

The City Council of the City of Columbus, Texas met in regular session on Thursday, July 22, 2010 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	-	Charles Richardson
Councilman	-	John Axel
Councilman	-	Bruce Tesch (Absent)
Councilman	-	Chuck Rankin
City Manager	-	Donald Warschak
Assist. City Secretary	-	Linda Lakich

Other City Staff present included:

Police Chief	-	Danny Jackson
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1. Call to Order.

Mayor Dwain 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 June 24, 2010 Regular Meeting.
- c. Approval of June 2010 Financial Statements.

Because the minutes of the June 24th meeting were approved at the last council meeting, no action was necessary for Item b. Councilman Schonenberg moved to approve the remaining items on the Consent Agenda. Councilman Rankin seconded the motion. The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, and Rankin
Absent: Councilman Tesch

The motion passed.

4. Citizen's Presentations and Comments.¹

Jeff Hoy with Columbus Transmission addressed Council concerning a complaint which was made against his business because of a mobile home parked by a customer on the street in front of his transmission repair shop. He stated that the vehicle was brought to his business for repairs and that it was too large to work on in his shop. He was told by the police that he could not perform work on the street, but at the time the police chief and the city manager could not tell him what ordinance said this. He stated that they told him later that the ordinance that applied to his situation stated that he could not obstruct the street or sidewalk. He asked council to allow him to do these types of repairs since he does not do them very often and since he does not obstruct passage on the street or sidewalks while working on them. He said that while he was working on the vehicle the owners were staying, eating and shopping in Columbus.

Pamela Kallina told council that she had previously addressed Council concerning the overgrown property at the corner of Washington and Prairie. She said that if you drive down Washington Street you will see four vacant lots that are overgrown in addition to this one. She said that so far nothing has been cleaned up on the interior of this property and asked what is being done. The mayor told her that the city is looking at making changes to the current ordinances, but without having it on the agenda they could not discuss it that night.

5. **City Manager Report including Charter Street Water Improvements, EECBG Grant Application, Economic Indicators, Austin Street Railroad Crossing, City Secretary, Quikrete.**

City Manager, Donald Warschak, presented his City Manager's Report which is attached to these minutes.

6. **Public Hearing: Annexation of 2.09 Acres of Land in the Elizabeth Tumlinson Survey, Abstract No. 44, Colorado County Texas.**

Mayor Dungen opened the public hearing at 6:44pm. He explained that the proposed annexation was for the rear portions of the new Industry State Bank and the old Ford dealership properties. There were no comments from the public. Mayor Dungen closed the public hearing at 6:45pm.

7. **Discussion and Action to Approve Ordinance #108-10 Regarding Placing 4-Way Stop Signs at the Intersections of Washington Street and Prairie Street and also Jackson Street and Prairie Street.**

The Mayor explained that a notice would be placed in the newspaper after passage of the Ordinance and that then after one week the stop signs would be put in.

Councilman Richardson made the motion to approve Ordinance 108-10 Placing 4-Way Stop Signs at the Intersections of Washington Street and Prairie Street and also Jackson Street and Prairie Street. Councilman Rankin seconded the motion.

The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, and Rankin
Absent: Councilman Tesch

The motion passed.

8. **Discuss, Consider and Take Action on the Provisions of Promissory Note From Great Southern Wood Preserving and Correspondence From Great Southern Wood Preserving.**

After presenting a brief overview of background information concerning the City's promissory note with Great Southern Wood Preserving (GSWP), Mayor Dungen introduced the City's legal counsel, Ty Prause, and then recused himself from the discussion on this item and turned the meeting over to Mayor Pro Tem Schonenberg citing a conflict of interest due to his current employment with Great Southern Wood.

Before Mr. Prause addressed Council, Mayor Dungen stated to Council that he had not had any contact with Mr. Prause concerning this item other than asking if he had made contact with Great Southern Wood's in-house counsel. Mr. Prause stated that was correct.

Mr. Prause showed Council a copy of the \$400,000 Promissory Note (a copy of which is attached to these minutes) pointing out that the parties to the note were Great Southern Wood Preserving, Inc. and Columbus Community Industrial Development Corporation. He also pointed out the Payment Terms stating that the entire amount of unpaid principal and interest became due on May 1, 2010. On May 11, 2010, he said that he sent a letter to Great Southern Wood's counsel asking whether they intended to pay the principal and interest or to rely on Section 2 of the note which outlines conditions for their release from payment of the note. In anticipation that they intended to rely on the release conditions, he asked for documents from Great Southern Wood Preserving to show that they had fully complied with the employment requirements outlined in Section 2. On June 15, 2010 Mr. Prause received a reply to his letter. GSWP counsel included in that reply IRS Forms 940 for 2005 and 2009 and portions of Texas Workforce Commission reports for 2009 for Greenbush Logistics, Inc. Their letter stated that they expected to be released from payment of the promissory note because they believed that the employment provisions had been fulfilled as evidenced by the included reports.

Mr. Prause replied to the GSWP letter on July 7, 2010, requesting more information on what the relationship between Greenbush Logistics, Inc. and GSWP is and also information showing that the reports provided include only employees as defined in the Promissory Note. The company's reply was that Greenbush Logistics, Inc is an affiliate of GSWP. They also stated that the reports produced satisfied the conditions included in the promissory note – that the 940 report was for employees at the Columbus plant and that the Texas Workforce Commission Reports were for wages paid in Colorado County at the

Columbus Plant. While presenting copies of the tax forms provided, Mr. Prause pointed out that the Form 940 for 2009 reported less than the \$1,750,000.00 in wages required by the Promissory Note. When the wages reported on the TWC reports for 2009 are included there is an amount in excess of \$1,750,000.00 reported. Mr. Prause's questions were do the employees included in the reports meet the definition of Employee included in the Promissory Note and what is the relationship between Greenbush Logistics, Inc. and Great Southern Wood Preserving, Inc. He stated that he does not yet have enough information to determine if the release provisions in the Note have been met.

Mr. Prause explained that the original intent of the parties was important in determining if the release provisions of the note have been met. He stated that he did not intend to get hung up on entities, but felt that the intent of the agreement was that the employees should work at the Columbus plant on a full-time basis and be employees in Colorado County. Councilman Rankin said that it seemed like it would be fairly simple to verify those conditions for those employees included in the reports. He also said that the primary function of the Greenbush Logistics trucks involved should be determined. Council Axel said that he did not care what the companies' Texas wages were – he wants to know if Council can get information on if the employees are working at the Columbus Plant and residing in this area.

Mayor Dungen asked Mr. Prause if he could help clarify the relationships of the companies and Mr. Prause agreed that it would be okay. Mayor Dungen stated that ten years ago Great Southern Wood Preserving Inc. was the parent company in Alabama and that a LLC was set up in Texas. Approximately 5 years ago in-house counsel suggested that the trucking portion of the business be separated out for liability purposes and that is what Greenbush Logistics is. He said that they are still doing in 2009 what they were doing in 2005. Mr. Prause stated that he would like to talk with GSWP management but will need to get permission from GSWP counsel to do so. Councilman Rankin stated that he felt that there were two questions. First, he felt that the relationship between the two entities needs to be clarified and second, does the trucking entity apply to GSWP in this area. Councilman Axel stated that most important question to him is, are the workers from this area. Mr. Prause stated that the most relevant question is, do the employees included in the reports fall under the definition of Employees contained in the note. He will attempt to obtain more information on the matter.

Councilman Axel made the motion to table this item to allow Mr. Prause to obtain additional information. Councilman Richardson seconded the motion.

The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, and Rankin
Absent: Councilman Tesch

The motion passed.

Mayor Pro Tem Schonenberg turned the meeting back over to Mayor Dungen at 7:42 pm.

9. Discussion and Action Regarding June Police Report.

Police Chief Danny Jackson presented his report of June Police activity. No action was taken.

10. Executive Session: In Accordance with Texas Government Code, Subchapter D, Section 551.086 – Deliberations about Economic Development – Infrastructure Development and Rate Schedule to serve the Quikrete Facility.

Mayor Dungen closed the regular session and entered into Executive Session at 7:47 pm. The Executive Session closed at 8:04 pm.

11. Reconvene into Regular Session and Consider Action, if Any, Regarding Executive Session – Infrastructure Development and Rate Schedule to serve the Quikrete Facility.

Mayor Dungen reconvened into Regular Session at 8:05 pm with the same Councilmembers present along with City Manager, Donald Warschak, and Assistant City Secretary, Linda Lakich. Mayor Dungen entertained a motion to authorize Donald Warschak and Curtiss Schonenberg to continue to negotiate with Quikrete concerning gas infrastructure development and rates based on discussions in executive session.

Councilman Richardson so moved. Councilman Axel seconded the motion.

The vote was as follows:

Ayes: Councilman Richardson, Axel, Schonenberg, and Rankin
Absent: Councilman Tesch

The motion passed.

12. Items from Councilmembers.²

Councilman Richardson – no comment.

Councilman Axel – no comment.

Councilman Schonenberg – no comment.

Councilman Tesch – no comment.

Councilman Rankin – no comment.

Mayor Dungen – asked that an item be placed on a future agenda to consult with the City Attorney regarding the request of Columbus Transmission for a variance.

13. Announcements.

A Budget Workshop will be held on Tuesday, July 27 at 6:30 pm.

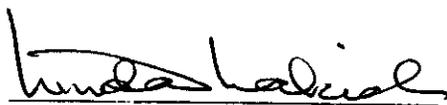
14. Adjournment.

The mayor adjourned the meeting at 8:07 p.m.



Mayor, Dwain K. Dungen

ATTEST



Linda Lakich, Assist. City Secretary

¹ 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.

² 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.