

CITY OF ROSENBERG REGULAR COUNCIL MEETING MINUTES

On this the 7th day of January, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Dwayne Grigar	Councilor, District 3

ABSENT

Susan Euton	Councilor, District 2
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager
Jeff Trinker	Assistant to the City Manager
Lora Lenzsch	City Attorney
Charles Kalkomey	City Engineer
Joyce Vasut	Finance Director
Lisa Olmeda	Human Resources Director
Matt Fielder	Economic Development Director
Rachelle Kanak	Assistant Economic Development Director
Dallis Warren	Interim Police Chief
Wade Goates	Fire Chief
Travis Tanner	Planning Director
John Johnson	Police Officer
Angela Fritz	Communications Director
Tommy Havelka	Police Officer
Kaye Supak	Executive Assistant

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Reverend Deborah Prihoda, First Assembly of God, Rosenberg, gave the invocation and led the pledge of allegiance to the flag.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON REGULAR MEETING MINUTES FOR DECEMBER 03, 2013.

B. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1743, A RESOLUTION IN SUPPORT OF THE BRAZOS RIVER AUTHORITY APPLICATION FOR FLOOD PROTECTION PLANNING GRANT ASSISTANCE FILED WITH THE TEXAS WATER DEVELOPMENT BOARD.

Executive Summary: The Brazos River Authority (BRA) has requested a Resolution of support from cities along the Brazos River for their flood planning assistance grant application to the Texas Water Development Board. Should the grant be awarded to the BRA, a Flood Protection Planning Study would be conducted to identify viable solutions for flood control. The Resolution does not commit the City of Rosenberg to provide any funding towards the study.

Resolution No. R-1743 is being presented to allow City Council the opportunity to support the BRA in their endeavor to identify and enhance flood control options along the Brazos River. Staff recommends approval of Resolution No. R-1743 as presented.

C. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1744, A RESOLUTION AMENDING THE PERSONNEL POLICIES AND PROCEDURES MANUAL, SECTION 11.00 HOLIDAYS.

Executive Summary: The City of Rosenberg full-time employees currently observes the following paid official holidays:

- | | |
|---|-----------------------------------|
| New Year's Day | Fort Bend County Fair Day |
| Memorial Day | Thanksgiving Day |
| Good Friday | Friday following Thanksgiving Day |
| Independence Day | Christmas Day |
| Labor Day | Two (2) Personal Days |
| Any other holidays designated by the City Council | |

A survey of other municipalities in our area shows that eighteen (18) of nineteen (19) cities polled offer Christmas Eve as an official paid holiday, Designating one (1) Personal holiday for Christmas Eve would allow full-time employees to observe the following paid official holidays:

New Year's Day	Thanksgiving Day
Memorial Day	Friday following Thanksgiving Day
Good Friday	Christmas Eve
Independence Day	Christmas Day
Labor Day	One (1) Personal Day
Fort Bend County Fair Day	Any other holidays designated by the City Council

Should City Council approve, Resolution No. R-1744 would amend the Personnel Policies and Procedures Manual, Section 11.00 Holidays as presented.

Mayor Morales moved Consent Agenda Item C to the Regular Agenda to be considered as Item 2A at the request of Councilor Benton.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Items A and B on the Consent Agenda. The motion carried by a unanimous vote of those present.

REGULAR AGENDA

2A. *This item was previously Item C on the Consent Agenda.*

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1744, A RESOLUTION AMENDING THE PERSONNEL POLICIES AND PROCEDURES MANUAL, SECTION 11.00 HOLIDAYS.

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Good Friday	Christmas Eve
Independence Day	Christmas Day
Labor Day	One (1) Personal Day
Fort Bend County Fair Day	Any other holidays designated by the City Council

Should City Council approve, Resolution No. R-1744 would amend the Personnel Policies and Procedures Manual, Section 11.00 Holidays as presented.

Key discussion points:

- Councilor Benton stated he thinks employees should have off on Christmas Eve to be with their families. He does not feel they need to be penalized for a personal holiday unless Council feels otherwise.
- Councilor McConathy asked what the cost would be for the additional holiday.
- Joyce Vasut, Finance Director stated that police and fire would be paid for working which would be approximately \$18,000. As proposed tonight, there would be no additional cost and would

- not affect the FY2014 but would affect FY2015 budget.
- General consensus of Council was to keep the personal holiday and add Christmas Eve as an additional City holiday.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to add Christmas Eve as a paid holiday including the two paid personal holidays. The motion carried by a unanimous vote of those present.

2. HOLD PUBLIC HEARING CONCERNING THE AMENDMENT OF LAND USE ASSUMPTIONS AND A CAPITAL IMPROVEMENTS PLAN AND THE IMPOSITION OF IMPACT FEES FOR THE WATER AND WASTEWATER UTILITIES.

Executive Summary: On November 19, 2013, City Council approved Resolution No. R-1721 calling a public hearing during the Regular City Council Meeting on January 07, 2014, concerning the amendment of land use assumptions and a capital improvements plan and the imposition of impact fees for the water and wastewater utilities. During the November 26, 2013 City Council Workshop, Mickey Fishbeck with Rimrock Consulting, presented the Water/Wastewater Impact Fee Update. A copy of the Water/Wastewater Impact Fee Update is included in your packet with the next Agenda item. The Water/Wastewater Impact Fee Advisory Task Force Committee has submitted a written recommendation to the City Council as required by Chapter 395 of the Local Government Code. A copy of said recommendation was included in the agenda packet. The public hearing is also required by Chapter 395 of the Local Government Code to provide any member of the public the right to appear and present evidence for or against the update.

Upon conclusion of the public hearing, City Council may consider adoption of the updated system wide Water/Wastewater Impact Fee Ordinance No. 2014-01 as the next Agenda item.

Key discussion points:

- John Maresh, Assistant City Manager read the Executive Summary regarding the item.

Mayor Morales opened the public hearing at 7:10:20 p.m. There were no comments. Mayor Morales closed the public hearing at 7:10:39 p.m.

3. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-01, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING EXHIBITS A, B, C, D, AND E AS REFERENCED IN SECTIONS 29-267, 29-268, AND 29-270 OF DIVISION 1, SECTION 29-301 OF DIVISION 2, AND SECTION 29-321 OF DIVISION 3 OF ARTICLE VI OF CHAPTER 29 AND SUBSTITUTING THEREFOR NEW EXHIBITS A, B, C, D, AND E CONCERNING WATER AND WASTEWATER IMPACT FEES; ADOPTING AN UPDATED SERVICE AREA MAP; ADOPTING UPDATED LAND USE ASSUMPTIONS; ADOPTING REVISED MAXIMUM AND EFFECTIVE IMPACT FEES; ADOPTING REVISED WATER AND WASTEWATER IMPROVEMENTS PLANS; PROVIDING FOR CONFLICTS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Executive Summary: The final step in the process to complete the five (5) year update to the water and wastewater impact fees is the adoption of an Ordinance that includes the updated land use assumptions, capital improvements plan and both the maximum and effective water and wastewater impact fees. The fees are based upon system-wide land use assumptions and would be applied equally to all applicable properties located throughout the City Limits and Extraterritorial Jurisdiction. The fees are based upon living unit equivalents (LUE's) utilizing the water meter size. The Impact Fee Advisory Task Force Committee reviewed the updates as prepared by the consulting team and recommended adoption of the maximum fees in the amounts of \$3,471.27 for water and \$1,234.17 for wastewater, based upon a 5/8" X 3/4" water meter for a LUE. Using the maximum fees, the total fee amount for a single-family residential home using this size water meter would be \$4,705.44. The fees for larger water meters are adjusted upwards based upon a nationally recognized standard that is published by the American Water Works Association (AWWA). A copy of said recommendation was provided in the previous Agenda item for the public hearing. It should also be noted the Effective Impact Fee Schedule included under Exhibit "C" does round down the maximum fee to the nearest dollar, or \$0.50. Therefore, the effective impact fee for water is \$3,471.00 and \$1,234.00 for sewer making the total amount \$4,705.00 based upon a 5/8" X 3/4" water meter. An impact fee comparison survey from other area cities has also been included in the packet for reference.

The City Attorney has prepared Ordinance No. 2014-01 and staff recommends adoption of the Ordinance as presented.

Key discussion points:

- John Maresh, Assistant City Manager/Utilities Director read the Executive Summary regarding Ordinance No. 2014-01.

Questions/Comments:

- Councilor Benton stated he installed a sprinkler meter at his office in Richmond in the early 2000's and it cost him \$300.00 and he had to pay for the water. They read the meter every month and it cost a minimum of \$20.00 to \$30.00 and the City of Richmond was happy because they picked up another customer.
- He has concern about charging \$3,000 to \$4,000 for residents to add a sprinkler meter in this City. We would be picking up an additional account if we did that and we would make money off of that and the water. On the commercial and new developments but for existing residences he does not see the logic in that.
- John Maresh stated the study is based upon the actual demand on the system. Every time a meter is added whether for residential, commercial or irrigation system that puts additional demand on the water system. We have to be able to supply a minimum amount of water based on TCEQ requirements. It takes well capacity, storage capacity, distribution lines, etc. Those numbers were all used in compiling what those costs will be for those capital improvements; therefore, we have included it for all meters.
- Councilor Benton asked how you can know this if we don't know where we are in our water source. We don't know what the future holds with our water source.
- John Maresh stated we do have the costs of those capital projects. We know if we go with the surface water plant we have a good idea of what those costs will be and looking at other comparable alternate sources we have an idea of what those costs will be and that is what was used to base these fees. That is the best information we have at this time.
- Councilor Benton stated he is not convinced we have to charge households \$4,000 for a sprinkler meter.
- John Maresh stated ultimately that is a Council decision. We know at some point we will have to do those capital improvements and the funds will have to come from some source. One avenue to collect those fees is the impact fees for the individuals that are using them and are putting that demand on the utility. The other source would be issuing debt which the taxpayers would have to pay.
- Councilor Benton asked if there is a deadline that this has to be approved tonight.
- Lora Lenzsch, City Attorney stated it is thirty days (30) from when the public hearing is held. We still have time. There are other considerations. What John is implying is that these rates are including those sprinkler fees. John Maresh stated yes, irrigation fees are included in what is proposed now.
- Councilor Benton stated he would like to hear what Councilor Bolf and Councilor Euton have to say.

Action: Councilor Benton made a motion to table the item until Councilors Bolf and Euton return to get their view.

Further comments:

- Councilor Benton stated that this would still put us in compliance with the thirty days after the public hearing. Other than that, are there any TCEQ deadlines or anything else related to that.
- John Maresh stated the statutory deadline is that thirty day (30) window.
- Councilor Benton stated we could have another public hearing.
- Lora Lenzsch stated yes but we would have to republish it.
- John Maresh stated you start extending that period because when you pass a resolution calling a public hearing there has to be at least thirty days (30) between the date that resolution is

approved before you can conduct that public hearing. At that point if you get out too far there is the possibility that someone could challenge those fees since we are beyond that five year window.

- Councilor Benton stated unless we republished for a new public hearing.
- Lora Lenzsch stated seeing there are also provisions that need to have a public hearing within sixty days (60) of the updated plan. The process would start over.
- Councilor McConathy stated that Councilor Bolf and Euton got the same material we did. Did they mention any objections to what we reviewed tonight?
- Councilor Benton stated that Councilor Bolf did but he has not discussed it with Councilor Euton.
- Mayor Morales stated he did not get any information from either one of the Councilors.
- Councilor McConathy asked if the reason for tabling this is just to get Councilor Bolf's opinion as a public record.
- Councilor Benton stated Councilor Bolf and Euton need to be included in the discussion and vote.
- Councilor McConathy stated that Councilor Euton did not have any objections to the agenda. She talked to Councilor Euton.
- Councilor Benton stated we would still be in compliance with the deadline. He does not see why it could not wait until the next meeting in January.

Action: Councilor Pena seconded the original motion to table the item. *Upon voting the motion carried by a vote of 3 to 2 as follows: Yeses: Councilors Benton, McConathy and Pena. Noes: Mayor Morales and Councilor Grigar.*

4. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1745, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, AN AGREEMENT FOR ENGINEERING DESIGN SERVICES FOR THE PHASE I OF THE ROSENBERG BUSINESS PARK IMPROVEMENTS PROJECT, BY AND BETWEEN THE CITY AND IDS ENGINEERING GROUP, IN THE AMOUNT OF \$285,000.**

Executive Summary: Phase I of the Rosenberg Business Park Improvements includes the construction of a road, water, sanitary sewer, and storm sewer infrastructure for approximately 2/3 of the 182-acre tract. IDS Engineering Group (formerly Pate Engineers) has been the engineer for Fort Bend County Municipal Utility District No. 150 (MUD No. 150) since its inception; it should be noted that MUD No. 150 has now been dissolved. IDS Engineering Group has collected topographical and geologic information that would have to be recreated at the City's expense should a different engineering firm be selected. In addition, they have worked with the developer to create the infrastructure cost estimates utilized as the basis for the Development Agreement.

The Professional Services/Engineering Project Review Committee reviewed staff's recommendation of IDS Engineering Group and their scope of work at the November 21, 2013, meeting and unanimously voted to recommend them for this project. Staff recommends approval of Resolution No. R-1745 authorizing the City Manager to negotiate and execute an Agreement for Engineering Design Services for Phase I of the Rosenberg Business Park Improvements with IDS Engineering Group.

Key discussion points:

- Matt Fielder gave an overview of the item regarding Resolution No. R-1745.

Questions/Comments:

- Councilor Benton asked how many phases are in this project.
- Matt Fielder stated two phases.

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to approve Resolution No. R-1745, a Resolution authorizing the City Manager to negotiate and execute, for and on behalf of the City, an Agreement for Engineering Design Services for the Phase I of the Rosenberg Business Park Improvements Project, by and between the City and IDS Engineering Group, in the amount of \$285,000.

The motion carried by a unanimous vote of those present.

5. **CONSIDER MOTION TO ADJOURN FOR EXECUTIVE SESSION.**

Action: Councilor McConathy made a motion, seconded by Councilor Benton to adjourn for Executive Session. The motion carried by a unanimous vote of those present.

6. **HOLD EXECUTIVE SESSION FOR CONSULTATION WITH CITY ATTORNEY TO SEEK OR RECEIVE ADVICE ON LEGAL MATTERS REGARDING PENDING OR CONTEMPLATED LITIGATION PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE.**

An Executive Session was held for consultation with City Attorney to seek or receive advice on legal matters regarding pending or contemplated litigation pursuant to Section 551.071 of the Texas Government Code.

7. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor Morales adjourned the Executive Session and reconvened into Regular Session at 7:59 p.m.

8. **REVIEW AND DISCUSS ELECTRO PURIFICATION, LLC, APPLICATIONS AND AGREEMENT, AND TAKE ACTION AS NECESSARY.**

Executive Summary: This item has been placed on the Agenda to allow City Council the opportunity to consider action as may be deemed appropriate regarding the Electro Purification, LLC, applications and Agreement.

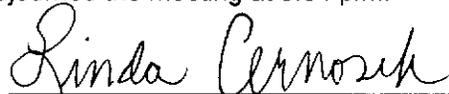
Action: Councilor McConathy made a motion, seconded by Councilor Benton based on the December 02, 2013, report prepared by Intera, Inc., which indicates that although the Electro Purification well project would not create the large amount of subsidence as stated by the Fort Bend Subsidence District, some subsidence will ultimately occur. Therefore, as a result of the current revised Subsidence District rules that state that no subsidence in Fort Bend County is allowed from the pumping of groundwater in an adjacent county, I move that (a) the City of Rosenberg exercises its rights to (i) cancel the City's further obligations under the Memorandum of Understanding with Electro Purification, LLC relating to the water supply project, but not the arrangement relating to payment for certain modeling studies; and (ii) withdraw as a party in the pending proceedings relating to Electro Purification's applications with the Bluebonnet Groundwater Conservation District, and that (b) that the Mayor, City Manager, and their respective designees, be authorized and directed to issue such notices and take any further action as may be required to implement the City Council's decision, including but not limited to consenting to Electro Purification's withdrawal or amendment of the applications pending before the Bluebonnet Groundwater Conservation District. The motion carried by a unanimous vote of those present.

9. **ANNOUNCEMENTS.**

There were no announcements.

10. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 8:04 p.m.



Linda Cernosek, TRMC, City Secretary