

The City Council of the City of Columbus, Texas met in regular session on Thursday, September 10, 2009 at 6:30 p.m., in the Council Chambers of City Hall located at 1538 Hwy 71 S, Columbus, Texas, with the following present:

Mayor	-	Dwain Dungen
Mayor Pro Tem	-	Curtiss Schonenberg
Councilman	-	Charles Richardson
Councilman	-	John Axel
Councilman	-	Bruce Tesch
Councilman	-	John Wagner
City Manager	-	David Meisell
City Secretary	-	Patti Glaeser
City Attorney	-	Ty Prause
Police Chief	-	Danny Jackson

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 August 27, 2009 Regular Meeting.**
- c. **Approval of Minutes of August 31, 2009, Special Meeting.**

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

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

The motion passed.

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

Councilman Tesch moved to approve the invoice for \$429.20 from Curtiss Automotive. Councilman Richardson seconded the motion. The vote was as follows:

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

The motion passed.

5. **Citizen's Presentations and Comments.**<sup>1</sup>

Laura Ann Rau signed up to speak, but did not. Elizabeth Flint asked to wait until Agenda Item #7 to speak.

Chris Christensen expressed his concern for accounting in the garbage department. He said that since the City outsourced garbage years ago, three employees that were in the garbage department were moved to the general fund. He believes the wage expense of their employment should remain in the garbage department so that expenses are accurately expensed. He does not want the numbers skewed so the garbage department shows a profit. He also said it is unfortunate that Mr. Wagner wanted Agenda Item #8 on the agenda. He does not believe it is a good idea to discuss personnel issues in open session. He thinks it is an embarrassment to our city. He would be happy to present his thoughts in closed session.

Mayor Dungen then moved to Agenda Item #17.

**17. Consideration and Action to Approve Grantworks RFP Proposal for Administrative Services for the 2009 Community Development Fund Project. (City Mgr)**

Councilman Axel moved to table Agenda Item #17. Councilman Schonenberg seconded the motion. The vote was as follows:

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

The motion passed.

**18. Consideration and Action to Approve John D. Mercer Contract for Services on the Design and Drilling of a New Water Well. (City Mgr)**

Donald Warschak discussed the proposal for designing and drilling a new water well. Councilman Tesch questioned Mr. Warschak on the City's dirty water. Councilman Tesch expressed his interest in moving back to a filtration system. Mr. Warschak explained the process of using polyphosphates in the water system instead of the using a filtration system and that the polyphosphates were a better system. He suggested the City flush lines more often to clear lines of rust and rust buildup. Councilman Axel explained his church has rust in their water and replaced their service lines. They have not had a problem since.

Councilman Schonenberg moved to approve John D. Mercer's contract for services for the design and drilling of a new water well. Councilman Richardson seconded the motion. The vote was as follows:

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

The motion passed.

**19. Consideration and Action to Approve John D. Mercer Contract for Services on Charter Street Water Improvements. (City Mgr)**

This proposal consists of adding an eight-inch water line south on Charter Street and improvements on Milentz Street. Engineering costs total \$82,000. Councilman Richardson moved to approve John D. Mercer's Contract for services on the Charter Street Water Improvements. Councilman Axel seconded the motion. The vote was as follows:

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

The motion passed.

**6. Discussion of City Manager's Report including Labor Filled Labor Day Weekend, Sewer Plant Renovations, City Hall, River Status, Water Pumpage History, Economic Indicators, Naumann Farms Road, Charter Street Water Improvements, Little League Lights.**

City Manager, David Meisell, presented his City Manager's Report, which is attached to these minutes.

**7. Discussion and Action Regarding the August 27, 2009 Vote Taken in Regard to the Retirement of David Meisell, City Manager. (Wagner)**

Councilman Wagner said there is no binding validation on the vote taken two weeks ago on a non-existing letter of retirement. The vote must be nullified. He said he spoke to a labor law lawyer and the lawyer said Mr. Meisell had not been terminated. City Attorney, Ty Prause, took blame for the agenda item two weeks ago. He said the Mayor asked him for the verbiage on the agenda. Mr. Prause said his intent was to have the item as respectfully and gentlemanly as possible to terminate the City Manager, with the understanding of the gentleman's agreement between the City and the City Manager, regarding the City Manager's employment. Mr. Prause said that he believed it was. Councilman Wagner reminded Mr. Prause that at the meeting before, all five Council members asked Mr. Meisell to stay on as City Manager. Mr. Prause said he was present and did remember.

Councilman Richardson said he asked Mr. Meisell at that time if he would stay and Mr. Meisell did not answer him. Mr. Richardson said he believes the minutes are incorrect (from the August 13<sup>th</sup>

meeting). He said he does not believe the item was transcribed off the tape. He said he remembers what he said.

Mr. Meisell explained that 18 months ago, he said he would retire on September 30, 2009. He said if Council had not done anything, he would have retired on September 30, 2009. Mr. Meisell continued by saying because the Council asked him to stay at the August 13<sup>th</sup> meeting, he reconsidered his retirement and at the August 27<sup>th</sup> meeting, during his City Manager's report, he said he would honor the Council's request and withdraw his intent to retire and continue as City Manager.

Mayor Dungen said the vote that was taken at the last meeting was to set the termination date of September 30<sup>th</sup>. But out of sensitivity, it was allowed to call that a "retirement". He said the intent of the motion was to set the termination.

Councilman Axel said that when we conduct city business the way we are supposed to conduct city business, the perception of wrongness is worse than being wrong. He said it looks like there was a walking quorum. He says that because he was contacted and was told, "John you need to change your mind." He agreed to disagree. The way things were done seem ludicrous. He said he has seen this happen before. He said there was no discussion at the last meeting. A motion was immediately asked for. He said if he stays or goes, it is Mr. Meisell's business. But it is the council's, if they get rid of him. He asked whom he can trust when one thing is said today, and council members are not to speak outside of meetings, and then the next day we change our minds. Councilman Axel asked if they are playing to the people. He asked if we have an honest government. He said that personalities should be left out and that issues should be dealt with.

Mayor Dungen said there was discussion on the item. He said the item on the August 13<sup>th</sup> agenda was vague. He does not know what happened during the two weeks following. He said he put the item on the next (August 27<sup>th</sup>) meeting so the Council would know exactly what they would be doing and would have time to think about it. He said he does not know what happened during the two weeks in between. He said he is unaware of any walking quorum. He said there appears to be a conflicting opinion.

Mr. Prause said the way to fix the problem is to ratify the vote through another vote. He agreed there should be open discussion prior to a vote taken. He also said that Mr. Meisell should have the privilege to go into closed session. Mr. Meisell declined the offer.

Mayor Dungen then asked for public comments. He called for Laura Ann Rau. She did not speak. Libby Flint read a statement responding to Mr. Meisell's statements in a recent article in the *Colorado County Citizen*. She said that if the Council had not heard any complaints on Mr. Meisell, there were grounds for complaints. She said that after the August 13<sup>th</sup> meeting, Mr. Meisell shouted at her. She said citizens need to be able to approach City Hall without intimidations and humiliations. She thanked the Council for the difficult stance, which will ultimately be rewarded. Now is the time for change.

Chris Christensen hates to make these statements in a public forum. He said that the greatest assets of the city are its personnel. He said you couldn't separate personalities and personnel. At first he really liked Mr. Meisell. Mr. Christensen said that Ordinance section 102.003 says the City Manager is under the control of council and when he when Mr. Meisell is out of control, it reflects on Council. He said the Ordinance says "that the city manager shall hold office at the pleasure of council. He continued by citing various differences he had with Mr. Meisell including issues with Planning and Zoning and a drainage issue. He said Mr. Meisell gets things done through intimation instead of leadership and teamwork.

Councilman Tesch said he wanted this all to go simply and is confused as to what they are doing.

Mayor Dungen said that Mr. Meisell and Councilman Wagner are contesting whether there was an announced retirement or not. Mayor Dungen said it is now for Council to decide whether or not there is a termination or not. Mr. Meisell asked to clarify that he did not initiate any of this. He said he agreed to stay because the five councilmen asked him to. He continued that in the two weeks hence, the vote changed 3-2 for him to leave. He does not know why it changed from 5-0 to 3-2. Mayor Dungen said this is Council's request to clean things up, and to ratify the vote. Mr. Prause wanted to make it clear that the privilege was offered to Mr. Meisell to go into closed session and that Mr. Meisell stated that he did not want to go into closed session. Mr. Meisell said read the following excerpt out of the August 13<sup>th</sup> meeting: *Mr. Meisell reiterated that he does not want a contract. Councilman Richardson would like to see Mr. Meisell stay on past September 2009. Councilman Axel said he likes the status quo and would also like him to stay. Councilman Schonenberg said Mr. Meisell is the*

most qualified and wants him to stay. Councilman Tesch said he has no problem and would like to move forward. Councilman Wagner said he stays. Mayor Dungen made no comment. Mr. Meisell thanked the Council for their comments. He will think about it. He said that the comments reflect a 5-0 vote for him to stay. Council then changed to a 3-2 vote against him staying.

**8. Discussion and Action Regarding Retaining David Meisell as City Manager. (Wagner)**

Mayor Dungen asked for a motion to extend a two-week notice of termination of the employment arrangement between the City and David Meisell effective today, September 10. Councilman Tesch so moved. Councilman Schonenberg seconded the motion. Mr. Meisell interjected with the statement that the last thing the City wants to do is terminate a person who has issued his intent to retire. He does not want the City to be put at risk. He said that all the Council had to do is to ask him to retire. He offered his retirement. Mayor Dungen asked for an amendment to the motion to accept the resignation of Mr. Meisell, effective September 30. Councilman Tesch so moved. Councilman Schonenberg seconded the motion. Councilman Wagner expressed his concern with terminating Mr. Meisell and who would take over running the City on October 1. He said the City department heads would not want to take over running the City. He said they have seen the way the City Manager is treated. The vote was as follows:

Ayes: Councilman Richardson, Schonenberg, Tesch  
No: Councilman Axel, Wagner

The motion passed.

**9. Discussion and Action Regarding Advertising for the City Manager Position. (Mayor)**

Councilman Tesch moved to advertise for the City Manager's position for 30 days. Councilman Schonenberg seconded the motion. The vote was as follows:

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

The motion passed.

**10. Consideration and Action Regarding Columbus Community and Industrial Development Corporation (CCIDC) Minutes.**

July 2009 CCICC minutes were presented for review of Council. There were no questions. No action was taken.

**11. Consideration and Action to Approve Columbus Community and Industrial Development Corporation (CCIDC) Resolution. (Wagner)**

Councilman Schonenberg moved to table the Resolution # 63-09 on the CCIDC and Council's approval of items associated with Great Southern Wood since Council had just received the resolution and had not had time to read the resolution. Councilman Richardson seconded the motion. The vote was as follows:

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

The motion passed.

**12. Consideration and Action to Approve Columbus Community and Industrial Development Corporation (CCIDC) 2009-2010 Operating Budget.**

Councilman Schonenberg moved to approve the CCIDC Operating Budget for the 2009-2010 fiscal year. Councilman Wagner seconded the motion. The vote was as follows:

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

The motion passed.

**13. Consideration and Action to Award the Bid for Bank Depository. (City Mgr)**

Mayor Dungen said three bids were received but there is some confusion and he recommended tabling the item until the banks can resolve the issue. Councilman Richardson moved to table Agenda Item #13 to have time to evaluate the meaning of the bids. Councilman Schonenberg seconded the motion. The vote was as follows:

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

The motion passed.

**14. Public Hearing: 2009-2010 City of Columbus Operating Budget. (City Mgr/Fin Dir)**

The Public Hearing opened at 8:10 pm. Citizen, Chuck Rankin, asked Council to be conservative and reduce expenditures. Mr. Meisell responded to Mr. Christensen's comments regarding keeping the three employees from the garbage department. He showed data where three employees were laid off at the time of garbage outsourcing which reduced city employment. The public hearing closed at 8:17pm.

**15. Consideration and Action to Approve the 2009-2010 Operating Budget. (City Mgr/Fin Dir)**

Mayor Dungen explained to Mr. Rankin that the budget contains some projects that may not be done. He said it is hard to adjust the budget unless it is an emergency situation. He said revenues might be aggressive. He said water and gas are affected by the weather. He said water rates were adjusted. Mayor Dungen said that the average water user is 10,000 gallons per month. He said base rates were not changed. He said for a 5,000-gallon user, the rate goes up \$1.80. He said there are very limited income sources on the general fund side. He said we do not have the tax rate to pay for the services offered in the general fund. He said they must utilize the resources on the utility side. Frank Howell asked about collecting garbage in house again. Mayor Dungen said that the outsourcing of the garbage has been positive.

Councilman Richardson moved to approve the 2009-2010 Operating Budget. Councilman Schonenberg seconded the motion. The vote was as follows:

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

The motion passed.

**16. Consideration and Action to Approve Library Budget Amendment – Library Memorials. (Alma Hilburn).**

Councilman Tesch moved to approve a Library Budget Amendment in the amount of \$1,910 for the receipt and expenditure of Memorials received throughout the year. Councilman Schonenberg seconded the motion. The vote was as follows:

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

The motion passed.

**20. Items from Councilmembers.<sup>2</sup>**

Councilman Richardson– no comment.

Councilman Axel – no comment.

Councilman Schonenberg – no comment.

Councilman Tesch – no comment.

Councilman Wagner - no comment.

**21. Announcements.**

The Mayor reminded everyone that the County Fair is going on.

**22. Adjournment.**

The mayor adjourned the meeting at 8:25 pm.

  
Dwain K. Dungen, Mayor

ATTEST:

  
Patti Glaeser, City Secretary

<sup>1</sup>During 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.

<sup>2</sup> Limited 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.

