



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

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

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

Also Present:

Cary Conklin, City Manager
Joanna King, City Secretary
Dave Gattis, Assistant City Manager
Andy Wayman, Assistant City Manager
David Ragsdale, Comptroller
Wade Adkins, City Attorney

Others Present:

Dorcas Neuman, Benbrook News
Valerie Stowe
Sam Horan
Dawn Konieczny
James Mills
Bill Smith
Daniel Tully
Glen Martin
Diane Palmer
Sam Balkum
Pamela Brandenburg
approximately 29 students from Western Hills
High School
and 5 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 Dr. Larry Sanders with Trinity Hills Baptist Church
The Pledge of Allegiance was recited.

III. CONSENT AGENDA

1. **Minutes of the regular meeting held November 2, 2006**
2. **Adopt Ordinance vacating and abandoning part of Mercedes Street as a public street and adopt and Ordinance vacating and abandoning a variable width drainage easement (in H. Covington Survey, Abstract No. 257)**

Motion by Mr. Allison, seconded by Mr. Sauma to approve the consent agenda 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.

Ordinance No. 1224 being **"AN ORDINANCE VACATING AND ABANDONING PART OF MERCEDES STREET AS A PUBLIC STREET; 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."**

Ordinance No. 1225 being **"AN ORDINANCE VACATING AND ABANDONING A VARIABLE WIDTH DRAINAGE EASEMENT (IN THE H. COVINGTON SURVEY, ABSTRACT NO. 257) DECLARING THAT THE PROERTY IS UNNECESSARY FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR OF THE CITY OF BENBROOK TO EXECUTE A QUITCLAIM DEED RELEASING THE PUBLIC OWNERSHIP INTERST AND CONTROL IN THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE."**

IV. PRESENTATION BY PLANNING AND ZONING COMMISSION

V. REPORTS OF CITY MANAGER

A. GENERAL

G-1665 Annexation Proceedings to Enlarge and Extend the Boundary Limits of the City of Benbrook, Texas:

Tract 1: A tract of land which is a variable width right-of-way of Chapin Road extending approximately 4,135 feet in a westerly direction from the southerly extension of the west line of Lot 1, Block 1, Western Hills High School Addition, as recorded in Cabinet A, Slide 6960, Plat Records, Tarrant County, Texas

Tract 2: A tract of land which is a variable width right-of-way of Chapin Road extending approximately 2,000 feet in an easterly direction from the east right-of-way line of Interstate Loop 820 (Second Public Hearing (First Public Hearing Held November 2, 2006

Mr. Gattis gave the following report: Part of the negotiations with the City of Fort Worth, the boundary between Fort Worth and Benbrook along Chapin Road requires revision. The City Council authorized the staff to proceed on the annexation of two segments of right-of-way along Chapin Road at the August 3rd City Council meeting. Fort Worth also has agreed to participate next year in an asphalt overlay of Chapin Road.

In 1968, Benbrook and Fort Worth adopted a Joint Resolution that established the future common boundary line between the two. Each City was then entitled to annex up to that line. The line along Chapin Road was established as the north right-of-way between the Loop 820 frontage road and Western Hills High School and along the south right-of-way line east of Williams Road.

The City of Benbrook never annexed the north half of Chapin Road between Van Deman Drive and Carman Drive, and never annexed the entire right-of-way between Burkett Drive and Western Hills High School, even though we have been maintaining this roadway for many years. We also have never annexed the full width of right-of-way between Van Deman Drive and the Loop 820 frontage road. The two tracts are entirely street right-of-way and no private property is involved.

State law has specific procedures for annexation. State law requires two public hearings prior to adoption. The first hearing was held November 2 and final action will be December 7, 2006. State law also requires that we prepare an Annexation Service Plan describing how we will provide city services to the newly annexed tract within specific time frames. Police, fire, EMS, animal control, health codes and street maintenance will begin on the effective date of the Ordinance. No other services or capital projects are required.

Mayor Dittrich asked for any member of the audience wishing to speak to the item to address City Council. No one spoke for or against this item. Mayor Dittrich closed the public hearing at 7:37 p.m.

G-1666 Conduct Second Public Hearing and Adoption of Minor Curfew Ordinance (First public hearing held November 2, 2006)

Deputy Police Chief Mills gave the following report: In July 1994, the City of Benbrook first enacted a curfew ordinance to restrict the hours an individual under the age of seventeen can be in a public place. State law requires a review of municipal curfew ordinances every three years to determine if the ordinance should

be abolished, continued, or modified. State law further requires a review of the ordinance's effect on the community and on problems the ordinance is intended to remedy. The Local Government Code stipulates that the City Council conduct public hearings on the need to continue the ordinance. Since 1994, the Benbrook City Council has reauthorized the curfew ordinance.

The restricted hours are from 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day and 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Consideration of the curfew ordinance is two phased. The first public hearing was held on November 2, 2006. The second public hearing and adoption of the ordinance is scheduled for this meeting. City Council last review the ordinance in December 2003.

The Benbrook Police Department believes that the curfew ordinance has assisted the department in late night crime prevention.

Benbrook police officers have issued the following citations for curfew violations in the past three years:

2004	59
2005	45
2006	50

During the same period, minors have been arrested for committing the following number of crimes during the hours of curfew.

2004	17
2005	18
2006	21

The Cities of Bedford, Burleson, Crowley, Euless, Everman, Forest Hill, Fort Worth, Hurst, North Richland Hills, Saginaw, Watauga and White Settlement have enacted curfew ordinances. Arlington, Grapeview, Keller, Kennedale, Mansfield, and Southlake have not enacted a curfew ordinance.

Mayor Dittrich opened the public hearing at 7:40 p.m. No one spoke for or against the item. Mayor Dittrich closed the public hearing at 7:41 p.m.

Motion by Mr. Stowe, seconded by Mr. Schull to adopt Ordinance No. 1223 imposing a curfew on minors.

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.

Ordinance No. 1223 being "AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS; SETTING FORTH DEFINITIONS, CREATING OFFENSES FOR MINORS, PARENTS, AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE."

SECTION 5
Penalty Clause

1. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$50.00
2. When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection 2(1) of this ordinance and shall refer the minor to the juvenile court.

SECTION 12
Effective Date

This ordinance shall take effect at midnight on January 4, 2007, after its passage and publication as required by law, and it is so ordained.

G-1667 Quarterly Financial Report for Period Ending September 30, 2006

Mr. Conklin gave the following report: Revenues through the end of the City's fiscal year totaled \$11,384,208. Taxes were responsible for over 83% of total revenues and Ad Valorem Taxes produced almost 60%. Total collections were \$430,901 more than the original amount budgeted.

General Fund expenditures through the end of the year were \$10,659,162 or 96% of budgeted expenditures. Only one department exceeded budget at year-end. Public Works was over \$46,778 due to a dramatic increase in the cost of electricity for street lighting.

Debt Service revenue received through the end of the year totaled \$1,419,065. Total expenditures amounted to \$1,343,546. The Debt Service Fund surplus was \$75,519.

EDC revenues were \$2,085,799 with most of this amount coming from the sales tax receipts, land sales and a bank loan of \$540,000. EDC expenditures were \$1,754,593, with the largest expenditures going toward land acquisition, attorney fees and interest on outstanding loans.

Capital Projects revenue amounted to \$1,523,288. The largest portion of this amount came from the payment on the gas lease. Capital Project expenditures were \$2,693,980. TIF expenditures accounted for only \$1,435,228 of the total.

At September 30, 2006, the City had \$10,044,867 invested at varying interest rates.

Since there was not sufficient funds to balance the \$46,778 overage within the Public Services Division, City Council will need to approve a budget adjustment.

Motion by Mr. Vander Pan, seconded by Mr. Sauma to accept the quarterly financial report for the quarter ended September 30, 2006 and approve a transfer of \$50,000 from Police Patrol-Overtime Account No. 01-3103-5002 to Public Works-Electric Services Account No. 01-4201-5252.

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.

G-1668 Financial Report for Month Ending October 31, 2006

Mr. Conklin gave the following report: Revenues for the month of October totaled \$344,822. The major source of revenue came from Property Taxes. October expenses totaled \$925,647. At October 31, expenditures exceeded revenues by \$580,825.

EDC revenues for October were \$9,440 while expenditures were \$47,729.

Investments were \$9,594,424 at October 31, 2006. This entire amount is available immediately if needed.

Motion by Mr. Schull, seconded by Mr. Bailey to accept the financial report for the month of October 2006 as presented.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

G-1669 Quarterly Hotel/Motel Tax Report

Mr. Ragsdale gave the following report: Total revenues collected for the period ending September 30, 2006 amounted to \$32,591.49. Bed tax made up \$30,782.27 of this amount and interest provided \$1,809.22

The Very Special Artist group, an affiliate of Benbrook Sister Cities, submitted \$856 for reimbursement for VSA related expenses.

The Chamber of Commerce submitted \$12,112 in expenses. These expenses included visitor center salary of \$8,008.14, overhead charges of \$1,500 and other promotional costs totaling \$2,603.86.

Motion by Mr. Allison, seconded by Mr. Stowe to approve the quarterly Hotel/Motel Tax report and authorize the Comptroller to make the requested reimbursement of \$856 to Very Special Artist group and \$12,112 to the Benbrook Chamber.

Vote on the Motion:

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

Noes: Mr. Sauma

Motion carries 6-1.

B. CONTRACTS

C-224 Approve contract with Palmer Price, Inc. for Storm Water Utility consultant services

Mr. Gattis gave the following report: As part of the 2006-2007 budget, the City Council approved \$120,000 for consulting services to prepare for the implementation of a storm water utility fee. The storm water utility fee will assess each property owner a monthly fee for use in drainage projects based on the amount of impervious area on each lot. This will allow a dedicated stream of funds for use in drainage construction and maintenance and will allow us to remove funds for these purposes from the General Fund and Debt Service Fund, allowing us to lower property taxes proportionately.

The consultant, Palmer Price, Inc. has submitted a draft contract for consideration. The contract is a cost plus expenses contract with a not-to-exceed limit of \$122,000. Although this exceeds the budgeted amount by \$2,000, staff believes that we can achieve some cost savings that will keep the total amount billed below \$120,000.

The staff has already begun work on the project by reviewing and correcting street names, calculating impervious areas on the GIS system, developing land use

coverage for each lot, and working with the Benbrook Water Authority on modifications to the billing system.

Motion by Mr. Allison, seconded by Mr. Stowe to approve the contract with Palmer Price, Inc. with a not-to-exceed fee of \$122,000.

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.

C. PURCHASE

P-252 Purchase Police Vehicles

Ms. Konieczny gave the following report: For the 2006/2007 budget, City Council approved \$100,000 for the purchase of four (4) 2007 police package patrol vehicles.

Through cooperative purchasing programs, the City received bids from Tarrant County Cooperative Joint Venture, Buyboard, and Houston-Galveston Council of Governments. The bids include the cost of a 3-year/75,000 mile premium care extended warranty and all purchasing fees.

Tarrant County Cooperative Joint Venture provided the lowest bid for the vehicles at a cost/unit price of \$23,872. The \$95,488 total bid price is \$4,512 below budget.

Motion by Mr. Schull, seconded by Mr. Sauma to approve the purchase of four (4) police package vehicles from Tarrant County Cooperative Joint Venture in the amount of \$95,488/ to be charged to account number 01-3103-5433.

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.

VI. OTHER MATTERS OF BUSINESS

VII. INFORMAL CITIZEN COMMENTS

Mrs. Pamela Brandenburg reminded City Council that the reimbursement to VSA needs to be made to Benbrook Sister Cities, Inc. Mrs. Brandenburg questioned if the City Attorney would be present for the Executive Session an if the Executive

Session was to seek the Attorney's legal advice. Mr. Wade Atkins, City Attorney advised he was present and the item is to provide legal advice.

Mr. Sam Balkum reminded the audience of the upcoming Holiday events.

VIII. EXECUTIVE SESSION – Pursuant to Texas Government Code

Section 551.071 – Consultation with City Attorney

1. Discuss Provisions of Open Meeting Act and City Attorney's Role in Open Records Request

Mayor Dittrich recessed the regular meeting at 8:08 p.m. to conduct Executive Session to consult with City Attorney on Open Meetings Act and City Attorney's role in open records request.

IX. RECONVENE FROM EXECUTIVE SESSION

Necessary Action from Executive Session

Mayor Dittrich reconvened the regular session at 9:03 p.m.

Motion by Mr. Vander Pan, seconded by Mr. Stowe to schedule a worksession to discuss City Council Rules and Procedures and decorum of Council meetings.

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.

X. ADJOURNMENT

Meeting adjourned at 9:04 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary