

**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, MAY 19, 2005**

The regular meeting of the Benbrook City Council was held on Thursday, May 19, 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  
James Schull

Also Present:

Cary Conklin, City Manager  
Joanna King, City Secretary  
Dave Gattis, Assistant City Manager

Others Present:

Ed Gallagher, City Planner  
Maggie Hebert  
Mitch Hebert  
Charlotte Vander Pan  
June Bailey  
James Dittrich  
Dorcas Neuman, Benbrook News  
Bill Smith  
Daniel Tully  
Larry Stowe  
David Bunn  
Kelly Dillard  
Joan Chew  
Sharla Trice  
Mark Greene  
Al Griner  
Sam Balkum  
Patty Bissey  
Jim Daniels  
Jackie Messer  
Pat Dunkin  
Teresa Stichnot  
Loretta Belise  
and 20 other citizens

**I. CALL TO ORDER**

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

**II. INVOCATION  
PLEDGE OF ALLEGIANCE**

Mr. Mitch Hebert gave the invocation.  
The Pledge of Allegiance was recited.

**III. MINUTES**

- 1. Minutes of the regular meeting held May 5, 2005**
- 2. Minutes of the special meeting held May 16, 2005**

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

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**IV. OATH OF OFFICE**

- 1. Oath of Office to Newly Elected Members of City Council**

Mayor Hebert administered the Oath of Office to Dr. Jerry Dittrich, Mayor; Mr. James Schull, Member of the Council Place 2; Mr. Keith Bailey, Member of the Council Place 3; and, Mr. Ron Sauma, Member of the Council Place 7.

Mayor Hebert congratulated the newly elected members of City Council. He expressed his appreciation to the citizens of Benbrook as well as Council and Staff.

**V. SELECTION OF MAYOR PRO-TEM**

Nomination by Mr. Sauma, seconded by Mr. Vander Pan to select Councilmember Rickie Allison as Mayor Pro-Tem. No other nominations were made.

Vote on the Nomination:

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

Noes: None

Nomination carries unanimously.

**VI. SELECTION OF NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS VOTING REPRESENTATIVE**

Motion by Mr. Vander Pan, seconded by Mr. Allison to select Mr. Sauma to serve as Benbrook's voting representative for the North Central Texas Council of Governments.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

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

**VIII. REPORTS OF CITY MANAGER**

**A. GENERAL**

**G-1565 Financial Report for Month Ending April 30, 2005**

Mr. Conklin gave the following report: General Fund revenues for the month of April totaled \$297,042. The major source of revenue came from Property Taxes, Sales & Other Taxes and Franchise Taxes. Other major sources of revenue included permits and filing fees. Through April, total collections were \$8,446,818 or 83.37% of the amount budgeted.

General Fund expenditures totaled \$871,278. Through April, total expenditures were \$5,912,675 or 56.84% of the amount budgeted. At April 30, 2005 revenues exceeded expenditures by \$2,805,215.

Benbrook Economic Development Corporation revenue was \$42,858 with most of this amount coming from Sales Tax. Expenditures were \$27,538 while year to date expenditures amounted to \$564,871.

Investments were \$10,812,024 at April 30, 2005.

Motion by Mr. Bailey, seconded by Mr. Sauma to approve the financial report for the

month ending April 30, 2005.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1566      Benefit Hearing – Street Improvement – Cozby West Street, from Mildred Avenue to a point 70 feet south of Judy Avenue**

Mr. Gattis gave the following report: City Council authorized the use of excess street bond funds to build Cozby West Street in October 2004. The City opened bids for the project on March 2, 2005. State Constitution prohibits use of City funds to enhance private property and State law authorizes Cities to assess a portion of the paving costs to adjacent owners.

The paving assessment program was authorized by City Council on March 3, 2005. City Council awarded construction cost and adopted and Ordinance of Necessity on March 17, 2005.

State law allows the City to assess 100% of cost of curb & gutter and sidewalk at 90% of cost of pavement. Construction contract results in the following assessable costs:

- Sidewalk      =      \$10.00/LF
- Pavement      =      \$73.39 X .09 = \$66.05/lf

State law allows the assessment of the construction cost or the enhancement value, whichever is less.

The owner of Lots G and H & 1B, Block 27 Benbrook Lakeside Addition is Bruce Leach. The City hired James Daniels and Associates, a MAI appraiser to determine enhancement value. Lot G is enhanced because it becomes a corner lot, while Lot H&1B is enhanced because it now has access to a paved street. With the exception of a swimming pool, both lots are vacant. The appraiser estimates that the value of each lot will be increased by \$4,100 to \$6,500 each because of the project. That converts to an enhancement value of:

- Low \$34.17/LF
- High \$61.90/LF

The owner of Lot 1AR, Block 28, Benbrook Lakeside Addition is Benbrook United Methodist Church. By deed covenant, BUMC agreed to pay 100% of the cost when they replatted their property in 1993. City Council should direct whether to charge BUMC the full cost or the same cost assessed to Mr. Leach.

City Council should open the public hearing. Mr. James Daniels will be available to explain his rationale for determining the enhancement value. Mr. Bruce Leach should be allowed to present whatever evidence or witnesses he may wish to propose an alternative enhancement value. The Benbrook United Methodist Church may want to speak with regard to their share of the construction cost. City Council should then determine whether any other parties should be allowed to speak to the matter.

Upon conclusion of the testimony, City Council should close the public hearing. After deliberation, City Council should establish an appropriate enhancement value for Lot G, H, and 1B, per linear foot, and adopt the Ordinance of Benefit. The City Council should then direct staff of what amount the City should charge the Benbrook United Methodist Church for improvements to their property in according with the deed covenant.

Mayor Dittrich opened the public hearing at 7:51 p.m. Mr. Jim Daniels with Jim Daniels and Associates explained how he obtained the enhanced value of the vacant lots. Ms. Jackie Messer questioned Mr. Daniels on those appraisals, which Mr. Daniels answered.

Mr. Bruce Leach, owner of subject property expressed concern on the value placed on the lots and cost of a sidewalk. Mr. Gattis advised that the construction of the sidewalks was at no cost to Mr. Leach. Mr. Dennis Lindgron questioned the need for sidewalks.

With no other speakers, Mayor Dittrich closed the public hearing at 8:07 p.m.

Following discussion, motion by Mr. Allison, seconded by Mr. Vander Pan to set the enhanced value for Lots G, H and 1B, Block 27 Benbrook Lakeside Addition at \$34.17 per linear foot.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**Ordinance No. 1187 being "AN ORDINANCE CLOSING THE HEARING AND LEVYING ASSESSMENTS FOR PART OF THE COST OF IMPROVING A PORTION OF STREETS IN THE CITY OF BENBROOK, TEXAS; FIXING CHARGES AND LIENS AGAINST ABUTTING PROPERTY THEREON, AND AGAINST THE OWNERS THEREOF; PROVIDING FOR THE COLLECTION OF SUCH ASSESSMENTS AND THE ISSUANCE OF ASSIGNABLE CERTIFICATES**

OF ASSESSMENT AS EVIDENCE THEREOF; RESERVING UPTON THE CITY COUNCIL THE RIGHT TO ALLOW CREDITS REDUCING THE AMOUNT OF THE RESPECTIVE ASSESSMENT TO THE EXTENT OF ANY CREDIT GRANTED; PROVIDING FOR THE TIME AND MANNER OF PAYMENT OF ASSESSMENT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.”

## SECTION XV

This ordinance shall take effect and be in full force and effect from and after the date of its passage and it is so ordained.

Passed and approved on first reading on this 19<sup>th</sup> day of May, 2005.

Motion by Mr. Bailey, seconded by Mr. Allison to set the enhanced value on the property owned by the Benbrook United Methodist Church at \$34.17 per linear foot.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

### **G-1567      Determine Method to Fill Vacancy in Place 6, Benbrook City Council**

Mr. Conklin gave the following report: Place 6 on the City Council is presently open due to the election held May 7, 2005. Section 4.07 of the Benbrook Homerule Charter, entitled “Vacancies”, states the following:

- (a) If a vacancy occurs in the office of the Mayor, it shall be filled by Mayor Pro Tem. Any other vacancy on the city council, including a position if vacated by the Mayor Pro Tem, shall be filled by appointment by a majority vote of all of the remaining city council members; however,
- (b) If more than 400 days remain in a city council term when a position is vacated, the vacancy shall be filled not by appointment but by election at the next regular city council election.

When the City has experienced vacancies in the past, the staff has followed the procedure noted below:

1. The City Secretary posts the vacancy at City Hall and advertises the vacancy in the City’s official newspaper and on the City cable channel and web site.

2. Applications are accepted for one to two weeks.
3. City Council interviews applicants.
4. City Council appoints the new Councilmember at the next possible City Council meeting.

Staff recommends that City Council:

1. Determine the procedure for staff to follow in publishing notice of the vacancy, receiving applications, and scheduling Council interviews of applicants; or
2. Make an immediate appointment to Place 6 on City Council.

Motion by Mr. Vander Pan, seconded by Mr. Sauma to appoint Mr. Larry Stowe to Member of the Council, Place 6 to fill the unexpired term.

Mr. Schull stated he felt it would be best to take applications for the position.

Vote on the Motion:

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

Noes: Mr. Schull

Motion carries 5-1

**G-1568 Consider and Adopt Resolution Declaring a Temporary Moratorium on all Tax Incentives for Community and Economic Development Projects**

Mr. Conklin gave the following report: The 79<sup>th</sup> Texas Legislature is considering legislation that would cap the annual increase in property value. Such legislation would negate the value and benefit of future tax incentives for community economic development projects.

At this time, it is unknown what form this proposed legislation will take, if it is enacted. The senate version of the cap bill and the house version contain several differences in language.

On May 10, 2005, Tarrant County Commissioners' Court unanimously approved a resolution placing a moratorium on future tax incentives for community and economic development projects. Judge Tom Vandergriff, on behalf of the Court, is requesting that each City in Tarrant County pass the same resolution as did Tarrant County. Dallas County has passed a similar resolution.

Basically, the resolution halts future action by government entities regarding tax incentives until the County knows the amount of damage to such programs

coming out of Austin.

Motion by Mr. Allison, seconded by Mr. Vander Pan to adopt Resolution 2005-12 placing a moratorium on future tax incentives for community and economic development projects until possible restrictive legislation on ad valorem revenue streams is more clearly defined.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Resolution 2005-12 being **“A RESOLUTION OF THE CITY OF BENBROOK, TEXAS, DECLARING A TEMPORARY MORATORIUM ON ALL TAX INCENTIVES FOR COMMUNITY AND ECONOMIC DEVELOPMENT PROJECTS”**

## **B. CONTRACT**

### **C-209 Authorize Engineering Contract for FEMA Map Modernization Coordination with Teague, Nall and Perkins, Inc.**

Mr. Gattis gave the following report: The City is required to use existing FEMA paper maps for regulatory purposes. Those maps contain inaccuracies and are difficult to use. FEMA is in the process of converting Tarrant County's map into digital overlays. Conversion will remove some inaccuracies and make it easier to use, but other inaccuracies will remain.

Benbrook has performed more accurate mapping of Timber Creek, Plantation West Creek, Plantation East Creek and Willow Bend Creek as part of our COP program. FEMA has provided us an opportunity to use our mapping, provided that we take additional efforts to comply with FEMA requirements.

Staff estimates that as many as 180 homes may be removed from the floodplain without having to spend bond money for construction. Most of the benefit occurs in the Timber Creek watershed. The more accurate mapping will put at least five additional houses in the floodplain. However, staff believes that the net benefit is substantial and it is important to know which houses are truly at risk of flooding.

The City's engineers estimate the extra cost of converting our CIP studies to FEMA format will be approximately \$36,000, if done as part of the FEMA Map Modernization project. If the City chose to delay the revisions and submit a typical

Letter of Map Revision (LOMR), the cost would be at least \$40,000. While the savings are not large, it does represent a savings of approximately \$4,000. Staff proposes to spread the total cost over a two-year period.

Motion by Mr. Sauma, seconded by Mr. Vander Pan to authorize the contract with Teague Nall and Perkins for FEMA Map Modernization Coordination at a cost of up to \$36,000 to be charged to Account 01-5101-5211.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**IX. OTHER MATTERS OF BUSINESS**

**X. INFORMAL CITIZEN PRESENTATION**

Mr. Al Griner congratulated new members to City Council and expressed concern that the upcoming runoff election needs to be between the two candidates without outside interference.

Mr. Mark Greene questioned why Mr. Vander Pan continued to sit in Place 5 when the Homerule Charter states members of the Council serve 2-year terms. Ms. King stated that by the Texas Constitution, all members of governmental bodies retain their seat until re-elected or their successor takes their place.

**XI. ADJOURNMENT**

Meeting adjourned at 8:37 P.M.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**