



**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY,  
NOVEMBER 6, 2008**

The regular meeting of the Benbrook City Council was held on Thursday, November 6, 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  
Walter Shumac, Director of Public Service

Others Present:

Ed Gallagher, City Planner  
Ron Rainey  
Bill Smith  
Charlie Anderson  
Tammi Cauthen  
Robert Clark  
Duane Slater  
and 3 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 Elder Sherle Roberts with Tabernacle of Praise  
The Pledge of Allegiance was recited.

**III. MINUTES**

**1. Minutes of the regular meeting held October 16, 2008**

Motion by Mr. Sauma, seconded by Mr. Allison to approve the minute of the regular meeting held October 16, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

## **2. Minutes of the special meeting held October 21, 2008**

Mr. Wayman stated that on October 21, 2008, the City Council met in a specially called open meeting to hear expert testimony and discuss the Cities Aggregate Power Project long-term power purchase agreement. City Council voted 5-1 to join other cities in purchasing approximately 70% of Benbrook's future electricity usage for a period of 24 years at a base rate of 5.6 cents per kilowatt hour. The agreement requires that 3.5 cents of the base capacity be prepaid through issuance of debt by CAPP on behalf of participating cities. The agreement has not been finalized pending market and credit conditions.

The City Council also voted 6-0 to approve a 5-year contract to purchase electricity in excess of the base, or to meet all electricity needs, pending final disposition of the CAPP long-term power purchase agreement.

Motion by Mr. Tully, seconded by Mr. Bailey to approve the minutes of the special meeting held October 21, 2008.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

## **IV. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION**

### **EDC-2008-04 Ratify Employee Contract for Benbrook Economic Development Executive Director**

Mr. Rainey gave the following report: The Benbrook Economic Development Corporation Board of Directors agreed on October 20, 2008 to offer a revised Employment Contract to its Executive Director. The previous executed 5-year contract is being revised to mirror terms and conditions used by the City of Benbrook for employment of its City Manager.

Motion by Mr. Tully, seconded by Mr. Sauma to accept the Executive Director's Employment Contract as presented and to be returned to the Benbrook Economic

Development Board of Directors for formal approval and execution, upon the execution of the contract the Executive Directors compensation difference between his actual compensation from October 1, 2008 to the contract execution date and this contract as if it was enforced from October 1, 2008 shall be paid.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**EDC-2008-05            Ratify actions of BEDC Board of Directors in accepting  
Commitment Letter from First Bank and ratify principal  
reduction payment**

Mr. Rainey gave the following report: The Benbrook Economic Development Corporation Board of Directors agreed on October 20, 2008 to accept a Letter of Commitment from First Bank for a 5% Principal Reduction payment on its \$3,840,000.00 loan. The principal payment will total \$192,000.00. The BEDC will also pay a .75% Exit Fee on the note for an additional \$1,440.00. The "exit fee" was agreed to at the beginning of the loan in lieu of an origination fee.

The interest rate on the loan is established as floating at Wall Street Journal Prime Rate and First Bank is requesting a rate floor of 5%. The note will mature on May 31, 2009. Collateral for the loan is the First Lien Deed of Trust on 82 +/- acres on land along the west side of Benbrook Boulevard (US377) and the assignment of Benbrook EDC sales tax receipts.

Motion by Mr. Tully, seconded by Mr. Bailey to ratify the Benbrook Economic Development Corporation Board of Directors actions in accepting a Commitment Letter from First Bank and executed by BEDC President Charlie Anderson and First Bank's Benbrook Branch President Tammi Cauthen and to approve the principal reduction payment as budgeted in the BEDC's FY2008-09 budget in item #5719 Loan Principal Reduction.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

## **V. REPORT OF CITY MANAGER**

### **A. GENERAL**

#### **G-1819 Authorize Staff to initiate changing the street names of Park Road 1, Park Road 2 and Park Road 3 in Dutch Branch Park**

Walter Shumac gave the following report: Park Road 1, Park Road 2, and Park Road 3 are located in Dutch Branch Park. Park Road 1 runs from Benbrook Boulevard to the tennis courts. Park Road 2 goes from Winscott Road to the ball fields. Park Road 3 begins at Beach Road and meanders through the park and intersects with Stevens Drive.

Multiple streets with similar names in the same general location can create confusion. During an emergency situation, the Police Department and Fire Department may inadvertently be dispatched to an incorrect location. To alleviate confusion, Staff proposes that the street names be changed. Staff is recommending that Park Road 1 be renamed Creekside Drive, Park Road 2 be renamed Cary Conklin Drive and Park Road 3 be renamed Lake Shore Drive.

Former City Manager Cary Conklin began his Benbrook career as parks superintendent. He was responsible for the vast majority of the assets in the athletic complex. Naming the street leading into the athletic complex "Cary Conklin Drive" would be a fitting tribute to his service to Benbrook.

The Parks and Recreation Board have formally considered the new street names and recommend the name changes.

With Council approval, Staff will bring an ordinance to a future council meeting for formal consideration.

Motion by Mr. Washburn, seconded by Mr. Sauma to direct Staff to initiate changing the street names of Park road 1, Park Road 2 and Park Road 3 to Creekside Drive, Cary Conklin Drive and Lake Shore Drive.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1820      Adopt Ordinance amending Title 10-Vehicles and Traffic of the Benbrook Municipal Code by adding a new Chapter 10.56- Locally Enforced Motor Vehicle Idling Restrictions and approve a memorandum of agreement with the Texas Commission on Environmental Quality to enforce this rule locally**

Dave Gattis gave the following report: As part of the Region's efforts to reduce air pollution, the North Central Texas Council of Governments (NCTCOG) is asking local governments to adopt the Texas Commission on Environmental Quality (TCEQ) rules on locally-enforced motor vehicle idling. The TCEQ rules allow the City to enforce State rules by adopting the rules by reference and sign a Memorandum of Agreement (MOA) with TCEQ to enforce the regulations.

Idling of large diesel trucks is one of the major sources of nitrous oxides and volatile organic air pollutants in the region. It is estimated that the average diesel truck idles approximately 1,830 hours per year and uses one gallon of diesel per hour while idling. The propose rule restricts idling to no more than five minutes when the vehicle is not in motion. Other Cities and Counties in Texas have adopted the restrictions to control air pollutants.

Implementation of the rule is a three-step process. The first is the adoption of the Ordinance and execution of the MOA. The second step is education through signs and brochures. The final step is enforcement by the Police Department and/or code enforcement. Enforcement may be either proactive or complaint-based.

The rules apply to vehicles with a gross vehicle weight rating of 14,000 pounds, which includes most tractor-trailer, flatbed, dump trucks, and buses. The rules restrict idling to no more than 5 minutes during the period from April 1 through October 31, and also prohibits long-term idling in a residential neighborhood or near a school. There are numerous exemptions, including military vehicles, emergency vehicles, law enforcement vehicles, leased vehicles, or vehicles caught in traffic congestions. It also exempts motors running to power auxiliary equipment, for maintenance, or to defrost windshields. The rules exempt use of a sleeper berth for government-mandated rest periods until September 2009, with the intent for truckers to use electrified truck stops.

Motion by Mr. Allison, seconded by Mr. Washburn to adopt Ordinance No. 1277 adopting locally-enforced motor vehicle idling restrictions and authorizing the Mayor to execute the Memorandum of Agreement with Texas Commission on Environmental Quality.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1277 being “**AN ORDINANCE AMENDING TITLE 10-VEHICLES AND TRAFFIC OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY ADDING A NEW CHAPTER 10.56-LOCALLY-ENFORCED MOTOR VEHICLE IDLING RESTRICTIONS AND TO APPROVE A MEMORANDUM OF AGREEMENT WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TO ENFORCE THIS RULE LOCALLY; 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 PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**”

**SECTION 6**

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 Five Hundred Dollars (\$500.00) for all violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 10**

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.

**VI. INFORMAL CITIZEN COMMENTS**

**VII. ADJOURNMENT**

Meeting adjourned at 7:58 p.m.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**