



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, FEBRUARY 16, 2006**

The regular meeting of the Benbrook City Council was held on Thursday, February 16, 2006 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Rickie Allison
Keith Bailey
John Vander Pan
Ron Sauma
James Schull
Larry Stowe

Also Present:

Cary Conklin, City Manager
Joanna King, City Secretary
David Gattis, Assistant City Manager
Andy Wayman, Assistant City Manager
Shawna Cortez, Assistant to City Manager

Others Present:

Dorcas Neuman, Benbrook News
Valerie Stowe
Ed Gallagher
Bill Smith
Tammi Cauthen
Sam Balkum
Charlie Anderson
Daniel Tully
Patty Bissey
Robin Yarbrough

I. CALL TO ORDER

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

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation was given by Mr. Andy Wayman.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held February 2, 2006

Motion by Mr. Schull, seconded by Mr. Stowe to approve the minutes of the February 2, 2006 regular meeting as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

IV. PROCLAMATION/RECOGNITION/AWARDS

1. Employee Recognition Ron Rainey – Benbrook Economic Development Corporation – 10 Years Service

Item postponed until March 2, 2006

IV. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION

EDC-2006-01 Ratify Bank Loan Refinance

Mr. Charlie Anderson gave the following report: On February 8, 2006, the Benbrook Economic Development Corporation's Board of Directors unanimously approved the transfer of a \$3,340,000 loan from Bank of Texas to First Bank and to increase the loan by an additional \$500,000. The existing loan was used to acquire approximately 80-acres of land adjacent to and west of Benbrook Blvd. The extension of Vista Way north to the I-20 frontage road and the westerly extension of Mercedes are part of the planned development. The additional \$500,000 will be used as part of the agreed purchase price for the acquisition of property currently owned by Ryan's Branding Iron, Inc., Gary Ryan and Lureta Ryan.

The original loan allowed the BEDC to acquire all of the land east of the proposed Vista Way extension to Benbrook Blvd. as well as three pad sites on Benbrook Blvd.

Terms and conditions presented by First Bank and approved by the BEDC include:

1. Borrower: EDC of Benbrook, TX
2. Loan Amount: \$3,840,000
3. Collateral: First Lien Deed on Trust (FLDT) on approx 80-acres of land

- | | | |
|----|------------|---|
| 4. | Pricing: | Floating at Wall Street Journal Prime Rate |
| 5. | Exit Fee: | 0.75% (replaces typical Origination Fee) |
| 6. | Term: | Two years interest only |
| 7. | Repayment: | 100% of net sales proceeds to be applied to principal |

The loan transfer and closing will be transacted as soon as possible following action by City Council.

Motion by Mr. Schull, seconded by Mr. Allison to ratify the Benbrook Economic Development Corporation bank loan refinance to First Bank as presented.

Vote on the motion:

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

Noes: None

Motion carries unanimously.

VI. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1609 Resolution Continuing Abatement of Show-Cause and Ratifying Settlement Agreement with TXU Electric Delivery

Shawna Cortez gave the following report: In the fall of 2004, Benbrook required TXU to show cause regarding the reasonableness of transmission and distribution rates. In early 2005, the Steering Committee of Cities Served by TXU Electric Delivery and TXU reached a settlement to delay TXU's rate filing until summer 2006. The settlement required TXU to pay the Committee \$8 million per year.

In March 2005, Benbrook City Council ratified the Settlement. Over the past several months, the Steering Committee has negotiated a new settlement with TXU to further delay the rate case filing in exchange for terms benefiting the City and the public. The new settlement includes:

- TXU will file a rate case in June 2008 with a December ending test year.
- TXU will continue to pay \$8 million annually to the Committee. Benbrook will receive \$28,388 per year until a final order is entered.
- TXU will make two payments of \$9 million to the Committee before January 31, 2007 for "beneficial public use".
- Benbrook will receive two payments of \$49,651 each.

- TXU will reimburse up to \$40,000 monthly to the entire Committee for participation at the Electric Reliability Council of Texas and the Public Utilities Commission
- TXU will increase franchise fee factors, and
- TXU will permit all cities to receive quarterly rather than annual franchise fee payments. Benbrook should receive approximately \$91,000 between 20096and 2009.

All 109 Steering Committee member cities must approve the settlement for benefits to flow to any member. TXU will not release payments until the settlement is fully ratified.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Resolution 2006-01 continuing abatement of the rate case filing and ratifying the settlement agreement with TXU Electric Delivery.

Vote on the motion:

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

Noes: None

Motion carries unanimously.

Resolution No. 2006-01 being a **“RESOLUTION CONTINUING ABATEMENT OF SHOW-CAUSE AND RATIFYING SETTLEMENT AGREEMENT WITH TXU ELECTRIC DELIVERY”**.

G-1610 Financial Report for Month Ending January 31, 2006

Mr. Conklin gave the following report: General Fund revenues for the month of January totaled \$2,895,440. More than 90% of this amount came from Property Taxes.

General Fund expenditures for January totaled \$947,855. At January 31, revenues exceeded expenditures by \$2,620,502.

The Benbrook Economic Development Corporation revenues were \$47,137 while expenditures were \$52,765. For the year, expenditures exceed revenues by \$230,829.

The Core Values Gas and Oil Lease Fund was created with the initial deposit of \$1,207,260.

Investments were \$12,577,735 at January 31, 2006. This entire amount is available immediately if needed.

Motion by Mr. Sauma, seconded by Mr. Stowe to accept the financial report for the month ending January 31, 2006 as presented.

Vote on the Motion:

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

Noes: Mr. Sauma

Motion carries unanimously.

G-1611 Consider Granting Four Sanitary Sewer Easements to the City of Fort Worth for the Construction of a 36-inch Sanitary Sewer

Mr. Gattis gave the following report: The City of Benbrook, through the TIF District, has been working with the City of Fort Worth to provide wastewater service to the Walnut Creek watershed, including portions of Benbrook Towne Center.

The biggest hurdle for providing such service was that a good portion of the line would need to extend through Fort Worth's Z. Boaz Park for which no developer could be expected to cover the cost. Likewise, the Benbrook Water Authority would not participate in extending the sewer line unless someone else was paying for it.

The Benbrook City Council adopted the original Interlocal Agreement on February 5, 2004. The Interlocal Agreement includes:

- Fort Worth will design, build and operate the sewer line
- Benbrook TIF will share in cost of design and construction, based on length of line in Benbrook
- Benbrook is responsible for obtaining easements in Benbrook
- Benbrook Water Authority will be entitled to four metered connections

A portion of the Walnut Creek Sewer Line crosses land owned by the City of Benbrook, requiring dedication of a 30-foot wide sewer easement to Fort Worth for a distance of 1,675 linear feet. Since the land is in an area reserved for a park, the City must comply with Chapter 26 of the Texas Parks and Wildlife Code. The City must:

- Advertise a public hearing
- Determine that there are not feasible or prudent alternatives
- Determine that reasonable planning to minimize harm to parkland has been taken

Mayor Dittrich declared the public hearing open at 7:41 p.m. No one spoke for or against the item. Public hearing was closed at 7:42 p.m.

Motion by Mr. Vander Pan, seconded by Mr. Schull that the City Council determines that there is no feasible or prudent alternative to using parkland, and that all reasonable planning has been taken to minimize harm to the park, and to authorize the mayor to sign the four easements.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1612 Consider Authorization of Condemnation for Walnut Creek Sewer Line

Mr. Gattis gave the following report: The City is working to obtain sewer line easements from five different entities (including the City of Benbrook) for the installation of the Walnut Creek sewer line. The City has obtained easements from the Southern Baptist Radio and TV Commission and easements are in process from Tarrant County and from TXU Electric Delivery.

The only remaining easement needed is from Ronald Vaughn, who is the owner of the abandoned upholstery shop and kennels located at 335 Winscott Road. The owner's address is a P.O. Box in Benbrook. The City sent a letter offering to purchase the easement on January 5, 2006 with no response. Efforts by the City, City Attorney and a private right-of-way acquisition company to contact Mr. Vaughn have been unsuccessful. To keep the project moving forward, staff recommends condemnation by citation. Benbrook TIF will be responsible for all costs.

Motion by Mr. Stowe, seconded by Mr. Bailey to authorize staff to begin condemnation proceedings to obtain a 0.092-acre sanitary sewer easement on a 1.7-acre tract in the B. J. Foster Survey Abstract No. 520.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1613 Consider Status of Plantation East Creek Project

Motion by Mr. Sauma, seconded by Mr. Vander Pan to postpone this item until a later date.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1614 Approve Land Use Study for Benbrook Lake Lease Areas

Mr. Wayman gave the following report: The City of Benbrook leases 278-acres of land adjoining Benbrook Lake from the U.S. Army Corps of Engineers. The lease area is known as Dutch Branch Park and expires in 2037.

Recently, City Council discussed Dutch Branch Park with an emphasis on concessionaires. Current concessionaires are: Baja Beach, Benbrook Marina, Benbrook Stables and Benbrook Par 3.

City Council has expressed its intent to improve and enhance concession areas through long range planning. As a result, Staff solicited a proposal for a land use study for the lease areas from Schrickel, Rollins and Associates at a cost of \$9,700. The intent of the land use study is to provide a future direction for the Benbrook Lake lease areas

Schricket, Rollins and Associates specializes in park planning and previously completed the Benbrook Park Master Plan, Dutch Branch Park Conceptual Plan and the Whitestone Park Conceptual Plan.

The concession agreement with Baja Beach expires at the end of February. Upon expiration of the concession agreement, the City will resume control of the area. The land use study will provide an "action plan" for the enhances use and development of Baja Beach and the other lease areas.

Motion by Mr. Schull, seconded by Mr. Sauma to approve the land use study with Schrickel, Rollins and Associates at a cost of \$9,700 to be paid from general fund reserves.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

VIII. OTHER MATTERS OF BUSINESS

IX. INFORMAL CITIZEN PRESENTATION

X. ADJOURNMENT

Meeting adjourned at 8:06 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary