

The City Council of the City of Columbus, Texas met in regular session on Thursday, April 14, 2016 at 6:30 p.m., in the Council Chambers of City Hall located at 605 Spring St., Columbus, Texas, with the following present:

Mayor	-	Dwain Dungen
Mayor Pro Tem	-	Curtiss Schonenberg
Councilman	-	Woody Moore
Councilwoman	-	Lori An Gobert
Councilman	-	Eddie Hernandez
Councilman	-	Chuck Rankin
City Manager	-	Donald Warschak
City Secretary	-	Bana Schneider

Other City Staff present included:

Police Chief	-	Bill Lattimore
Code Enforcement	-	Ford Stein

1. **Call to Order.**

Mayor Dwain Dungen called the meeting to order at 6:30 p.m.

2. **Pledge of Allegiance and Invocation.**

Dungen led the Pledge of Allegiance and Invocation.

3. **Consent Agenda:**

- a. Approval of Invoices
- b. Approval of Minutes of March 24, 2016 Regular Meeting
- c. Approval of Quarterly Investment Report for The Quarter Ended March 31, 2016

Councilwoman Gobert made a motion to approve the Consent Agenda as presented. Councilman Rankin seconded the motion.

The vote was as follows:

Ayes: Councilmen Schonenberg, Rankin, Hernandez and Moore; Councilwoman Gobert

The motion passed.

4. **Citizens' Presentations and Comments.**¹

Debbie Damon of Bedazzled read the minutes from a meeting with AEP, the Mayor, City Manager and another business owner regarding KWH charges and demand meters. A copy is attached to these minutes.

Colorado County Citizen reporter, Brandon Nutt, introduced himself to Council.

The other citizens signed in chose to speak during specific agenda items.

5. **City Manager's Report Including Sales Tax, Gas Line Project Update, Water System Flushing and Study Updates, TXDot Traffic Signal Project, Railroad Quiet Zone, and AEP Meeting with Downtown Businesses.**

City Manager, Donald Warschak, gave his City Manager's report, a copy of which is attached to these minutes.

Warschak stated the sales tax collections for February were up from the same period last year. The County, overall, and Weimar saw increases as well. Eagle Lake was down slightly.

Regarding the Gas Line Project, Warschak stated the pipe for the railroad ROW portion of the project is now at the coaters with an expected delivery of April 26th. Once the pipe arrives, the bore under the railroad tracks can begin.

Concerning the water system flushing, Warschak stated city crews started the flushing process downtown on Monday, and they will be going north. He stated Utilities Superintendent, Jody Ripper, indicated the far northwest side of the City should be completed by noon tomorrow. Next week crews will begin going south.

Warschak stated all samples have been submitted to O'Malley for their water system engineering study. A preliminary report may be available from them the end of next week.

Per TXDot, the delivery of the poles for the traffic signals at Interstate 10 and Highway 71 will be sometime in June, with installation to follow. Warschak also spoke about the congested signal light at Walnut and Fannin Streets. TXDot is implementing a new "Road Diet" program with the intention of getting as many vehicles through intersections as possible. This plan would include a continuous left turn lane from Live Oak Street to Legion Drive with only one lane of traffic in either direction. With this plan, the shoulders of the highway would become a little wider. It would be 2018 before any changes could be made, with a possibility of a temporary light with a turn signal being put in place until funding was secured.

Warschak continued his report with an overview of 2 railroad quiet zone plans. Both plans are attached to these minutes. He stated the plans were drafted by Befco Engineering. Safety measures must be implemented in order to qualify a quiet zone. He discussed the various items encompassed within the plans, including crossing closures and converting a street to one-way traffic. Once a plan has been decided upon, the next step would be to have a diagnostic meeting with the interested parties. A notice of intent would then be filed, and at that point, there would be no turning back. Warschak also stated there was a possibility that Union Pacific would bear some, if not all, of the cost. Councilman Moore asked if this quiet zone also included noise from rail ties, or if it was just for the whistles. The City Manager stated it would only cover the whistles, but noise from the ties or tracks should be reported to the Track Master.

Warschak concluded his report with the AEP meeting. He stated that Ms. Damon had covered all of the aspects of the meeting, and he did not feel that he needed to expand upon it.

Columbus resident, Chris Christenson, asked to speak regarding the water system evaluation study. He started by stating in the last couple of weeks his water had been very discolored, and it ruined many clothes. He spoke how his water clarity changed when the City moved from a sand filtration system to using polyphosphates. He stated that his research into polyphosphates indicated they were best used in new systems, not systems with old pipes. He continued by stating he had brought a sample of his tap water to City Hall when it was so bad a couple of weeks ago. That sample was sent off for testing, and he said the results were alarming. He concluded by saying he feels if the City does not go back to some type of filter system, then all of the pipes would need to be replaced. Another resident, Karin Glueck, stated the City needs to notify citizens about flushing some other way because many people do not read the paper, nor do they listen to KULM. She continued that the City could announce it on Facebook or on the sign at the courthouse. Warschak stated in the future the city will send out notices regarding flushing to all water customers.

6. Consideration and Action to Approve the Rescheduling of the Second City Council Meeting in May.

The Mayor stated the graduation ceremony for Columbus High School was scheduled for May 26th, which is a City Council meeting night. He suggested changing the meeting to Wednesday the 25th at the regular time.

Councilman Rankin made a motion to reschedule the City Council Meeting from May 26th to May 25th. Councilman Hernandez seconded the motion.

The vote was as follows:

Ayes: Councilmen Schonenberg, Rankin, Hernandez and Moore; Councilwoman Gobert

The motion passed.

7. **Consideration and Action to Authorize the Closure of Travis Street Between Walnut Street and Spring Street from 8:00 a.m. to 12:00 p.m. on Saturdays Beginning April 16, 2016 through June 25, 2016 for the Columbus Farmers Market.**

Councilwoman Gobert made a motion to authorize said closures as requested. Councilman Schonenberg seconded the motion.

The vote was as follows:

Ayes: Councilmen Schonenberg, Rankin, Hernandez and Moore; Councilwoman Gobert

The motion passed.

8. **Consideration and Action to Approve Letter as requested by Quick EMS Regarding Private Ambulance Service Operations in the City.**

Dungen stated he had met with the County Judge, along with hospital and nursing home administrators, to discuss the requested letter, and the changes taking place at Colorado County EMS. He continued by stating the letter being requested had 4 requirements that needed to be addressed, and he felt 2 of the requirements were not being demonstrated. One problem is the new service would not compete with any existing service. While the companies currently providing the service are not based in the City, a new service provider would take business away from them. The second problem is the demonstration that additional service is needed. Without data to show there is a deficiency, the City Council cannot approve a letter stating there is a need for this service. Councilman Woody Moore stated there should be some data indicating there is a shortage and a quantifying need demonstrated.

Tom Fleming of Quick EMS stated without being in operation, there is no way to know how much business they will do.

Councilwoman Gobert stated there needs to be data in order to show a shortage, and Moore continued by stating someone starting a business would need to have that data before making that investment. Councilman Rankin stated with the issues at EMS, the primary concern is for the 911 services and the impact or relationship this will have on that organization. The City would not want to impact a source of revenue for the County. He also communicated that a business plan would be very helpful. Rankin also stated confirmation, via the County Commissioners' Court, that this enterprise would not impact their operations should be required. Fleming responded that the EMS Director herself stated they did not perform the types of calls Quick would provide. Rankin rebutted that that director was no longer there.

The Mayor stated if data could be provided concerning the areas he had issues with, the request for the letter could be revisited at that time.

No action was required.

9. **Discussion and Action Regarding a Noise Ordinance for the City of Columbus.**

Dungen stated the existing noise ordinance for the City is really an ordinance in name only, and does not address any specific situations. He continued, stating ordinances from different municipalities were studied, and the City of La Grange's ordinance was a very good example of items that should be included in a new ordinance for the City. Copies of Columbus' and La Grange's ordinances are attached to these minutes.

Councilwoman Gobert asked what an A level weighting scale was, if we have one and how much they cost. Chief Lattimore stated Lt. Edman found a meter at the police department, but he does not know if it works, nor does anyone ever remember using it during their tenure with CPD. Gobert asked if there was a way to see if it works and measures accurately. Lattimore stated they could give it a shot, but he did not know which way to point it. The mayor stated at this point, we do not need one based on our ordinance. Gobert stated if the City moves in this direction she would want to know the cost of a meter. Warschak stated they can run from less than \$100 to several hundred.

Councilman Moore asked who would use it if a noise complaint came in at 11:30 at night. Mayor Dungen asked Chief if it would be stored at the PD and the officer on duty would retrieve it for use. Lattimore stated he had spoken with the Police Chief from La Grange, and they have a meter but have never used it.

Gobert stated she had looked at the language of six different municipalities' noise ordinances. She felt the La Grange ordinance was lacking a few items that should be considered, which include specific times in the definition section; specific dollar amounts for any fines; language regarding pets; and language regarding sporting events should have exceptions for schools.

Lattimore spoke about the different types of city governments. He stated that Columbus is a Type A General Law City and as such, must confine itself to the general law statutes in the penal code. Additionally, Lattimore stated the PD had run in to a situation the other night, and if an ordinance had been in place there would have been more the officer could have done, i.e. written a citation. Chief expanded that if a meter was used because of a complaint, and the sound ends up not being above the level stated in the ordinance, most likely cooperation would be nonexistent. He also stated that he liked some of the things in the existing ordinance; however, a can of worms could be opened, depending on the language. Chief continued on the topic of construction noise, specifically, and the need for specifying different zones for commercial and residential rules.

There was discussion from several present regarding how loud 85 decibels would be. Gobert stated she would like to test something to see. Lattimore indicated the 85 decibels would need to remain in the ordinance because it is based on section 42.02 of the penal code. There are higher numbers referenced; however he believes those are for commercial enterprises.

Councilman Rankin stated the ordinance would have to be written by an attorney. While the "guts" were there, the specifics would have to be changed.

Chris Christensen stated a new ordinance should include problematic alarms and should define a "school function".

Moore stated any ordinance needs to be logical, and specify what "sensible judgment" is. He asked the chief if a new ordinance was adopted and all of the correct language was included if it would help the police to determine what needs to be done in any given situation. Lattimore stated a citation could be issued, but that did not mean that work would be stopped. The City Council would have to tell him to take on the liability for shutting down any work violating the ordinance. Moore asked where the logic is if all the language in the ordinance is correct, but the job still can't be shut down. Columbus resident Mary Jane Moore asked how a police officer can allow work to go on without checking to see if a contractor has a permit. Lattimore stated permits are covered by an entirely different department.

The Mayor stated the next item on the agenda covers the enforcement of ordinances and this item is for the discussion of the noise ordinance.

Dungen asked Council if the La Grange ordinance is a suitable base for working on a new ordinance. He indicated everyone should make a list of the items they feel should be included so we can get something to the City Attorney. Lattimore indicated he would be very interested to see what the City Attorney said about the City's exposure to liability if his department shut down a job site.

10. Discussion of Enforcement Procedures for City Ordinances.

Dungen stated this discussion was to understand the standard operating procedures for enforcing City Ordinances, and to give Code Enforcement officer, Ford Stein, and Chief some direction on how we want to handle things. He asked Chief if there was a code violation during the specific situation Mrs. Moore referred to in the previous agenda item. Lattimore said he did not know. Building codes are not part of his department's purview, so he does not know if the construction company in question had a permit or not. Mrs. Moore stated she had called a police officer to her home at 9:49 p.m. in order to shut down the construction project going on next door. When the officer arrived, he told them they could continue and he then left. She explained the noise was very frustrating because she had to do homework and be up for class early the next morning. The police were called again and the Moore's were told the PD could not shut the job down because of liability issues. Mrs. Moore stated the police did not ask them if they had a permit. Lattimore explained that his department does not enforce building codes. Councilman Moore stated at this point it is 11:30 p.m. and there was a generator powering a concrete finisher and flood lights. Lattimore explained that when Sergeant Kevin Daniel arrived, absent any clear guidelines, based on his construction knowledge that the job should not be shut down. He determined the concrete work must be finished

or the entire job would be ruined, and he did not want the City to be liable for the loss. Chief then stated with some clear guidelines, which a new ordinance would give, in this situation, a citation could have been written and then strongly encourage them to stop. He then said, I need Council to let me know, preferably through the City Attorney, concerning the liability. Councilman Rankin stated the problem when an ordinance is passed is the enforcement of it. The ordinance we have now does not allow the police to enforce any "peace and tranquility" type offenses. Councilman Moore stated if he had more confidence that certain ordinances were being enforced, perhaps this would not have been as big of a deal. Rankin commented that police officer's make judgment calls all day every day, and the logical way to help officers with those decisions is to include appropriate language in an ordinance. Mayor Dungen suggested the hours that construction is allowed could be on the building permits. Rankin stated common sense has to be used. After spending time with the City Attorney going over some zoning issues, and looking at the ordinances, he found that a lot of it does not make sense. We have to take a look at what we have and expect the people responsible for enforcing our codes are doing their jobs. He continued by stating the Code Enforcement officer is responsible for the permit, and the police officers can't do anything beyond their responsibility. Lattimore apologized to Mrs. Moore for not being able to address her situation. Mrs. Moore accepted the apology, but she stated there were City ordinances the officer could have enforced. Lattimore told two true stories from his years of being in law enforcement in which the letter of the law is followed with an unfortunate outcome. He referred to this situation as "lawful but awful". He continued by stating he tries to train his officers to make their best judgment call in any given situation. Every situation is different so I choose officers whom I feel can make the best decisions. The state of Texas licenses me, but City Council gives me the power to make decisions that could ultimately lead to my taking someone else's life. You need to trust my judgment and the judgment of the officers that go out on calls. When an officer goes on a call, say for a barking dog, there is a buildup of events. First, there is usually a verbal warning, the second encounter a written warning, and then a citation is issued. If the officer is called a fourth time, he cannot go and shoot the dog because he can't expose himself to that liability. Even if a citation is issued for an ordinance violation, it does not mean the activity is going to stop. Councilman Moore asked if there would be a record of a verbal warning. Lattimore stated if it was a call for service, there would be a record. However, if it is a drive-by observation, there would be no record of a verbal warning. Moore then asked if officers were given an orientation covering the City ordinances. Lattimore responded to the degree it applies to law enforcement work, nuisance violations, like a loud noises, would then overlap into law enforcement. He expanding by saying he has no idea what a City building permit looks like or what the zoning ordinance entails. Moore stated he was glad there are people in the City who are fixing up their houses, but he thinks situations like his are going to continue, so this needs to be addressed by a more detailed ordinance. Lattimore stated he encourages the Council to keep looking at improving the ordinance in order to give the PD more tools for enforcement. Mayor Dungen thanked the Chief for his insight.

11. Consideration and Action to Approve Resolution 159-16, a Resolution Approving the Guaranty of the Columbus Municipal Golf Association Equipment Lease Agreement with Wells Fargo.

Mayor Dungen read the ordinance.

Councilwoman Gobert made a motion to Approve Resolution 159-16 as read. Councilman Hernandez seconded the motion.

The vote was as follows:

Ayes: Councilmen Schonenberg, Rankin, Hernandez and Moore; Councilwoman Gobert

The motion passed.

12. Consideration and Action, if Necessary, on the March 2016 Columbus Municipal Golf Association Report.

Mike Craddock, treasurer of the Columbus Municipal Golf Association, gave the March report, a copy of which is attached to these minutes.

Councilman Schonenberg asked why the cost of goods sold was so close to the amount of sales revenue. It was determined that a lot of inventory had been purchased.

Craddock stated the Association's Liquor License had been approved, and they had gotten a letter from TABC giving them permission to continue liquor sales until the license was received.

Rankin stated the City's support goes to non-clubhouse activity, and the costs associated with the liquor licenses should be isolated from the financial reports to the City.

Craddock continued his report with the various expenses that are coming due, and the status of the golf memberships.

Councilwoman Gobert asked for a detailed budget report for year to date.

No action was required.

13. Consideration and Action, if Necessary, on the February 2016 Code Enforcement Report.

Code Enforcement Officer, Ford Stein, gave his report to Council, a copy of which is attached to these minutes. He stated that he and Warschak have started plotting nonconforming properties on the City zoning map, and he is updating the spreadsheet listing substandard housing units. Also, letters have gone out to property owners with code violations. Councilman Moore asked about the procedures for substandard housing and why these particular houses are being targeted. Stein stated when he started in his position; his priority was going after substandard housing near schools where children could be in danger. Stein then explained the procedure and time line for going after these types of structures.

No action was required.

14. Items from Councilmembers.²

Councilman Moore – None

Councilwoman Gobert – Asked about a CAD drawing of the water, sewer and gas lines showing age of different sections. She also asked about the status of the Visitors' Center. Warschak stated they have asked for revised plans in order to cut costs.

Councilman Schonenberg – Recommended the Council recognize the Garden Club for their 89th Anniversary.

Councilman Hernandez – None

Councilman Rankin – None

Mayor Dungen – None

6. Announcements.

None

7. Adjournment.

The Mayor adjourned the meeting at 8:26 p.m.



Mayor, Dwain Dungen

ATTEST:



Bana Schneider, City Secretary

¹During this agenda item, citizens may comment for the record on items, which are not on the agenda. However, the Council may not participate in discussion or deliberation on any item that is not on the agenda. Citizens may request that a topic be added to a future agenda.

²Limited to statements. Issues raised by councilmembers under this item cannot be deliberated by Council. The Open Meetings Act does not allow Council to deliberate items that don't appear on the agenda.

