

CITY OF ROSENBERG

REGULAR CITY COUNCIL MEETING MINUTES

On this the 5th day of January, 2016, 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

- Cynthia A. McConathy, Mayor
- William Benton, Councilor at Large, Position 1
- Amanda J. Barta, Councilor at Large, Position 2
- Jimmie J. Pena, Councilor, District 1
- Susan Euton, Councilor, District 2
- Lisa Wallingford, Councilor, District 3
- Lynn Moses, Councilor, District 4

Staff Present:

- John Maresh, Interim City Manager
- Scott M. Tschirhart, City Attorney
- Linda Cernosek, City Secretary
- Jeff Trinker, Executive Director of Support Services
- Joyce Vasut, Executive Director of Administrative Services
- Travis Tanner, Executive Director of Community Development
- Charles Kalkomey, City Engineer
- Dallis Warren, Police Chief
- John Thetford, Police Officer
- Wade Goates, Fire Chief
- Justin Jurek, Fire Marshal
- Darren McCarthy, Parks and Recreation Director
- Randall Malik, Economic Development Director
- James Lewis, Director of Technology
- Jenny Pavlovich, Communications Manager
- Kaye Supak, Executive Assistant

Call to order: City Hall Council Chamber

Mayor McConathy 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.

Presentation of Keep Rosenberg Beautiful 2015 Christmas Lighting and Decorating Recognition Certificates.

Mayor McConathy and Councilor Benton presented Keep Rosenberg Beautiful 2015 Christmas Lighting and Decorating Recognition Certificates to.

- Tony and Diana Deleon, 3808 Avenue R
- Glenda Reyes, 1126 Cotton Gum Lane
- Bill and Maggie Ryder, 2002 Franklin Circle
- Juan and Sylvia Tejada, 2015 Ward Street

Announcements.

- A Retirement Reception for Robert Gracia will be held on Monday, January 18, 2016, from 5 30 - 8 30 p.m at the Rosenberg Civic Center

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 minutes of the Special City Council Meeting on December 07, 2015.**
- B. **Consideration of and action on Ordinance No. 2016-03, an Ordinance granting consent to the Fort Bend County Municipal Utility District No. 155 (Bonbrook Plantation) for the sale and issuance of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$5,375,000.**

EXECUTIVE SUMMARY

Attached for your consideration is Ordinance No. 2016-03 granting the City's consent to Fort Bend County Municipal Utility District No. 155 (MUD No. 155) to sell Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$5,375,000. MUD No. 155 is located in the City's Extraterritorial Jurisdiction. The development is generally identified as Bonbrook Plantation.

City Council consented to the creation of MUD No. 155 on December 14, 2004, through Ordinance No. 2004-28 which was proposed as an approximately 448 6692 acre development. A Development Agreement and a Water Supply and Wastewater Services Agreement between the City, Bonbrook Plantation, L.P., and Beazer Homes Texas, L.P., was executed on February 22, 2005.

This will be the fifth Unlimited Tax Bond sale for MUD No. 155. Following is a list of previous bond sale activity:

- The first sale was approved by City Council on May 20, 2008, in the amount of \$6,465,000 through Ordinance No. 2008-12.
- The second sale was approved by City Council on March 01, 2011, in the amount of \$2,015,000 through Ordinance No. 2011-15.
- The third sale was approved by City Council on November 20, 2012, in the amount of \$2,050,000 through Ordinance No. 2012-44.
- The fourth sale was approved by City Council on May 06, 2014, in the amount of \$7,235,000 through Ordinance No. 2014-19.
- City Council approved Unlimited Tax Refunding Bonds, Series 2015, on January 22, 2015.

Much of the submission documentation provided by MUD No. 155 for this proposed sale such as the Bond Order authorizing the Issuance of Bonds by MUD No. 155, the Preliminary Official Statement/Notice of Sale, Resolution Authorizing the Issuance of Bonds by MUD No. 155, Cash Flow Analysis, Debt Fund Schedule, Summary of Costs, along with 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. 2016-03 thus authorizing the sale of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$5,375,000

- C. **Consideration of and action on Resolution No. R-2091, a Resolution acknowledging the acceptance, by Special Warranty Deed, of a 0.31 and 2.84 acre tract of land in the S.B. Pentecost Survey, Abstract 378, City of Rosenberg, Fort Bend County, Texas, being out of and a part of that certain call 184.1 acre tract recorded under County Clerk's File Number 2013091667, Official Public Records, Fort Bend County, Texas.**

EXECUTIVE SUMMARY

As part of the negotiations with the Developer of the Rosenberg Business Park, it was agreed that land necessary for the Bryan Road Construction Project would be conveyed to the City at no cost. The Bryan Road Project will provide access to a future phase of the Rosenberg Business Park. The City of Rosenberg has committed to

provide up to three driveway cuts and one center median opening along the realigned segment of Bryan Road.

The conveyance includes two deeds, a 0.31 and 2.84 acre tract of land. The deeds will be recorded pending acceptance by Council. Staff recommends approval of Resolution No. R-2091 as presented.

- D. **Consideration of and action on Ordinance No. 2016-01, an Ordinance amending the Code of Ordinances, Section 28-116 of Article III of Division 2 of Chapter 28 thereof, by amending a portion of Bernie Avenue as a portion of a street within the City upon which it is unlawful to park a vehicle; providing for the installation of "No Parking" signs indicating the boundaries of the no parking zone along Bernie Avenue; providing a penalty in an amount of not less than \$1.00 nor more than \$200.00 for each violation of any provision hereof; providing for a cumulative and conflicts clause; providing for severability; and, providing for an effective date.**

EXECUTIVE SUMMARY

City Council approved Ordinance No. 2007-54 on December 18, 2007 to address a safety issue for residents attempting to back out of their driveways along a portion of Bernie Avenue near SH 36 as a result of a business that was routinely parking vehicles along the north side of Bernie Avenue. An unresolved parking issue located immediately west of the current no parking zone was recently brought to the attention of staff. In an effort to remedy the parking issue and improve safety, staff is recommending the current no parking zone along Bernie Avenue be extended to improve motorist visibility when turning onto or off of SH 36 and when backing out of driveways. Ordinance No. 2016-01 would extend the no parking zone along Bernie Avenue from 156 feet to 288 feet west of its intersection with SH 36. A location map of the proposed extended no parking zone has been included for reference.

Staff recommends approval of Ordinance No. 2016-01 as presented.

- E. **Consideration of and action on a Short Form Final Plat of Cole Avenue Division No. 1, being a 1.161 acre tract of land being in the J.W. Moore ¼ League, Abstract No. 61; City of Rosenberg, Fort Bend County, Texas; 0 lots, 1 block, 2 reserves.**

EXECUTIVE SUMMARY

The Short Form Final Plat of Cole Avenue No. 1 is 1.161 acres located southeast of Highway 90A, and directly west of the intersection of Cole Avenue and Ida Street. The tract is located in the City Limits, within one thousand feet (1000') of the centerline of U. S. Highway 90A / Avenue H east of State Highway 36 West, and therefore will be subject to the Interim Corridor Standards when developed. Access will be from Cole Avenue.

There is an existing car wash on Reserve "B" whereas Reserve "A" is likely to be developed/redeveloped. The purpose of this plat is to plat out raw acreage for commercial development, and there are no issues in conflict with the applicable regulations. The Planning Commission considered and approved this Short Form Final Plat at the December 16, 2015 meeting. Therefore staff and the Planning Commission recommend approval to City Council of the Short Form Final Plat of Cole Avenue Division No. 1

- F. **Consideration of and action on a Final Plat of Glenmeadow Section Two Replat Three, being 2.91 acres in the James Lowery 1/3 League, Abstract 275, City of Rosenberg, Fort Bend County, Texas, being a replat of Reserve A, Glenmeadow, Section Two; 0 lots, 1 block and 2 reserves.**

EXECUTIVE SUMMARY

The Final Plat of Glenmeadow Section Two Replat Three consists of 2.91 acres and two (2) reserves. It is located within the City Limits on Louise Street (east side), between Avenues P and R.

Reserve "A" was originally platted in 1975 and the applicant/owner wishes to replat it into two (2) reserves to convey one (1) of the reserves for use as an office. A public hearing was required due to this being a replat, which was held at the November 18, 2015 Planning Commission meeting. Staff finds no conflicts with applicable regulations (building lines, etc.).

The Preliminary Plat of this subdivision was approved by the Planning Commission on November 18, 2015. The Final Plat was recommended for approval at the December 16, 2015 Planning Commission Meeting. Seeing no conflicts with applicable regulations, and with the proposed Final Plat being consistent with the approved Preliminary Plat, staff and the Planning Commission recommend approval of the Final Plat of Glenmeadow Section Two Replat Three.

- G. **Consideration of and action on a Final Plat of Searcy Franchise, a subdivision of 1.9337 acres (84,231 square feet) of land situated in the G. M. Stone League, Abst. No. 312, City of Rosenberg, Fort Bend County, Texas; 2 reserves and 1 block.**

EXECUTIVE SUMMARY

The Final Plat of Searcy Franchise consists of 1.9337 acres and two (2) reserves located on the north side of U.S 59/I-69 immediately east of Discount Tire. The Plat is within the City Limits and not in a utility district.

The property will take access from the existing access easement/drive that is located in Reserve "A" and currently

serves Discount Tire. Cross access will also continue from the west across the north side of proposed Reserve "B." Reserve "B" will have on it a proposed Golden Corral restaurant. A preliminary site plan has been submitted and complies with applicable standards. While the property is located in the West Fort Bend Management District, the developer sought and received variances to the setback requirements allowing for twenty-five-foot (25') front and ten-foot (10') interior building setbacks, and for ten-foot (10') front and five-foot (5') interior parking setbacks. Additionally, infrastructure plans have been completed to extend public infrastructure (water and sanitary sewer) associated with the project.

The Preliminary Plat of this subdivision was approved by the Planning Commission on October 21, 2015. The Planning Commission approved the Final Plat on November 18, 2015. Seeing no conflicts with applicable regulations, staff and the Planning Commission recommend approval to City Council of the Final Plat of Searcy Franchise.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Consent Agenda items A, B, C, D, E, F, and G

Vote: 7 - 0 Carried - Unanimously

REGULAR AGENDA

2. **Consideration of and action on Resolution No. R-2094, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Budget Amendment 16-04 in the amount of \$327,054.00 for the purchase, construction and site work associated with the Utilities Department portable building and the Macario Garcia Park Restroom Project.**

EXECUTIVE SUMMARY

On October 20, 2015, City Council approved Resolution No. R-2060 which authorized staff to move forward with the purchase and construction of a portable building at Wastewater Treatment Plant No. 1-A for use by the Utilities Department. Budget Amendment 16-04 is needed to appropriate the funds necessary to complete this project along with the required site work needed to extend the electric and water utilities that will serve this building. It should be noted that certain costs for the portable building were estimates. Staff is awaiting those final amounts, therefore, revised costs may be presented at the January 5th City Council Meeting

Previously, the Rosenberg Development Corporation (RDC) approved \$150,000 from the RDC Projects Fund for the Macario Garcia Park Restroom Project (Project). On November 18, 2015, two bids were received and opened for Bid No. 2015-12 with the low bid for the Project of \$175,304. The additional funds of \$42,054 are needed to complete the project based on the lowest bid proposal and other professional services costs. On December 10, 2015, the RDC approved Resolution No. RDC-100 authorizing an additional \$42,054 from the RDC Projects Fund fund balance to the Macario Garcia Park Restroom Project.

Staff recommends approval of Budget Amendment 16-04, attached to Resolution No. R-2094 as Exhibit "A", as presented.

KEY DISCUSSION POINTS

Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary. Jeff Trinker, Executive Director of Support Services, explained that the engineering for the portable building would be performed by Kelly Kaluza Engineering, including foundation, dirt work, site grading, utility connections, electricity, plumbing, and pavement for parking and the driveway

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 3 Lisa Wallingford to approve Resolution No. R-2094, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Budget Amendment 16-04 in the amount of \$327,054.00 for the purchase, construction and site work associated with the Utilities Department portable building and the Macario Garcia Park Restroom Project.

Vote: 7 - 0 Carried - Unanimously

3. **Consideration of and action on Resolution No. R-2093, a Resolution to rescind Resolution No. R-2059 which authorized the Mayor to execute, for and on behalf of the City, an Interlocal Agreement by and between Fort Bend County, Texas, and the City of Rosenberg for the housing of Rosenberg Fire Department response vehicles and personnel; and, authorizing the Mayor to execute, for and on behalf of the City, a revised Interlocal Lease Agreement by and between Fort Bend County, Texas, and the City of Rosenberg for Fire Department housing.**

EXECUTIVE SUMMARY

Resolution No. R-2093 provides the opportunity for City Council to consider a revised Interlocal Lease Agreement (Agreement) with Fort Bend County for the use of a County-owned building located at 4336 Highway 36 South,

Rosenberg, Texas On October 20, 2015, City Council approved Resolution No. R-2059 which provided for the execution of a similar Agreement for the same location. The Agreement was modeled after the Fort Bend County Emergency Medical Service housing agreement. However, Fort Bend County Facilities Management and Planning, the custodian of the building, requested changes to the Agreement.

The primary change involves the term of the Agreement and rent. Under the proposed change, the term would be from execution of the last party until December 31, 2019, and continue on a month-to-month basis upon agreement by both parties with a one (1) dollar rental fee for the term. The previous Agreement had a five (5) year perpetual term and no fee. Staff recommends the approval of Resolution No. R-2093, which rescinds Resolution No. R-2059 and provides authorization for the Mayor to execute a revised Interlocal Lease Agreement by and between the City and Fort Bend County for Rosenberg Fire Department housing.

KEY DISCUSSION POINTS

Wade Goates, Fire Chief, read the Executive Summary. Scott M. Tschirhart, City Attorney, explained that there had been a personnel change at Fort Bend County, and they made some amendments to the original agreement that was passed by Council. Those changes in terms were significant enough that Mr. Tschirhart wanted to bring it back to Council for agreement, though the basic substance of the agreement has remained unchanged.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor at Large, Position 2 Amanda J Barta to approve Resolution No. R-2093, a Resolution to rescind Resolution No. R-2059 which authorized the Mayor to execute, for and on behalf of the City, an Interlocal Agreement by and between Fort Bend County, Texas, and the City of Rosenberg for the housing of Rosenberg Fire Department response vehicles and personnel, and, authorizing the Mayor to execute, for and on behalf of the City, a revised Interlocal Lease Agreement by and between Fort Bend County, Texas, and the City of Rosenberg for Fire Department housing.

Vote: 7 - 0 Carried - Unanimously

4. **Hold Executive Session for consultation with City Attorney to seek or receive advice on legal matters regarding pending litigation, namely Texas Department of Transportation v. Rosenberg condemnation proceedings pursuant to Section 551.071 of the Texas Government Code; to deliberate the potential purchase, exchange, lease or value of real property pursuant to Section 551.072 of the Texas Government Code; and, to deliberate the employment, duties, and evaluation of the Police Chief pursuant to Section 551.074 of the Texas Government Code.**

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 2 Susan Euton to adjourn to Executive Session.

Vote: 7 - 0 Carried - Unanimously

5. **Adjourn Executive Session, reconvene Regular Session, and take action as necessary as a result of Executive Session.**
Mayor McConathy adjourned the Executive Session and reconvened into Regular Session.

6. **Consideration of and action on Resolution No. R-1958, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Employment Agreement, by and between the City and Dallis Warren to serve as Police Chief.**

EXECUTIVE SUMMARY

Resolution No. R-1958 provides authorization for the Mayor to execute an Employment Agreement with Dallis Warren for his service in the position of Police Chief. Exhibit "A" to Resolution No. R-1958 will be provided under separate confidential cover for City Council review and consideration.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-1958, a Resolution authorizing the Mayor to execute, for and on behalf of the City, an Employment Agreement, by and between the City and Dallis Warren to serve as Police Chief.

Vote: 7 - 0 Carried - Unanimously

- 7 **Consideration of and action on Resolution No. R-2088, a Resolution authorizing the acquisition of certain real property generally located at 1814 Jones Street, and generally described as Lot Two (2), in Block Thirteen (13), of Fred E. Klauke Addition, a subdivision in Fort Bend County, Texas, according to the map or plat thereof, recorded in Volume 272, Page 585, of the Deed Records of Fort Bend County, Texas, together with all buildings, structures and improvements located on the land or affixed thereto; authorizing the Interim City Manager to accept, for and on behalf of the City, a Deed Without Warranty and/or any additional documentation necessary to facilitate said acquisition of certain real property as described above; and, containing other provisions relating to the subject.**

EXECUTIVE SUMMARY

This item has been placed on the Agenda for City Council to authorize the acquisition of Lot Two (2) in Block Thirteen (13) of Fred E. Klauke Addition. The physical address of the property is 1814 Jones Street. It is on the northwest side of Jones Street, approximately 150' southwest of the Laurel Lane right-of-way line, and consists of approximately 0.265 acres. There is currently a sanitary sewer lift station facility on the site, which is a public/City use, hence the acquisition. The deed, attached as Exhibit "A" to Resolution No. R-2088, has been reviewed and approved by Mike Darlow of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. City staff recommends approval of Resolution No. R-2088 authorizing the acquisition.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2088, a Resolution authorizing the acquisition of certain real property generally located at 1814 Jones Street, and generally described as Lot Two (2), in Block Thirteen (13), of Fred E. Klauke Addition, a subdivision in Fort Bend County, Texas, according to the map or plat thereof, recorded in Volume 272, Page 585, of the Deed Records of Fort Bend County, Texas, together with all buildings, structures and improvements located on the land or affixed thereto, authorizing the Interim City Manager to accept, for and on behalf of the City, a Deed Without Warranty and/or any additional documentation necessary to facilitate said acquisition of certain real property as described above, and, containing other provisions relating to the subject.

Vote: 7 - 0 Carried - Unanimously

- 8 **Consideration of and action on Resolution No. R-2089, a Resolution authorizing the conveyance of certain real property generally described as Lot Four (4) in Block One (1) of Fred E. Klauke Addition, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 272, Page 585 of the Deed Records of Fort Bend County, Texas; authorizing the Interim City Manager to execute, for and on behalf of the City, all documentation necessary to facilitate said conveyance of certain real property as described above; and, containing other provisions relating to the subject.**

EXECUTIVE SUMMARY

This item has been placed on the Agenda for City Council to authorize the conveyance of Lot Four (4) in Block One (1) of Fred E. Klauke Addition. The property has no physical address since it is a vacant lot with no improvements. However, it is located on the northwest side of Jones Street, approximately 150' southwest of the Avenue N right-of-way line, and consists of approximately 0.35 acres. There is currently no public/City use for the site, hence the conveyance. The deed, attached as Exhibit "A" to Resolution No. R-2089, has been reviewed and approved by Mike Darlow of Perdue, Brandon, Fielder, Collins & Mott, L.L.P. Please see the previous agenda item to view this site. City staff recommends approval of Resolution No. R-2089 authorizing the conveyance.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 4 Lynn Moses to approve Resolution No. R-2089, a Resolution authorizing the conveyance of certain real property generally described as Lot Four (4) in Block One (1) of Fred E. Klauke Addition, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded in Volume 272, Page 585 of the Deed Records of Fort Bend County, Texas, authorizing the Interim City Manager to execute, for and on behalf of the City, all documentation necessary to facilitate said conveyance of certain real property as described above, and, containing other provisions relating to the subject.

Vote: 7 - 0 Carried - Unanimously

9. **Adjournment.**
There being no further business, Mayor McConathy adjourned the meeting at 8 05 p.m.


Linda Cemosek, TRMC, City Secretary