the retaining wall be constructed with textured concrete or modular block or other suitable appearing materials, that the E-buffer yard along Del Rio Avenue include two canopy trees per 100 feet and no berm requirement, and that the rear of the buildings be screened with a fence along the top of the retaining wall to screen the building from the residential property across Del Rio Avenue and adjoining the south.

The design considerations recommended by the Commission are in addition to all of the standard “HC” District regulations and other provisions of the

Zoning Ordinance and are addressed in an “HC-PD” ordinance to facilitate the requested rezoning with the recommended conditions.

Mayor Dittrich opened the public hearing at 7:50 p.m.

Mr. Eudaly advised he understood the recommendation and concurs.

Mayor Dittrich closed the public hearing at 7:51 p.m.

Motion by Mr. Tully, seconded by Mr. Schull to adopt Ordinance No. 1251 rezoning Lots 7, 8, 9, 10 and 11, Block 7, Benbrook Estates from “B” One Family District to “HC-PD” Highway Corridor Planned Development District as recommended by the Planning and Zoning Commission.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1251 being “AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY CHANGING THE ZONING CLASSIFICATION OF LOTS 7, 8, 9, 10 AND 11, BLOCK 7, BENBROOK ESTATES, FROM “B” ONE FAMILY DISTRICT TO “HC-PD” HIGHWAY CORRIDOR PLANNED DEVELOPMENT DISTRICT AND BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING REGULATIONS FOR DEVELOPMENT OF THE PROPERTY; 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 Lots 7, 8, 9, 10, and 11, Block 7, Benbrook Estates, in the City of Benbrook, Tarrant County, Texas, from “B” One Family District to “HC-PD” Highway Corridor Planned Development District. All land uses and development in the “HC-PD” Highway Corridor Planned Development District created by adoption of this Ordinance shall conform to the following development regulations (in lieu of a site plan) and shall conform to all other requirements of the Zoning ordinance, including but not limited to Section 21, PD Planned Development Districts:

1. No commercial business shall face Del Rio Avenue and no commercial driveways shall be allowed onto Del Rio Avenue.

2. A tiered retaining wall shall be constructed along the east side of the property adjacent to Del Rio Avenue and along the south side of the property adjacent to Lot 12, Block 7, Benbrook Estates. The first tier of the wall shall be set back a minimum of three feet (3') from the right-of-way of Del Rio Avenue. Each additional tier of the wall shall have a minimum depth of five feet (5') from the previous tier and the southeast corner of the wall shall have a minimum radius of eight feet (8').
3. The tiered retaining wall shall be constructed of textured concrete or modular block (or similar materials approved by the City Manager or his designee).
4. A ten foot wide "E" landscaped buffer yard shall be installed along the side of the property adjacent to Del Rio Avenue and a ten foot wide "F-1" landscaped buffer yard shall be installed along the south side of the property adjacent to Lot 12, Block 7, Benbrook Estates. The "E" and "F-1" buffer yards may be achieved with a combination of the space between the property line and the face of the first tier of the retaining wall and the horizontal earthen surfaces on top of the other tiers of the retaining wall. The depth of the concrete or masonry portions of the retaining wall shall be excluded in calculating the ten foot (10') width of the buffer yards. The "E" buffer yard shall comply with the provisions of Section 27 of the Zoning Ordinance except that no berm shall be required and two (2) canopy trees, two (2) accent trees and eight (8) shrubs shall be required per one hundred (100) feet of buffer yard. The "F-1" buffer yard shall comply with the provisions of Section 27 and the screening fence required under paragraph 5 below shall satisfy the requirement for a "Fence F-1."
5. The rear of the building or buildings constructed on the property shall be screened by a screening fence along the entire top of the tiered retaining wall. The screening fence shall be of sufficient height to hide the rear of the building(s) from view from any point in the front yards of the lots on the east side of Del Rio Avenue, but such fence shall not be less than 6 feet in height.

SECTION 8.

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

PZ-2007-11 Adopt Ordinance rezoning Lots 23 and 24, Block 6, Benbrook Estates from "B" One Family District to "CR" Multiple Family Restricted District (109 Del Rio Avenue)

Ed Gallagher gave the following report: The property being considered for rezoning is Lots 23 and 24, Block 6, Benbrook Estates, located at 109 Del Rio Avenue. The existing zoning is "B" One Family District and the proposed zoning is "CR" Multiple Family Restricted District that permits duplex residential construction on each of the vacant lots. The proposed zoning is compatible with the Comprehensive Plan calling for Medium Density Multifamily Residential use

thus meeting the requirements of Section 211.004 of the Texas Local Government Code. John Larson is the property owner and Thomas Johnson is the applicant. Mr. Johnson has a contract to close on the property subject to the rezoning.

The Planning and Zoning Commission held a public hearing at their September 13, 2007 meeting and recommended approval of the rezoning. After a public hearing the Planning and Zoning commission recommends the rezoning of Lots 23 and 24, Block 6, Benbrook Estates from "B" One Family District to "CR" Multiple Family Restricted District.

Mayor Dittrich opened the public hearing at 7:54 p.m.

Mr. Thomas Johnson requested City Council consideration of the rezoning request.

Mayor Dittrich closed the public hearing at 7:55 p.m.

Motion by Mr. Sauma, seconded by Mr. Stowe to adopt Ordinance No. 1252 rezoning Lots 23 and 24, Block 6, Benbrook Estates from "B" One Family District to "CR" Multiple Family Restricted District.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1252 being "AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY CHANGING THE ZONING CLASSIFICATION OF LOTS 23 AND 24, BLOCK 6, BENBROOK ESTATES, IN THE CITY OF BENBROOK, TARRANT COUNTY, TEXAS, FROM "B" ONE FAMILY DISTRICT TO "CR" MULTIPLE FAMILY RESTRICTED DISTRICT AND 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 Lots 23 and 24, Block 6, 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.

V. REPORTS OF CITY MANAGER

A. GENERAL

G-1741 Quarterly Financial Report for period ending September 30, 2007

David Ragsdale gave the following report: Total General Fund revenues for the year were \$11,899,861 or approximately 99% of the original budget. Total General Fund expenditures for the year were \$11,290,562 or approximately 94% of the original budget. At year-end, total revenues exceeded total expenditures by \$609,299.

Debt Service revenues were \$1,259,646 for the period ending September 30, 2007. Debt Service requirements amounted to \$1,233,633 for the same period.

The EDC finished the year with revenues of \$924,318 and expenditures of \$1,517,162. The EDC ended the year with a deficit of \$592,844.

Capital Projects Funds produced \$459,189 in revenue while expenditures amounted to \$1,076,167. Most of this amount went toward the Plantation West Creek drainage project.

Investments at September 30, 2007 totaled \$10,449,077. This entire amount is available if needed.

Motion by Mr. Schull, seconded by Mr. Stowe to accept the financial report for the period ending September 30, 2007.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1742 Quarterly Hotel/Motel Tax Report

Mr. Ragsdale gave the following report: Total quarterly collections amounted to \$36,002. Bed tax made up \$33,718 of this amount and interest provided \$2,284.

The Chamber of Commerce submitted \$11,720 in expenses and was reimbursed \$11,705. Most of this amount was for salaries, overhead, and the city-wide yard sale.

Motel 6 had advertising expenses of \$5,898; however, only \$2,130 qualifies as reimbursable.

Staff paid \$1,792 for various Heritage Event items.

VSA did not submit an expense report.

Motion by Mr. Stowe, seconded by Mr. Sauma to accept the quarterly Hotel/Motel Tax report.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1743 Resolution Suspending Atmos Energy Request for Rate Increase

Mr. Ragsdale gave the following report: The Railroad Commission issued a Final Order approving new system-wide rates for customers of Atmos Energy's Mid-Tex Division in May. Residential rates were increased by \$10 million annually. Also, in May, Atmos Mid-Tex filed application for its fourth GRIP surcharge in four years, seeking to increase the rates of all customers by \$12 million annually. Despite both of these recent actions to increase customer's rates. Atmos Mid-Tex has filed an application with cities to increase system-wide rates by another \$52 million.

The proposed resolution suspends the effective date of the Company's rate increase for the maximum period permitted by law to allow the City time to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what strategy to pursue. If the City does not take action to suspend the filing, Atmos Mid-Tex may begin charging the increased rates after October 25, 2007.

The proposed resolution suspends the effective date of the increase for 90 days, authorizes the City of cooperate with Atmos Cities Standing Committee, requests reimbursement of reasonable rate case expenses, and calls for the notification of all parties of the ACSC.

Motion by Mr. Schull, seconded by Mr. Sauma to adopt Resolution No. 2007-13 suspending the Atmos Gas request for a rate increase.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Resolution No. 2007-13 being **"RESOLUTION OF THE CITY OF BENBROOK SUSPENDING THE OCTOBER 25, 2007 EFFECTIVE DATE OF ATMOS**

ENERGY CORP., MID-TEX DIVISION REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE AND OTHER CITIES IN THE ATMOS ENERGY CORP., MID-TEX DIVISION SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRE BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.”

G-1744 Appointment to Boards and Commissions

Joanna King gave the following report: The odd numbered positions on the City's various Boards and Commission will expire October 31, 2007. There is also one vacant unexpired term on the Planning and Zoning Commission. That term will expire October 31, 2008.

The City advertised a formal notice to accept applications for Boards and Commission appointments in the Benbrook News, the City's official newspaper, as well as the Fort Worth Star-Telegram. The announcement was also placed on the City Channel of Charter Communications, the City Home Page, and the quarterly Newsletter.

City Council met with the applicants in worksession on October 9 and 11, 2007.

Motion by Mr. Stowe, seconded by Mr. Bailey to make the following appointments for a term to expire October 31, 2009:

Planning and Zoning Commission

Place 1	David Ramsey
Place 3	Alfredo Valverde
Place 5	Sanjiv Shah
Place 7	Dian M. Price
Place 9	Jim Wilson

Zoning Board of Adjustment/Board of Appeals

Place 1	Lizbeth Sowell
Place 3	Robert Cook
Place 5	Jacquie Messer
Alternate A	Mark Washburn

Parks and Recreation Board

Place 1	Daniel Reilley
Place 3	Vanessa Adia
Place 5	Trey Morrison

Place 7 Carol Stacy

Benbrook Economic Development Corporation

Place 1 William Higgins
Place 3 Daniel Tully
Place 5 Rick Whitehurst
Place 7 Steven White

Tax Increment Financing Board (TIF)

Place 1 Daniel Tully
Place 3 James Wood

and to appoint Brandon Weaver in Place 2 unexpired term on the Planning and Zoning Commission for a term to expire October 31, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

VI. OTHER MATTERS OF BUSINESS

VII. INFORMAL CITIZEN COMMENTS

VIII. ADJOURNMENT

Meeting adjourned at 8:10 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary