

REGULAR COUNCIL MEETING MINUTES

On this the 18th day of February, 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
Susan Euton	Councilor, District 2
Dwayne Grigar	Councilor, District 3
Amanda Bolf	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager for Public Services
Jeff Trinker	Executive Director of Support Services
Lora Lenzsch	City Attorney
Charles Kalkomey	City Engineer
Joyce Vasut	Executive Director for Administrative Services
Rachelle Kanak	Interim Economic Development Director
Tracie Dunn	Police Lieutenant
Wade Goates	Fire Chief
Travis Tanner	Executive Director of Community Development
Darren McCarthy	Parks and Recreation Director
Lydia Acosta	Recreation Programs Coordinator
Angela Fritz	Communications Director
Tommy Havelka	Police Officer
Kelly Kuresch	Police Officer
Kaye Supak	Executive Assistant

CALL TO ORDER.

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

INVOCATION AND PLEDGE OF ALLEGIANCE.

Mayor Pro Tem McConathy gave the invocation and led the pledge of allegiance to the flag.

PRESENTATION OF CERTIFICATE OF RECOGNITION TO ANTHONY RAY BECERRA FOR THE UNSUNG HERO AWARD.

Mayor Morales presented a Certificate of Recognition to Anthony Ray Becerra for the Unsung Hero Award. Mr. Becerra and all Image Committee Members present at the meeting joined the Mayor at the podium for the presentation. The Image Committee honored Mr. Becerra with an award.

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.

The following speakers addressed Council:

- *Marcus Schulte, 2212 Shady Oaks Lane, Rosenberg distributed a copy to Council.*

- On February 5th I received an email from my lawyer, David Showalter. He is the lawyer we used on our condemnation proceedings on Hartledge Road. He asked me if I knew anything about Rosenberg's claim for taxes they were filing on us. I didn't have a clue what he was talking about. You now have a copy of what I received so you know what I'm talking about.
- I originally thought this had to be a mistake. Rosenberg filed a tax lien for 2014 taxes on our land and building. We had just paid 2013 taxes and 2014 taxes are not due until next year. I didn't get mad then because I knew it was just a mistake. My thought Rosenberg would admit their mistake and take care of it. I should have known better. Your lawyers were concerned we may not pay taxes on approximately 4 acres of land TxDOT condemned. They obviously didn't check to see we had already settled. Rosenberg filed a tax lien on our remaining acreage and building because your lawyers felt we may not pay taxes on the condemned land. I don't know the exact amount we're talking about here but I doubt we're even talking about \$200 in taxes because this was ag exempt. The \$28,000 figure you see on Rosenberg' claim for taxes would have been correct if our building was being taken. But it is not.
- So, I have some questions. Does Rosenberg care we have been paying tax on our business for the past 31 years and never been late? Does Rosenberg care we have had million dollar positive impacts on this county for over 20 years? Does Rosenberg care we have never once asked for tax breaks, development agreements or help from anyone? Does Rosenberg care I have to spend my time and my money figuring out what is going on and hiring a lawyer to respond to this BS? Does Rosenberg care I have to hire a title company to insure this lien has been removed? I'm currently waiting on the results for that. Does Rosenberg care that in America we are suppose to be considered innocent until proven guilty? I can see filing a tax lien if we did not pay our taxes. There is no excuse for filing a tax lien because Rosenberg feels we may not pay our next year's taxes. I know three of you were not on Council during the annexation proceedings. They were nothing more than a taxation and power grab by the majority of the old City Council. I also know two of you voted against annexing our area. I can only ask that the five of you strive to severely limit the power of Rosenberg to abuse its residents and businesses. You have the power to keep Rosenberg in check. Thank you.
- ***Fran Naylor, 1424 Callendar Street, Rosenberg.***
- I'm talking to you today about the one way streets and I didn't want this to fall under the discussion having to do with the election. I first want to say that when this project was first brought to Council many, many years ago it was not brought to us as a project being presented by TxDOT. There wasn't any real discussion. At the time I got off of Council which was shortly after that, I had no idea this thing was still in the works and then it popped up again ten years later. I don't think the community was informed enough of what was going on through this whole process.
- I want to say there are comments going around that people that don't agree with the one way project don't support the City and the City's growth. And that is not true. I care very much about the City and I know the people that have called me and talked to me they care about the City. This is a huge change. It is not putting stop signs somewhere. It's going to change the whole face of our main street area. A lot of information is stated that Stafford has this and oh how wonderful it was. I used to live in Stafford when I was about 19 and the main street of Stafford consisted of a bar, restaurant, gas station, post office and a hardware store. There were no houses on the main thoroughfare. Where TxDOT came through and made the one way streets there was 90 on this side and 90 on that side and the space in between spanned just several lots and it did not have an impact on the community. Probably you pass through Stafford not knowing you were in Stafford and as Stafford grew out and the road was split the houses came. There were never any homes or neighborhoods involved in the division of Stafford. I want you all to think really long and hard because there is nothing to say that once this is done it won't hurt the City or help the City but it will make it a mess for a lot of people. Thank you.

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 JANUARY 21, 2014, AND WORKSHOP MEETING MINUTES FOR JANUARY 28, 2014.**

B. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1750, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A PROPERTY DISPOSITION SERVICE AGREEMENT FOR PROFESSIONAL AUCTION SERVICES, BY AND BETWEEN THE CITY AND PROPERTYROOM.COM.**

Executive Summary: The City Secretary and the Police Department are requesting approval to enter into an Agreement with PropertyRoom.com to hold a City-wide auction to retire surplus equipment, confiscated items, and other salvaged property. The auction will be on-line and the PropertyRoom.com will be the on-line auction service.

The City has utilized PropertyRoom.com for auction services for the past year and, overall, has been satisfied with the service provided.

The City Secretary recommends approval of Resolution No. R-1750, authorizing the City Manager to execute an Agreement for on-line auction services with PropertyRoom.com for a one-year term.

C. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1748, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN AGREEMENT FOR VIDEO STREAMING SERVICES, BY AND BETWEEN THE CITY AND SWAGIT PRODUCTIONS, LLC, FOR VIDEO RECORDING AND STREAMING OF CITY COUNCIL MEETINGS, IN THE BASE AMOUNT OF \$6,719 FOR CAPITAL EQUIPMENT PURCHASE OF STREAMING VIDEO HARDWARE, \$24,453 FOR CAPITAL EQUIPMENT PURCHASE OF COSMOS BROADCAST SYSTEM, AND \$1,135 A MONTH FOR AN INITIAL TERM OF ONE YEAR FOR STREAMING VIDEO MONTHLY MANAGED SERVICES.**

Executive Summary: Resolution No. R-1748 is presented for City Council's consideration to authorize the City Manager to execute an Agreement for Video Streaming Services with Swagit Productions, LLC, to provide video recording and streaming of City Council Meetings as reviewed by City Council at the January 21, 2014 City Council Meeting.

The Agreement, as detailed in Exhibit "A" to Resolution No. R-1748, includes: \$6,719 for video recording and streaming equipment and \$24,453 for installation of the Cosmos Broadcast System which will be funded via the Public, Education, Government Capital Fund (PEG Fund), and \$1,135 a month (\$13,620 per year) for on-demand, live video streaming and remote-switching to be funded through the General Fund.

Staff recommends approval of Resolution No. R-1748 authorizing the City Manager to execute an Agreement for Video Streaming Services with Swagit Productions, LLC.

D. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-09, AN ORDINANCE GRANTING CONSENT TO THE FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 159 FOR THE SALE AND ISSUANCE OF UNLIMITED TAX BONDS, SERIES 2014, IN AN AMOUNT NOT TO EXCEED \$2,700,000.**

Executive Summary: Fort Bend County Municipal Utility District No. 159 (MUD No. 159) is located southeast of US 59 with one (1) tract bounded by Spacek Road to the east and US 59 to the north. The other tract is bounded by Bryan Road to the south and Spacek Road to the east. The entire District lies within the corporate boundaries of the City of Rosenberg. The development is identified as Oaks of Rosenberg subdivision.

The City consented to the creation of MUD No. 159 on May 17, 2005, through Ordinance No. 2005-10. Water Supply and Wastewater Services and Development Agreements between the City, Perry Homes, and US59/Reading 108 GP, Ltd., were executed on May 17, 2005. MUD No. 159 contains approximately 148 acres.

This will be the second bond sale for MUD No. 159. The first bond sale was approved under Ordinance No. 2011-23 on September 20, 2011.

Much of the submission documentation provided by MUD No. 159 for this proposed sale, such as the TCEQ application, the Bond Order authorizing the Issuance of Bonds by MUD No. 159, the Preliminary Official Statement/Notice of Sale, Resolution Authorizing the Issuance of Bonds by MUD No. 159, Cash Flow Analysis, Debt Fund Schedule, Summary of Costs, along with additional minute excerpts and related Ordinances are available for review in the City Secretary's Office.

Staff has reviewed the documentation and found it to be in compliance with applicable City ordinances. Staff is recommending approval of Ordinance No. 2014-09, thus consenting to the sale of the Unlimited Tax Bonds, Series 2014, in an amount not to exceed \$2,700,000.

E. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1757, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A LEASE EXTENSION ON CITY-OWNED PROPERTY FOR HAY PRODUCTION, BY AND BETWEEN THE CITY AND P. F. VACEK, JR., FOR A TWO-YEAR TERM.**

Executive Summary: As discussed at the January 28, 2014 City Council Workshop, the Lease of Real Property for Hay Production (Lease) includes approximately 209 acres of open acreage. The annual Lease payment generates a positive cash flow of \$3,858.60. Based on the current right-of-way mowing contract rate for open acreage (\$17.50/acre X 6 mowing cycles), it would cost the City approximately \$21,945.00 per year to keep the property mowed if it were not leased for hay production. The initial two-year Lease will expire on April 01, 2014. The Lease does provide the City with the option to extend for two (2) additional one-year terms. The present "Lessee" is Pete F. Vacek, Jr., and he has abided by the terms of the Lease and staff has not encountered any issues or problems during the past two (2) years.

Staff is recommending approval of Resolution No. R-1757, which provides for a two-year Lease Extension for Pete F. Vacek, Jr., until April 01, 2016, in the amount of \$3,858.60 per year. A copy of said Lease Extension is attached to Resolution No. R-1757 as Exhibit "A".

F. **CONSIDERATION OF AND ACTION ON QUARTERLY FINANCIAL REPORT AND QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING DECEMBER 31, 2013.**

Executive Summary: Overall, the financial status of the City is stable. Most funds have positive variances when compared to budget and prior year actual. The largest revenues of sales tax and property tax are positive when compared to budget and expenses which are within the 25% benchmark for the first quarter of FY2014.

Staff will continue to monitor the revenues and expenses. At this time, no major changes need to be made to meet budget projections. Additionally, the Quarterly Investment Report is included for your review as required by the Public Funds Investment Act.

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the first quarter of Fiscal Year 2014.

G. CONSIDERATION OF AND ACTION ON AUTHORIZATION TO OFFER FOR SALE A PROPOSED LIST OF SURPLUS RADIO EQUIPMENT ITEMS.

Executive Summary: In December 2012, City Council authorized the City-wide replacement of all radio equipment that had met and/or exceeded its useful life. All radio equipment on the list, included in the agenda packet, has exceeded its useful life; staff recommends the sale or disposal of all surplus radio equipment.

For City Council's consideration, staff has provided a list of items to be offered for sale or disposed of as retired surplus equipment.

Staff recommends approval of the surplus list as presented.

Mayor Morales announced that Item C will be moved to the Regular Agenda as Item 2A.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Items, A, B, D, E, F and G on the Consent Agenda. The motion carried by a unanimous vote.

REGULAR AGENDA

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

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1748, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN AGREEMENT FOR VIDEO STREAMING SERVICES, BY AND BETWEEN THE CITY AND SWAGIT PRODUCTIONS, LLC, FOR VIDEO RECORDING AND STREAMING OF CITY COUNCIL MEETINGS, IN THE BASE AMOUNT OF \$6,719 FOR CAPITAL EQUIPMENT PURCHASE OF STREAMING VIDEO HARDWARE, \$24,453 FOR CAPITAL EQUIPMENT PURCHASE OF COSMOS BROADCAST SYSTEM, AND \$1,135 A MONTH FOR AN INITIAL TERM OF ONE YEAR FOR STREAMING VIDEO MONTHLY MANAGED SERVICES.

Executive Summary: Resolution No. R-1748 is presented for City Council's consideration to authorize the City Manager to execute an Agreement for Video Streaming Services with Swagit Productions, LLC, to provide video recording and streaming of City Council Meetings as reviewed by City Council at the January 21, 2014 City Council Meeting.

The Agreement, as detailed in Exhibit "A" to Resolution No. R-1748, includes: \$6,719 for video recording and streaming equipment and \$24,453 for installation of the Cosmos Broadcast System which will be funded via the Public, Education, Government Capital Fund (PEG Fund), and \$1,135 a month (\$13,620 per year) for on-demand, live video streaming and remote-switching to be funded through the General Fund.

Staff recommends approval of Resolution No. R-1748 authorizing the City Manager to execute an Agreement for Video Streaming Services with Swagit Productions, LLC.

Key discussion points:

- Angela Fritz, Communications Director gave an overview of the item.

Questions/Comments:

- Councilor McConathy referenced Section 3.6 and 3.7 and asked once we start broadcasting and video streaming will we insure and test the equipment prior to the video of our Council meetings to insure everything is working. Based on what she read they are not responsible if it

doesn't work.

- Angela Fritz stated certainly we will test. There will be a lot of testing before we go live.
- Councilor Grigar referenced the warranty and asked if the software is independent to any operating system or does it rely on the City's operating system such as Windows 7 or Vista. Who determines when this needs to be upgraded?
- Angela Fritz stated there are different parts to this software. Some is proprietary to the recording system and some to the backend system on the municipal channel broadcasting part. The part that talks to the recording equipment that actually is streaming it to where it is produced, which is offsite. It then comes back and talks to the municipal channel software. The agreement for the municipal channel is separate from this. It includes maintenance and we have budgeted for on-going maintenance and upgrades related to that.
- The streaming portion, which is the monthly portion here, Streaming Monthly Managed Services has to keep it up to date because that is what allows them to control it remotely. She will check to see if it is included.
- Councilor Grigar referenced Video Streaming Monthly Managed Services and stated up to forty meetings per year. We have thirty-five regular meetings so does that leave five special meetings?
- Angela Fritz stated that was the package that fit our Council meetings.

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to approve Resolution No. R-1748, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Agreement for Video Streaming Services, by and between the City and Swagit Productions, LLC, for video recording and streaming of City Council meetings, in the base amount of \$6,719 for capital equipment purchase of streaming video hardware, \$24,453 for capital equipment purchase of Cosmos Broadcast System, and \$1,135 a month for an initial term of one year for Streaming Video Monthly Managed Services. The motion carried by a unanimous vote.

2. **CONSIDERATION OF AND ACTION ON A SECOND READING OF ORDINANCE NO. 2014-05, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ALL OF SECTION 28-41 (B) AND (D), STOP SIGNS DESIGNATED, OF ARTICLE II, DIVISION 2 OF CHAPTER 28, STOP STREETS, AND SUBSTITUTING THEREFOR A NEW SECTION 28-41 (B) AND (D) OF ARTICLE II, DIVISION 2 OF CHAPTER 28 THEREOF; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 OR MORE THAN \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: During the January 21, 2014 meeting, City Council discussed the proposed installation of four-way stop signs at the intersection of Avenue L and Millie Street. City Council did take action directing the installation of four-way stop signs at this intersection.

Staff has prepared an Ordinance that deletes the above listed intersection from the two-way stop sign designations and adds said intersection to the four-way stop sign designations. This Ordinance was initially considered at the February 04, 2014 City Council Meeting where it was approved by a vote of four (4) to three (3). Pursuant to Section 3.10 of the City Charter, a second reading of the Ordinance is required without an affirmative vote of five (5) Council members.

Staff recommends approval of Ordinance No. 2014-05 as presented on this second reading.

Key discussion points:

- John Maresh, Assistant City Manager gave an overview of the item regarding Ordinance No. 2014-05.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve a second reading of Ordinance No. 2014-05, an Ordinance amending the Code of Ordinances by deleting all of Section 28-41 (b) and (d), Stop Signs Designated, of Article II, Division 2 of Chapter 28, Stop Streets, and substituting therefor a new Section 28-41 (b) and (d) of Article II, Division 2 of Chapter 28 thereof;

providing a penalty in an amount of not less than \$1.00 or more than \$200.00 for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability. **The motion carried by a vote of 5 to 2 as follows: Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf. Noes: Mayor Morales and Councilor Grigar.**

3. RECEIVE PUBLIC COMMENT FROM FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 162 REGARDING THE INCREASE IN MONTHLY FIRE PROTECTION FEE PURSUANT TO THE RESTATED AND AMENDED FIRE PROTECTION AGREEMENT.

Executive Summary: The Board of Directors for Municipal Utility District No. 162 (MUD No. 162) has requested an Agenda item to address City Council regarding the Restated and Amended Fire Protection Agreement (2012) as it relates to Resolution No. R-1701, which extended the compliance deadline for the provision of fire services to September 30, 2016.

Key discussion points:

- Lora Lenzsch stated we received a request from MUD 162 to speak to Council regarding the Fire Service Agreement.
- **Gary Braxton, 2410 Canon Hall Court, Richmond, Texas addressed Council.**
- I am the President of Fort Bend MUD 162. In 2008 the City and Fort Bend MUD 162 discussed fire protection in the ETJ MUDs. At the time, Mr. Hamlett, who is no longer aboard, told the district we had to join the fire fee agreement or the residents would not be protected. Our Board of Directors and residents understood that if we did not enter into this agreement we would not have fire protection. Mr. Hamlett made sure we understood this was a fairness argument and everyone that received fire protection should pay for it. After much discussion the Board decided to partner with the City because we wanted fire protection and believed that the City would not provide free fire protection. The City has raised the fire fee as stated in the argument from \$11.00 to \$20.00 effective this January. Because the City is continuing to provide free protection to the residents of the ETJ that do not pay a fire fee to the City, the residents of MUD 162, are subsidizing and essentially paying for those residents and their protection.
- Fort Bend MUD 162 understands the need and requirement for the City to provide this service please do not be mistaken. We understand this is a very important and every resident should be able to have that necessary service.
- What Fort Bend MUD 162 is requesting to the City to freeze the fire fee at \$17.00 and not increase the fire fee this year. Instead for the City to work to make sure all residents that are receiving protection are paying for it. That seems reasonable.
- The reason Fort Bend MUD 162 partnered with the City was that we were under that understanding. I have 268 signatures supporting our position. We will be happy to provide you with copies if you need them.
- Again, in closing we are not asking for free fire protection we are just asking that it remain at \$17.00 and for those getting free fire protection pay for it. Thank you very much for your consideration.
- Mayor Morales stated there is no action on the item at this time.
- Councilor Benton stated if there was no action and no comment how did this item get on this agenda and was approved by the City Manager. What was the purpose of allowing that item on the agenda?
- Lora Lenzsch, City Attorney stated that we brought to the Council's attention that the MUD wanted to address the Council regarding this item. Last month it was on the agenda and there was a miscommunication to time and date so we gave them the courtesy of putting it back on the agenda.
- Councilor Benton asked why it got on last month's agenda. What do you want Council to do with that?
- Lora Lenzsch stated they just wanted the opportunity to address Council as they just did.
- Councilor Benton asked if that is how items get on the agendas here because there have been items that other Councilors have tried to get on agendas that have not been able to.
- Robert Gracia, City Manager stated that is not a fair statement because on his watch when

Council Members ask for items to be placed on the agenda they have been placed.

- Councilor Benton stated since it is on the agenda the law provides that we can discuss these issues.
- Mayor Morales asked if there was any discussion from Council.
- Councilor Benton stated they asked for a freeze of a cost for their MUD due to us.
- Councilor Benton stated he will address this item with the City Attorney later.
- No action was taken on the item.

4. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1753, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, BUDGET AMENDMENT 14-07 IN THE AMOUNT OF \$11,469.15, FOR THE ANNUAL SUMMER PARK OWNER'S ASSOCIATION ASSESSMENT FEES.

Executive Summary: Budget Amendment 14-07, in the amount of \$11,469.15, is presented to allocate funding for the annual Summer Park Property Owner's Association Assessment Fees. The Summer Park Property Owner's Association Fees are fees assessed to the Fire Station No. 3 tract. The total amount of the annual assessment on this tract is \$11,469.15 (\$11,045.20 for the Land Area Assessment and \$423.95 for the Tract Use Assessment).

City Council discussed this item at the February 04, 2014, City Council Meeting and requested staff to prepare a budget adjustment as presented.

Budget Amendment 14-07 is included as Exhibit "A" to Resolution No. R-1753 to fund the annual Summer Park Property Owner's Association Assessment Fees for Fiscal Year 2014.

Key discussion points:

- Joyce Vasut, Executive Director for Administrative Services read the Executive Summary regarding Resolution No. R-1753.
- Since this item was not brought to our attention and included during the 2014 budget presentations and preparations she recommended that the Budget Amendment not be approved.

Action: Councilor Benton made a motion, seconded by Councilor Grigar to not approve the Annual Summer Park Owner's Association Assessment Fees per staff's recommendation. The motion carried by a unanimous vote.

5. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1754, A RESOLUTION REGARDING THE FINANCIAL MANAGEMENT POLICIES OF THE CITY OF ROSENBERG.

Executive Summary: The City's existing Financial Management Goals and Objectives were approved by City Council in 2002. The goals and objectives state that they should be reviewed annually by the Finance/Audit Committee and any proposed changes shall be approved by City Council. Attached you will find a redlined copy of the original Financial Management Goals and Objectives as approved by the City Council in 2002.

The Finance/Audit Committee reviewed the revised policies on January 29, 2014, and recommended a few additional changes. These changes are included in the redlined copy of the policies.

Resolution No. R-1754 was prepared for City Council to consider and formally adopt the amended policies. The Finance/Audit Committee and City staff both recommend approval of Resolution No. R-1754, thereby adopting the proposed changes to the Financial Management Policies.

Key discussion points:

- Joyce Vasut gave an overview of the item regarding Resolution No. R-1754.

Action: Councilor McConathy made a motion, seconded by Councilor Euton to approve Resolution No. R-1754, a Resolution regarding the Financial Management Policies of the City of Rosenberg. The

motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1755, A RESOLUTION REGARDING A FUNDING ARRANGEMENT BY AND BETWEEN THE CITY OF ROSENBERG AND THE ROSENBERG DEVELOPMENT CORPORATION FOR THE INFRASTRUCTURE IMPROVEMENTS TO SERVE THE ROSENBERG BUSINESS PARK.**

Executive Summary: On February 05, 2013, the Rosenberg City Council approved Resolution No. R-1613, authorizing the City Manager to negotiate and execute a Development Agreement (Agreement), by and among the City, Rosenberg Development Corporation (RDC) and Rosenberg Business Park, Ltd., for the development of the Rosenberg Business Park.

Per this Agreement, the City and RDC will construct the public improvements which include the water distribution system, sanitary sewer, storm sewer drainage, paving improvements, installation of natural gas lines and electrical services. These improvements have been divided into two (2) phases, with Phase I estimated at \$3,478,300 and Phase II estimated at \$1,700,000. The City and RDC will each fund fifty percent (50%) of the improvements. The RDC had agreed to advance their funding and has also agreed to advance the City's portion.

At the November 14, 2013 RDC Board meeting, the Board agreed to propose a request to City Council to lower the debt the RDC owes the City in return for funding the City's portion of the Rosenberg Business Park. This option was presented to the Finance /Audit Committee on January 29, 2014. The RDC's Debt Schedule is proposed to be decreased each year based on the anticipated new property taxes created by the Rosenberg Business Park until the City's portion of the advance funding is repaid. The Rosenberg Business Park Financial Analysis included in the agenda packet summarizes the estimated amount of property taxes to be collected based on building projections.

The Finance/Audit Committee reviewed the funding option as presented and recommends approval of this option. The RDC will consider a Resolution regarding same at the regularly scheduled RDC meeting on February 13, 2014. The Finance/Audit Committee and City staff recommend approval of Resolution No. R-1755.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding R-1755.

Questions/Comments:

- Councilor Benton stated he is optimistic about this project but he has some concerns and stated we will have over \$5 million of City money in this property. He wants to make sure our interests are secured in the event it doesn't work out. What can we do to protect our investment in the event of a foreclosure of the developer?
- Another concern is the amount of flexibility we are giving the developer in the project regarding architectural standards and the lack of input we would have on the project.
- Mayor Morales stated it is not \$5 million for the first phase it is \$3.5 million.
- Joyce Vasut stated the first phase is \$3.4 million and the second phase is \$1.7 million.
- Councilor Benton stated if you look at it amortized over twenty years that is scary.
- Joyce Vasut stated this is coming from RDC's cash reserves and it would not be amortized. We are paying RDC back over an eleven year period. The schedule is fixed and is the fixed amount we will reduce RDC's debt each year based on how much property tax revenue we anticipate will come in. RDC is funding that for us with no interest.
- Mayor Morales stated we have an agreement in place and Councilor Benton, in due respect, if you research Fuller Development they are a very quality company. We have worked on this for two years and we did not make this decision over night. We need to understand there is an agreement in place. It is a good investment for the tax payers because we are not giving them money to build buildings. We are putting it into infrastructure.
- Councilor Benton asked what we can do to secure our investment through a deed of trust.
- Lora Lenzsch, City Attorney stated she would have to check into it.

- Joyce Vasut stated the first phase is going to be installed. The actual agreement has been in place a year stating that this will be done and that RDC and City will pay their portions. That was passed last February. The item tonight is to present to Council how the City will fund their portion without issuing certificates of obligation. We found an alternative way to finance this where we do not have to pay interest and get our portion complete we have committed to in this agreement.
- Councilor Benton asked if this is approved tonight, can we get something to more secure our investment and can we assert ourselves to make sure we have some architectural input in this agreement and if we don't can we back out of the agreement?
- Joyce Vasut stated she understands there are some deed restrictions that have been drafted by the developer and those were presented at RDC but the actual agreement states that the City Council is the one to approve that and it will come to Council in the future.
- Tonight we are asking to approve the City's fifty percent (50%) we are already obligated to according to the agreement passed last year.
- Mayor Morales stated it gets the business park going. The actual standards will come back for approval to Council. There are guidelines already in place.
- Councilor Benton stated if we approve this tonight to go to this phase, he would like to secure our investment with something other than just an agreement with the developer.
- Mayor Morales stated it is the same type of agreement we have done with other developers such as Brazos Town Center and Aldi.
- Councilor Pena stated in RDC they went over this project in detail. As Rachel Kanak, Interim Economic Development Director, can tell you we are in dire need of a business park in our area. People are looking for that type of facility. It will make us more attractive to businesses. The developer putting in the business park gave their overview of why the deeds were written as they were. He brought in many of the parks they have built and they have a very good history of great business parks all over the City of Houston and other areas. He felt comfortable with them and they did a very good presentation. Discussion was held on what changes business parks. It is a phasing project and the economy is another item that can play into the picture. RDC looked at it very hard and hopefully this is going through and we can move forward on this business park which is needed.
- Councilor Benton asked if a real estate attorney has reviewed the agreement.
- Lora Lenzsch stated this agreement was drafted with the previous Director of the Economic Development, Matt Fielder and they negotiated with a real estate attorney Jeanne McDonald..
- Councilor Benton stated the developer will come on his behalf.
- Councilor Pena stated he understands that but he has a history of working with this developer. They built a couple of business parks for this developer and they are very successful. The façade of the buildings is very well studied. They don't build something that will not be presentable to future businesses. They were very adamant about how the signage will be put up and how they will control it. They are a controlling development group and they will be good to work with from his past experience.
- Councilor Benton stated if this is approved tonight we will have the opportunity to shape the architectural standards.
- Mayor Morales stated that is in the process of being finalized and then that will come to Council for review and approval. We are not doing anything different than we have done with any other development corporation.
- Councilor Grigar stated it is not being paid for with bonds, this is cash money and our return on it will be good. The developer said there is great interest in this business park already. The business park in Missouri City has taken off very well. This is the first of our kind and he sees the good in it. This can be a model for expansion or other business parks.
- Councilor Euton stated she has had some citizens contact her about this because they were confused. This is something that has been previously approved by Council and we are only dealing with the funding tonight. She congratulated staff for a very creative way to fund this without any debt and no issue of debt. It is very good that RDC has offered to pay our part and come up with a schedule where it will not impact the City based on the property taxes which shows a lot of forethought to make sure the City is not hurt and RDC will benefit too.

Action: Councilor Bolf made a motion, seconded by Councilor Euton to approve Resolution No. R-1755, a Resolution regarding a funding arrangement by and between the City of Rosenberg and the Rosenberg Development Corporation for the infrastructure improvements to serve the Rosenberg Business Park. The motion carried by a unanimous vote.

7. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1756, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, BUDGET AMENDMENT 14-08 IN THE AMOUNT OF \$44,538.81, TO FUND A CHANGE ORDER AS APPROVED BY THE ROSENBERG DEVELOPMENT CORPORATION FOR THE SEATEX/STATE HIGHWAY 36 DRAINAGE PROJECT.

Executive Summary: At the November 14, 2013 Rosenberg Development Corporation (RDC) meeting, a change order for the Seatex/State Highway 36 Drainage Project was considered by the Board. The purpose of the change order is to fund additional work to hand-dig a section around a previously unknown telecommunications cable in the project area. The change order was approved by the RDC.

Budget Amendment 14-08, in the amount of \$44,538.81, is presented to allow for the transfer of \$44,538.81 from the Rosenberg Development Corporation (RDC) Fund Balance to the RDC Projects Fund to provide funding for the change order for the Seatex/State Highway 36 Drainage Project.

Based on governmental accounting standards, the \$44,538.81 is included twice in the total budget adjustment amount since it is considered both a transfer expense to the RDC Fund and a capital expense to the RDC Projects Fund.

Budget Amendment 14-08 is included as Exhibit "A" to Resolution No. R-1756. Staff recommends approval of Resolution No. R-1756 as presented.

Key discussion points:

- Joyce Vasut gave an overview of the item regarding Resolution No. R-1756.

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to approve Resolution No. R-1756, a Resolution authorizing the City Manager to execute, for and on behalf of the City, Budget Amendment 14-08 in the amount of \$44,538.81, to fund a change order as approved by the Rosenberg Development Corporation for the Seatex/State Highway 36 Drainage Project. The motion carried by a unanimous vote.

8. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1758, A RESOLUTION AWARDED A BID FOR THE JULY 04, 2014, FAMILY 4TH CELEBRATION FIREWORKS DISPLAY; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, AN AGREEMENT, AND/OR ALL NECESSARY DOCUMENTATION REGARDING SAME.

Executive Summary: A Request for Written Quotations was posted to state-licensed pyrotechnic companies on January 10, 2014, and distributed to sixteen (16) pyrotechnics providers. Potential providers were asked to submit pricing for one (1) year along with two (2) optional one-year extensions, should the City decide to use the same company for consecutive years. Staff received five (5) written quotations and five (5) no-bids. The proposals received are summarized in the bid summary form included in the agenda packet.

Staff has reviewed the proposals and bidder qualifications and recommends acceptance of the bid from the Texas-based company providing the best show for the value over three (3) years, Pyro Shows of Texas, Inc. (Pyro Shows). Pyro Show's quote for the first year and the two (2) optional one-year extensions is \$30,000 per year, representing a cumulative three-year total of \$90,000. Although Pyro Show's cost in the first year is \$1,552 higher than the lowest bid, the company's pre-bid site visit, combined with a substantial shell count and higher numbers of medium and large shells, represents the high-quality fireworks show that the community has come to expect. Evaluating the cost over three (3) years, Pyro Show's cumulative total would be within the City's budget for a pyrotechnic display.

Pyro Shows offered eight (8) municipal and civic organizations as references. Of the agencies contacted, all reported multiple years using the company, quality pyrotechnic shows and professional customer service.

Staff recommends approval of Resolution No. R-1758, a Resolution awarding a bid for the July 04, 2014, Family 4th Celebration fireworks display; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, an Agreement, and/or all necessary documentation regarding same. Should City Council award the bid as recommended, the proposal will serve as Exhibit "A" to Resolution No. R-1758.

Key discussion points:

- Lydia Acosta, Recreation Programs Coordinator read the Executive Summary regarding Resolution No. R-1758.

Questions/Comments:

- Councilor Euton asked if this is the same company that did this last year.
- Lydia Acosta stated no. They did not bid. They were not on the list this year and they did not receive an RFQ.

Action: Councilor McConathy made a motion, seconded by Councilor Grigar to approve Resolution No. R-1758, a Resolution awarding a bid for the July 04, 2014, Family 4th Celebration fireworks display; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, an Agreement, and/or all necessary documentation regarding same. The motion carried by a unanimous vote.

9. CONSIDERATION OF AND ACTION ON A PROPOSAL TO COMBINE THE SPECIAL EVENTS COMMITTEE AND PARKS AND RECREATION BOARD.

Executive Summary: To eliminate redundancies, staff presented to the Parks and Recreation Board (Board) a proposal to combine the Rosenberg Special Events Committee with the Board. This would eliminate the Rosenberg Special Events Committee. After reviewing the proposal, the Board unanimously approved the proposal.

Per Ordinance, the Board can have as few as seven (7) members and as many as thirteen (13) members. The proposed combination would create a Board of ten (10) members. If the proposal is approved, staff anticipates combining the Special Events Committee with the Board for the regularly scheduled Parks and Recreation Board meeting on March 27, 2014.

Staff recommends combining the Rosenberg Special Events Committee with the Parks and Recreation Board and eliminating the Rosenberg Special Events Committee.

Key discussion points:

- Darren McCarthy, Parks and Recreation Director read the Executive Summary regarding the item.

Questions/Comments:

- Councilor Euton stated it is a logical request and she would support it.
- Councilor Benton asked what the members want.
- Councilor Bolf stated she is liaison to both committees and a lot of the members are on both committees and it is a lot of duplication. It is double work for Darren McCarthy and Lydia Acosta. It makes sense to consolidate them.
- Councilor Grigar stated it is reasonable to him.
- Councilor Euton asked if staff anticipates any problem with being ten members instead of an odd number. Do we need to get one more member?
- Darren McCarthy stated at this time there is a member who is border line on whether or not she will be able to continue. Ideally it is better with odd members.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve a proposal to combine the Special Events Committee and Parks and Recreation Board. The motion carried by a unanimous vote.

10. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-10, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ARTICLES I, II, AND III OF CHAPTER 12 AND SUBSTITUTING THEREFOR NEW ARTICLES I, II, AND III OF CHAPTER 12 THEREOF; PROVIDING FOR GENERAL DEFINITIONS AND GUIDELINES FOR FLOOD PREVENTION AND CONTROL, ADMINISTRATIVE PROCEDURES, AND PROVISIONS FOR FLOOD HAZARD REDUCTION; PROVIDING A PENALTY NOT TO EXCEED \$500 FOR VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: The Flood Insurance Rate Maps (FIRMs) for Fort Bend County and all incorporated areas within the County has been updated and reissued by the Federal Emergency Management Agency (FEMA). The primary changes in the maps were based on modifications to the Brazos River flows and improved terrain mapping with LiDAR elevations. This resulted in an increase in the Base Flood Elevations (BFEs) along the Brazos River, generally increasing the width of the floodplain along the Brazos River. Within the City, the improved terrain mapping resulted in removal of a large portion of Cambridge Village from the floodplain.

These new FIRMs have an effective date of April 04, 2014. Therefore, Chapter 12 of the Code of Ordinances needs to be updated to adopt these new maps.

In addition, Chapter 12 has been amended to be in agreement with our design standards which require that structures in a regulatory floodplain be elevated to twelve (12) inches above the BFE. There are additional "housekeeping" revisions to Chapter 12 within the Texas Water Development Board sample ordinance that are included in this amended Ordinance such as updated and additional definitions.

Staff recommends approval of Ordinance No. 2014-10 as presented.

Key discussion points:

- Charles Kalkomey, City Engineer gave an overview of the item regarding Ordinance No. 2014-10. There has been an ordinance on the books for several years and this is an update to that ordinance.
- The flood plain maps have been revised based on the different flow value for the Brazos River as well as improve modeling of the terrain from LiDAR information.
- Lora Lenzsch stated the preamble mistakenly placed a penalty of \$500.00 when in fact, since we have a code, we reference 1-13. The revised recommended preamble leaves the word providing a penalty but deletes that section regarding \$500.00.

Questions/Comments:

- Mayor Morales asked if the penalty is being taken out.
- Lora Lenzsch stated just in the preamble. On the last page of the Ordinance, Section 4 (Page 21) is the penalty provision which is how it is written in all of the City ordinances which references our penalty provision in our Code.

Action: Councilor McConathy made a motion, seconded by Councilor Euton to approve Ordinance No. 2014-10, an Ordinance amending the Code of Ordinances by deleting Articles I, II, and III of Chapter 12 and substituting therefor new Articles I, II, and III of Chapter 12 thereof; providing for general definitions and guidelines for flood prevention and control, administrative procedures, and provisions for flood hazard reduction; providing a penalty not to exceed \$500 for violation of any provision hereof; and providing for severability. The motion carried by a unanimous vote.

11. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-08, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY AMENDING SUBSECTIONS (A)(4) AND (A)(7) AND BY ADDING NEW SUBSECTIONS (A)(8), (A)(9) AND (A)(10) TO SECTION 6-362.2 OF ARTICLE XIII OF**

CHAPTER 6 THEREOF, PROVIDING FOR EXPANDED BOUNDARIES OF SIGN DISTRICT "B"; BY ADDING A NEW SECTION 6-362.3 OF ARTICLE XIII OF CHAPTER 6 THEREOF, ESTABLISHING SIGN DISTRICT "C" AND REGULATIONS FOR SIGN DISTRICT "C"; BY ADDING A NEW SECTION 6-362.4 OF ARTICLE XIII OF CHAPTER 6 THEREOF, ESTABLISHING A SIGN DISTRICT MAP; PROVIDING A PENALTY IN AN AMOUNT AS PROVIDED IN SECTION 1-13 OF THIS CODE FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

Executive Summary: Freestanding sign regulations for height and area for Avenues H and I and State Highway 36 (between I-69/U.S. 59 and Avenue H) have been discussed in two (2) previous City Council Workshop meetings: once on September 24, 2013, and again on November 26, 2013. In the most recent discussion on November 26, 2013, staff presented options for sign regulations for these corridors to City Council. The most agreed-upon option involved designating the eastern parts of Avenues H and I as being included in previously-approved Sign District "B." These parts of the corridors have larger properties that could accommodate the larger signage allowed in District "B" (maximum of 16-foot/120 square foot single-tenant signs and 24-foot/320 square foot multi-tenant signs). Staff recommended that should City Council choose this option, the dividing lines for larger signage would be Miles and Mahlmann Streets. This was due to the larger properties and shopping centers mostly being located to the east of these streets. There was subsequent discussion and potential agreement on the dividing line being moved to the west to 8th Street with the exception properties located on the south side of Avenue I, which should have smaller signage due to more residences being located in the area.

Staff has prepared an Ordinance amendment that we believe most reflects the discussion and consensus of City Council on November 26, 2013. It can be summarized as follows:

Key discussion points:

- Travis Tanner, Executive Director of Community Development stated this item was discussed at the November, 2013 Workshop Meeting. There was a consensus at that time that we divide Avenues H and I in terms of signage at 8th Street with the exception of the south side of Avenue I which has more residential development. A map and Ordinance were included in the agenda packet.
- The map was reviewed and the areas were pointed out where larger signage is allowed and areas where it will be more restricted. Because we divided some of the streets up for some of the corridors it was important to include this map in the ordinance to avoid any confusion with developers and contractors.

Questions/Comments:

- Councilor Euton asked if there is any height limitation on the base of the sign that it has to be so tall before the sign starts.
- Travis Tanner stated this restricts the overall height and the overall size of the sign. The ordinance has limitations for visibility.
- Councilor Euton stated the sign committee had a recommendation that the bottom of the sign would begin at 7 feet and then up from there. She personally likes the 7 feet clearance because it provides visibility in areas and are not inhibited at intersections. Because of the 7 feet clearance their signs were taller to allow for that. She likes what the sign committee recommended because of the clearance and sight and heights. She would support this ordinance because it is better than what we have but she prefers what the sign committee recommended.
- Councilor Pena stated staff has worked hard on this and it has been to Council several times. He saw a copy of the original ordinance committee and it was extensive. He agreed with Councilor Euton this is better than what we have.
- Councilor Grigar thanked staff's patience in this as it has been long overdue and he thanked the committee members as well. It is time to move forward on this and he is glad to see we finally came to an agreement. Some of this is in line with Richmond's standards.

- Councilor Bolf asked how much different is this one than the sign committee's? Why did staff not take their recommendation?
- Travis Tanner stated staff was directed to go with smaller signage. The City has been coordinating with the City of Richmond on sign sizes and heights in areas with the intent that once we adopt these regulations the Management District will turn over that regulation to the City. What is before Council represents a compromise between their standards which are very restrictive and some sign committee's recommendations at that time.
- Councilor Grigar stated he is glad to see the map was included in the ordinance for developers or general public.
- Councilor Benton stated this is an improvement and we are close but he has some concerns. He is glad Avenue I has been split north and south with smaller signs in the neighborhood than larger signs.
- Councilor McConathy thanked Travis Tanner for his patience. We are so close but she suggested the item be brought back to a workshop to tweak it. There were some items added that were not there previously such as the maximum size per individual tenant shall be 60 square feet and that is in a multi-tenant sign. That was not discussed before. She does not see the discussion taking much time but she would like it brought back to a workshop.
- Mayor Morales stated he thought that was discussed in the workshop.
- Travis Tanner stated the reason for the individual tenant sizes is that is how we have done all of the districts. We did a maximum size for the single tenant signs and the multi-tenant signs per tenant size has been the same as the maximum per single tenant signs. That is how we did all of the other districts and we stayed consistent with that.
- Councilor Benton expressed some concern regarding the multi-tenant signs per tenant size.
- Travis Tanner stated the point is to keep people from abusing the multi-tenant sign. If you have a multi-tenant and you have 100 square feet single tenant space and you have a small amount left over for others. That is the reasoning behind that.
- Some Council members requested to bring the item back to a workshop to review the multi-tenant size, amount per tenant, visibility setback and measurement.
- Lora Lenzsch stated to address Councilor Euton's concerns regarding the measurement for the base and monument signs. There is an entire section in the ordinance that deals with how to measure the height at the base or below. It gives direction for monument signs.

Action: Councilor Benton made a motion, seconded by Councilor Bolf to table Ordinance No. 2014-08, an Ordinance amending the Code of Ordinances by amending subsections (a)(4) and (a)(7) and by adding new subsections (a)(8), (a)(9) and (a)(10) to Section 6-362.2 of Article XIII of Chapter 6 thereof, providing for expanded boundaries of Sign District "B"; by adding a new Section 6-362.3 of Article XIII of Chapter 6 thereof, establishing Sign District "C" and regulations for Sign District "C"; by adding a new Section 6-362.4 of Article XIII of Chapter 6 thereof, establishing a Sign District map; providing a penalty in an amount as provided in Section 1-13 of this Code for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability. **The motion carried by a vote of 5 to 2 as follows: Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf. Noes: Mayor Morales and Councilor Grigar.**

12. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-04, AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 10, 2014, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR ADOPTION OR REJECTION, A PROPOSED ORDINANCE AND/OR RESOLUTION PROHIBITING THE CITY FROM DONATING SPECIFIED REAL PROPERTY FOR THE "ONE-WAY PAIRS" PROJECT; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION.

Executive Summary: Ordinance No. 2014-04 is an Ordinance ordering a Special Election to be held on May 10, 2014.

The purpose of Ordinance No. 2014-04 is to submit to the qualified voters, for adoption or rejection, a proposed ordinance and/or resolution prohibiting the City from donating specified land to TXDOT (Texas Department of Transportation) or any other person or entity for the "One-Way Pairs" Project, per a petition

received by the citizens of the City of Rosenberg on December 06, 2013, and making provisions for the conduct of the election.

Staff recommends approval of Ordinance No. 2014-04 as presented.

Five speakers addressed Council regarding the item, as follows:

- ***Commissioner Morrison, Fort Bend County Commissioner Precinct 1***, thanked Council for allowing him to speak. I come to speak tonight to my constituents' in Rosenberg about the proposed May election. The petition that will call for the election was probably signed by many people in this room. The ballot language is what is going to control the election and the ballot election says, "The City of Rosenberg shall not donate to any person or entity, including TxDOT, the real property owned by the City and located in Rosenberg, Texas between Avenue H and Avenue I and Damon and Louise Streets for the roadway project known as the One-Way Pairs Project. The property may only be sold in the future for fair market value as determined by an independent appraisal".
- What this election is about really is summed up in the last sentence of that language and that is Rosenberg doesn't want to give this property away and that is reasonable. Times are tough and they would like to be paid for it by TxDOT. Rosenberg wants to get fair market value from the property.
- I have spoken to everybody here on Council, the Mayor and to Councilor Member Benton for a long time and I have spoken to each of you others maybe a shorter period of time. Once I spoke to you and once I read the language and figured out what the election was going to be about, I called TxDOT and negotiated with them to see if I could get TxDOT to purchase that property and I have been successful in that. I got TxDOT to purchase the property and TxDOT has agreed to purchase the property at a fair market value as determined by an independent appraiser. So, the signers of the petition have won, they won, they don't need an election. There does not have to be an election. The money for the election can be spent on other needs of the City. The amount of money that TxDOT will pay you back can be spent on other needs for the City so there is no need for an election. And, I don't want the people of Rosenberg to be misled. I very much appreciate Mrs. Naylor because she came up her before this item and said she was against it. But, I don't want the people to be misled by the election because the election is not about stopping the project. That's not what it's about. If you were told that and signed the petition then you were misled. I don't want the voters to be misled if this is placed on the ballot and the voters are asked to vote on it when TxDOT is going to be paid and then the voters will be misled again. If the voters are told this is going to stop the project at the election, then they will be misled again and I don't want the voters to be misled. I support this project. It is going to improve safety, it will reduce congestion and equally as important we all pay gasoline taxes here when we fill up our car in Rosenberg. That money goes to build roads and so our tax money is coming back to Rosenberg to build this road and if we let this project go then it will go to Wharton or Harris County or some other county and our tax dollars will go to pay for roads somewhere else. Let's not mislead these voters, let's vote no on this deal and get on down the road and get this built.
- ***Sergio Villagomez, 1119 5th Street, Rosenberg, Texas.***
- I want to thank all of you for being very considerate and open minded about the whole role of a petition, what it takes to get a petition done, all the hard work and extra time. I'm not retired I don't have all day long to sit and do nothing. I work three jobs so I really do appreciate you considering the fact and let this petition do its thing and let the process be done like a normal process should.
- My biggest thing is that everybody is entitled to their own opinion, everybody. But, what I do not like is when people feel they can put words in your mouth and tell other people things that supposedly I said or another person said because it is just like that gentleman before me said it is misleading. Everybody knows that I was the one who started the petition. I was the one who put the ad in the paper. I feel very strong about this project I feel very passionate about it and I do agree with the people that disagreed about the petition. You have every right to feel that way and I respect your decision and I respect your right and it ends right there. So if you and I disagree on something that should be end of it. You shouldn't go to a person's workplace or

feed tales to other people and have them believe what is really going on. If there is a problem two adults can talk about it civilly, you don't have to go and put words in other peoples' mouths. I felt very, very disrespected about some of the things that were mentioned about me but that is neither here nor there. I want to tell you I appreciate you for what you did to allow this petition to be open for discussion and to vote in favor of the petition. For those again who didn't vote in that favor, no hard feelings or grudges. You have performed wonderful things in the past that I was in agreement on. There's no bumping heads there. It's where the bumping comes to where there's a problem. There is nothing wrong with two people disagreeing on something and it should stay at that. It would be real nice in writing what that gentleman just said about TxDOT paying us. I'm going to do some research and look into that. If and when that is out for the public to see I feel that we should hold this election and let the election process handle its business. Let's go at it from here. I appreciate your time very much. Thank you.

- **Mike Parsons, 2635 Sequoia, Rosenberg, Texas**
- First of all I understood what Commissioner Morrison said. My talk is kind of mute. Quite frankly it appears that the election is a mute point. There will be no donation. Actually it never was a donation. I think it was clearly defined with City Council that this was a barter that would cover the ten percent cost that the City owes TxDOT when they do work within the City. Any thought of continuing this election in my opinion, would be somewhat of an oxymoron. Regardless of the ending of the petition the property would not be donated to TxDOT one way or another because TxDOT is going to buy the property pretty much what the petition says at fair market value. I don't think we should be defined as oxymorons. It would be in effect deemed an election for no purpose which as a group of people who try to display conservative fiscal policy. It would be just a flushing whatever the cost of an election is. Somebody suggested it would be about \$10,000 down the commode. One other comment, and this goes to comments earlier, I don't look as Stafford as my view of one-way pairs. I look at a much bigger project of much more size. Although Stafford works pretty good with the one-way pairs and that's the City of Houston. As we all know, anybody who has travelled in Houston knows that the downtown streets are a series of one-way pairs. And, on that series of one-way pairs that I drive often you can make 8 to 10 blocks as long as you drive the speed limit – 30 miles an hour without having to stop. There are instances of one-way pairs in congested areas that work very well. Thank you for allowing me to comment.
- **Fran Naylor, 1424 Callender Street, Rosenberg.**
- Thank you for letting me come up again. I will talk about this election and we need this election. We were cheated out of this election when this discussion began and as I stated before this is a huge impact on our community. If we have the election and the majority of people vote for it then so be it and if not TxDOT still has to pave Avenue H and Avenue I. Those are their roads and they are in need of repair and nobody's going to steal our money and go send it to somebody else and we're going to get ripped off and paid for it. This is the fair thing to do. We had a number of people that signed a petition. Now do the honorable thing and carry through with this election. Thank you.
- **Carlos Garcia, 2003 Briar Lane, Richmond, Texas – 3501 Avenue H, Rosenberg, Texas.**
- Good evening Council, good evening Mayor. I'd like to give you a government 101 definition. Initiative – an initiative is a right and procedure by which citizens can propose a law by petition. This is not a law and assured submission to the electorate.
- Referendum – the submission of a proposed public measure or actual statute to direct popular vote. This is not a statute. A statute is a law enacted by legislature. You are the legislature. A legislature is a body of people empowered to make laws. And your City Council, you are authorized to make ordinances and laws but this is not a statute or law.
- Now I will read something from TML the Texas Municipal League. This is not legislation it is only a public opinion poll in my terms. And I have talked to a lot of people and they said the same thing. It is a public opinion poll. This is what the TML website says – Cities sometimes ask whether a non-binding election referendum may be placed on an official election ballot. The Secretary of State believes the answer is no and cites attorney general opinions LO94-091 – 1994 and H425 – 1974 for that conclusion. And, it states in fact placing an non-authorized proposition on a ballot may be considered a misappropriation of public funds. The public

cannot do anything with this. You are going to have to come back and vote on these resolutions. Now what part of these resolutions are we going to single out. It is spaghetti. We got all kinds of things here. Interlocal agreements with Fort Bend County for Mobility Bond Issue, resolutions. You have four or five pages of these. So, in short this is really only a public opinion poll. We can't vote on those. We have already voted on it seven years ago. Thank you.

Key discussion points:

- Mayor Morales stated for clarification Council is voting on an Ordinance that is calling for a Special Election on whether the voters should adopt or reject a proposed Resolution prohibiting the City from donating specified real property for the "One-Way Pairs" Project. This Ordinance is all about the property and in due respect he wishes Mr. Villagomez would have been here. The Commissioner would not have come up here and said what he said if that is not something he already negotiated with TxDOT. I just don't believe that.
- Councilor McConathy stated she stands by her previous vote and I will support the Special Election.
- Councilor Benton supports the election.
- Councilor Bolf stated she knows people on both sides of this subject. The people came and wanted an election and she thinks they were cheated four years ago out of this major project. We need to take it to the people for the vote.
- Councilor Grigar stated he stands by his previous vote.
- Councilor Pena stated he has heard a lot that the public was not properly informed in the past. He thinks there has been an outcry and the people were not given the opportunity the first time. It is not like this will be a dead end street. It is changing the total infrastructure of the City itself. The people should have the opportunity to vote anytime and it should be our direction to give it to them. That is important and we need to have more intervention with folks. As the Mayor said before, it has nothing to do with the pairing. The pairing to my knowledge is a done deal. All we are talking about is a piece of property. If it does cost the \$7,000 for a special election, so be it. The people want to speak, give the right to speak.
- Councilor Euton stated our legal counsel advised us when we first looked at this petition that it was a valid petition. Basing our decision on that, the voters should be given their due process. We do not have a contract or a firm offer from TxDOT that would nullify that so this needs to be put the ballot. If TxDOT would come forward and have a contract in place today then we could possibly postpone this. The petition was valid. We need to stand and uphold the due process that the people that signed this petition did. It is a principal. We can't just step on people even if they don't understand. We need to educate them. It may come out that TxDOT gets this free of charge and as Mr. Parsons said this was supposed to be part of our down payment on the right-of-way. It was a barter exchange originally. We do need to honor the petitioners since they did put forth something valid and have the election.
- Mayor Morales stated based on what he heard tonight he cannot in good conscience go with this because basically we will spend tax payer money on something that the state is willing to reimburse us on. And, if someone comes to me, as Councilor Bolf said, there are some that say don't give it away, but if they find out that the City is getting reimbursed, he could not in good conscience tell them we wanted to go forward with an election cost that we don't really need.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Ordinance No. 2014-04, an Ordinance ordering a Special Election to be held on May 10, 2014, for the purpose of submitting to the qualified voters, for adoption or rejection, a proposed ordinance and/or resolution prohibiting the City from donating specified real property for the "one-way pairs" project; and making provisions for the conduct of the election. **The motion carried by a vote of 5 to 2 as follows: Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf. Noes: Mayor Morales and Councilor Grigar.**

13. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1752, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND THE CITY SECRETARY TO ATTEST, FOR AND**

ON BEHALF OF THE CITY, A JOINT ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES FOR THE 2014 SPECIAL ELECTION, BY AND BETWEEN THE CITY AND FORT BEND COUNTY, TEXAS.

Executive Summary: Resolution No. R-1752 is a Resolution authorizing the Mayor to execute and the City Secretary to attest the 2014 Joint Election Agreement and Contract for Election Services (Contract) by and between the City and Fort Bend County, Texas.

This Contract with Fort Bend County provides for the Fort Bend County Elections Administrator to coordinate, supervise, and handle all aspects of administering the May 10, 2014 City of Rosenberg Special Municipal Election.

According to the Contract, the City will pay Fort Bend County for equipment, supplies, services and administrative costs related to the May 10, 2014 Special Election. The Elections Administrator will serve as the Administrator for the Election, but the City will remain responsible for the lawful conduct of the Election. The Elections Administrator will provide advisory services in connection with decisions to be made and actions to be taken by the officers of the City. The Early Voting Schedule is attached as Attachment "B" and the Election Day polling places are attached as Attachment "A" to the Contract.

The City Secretary recommends approval of Resolution No. R-1752 as presented.

Key discussion points:

- Linda Cernosek, City Secretary read the Executive Summary regarding Resolution No. R-1752.
- Councilor Benton stated he wants to make sure we get the early voting schedule and locations right on this so we don't have any problems later. For the public's information, this will be an election at the same time that the Election Administration Office is holding other municipal elections all over the County. We are not taking the total cost of this election with the Elections Administrator as it could have been.
- He referenced Exhibit B and asked if everybody is OK with the hours.
- Mayor Morales stated this is standard. Lora Lenzsch stated this is from the County and is a joint election.
- Councilor Benton stated in the past didn't the City have some discretion on the hours.
- Linda Cernosek stated we do if we have an officer's election. This entails so many different entities and this has been revised three times.

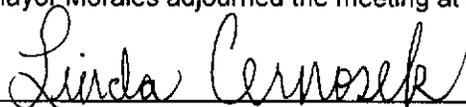
Action: Councilor Benton made a motion, seconded by Councilor McConathy to approve Resolution No. R-1752, a Resolution authorizing the Mayor to execute and the City Secretary to attest, for and on behalf of the City, a Joint Election Agreement and Contract for Election Services for the 2014 Special Election, by and between the City and Fort Bend County, Texas. **The motion carried by a vote of 5 to 2 as follows: Yeses: Councilors Benton, McConathy, Pena, Euton and Bolf. Noes: Mayor Morales and Councilor Grigar.**

14. ANNOUNCEMENTS.

There were no announcements.

15. ADJOURNMENT.

There being no further business Mayor Morales adjourned the meeting at 8:48 p.m.



Linda Cernosek, TRMC, City Secretary