



**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, AUGUST 3, 2006**

The regular meeting of the Benbrook City Council was held on Thursday, August 3, 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  
Dave Gattis, Assistant City Manager  
Andy Wayman, Assistant City Manager  
David Ragsdale, Comptroller

Others Present:

Dorcas Neuman, Benbrook News  
Ed Gallagher  
Valerie Stowe  
Daniel Tully  
Bill Smith  
Sam Balkum  
Tammi Cauthen  
Pam Moore  
Mr. and Mrs. Phil Moreau  
Rebecca Moreau  
Beatriz Mince  
Steve Adams  
Johnny Johnson  
Eric Friend  
Linda Brand  
Joe Fuqua  
and approximately 15 other citizens

**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 Dr. Larry Sanders with Trinity Hills Baptist Church

**III. MINUTES**

**1. Minutes of the regular meeting held July 20, 2006**

Motion by Mr. Allison, seconded by Mr. Schull to approve the minutes of the regular meeting held July 20, 2006 as presented.

Vote on the Motion:

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

Noes: None

Abstain: Mr. Stowe

Motion carries 6-0-1.

**IV. CITIZEN PRESENTATION**

**1. Beatriz Mince – Fort Worth ISD – Invitation to FWISD First Day of School Celebration**

Rebecca Moreau - student at Western Hills High School, Colton Baskett - student at Leonard Middle School and Louis Marino - student at Benbrook Elementary made presentation to City Council. The students provided information on the accomplishments of FWISD students and future goals. The City Council and audience was invited to attend the first day of school.

**2. Johnny Johnson – Skyline Ranch Development**

Mr. Johnny Johnson, 10109 Stoneleigh addressed City Council on his concerns with the Skyline Ranch Development. Mr. Johnson advised that he is not familiar with the developer of Skyline Ranch but so far, the developer has not been a responsible neighbor. He advised that during the winter 2005 the developer burnt debris on the property for several days. He stated the fires were finally extinguished by Fort Worth Fire Department after several calls were made. Mr. Johnson questioned if the developer was fined and if so how much.

Mr. Johnson stated he wished the City had asked for more input from the neighborhood before approval was made on the bridges. He expressed concern of additional traffic congestion to the neighborhood and safety issues.

Mr. Conklin advised Mr. Johnson that the construction debris was chipped trees piled in a high manner. He stated that it is unknown rather the developer started the fire or it was caused by spontaneous combustion. However, no matter the cause, the fire did burn internally for several weeks. Mr. Conklin advised that the City did bill the developer \$8,500 for fire services performed by the Benbrook Fire Department during this time. He stated the developer did pay for the services as well as \$1,100 to the Benbrook Water Authority for water used on the fires. Mr. Conklin stated he was not aware of the amount the City of Fort Worth may have charged the developer.

Others speaking on the subject were Linda Brand, Joe Fuqua, Bill Smith and Phil Moreau.

Mr. Dave Gattis gave the following staff report: The connection to Woodglen has been planned since January 1978 and the connection to Rolling Hills Drive since September 1983. Both connections are part of the plats of Westpark and Rolling Hills Estates. A recent Interlocal Agreement with the City of Fort Worth was on ownership and maintenance of the bridges. Traffic impacts are all within the capacity of the existing roadways.

Skyline Ranch is to be built in three phases. Phase 1 is 151 lots with a 60/40 split between RM2871 and US 377. Phase 2 is 157 lots and all will likely use RM2871. Phase 3 is 57 lots. The ultimate development is 60% north of RM2871, 25% north of US 377 and 15% south of US 377. Then entire development is within the City of Fort Worth. The home values are planned to sell between \$150,000 and \$250,000.

The Interlocal Agreement with the City of Fort Worth on the Skyline Ranch bridges was considered and approved by Benbrook City Council on June 15. Notice of the meeting was posted 147 hours in advance, exceeding the 72 hours required by the Open Meetings Act.

No action taken.

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

## **VI. REPORTS OF CITY MANAGER**

### **A. GENERAL**

#### **G-1644 Accept 2006 Certified Appraisal Roll and Set Anticipated Property Tax Collection Percentages**

Mr. Ragsdale gave the following report: Staff received the 2006 certified Appraisal Roll from the Tarrant Appraisal District (TAD) on July 25, 2006. The report contains certain state mandated information on appraised value, adjustments, and taxable value of property in the City as of January 1, 2006.

The 2006 certified appraised value is \$1,350,195,944, a 5.94% increase from 2005 values. The total exemptions and adjustments for 2006 values are

\$237,001,466 or an increase of 4.29%. The total taxable value for 2006 is \$1,163,688,659 for an increase of 6.84%.

To comply with "Truth-in-Taxation" (TNT) requirements, the City Council must accept the certified Appraisal Roll as presented by TAD. City Council must also set an anticipated collection rate and appoint an officer to calculate and publish the Effective Tax Rate (ETR) and the Roll Back Tax Rate (RTR).

Motion by Mr. Vander Pan, seconded by Mr. Sauma to accept the 2006 certified Appraisal Roll as presented, set 100% as the anticipated property tax collection rate, and appoint the Comptroller to calculate and publish the ETR and RTR.

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.

#### **G-1645      Quarterly Hotel/Motel Tax Report**

Mr. Ragsdale gave the following report: Total collections of Hotel/Motel Tax for the period ending June 30, 2006 amounted to \$30,317.04. Bed tax made up \$28,530.84 of this amount and interest provided \$1,786.20.

A total of \$344.71 has been submitted for reimbursement by BSCI for VSA related expenses. The largest portion of the expense went toward cash awards for artist.

The Benbrook Chamber of Commerce submitted \$12,369.58 in expenses. These expenses included visitor center salary of \$10,369.58 and overhead charges of \$2,000.

On June 1, 2006, City Council approved Benbrook's participation in the Wounded Warriors/Fallen Heroes event at Dutch Branch Park on July 2. At that meeting, staff provided an initial in-house cost estimate of \$13,500. After consideration of the estimate, City Council authorized additional funds as needed to make the event safe and successful.

Actual in-house expenditures were \$21,640. Additional costs were largely due to needed increases in police presence at the event in anticipation of a larger crowd than originally predicted.

In addition, the event coordinator for WWFH requested payment of advertising/promotional expenses of \$5,060.

Staff recommends that City Council approve:

1. The quarterly HMT report with budget adjustment of \$20,100; and
2. Authorize the Comptroller to make the requested reimbursement of \$344.71 to BSCI; and
3. Authorize the Comptroller to make the requested reimbursement of \$12,369.58 to the Benbrook Chamber; and
4. Approve the transfer of \$21,640 from the hotel occupancy tax revenues to the General Fund for in-house expenses; and
5. Prove payment of advertising/promotional expenses of \$5,060 as requested by the WWFH event coordinator.

Motion by Mr. Schull, seconded by Mr. Stowe to approve the quarterly Hotel/Motel Tax report recommendations as presented and approve a budget adjustment of \$20,100.

Vote on the Motion:

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

Noes: Mr. Sauma

Motion carries unanimously.

**G-1646      Consider Request to Join Consortium Opposing Coal Fuel Generated Power Plants**

Mr. Conklin gave the following report: City of Dallas Mayor Laura Miller recently contacted the City of Benbrook regarding opposition to 17 new coal-burning plants to be located in Texas. Mayor Miller has proposed to intervene in the permitting process. Mayor Miller has asked area cities to join a consortium both for the additional political clout and to decrease the cost of intervention to the City of Dallas.

At the same time, the City of Benbrook belongs to a group of cities (CAPP) that are in the process of negotiating with TXU to purchase power from one or more of their plants to help stabilize our electrical costs over the next several years. Some of the plants from which we might purchase would be coal-fueled power plants. TXU has offered to sign a legally binding document that the company will decrease system wide emissions by 20% with the addition of their new plants.

The cities in CAPP asked our attorney and consultant to give us their opinion on these issues. That opinion is summarized as follows:

1. Gasification is an emerging technology that shows promise for reducing mercury emissions.
2. The TXU plants will meet or exceed federal and state mercury emission standards.

3. Carbon dioxide is not at this time a regulated pollutant.
4. "NOx" emissions are about the same from both coal burning and gasification plants.
5. Studies show relatively insignificant contributions from these plants to urban problems.

The coalition recognizes the need for additional power and wants the plants switched from coal burning to gasification. The Texas Commission on Environmental Controls and the EPA have already ruled that gasification is a different technology, and the agency therefore, cannot order a change under the "Best Available Technology Rules". The coalition recognizes that there are not rules for a blanket challenge to the permitting of these plants, but rather each must be challenged on an individual basis with site, technology and construction specific information.

The proposed funding mechanism is woefully inadequate to challenge 17 permits as cost ranges from \$300,00 to \$500,000 per permit challenge. In addition, Mayor Miller is proposing a flat rate of \$10,000 per participating city rather than rate the expense per population. Benbrook would be paying the same fee as Dallas and Houston. The construction of the new plants will replace older less efficient plants and thus bring the cost of electric and emission levels down.

Staff recommends that the City should support the concept of raising funds on a per capita basis to study and encourage the development of new cleaner technologies such as gasification. The City should support and encourage the adoption of carbon dioxide standards at the state and federal level. However, the City should not invest money to oppose the construction of the proposed plants at this time.

For lack of motion, no action taken on this item.

**G-1647      Adopt Resolution Authorizing Staff to Initiate Annexation Process – Chapin Road**

Mr. Gattis gave the following report: As part of our negotiations with the City of Fort Worth, the staff initiated a clean up of the boundary between Fort Worth and Benbrook along Chapin Road. 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 Fort Worth and Benbrook. Each City was entitled to annex up to that line. The line along Chapin Road was established as the north right-of-way line 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. However, we

have been maintaining the 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 proposed resolution authorizes the staff to initiate annexation proceedings for the unincorporated sections of Chapin Road in accordance with the 1968 Joint Resolution. The resolution authorizes the staff to prepare a Service Plan, adopts a timetable that complies with State Law, and sets public hearings for November 2 and November 16, 2006. The annexations will be completed on December 7, 2006.

The City also annexed two parcels that were previously annexed by Fort Worth and do not comply with the 1968 Joint Resolution. One is a triangular-shaped piece of Fort Worth ISD property north of the right-of-way line adjacent to Leonard Middle School and the second is a 1000-foot section of Chapin Road east of Williams Road. Although these ordinances were invalid when they were adopted, it would be better to disannex these sections to avoid future confusion. The staff plans to bring these disannexations to City Council at the December 7 meeting as well.

Motion by Mr. Allison, seconded by Mr. Bailey to adopt Resolution 2006-11 authorizing staff to initiate annexation proceedings for two tracts along Chapin Road and to prepare a service plan; adopt a schedule for annexation proceedings; and schedule public hearings for November 2 and November 16, 2006.

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.

Resolution 2006-11 being **“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENBROOK APPROVING A TIMETABLE FOR PROCEEDINGS TO ANNEX TWO TRACTS OF LAND WHICH ARE PORTIONS OF THE VARIABLE WIDTH RIGHT-OF-WAY OF CHAPIN ROAD; DIRECTING CITY STAFF TO PREPARE A SERVICE PLAN FOR THE TERRITORY TO BE ANNEXED AND TO DELIVER AND PUBLISH NOTICE OF THE TWO ANNEXATION PUBLIC HEARINGS AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.”**

**G-1648      Adopt Joint Ordinance and Boundary Agreement with Fort Worth Disannexing Two Tracts Related to Skyline Ranch Bridges**

Mr. Gattis gave the following report: On June 15, the Benbrook City Council authorized staff to execute an Interlocal Agreement with the City of Fort Worth

regarding the construction and maintenance of two bridges crossing Walnut Creek serving the Skyline Ranch development in Fort Worth. Fort Worth City Council authorized approval of the Agreement on June 13 and the Agreement has been executed.

A portion of the Agreement calls for Benbrook to disannex approximately 13,765 square feet of right-of-way on Woodglen Drive and 15,922 square feet of right-of-way on Rolling Hills Drive and for Fort Worth to annex them. The purpose of this boundary adjustment is so that all construction and future maintenance of the two bridges is the responsibility of the City of Fort Worth.

Fort Worth City Council adopted the Joint Ordinance and Boundary Agreement on June 13. Failure to adopt the ordinance by Benbrook would result in the City's financial responsibility for future maintenance of the bridges, which does not directly benefit any Benbrook citizen.

Motion by Mr. Stowe, seconded by Mr. Sauma to adopt Benbrook Ordinance No. 1213 Joint Ordinance and Boundary Agreement regarding two tracts related to bridges to Skyline Ranch.

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.

Ordinance No. 1213 being "**CITY OF BENBROOK ORDINANCE NO. 1213 CITY OF FORT WORTH ORDINANCE NO. 16991-06-2006 JOINT ORDINANCE AND BOUNDARY AGREEMENT**".

## **VII. EXECUTIVE SESSION – Pursuant to Texas Government Code**

- 1. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Temporary Construction Easement – 4409 Mary's Creek Drive**
- 2. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Drainage Easement – 4013 Dawn Drive**
- 3. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Drainage Easement – 8024 Llano Avenue**

Mayor Dittrich recessed the regular meeting at 8:29 p.m. to conduct Execution Session pursuant to Texas Government Code Section 551.072-Deliberation Regarding Real Property.

**VIII. RECONVENE INTO REGULAR SESSION - Take any action necessary from Executive Session**

Mayor Dittrich called the regular meeting back to order at 8:49 p.m.

**1. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Temporary Construction Easement – 4409 Mary’s Creek Drive**

Motion by Mr. Allison, seconded by Mr. Schull to accept the counter offer from Mr. Matthews for temporary construction easement at 4409 Mary’s Creek Drive at a cost up to \$3,300.00.

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.

**2. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Drainage Easement – 4013 Dawn Drive**

Motion by Mr. Stowe, seconded by Mr. Allison to accept the counter offer from Mr. Martinez for drainage easement at 4013 Dawn Drive for a cost not to exceed \$8,230.00.

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.

**3. Section 551.072 – Deliberation Regarding Real Property – Consider Counter Offer for Drainage Easement – 8024 Llano Avenue**

Motion by Mr. Allison, seconded by Mr. Schull to reject the counter offer from Mr. and Mrs. Griffin for a drainage easement at 8024 Llano Avenue and to modify construction plans to eliminate the culverts at Llano Avenue.

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.

## **IX. REPORTS OF CITY MANGER - Continued**

### **G-1649 Consider Options for Willow Bend Creek Drainage Project**

Mr. Gattis gave the following report: One of the last drainage projects included in the 2004 bond program was improvements to the culverts on Willow Bend Creek at Llano Avenue and Herndon Drive. This enlargement will remove approximately 12 homes from the floodplain.

To build the project, the City needs to obtain drainage easements from three property owners. One easement has been donated, one refused and one owner has made a counter-offer.

There are three basic options available to the City Council regarding the project:

- Authorize condemnation and pursue construction as originally planned,
- Cancel the project completely and use the funds allocated for other drainage projects, or
- Modify the project to eliminate the culverts and construct a channel lining only.

Motion by Mr. Stowe, seconded by Mr. Sauma to modify the Willow Bend Creek Drainage project by modifying the project to eliminate the culverts and construct channel lining only.

Vote on the Motion: Mr. Bailey, Mr. Allison, Mayor Dittrich, Mr. Vander Pan, Mr. Stowe, Mr. Sauma, Mr. Schull

Noes: None

Motion carries unanimously.

Ayes: Mr. Bailey

## **X. OTHER MATTERS OF BUSINESS**

## **XI. INFORMAL CITIZEN PRESENTATION**

**XII. ADJOURNMENT**

Meeting adjourned at 8:55 p.m.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**