

April 8, 2010

The City Council of the City of Columbus, Texas met in regular session on Thursday, April 8, 2010 at 6:30 p.m., in the Council Chambers of City Hall located at 605 Spring Street, Columbus, Texas, with the following present:

Mayor	-	Dwain Dungen
Mayor Pro Tem	-	Curtiss Schonenberg
Councilman	-	Charles Richardson
Councilman	-	John Axel
Councilman	-	Bruce Tesch (Absent)
Councilman	-	John Wagner
City Manager	-	Donald Warschak
City Secretary	-	Patti Glaeser

Also City Staff present:

Police Chief	-	Danny Jackson
Utilities Superintendent	-	Wayne Karstadt

1. **Call to Order.**

Mayor Dungen called the meeting to order at 6:30 pm.

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

Mayor Dungen led the Pledge of Allegiance and Invocation.

3. **Consent Agenda:**

- a. **Approval of Invoices.**
- b. **Approval of Minutes of March 25, 2010 Regular Meeting.**
- c. **Approval of February Financial Statements.**

Councilman Axel moved to approve the consent agenda. Councilman Schonenberg seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

4. **Consideration and Action to Approve Invoices from Curtiss Automotive.**

Councilman Richardson moved to approve the invoices from Curtiss Automotive. Councilman Axel seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Wagner
Abstain: Councilman Schonenberg
Absent: Councilman Tesch

The motion passed.

5. **Citizen's Presentations and Comments.**ⁱ

Kathy Burris, manager of the City Pool thanked the Council for the new cool deck around the pool. She informed the Council that the swim team begins on May 1 and the first swim meet is June 1. Mayor Dungen thanked Ms. Burris.

Walter Christensen will speak on Agenda Item # 10.

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6. **City Manager Report including Charter Street Water Improvements, EECBG Grant Application, Economic Indicators, Water System Flushing, Swimming Pool Cool Deck, Power Outage, Water Main Break South of IH-10.**

City Manager, Donald Warschak, presented his City Manager Report, which is attached to these minutes. He added that the Cardinal Tower was drained this week for inspection. Preliminary reports show some pitting in the bottom of the tank. The exterior needs a high pressure wash and touch up paint. Mr. Warschak informed Council that the ground storage tanks will be cleaned and will take about a week per tank to clean. He also discussed Unemployment with the US being at 9.58%, the State being at 7.78% and Colorado County at 6.38%. He also discussed the decline in sales tax over the last few months.

7. **Discussion and Action to Approve Ordinance # 105-10 Regarding Placing 4-Way Stop Signs at the Intersections of Bonham Street and Prairie Street and also Houston Street and Prairie Street. (Warschak)**

Councilman Schonenberg moved to approve Ordinance #105-10, placing 4 Way Stop Signs at the intersections of Bonham Street and Prairie Street and also Houston Street and Prairie Street. Councilman Axel seconded the motion. . The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

8. **Discussion and Action on Status of Document Request from Great Southern Wood Regarding Requirements of Promissory Note. (Wagner)**

Councilman Wagner said there is a \$600,000 payment from Great Southern Wood due May 1st. Councilman Schonenberg asked Ms. Glaeser if she had been able to get with Mr. Prause on this. She said she forwarded a letter from Mr. Prause to the Council. Mayor Dungen said he spoke with City Attorney, Ty Prause today and Mr. Prause had prepared a request with the documentation requirements as suggested by Councilman Wagner. He said Mr. Prause recommended that the Council not send the request for information until the Promissory Note is due. His concerns were that moving ahead too soon would look like an acceleration of the note. At this point, nothing is due. Mayor Dungen also said Mr. Prause had some concerns as to what documents the City is requiring from GSW and needs clarification from Council. Councilman Wagner said he gave a list to Mr. Prause with those items. Mayor Dungen said Council asked Ty to prepare a letter as to what is required and Mr. Wagner asked for additional information. Mayor Dungen said Council should decide. Mayor Dungen said the Note says what they have to give. Councilman Wagner read what the Promissory Note required. It says: " 2 (c) As of December 31, 2009, Tenant either (i) employs seventy-five (75) or more Employees, or (ii) has paid Wages in an amount of not less than One Million Seven Hundred Fifty Thousand Dollars and No/100 Dollars (\$1,750,000.00) to Employees for work done by such Employees during calendar year 2009. The term 'Employees' shall mean an individual working at the Property, employed full-time by the Tenant, and hired at arm's-length by the Tenant with the intention to maintain continuous employment with the Tenant thereafter. The term 'Wages' shall mean Tenant's payroll as reflected on Tenant's IRS Forms 940 (or other appropriate IRS form designated by the IRS for use in substitution thereof) for the applicable year." Councilman Wagner said the Form 940 will tell what wages were paid by Great Southern Wood, LLC. during 2009. He said Form 940 will not tell what individuals were working at the property. The only way we can verify that these employees were working at the property is to require additional payroll records. He feels the Council should get payroll records, including employee records, Forms 941, W-2, W-3.

Councilman Richardson said they need employment certification. Mayor Dungen said Mr. Prause would be the appropriate one to interpret what is needed. Ty has drafted a letter. His recommendation was to not submit it until the Note is actually due. Councilman Wagner said that is fine, but he wants to make sure adequate documentation is received to verify that they have met the terms of the obligation.. Councilman Richardson said Mr. Prause is our advisor, but the Council can decide whether to take his advice or not. Councilman Schonenberg said he agreed with Mr. Prause on sending the request of the timeframe, but he agreed that they need verification of the payroll and the conditions of the note. Councilman Schonenberg said that needed to be done. He said the Form 940 will give an amount. Richardson agreed certification was needed. Councilman Wagner asked what the letter says. Mayor said the letter says: "Form W-2, Names and address of all the employees, home addresses. Mayor said Ty's concern was that all these specific things were beyond what was needed. Councilman Wagner said he doesn't agree with that. He says that with \$600,000 due to the City, they need to confirm that GSW

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has met the terms of the Note. He believes that if the Council does not ask for the additional information, they are doing a poor job as Councilmen. Councilman Wagner said Mr. Prause's letter has in it everything that he asked to be put in the Note including (1) four quarters of 2009 Form 941's; (2) four quarters of 2009 Texas Workforce Commission reports; (3) 2009 Form W-2's ; and (4) 2009 Form W-3, (5) current employee list, including: payroll information, names, home addresses, locations where there work is performed, job title(s), start date and termination date if applicable. Those documents are to be delivered to Ty Prause and should remain there in his possession until the people in this group can review the documents. Councilman Axel said if everything he is requesting is there, it doesn't matter when the Council receives the information. If they don't have the information, the City will get their money. He said it does not hurt to wait. Councilman Wagner moved to request the information as laid out and defined in Ty Prause's letter dated May 2, 2010. Councilman Axel seconded the motion. . The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

Mayor Dungen moved back to Agenda Item #5, **Citizen's Presentations and Comments** to allow Reverend Brown to Speak. Rev. Brown brought a drainage concern at 1706 Rampart. City Manager, Mr. Warschak, will look into the problem.

9. Consideration and Action Regarding Garbage Contract. (Warschak)

Mr. Warschak said a committee was formed to meet with TDS to discuss the TDS proposal. He discussed the proposal and the rates for the next 5 years. TDS proposed a rebate for metal for anything over 4 tons. They also proposed recycling compost and hauling it to Austin. A sludge proposal was also asked to be submitted.

Jay Howard with TDS was present to discuss the garbage contract proposal. Mayor Dungen asked for management's recommendation. Mr. Warschak said that TDS has been the contractor for the last 5 years and everyone has been pleased with their service. Councilman Schonenberg asked Patti Glaeser from an administrative and bookkeeping standpoint, what her recommendation was. Ms. Glaeser said they have been wonderful to work with. When there were any kinks in the system, TDS has been very helpful in solving the problems. Councilman Schonenberg thinks the City should stay with TDS. Councilman Wagner would have liked to have handled the bids differently. Councilmen Schonenberg and Richardson agreed.

Councilman Schonenberg moved to accept the proposal from TDS for a period of 5 years. Councilman Wagner seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

Mayor Dungen said he would still like to discuss Glass recycling. Mr. Howard invited Councilmembers to visit their facility in Creedmoor.

10. Public Hearing on Replat of Lots 7&8, Block 6 of the Gegenworth and Gregory Heights Addition. (Warschak)

The Public Hearing opened at 7:17pm. Mr. Warschak explained that Chris Christensen would like to replat his property located Lots 7&8, Block 6 of the Gegenworth and Gregory Heights Addition. Currently the property is divided east to west and he would like to divide the property north to south. Councilman Schonenberg is concerned that by P&Z standards, there is not enough setback. Councilman Richardson said there appears to be three variances that need to be looked at. Councilman Schonenberg believes this should be sent to P&Z. Councilman Wagner asked why the property was being replatted. Walter Christensen was present to discuss why Mr. Christensen was wanting to replat the property. He said that he just wanted it re-platted so it could someday be subdivided within the family. Mr. Christensen said that they could take down the carport and well house if needed. Councilmen Richardson and Schonenberg would both like to see a plat drawn to scale. Mr. Christensen asked if he should get a plat to scale. The Council said that would be good so they can get it to Planning and Zoning.

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11. **Consideration and Action to Approve Replat of Lots 7&8, Block 6 of the Gegenworth and Gregory Heights Addition as Requested by Chris Christensen. (Warschak)**

Mayor Dungen reopened the regular meeting at 7:22 p.m. Councilman Schonenberg moved to refer the replat of Lots 7 & 8 , Block 6 of the Gegenworth and Gregory Heights Addition to Planning and Zoning Commission for Recommendation and Report. Councilman Richardson seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

12. **Consideration and Action to Enroll City Police Officers in the Texas Municipal Police Association (TMPA). (Wagner)**

Councilman Wagner said he was on the selection board for the new police officer when TMPA was discussed. They are an insurance type program that represents the police officers. Kevin Lawrence of TMPA discussed the benefits they offer police officers. The cost is \$28 per month per officer.

Councilman Richardson asked if this insurance represents the employee on wage and benefits in adversarial position with the city. Mr. Lawrence confirmed this. Councilman Richardson said he is concerned and does not want to hire a union. Mayor Dungen suggested the City look into this further.

Councilman Wagner moved to table Agenda Item #12. Councilman Richardson seconded the motion. . The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

13. **Consideration and Action to Submit a Proposed Revision of Zoning on Block 1, Lt PT 3, 312 Malleck Street, from District R- Residential to District B – Commercial or Business District, Contingent of Land Sale to Planning and Zoning For Recommendation and Report as Requested by Mary Lynn Skinner. (Wagner)**

Councilman Wagner said he is looking for a new office. There would be no employees, no sign and would be low profile. The location is the old Shatto funeral home. It was commercial at one time. Councilman Schonenberg moved to submit a proposed revision of zoning on Block 1, Lt PT 3, 312 Malleck Street, from District R- Residential to District B – Commercial or Business District, contingent of land sale to Planning and Zoning For Recommendation and Report as Requested by Mary Lynn Skinner. Councilman Richardson seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

14. **Consideration and Action to Appoint Election Judges. (Glaeser)**

Councilman Schonenberg moved to appoint Eddie Hernandez as Election Judge and Fay Elliott as Alternate Election Judge for the May 8, 2010 election. Councilman Axel seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

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15. Consideration and Action to Approve Pay Rate for Election Judges and Clerks. (Glaeser)

Councilman Schonenberg moved to pay the Election Judges and Clerks \$10 per hour at the May 8, 2010 election. Councilman Richardson seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, Wagner
Absent: Councilman Tesch

The motion passed.

16. Items from Councilmembers.²

Councilman Richardson – no comment.

Councilman Axel - no comment.

Councilman Schonenberg reminded Council that the City Attorney was in line to become County Judge and they would need to look at replacing him. He also would like to look for recommendations for the Budget because of Budget Revenue shortfalls. He also said the Trash- Off will be Saturday. This year people are allowed to take items to the City Yard starting this past Wednesday and ending Saturday.

Councilman Wagner – asked what the HGAC letter meant that said there was a list of grants available. Councilman Axel explained that he is on a mailing list that notifies entities of grants available.

Mayor Dungen commended Curtiss and Marian Schonenberg for the effort with the Trash Off Day.

17. Announcements.

Mr. Warschak asked that everyone watch for the construction on Charter Street.

18. Adjournment.

Mayor Dungen adjourned the meeting at 7:42 pm.

Dwain K. Dungen, Mayor

ATTEST:

Patti Glaeser, 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.

Citizens who wish to comment on a posted agenda item may do so when that item is addressed by the Mayor. Citizen's comments are limited to five minutes.

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.
