

September 21, 2004

MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL

1. 1. 5:30 P.M. CALL TO ORDER

Mayor Harrison called the meeting to order at 5:30 p.m.

2. 2. INVOCATION AND PLEDGE OF ALLEGIANCE

Alderman Browning led all in the prayer and Pledge of Allegiance.

3. 3. ROLL CALL AND CERTIFICATION OF QUORUM

Present to-wit: Mayor Philip B. Harrison, Aldermen Jerome Peters, Michael S. "Mike" Mueller, O. William "Bill" Schmidt, Monte D. Richardson and Wayne Browning; thereby a quorum was established. Also present were City Administrator Lynn S. Roberts, City Attorney Charley Smith and City Secretary Susan Rosinski.

4. 4. CONSIDERATION/ACTION TO ADOPT AGENDA

A motion was made by Alderman Mueller, seconded by Alderman Browning to adopt the agenda as presented with the exception agenda items number twenty four and twenty five follow agenda item number nine. Motion carried unanimously.

5. 5. CONSIDERATION/ACTION TO APPROVE MINUTES OF PREVIOUS MEETINGS

A motion was made by Alderman Peters, seconded by Alderman Browning to adopt the minutes of the Regular Meeting of August 17, 2004 with the following corrections as the Mayor Pro-Tempore reserves the right to vote:

Mayor Pro-Tempore Schmidt also voted “aye” on motions on agenda item numbers nine, twelve and thirteen.

Special Meeting (Budget Workshop) of September 7, 2004, Special Meeting (Budget Workshop and Tax Hearing) of September 9, 2004 and Special Meeting (Budget Workshop) of September 15, 2004.

Motion carried unanimously.

6. 6. CITIZEN’S FORUM

Carolyn Alaniz of the Bellville Chamber of Commerce informed Council of the following:

The Space City T’s will be coming into Bellville between 2:30 p.m. and 4:00 p.m. on Friday, October 15th with approximately one hundred Model T vehicles. Mayor Harrison suggested Ms. Alaniz speak to the Police Chief in regards to traffic control.

A Small Town Christmas is scheduled for December 4th at 10:00 a.m. and the Chamber would like to have a small parade lasting approximately one and one-half hours.

7. 7. REPORT OR REQUEST(S) FROM MAYOR/COUNCIL/CITY ATTORNEY

Attorney Smith stated he had spoken to the manufacturer of that product and the manufacturer has assured him that none of the exceptions included in the warranty are applicable. A letter will be sent through the manufacturer to his retailer so that we will have the warranty satisfied.

8. 8. REPORT OR REQUEST(S) FROM ADMINISTRATOR/DEPARTMENT HEADS

Administrator Roberts reported on the following:

David Ottmer has been doing some repairs on the Turnverein due to some rotting boards. It has been found the roof is leaking and running down the inside walls; therefore more repairs will be made to the roof than expected. The insurance company has been contacted. The Turnverein is also in need of painting. David Ottmer has stated he will place this on the BEDC agenda as a project as it is a park and a historical building.

David Ottmer then reported that in the restroom and kitchen area of the Turnverein the flashing has been letting the water infiltrate down into the outside of the wall rotting the siding and some of the sills. The roof will hopefully be replaced tomorrow. Mr. Ottmer also requested that quotes for painting the Turnverein be obtained. Administrator Roberts is to obtain the quotes.

It has been two years since Craig Kankel of O'Malley Engineers made recommendations on the streets. Mr. Kankel has suggested that changes (upgrade from recoat to reconstruction) need to be made to overall plan due to deterioration of the streets because of rain and street work. A special meeting may be held with Craig Kankel to present figures, as they are not available at this time.

A meeting will be hosted by LCRA for Michael McCaul on September 29 from 11:30 a.m. – 1:30 p.m. in Brenham and an invitation has been extended to Mayor, Council and Attorney Smith.

It has been noted that additional equipment and labor will be needed for the proposed park. It was brought to her attention that others have hired retired, part-time persons for repairs and ground keeping. Adm. Roberts stated that senior citizens like to contribute to their community. Mayor Harrison interjected that approximately \$440,000.00 has been made in pledges to the proposed city park.

This year the City will provide free access to the Recycling Center in lieu of curbside pick-up for Fall Clean - Up. Free access will be for a two-week period beginning October 18 – October 29, 2004. An ad will be placed in the paper first week of October.

9. 9. CONSIDERATION OF 2004 AUSTIN COUNTY FAIR CONTRACT AND ANY RELATED ACTION NECESSARY

Mr. Richard Foster representing the Austin County Fair Association appeared before Council and asked for consideration to waive the annual (\$500.00) park rental for use of city facilities. A few questions were directed towards Mr. Foster. Mr. Foster informed Council that the Fair Association provides numerous scholarships and significant contributions to the community.

Alderman Schmidt recommended the fee of \$1.00.

Attorney Smith stated a permanent waiver could not be given, as you cannot bind Council beyond current budget year.

A motion was made by Alderman Mueller, seconded by Alderman Schmidt to contract with the Austin County Fair Association for use of facilities for \$1.00. Motion carried unanimously.

10. 10. CONSIDERATION OF APPOINTMENTS TO THE HOUSTON-GALVESTON AREA COUNCIL AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Mueller, seconded by Alderman Schmidt to appoint Wayne Browning as representative and Jerome Peters as alternate to the Houston-Galveston Area Council General Assembly for 2005. Motion carried unanimously.

11. 11. CONSIDERATION OF CLECO ENERGY CONTRACT AND ANY RELATED ACTION NECESSARY

Attorney Smith informed Council that Cleco's main supply contract has changed. Smith stated that Cleco at one time was able to get additional nominations of gas out of the same well at the same price but at this time they are unable to do so.

Attorney Smith stated the terms are not favorable. Smith explained that you have to pay for the amount you nominate and if you don't nominate enough gas you will have to go buy more. If you nominate too much you will have to sell it back. You may sell on either a daily, monthly or annual basis.

Attorney Smith recommended speaking with gas personnel to see if we have the ability to make these nominations adequately and accurately and if not have someone come in on a consulting basis and assist us in making these nominations.

Attorney Smith recommended a three-year contract rather than a nine-year contract.

Administrator Roberts is to contact HGAC or LCRA and see if they have someone to call upon as a consultant.

12. 12. CONSIDERATION TO AMEND THE FEE SCHEDULE FOR GARBAGE AND DUMPSTER RATES AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Richardson, seconded by Alderman Browning to adopt the new fee schedule (Ordinance # 1275) for garbage and dumpster rates. Motion carried unanimously. Garbage fees will increase by .50 cents and dumpster rates will increase by 15%.

13. 13. CONSIDERATION TO AMEND FEES FOR SECURITY LIGHTS AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Peters, seconded by Alderman Browning to adopt Ordinance # 1274, which amends the fee schedule for security lights. Motion carried unanimously. A 100-watt security light will cost \$6.50 and a 250-watt security light will cost \$12.00.

14. 14. CONSIDERATION OF BEDC APPROVED PROJECT IN REGARDS TO RETAINING JOHNSON AND ASSOCIATES FOR TRAINING AND ANY RELATED ACTION NECESSARY

Bellville Economic Development Corporation Board President David Ottmer appeared before Council to ask for consideration of a BEDC approved project. Mr. Ottmer requested Council consider an expenditure in the amount of \$4,000.00 to retain Johnson and Associates for a training seminar, which would include topics on Board ethics, protection from litigation and a question and answer session. He explained that several other Economic Development Boards from other cities were interested in attending at a fee of \$50.00 per person.

After questions and statements by Alderman Peters, a motion was made by Alderman Schmidt, seconded by Alderman Richardson to approve the expenditure in the amount \$4,000.00 for training. Mayor Harrison called for a vote. Aldermen Mueller, Schmidt, Richardson and Browning voted aye and Alderman Peters was opposed. Motion carried.

15. 15. CONSIDERATION OF BEDC APPROVED PROJECT REGARDING LEGISLATIVE DAY AND ANY RELATED ACTION NECESSARY

BEDCB President David Ottmer asked for consideration of a BEDCB approved project for a chartered bus for Legislative Day in Austin, Texas. The date for Legislative Day is currently scheduled for February 25, 2005.

A motion was made by Alderman Browning, seconded by Alderman Mueller to approve a maximum expenditure of \$1,500.00 for Legislative Day. Mayor Harrison called for a vote. Aldermen Mueller, Schmidt, Richardson and Browning voted aye and Alderman Peters was opposed. Motion carried.

16. 16. CONSIDERATION TO AMEND BUDGET FOR LIBRARY ROOF AND TAS INSPECTION AND ANY RELATED ACTION NECESSARY

Administrator Roberts informed Council that a budget amendment would be needed in the amount of \$14,730.00 for the Library roof and \$675.00 for the Texas Accessibility Standards inspection of the Library with the total amendment being \$15,405.00.

Roberts explained she would like to see the expenditures come from the current 2003-2004 budget and added that a check could be written and held in the vault until the contractor (Edwin Malinowski) finished all repairs.

Alderman Peters inquired if a variance had been requested for the restroom.

A motion was made by Alderman Schmidt, seconded by Alderman Mueller to amend the budget in the amount of \$15,405.00 (Acct # 101-015-5-921.00) for completion of the Library roof. The motion also included that we obtain the letter from the retailer on the warranty. Motion carried unanimously.

17. 17. PUBLIC HEARING PURSUANT TO TEXAS GOVERNMENT CODE 102-006 ON THE PROPOSED BUDGET FOR 2004-2005 FISCAL YEAR AND ANY RELATED ACTION NECESSARY

A public hearing was held with no comments from the citizens in attendance.

18. 18. CONSIDERATION TO ADOPT THE 2004-2005 FISCAL YEAR BUDGET FOR THE CITY OF BELLVILLE (ORDINANCE #1272) AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Richardson, seconded by Alderman Mueller to adopt the 2004–2005 fiscal year budget (Ordinance #1272).

Alderman Peters suggested that the purchase of the AMR devices be put off until the third quarter reports were available. Prior to the purchase of any AMR devices the request should come before Council for consideration.

Mayor Harrison called for a vote on the 2004-2005 budget. Alderman Schmidt, Richardson, Mueller, Peters and Browning voted aye. Motion carried unanimously.

19. 19. CONSIDERATION TO ADOPT THE 2004 TAX RATE (ORDINANCE #1273) AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Mueller, seconded by Alderman Richardson to adopt Ordinance #1273 adopting the 2004 tax rate of 0.3481 per \$100.00 valuation. Motion carried unanimously.

Mayor Harrison called for a recess at 6:55 p.m.

The meeting re-convened at 7:05 p.m.

20. 20. CONSIDERATION OF AMENDMENT TO DEMOLITION ORDINANCE AND ANY RELATED ACTION NECESSARY

Attorney Smith informed Council the Demolition ordinance was not ready at this time. He stated that we needed to adopt a minimum standard of occupancy.

Attorney Smith asked for time and more guidance from Council and suggested that the Mayor appoint a one or two person committee to come up with a proposal of what minimum standard would be appropriate to be placed in the ordinance.

Mayor Harrison appointed Alderman Browning, Alderman Peters and Administrator Roberts to the committee.

21. 21. CONSIDERATION OF CONTRACT IN RELATION TO THE SAN FELIPE DE AUSTIN ARCHEOLOGY PROJECT AND ANY RELATED ACTION NECESSARY

Attorney Smith informed Council that the contract was not ready due to the fact that Michael Moore, Fiscal Agent for the San Felipe de Austin Archeological project was still working on an agreement with the owners of the property.

A motion was made by Alderman Browning, seconded by Alderman Peters to table this item. Motion carried unanimously.

22. 22. DISCUSSION OF THE BELLVILLE SWIMMING POOL AND ANY RELATED ACTION NECESSARY – DAVID NEWMANN

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Attorney Smith informed Council that David Newman of the Bellville Swimming Pool Assoc. had solicited proposals from different companies in regards to pool renovation. The proposals ranged from \$12,000.00 to \$150,000.00. It was suggested that Craig Kankel of O'Malley Engineers be contacted for suggestions.

No action taken.

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23. 23. CONSIDERATION OF TRANSPORTATION CODES IN REGARDS TO VERNON'S CIVIL STATUTES AND ANY RELATED ACTION NECESSARY

Attorney Smith felt that no changes needed to be made at this time.

24. 24. CONSIDERATION OF SPECIAL USE PERMIT FOR BOBBIE JEAN ANDERSON AT 620 N. MECHANIC AND ANY RELATED ACTION NECESSARY

A motion was made by Alderman Browning, seconded by Alderman Mueller to approve the special use permit for a mobile home to be located at 620 N. Mechanic owned by Bobbie Jean Anderson.

Alderman Peters stated he would like to see the property across the street from 620 N. Mechanic (identified as R38295 on Appraisal District map) be notified of the application and forms. A letter, application and notification of adjacent property owner form will be mailed to the owners of the property.

Mayor Harrison called for a vote. Motion carried unanimously.

An item will be placed on a future agenda to clarify “immediately adjacent”.

25. 25. CONSIDERATION OF AMENDMENT TO CONTRACT WITH MERCER CONSTRUCTION AND ANY RELATED ACTION NECESSARY

Mr. Sheryl Mercer appeared before Council stating Mercer Construction had made an error in the amount of \$51,138.00 in the bid for lift station upgrades and wished to explain the error. Mr. Mercer added that the error was an oversight in pricing of electrical work.

Mr. Mercer asked Council if the risk needed to stay with Mercer Construction or would the City of Bellville participate in the error made by Mercer?

Alderman Schmidt inquired if the \$51,138.00 had not been included in the Mercer bid would Mercer still be the low bidder. Mayor Harrison responded, “Yes, by over \$200,000.00 and Mercer would still have been awarded the bid”.

Alderman Browning said he respected Mr. Mercer for coming before Council, but did not feel he could make a decision tonight.

Alderman Richardson responded that he appreciated Mr. Mercer’s sincerity in admitting his mistake but he felt in his position he was representing the citizens of Bellville and he felt that Mercer should honor his bid that was made in good faith. Richardson also added that anyone could have made this error, but he believes it should not be on the burden of the City to take the error.

Mayor Harrison added Mercer Construction has dropped other jobs in the past and come to our aid in emergency situations.

Attorney Smith suggested that we look at whether changes orders would allow us to equitably address this situation without renegeing on the original bid.

This item will be delayed for Attorney Smith and Council to further study.

26. 26. OPEN SESSION RECESSED

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Open Session recessed at 7:20 p.m.

27. 27. EXECUTIVE SESSION CONVENED UNDER TEXAS GOVERNMENT GODE SECTION 551.071 PENDING OR CONTEMPLATED LITIGATION AND ANY RELATED ACTION NECESSARY

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Executive Session convened at 7:23 p.m.

28. 28. EXECUTIVE SESSION ADJOURNED

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Executive Session adjourned at 7:30 p.m.

29. 29. OPEN SESSION RE-CONVENED

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Open Session reconvened at 7:31 p.m.

30. 30. CONSIDERATION OF PENDING OR CONTEMPLATED LITIGATION AND RELATED ACTION NECESSARY

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No action taken.

31. 31. ADJOURNMENT

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A motion was made by Alderman Schmidt, seconded by Alderman Browning to adjourn at 7:32 p.m. Motion carried unanimously.