



Lavon City Council Regular Meeting & Executive Session

Minutes

August 21, 2012

I. MEETING CALLED TO ORDER AT 7:03 P.M. BY MAYOR TESKE

Members Present: Mayor Chuck Teske
Council Member Place 1, Chris Kane, Mayor Pro-Tem
Council Member Place 2, Deborah Nabors
Council Member Place 3, Gary Meeks
Council Member Place 4, David Hawkins
Council Member Place 5, Jenny Bodwell

Members Absent: None

Staff Present: City Manager, Mike Jones
Acting City Secretary/Treasurer, Laura Kennemer
Police Chief Jason Rector
Court Clerk Sue Johnson
Clerk Jennifer Wolfe
Clerk Chris Wess

Commission and Board Members: Park & Rec. Board Member Joan Aquatero

Visitors: 24

There was a quorum present.

II. MAYOR TESKE LED THE COUNCIL AND VISITORS IN THE PLEDGE OF ALLEGIANCE.

III. INVOCATION

Council Member Bodwell gave the invocation.

IV. ITEMS OF INTEREST/CITY COUNCIL COMMUNICATIONS

Mayor Pro Tem Kane announced that the Braves first football game would be the next Friday. Council Member Bodwell related that Meet the Teacher Night will be on Thursday at McClendon Elementary from 5:00 p.m. to 8:00 p.m., NeSmith Elementary from 4:30 p.m. to 7:30 p.m. and the Middle School from 5:00 p.m. to 8:00 p.m. She added that there will be a "Back to School Bash" sponsored by the Fire Department on Saturday. Council Member Nabors encouraged the audience to take a school supply to the event. Council Member Bodwell announced that school would start the following Monday.

V. CONSENT AGENDA

- A. July 31, 2012 Meeting Minutes (Kennemer)*
- B. August 7, 2012 Meeting Minutes (Kennemer)*
- C. City Council to Approve Progressive Waste Solutions (formerly IESI) request to change recycle pick-up from Fridays to Tuesdays (Kennemer)*



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D. Approve Interlocal Cooperation Contract between the Texas Department of Public Safety and the City of Lavon renewing the Failure to Appear Program (Omnibase) Johnson*

Discussion: Mayor Pro Tem Kane asked for confirmation that Progressive Waste Solutions would be sending two trucks on Tuesdays for recycle and trash.

Motion: Council Member Nabors made a motion to approve the consent agenda.

Second: Council Member Bodwell

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: None

Motion: Carries

VI. CITIZENS' COMMENTS

Park and Rec. Board Member Joan Aquatero thanked the Council on behalf of the Quilters for the use of the Community Center on Tuesdays.

VII. STAFF REPORTS

A. Treasurer/Acting City Secretary Kennemer

A. Update of City Financials.

Treasurer Kennemer presented the financial outlook report for the month ending July 2012. She explained that figures for September that were not actual expenses were removed from the report but known expenses and income, such as permits and the sale of the Ford Explorer and the Paver, had been added. She felt that the report reflected a more accurate picture of the City's financial standing.

In order to accommodate Mike Arterburn's and Joan Ramos's need for a speedy departure, Mayor Teske took Item A from the Items for Consideration and Action agenda next.

IX. ITEMS FOR CONSIDERATION AND ACTION

A. City Council to Consider and Act on approving July 2012 PID expenses (Kennemer)

Mike Arterburn from Utility Tax Service explained that 95% of the PID taxes for 2012 had been collected and that 99% of PID taxes from prior years had been collected. He went on to explain that after July 31st the unpaid taxes would be delinquent. He stated that they would work out a payment plan with customers. He went on to say that the attorney that handles the collection does have upfront costs but that the customer does reimburse those expenses.

Motion: Mayor Pro Tem Kane made a motion to approve Item A of the consideration and action agenda.



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Second: Council Member Nabors.

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: None

Motion: Carries

Mayor Teske returned to the regular order of the agenda.

VIII. PUBLIC HEARING

**Public Hearing to receive Public Comment on the following issues:
(Kennemer)**

A. Mayor Teske opened the Public Hearing at 7:34 p.m.

B. Mayor Teske opened the floor to public comment.

1. An application for annexation from DPB Investments LP for property located on SH 78 west of SH 205 described as ABS AO121 W. A. S Bohannan Survey, Blk 3, Tract 96.

Mr. Gerald Porter (Realtor representing Mr. McGoughy) spoke about the property and how the family had owned the property for 100 years. He felt that the location was a prime spot for a commercial business and that Mr. McGoughy was asking the City to annex it.

2. An application for a zoning change from DPB Investments LP for property located on SH 78 west of SH 205 described as ABS AO121 W. A. S Bohannan Survey, Blk 3, Tract 96 from agricultural to Business-1.

It was explained that the Business -1 classification includes Retail, Retail - 1 as well as Business - 1. It was also related that the original application was for Business - 2. The Planning and Zoning Commission declined to recommend the Business - 2 zoning but would recommend Business - 1. Mr. McGoughy send a letter changing his application to the Business - 1 zoning.

3. To receive comments on the proposed tax rate of \$0.4557/\$100.00 for the Fiscal Year 2012-2013.

It was stated that the tax rate was the same as last year.

C. Mayor Teske closed the floor to public comment.

D. Mayor Teske closed the Public Hearing at 7:45 p.m.

IX. ITEMS FOR CONSIDERATION AND ACTION

B. City Council to Consider and Act on Resolution No. 2012-08-01, a Resolution of the City of Lavon declaring that the City may make an Intergovernmental transfer of funds to the Texas Health and Human Services Commission for either DSRIP or UC Participation. (Jones)

Motion: Council Member Kane made a motion to table this item until they had further explanation concerning the matter.

Second: Council Member Nabors



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In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: None

Motion: Carries

C. City Council to Consider and Act on Ordinance No. 2012-08-03, an ordinance issuing a temporary moratorium of the Freeze on Certificate of Occupancy as specified in Ordinance 2004-09-05 (Teske)

It was explained that there were only two certificates of occupancies remaining to be issued before the developer met the cutoff point before an amenity center needed to be built. It was related that there are 342 empty platted lots remaining. Mayor Pro Tem Kane stated that, 7 years prior, the Planning and Zoning Commission recommended that the cutoff point be extended from 100 C.O.'s to 250. Mayor Teske asked the Council to extend cutoff point to give the developer more time to build a center. He felt that, weather permitting; it should be done by November.

Motion: Council Member Nabors made a motion to approve Ordinance No. 2012-08-03, an ordinance issuing a temporary moratorium of the Freeze on Certificate of Occupancy as specified in Ordinance 2004-09-05

Second: Council Member Meeks

In Favor: Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: Mayor Pro Tem Kane

Motion: Carries

D. City Council to Consider and Act on Authorizing Treasurer/Acting City Secretary Kennemer to pursue a Revenue Bond for Fiscal Year 2012-2013 not to exceed \$200,000.00. (Teske)

Treasurer Kennemer explained that the bonding company required 3 weeks' notice before issuing a bond. Joan Aquatero asked if there was a charge for prep work on the bond. This was answered that there was not.

Motion: Council Member Hawkins made a motion to approve this item.

Second: Council Member Bodwell

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: None

Motion: Carries

E. City Council to Consider and Act on approving Ordinance No. 2012-08-07, an ordinance annexing property and extending the City Limits to include 1.0952 acres located near the SW corner of SH 205 and SH78 described as a tract of land situated in the W.A.S. Bohannon Survey, Abstract #121, Block 3, Tract 96, Collin County, Texas. (Kennemer)



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Motion: Council Member Hawkins made a motion to approve this item.

Second: Council Member Meeks

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell and Hawkins

Opposed: None

Motion: Carries

X. EXECUTIVE SESSION

In accordance with Texas Government Code, Section 551.001, *et seq.*, the City Council will recess into Executive Session (closed meeting) to discuss the following:

- A. In accordance with the Texas Government Code, Section 551.074, personnel matters - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, the City Manager/City Marshall. (Teske)
- B. In accordance with Texas Government Code, Section 551.071: Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicting with the Texas Open Meetings Act: to receive legal advice regarding personnel matters. (Teske)

Mayor Teske read a letter from Andy Messer, City Attorney, stating that the executive session scheduled for this meeting was legal. Mayor Teske recessed the open meeting at 8:00 p.m. and convened into the executive session.

At 8:58, the Council briefly recessed the executive session and reconvened in open session.

Motion: Mayor Pro Tem Kane made a motion to extend the meeting for as much as an hour to complete this task.

Second: Council Member Nabors

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Hawkins and Bodwell

Opposed: None

Motion: Carries

At 9:00 p.m., the Council recessed the open session and reconvened the executive session.

At 9:58 p.m., the Council briefly recessed the executive session and reconvened in open session.

Motion: Council Member Nabors made a motion to extend the meeting to 10:15 p.m.

Second: Mayor Pro Tem Kane



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In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Hawkins and Bodwell

Opposed: None

Motion: Carries

At 9:58 p.m., the Council recessed the open session and reconvened the executive session.

XI. RECONVENE INTO REGULAR SESSION: In accordance with Texas Government Code, Section 551.001, *et seq.*, the City Council will reconvene into Regular Session to take any action necessary regarding the following:

- A. In accordance with the Texas Government Code, Section 551.074, personnel matters - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee, the City Manager. (Teske)
- B. In accordance with the Texas Government Code, Section 551.074, personnel matters - to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, specifically concerning the City Secretary. (Teske)

Mayor Teske reconvened into regular session at 10:11 p.m.

Motion: Council Member Nabors made a motion to extend the meeting until 10:30 p.m.

Second: Council Member Meeks

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Hawkins and Bodwell

Opposed: None

Motion: Carries

XII. Items for Consideration and Action

As recommended by the City Attorney Andy Messer, the City Council took XII Item "B" first.

- B. City Council to Consider and Act on Approving proposed Ordinance No. 2012-08-05 as amended, including amending the Code of Regulations relating to creating the Operations Division. (Teske)
City Attorney Messer explained that this ordinance created a new division for the City and created the position of Chief of Operations. He went on to add that he recommended this ordinance.



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Motion: Council Member Nabors made a motion to approve Ordinance No. 2012-08-05 as amended, including amending the Code of Regulations relating to creating the Operations Division.

Second: Council Member Meeks

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Bodwell

Opposed: Council Member Hawkins

Motion: Carries

- C. City Council to Consider and Act on Approving proposed Ordinance No. 2012-08-06 as amended, including confirming and approving the Employment Contract for the Employment of a Chief of Operations. (Teske)

City Attorney Messer stated that he felt that the motion should approve Ordinance No. 2012-08-06, including the Employment Contract (amended as discussed) and repealing Ordinance No. 2009-04-02 as amended. He said that this is what he recommended as the City Attorney.

Motion: Council Member Nabors made a motion: "I move what he said."

Second: Council Member Meeks

In Favor: Mayor Pro Tem Kane, Council Members Nabors, and Meeks,

Opposed: Council Member Hawkins and Bodwell

Motion: Carries

- A. City Council to Consider and Act on Approving proposed Ordinance No. 2012-08-04 as amended, including amending the Code of Regulations Regarding the City Manager position and the Authority of the Mayor when the City Manager position is vacant and/or eliminated. (Teske)

City Attorney Andy Messer recommended to the Council that Ordinance No. 2012-08-04 be approved as amended.

Motion: Mayor Pro Tem Kane made a motion to approve as amended.

Second: Council Member Nabors

In Favor: Mayor Pro Tem Kane, Council Members Nabors, Meeks, Hawkins and Bodwell

Opposed: None

Motion: Carries

- D. City Council to Consider and Act on approving proposed Resolution No. 2012-08-02 as amended, regarding the City Manager/City Marshal employment.

City Attorney Andy Messer recommended that no action be taken on this item. The item died for lack of a motion.



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Item XIII. Set Future Meetings and Agendas thru Item XVI. Presiding Officer to Recess the Workshop were not address due to the late hour.

XIV. MAYOR TESKE TO ADJOURN THE CITY COUNCIL MEETING

Mayor Teske adjourned the meeting at 10:20 P.M.

Duly passed and approved on this 18th day of September, 2012.

Mayor Chuck Teske

Attest:

Chris Wess
~~Laura Kennemer~~ Chris Wess
Acting City Secretary/Treasurer

