

**REGULAR MEETING**  
**JANUARY 26, 2010**

Mayor Jeff Bearden called the Regular Meeting of the City Commission to order at 6:30 p.m. in the Commission Chambers, and a quorum was declared present.

Present: Mayor Jeff Bearden

Commissioners: Jimmy Dennis, Russell Brownlow, Travis Taylor and Phil McCuiston

Staff Present: City Manager Mitch Grant, City Attorney Trish Byars, Police Chief Tom Wilson, Fire Chief Kent Smead, Finance Director Anne Garmon, Community Development Director Monica Wilkinson, Code Enforcement Officer David Pilcher and City Secretary Linda Byers.

Commissioner Taylor led the group in the Pledge of Allegiance to the U.S. and Texas flags, followed by the invocation.

**PUBLIC COMMENT**

Mayor Bearden opened the meeting to Public Comment from those who had submitted Requests to Speak during Public Comment Forms.

There was no public comment.

**CONSENT AGENDA**

Commissioner Brownlow moved the following items under the Consent Agenda be approved:

- A. Copies of the minutes of the regular City Commission meeting held on Tuesday, December 22, 2009.
- B. Grant from the State Energy Conservation Office (SECO) Energy Efficiency and Conservation Block Grant Application for lighting and air conditioner retrofit for the Police Department and City Hall, insulated water lines at City Hall, and a 5KW wind turbine generator for the wastewater plant.
- C. Acceptance of a \$4,000 grant for equipment and training from TXDOT for reporting enforcement statistics during the 2009 Labor Day holiday.
- D. Acceptance of a \$2,500 GO-TEXAN Rural Community Bootstraps Bucks Grant for Banners from Texas Department of Agriculture.
- E. Acceptance of a \$1,570 grant from the Chapman Forestry Foundation for 35 trees to be planted in the three downtown project sites.
- F. Development of a Cooperative SWAT Training and Equipment Grant Application with the City of Wichita Falls, Texas that will form a North Texas SWAT Team.
- G. Amendment to the City of Vernon Travel Policy to adopt State of Texas per-diem rates for meals on City of Vernon business.

- H. Application for funds from a 2009 State Homeland Security Program (SHSP) grant to benefit the Fire/EMS and Police Departments. The application is for communication equipment that is Project 25 (P25) compatible (digital radios).
- I. Second Reading for Ordinance #1537 adjusting ambulance rates for special events.
- J. Second Reading for Ordinance #1533 amending Section 24-54 of the Code of Ordinances requiring monthly remittance instead of quarterly for Hotel Occupancy Tax.
- K. Second Reading for Ordinance #1536 for Rezoning 4800 College Drive from Single Family Residential (R-2) to General Residential (R-G).
- L. Second Reading for Ordinance #1535 for a Special Use Permit to build a carport in the front yard setback at 2300 Summerour Road.
- M. Emergency purchases totaling \$6,320.60 for the emergency purchase of parts to rebuild one of the three 30 HP Influent pumps at the Wastewater Treatment Plant.
- N. Vouchers – December 1, 2009 through December 31, 2009.

Commissioner McCuistion seconded the motion, which passed by unanimous vote.

### **LEADERSHIP CLASS OF THE BOYS & GIRLS CLUB**

Maria Medina along with the Leadership Class of the Boys and Girls Club was recognized. Mayor Bearden thanked them for attending and encouraged the youth to become involved in the community.

### **BUSINESS DEVELOPMENT CORPORATION REPORT**

Sean Stockard, President and CEO of the Business Development Corporation, reported that the BDC had received a clean and unqualified audit for the 2008-2009 fiscal year. The agreements with Tangarie Corporation have been finalized. A 3.1 million grant application for Agriboard through the Texas Enterprise Fund has been completed. If the grant is received it would create an additional 130 jobs over seven years, and have an estimated \$11 million economic impact on the local economy. If funding is not received, the Agriboard plant will probably leave Vernon.

### **POLICE DEPARTMENT RACIAL PROFILING REPORT**

Police Chief Tom Wilson reported that the department made 1,737 contacts in 2009 and 57.6% of those searches were Caucasian and 31.2% Hispanic. There were 23 searches; with 34.8% of those Caucasian and 34% Hispanic.

In 2009 the Police Department had a total of 21,753 calls for service, and investigated a total of 1,463 crimes, up from 1326 crimes in 2008. There were 4268 traffic stops, 265 accidents investigated, and total monetary transactions of \$234,558. Drug arrests, DWI arrests, and assaults all increased in 2009.

Chief Wilson emphasized that the department has always been a community oriented police department and will continue to serve the community.

**RESOLUTION NO. 896**

Commissioner Taylor made the motion to remove Resolution No. 896 to place stop signs at the corner of Kennedy Street and Cannon Street from the table at the December 22, 1009 meeting.

Commissioner Dennis seconded the motion, which passed by unanimous vote,

The matter is back before the commission to consider stop signs at the corner of Kennedy and Cannon Streets.

Commissioner Taylor commented that the property at this intersection looks better since it was cleaned up. The property owner met with the city manager and public works director and understands the problem.

Commissioner Brownlow made the motion to amend Section 1 of Resolution No. 896 to erect a stop sign for south-bound traffic on Kennedy Street, and to delete Section 2 of Resolution No. 896.

Commissioner Dennis seconded this motion to amend the resolution, which passed by unanimous vote.

There was a short discussion which clarified the intentions of the amended resolution, after which the amended resolution passed by unanimous vote.

**RESCHEDULE REGULAR FEBRUARY MEETING**

Mayor Bearden serves as Vice-Chair of the Nortex Regional Planning Commission Board and will be attending the National Association of Regional Planning Commissions meeting which will conflict with the February regular meeting.

After a short discussion, Commissioner McCuiston made the motion to change the date for the regular February meeting to February 25, 2010.

Commissioner Taylor seconded the motion, which passed by unanimous vote.

**MEMORANDUM OF UNDERSTANDING – BUILDING AT 1800 CUMBERLAND ST.**

This is amended memorandum of understanding between the City, Wilbarger County, and the Carnegie Library Board. This MOU is to accomplish three things:

- Transfers ownership of the building at 1800 Cumberland to the County in return for their ½ ownership in the Library/CAD building at 2808 Wilbarger St.
- Transfers ownership of the building at 2808 Wilbarger to the Library.
- Reimbursement for the building at 2808 Wilbarger will be a cash payment of \$61,500. The City hereby declares the transfer of this building to be for a public purpose.

After a short discussion, Commissioner McCuiston made the motion to adopt the Memorandum of Understanding between the City, Wilbarger County and the Library Board to transfer this property for a public purpose.

Commissioner Taylor seconded the motion, which passed by unanimous vote.

**RESOLUTION NO. 897**

**A RESOLUTION CALLING FOR A PUBLIC HEARING TO DETERMINE WHETHER CERTAIN IMPROVEMENTS DESCRIBED HEREIN ARE EACH DANGEROUS STRUCTURES AND A PUBLIC NUISANCE.**

1615 Bowie Street	3011 Luna St
1306 Eastland St.	1426 Maiden St.
2420 Houston St.	1524 Maiden St.
3316 Indian St.	4019 Maple St.
3324 Indian St.	1300 Sherman St.
1013 & 1015 Lamar St.	1420 Sherman St.
1016 Lamar St.	2100 Wanderer St.
1826 Lexington St.	3026 Wheatley St.
2602 Luna St.	804 Wichita St.
2907 Luna St.	1903 Wood St. (Garage)

Commissioner McCuiston made the motion to approve Resolution No. 897, and setting a public hearing for February 25, 2010.

Commissioner Brownlow seconded the motion, which passed by unanimous vote.

**RESOLUTION NO. 898**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF VERNON, TEXAS, THAT AUTHORIZES THE CITY OF VERNON INVESTMENT POLICY AND PROVIDING FOR RECORDING AND AN EFFECTIVE DATE.**

Commissioner Dennis made the motion to approve Resolution No, 898.

Commissioner Brownlow seconded the motion, which passed by unanimous vote.

**NOTICE OF GENERAL ELECTION**

Commissioner Taylor made the motion to approve the Election Order calling for the City's General Election on May 8, 2010 to elect a Mayor and Commissioners Place 1 and Place 2 to serve for two year terms, and appoint the election judge and alternate judge.

Commissioner Brownlow seconded the motion, which passed by unanimous vote.

**ORDINANCE NO. 1538**  
**ORDER CHARTER ELECTION**

**AN ORDINANCE ORDERING AN ELECTION BY THE QUALIFIED VOTERS OF THE CITY OF VERNON, TEXAS ON THE SECOND SATURDAY IN MAY, BEING THE 8<sup>TH</sup> DAY OF MAY, 2010 FOR THE PURPOSE OF AMENDING THE MUNICIPAL CHARTER FOR THE CITY OF VERNON, TEXAS.**

Commissioner Taylor made the motion to approve Ordinance No. 1538 to order an election to amend the Municipal Charter.

Commissioner McCuiston seconded the motion,

There was discussion about how to notify the voters of the changes to the charter. The Charter Review Committee has volunteered to speak to civic clubs and other meetings. Following this discussion, the motion passed by unanimous vote.

**CHARTER ELECTION INFORMATION SHEET**

Commissioner McCuiston made the motion to approve the Charter Election Information Sheet which outlines the proposed changes to the City Charter.

Commissioner Taylor seconded the motion, which passed by unanimous vote.

**PUBLIC HEARING**  
**ORDINANCE NO. 1539**

Mayor Bearden opened the meeting to a public hearing for Ordinance No. 1539 prohibiting sex offenders and predators from residing within a safety zone around certain schools, parks, daycare centers and youth centers.

City Manager Grant explained that this is an issue that was brought forth at a staff meeting by Police Chief Tom Wilson, and will be good for the community.

There was no public comment, and the Mayor closed the public hearing.

**ORDINANCE NO 1539**

**AN ORDINANCE OF THE CITY OF VERNON, TEXAS ESTABLISHING ARTIVLE III – PUBLIC SAFETY ZONE, OF CHAPTER 18 – OFFENSES AND MISCELLANEOUS LAW ENFORCEMENT PROVISIONS, OF THE CODE OF ORDINANCES, TO PROVIDE A SAFETY ZONE SURROUNDING SCHOOLS, CHILDCARE FACILITIES, YOUTH CENTERS, AND CITY PARKS; PROVIDING FOR CONFLICTS; AND PROVIDING FOR SEVERABILITY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN T THE PUBLIC AS REQUIRED BY LAW.**

Commissioner Taylor made the motion to approve the first reading of Ordinance No. 1539.

Commissioner Dennis seconded the motion, which was passed by unanimous vote.

**IESI CONTRACT AMENDMENT**

City Manager Grant explained that the City is under an existing contract with IESI for trash collection until 2012, and the company has requested that the hours of trash pickup be extended to begin at 6:00 am for areas that are at least 500 feet from a residence. This would mirror our city ordinance regarding noise, and the city should not restrict IESI from an earlier start than that allowed by ordinance. Mr. Grant recommended amending Section 18 of the existing contract with IESI to allow them to begin trash pickup at 6:00 am in commercial areas.

Commissioner McCuistion made the motion to approve the amendment to the IESI contract.

Commissioner Brownlow seconded the motion, which passed by unanimous vote.

**STORAGE BUILDING FOR FIRE / EMS**

This project was considered at the October 27, 2009 Regular Meeting and the bids received were over budget. The project was sent back to staff to find ways to lower the cost of the building. The city has hired a welder who will be covered under the City workers compensation policy to construct the building and the city will purchase the materials. Because of the size of the building, there is no requirement for and engineer. The estimated cost is \$10,241 for materials and labor.

Commissioner Taylor made the motion to approve the plans for construction of the storage building for the Fire Department.

Commissioner Brownlow seconded the motion, and following a short discussion concerning details of the proposal, the motion passed by unanimous vote.

**REQUEST FOR FORMAL APPEAL – HEATHER GOMEZ TERMINATION**

Mayor Bearden asked Ms. Gomez if it was her request to have a formal appeal hearing before the city commission. She responded “Yes, sir.”

Mayor Bearden asked if she was represented by council and if Mr. Ricky Bunch was her attorney. She responded, “He will be representing me.”

Mayor Bearden asked if she or her attorney would be willing to submit written information to the commission for their consideration. She responded “We’re asking for a public hearing. She wants to speak to the commission directly and not through writing.”

Mayor Bearden explained that city policy does allow appeal to the city commission, and it is in the best interest of the city and Ms. Gomez to exhaust all opportunities for due process. On the advice of the city attorney as well as TML the commission should hear the appeal.

To grant the formal appeal the commission is requesting formal written submittals answering some specific questions that will help give the commission some basis for making a decision about the appeal.

Some of the questions that would need to be answered at the appeal hearing are:

- Was the employee’s behavior terminable conduct on the job?
- Was the employee afforded due process in the termination proceedings?
- Was City policy and procedure followed in termination?
- Is there any new information that would affect the decision to terminate that was not available to the supervisors who handled the termination at the time it occurred?
- Is there a rationale for overturning the termination?
- What action or relief is requested by the appellant?

Commissioner McCuiston made the motion to grant the formal appeal and direct the City Attorney to provide the appellant with a list of required submittals for which an answer must be received within 10 days. After submittals are received the Mayor will then schedule the appeal.

Commissioner Brownlow seconded the motion. After discussion concerning the structure of the appeal hearing, the motion passed by unanimous vote.

**NORTEX REGIONAL REVIEW COMMITTEE APPOINTMENT**

The City is required to nominate someone to the Nortex Regional Review Committee which will set scoring criteria for regional grant applications. The recommended appointee’s name will be submitted to the Governor, who will make the formal appointment,

Commissioner Brownlow made the motion to appoint Commissioner Phil McCuiston to the Nortex Regional Review Committee.

Commissioner Taylor seconded the motion, which passed by unanimous vote.

**EXECUTIVE SESSION**

Commissioner McCuiston made the motion to enter into Executive Session at 7:25 pm – Government Code, Title 5, Chapter 551, Section 551-071; Consult with Attorney regarding contemplated litigation in regards to engineering charges from Brandt Engineers.

Commissioner Dennis seconded the motion, which passed by unanimous vote

**RESUME REGULAR SESSION**

Commissioner McCuiston made the motion to resume regular session at 8:20 pm.

Commissioner Dennis seconded the motion, which passed by unanimous vote.

Commissioner Dennis made the motion to pay Brandt Engineers as follows:

- \$12,699.50 for Texas Water Development Board Application.
- \$1,127.50 for Swimming Pool Application.
- \$470.00 for Zoning Map.

Total Payment will be \$14,297.00

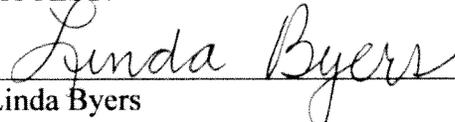
Commissioner McCuiston seconded the motion, which passed by unanimous vote.

**ADJOURN**

The meeting was declared adjourned at 8:24 p.m.

  
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Jeff Bearden  
Mayor

ATTEST:

  
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Linda Byers  
City Secretary