

REGULAR MEETING
SEPTEMBER 28, 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, with all members 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, Fire Chief Kent Smead, Police, Finance Director Anne Garmon, Public Works Director Bob Cochran, Code Enforcement Officer David Pilcher, Police Lieutenant Peter Hall and City Secretary Linda Byers.

Commissioner Brownlow 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 were no public comments.

CONSENT AGENDA

Commissioner Brownlow moved the following items, under the Consent Agenda are approved:

- A. Minutes of the Special Meeting held on Tuesday, August 19, 2010, Minutes of the Regular City Commission meeting held on Monday, August 23, 2010 and minutes of the Finance Committee Meeting held on August 23, 2010.
- B. Second Reading of Ordinance No. 1548 – Budget Amendment #3 for the Fiscal Year October 1, 2009 through September 30, 2010.
- C. Second Reading of Ordinance No. 1542 adopting the State of Texas General Penalty for violation of City Ordinances.
- D. Awarding of bid to O'Reilly Auto Parts to supply vehicle and equipment filters for a two year contract with a total bid of \$2,003.36.
- E. Change to the Personnel Policy Manual to add Section 613, outlining an Employee Uniform Policy for City Employees.
- F. Changes to the City of Vernon Travel Policy to meet IRS guidelines.
- G. Purchase of new binders and sleeves for Historical Cemetery records to be paid from the Perpetual Care Fund in the amount of \$4,379.50.
- H. Financial Investment Report for August 1, 2010 through August 31, 2010 reflecting earned interest of \$23,227.73, and Vouchers for the same period totaling \$839,700.99.

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

REPORT FROM WICHITA-WILBARGER 9-1-1 DISTRICT

Wichita-Wilbarger 9-1-1 District Executive Director Gary Young spoke to the Commission about the funding sources and funding challenges for the 9-1-1 District, the innovations that allow 9-1-1 dispatchers to automatically locate a person calling from a cell phone, and the future challenges facing next-generation 9-1-1.

CHANGE ORDER #1 – GROUND WATER STORAGE TANK

Public Works Director Cochran updated the Commission on the status of the construction of Ground water storage tanks. The Strayhan Street tank was placed online on Friday, September 24, 2010. The old tank has been destroyed, and the Odell tank is scheduled for demolition on Thursday, September 30.

Mr. Cochran explained the change order from Natgun Corporation for excavation and replacement of soil in three areas of the foundation perimeter after soil testing determined that the sub grade was high in moisture content. He recommended a payment to Natgun Corporation in the amount of \$8,580.00.

Commissioner McCuiston made the motion to approve Change Order #1 in the amount of \$8,580.00.

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

ION EXCHANGE REHABILITATION ENGINEERING

City Manager Grant explained that the planned Ion Exchange Plant renovation entails resurfacing of the vessels and some alterations to add a manhole at ground level. Mr. Grant feels it is important to have on-site engineering representation all during the work so that there will be little chance of failure due to quality control, and has negotiated an estimated fee of \$28,000 with Kimley-Horn and Associates. Because resurfacing has failed twice, it is important to not only provide a different coating but to take all precautions we can to get it right this time.

Commissioner Taylor made the motion to approve the contract for engineering on the rehabilitation of the Ion Exchange Plant with Kimley-Horn and Associates.

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

ORDINANCE NO. 1553

**AN ORDINANCE OF THE CITY OF VERNON PROHIBITING
NORTHBOUND (EAST SIDE) PARKING ON STADIUM DRIVE
FROM YAMPARIKA STREET TO PARADISE STREET.**

City Manager Grant explained that the city had received a request from the Vernon ISD to designate "No Parking" on the northbound lane of Stadium Drive from Yamparika Street to Paradise Street to help alleviate congestion during ball games.

Commissioner Dennis made the motion to approve Ordinance No. 1553 prohibiting parking on the northbound lane of Stadium Drive.

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

ORDINANCE NO. 1552

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VERNON, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S THIRD RATE REVIEW MECHANISM ("RRM") FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS MID-TEX'S PROOF OF REVENUES; EXTENDING THE RRM PROCESS FOR TWO CYCLES AND ADOPTING A NEW RRM TARIFF; RATIFYING THE SETTLEMENT AGREEMENT, INCLUDING COST RECOVERY FOR A STEEL SERVICE LINE REPLACEMENT PROGRAM; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

City Manager Grant explained that the City has some limited rate control over the rates charged for gas service to City of Vernon customers. This Atmos rate increase reflects cost recovery for mandated replacement of all steel service lines statewide. There are over 300 of these lines in Vernon.

Commissioner McCuiston made the motion to approve Ordinance No. 1552.

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

BUSINESS DEVELOPMENT CORPORATION
BOARD OF DIRECTORS

Mayor Bearden explained that there were two members whose term will expire September 30, 2010 and Doug Matthews, whose term expires September 30, 2011, is resigning due to his relocation. The Commission will need to appoint two people to a two year term and one member to fill the unexpired term of Doug Matthews.

Commissioner Dennis nominated Darrell Kennon. Mayor Bearden nominated Jonathan Voekel. Commissioner McCuiston nominated Jim Trafton. Commissioner Taylor nominated David Littiken.

Following extended discussion on the best way to choose among those nominated, Commission Taylor made the motion to accept the resignation of Doug Matthews and appoint Jonathan Voekel, Jim Trafton and David Littiken to the Board of Directors of the Business Development Corporation.

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

HOUSING AUTHORITY BOARD OF DIRECTORS

Commissioner McCuiston made the motion to reappoint James Foerster, Linda Kennedy and George Pattison to two year terms on the Housing Authority Board, expiring 09-30-2012.

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

CONDEMNATION OF PROPERTY
PUBLIC HEARING

Code Enforcement Officer David Pilcher presented a staff report including pictures of each property:

2204 Fannin St.: Owned by David Hernandez since 1998. This property was involved in a fire before he purchased it, and has had numerous complaints. This is the third time for this property to be on the condemned list. There is a hole in the roof. Taxes are paid and current.

Mayor Bearden opened the Public Hearing on 2204 Fannin St.

Henry Goodrum, who lives across the street from the property, stated that there is no electricity, apparent drug activity, and it should have been torn down years ago. Chris Milner, also lives across the street, stated that there are vagrants going in and out of the building; his mother-in law cares for his children in his home and she is scared of the activity at this building.

David Hernandez, owner of the property stated that he had completed a punch list of things that the code enforcement officer said needed to be done. He stated that he has hired a man to mow the grass and repair the building, there is no drug activity and he is not aware of any problems. He was refused a permit to start repairs, and wants to be made aware of problems so he can fix them. He requested six months to make repairs.

Michael Soldano was hired to make repairs to the house. He claims the structure is sound and the only damage is on the inside, but he cannot make repairs without a permit.

Sandra Goodrum voiced concern for all of the kids in the area, stating that the house is dangerous.

Code Enforcement Officer Pilcher noted that the permit was denied because of all of the complaints. With the history of the building, he did not see repairs happening. City Manager Grant noted that a permit does not have to be issued if plans are not adequate.

Robert Goodrum, who lives two houses down from this property, noted that this house has constantly gotten worse. Mr. Goodrum suggested if you give him six months, then tear it down when he doesn't get the repairs done. He has to trap animals at his house because of the animals living on this property.

Mayor Bearden asked how long it would be before this house was torn down if it was condemned. Mr. Pilcher, along with Public Works Director Cochran, stated that it would be one to two months.

There were questions from the Commissioners about how long it would take to fix the property to prevent animals and vagrants, whether he had the authority to sell the property, how often he is there, where he lives (3021 Yamparika), and whether or not the house was habitable. Mr. Hernandez never gave a straight answer to these questions.

Mayor Bearden closed the Public Hearing on this property. He stated that the Commission wants to take private property rights seriously. At the same time, the Commission is under pressure to improve the appearance, the quality of life, and the safety of our citizens. It is their concern that properties are maintained with a minimum degree of safety and well-being so that they don't pose a threat to the neighborhood.

3204 Maiden St.: Staff reports that this property is being torn down by the current tenants from the inside out. The owner is James Watts, who was not present at the meeting. Electrical power was removed June, 2010. The water meter was pulled in August, 2010. There are also law enforcement issues at this property. Last year's taxes are due.

Dewey Hite, who lives at 3304 Maiden, noted that the building has no electricity, no windows, and is a continuous mess.

Commissioner Dennis noted that he has had complaints on this property.

3212 Maiden St.: Same owner, same tenants and same problems as 3204 Maiden St. There were no additional comments on this property.

Mayor Bearden closed the Public Hearing.

RESOLUTION NO. 908

A RESOLUTION DECLARING THAT CERTAIN IMPROVEMENTS DESCRIBED HEREIN ARE PUBLIC NUISANCES, AND REQUIRING THE TAKING DOWN AND REMOVAL OF SUCH IMPROVEMENTS.

Commissioner Taylor made the motion to approve Resolution No. 908 for condemnation of houses at 2204 Fannin St., 3204 Maiden St., and 3212 Maiden St.

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

AQUATIC CENTER GRANT REAPPLICATION

City Manager Grant explained that after we did not receive the Texas Parks and Wildlife Grant, staff had a teleconference with TPWD representatives. The meeting was so positive that it was decided to reapply for funding. Meg Heatly agreed to develop the needed changes and resubmitted the application by the September 27, 2010 deadline. Commission approval was not required to reapply, but staff is requesting ratification of the application. We should find out if we receive the grant by February, 2011.

Commissioner Brownlow made the motion to approve the September 27, 2010 reapplication for Aquatic Center funding from the Texas Parks and Wildlife Department.

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

AQUATIC CENTER PRELIMINARY DESIGN

The Aquatic Center design that is being proposed is Design D-1 which includes a multi-use pool with three lap lanes, a zero beach pool, a water slide, and a lazy river. Project and engineering costs are estimated to be \$1.57 million. There will be additional costs for utility work, and a bath house.

Part of our match on any grant received would be the engineering costs. If engineering is done before the grant application is approved, we will have to match cash, but that should not be a problem.

Commissioner Brownlow informed the Commission that the Aquatic Center Committee approves the D-1 plan, but that design had not been approved so that the Committee could approach potential donors.

There was extensive discussion concerning engineering costs and designs. Mayor Bearden noted that our options regardless of which design we decide on – go forward with the engineering – and apply for the grant. City Manager Grant noted that you can't pull back on the engineering once you have decided on a design, but there would be ways to reduce costs on the construction by putting off installation of certain design elements.

City Manager Grant explained the funds available and outlined our funding options.

Following discussion on designs and costs, Commissioner McCuiston made the motion to approve Design D-1 for the Aquatic Center Preliminary Design.

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

ENGINEERING CONTRACT AMENDMENT
AQUATIC CENTER CONSTRUCTION

In accordance with the discussion during the prior agenda item, since we are applying for another TPWD grant for the Aquatics Center, we cannot begin construction until February, 2011, it will not be necessary to begin engineering for this project at this time.

Commissioner Dennis made the motion to table action on this engineering contract amendment for Aquatic Center construction pending a report from the swimming pool committee.

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

AWARD CONTRACT FOR CONSTRUCTION
WESTERN TRAIL DRIVE

Bids were received and opened on September 13, 2010 for construction of Western Trail Drive. Two bids were received. AMD Engineering has reviewed the bidders' qualifications and based on this review, it appears that Freeman Construction is the lowest responsible bidder with a total base bid plus alternate 1 in the amount of \$185,146.00. City Manager Grant asked that this approval be contingent upon final approval from the grant consultant.

Commissioner Taylor made the motion to approve the award of contract for construction of Western Trail Drive to Freeman Construction.

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

POLICY REGARDING PAST DUE CHARGE-OFF'S

City Manager Grant asked for approval of a policy regarding charge-offs of past due ambulance and utility billings. The suggested policy would be:

The City of Vernon will make every reasonable attempt to collect all past due amounts, When all reasonable efforts are exhausted and certain time elapses, a committee comprised of the Mayor, City Manager, Finance Director and City Secretary may approve charge-offs on a case-by-case basis.

Commissioner Dennis made the motion to approve the policy as stated above.

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

VOTES FOR TML BOARD

City Manager Grant recommended Place 7 Kevin Carruth, City Manager of Paris and Place 8 Larry Melton, Mayor of Odessa. He had no recommendations for Place 6 and Place 9.

Commissioner Taylor made the motion to approve votes on the Texas Municipal League Board for Place 7 Kevin Carruth and Place 8 for Larry Melton and no votes for Place 6 or Place 9.

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

TOWER LEASE FOR SANTA ROSA COMMUNICATION

City Manager Grant explained that the city owns the communication tower on Houston Street, and has leased that tower to Suddenlink in exchange for them maintaining and inspecting the tower. The Fire Department also has their repeater on this tower.

Santa Rosa Communications has approached the City to lease space on this tower. They plan to provide internet to users that they cannot reach now. Mr. Grant outlined the proposed plan:

- Santa Rosa Communications would provide WiFi to city parks (up to 4). City would pay a small hook-up fee and electricity for each.
- Santa Rosa provides free internet to Texas Tech Mesonet weather site in the Odell area.
- Santa Rosa pays an amount equal to franchise fee charged to Suddenlink for all in town customers in excess of 50.

Mr. Grant asked for approval of this plan and to allow the City Attorney to prepare a contract.

Commissioner Brownlow made the motion to approve the plan.

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

AERIAL GIS MAPPING CONTRACT

City Manager Grant explained that the City has completed the majority of the GIS mapping project. It is operational now but needs some refining and data added to make it more useful. A more detailed aerial map with better resolution is needed. Mr. Grant asks for authorization to go forward with securing the best possible deal for getting a better aerial picture to use with the GIS mapping project as long as it is within budget.

Commissioner Dennis made the motion to approve this proposal.

Tape #869 & Tape #870

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

EXECUTIVE SESSION

Commissioner Brownlow made the motion to enter Executive Session – Government Code, Title 5, Chapter 551, Section 551.074 Personnel – City Manager Annual Review at 8:55 pm.

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

RESUME REGULAR SESSION

Commissioner McCuistion made the motion to resume regular session at 9:43 pm.


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

No action was taken following Executive Session.

ADJOURN

Commissioner McCuistion made the motion to adjourn the meeting at 9:44 p.m.

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



Jeff Bearden
Mayor

ATTEST:



Linda Byers
City Secretary