

**REGULAR MEETING**  
**FEBRUARY 28, 2012**

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, Public Works Director Bob Cochran, Finance Director Anne Garmon, Community Development Director Monica Wilkinson, Main Street Director Dan Kelleher, Parks & Cemetery Director Tony DeHoyas, and City Secretary Linda Byers.

Mayor Bearden 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 Comments.

**CONSENT AGENDA**

Commissioner Taylor moved the following items under the Consent Agenda are approved:

- A. Minutes of the Regular City Commission Meeting held on Tuesday, January 24, 2012, and minutes of the Finance Committee Meeting held on Monday, January 23, 2012.
- B. Emergency Repairs on Influent Wastewater pump in the amount of \$10,883 to Flygt Products, Inc.
- C. Second Reading of Ordinance No. 1585 amending the operation budget for Hotel Occupancy Tax Funds.
- D. Approve reappointment of Dr. Randall Schaffner as Municipal Health Authority.
- E. Reschedule April Regular Meeting to April 17, 2012.
- F. Financial Investment Report for the month of January, 2012 with interest earned totaling \$6,625.24 and vouchers from January 1, 2012 – January 31, 2012 in the amount of \$1,119,687.41.

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

**CAFR AUDIT REPORT**

Mike Edgin with Edgin, Parkman, Fleming & Fleming, PC presented the audit findings for the Fiscal Year ended September 30, 2011, with the City receiving a clean audit report. Assets

Digital Recording on file

exceeded Liabilities by \$20,950,736. Of this amount \$2,716,376 may be used to meet the City's obligations. During the fiscal year the City's net assets increased \$505,447. The governmental funds reported a fund balance of \$4,296,901, which is a decrease of \$728,223 from the prior year. \$240,263, or 6% of this total fund balance, is available for spending at the City's discretion.

Commissioner McCuiston made the motion to approve the audit report.

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

### **KID LEAGUE ELECTRIC BILLS**

City Manager Grant explained that there is a long-standing agreement between the Lions Club and the City to allow the baseball fields at Orbison Park to be used by the Lions Club to provide a baseball program for the Vernon youth. Due to the increasing cost of electricity, the Club changed the electrical meters over so that they were billed at the City's lower rate and reimbursed by the club, but the transmission costs continued even when no electricity was being used. Due to the increased costs, the Lions Club is asking the City to consider paying the approximate \$12,000 per year in electrical costs instead of having the club reimburse the cost. It is estimated around \$8,000 to finish out the current year, and a budget amendment would be necessary if we began paying this bill.

The services could be updated to cut the transmission charges, and pull the meters in months when no electricity is being used to lower the bills.

There was discussion on ways to lower the number of meters and manage the cost of electricity.

Commissioner Dennis made the motion to approve the City to pay the Kid League Park Electric bills. Commissioner Taylor requested that the City negotiate with the Lions Club to share the cost of consolidating meters.

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

### **EASTVIEW CEMETERY TREE PLANTING POLICY**

City Manager Grant told the Commission that it is important to establish some guidelines and a plan regarding the planting of trees at Eastview Cemetery so that all of our citizens can enjoy and be proud of the level of care we provide. The Mayor appointed a committee of Commissioner McCuiston, Commissioner Dennis, Joe Richie, City Manager Grant, Bob Cochran and Tony Dehoyas to develop a plan for review and adoption, especially in Blocks 21, 22, and 23. That policy includes:

- Tree and shrub planting shall be in accordance with the plat as included in the written plan.
- Only approved varieties and locations will be allowed.
- Only City Employees are allowed to do planting with the exception that volunteers may help only under the supervision of the Parks Superintendent or his designee.

Digital Recording on file

Commissioner Taylor made the motion to approve the tree planting plan and policy for Eastview Cemetery.

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

### **AQUATIC CENTER BATH HOUSE CONSTRUCTION**

City Manager Grant explained that additional funding will be needed to complete the new bathhouse for the aquatic center. The "construction Manager at risk" method was chosen to build the building. With a budget of \$130,000, after engineering fees of \$10,700, we will have \$119,300 for construction.

The bids received totaled \$212,000. The plans were valued engineered down by changing several construction methods, moving some of the showers to the outside, shortening the building by 5' on the concession stand end, and allowing city crews to do the painting. This would reduce the project to a final cost of \$142,965.

Commissioner Brownlow made the motion to approve the additional cost for construction of the aquatic center bathhouse.

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

### **PUBLIC HEARING FOR ZONING CHANGE REQUEST FOR 1610 PEASE STREET**

Mayor Bearden opened the Public Hearing.

Community Development Director Monica Wilkinson explained the Why and How in the City's creation of the Central Business District (CBD) in August, 2009. She also explained that Gene Bristo made a request to change the zoning at 1610 Pease Street back to General Commercial (GC) so that he can sell the lot to Roland Ellington.

Jim Gunn, Chairman of the Planning & Zoning Commission, told the Commission that the Planning & Zoning Commission felt like the property is unused and not likely to be built on. Mr. Ellington has agreed to build a fence for security. The property is considered on the edge of the Central Business District, and they recommended a change in zoning. He also noted that at the P&Z Meeting there was opposition from the Main Street Board, but no loud outcry against rezoning.

Roland Ellington requested approval for the zoning change to benefit his new business. He will make the lot visually appealing with a 12 ft. metal fence with 10 ft. gates. He brought a scale model to illustrate how it would look.

Cory Curtis, representing the Main Street Board, voiced opposition to the zoning change, citing the time and thought that went into the Central Business District, stating the sacrifices need to be made to maintain the CBD restrictions. Once a change is made it would be very difficult to

change back, and the City does not have as much control of GC zoning. This change would open the door to similar requests, and there is a bigger picture involved.

Sean Stockard voiced opposition as a citizen and member of the Main Street Community, noting that the CBD was specific zoning that was carefully and thoughtfully crafted, and asked the Commission to look to the future ramifications of their decision. As Chamber President, he noted that a survey of Chamber membership was not in favor of the change.

Carolyn Grimes, who owns property at 1728 Pease Street voiced opposition to the change in zoning. Anthony Munoz stated that rezoning was not a positive step. Mark Farr-Nash voiced opposition, stating that the CBD was to develop and return downtown Vernon to former glory, improvement was being made and the goal was to make Vernon great. Gib Baskerville noted that the Chamber of Commerce survey was 27-22, which was very close.

Gene Bristo, who is the current owner of the property, noted that this property is to generate income and taxes. He is for beautification, but also for businesses making money. He feels the proposal outweighs the comments being made. This lot has been vacant for nearly 30 years, and if this zoning change is not allowed it will remain two vacant lots and not produce income.

Questions from the City Commission:

Commissioner McCuiston asked why Roland's current shop was not included in the CBD. Answer: It was an auto repair shop which is not one of the allowed uses in the CBD.

Commissioner Dennis asked if Roland was committed to making the lots look like the model. Roland answered that he would as he was fiscally able. Main Street Director Kelleher noted that it could qualify for some type of Main Street Grant.

Mayor Bearden asked how firm the CBD Boundaries were. Mr. Gunn replied that current land use was taken into account, such as the auto repair shop southeast of the Courthouse.

Commissioner Dennis asked what were GC uses. Ms. Wilkinson replied that uses were anything commercial that was not heavy industrial. Commissioner Dennis also asked what could be put in there if Roland moves. The answer was anything currently allowed on Wilbarger Street.

Mayor Bearden asked what enforcement authority the City would have. Code Enforcement officials noted that this is not in the Corridor Overlay District but outdoor storage restrictions and weed growth would be enforceable. The City could not restrict the size or color of the fence.

Commissioner McCuiston voiced concerns about the building east of 1610 Pease Street which would remain in the CBD. Commissioner Taylor had concerns about past, present and future when property was included in the CBD.

With no other public comment, Mayor Bearden closed the Public Hearing.

**ORDINANCE NO. 1586**

**AN ORDINANCE CHANGING THE BOUNDARIES OF THE CENTRAL BUSINESS & GENERAL COMMERCIAL DISTRICTS, DEFINING THE LOCATION OF THE NEW BOUNDARIES, AND PROVIDING FOR CONFLICT, VALIDATION, RECORDING AN EFFECTIVE DATE.**

Digital Recording on file

Mayor Bearden noted that this Ordinance will rezone the lots at 1610 Pease Street from Central Business District (CBD) to General Commercial (GC). The Commission can vote to approve the Ordinance, refer the rezoning back to the Planning and Zoning Commission for reconsideration, or not approve the Ordinance. The decision can be appealed if done by March 13, 2012. Objections tonight are not a formal appeal, but must be done in writing addressed to the City Commission.

Commissioner Dennis stated that he could not see anyone building on that lot, and the model is better than it looks now. Rezoning needs to be approved.

Commissioner Brownlow noted that this was a tough decision, and he would be voting according to the comments made to him. Commissioner Taylor said he could see both sides of the issue. Commissioner McCuiston stated that he had faith in the system used to make these decisions. Mayor Bearden noted that he has changed his mind several times, noting that Mr. Ellington is a good land owner and businessman. The Planning and Zoning Commission have provided guidance, both in setting up the CBD and on this issue. He noted that it's good to be dealing with the issue of growing pains, and encouraged the Main Street Board and the Chamber to remain passionate about issues concerning downtown.

Commissioner Taylor made the motion to approve Ordinance No. 1586 regarding a zoning change to 1610 Pease Street.

Commissioner Dennis seconded the motion, which was approved by a 4-1 vote, with Commissioner Brownlow voting against the motion.

#### **ORDINANCE NO. 1587**

**AN ORDINANCE AMENDING SECTION 40-23 AND ADDING SECTION 40-26 OF ARTICLE II - ROY ORBISON PARK, PAVILLION & AQUATICS CENTER IN CHAPTER 40, PARKS & RECREATION, OF THE CODE OF ORDINANCES OF THE CITY OF VERNON, TEXAS; PROVIDING FOR REPEALING, A SAVINGS CLAUSE, RECORDING AND AN EFFECTIVE DATE.**

City Manager Grant explained that these are the pricing and rental rules for the new Aquatic Center. Staff conducted a survey of area towns with similar facilities, and these prices are the average of those prices.

There was extensive discussion concerning changes to admission price and changes to season passes along with discussion of rules for the Aquatic Center. Following discussion, Commissioner Taylor made the motion to approve Ordinance No. 1587 with the general admission price set at \$3.00 and only passbooks instead of individual and season passes.

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

**ORBISON AQUATIC CENTER RULES**

Commissioner Taylor made the motion to accept the Aquatic Center Rules, but motion died for lack of a second.

Commissioner Brownlow received comments from the swimming pool committee to include no spitting in the pool, no guns or knives allowed, and no urinating in the pool.

Discussion continued about various rules and changes that should be made. Staff will be responsible for enforcing the rules. Mr. Grant noted that these were rules recommended by our insurance carrier.

Commissioner McCuiston made the motion to approve the rules as presented.

Commissioner Brownlow seconded the motion.

Following additional discussion about changes to the rules, Commissioner Dennis made the motion to amend the rules to change the age to eleven (11) that must be accompanied by an adult and to eliminate the requirement for a white tee shirt.

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

The amended motion then passed by unanimous vote.

**RESOLUTION NO. 929**

**RESOLUTION OF THE CITY OF VERNON SUSPENDING THE MARCH 6, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE ("ACSC") AND OTHER CITIES IN THE ATMOS MID-TEX SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC'S LEGAL COUNSEL.**

Digital Recording on file

City Manager Grant explained that this is a request from the Atmos Cities Steering Committee to enable them time to study the Atmos Rate Request.

Commissioner Taylor made the motion to approve Resolution No. 929.

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

### **BOARD APPOINTMENTS**

#### **Planning & Zoning Commission:**

City Manager Grant explained that Maurice Rosales and Judy Heatly had agreed to be reappointed to another two-year term. Brian Fritz, Ben Belew, and Donna Stribling have agreed to serve a two year term.

Commissioner McCuiston made the motion to reappoint Maurice Rosales and Judy Heatly and appoint Donna Stribling to the Planning & Zoning Commission.

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

#### **Board of Adjustment:**

Mr. Grant told the Commission that Tip Iqou, Ricky Graf, Cory Curtis and Alternate Pete Guerrero had all agreed to be reappointed.

Commissioner Dennis made the motion to reappoint Tip Iqou, Ricky Graf, Cory Curtis and Pete Guerrero to the Board of Adjustment.

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

#### **Housing Authority Board:**

City Manager Grant explained that Housing Authority Director Sherry Johnson had requested that Carla Jackson be replaced as resident member of the Housing Authority Board by Freda Morris.

Commissioner Taylor made the motion to appoint Freda Morris to the unexpired term on the Housing Authority Board.

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

Digital Recording on file

Construction Board of Appeals:

City Manager Grant explained that this is a newly created Board that is required by the Fire Code and our Building Code, and have highly technical skills. Those who have agreed to serve on this Board are:

Building Contractor	Vincent Latour
Master Electrician	Danny Fancher
Master Plumber	David Coble
Fire/Explosives Expert	Cody Alexander
Utility Contractor	Tommy Robinson
Alternate 1	Thomas Garza
Alternate 2	Brian Fritz

Commissioner Dennis made the motion to appoint these as listed on the Construction Board of Appeals.

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

**ORDINANCE NO. 1588**

**AN ORDINANCE AMENDING SECTION 52-302. IMPOUNDMENT OF VEHICLES, OF ARTICLE VII, CHAPTER 52 – TRAFFIC, OF THE CODE OF ODINANCES OF THE CITY OF VERNON; AUTHORIZING A POLICE OFFICER TO IMPOUND A MOTOR VEHICLE UNDER CERTAIN CIRCUMSTANCES INCLUDING IF STOPPED FOR A TRAFFIC LAW VIOLATION IF THE VEHICLE'S OWNER OR OPERATOR FAILS TO SHOW EVIDENCE OF FINANCIAL RESPONSIBILITY; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

City Manager Grant explained that the City has seen an increase in citations for uninsured motorist. State law allows that the vehicle can be impounded if a motorist is stopped three times in the same vehicle with no insurance. Our ordinance would be more aggressive than state law to be able to make an impact on this problem.

Police Chief Wilson noted that this ordinance would be used with a lot of discretion, but enforced especially in accidents and with individuals with multiple tickets or warrants. The officers have a process by which they check prior violations. This is endorsed by the City Attorney and the Municipal Judge.

Commissioner McCuiston made the motion to approve Ordinance No. 1588.

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



**ENGINEER – SEAL COAT**

City Manager Grant explained that this will go along with our FY2012 Budget to pave Lorance Street and continue with our annual seal coat project.

Commissioner Dennis made the motion to approve an engineering contract for seal coat and first time paving of Lorance Street with AMD Engineering, LLC.

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

**INCREASE ASSOCIATE JUDGES SALARY**

City Manager Grant informed the Commission that even though the Commissions instructions concerning salary increases for the Associate Judge were very plain at the October, 2011 meeting, the law has allowed the Associate Judge to assume all duties of the Municipal Judge even before she attends Judges Training in July, and with the current Warrant Roundup her workload has hugely increased. We would like to give her a 4% salary increase now in addition to the 3% increase she earned after attending the Clerks Training in December.

Commissioner Taylor made the motion to approve early increase of the Associate Judges salary.

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

**BRINE DISCHARGE LINE REPORT**

Public Works Director Cochran reported that the line is reported by Kimley Horn to be 40% complete, with all piping installed. The electrical and pump pit and site work remains to be done. The pipeline was installed with the least amount of disturbance to the landowners as possible.

**AQUATIC CENTER CONSTRUCTION REPORT**

Parks Director Tony Dehoyas reported that steel placement in the lazy river walls and floor of the beach area has been completed, and the floor in the beach area has been poured. The shell of the pool is complete, and work continues on laying the pipe and connecting to the mechanical/filter room being constructed.

**DROUGHT/WATER ISSUES REPORT**

Public Works Director Cochran reported that we continue in persistent drought conditions, which is forecasted to continue. The January, 2012 average saturated thickness in our Winston-Odell Well field is one foot lower than in January, 2011. The lowest we were at in July 2011 was 40.49 feet, and we are at 41.41 feet now. At least one of our wells is down to 1 foot, and one of the wells in the Schmoker Field is at zero. We are not going into the summer in real good shape, but with conservation we should remain okay.

The Commission requested to continue to receive this report each month.

### **AMBULANCE COOPERATIVE FUNDING**

City Manager Grant reminded the Commission of their 1984 agreement with Wilbarger County and the Hospital District to equally share the cost of providing ambulance service. The County and the Hospital District have paid a standard amount, which has been fairly even overall, and there has been no issue because there has been no deficit. The past fiscal year our collection company went defunct, and due to the lag from changing companies, the City experienced a large deficit.

Because there is not much guidance in the 1984 agreement, Mr. Grant met with the County Judge and Hospital Administrator and devised a plan to average three fiscal years (past year, current year, and proposed budget year) and set the monthly contribution amount by budget time each year. This solution should accomplish the intent of the 1984 agreement and not cause any hardship on either the city or the other entities.

The Memorandum of Understanding spells out this arrangement.

Commissioner Dennis made the motion to approve the Memorandum of Understanding with Wilbarger County and the Hospital District for Ambulance Cooperative Funding.

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

### **EMERGENCY MANAGEMENT COORDINATION**

City Manager Grant explained that Wilbarger County had been paying Charles Stewart as the Emergency Management Coordinator, but County Judge Tyra has appointed Kent Smead as the Emergency Management Coordinator. He has served as Interim Coordinator for several months with the assistance of Vic Oleson.

There will be no noticeable difference in Kent and Vic's regular duties, except that they will be compensated for the additional hours they spend working with Emergency Management and operation of the Emergency Operations Center (EOC). Kent and Vic will receive an additional \$500 per month, with no difference in the annual budget.

The employees cost will roughly equal the County's cost for the Code Red annual fee plus an additional amount that the County will expend to provide an EOC and some limited equipment. Anything over this amount will be evenly split between the City and the County.

The Memorandum of Understanding spells out this arrangement.

Commissioner McCristion made the motion to approve a Memorandum of Understanding with Wilbarger County for Cooperative Emergency Management Coordinator.

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

Digital Recording on file

**EXECUTIVE SESSION**

Commissioner McCuiston made the motion to enter Executive Session at 9:16 pm under Government Code Section 551.072 – Consultation with Attorney regarding Real Property.

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

**RESUME REGULAR SESSION**

Commissioner McCuiston made the motion to resume regular session at 9:31 pm.

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

**ACTION FOLLOWING EXECUTIVE SESSION**

Commissioner McCuiston made the motion to approve the action regarding real property with the protection clause.

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

**ADJOURN**

Commissioner McCuiston made the motion to adjourn the meeting at 9:32 p.m.

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

  
\_\_\_\_\_  
Jeff Bearden  
Mayor

ATTEST:

  
\_\_\_\_\_  
Linda Byers  
City Secretary

