

**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, MARCH 3, 2005**

The regular meeting of the Benbrook City Council was held on Thursday, March 3, 2005 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Felix Hebert
Jerry Dittrich
Ron Sauma
Keith Bailey
Rickie Allison
John Vander Pan

Also Present:

Cary Conklin, City Manager
Joanna King, City Secretary
Dave Gattis, Assistant City Manager
David Ragsdale, Comptroller

Others Present:

Ed Gallagher, City Planner
Maggie Hebert
Dorcas Neuman, Benbrook News
June Bailey
Bill Smith
Daniel Tulley
David Bunn
Josh Navarro
Lavender Horn
Erayne Hill
Sherry Bester
Larry Stowe
Al Griner
Pat Dunkin
Robin Yarbrough
Sam Balkum
Don Pierce
Scott Wilhelm
Steve Adams
Reverend Lee
and approximately 28 other citizens

I. CALL TO ORDER

Meeting called to order at 7:30 p. m. by Mayor Hebert.

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Reverend Lee with Korean Central Church of Fort Worth gave the invocation.
The Pledge of Allegiance was recited.

III. CONSENT AGENDA (Items listed under the Consent Agenda are considered routine and are enacted in one motion. The exception to this rule is that a Councilmember, citizen or the City Manager may request one or more items be removed from the Consent Agenda for separate discussion and action.)

- 1. Minutes of the regular meeting held February 17, 2005**
- 2. Resolution Supporting Training Agreement with Texas Commission on Law Enforcement**

Motion by Mr. Vander Pan, seconded by Mr. Allison to approve the consent agenda as presented.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Hebert, Dr. Dittrich, Mr. Vander Pan, Mr. Sauma

Noes: None

Motion carries unanimously.

Resolution No. 2005-05 being **“A RESOLUTION OF THE BENBROOK CITY COUNCIL SUPPORTING THE BENBROOK POLICE DEPARTMENT IN ITS APPLICATION FOR A TRAINING AGREEMENT WITH THE TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION AND PROVIDING AN EFFECTIVE DATE.”**

IV. PROCLAMATION/AWARD/RECOGNITION

- 1. Proclamation – American Red Cross Month**

Mayor Hebert presented Don Pierce, Chairman of the Board of the Chisholm Trail Chapter of the American Red Cross with a proclamation designating March 2005 as American Red Cross Month.

V. CITIZEN PRESENTATION

1. Janie Christie - Fort Worth ISD School & Community Partnership Coordinator – Invitation to FWISD Showcase of Schools

Fort Worth ISD students Josh Navarro (Leonard Middle School) and Lavender Hall (Benbrook Elementary) invited members of City Council and the audience to attend the Showcase of Schools on March 7, 2005.

VI. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL

1. Resolution Amending Appointment to Election Judges on the Early Voting Ballot Board for the May 7, 2005 General and Special Elections

Ms. King gave the following report: In accordance with Section 83.005 of the Texas Election Code, the city secretary is the early voting clerk for an election ordered by City Council. The early voting clerk has the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting at a polling place and is considered the early voting judge.

Following the early voting period, it is the duty of the early voting ballot board to process early voting results. Those duties include verification and acceptance of ballots voted by mail, counting ballots and preparing returns, and processing accepted provisional ballots.

At the January 20 and February 3, 2005 City Council meetings, City Council adopted resolutions making appointments of election judges for the Early Voting Ballot Board for both the General and Special elections to be held on May 7, 2005.

Robert and Polly Isinghood have advised staff that they will not be available to serve on this date. Staff contacted Mr. James Isinghood and he has agreed to serve as the Election Judge for the Early Voting Ballot Board. Roberta Nicholls has also agreed to serve as the Alternate Judge. Both Mr. Isinghood and Ms. Nicholls have served as election clerks for the City of Benbrook and Tarrant County in past elections. Both have served as clerks on the Early Voting Ballot Board.

Staff recommends City Council make the necessary reappointment of election judges on the Early Voting Ballot Board for the May 7, 2005 General and Special Elections.

Motion by Dr. Dittrich, seconded by Mr. Sauma to make the appointment of James Isinghood as Presiding Judge and Roberta Nicholls as Alternate Judge for the Early Voting Ballot Board for the May 7, 2005 General and Special Elections.

Vote on the Motion:

Ayes: Mr. Allison, Mayor Hebert, Mr. Vander Pan, Dr. Dittrich, Mr. Sauma, Mr. Bailey

Noes: None

Motion carries unanimously.

Resolution No. 2005-06 being **“A RESOLUTION OF THE CITY OF BENBROOK, TEXAS APPOINTING AN ELECTION JUDGE AND ALTERNATE JUDGE FOR THE EARLY VOTING BALLOT BOARD FOR THE GENERAL AND SPECIAL ELECTION TO BE HELD MAY 7, 2005.”**

VII. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2005-05 Adopt Section 17 – Capital Improvements of the Comprehensive Plan

Mr. Gattis gave the following report: The City Charter requires that the Capital Improvements Plan be updated every year. The CIP was last updated in May 2004. The changes included in this year's plan include:

- Results of the February 2004 Bond Election
- Updated status of ongoing CIP Projects
- Revisions to the inventory of City Property
- Updated evaluation of street condition
- Updated project costs

The projects included in the CIP include the last drainage project in the 1997 bond election and the five drainage projects included in the 2004 bond election.

Because the City has gradually converted monies that previously went to debt service to General Fund activities, the proportion of total revenues that has been allocated to debt service has declined since 1995. Therefore, staff has projected future bond capacity using 12 percent of total revenues rather than 20 percent.

The Planning and Zoning Commission considered the update to Section 17 at their February 10, 2005 meeting and unanimously recommend adoption.

Mayor Hebert opened the public hearing at 7:54 p.m. No one spoke for or against this item. Mayor Hebert closed the public hearing at 7:55 p.m.

Motion by Dr. Dittrich, seconded by Mr. Allison to adopt the update of Section 17 – Capital Improvements as part of the Comprehensive Plan.

Vote on the Motion:

Ayes: Mayor Hebert, Mr. Vander Pan, Dr. Dittrich, Mr. Sauma, Mr. Bailey, Mr. Allison

Noes: None

Motion carries unanimously.

VIII. REPORTS OF CITY MANAGER

A. GENERAL

G-1550 Consider Paving Assessment Program for Cozby West Street

Mr. Gattis gave the following report: City Council authorized expenditure of surplus street bond funds for the construction of Cozby West Street between Vernon Castle and Judy Avenue. The Texas Constitution prohibits cities from using public money to enhance private property. Paving assessment statutes are located in Article 1105b VATS and Transportation Code Chapter 313. The City's paving assessment policy is located in Administrative Regulation CD-3.

The paving assessment policy is to assess adjoining properties the lesser of:

- The actual construction cost for one-half of the street width, or
- The amount the property is enhanced in value by the street.

AR CD-3 requires residents and churches to be treated the same for unpaved roads and does not appear to allow the assessments to be waived for new construction. The last paving assessment was Winscott Road in 1988.

The estimated construction cost for Cozby West Street is approximately \$82 per linear foot. The enhancement value is not known at this time. The cost of appraisal for the eleven parcels is estimated at \$2,000 per parcel. Two property owners previously agreed to participate in construction cost as a condition to plat approval.

The options available to City Council are:

- Authorize staff to proceed with paving assessment process, or
- Direct staff not to proceed with paving assessment process, or
- Direct staff to revise the paving Assessment Policy (AR CD-3) to exempt certain types of property.

Staff recommends that City Council to direct staff on how to proceed regarding to paving assessments on Cozby West Street.

Reverend Lee with the Korean Central Church of Fort Worth addressed city council.

Reverend Lee stated the church owns five parcels of land on Cozby West. Two of the parcels are located across the street from the other three parcels. He stated that the church uses the vacant land for recreation activities for the children.

Reverend Lee requested that City Council abandon the construction of the street as a safety issue for the children.

Discussion followed on the need for the street, steps taken during the assessment process and possibility of Korean Central Church of Fort Worth re-platting the five parcels into one large lot. Mr. Gattis stated that the re-plat would be a possibility but would need to be one lot in order to keep the parcels from being subdivided later. Mr. Gattis also stated that if subject properties were re-platted there would still be a necessity for the construction on the northern end to be completed as well as the intersection on the south end at Vernon Castle. Mr. Gattis indicated that if the project is substantially changed in scope, the project would have to be re-bid.

Following discussion, motion by Mr. Vander Pan, seconded by Mr. Bailey to direct staff to:

1. Proceed with the assessment process on the northern block of Cosby West;
2. Proceed with construction of north block and southerly intersection; (Cosby West at Vernon Castle)
3. Begin negotiation talks with the Korean Central Church of Fort Worth to work toward the re-plat of their property into one lot; and
4. If negotiation is not successful staff is to proceed with construction and assessment process on all subject properties.

Vote on the Motion:

Ayes: Mr. Vander Pan, Dr. Dittrich, Mr. Sauma, Mr. Bailey, Mr. Allison, Mayor Hebert

Noes: None

Motion carries unanimously.

G-1551 Authorize Funding from Tax Increment Financing to Pay Construction Cost of I-20 Ramp Relocation and Texas Turn-around Project

Mr. Gattis gave the following report: One of the projects planned by the TIF is the I-20 Ramp Relocation and Texas Turn-around Project intended to enhance the value of property fronting on I-20 east of Winscott Road, including the proposed Town Center. The TIF District had originally budgeted \$3.4 million for this project. The current estimate of cost and shares is:

City	\$1,170,514
Benbrook EDC	\$ 250,000
NCTCOG	\$ 970,000
State	\$ 505,568

Federal	\$2,022,276
TOTAL	\$4,928,358

The project is scheduled to be let by the State in April. The City of Benbrook will receive a refund of any cost savings.

Currently, there are insufficient funds available in the TIF fund to finance this cost directly. The City could issue certificates of obligation to be repaid by the TIF District revenues. Staff is of the opinion that the best funding source would be to borrow funds from the City's unappropriated reserves. These funds would be repaid to the City as TIF revenues become available. The transfer of \$1,170,514 from unrestricted reserves will leave a reserve fund of \$2,969,367.

Motion by Mr. Vander Pan, seconded by Dr. Dittrich to authorize the loan of \$1,170,514 to the TIF District from unappropriated reserves for the City's share of the I-20 ramp relocation and Texas turnaround project.

Vote on the Motion:

Ayes: Dr. Dittrich, Mr. Sauma, Mr. Bailey, Mr. Allison, Mayor Hebert, Mr. Vander Pan

Noes: None

Motion carries unanimously.

G-1552 Ordinance Amending Chapter 15.42 of the Benbrook Municipal Code by Revising the Regulations for the Discharge of Yard Waste into the Municipal Separate Storm Sewer System and Providing Nuisance Abatement

Mr. Conklin gave the following report: The number of contractors serving commercial and residential landscapes is increasing. In this particular business, time is money. Therefore, blowing or ejecting yard waste onto public streets saves time for contractors. More contractors and residents are utilizing mowing equipment designed for mulching thereby reducing the collection of disposal of grass clippings. The City has not aggressively enforced this problem because existing City legislation does not contain the specifics necessary for enforcement.

The blowing or ejecting yard waste into public streets creates public safety, environmental and aesthetic issues. Yard waste in streets storm drains accumulates leading to flooding problems by reducing or eliminating the carrying capacity of the drain system. The accumulation of yard waste in drainage systems also creates a breeding area of insects and rodents. Yard waste in drainage systems washes into creeks, rivers, and lakes carrying fertilizer, herbicides, and insecticides. Fertilizers contain nutrients such as nitrates and phosphates that

create odor problems in drinking water. Organic matter such as leaves and grass clippings decompose in bodies of water adversely affecting oxygen levels for fish and aquatic plants. Yard waste in streets is an aesthetic problem detracting from neighborhoods and commercial businesses.

Current City codes states in 12.080.010 the cause or permitting of dirt, gravel or construction materials upon a public street. Staff proposes amendments to Chapter 15.42 Storm Water Quality by including the definition of "Yard Waste" to read:

"Yard Waste means leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations." Chapter 15.42 is further amended by revising Section 15.42.030 Illegal Discharges and Connection regarding the discharge to MS4 as being prohibited.

Staff will begin enforcement of the proposed ordinance concerning yard waste through community education and voluntary compliance by:

- City notification to landscape maintenance contractors.
- Public notices for neighborhood groups and City's community newsletter.
- Door hanger courtesy warning to residents.
- Repeat violators will be cited.

Motion by Mr. Bailey, seconded by Mr. Allison to adopt Ordinance No. 1184 amending Chapter 15.42 of the Benbrook Municipal Code by revising the regulations for the discharge of yard waste into the Municipal Separate Storm Sewer System and providing nuisance abatement.

Vote on the Motion:

Ayes: Mr. Sauma, Mr. Bailey, Mr. Allison, Mayor Hebert, Mr. Vander Pan, Dr. Dittrich

Noes: None

Motion carries unanimously.

Ordinance No. 1184 being **"AN ORDINANCE AMENDING CHAPTER 15.42 (ENTITLED "STORM WATER QUALITY") OF BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY REVISING THE REGULATIONS FOR THE DISCHARGE OF YARD WASTE INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM; PROVIDING FOR NUISANCE ABATEMENT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE."**

5. Penalties.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any provisions of this Chapter 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 Chapter. Each day that a violation is permitted shall constitute a separate offense.

SECTION 9

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.

IX. OTHER MATTERS OF BUSINESS

X. INFORMAL CITIZEN PRESENTATION

Mr. Steve Adams, Chairman for Benbrook's Relay for Life with the American Cancer Society reminded City Council and the audience of the Relay event to be held in Dutch Branch Park on May 6-7, 2005.

Mr. Sam Balkum, Tourism Director with Benbrook Chamber of Commerce introduced himself to City Council and expressed eagerness in moving forward with promoting Benbrook in the tourism trade.

XI. ADJOURNMENT

Meeting adjourned at 8:43 P.M.

APPROVED:

Felix T. Hebert, Mayor

ATTEST:

Joanna King, City Secretary