

**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, JANUARY 20, 2005**

The regular meeting of the Benbrook City Council was held on Thursday, January 20, 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  
John Vander Pan  
Keith Bailey  
Robert Cook  
Rickie Allison

Also Present:

Cary Conklin, City Manager  
Joanna King, City Secretary  
Dave Gattis, Assistant City Manager  
Phyllis Wolfe, Information Tech. Coordinator  
Shawna Cortez, Assistant to City Manager

Others Present:

Ed Gallagher, City Planner  
Maggie Hebert  
June Bailey  
Dorcas Neuman, Benbrook News  
Alan Bowling  
Bill Smith  
David Bunn  
Joan Chew  
Robin Yarbrough  
Daniel Tulley  
Brian Childers, CNS<sup>2</sup>  
Lea Polete, Source, Inc.  
Tommy Tatum, Avaya  
5 Boys Scouts members  
and 5 other citizens

**I. CALL TO ORDER**

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

**II. INVOCATION  
PLEDGE OF ALLEGIANCE**

Invocation was given by Mr. Bill Smith.  
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 January 6, 2005**
- 2. Ordinance Vacating a Temporary Turnaround Easement in the E. Taylor Survey Abstract No. 1560 (east of the east end of North Haven Drive)**

Motion by Mr. Cook, seconded by Mr. Sauma to approve the consent agenda as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1180 being **“AN ORDINANCE VACATING AND ABANDONING A TEMPORARY TURNAROUND EASEMENT LOCATED IN THE E. TAYLOR SURVEY, ABSTRACT NUMBER 1560; 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**

- 1. Adopt Resolution Calling May 7, 2005 General Election**

Joanna King gave the following report: The resolution before city council is required by State law and the Benbrook Homerule Charter to conduct an election for the positions of Mayor, Place 1; Member of the Council, Place 3; Member of the Council, Place 5; and Member of the Council, Place 7. The proposed resolution sets forth the election precinct polling places, provides for the Election Judges and sets the requirements for early voting both in person and by mail.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Resolution No. 2005-02 calling the May 7, 2005 General Election.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Resolution No. 2005-02 being **“A RESOLUTION ESTABLISHING PROCEDURES FOR A GENERAL ELECTION IN BENBROOK, TEXAS.”**

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

**VI. REPORTS OF CITY MANAGER**

**A. GENERAL**

**G-1541 Financial Report for Quarter Ending December 31, 2004**

Mr. Conklin gave the following report: General Fund revenues through the end of the City's first quarter totaled \$3,558,402. Ad Valorem taxes produced about 80% of first quarter revenues. Total collections were 35.12% of the original amount budgeted.

General Fund expenditures through the end of the quarter were \$2,565,280 or 24.66% of budgeted expenditures. Revenues exceed expenditures by \$993,122.

Debt Service Fund revenues received through the end of the quarter totaled \$724,770 or 45.60% of the budget. Total expenditures amounted to \$3,364.

EDC revenues were \$749,082 with most of this amount coming from the sale of land. EDC expenditures were \$134,364.

There were no Capital Projects revenues. Expenditures were \$222,737 with most of the money going toward Timbercreek-upper drainage project engineering and the I-20 ramp.

Revenue from Special Assessments totaled \$14,100 with no expenditures.

At December 31, 2004, the City had \$11,049,758 invested at varying interest rates.

Motion by Dr. Dittrich, seconded by Mr. Vander Pan to accept the financial report for

the quarter ending December 31, 2004.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1542 Public Hearing and Determination of 31<sup>st</sup> Year Community Development Block Grant Application**

Mr. Gattis gave the following report: Benbrook has received over \$2,700,000 in CDDG funds since 1975. The funds must be used to benefit low or moderate income residents, senior citizens or the handicapped.

The 29<sup>th</sup> Year funds were used to make Dutch Branch Park Restroom #3 handicapped accessible. The 30<sup>th</sup> Year funds will be used to pave sidewalks and wheelchair ramps in Benbrook Estates. The funding is approximately \$110,000 and must result in a usable project at the end of the year.

The funds may be used for:

- Acquisition of real property
- Construction of public facilities
- Removal of architectural barriers
- Residential rehabilitation
- Public services such as child care, crime prevention, etc., however it cannot exceed 15% of the grant amount
- Interim emergency assistance
- Economic development which requires substantial documentation

Potential projects include:

- Completion of sidewalks and wheelchair ramps in Benbrook Estates
- Enlarge Timber Creek culverts and channel within the target area
- Contract with Fort Worth Transportation Authority for Elderly and Handicapped Transit Services
- Pave alley between Mercedes and Cozby North Street
- Improve handicapped access within Dutch Branch Park

Other possible projects include:

- Reconstruct Estes Street from Childers to Davidson
- Reconstruct Bryant Street from Childers to Davidson
- Build handicapped access across Benbrook Blvd. to Dutch Branch Park
- Use CDBG Funds to reduce user fees at Benbrook Community

Center/YMCA

- Pay salary of Senior Citizens Coordinator
- Allocate funds for gang intervention and graffiti control
- Allocate funds to Meals on Wheels program

Staff is recommending that following the public hearing, City Council authorize the staff to prepare an application for the installation of sidewalks, wheelchair ramps and drive approaches within the remainder of Benbrook Estates for the 31<sup>st</sup> Year CDBG project.

Mayor Hebert opened the public hearing at 7:48 p.m. No one from the audience spoke to the item. Mayor Hebert declared the public hearing closed at 7:49 p.m.

Motion by Dr. Dittrich, seconded by Mr. Sauma to authorize staff to prepare an application for the installation of sidewalks, wheelchair ramps and drive approaches within the remainder of Benbrook Estates for the 31<sup>st</sup> Year Community Development Block Grant project.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

**G-1543      Adopt Ordinance Establishing Benbrook Municipal Court as Benbrook Municipal Court of Record**

Mr. Conklin gave the following report: The Texas Local Government Code authorizes a city to create a Municipal Court of Record by ordinance. The major difference between a non-record court and a court of record is the disposition of appeals. Appeals from non-record courts are re-tried from the beginning with all evidence and witnesses presented again. Appeals from a court of record are based on specific points of error contained in the "record" of the court. Therefore, courts of record generally provide a more efficient disposition of appeals.

Other differences between a non-record court and a court of record include the qualifications of the Municipal Court Judge. Many non-record courts simply have a residency requirement and do not require judges to be a licensed attorney. Courts of Record require the judge and substitute judge to be a licensed attorney in good standing in Texas with two or more years of experience practicing law in Texas.

The proposed ordinance addresses the appointment and duties of the Municipal Court Judge; the appointment and duties of court personnel; appointment of a Court

Reporter; and court procedures including the defendant's right to appeal.

Staff is recommending that City Council adopt the ordinance establishing Benbrook Municipal Court as a Court of Record effective April 1, 2005.

Motion by Mr. Vander Pan, seconded by Mr. Cook to adopt Ordinance Number 1181 establishing Benbrook Municipal Court as Benbrook Municipal Court of Record to become effective April 1, 2005.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Ordinance No. 1181 being **“AN ORDINANCE AMENDING CHAPTER 2.24, “MUNICIPAL COURT” OF THE BENBROOK MUNICIPAL CODE (1986), AS AMENDED, BY ADDING A NEW SECTION 2.24.040, “MUNICIPAL COURT OF RECORD”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.”**

**G-1544      Adopt Resolution Suspending Interim GRIP Rate Adjustments  
Proposed by Atmos Energy Corporation (formerly TXU Gas)**

Shawna Cortez gave the following report: In December 2004, Atmos Energy Corporation made a Distribution Gas Reliability Infrastructure Program (GRIP) filing at the City and with other cities served by Atmos, notifying the cities of its intent to increase its distribution rates to all customers effective February 15, 2005. The request is based on alleged investments made in 2003. Atmos also made a Pipeline GRIP filing notifying the Railroad Commission (RRC) of its intent to increase its city gate and transportation rates to all customers. This is again effective February 15, 2005 and based on alleged 2003 investments.

In its filings, Atmos claims that net investments in infrastructure throughout the former TXU service areas increased in 2003 by a total of \$43.5 million. If calculated in compliance with the GRIP statute, this claimed increase would be in addition to the \$70 million in annual plant investment included in Gas Utility Docket No. 9400 rates. Atmos, therefore, is claiming that investment in plant increased by over sixty percent during 2003. The proposed GRIP rate increases would increase annual revenues for Atmos by \$8.5 million. These increases are in addition to the \$11.5 million annual increase approved by the RRC in GUD No. 9400, and also in addition to the \$10.1 million recovery sought by Atmos for rate case expenses related to

GUD No. 9400.

Atmos has publicly stated that it expects to experience annual cost savings of at least \$40 million over the costs included in rates approved in GUD No. 9400. Further, Atmos anticipates that savings are likely to greatly exceed the annual revenue requirement associated with any reasonable increases in invested capital that form the basis of the requested GRIP rate increases. Additionally, Atmos has announced a twenty percent increase in profits for its fiscal year ended September 30, 2004, and projects further increases in profits in 2005.

Staff is recommending that City Council approve the proposed resolution suspending the implementation of interim GRIP rate adjustments proposed by Atmos Energy Corporation.

Motion by Mr. Vander Pan, seconded by Mr. Allison to adopt Resolution No. 2005-03 suspending the implementation of interim GRIP rate adjustments proposed by Atmos; authorize participation with other cities in a review of the proposed rate increase; designate Shawna Cortez as the City representative to the Steering Committee; authorize intervention in proceedings involving the increase; and requiring reimbursement of reasonable legal and consultant expenses.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Resolution No. 2005-03 being **“A RESOLUTION BY THE CITY OF BENBROOK, TEXAS SUSPENDING THE PROPOSAL BY ATMOS ENERGY CORP. TO IMPLEMENT INTERIM GRIP RATE ADJUSTMENTS FOR GAS UTILITY INVESTMENT IN 2003; AUTHORIZING PARTICIPATION WITH OTHER CITIES SERVED BY ATMOS ENERGY CORP., MID-TEX DIVISION, IN A REVIEW AND INQUIRY INTO THE BASIS AND REASONABLENESS OF THE PROPOSED RATE ADJUSTMENTS; AUTHORIZING INTERVENTION IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING THE PROPOSED GRIP RATE ADJUSTMENTS; DESIGNATING A REPRESENTATIVE OF THE CITY TO SERVE ON A STEERING COMMITTEE; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES.”**

## **B. PURCHASE**

**P-244 Purchase Telephone System**

Phyllis Wolfe gave the following report: The lease of the voice mail system at City Hall expires March 1, 2005. It has been in place for five years. In the 2004-2005 budget, City Council allocated \$12,000 for a "buy-out" of the voice mail system. The phones are proprietary to the voice mail system and are not interchangeable with other systems.

All City facilities have separate voice mail and telephone systems. The voice mail at the Fire Department is not operable at this time. The Police Department's telephone system is six years old and currently on a maintenance contract. The Police and Fire Department systems will require replacement in the next budget year. The Public Works facility utilizes regular telephone lines and "call notes" for voice mail. The phone lines at the facility have proven to be unreliable. All of the facilities, with the exception of the Park Department are connected through the City's fiber network.

Technology has advanced significantly in the past five years with the cost of technology decreasing. Certain monthly costs may be eliminated with a new system. Service to the citizens and efficiency of employees can be improved considerably using new technology.

City staff invited and received telephone system proposals from known vendors. CNS<sup>2</sup>, the City's technology consulting firm, assisted with the solicitation of companies and evaluation of proposals.

The essential and desired features for the system include:

- 24 x 7 voice mail
- Caller ID
- Auto-attendant for non-office hours
- Call transfer between facilities
- Call logging
- Call recording
- Ease of administration (adds, deletes, changes)

Additional features are:

- One touch call back
- Voice-Inbox Mail integration
- Call forwarding
- Follow me
- Company directory
- Music on hold and transfer
- Call parking
- Direct inward dial
- Fax to desktop

Other considerations for the system include:

- Call transfer among facilities which can be established utilizing the fiber

network and Voice Over Internet Protocol (VOIP)

- A converged system allowing for analog, digital and VOIP inputs
- A system that allows for redundancy which is necessary due to the public safety nature of municipal businesses

Staff has determined that a lease/purchase arrangement is most advantageous for the City. Lease/purchase negates certain taxes required under a straight lease. The City will own the equipment after five years, the equipment may be upgraded or leveraged for a new system; and maintenance is included with the lease/purchase.

Staff evaluated the proposals utilizing the following criteria:

- Lease/Purchase
- Converged system
- Full term warranty and maintenance
- Overall system design
- Ease of administration
- Feature set
- Municipal experience
- Cost

Staff believes that Avaya Solution from Source, Inc. is the best proposal for the City of Benbrook. The Avaya system utilizes current technology and includes:

- The Avaya Communications Manager (allowing a single interface for ease of administration)
- A centralized voicemail
- The ability to transfer calls among departments
- A centralized directory of extensions by name
- Integrated messaging (voicemail to inbox, fax to inbox)
- The ability to upgrade the technology without changing systems (analog, digital and VOIP)
- System is transparent (users do not see the interfaces among departments)

The system is designed with the Police Department as the "headquarters". Therefore, should our fiber network go down, the Police Department would continue to operate with complete phone service. For emergency management, we would be able to add/conference/utilize phones easily. Redundancy is built into the solution.

The Avaya Solution from Source, Inc. has both municipal and independent school district experience. The references provided were checked and found to be satisfactory. Avaya is a proven leader in the telecom industry.

Assuming a March install, the Avaya solution would cost \$15,218 this fiscal year. For fiscal year 2005-2006, \$26,088 would be budgeted, with the same annual expense until the end of the five year contract.

As an offset to these expenses, the city would cease monthly expenses in the amount of \$1,341 for:

- City Hall Voice Mail Lease
- Logix Phone Lines at Fire Department
- Miscellaneous lines
- Pass through tax
- Police Department phone maintenance
- City Hall maintenance

Staff is recommending the proposal for phone and voicemail systems from Source, Inc. and the approval of a lease/purchase agreement for five years at a cost of \$2,174 per month.

Following discussion, motion by Mr. Sauma, seconded by Mr. Vander Pan to accept the proposal for phone and voice mail systems from Source, Inc. and approve a lease/purchase agreement for five years at a cost of \$2,174 per month to be charged to Rental of Property Account No. 01-1501-5262.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

## **VII. OTHER MATTERS OF BUSINESS**

## **VIII. INFORMAL CITIZEN PRESENTATION**

Councilmember Robert Cook, Place 2 announced to members of City Council that he intended to resign his seat effective January 31, 2005 in order for his son to accept employment with the Benbrook Police Department. (Note: Formal action will be taken at the February 3, 2005 Regular City Council meeting)

## **XI. ADJOURNMENT**

Meeting adjourned at 8:25

**APPROVED:**

---

**Felix T. Hebert, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Joanna King, City Secretary**