

MINUTES OF THE REGULAR CITY COUNCIL MEETING
CITY OF COLLEGE STATION
SEPTEMBER 23, 2010

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

Nancy Berry

Council:

John Crompton
Jess Fields
Dennis Maloney
Katy-Marie Lyles

City Staff:

Glenn Brown, City Manager
David Neeley, Assistant City Manager
Harvey Cargill, City Attorney
Sherry Mashburn, City Clerk
Tanya McNutt, Deputy City Clerk

Call to Order and Announce a Quorum is Present

With a quorum present, the Regular Meeting of the College Station City Council was called to order by Mayor Nancy Berry at 7:05 p.m. on Thursday, September 23, 2010 in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77842.

1. Pledge of Allegiance, Invocation, consider absence request.

• **Presentation and update on Police Officer Tracy Sheets' recovery process**

Police Chief Capps updated the Council on Officer Tracy Sheets' recovery. Officer Sheets has had four surgeries and rehabilitation. Officer Sheets came forward to thank the Council for their support. Officer Sheets was honored with a standing ovation.

• **Recognition of Mark Smith for his 30 years of service to the City of College Station**

City Manager Glenn Brown recognized long-time city employee, Mark Smith, on the occasion of his retirement. He has been with the City for over thirty years. He moved up through the ranks

and became the Director of Public Works in 1993. Whatever he has been asked to do, he has stepped forward and served the City and the community well. He is beginning a new career at the San Jacinto River Authority as the Ground Water Reduction Program Manager.

- **Citizen Comments**

Jim Murphrey, 1015 Francis Drive, came to speak about the neighborhood Prevailing Overlay. He stated that he had never heard of the College Hills Neighborhood Association and is still in the dark about what that is. We are in the finest city in the world; we have a great staff, and we are getting a better council and mayor. The citizens have worked hard to get going in that direction. He has property on Ashford, approximately 1.25 acres, and hopes nothing happens to take away his right to develop it to its potential. The City should not tell him he cannot do that. There have been some fiascos in the past and hopes this City Council and staff will work on priority projects and do away with these petty things like tonight. We don't want to have to vote this down like we did on city hall and the red lights. The Council should be here to serve and not to control.

Kathleen O'Reilly, 1118 Ashford, reported that in 2009 a dozen people initiated a drive to preserve the neighborhood and followed the process required by the city exactly. They collected signatures and paid the processing fee. Since then there has been a flurry of activity and misinformation. They withdrew the application to alleviate the pressure of a City Council meeting deadline. However, there is still strong support for the overlay. The speakers tonight are people who live in the neighborhood. She requested the Council to not dismiss the concerns of the citizens. They are counting on the City to provide the tools they need.

Stephen Miller, 906 Munson, said he is sympathetic to the idea of planning to control life in the neighborhood, but nothing can happen in that neighborhood as long as Munson remains a throughway for over 7,000 vehicles daily. The overlay district restrictions do no good for those owners of acreage along Munson. Other streets are insulated from it; the people on Munson are not. After the failure of controlling the traffic on Munson, one homeowner turned his home into a stockade.

Ginny West, 1203 Ashburn, stated that as one of the organizers of the effort, the desire to preserve the neighborhood is alive, well and strong. She told potential signers she was interested in protecting the neighborhood. She noted the overlay has serious problems that deserve a second look. Some feel the restrictions punish the people they are designed to protect. Not only does the overlay have problems, but the process is lengthy, arduous and expensive. If the NPO does not work for a neighborhood like ours, then find one that does.

Dr. Tim Hall, 1044 Rose Circle, stated the neighborhood is well worth preserving. He is pleased the speakers are asking for more time to address this correctly. College Hills is close to town and adds to the value of the city as a whole.

Brooke Woodruff, 1118 Ashburn, urged the Council to continue to look for ways to protect older neighborhoods. She likes to imagine the integrity of the neighborhood will remain for generations to come. Accommodations must be made to address all perspectives.

Gary Halter, 1204 Ashburn, stated that he was one that worked on this, and he spent lot of time on this. They had neighborhood meetings, passed out the draft ordinance, and collected signatures. However, vigilante groups went around and lied about the ordinance and caused some people to remove their signatures. He asked how can you unsign something?

Mike Stephenson, 1005 Ashburn, said he one of those who unsigned. He is still in favor of the overlay, but is now on the fence based on information he received from the planning office. He stated that he trusts his neighbors more than he trusts the City. He noted that in thirty years there will have been seven different mayors, but his neighbors will still be there. Once these issues have been clarified, he will be back on board.

Pam Matthews, 1204 Marsteller, stated that she moved into College Hills to invest in her family's future. She was drawn by the history and the location. She would like to see the character of the neighborhood protected.

Charles Vesperman, 1207 Ashburn, told the Council there is not another place like this neighborhood in College Station. The Council has to do something or this one of a kind neighborhood will disappear. He asked the Council to help them preserve their neighborhood.

Dennis Berthold, 1204 Marsteller, reported that he has put more into the house than he paid for it. He noted the community of College Hills woodlands been there since the 1940's. The neighborhood wants to maintain its integrity, and its residents should be empowered to make the changes. His home has a historical designation; this neighborhood represents honoring the past. He is willing to work with others to achieve this end.

James Baker, 1119 Ashburn, reported he has lived there thirty years and has invested over \$130,000 over the past thirty years. He cares deeply about this neighborhood and donated 1.5 acres to city as woodlands. He is strongly in favor of anything to preserve it. When he was approached to sign, he signed, and then withdrew because he found out from the City that a person could not put in a two-story house. A person can only build up to the median of what exists in your block face. That means that or less. Every time you build less, then the median re-sets, and over time they will have smaller and smaller lot sizes and houses. Asking them to give up their property rights does not solve anything. The charm of their neighborhood is their diversity.

CONSENT AGENDA

2a. Presentation, possible action, and discussion of minutes for City Council meetings on September 9, 2010 and September 13, 2010.

2b. Presentation, possible action and discussion on the second reading of a franchise agreement with Professional Trash Valet, LLC dba Brazos Valley Trash Valet & Recycling for the collection of recyclable commodities from multifamily apartments and commercial businesses.

2c. Presentation, possible action, and discussion on the third reading of a five (5) year franchise agreement with Texas Commercial Waste for the collection, processing, and marketing of recyclable materials for an annual cost of approximately \$576,420.

2c. Presentation, discussion and possible action regarding renewal of an annual price agreement with Ergon Asphalt & Emulsions to provide emulsified asphalt products for the maintenance of streets in an amount not to exceed \$60,000.

2d. Presentation, possible action and discussion of an ordinance amending Chapter 3, "Building Regulations", Section 2, "Right-Of-Way Maintenance", of the Code of Ordinances.

2e. Presentation, possible action, and discussion on the FY 2010-2011 BVSWMA, Inc Proposed Budget.

2f. Presentation, possible action, and discussion on the first reading of a ten (10) year franchise agreement with the City of Bryan for retail sale of electricity within the City of College Station and certificated to Bryan by the Public Utility Commission of Texas.

2g. Presentation, possible action, and discussion of an Agreement for Common Use of Distribution Poles and Transmission Structures.

2h. Presentation, possible action, and discussion regarding the first renewal of a contract with DXI Industries Inc. for the purchase of bulk liquid chlorine, not to exceed \$77,220 per year.

2i. Presentation, possible action, and discussion regarding the monthly report on irrigation water use at City of College Station facilities and properties.

2j. Presentation, possible action, and discussion regarding approval of Change Order #3, in the amount of \$25,056.68 to contract 09-306 with HDR Engineers, Inc., for additional professional services needed to develop our Wastewater Master Plan and the transfer of \$25,056.68 from wastewater contingency to this project.

2k. Presentation, possible action, and discussion regarding the formation of the College Station Business Advisory Committee.

2l. Presentation, possible action, discussion, and approval on awarding Bid No. 10-79 for the purchase of five distribution circuit breakers for the Electric Utility to WESCO Distribution, Inc. in the amount of \$101,490.00.

2m. Presentation, possible action, and discussion regarding approval to purchase Police Department's Electronic Citation Replacement Equipment, hand held units from Advanced Public Safety (APS) for an amount not to exceed \$66,459.35.

2n. Presentation, possible action, and discussion regarding a Renewal Agreement for a Landscape Maintenance Service Contract for thirty (30) sites comprised of parks, streets, open space, and greenways with Landscapes, USA. This renewal will be on a month-to-month basis, with monthly payments based upon the Fiscal Year 2011 annual amount of \$250,998.63. Monthly payments are not to exceed \$20,916.55.

2o. Presentation, possible action, and discussion regarding a Renewal Agreement for a Landscape Maintenance Service Contract for seventeen (17) sites comprised of various municipal facilities with Rainbow Gardens Nursery. This renewal will be on a month-to-month basis, with monthly payments based upon the annual Fiscal Year 2011 amount of \$113,904. Monthly payments are not to exceed \$9,492.00.

2p. Presentation, possible action and discussion regarding approval of Contract 10-272 to Black & Veatch Corp. to perform engineering analysis and a coordination study on the CSU Electric transmission system in conjunction with Brazos Electric Cooperative and BTU for an amount not to exceed \$71,500.

2q. Presentation, possible action, and discussion approving a resolution authorizing the use of competitive sealed proposals (CSP) as the delivery method for the Wolf Pen Creek Water Feature and Festival Area project.

2r. Presentation, possible action and discussion to authorize expenditure of funds for FY'11, items exempt from competitive bidding as described more fully in Texas Local Government Code, Chapter 252.022; and other expenditures for interlocal contracts or fees mandated by state law that are greater than \$50,000.

2s. Presentation, possible action, and discussion regarding the award of Bid #10-89 for steel distribution poles (Group A & B) to TransAmerican Power for \$176,005.00, fiberglass composite poles (Group C) to HD Supply for \$89,540.00, and concrete pole (Table A-1 & A-2) to Texas Electric Coop for \$260,530.00. Total expenditure is \$526,075.00. Group D item will not be awarded.

2t. Presentation, discussion, and possible action regarding the consent for Assignment and Assumption of Contract 10-149 to Osmose Utilities Services, Inc. for Wood Pole Treatment and Inspection services.

2u. Presentation, possible action and discussion of an ordinance amending Chapter 10 "Traffic Code", to add Section J. "Lodge Street Parking" for the implementation of a No Parking Zone during times in which the street becomes two-way for vehicular traffic.

2v. Presentation, possible action, and discussion regarding a proposed amendment to the City's smoking ordinance defining smoking-related medical or scientific research and adding it as an exception.

2x. Presentation, possible action, and discussion regarding City of College Station Property/Casualty, Excess Liability and Workers Compensation Insurance Policies for

Fiscal Year 2011. FY11 premiums have decreased 22% from FY10 premiums. With the addition of Auto Property Damage coverage, the net decrease in premiums is 14% over FY10 premiums. Council action is required to reject responses received from RFP 10-85, as replaced by RFP 10-94.

2y. Presentation, possible action and discussion to approve a resolution not to exercise Contract Number 09-092 renewal option #3 with Standard Insurance Company for long term disability benefits.

2z. Presentation, possible action and discussion approving a resolution to terminate the CVS Caremark Prescription Drug Benefits contract, #08-213, effective January 1, 2011, without cause and without penalty, according to the terms of the contract.
Item 2f was pulled from the Consent Agenda.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Lyles, the City Council voted five (5) for and none (0) opposed, to approve the Consent Agenda. The motion carried unanimously.

REGULAR AGENDA

1. Public hearing, presentation, possible action, and discussion on an ordinance amending Chapter 12, "Unified Development Ordinance," Section 4.2, "Official Zoning Map," of the Code of Ordinances of College Station, Texas, specifically zoning 115.14 acres along Munson Avenue, Marsteller Avenue, Woodland Parkway, Ashburn Avenue, Rose Circle, and Holt Street between Lincoln Avenue and Gilchrist Avenue with Neighborhood Prevailing Overlay.

Bob Cowell, Planning and Development Director, reported that the applicant had withdrawn their application for a Neighborhood Prevailing Overlay.

2. Public Hearing, presentation, possible action, and discussion approving an ordinance vacating and abandoning a 152 square foot portion of right-of-way located at 406 Boyett Street and a 207 square foot portion of right-of-way located at 407 Second Street.

At approximately 7:45 p.m. Mayor Berry opened the Public Hearing.

There being no comments, the Public Hearing was closed at 7:47 p.m.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Crompton, the City Council voted five (5) for and none (0) opposed, to adopt the ordinance vacating and abandoning a 152 square foot portion of right-of-way located at 406 Boyett Street and a 207 square foot portion of right-of-way located at 407 Second Street. The motion carried unanimously.

3. Presentation, possible action, and discussion regarding an ordinance amending Chapter 11, "Utilities" Section 2, "Water and Sewer Services," of the Code of Ordinances of the

City of College Station, Texas having the effect of raising rates for water service and wastewater service.

MOTION: Upon a motion made by Councilmember Crompton and a second by Councilmember Maloney, the City Council voted four (4) for and one (1) opposed, with Councilmember Fields voting against, to adopt the ordinance amending Chapter 11, "Utilities" Section 2, "Water and Sewer Services," of the Code of Ordinances of the City of College Station, Texas having the effect of raising rates for water service and wastewater service. The motion carried.

4. Presentation, possible action, and discussion regarding an ordinance amending Chapter 11, "Utilities" Section 4, "Electric Service" of the Code of Ordinances of the City of College Station, Texas having the effect of raising revenues for electric services approximately six percent (6%).

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Lyles, the City Council voted four (4) for and one (1) opposed, with Councilmember Fields voting against, to adopt the ordinance amending Chapter 11, "Utilities" Section 4, "Electric Service" of the Code of Ordinances of the City of College Station, Texas having the effect of raising revenues for electric services approximately six percent (6%). The motion carried.

5. Presentation, possible action, and discussion regarding an ordinance approving an increase in rates for Atmos Energy pursuant to the Rate Review Mechanism tariff approved in 2008.

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Fields, the City Council voted five (5) for and none (0) opposed, to adopt the ordinance approving an increase in rates for Atmos Energy pursuant to the Rate Review Mechanism tariff approved in 2008. The motion carried unanimously.

6. Presentation, possible action, and discussion on a Construction Manager at Risk (CMAR) contract with Bartlett Cocke, L.P. for the Fire Station No. 6 project for a not to exceed amount of \$6,000,000.00.

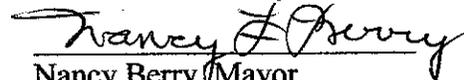
MOTION: Upon a motion made by Councilmember Fields and a second by Councilmember Crompton, the City Council voted five (5) for and none (0) opposed, to approve the Construction Manager at Risk (CMAR) contract with Bartlett Cocke, L.P. for the Fire Station No. 6 project for a not to exceed amount of \$6,000,000.00. The motion carried unanimously.

7. Presentation, possible action, and discussion regarding the City's appointments to the Brazos Animal Shelter's Board of Directors.

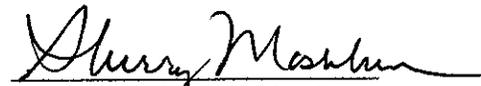
MOTION: Upon a motion made by Councilmember Fields and a second by Councilmember Maloney, the City Council voted five (5) for and none (0) opposed, to reappoint Judy LeUnes and Assistant Chief Larry Johnson, per staff recommendation. The motion carried unanimously.

8. Adjournment.

MOTION: There being no further business, Mayor Berry adjourned the regular session of the College Station City Council at 8:15 p.m. on Thursday, September 23, 2010. The motion carried unanimously.


Nancy Berry, Mayor

ATTEST:


Sherry Mashburn, City Secretary