



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, DECEMBER 7, 2006**

The regular meeting of the Benbrook City Council was held on Thursday, December 7, 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:

Andy Wayman, Assistant City Manager
Joanna King, City Secretary
Dave Gattis, Assistant City Manager
Cathy Morris, Administrative Analyst

Others Present:

Dorcas Neuman, Benbrook News
Ed Gallagher
Valerie Stowe
James Mills
Ron Rainey
Tom Galbreath
Bill Smith
Duane Slater
Fern Martin
M. B. Lee
Gayle Hebert
Robert Clark
Dale Hoff
Greg Waller
students from Western Hills High School
and 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 given by Councilmember Larry Stowe.
The Pledge of Allegiance was recited.

III. MINUTES

1. Minutes of the regular meeting held November 16, 2006

Motion by Mr. Stowe, seconded by Mr. Allison to approve the minutes of the regular meeting held November 16, 2006 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. RECOGNITION/AWARDS/PROCLAMATION

1. Dale Hoff – FEMA Natural Hazard Specialist – Recognition of Flood Plain CRS Rating
2. Greg Waller – National Weather Service – Recognition of Flood Plain CRS Rating

Mr. Dale Hoff, Natural Hazard Specialist with FEMA and Mr. Greg Waller with the National Weather Service presented Dave Gattis and Sue Clark with plaque recognizing the Cities increase to Class 6 in the National Flood Insurance Program's Community Rating System.

V. CITIZEN PRESENTATION

1. Gayle Hebert, President North Benbrook Neighborhood Association – Service Awards

On behalf of the North Benbrook Neighborhood Association, Mayor Dittrich presented 20 year service awards to Mr. M.B. Lee, Mr. Duane Slater and Mrs. Fern Martin for the continuous service they have preformed to the Association.

2. Gayle Hebert, President North Benbrook Neighborhood Association – Restrictions on Registered Sex Offenders

Ms. Gayle Hebert, President of the North Benbrook Neighborhood Association requested City Council to consider adoption of an ordinance placing restrictions on sex offenders living next to schools or kid friendly areas. She also requested that the City notify local organizations when sex offenders move into the area.

Mr. Wayman reported the following: The State of Texas and the Tarrant County Sheriffs Office have primary jurisdiction over registered sex offenders in Benbrook. This includes terms and conditions of probation, parole, monitoring, and registration. The State has established numerous categories of sex offenders depending on age of victim, severity of offense, number of offenses, etc.

Benbrook's statutory authority is limited. By ordinance, the Benbrook City Council may prohibit registered sex offender of minors from residing within 2,000 feet of a place frequented by children. This could include a school, playground, library, church, daycare facility, youth center or public swimming pool. The offense is a Class "C" Misdemeanor and the State of Texas does not consider the offense a violation of probation or parole.

Several Cities in the Dallas/Fort Worth area have enacted ordinances. If City Council wants to consider an ordinance, staff will prepare one for a future meeting.

The City of Benbrook's website currently links to the State of Texas' searchable database of registered sex offenders. In addition, the Police Department will begin sending a periodic e-mail to homeowners associations regarding the location of registered sex offenders, if requested.

Motion Mr. Sauma, seconded by Mr. Schull to draft an ordinance for City Council consideration prohibiting registered sex offenders of minors from residing within 2,000 feet of a place frequented by children and for the Benbrook Police Department to begin notifying Homeowner Associations of any sex offender moving into the area.

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

PZ-2006-06 Adopt an ordinance rezoning 11.419 acres of land being 9.035 acres in the J.M. Evans Survey Abstract Number 466 and 2.384 acres in the Hays Covington Survey Abstract Number 257 from "D" Multiple Family District to "HC" Highway Corridor District (Northwest of Benbrook Boulevard/US Hwy 377, south of westerly extension of Mercedes Street – under construction, and east of northeasterly extension of Vista Way – under construction)

Mr. Gattis stated the rezoning request is for 11.419 acres in the J.M. Evans Survey Abstract Number 466 and Hays Covington Survey Abstract Number 257. The current zoning is "D" Multiple Family District. Benbrook Economic Development

Corporation is the applicant and is proposing "HC" Highway Corridor District. The Land Use Plan is for Mixed Use Village.

The 11.419 acre subject property is the rear part of an overall 21.02 acre vacant site with frontage on Benbrook Blvd. The front 9.601 acres along Benbrook Blvd. has been zoned "HC" Highway Corridor District since February 1994. The proposed extension of the "HC" Highway Corridor District is to accommodate an anticipated large retail development.

The combined 21.02 acre site has frontage on Benbrook Blvd. and the extensions of Mercedes Street and Vista Way that are currently under construction. The applicant has submitted a Traffic Impact Analysis that shows that the expected traffic can be accommodated with localized improvements as well as the planned expansion of Benbrook Blvd.

The Land Use Plan indicates Mixed Use Village for the 11.419 acres as well as the 9.601 acres currently zoned "HC" Corridor District. With commercial uses in the proposed "HC" Highway Corridor District among the permitted uses in a Mixed Use development, the proposed rezoning is compatible with the Land Use Plan.

The Planning and Zoning Commission recommends that the City Council approve the rezoning application.

Tom Galbreath with Dunaway Associates addressed City Council on behalf of the Benbrook Economic Development Corporation and the proposed developer of the property, WalMart Texas Stores, LP. Mr. Galbreath said the rezoning application is for the 11.419 acres on the back portion of the site that is proposed for a WalMart Supercenter.

Mr. Galbreath said the store is one of the larger and more common stores that WalMart has built in and around the Metroplex in recent years. He said they have submitted a traffic impact analysis to TxDOT but they intend to work off the existing traffic light at Mercedes Street and Benbrook Blvd. There will be no left turns out of the parking lot onto Benbrook Blvd. because of the extensive traffic and because of a substantial grade change at the rear of the property there will be no access to or from the extension of Vista Way that is under construction at this time.

The parking lot will have landscaped islands that go to the continuous length of the parking lot with sidewalks down the center and trees on both sides. Mr. Galbreath said they have also created a large landscaped island on the north side of the site. He said WalMart has purchased a live oak tree farm in Waco and the largest trees will be used at the Benbrook store, along Benbrook Blvd. on the north side of the property and scattered around the site.

Mayor Dittrich declared the public hearing open at 8:15 p.m. No one spoke for or against this item. Mayor Dittrich closed the public hearing at 8:16 p.m.

Motion by Mr. Allison, seconded by Mr. Sauma to adopt Ordinance No. 1226 rezoning 11.419 acres of land being 9.035 acres in the J.M. Evans Survey Abstract

Number 466 and 2.384 acres in the Hays Covington Survey Abstract Number 257 from “D” Multiple Family District to “HC” Highway Corridor District.

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.

Ordinance No. 1226 being **“AN ORDINANCE AMENDING ORDINANCE NO. 808, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF BENBROOK, BY CHANGING THE ZONING CLASSIFICATION OF 11.419 ACRES OF LAND (BEING 9.035 ACRES IN THE J.M. EVANS SURVEY, ABSTRACT NUMBER 466 AND 2.384 ACRES IN THE HAYS COVINGTON SURVEY, ABSTRACT NUMBER 257) IN THE CITY OF BENBROOK, TARRANT COUNTY, TEXAS FROM “D” MULTIPLE FAMILY DISTRICT TO “HC” HIGHWAY CORRIDOR DISTRICT AND BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.”**

SECTION 1.

Ordinance No. 808, as amended, is hereby amended to change the zoning classification of an 11.419 acre tract of land (being 9.035 acres in the J.M. Survey, Abstract Number 466 and 2.384 acres in the Hays Covington Survey, Abstract Number 257) in the City of Benbrook, Tarrant County, Texas from “D” Multiple Family District to “HC” Highway Corridor District, such property being depicted on Page 1 of Exhibit “A” which is attached hereto and make a part hereof by reference, and being more particularly described by metes and bounds on Page 2 of Exhibit “A” which is attached hereto and made apart hereof by reference.

SECTION 8.

The City Secretary is directed to engross and enroll this Ordinance by copying the caption, Section 1 and the effective date clause in the minutes of the City Council and by filing the Ordinance in the Ordinance records of the City.

V. REPORTS OF CITY MANAGER

A. GENERAL

G-1670 Adopt Ordinance Annexing:

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

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 City Council held the required public hearings on November 2 and November 16, 2006 following publication of public notice on each public hearing as prescribed by law. 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.

Motion by Mr. Schull, seconded by Mr. Stowe to adopt Ordinance No. 1222 annexing two tracts of land along the right-of-way of Chapin Road.

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.

Ordinance No. 1222 being **“AN ORDINANCE PROVIDING FOR THE ANNEXATION OF TWO TRACTS OF LAND WHICH ARE PORTIONS OF THE VARIABLE WIDTH RIGHT-OF-WAY OF CHAPIN ROAD, INTO THE CITY OF BENBROOK, TEXAS, FOR ALL MUNICIPAL PURPOSES; DIRECTING THE CITY MANAGER TO PERFORM CERTAIN ACTS IN CONNECTION WITH SUCH ANNEXATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.”**

G-1671 Adopt Ordinance Disannexing:

Tract 1: A tract of land in the L.B. Creswell Survey Abstract Number 367, adjacent to the west line of Jackson Cemetery, south of the north line of the L.B. Creswell Survey, and northeast of Chapin Road

Mr. Gattis gave the following report: In conjunction with the annexations of portions of Chapin Road, the City must disannex two tracts. Both tracts are portions of larger Benbrook annexation areas that had been previously annexed by Fort Worth. The Staff discovered the two areas that overlap the Fort Worth city limit during research for the Chapin Road annexation consideration. In 1968, Benbrook and Fort Worth adopted a Joint Resolution that established the future common boundary line between the two cities.

The proposed ordinance is to disannex two tracts that were annexed inappropriately in 1951 and 1957.

The disannexation procedure is simply by adoption of an ordinance. There is no private property and no residents involved. Tract 1 is owned by the Fort Worth Independent School District and Tract 2 is a street right-of-way. Both tracts are already in the City of Fort Worth.

Motion by Mr. Vander Pan, seconded by Mr. Sauma to adopt Ordinance No. 1220 disannexing two tracts along and adjacent to Chapin Road.

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.

Ordinance No. 1220 being **“AN ORDINANCE DISANNEXING A TRACT OF LAND IN THE L.B. CRESWELL SURVEY ABSTRACT NUMBER 367 AND A TRACT OF LAND WHICH IS AN APPROXIMATELY 60 FOOT WIDE PORTION OF THE RIGHT-OF-WAY OF CHAPIN ROAD THAT EXTENDS 1000 FEET IN AN EASTERLY DIRECTION FROM THE EAST RIGHT-OF-WAY LINE OF**

WILLIAMS ROAD; DIRECTING THE CITY MANAGER TO PERFORM CERTAIN ACTIONS IN CONNECTION WITH SUCH DISANNEXATION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.”

G-1672 Reclassification of Assistant City Manager

Mr. Wayman gave the following report: City Council has expressed its intent to reclassify the Assistance City Manager position to Deputy City Manager. The purpose of the reclassification is to (1) retain the current Assistant City Manager and (2) convey appreciation for his service to the City.

The proposed reclassification includes a 5% salary range adjustment and the provision of a car allowance. The proposed car allowance will be at the same rate as the police chief, \$450/month.

Motion by Mr. Allison, seconded by Mr. Vander Pan to approve the reclassification of Assistant City Manager to Deputy City Manager effective January 1, 2007 and make the appropriate budget adjustment.

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-1673 Funding for Recognition of Retiring City Manager

Mrs. Morris gave the following report: This fall, City Manager Cary Conklin announced his retirement effective December 31, 2006.

City Council, City staff, and numerous citizens have expressed an interest in organizing a celebration event for Mr. Conklin. Staff proposed an event to be held on a Saturday in late January from 3:00-5:00 p.m. with a formal program at 4:00 p.m. Benbrook United Methodist Church has graciously offered to donate the use of the Christian Life Center. The Life Center is available on January 20 and January 27, 2007. Attendance is estimated at 200 with the cost for decorations and food to be \$1,250. City Council may also want to consider appropriating funds to purchase a gift for Cary as additional compensation for his excellent services rendered.

Motion by Mr. Vander Pan, seconded by Mr. Schull to approve an amount not to exceed \$3,000 for a gift and celebration to be held January 20, 2006 for recognition of the retiring City Manager.

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.

B. CONTRACT

C-225 Authorize Contract with National Citizen Survey for 2007 Citizen Survey

Mr. Gattis gave the following report: Staff has conducted a survey of citizens from 1996 until 2005. A satisfaction survey is conducted in even-numbered years. Odd-numbered years the survey is an opinion for services.

The surveys are distributed in the Benbrook Community Newsletter to 6,000 households with extra copies available to the public. The typical response rate has been 400 to 600. Responses to the survey were not truly random. Instead, they represented the people who were motivated to respond to the questionnaire in any given year. Because additional copies of the Newsletter were available, there was no control on the number of responses that an individual could make.

When Staff completed the compilation and analysis of the 2005 Citizen Survey, it became apparent that there were numerous duplicate surveys submitted. The City decided to reject the entire survey and not release the results because of their questionable validity.

As an alternative to the previous method of survey collection, Staff recommends using a professional public opinion firm to conduct a truly random survey. For the citizen satisfaction survey, Staff proposes that the City participate in the National Citizen Survey, administered by the National Research Center, Inc. in Boulder Colorado, in conjunction with the International City/County Management Association. The National Citizen Survey has the advantages of using standardized, but customized survey instruments and the ability to compare responses in Benbrook to those of other communities nationwide. The National Research Center will work with Staff in the development of the survey, including use of logos and a cover letter from the Mayor. A total of 1,200 surveys will be mailed to random residents and the results have a 95 percent confidence level. The firm will compile the results into a final report. The basic service is \$8,400 and the addition of demographic and geographic cross-tabulations is an additional \$1,950 for a total of \$10,350.

For the years in which a policy opinion survey is administered, Staff recommends using Raymond Turco & Associates in Arlington to perform a random telephone survey. Raymond Turco & Associates performed a citizen survey for the City in 1997 as part of the Parks and Open Space Master Plan. Mr. Turco has submitted

a proposal indicating the costs would be \$5,000 to \$9,500 per survey, depending on the size of the survey and the amount of analysis requested. Mr. Turco can also assist in developing the survey questions to reduce bias.

The National Citizen Survey will cost an estimated \$10,350. The City Council included \$10,000 in this year's budget for a citizen survey. The remaining \$350 will come from other unassigned consulting projects.

Motion by Mr. Stowe, seconded by Mr. Bailey to authorize staff to enter into contract with National Citizen Survey for 2007 at a cost of approximately \$10,350 to be paid from Account No. 01-5101-5211.

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 COMMENTS

X. EXECUTIVE SESSION – Pursuant to Texas Government Code

Section 551.074 – Personnel Matters

- 1. City Manager Employment Agreement**
- 2. City Secretary Employment Agreement**

Mayor Dittrich recessed the regular meeting at 8:53 p.m. to conduct Executive Session pursuant to Texas Government Code Section 551-074 – Personnel Matters.

XI. RECONVENE FROM EXECUTIVE SESSION

Necessary Action from Executive Session

Mayor Dittrich reconvened the regular session at 9:13 p.m.

Motion by Mr. Schull, seconded by Mr. Sauma to approve the employment agreement with the City Manager effective January 1, 2007 and set the compensation to reflect a salary and car allowance identical to that of the current City Manager with a contribution of \$8,000 to the City Manager's 457 retirement plan and make the appropriate budget adjustment.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

Motion by Mr. Allison, seconded by Mr. Stowe to approve the employment agreement with the City Secretary effective January 1, 2007.

Vote on the Motion:

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

Noes: None

Motion carries unanimously.

XII. ADJOURNMENT

Meeting adjourned at 9:15 p.m.

APPROVED:

Jerry B. Dittrich, Mayor

ATTEST:

Joanna King, City Secretary