



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, OCTOBER 4, 2007**

The regular meeting of the Benbrook City Council was held on Thursday, October 4, 2007 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich
Keith Bailey
Ron Sauma
Rickie Allison
Dan Tully
Larry Stowe

Also Present:

Andy Wayman, City Manager
Joanna King, City Secretary
Dave Gattis, Deputy City Manager
Walter Shumac, Public Service Director

Others Present:

Dorcas Neuman, Benbrook News
David Hoover
Ron Rainey
Bill Smith
Tammie Cauthen
Paul Brown
Denzel Taylor
Sandom Baumgardner
John Vander Pan
And 2 other citizens

I. CALL TO ORDER

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

**II. INVOCATION
PLEDGE OF ALLEGIANCE**

Invocation given by Mr. Billy Smith
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held September 20, 2007

Motion by Mr. Tully, seconded by Mr. Sauma to approve the minutes of the regular meeting held September 20, 2007 as presented.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

IV. CITIZEN PRESENTATION

1. TXAPA Certificate of Achievement in Planning

Mr. David Hoover, President of the Texas Chapter of American Planning Association presented the Mayor with the Certificate of Achievement for Planning Excellence recognizing the professional planning standards demonstrated by the City.

2. Paul Brown – Request for Ordinance prohibiting Engine Braking

Mr. Paul Brown, homeowner in Whitestone Ranch Estates, made presentation to City Council requesting the adoption of an ordinance prohibiting engine braking without an exhaust muffler except during emergencies within the City of Benbrook. The request is made to provide for a sensible solution to address the extremely loud engine brake systems.

Mr. Brown also requested increased Benbrook Police surveillance at the intersection of Benbrook Blvd. and RM2871; reduction of the speed limits along Benbrook Blvd; additional signal light caution lights for both east and west traffic flows; and, consideration of a traffic flow monitoring camera at the intersection.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

VI. REPORTS OF CITY MANAGER

A. GENERAL

G-1738 Ordinance amending Chapter 8.20 of the Benbrook Municipal Code by prohibiting use of engine brake system without an exhaust muffler sufficient to prevent the creation of excessive noise.

Mr. Shumac gave the following report: An engine brake, sometimes referred to as “Jake Brake”, is a braking system used primarily by semi-trucks or other large vehicles. Jake brakes modified engine valve operation, using engine compression to slow the vehicle. The system converts a power-producing engine into a power-absorbing air compressor by opening exhaust valves. Compression release engine brakes that are not properly muffled make a loud chattering or machine gun noise. Jake brakes effectively slow large vehicles during emergency stops but are generally not necessary for normal driving operations.

The proposed ordinance designates that no person may operate an internal combustion engine powered vehicle using an engine brake without an exhaust muffler sufficient to prevent the creation of excessively loud noise, except during emergency operation.

If approved by City Council, City crews will install signs prohibiting the use of unmuffled engine brakes and the Police Department will begin enforcement. The materials cost will be paid from the Public Works budget.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Ordinance No. 1250 prohibiting the use of an engine brake without exhaust muffler sufficient to prevent the creation of excessive except in emergency situations.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1250 being “AN ORDINANCE AMENDING CHAPTER 8.20 OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY ADDING A NEW PARAGRAPH UNDER SECTION 8.20.010 PROHIBITING UTILIZING AN ENGINE BRAKE OR JAKE BRAKE WITHOUT AN EXHAUST MUFFLER SUFFICIENT TO PREVENT THE CREATION OF EXCESSIVELY LOUD NOISES EXCEPT DURING EMERGENCY OPERATION; PROVIDING FOR VIOLATIONS, PENALTIES AND INJUNCTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT;

PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.”

**SECTION III
PENALTY CLAUSE**

Any person, firm or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00).

**SECTION X
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

G-1739 Consider Concessionaire Agreement with Benbrook Lake Marina (Ownership Transfer)

Mr. Shumac gave the following report: Benbrook Marina is currently leased to Ms. Glenda Steen. Ms. Steen has requested permission to split her concession into separate leases (Marina and Boat Repair Shop) for assignment to new concessionaires. The proposed new concessionaire for Benbrook Marina is Mr. Denzel Taylor.

Mr. Taylor is proposing repairs and improvements to the marina, including new signs, repainting existing structures and some asphalt improvements. The transfer of the Benbrook Lake Marina concession requires approval of the Parks Board, City Council and the Army Corps of Engineers.

The proposed lease is for ten years and requires a lease payment to the City of three percent of gross revenues, or \$200 per month, whichever is greater. Staff has investigated Taylor's financial capability and business background. Staff believes Taylor is capable of successfully operating and improving the Marina.

The Park Board met and discussed this proposal on September 19 and recommends approval of the concessionaire transfer and related agreement.

Motion by Mr. Stowe, seconded by Mr. Sauma to approve the Concessionaire Transfer and Agreement for Benbrook Marina to Mr. Denzel Taylor, doing business as Benbrook Lake Marina.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion unanimously.

G-1740 Consider Concessionaire Agreement with Power Play Racing (Ownership Transfer)

Mr. Shumac gave the following report: Benbrook Marina is currently leased to Ms. Glenda Steen. Ms. Steen has requested permission to split her concession into separate leases (Marina and Boat Repair Shop) for assignment to new concessionaires. The proposed new concessionaire for Power Play Racing is Mr. Sandom Baumgardner.

Since 2005, Mr. Baumgardner has subleased the existing metal building at 302 Lakeview Drive from Glenda Steen. Mr. Baumgardner currently uses half of the building for boat repairs. The other half is currently used for Marina storage. If approve, Mr. Baumgardner would expand his boat repair business to make full use of the existing building.

The transfer of the concession agreement requires approval of the Parks Board, City Council and the Army Corps of Engineers. The proposed lease is for ten years and will require lease payments to the City of three percent of gross revenues, or \$50 per month, whichever is greater.

The Park Board met and discussed this proposal on September 19 and recommends approval of the concessionaire transfer.

The City requires liability insurance in the amount of \$3,000,000 per occurrence. Due to cost considerations, Mr. Baumgardner has requested this requirement be reduced to \$1,000,000 per occurrence. The Parks Board approved the reduced amount. The City Council should determine whether the reduced liability coverage is acceptable, as this action may impact other concessionaires.

Discussion was held with Mr. Baumgardner regarding the required liability insurance. Mr. Baumgardner stated that he based his funding on the amount of coverage required on Ms. Steen's agreement. He stated the cost of the additional \$2,000,000 was very expensive and would need to be written in two policies. Mr. Baumgardner requested the requirement be lowered.

Motion by Mr. Stowe, seconded by Mr. Tully to approve the Concessionaire Transfer and Agreement for the Benbrook Marina Repair Shop to Sandom Baumgardner, doing business as Power Play Racing with liability insurance requirement to remain at \$3,000,000.

Vote on the Motion:

Ayes: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Tully, Mr. Stowe, Mr. Sauma

Noes: None

Motion carries unanimously.

VII. OTHER MATTERS OF BUSINESS

VIII. INFORMAL CITIZEN COMMENTS

Tammie Cauthen invited City Council to attend the FWISD Bond election forum at Western Hills High School on October 8, 2007.

Mr. John Vander Pan expressed disappointment regarding the discussion on the EDC budget item.

IX. EXECUTIVE SESSION – Pursuant to Texas Government Code Section 551.087, Deliberation Regarding Economic Development Negotiations

1. Potential Incentives for Benbrook Field Development

Mayor Dittrich recessed the regular meeting at 8:28 p.m. for Executive Session.

Mayor Dittrich reconvened the regular meeting at 9:00 p.m. and announced that no action was taken from the Executive Session.

X. ADJOURNMENT

Meeting adjourned at 9:01 P.M.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary