

**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, MARCH 17, 2005**

The regular meeting of the Benbrook City Council was held on Thursday, March 17, 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  
Shawna Cortez, Assistant to City Manager

Others Present:

Ed Gallagher, City Planner  
Maggie Hebert  
Dorcas Neuman, Benbrook News  
Bill Smith  
Daniel Tulley  
Larry Stowe  
Al Griner  
Robert Loritz  
Angela Moreno  
Mr. and Mrs. Harold Evetts  
Mark Washburn  
Carla Foreman  
Jerry Biggs

**I. CALL TO ORDER**

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

**II. INVOCATION  
PLEDGE OF ALLEGIANCE**

Dr. Larry Sanders with Trinity Hills Baptist Church 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 March 3, 2005**
- 2. Ordinance Vacating a 0.15 Acre Drainage Easement and a 0.08 Acre Portion of a Utility Easement in the D. H. Dixon Survey Abstract No. 443, the H. Covington Survey Abstract No. 257, and the C. H. Borden Survey Abstract No. 243 (La Bandera Phase 3, west of Benbrook Boulevard and south of Cook Ranch Road)**

Motion by Mr. Allison, seconded by Mr. Sauma 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.

Ordinance No. 1185 being **“AN ORDINANCE VACATING AND ABANDONING A TWENTY-FOOT WIDE DRAINAGE EASEMENT (IN THE D.H. DIXON SURVEY, ABSTRACT NO. 443, AND THE H. COVINGTON SURVEY, ABSTRACT NO. 257) AND PART OF A VARIABLE WIDTH UTILITY EASEMENT (IN THE D.H. DIXON SURVEY, ABSTRACT NO. 443, THE H. COVINGTON SURVEY, ABSTRACT NO. 257, AND THE C.H. BORDEN SURVEY, ABSTRACT NO. 243) DECLARING THAT THE PROPERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTEREST AND CONTROL IN THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE.”**

**IV. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL**

**V. PRESENTATION BY PLANNING AND ZONING COMMISSION**

## **VI. REPORTS OF CITY MANAGER**

### **A. GENERAL**

#### **G-1553 Resolution Abating Show-Cause and Accepting Settlement Agreement with TXU Electric Delivery**

Mrs. Cortez gave the following report: In the fall of 2004, Benbrook and 19 other members of the Steering Committee of Cities served by TXU Electric Delivery passed resolutions to require TXU to show cause regarding the reasonableness of its non-bypassable transmission and distribution (T&D) rates. On February 22, 2005, the Committee and TXU signed a Statement Agreement postponing or abating the statewide rate proceeding for approximately 14 months. In exchange for abating the rate inquiry, TXU promised to propose to the PUC rate design changes that should significantly reduce future electric charges.

The settlement also includes lump sum payments by TXU to the Committee. After ratification of the settlement by all appropriate Committee members, TXU will pay \$8.5 million to the Committee, of which Benbrook's portion will be approximately \$30,000. The settlement assures additional payments to the Committee in 2006 and 2007.

The following factors influenced the Committee to accept the settlement:

- Most residential customers remain on price to beat rates (PTB), and cost of service rate reductions cannot be shared with PTB customers until after January 1, 2007. Neither litigation nor a settlement will benefit PTB customers before that date.
- The settlement delays rather than terminates a rate review. TXU must file a statewide case on or before July 1, 2006. The settlement provides that TXU must cooperate with cities in the interim period before the rate filing by funding a cities' consultant to evaluate affiliate transactions of TXU. Additionally, TXU must reimburse up to \$2 million of cities' future rate case expenses. Without the settlement, the Committee would have to make assessments from members.
- Deregulation has treated cities unfairly in the cost allocation/rate design process associated with the transition from a regulated to competitive industry. This is especially true with regard to street lighting and water pumping. The settlement guarantees that TXU will propose fixes to those tariff problems when it files its rate case.
- TXU agreed to provide the Committee with the aforementioned lump sum payments.
- Legislation drafted by Cities Aggregation Power Project (CAPP) has potential benefits to residents and cities that would exceed the gains expected from a rate case. Therefore, it is wise to postpone a rate case and concentrate current efforts on the 2005 Legislative Session.

Following discussion, motion by Mr. Sauma, seconded by Mr. Bailey to adopt the resolution abating the show-cause proceeding initiated by Resolution No. 2004-11 and ratifying the Settlement Agreement with TXU Electric Delivery.

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. 2005-07 being **“A RESOLUTION OF THE CITY OF BENBROOK, TEXAS, ABATING THE SHOW-CAUSE PROCEEDING INITIATED BY RESOLUTION NUMBER 2004-11 AND ACCEPTING THE SETTLEMENT WITH TXU ELECTRIC DELIVERY”**

**G-1554      Financial Report for Month Ending February 28, 2005**

Mr. Ragsdale gave the following report: General Fund revenues for the month of February totaled \$1,334,527. The major source of revenue came from Property Taxes (\$994,632), Sales & Other Taxes (\$150,634) and Franchise Taxes (\$90,954). Through February, total collections were \$7,161,677 or 70.68% of the amount budgeted.

General Fund expenditures totaled \$697,349. Through February, total expenditures were \$4,138,915 or 39.79% of the amount budgeted. At February 28, 2005 revenues exceeded expenditures by \$3,293,834.

EDC revenues were \$78,249 with most of this amount coming from Sales Tax. Revenues through the end of February were \$872,619. February expenditures amounted to \$285,440 with most of the total going toward the “Texas Turn Around” project. The EDC has spent \$487,931 through the end of February.

Investments at February 28, 2005 were \$12,891,679.

Motion by Mr. Bailey, seconded by Mr. Sauma to accept the financial report for the month of February 2005.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

### **G-1555      Comprehensive Annual Financial Report for 2003-2004**

Mr. Ragsdale gave the following report: The Finance Department prepared the Comprehensive Annual Financial Report (CAFR) for fiscal year ended September 30, 2004 and it has been reviewed and approved by Weaver and Tidwell, L.L.P., the City's independent auditor.

As presented in previous years, the Comptroller has prepared the CAFR, which includes the basic audit as well as other related and more detailed information. Staff anticipates the current CAFR will meet requirements for the City to receive a Certificate of Achievement for Excellence in Financial Reporting for the twenty-first year.

This is the City's first report that conforms to GASB 34 reporting requirements. It is also the first CAFR prepared primarily for on-line distribution, and as such will have only a few hard copies.

#### Financial Highlights (Page 3)

- Assets exceed liabilities by \$42,368,981. This number is higher compared to last year because this report includes infrastructure, ROW or construction in progress. Therefore, our assets increased by \$73,316,644. Over time, increases or decreases in Net Assets will serve as a useful financial indicator.
- Capital Assets (capital outlay, bond improvements, grant improvements and contractor donations) increased by \$5,484,881.
- Government funds (GF, DSF, CPF & SRF) ended with \$9,642,131.
- General Fund ended with \$4,139,881 unreserved or 43% of expenditures.
- Bond payable increased \$3,700,000 due to drainage bonds.

#### Net Assets (Page 4)

- Capital Assets \$88,747,379 - \$39,689,813 depreciation = \$49,057,566.
- 44.7% of our Capital Assets are depreciated.
- \$20,209,411 of liabilities is debt.
- Capital Assets net of related debt equal \$34,123,227.

#### Statement of Net Assets ( Page 9)

- Governmental Activities spent \$12,197,336 with nearly 80% for police, fire, streets, parks and interest on debts.
- Taxes brought in \$10,610,229 with interest and other adding \$282,134.
- This equals a positive balance of \$1,796,960.

Capital Assets (Page 6)

- Land for fire station \$110,518
- New Ambulance \$88,810
- Construction in progress of \$1,260,641
- EDC Land of \$3,300,000

Debt (Page 6)

- EDC \$3,350,000 loan to purchase land for future use.
- A total of \$3,700,000 general obligation bonds were issued for storm drainage improvements.
- EDC temporary bank loan in the amount of \$50,000.

The City has an “A2” rating on its long-term debt from Moody’s Investor Service and an “A” rating from Standard & Poor’s.

Following discussion, motion by Mr. Vander Pan, seconded by Mr. Allison to accept the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2005.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Motion by Mr. Vander Pan, seconded by Mr. Bailey to authorize staff to make payment of \$21,000 to Weaver and Tidwell, L. L. P. from account 01-2101-5216.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1556      Consider Participation in Tarrant County Transportation Services**

Mr. Gattis gave the following report: In May 2002, City Council heard a presentation from the Fort Worth Transportation Authority for participation in the Tarrant County Transportation Services (TCTS) Program. TCTS provides transit services to elderly and handicapped residents in the County who are not part of a Transportation Authority.

The Fort Worth Transportation Authority contracts with American Red Cross to provide service to elderly and handicapped residents in the County. The service is available from 6:00 AM to 6:00 PM weekdays only with no holiday service. Reservations are required the day before and trips can be made anywhere in the County. Benbrook residents currently have access to the system on a first come-first served basis for a one-way fare of \$10.00

Under the proposal in 2002, the City of Benbrook would be responsible for administrative costs of \$12,235 annually, and elderly and handicapped citizens would have access to the program at subsidized rates. Fares would be \$2.50 one-way and would be provided on a first come-first served basis. Benbrook residents would be guaranteed that they would have priority one day per week. Because of the lack of regularity, the service is not conducive for those who need to travel to work.

The Fort Worth Transportation Authority also presented data from an informal survey they conducted at that time. The survey indicated positive response from the 128 citizens who returned their surveys. The City Council chose not to participate at that time.

In response to an inquiry regarding the availability of transit for elderly and handicapped residents, the staff contacted the FWTA to determine whether the TCTS program was still available. FWTA staff confirmed the availability of the service. All aspects of the program are essentially the same, except that the administrative cost to the City has been reduced from \$12,235 to \$7,529.

With the reduction in administrative cost, staff recommends that City Council authorize the execution of an Interlocal Agreement with TCTS and determine the means of payment of the annual administrative fee.

Following discussion, motion by Mr. Vander Pan, seconded by Mr. Bailey to direct staff to enter into an Interlocal Agreement with the "T" to participate in the Tarrant County Transportation Services at a cost of \$7,529 to be paid from unappropriated reserves.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

## **B. CONTRACT**

### **C-206 Award Contract for Cozby West Street and Adopt Ordinance of Necessity**

Mr. Gattis gave the following report: On October 7, 2004, the City Council authorized the staff to proceed with the construction of two blocks of Cozby West Street from Judy Avenue to Vernon Castle Avenue using excess street bond funds.

The engineers finished their design in February, and staff opened bids on March 2, 2005. The bid package included a base bid for the entire project, while a deductive alternate called for deleting sidewalks. The City Engineer has estimated the project to cost \$187,000 and \$176,207 is available for construction in excess bond funds.

Four bidders submitted bids for the project. McClendon Construction submitted the low base bid of \$179,539.75 with a deductive alternate of \$19,755.00.

On March 3, 2005, the City Council considered whether to proceed with paving assessments for the project. At that time, the Korean Central Church requested that the block from Mildred Avenue to Vernon Castle Avenue be deleted from the project and sold to them. The City Council directed staff to negotiate with the Korean Central Church regarding the replatting and vacation of that portion of Cozby West Street. However, City Council determined to proceed with construction of the project between Judy Avenue and Mildred Avenue.

State law allows the City to reduce the scope of a project by more than 25 percent without rebidding when a contractor consents. The City Engineer revised the scope of the project to include pavement of the section of Cozby West Street between Mildred and Judy Avenue and the reconstruction of the intersection to Cozby West Street at Vernon Castle Avenue to resolve a storm drainage problem. The Engineer also added a pay item to regrade the Cozby West right-of-way between Mildred and Vernon Castle to assure proper drainage. The apparent low bidder (McClendon Construction) has agreed to the revised scope at a price of \$96,774.75, which the staff and City Engineer deem as fair and reasonable.

McClendon Construction has not performed work for the City previously. The City Engineer has checked their references and recommends the award of the project to McClendon Construction.

The City Council authorized staff to proceed with the paving assessment process on the block between Mildred Avenue and Judy Avenue. The staff is contacting James Daniels and Associates to begin the appraisal process to determine the enhancement value that the project may create.

The City Council must adopt an ordinance declaring the necessity of the project and setting a hearing date to determine the actual assessment value. The hearing is proposed to be scheduled for May 19, 2005.

Motion by Mr. Vander Pan, seconded by Mr. Sauma to award the contract for the construction of Cozby West Street from Judy Avenue to Mildred Avenue to McClendon Construction in the amount of \$96,774.75 to be paid from Account 04-2006-5219 and to adopt the ordinance of necessity setting the public hearing for assessments for May 19, 2005.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**Ordinance No. 1186 being "AN ORDINANCE DECLARING THE NECESSITY FOR AND ORDERING THE IMPROVEMENT OF CERTAIN STREETS OR PORTIONS THEREOF IN THE CITY OF BENBROOK, TEXAS; ESTIMATING THE TOTAL COST OF SAID IMPROVEMENTS AND THE COST PER FRONT FOOT PROPOSED TO BE ASSESSED AGAINST THE ABUTTING PROPERTIES AND THE OWNERS THEREOF; DETERMINING AND FIXING THE PORTION OF SAID COST PROPOSED TO BE PAID BY THE CITY OF BENBROOK AND THE PORTION PROPOSED TO BE PAID BY SAID ABUTTING PROPERTIES AND THE OWNERS THEREOF; AWARDED A CONTRACT FOR THE CONSTRUCTION OF SAID IMPROVEMENTS; ORDERING AND SETTING A HEARING AT 7:30 P.M. ON THE 19<sup>TH</sup> DAY OF MAY, 2005, IN THE CITY COUNCIL CHAMBERS OF CITY HALL OF THE CITY OF BENBROOK, TEXAS, AS THE TIME AND PLACE FOR THE HEARING CONCERNING SAID ASSESSMENTS; PROCEEDINGS AND IMPROVEMENTS; DIRECTING THE CITY SECRETARY TO GIVE NOTICE OF SAID HEARING AS REQUIRED BY LAW, AND TO CAUSE A NOTICE TO BE FILED IN THE DEED OF TRUST RECORDS OF TARRANT COUNTY, TEXAS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE."**

**VII. OTHER MATTERS OF BUSINESS**

**VIII. INFORMAL CITIZEN PRESENTATION**

Mr. Harold Evetts expressed appreciation to City Council and staff for approving the participation in the Tarrant County Transportation Services program.

**XI. ADJOURNMENT**

Meeting adjourned at 8:28 P.M.

**APPROVED:**

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**Felix T. Hebert, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**