

CITY OF ROSENBERG

REGULAR CITY COUNCIL MEETING MINUTES

On this the 20th day of September, 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
Alice Jozwiak, Councilor, District 3

Absent: Lynn Moses, Councilor, District 4

Staff Present: Scott M. Tschirhart, City Attorney
Linda Cernosek, City Secretary
John Maresh, Interim City Manager
Joyce Vasut, Executive Director of Administrative Services
Travis Tanner, Executive Director of Community Development
Charles Kalkomey, City Engineer
Lori Remington, Human Resources Director
Dallis Warren, Police Chief
Jenny Pavlovich, Communications Manager
Bill Adams, Battalion Chief
Isaac Badu, Director of Information Services
Danyel Swint, Executive Assistant
Justin Rodgers, Police Officer
Nicole Emidy, Police Officer

Call to order: City Hall Council Chamber
Mayor McConathy called the meeting to order at 7:01 p.m.

Invocation and Pledge of Allegiance.
Scott Tschirhart, City Attorney, gave the invocation and led the pledge of allegiance to the flag.

Recognition: Recognition of City-County Communications & Marketing Association Silver Circle Award for Graphic Design Publications awarded on September 08, 2016, to Communications Manager Jenny Pavlovich for the Rosenberg Insider. John Maresh, Interim City Manager, presented Communications Manager, Jenny Pavlovich, the Silver Circle Award.

Presentation of Proclamation Proclaiming the Month of September 2016 as Preparedness Month in the City of Rosenberg. Mayor Cynthia McConathy presented the Proclamation proclaiming the month of September 2016 as Preparedness Month to Rosenberg Police Chief, Dallis Warren.

Announcements.

- Scott Tschirhart reported the City Charter Review Committee met for the initial meeting and elected Wayne Poldrack, Chairman, and Ted Garcia was elected Vice Chairman.
- Mayor McConathy announced Rosenberg Fire Station #3, 6226 August Green Drive, is hosting an open house event on October 1, 2016 from 9:00 a.m. to Noon.
- Councilor Barta announced the Fort Bend County Fair begins this weekend with the Parade on Friday, September 23rd.

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.

Adrian Sosa, 7404 Town Center Blvd., Rosenberg - Mr. Sosa voiced his concern with placing "In God We Trust" on the police vehicles. Mr. Sosa believes this is in violation of the separation of church and state.

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 Special Meeting Minutes for August 23, 2016, Workshop Meeting Minutes for August 23, 2016, Special Meeting Minutes for August 27, 2016, and Special Meeting Minutes for August 30, 2016.**
- B. **Consideration of and action on Resolution No. R-2224, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, an Interlocal Agreement, by and between the City and the Fort Bend Subsidence District regarding participation as a sponsor in the Water Conservation Education Program.**

EXECUTIVE SUMMARY

The City of Rosenberg has participated in the Fort Bend Subsidence District (District) Water Conservation Education (Learning to be Water Wise) Program (Program) annually since FY2006-2007. Per the attached correspondence from Mr. Robert E. Thompson, Deputy General Manager, the District is preparing for FY2016-2017 and has provided an Interlocal Agreement to formalize the City's continued sponsorship of the Program. This Agreement, attached to Resolution No. R-2224 as Exhibit "A", will require renewal on an annual basis. The FY2016-2017 Budget, the Subsidence Fund (Fund 514) includes a \$20,000 appropriation for said purpose. This is the same dollar amount as the current FY2015-2016 Budget.

The City receives a Certificate of Deposit water conservation credit equal to 84,000 gallons of groundwater for each student, at a cost of \$35.40 per student. Each Certificate of Deposit can be held for up to 20 years after the issuance date. These water conservation credits are a valuable asset that can be used by the City to help meet the District's 30% groundwater reduction requirement, or they can be sold to other public or private entities that must also comply with the groundwater reduction requirement. Based on the current construction schedule to begin taking delivery of treated surface water from the Brazosport Water Authority, staff does anticipate having to use said credits to help meet the 30% groundwater reduction requirement effective on October 01, 2016.

Staff recommends approval of Resolution No. R-2224 as presented.

KEY DISCUSSION POINTS

Councilor Benton asked that Item C be moved to the Regular Agenda and be considered as Item No. 2A.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor at Large, Position 1 William Benton to approve Consent Agenda Items A and B.

VOTE: 6 - 0 Carried - Unanimously

REGULAR AGENDA

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

Consideration of and action on Resolution No. R-2218, a Resolution authorizing the temporary waiver of Code of Ordinances, Chapter 17 - Manufactured Housing, Mobile Homes and Travel Trailers and Parks, related to the Memorial Day flood 2016 event.

EXECUTIVE SUMMARY

As discussed at the August 23, 2016 City Council Workshop Meeting, this item has been included to allow an opportunity for City Council to approve a temporary waiver of the City's manufactured housing regulations for flood-affected residences. City staff had the opportunity to attend a presentation by FEMA and Fort Bend County on August 10, 2016, regarding FEMA's Direct Housing Program (Program). Staff's understanding from the presentation is that the City would have to pass a temporary waiver of its "Manufactured Housing" Ordinance to participate in the Program. The proposed waiver would allow (1) flood-affected residents to have a FEMA-issued manufactured home on their own property for up to 18 months while repairs are being made. Alternatively, they could have (2) a FEMA-issued manufactured home in an existing manufactured home park. The proposed

resolution/waiver has been made specific to those two (2) purposes so as not to extend the scope of the Program beyond that in Rosenberg.

FEMA manufactured home parks are an almost entirely different issue requiring additional local and federal approvals. It is also highly questionable if there is the necessary land available with utilities where the owner/s would allow FEMA to locate such a park. This was acknowledged as likely being a challenge by FEMA and Fort Bend County representatives at the meeting staff attended. It was also acknowledged that FEMA manufactured home parks are considered a last resort to provide housing assistance.

If the City wants to allow residents to have temporary FEMA manufactured homes on their property, or in an existing manufactured home park, this waiver must be approved by City Council. If it's approved, there will still be challenges because there is not enough space on many of the lots, even with the proposed waiver of building setback line requirements.

It should be noted the temporary placement would still be required to meet all FEMA and City adopted floodplain regulations, meaning the temporary homes would have to be elevated above the 100-year base flood elevation. The subject resolution does not also constitute a waiver of the floodplain regulations. City staff completed a preliminary analysis of where FEMA-issued manufactured homes could potentially be placed, and there are only 8-10 lots based on existing elevations and how high the manufactured homes can be elevated (4.5'). Additionally, there are believed to be only 8-10 vacancies in existing manufactured home parks based on staff's research.

Attached for City Council's review are the following:

- Resolution No. R-2218;
- Presentation - Direct Housing Mission, August 10, 2016;
- FEMA Disaster Assistance Directorate - Guidance Memorandum;
- Example of public notice; and
- Example waiver.

Based on feedback from City Council at the August 23 Workshop, staff has notified Fort Bend County of the City's intent to participate in the Program, and of the Program limitations in Rosenberg per City Council's direction. Also based upon the Workshop discussion, staff has prepared attached Resolution No. R-2218 for City Council's consideration. Staff recommends approval of Resolution No. R-2218 as presented.

KEY DISCUSSION POINTS

- Travis Tanner read the Executive Summary.
- There were no questions or comments from the Council.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2218, a Resolution authorizing the temporary waiver of Code of Ordinances, Chapter 17 - Manufactured Housing, Mobile Homes and Travel Trailers and Parks, related to the Memorial Day-flood 2016 event.

VOTE: 6 - 0 Carried - Unanimously

2. **Consideration of and action on Resolution No. R-2229, a Resolution accepting the Fort Bend County Elevation and Buyout Hazard Mitigation Grant Program (HMGP) Program Design Summary.**

EXECUTIVE SUMMARY

This item has been included on the Agenda to allow City Council the opportunity to accept the Fort Bend County Elevation and Buyout Hazard Mitigation Grant Program (HMGP) Program Design. The proposed Program Design Summary (Summary) is attached as Exhibit "A" to Resolution No. R-2229 for City Council's review. As discussed in the Summary, following the April and May 2016 flooding events, Fort Bend County (County) began to plan for the submission of applications for grant funding to buyout properties in the Special Flood Hazard Area (SFHA) floodway and to elevate or buyout properties in the SFHA floodplain to mitigate and reduce the risk of flooding in Fort Bend County.

The Program would in essence allow property owners to receive 75 percent funding for elevating structures above the base flood elevation. Since this item is not addressed in the City's budget, and in part because it would be difficult to know exactly how much to budget depending on participation rates, the property owner would be responsible for 25 percent of the costs, and the project must comply with other criteria as outlined in the Summary.

The 25 percent funding by the property owner would be considered the City's contribution towards the Program as described in paragraph 4 of the Summary.

"Buyouts" of properties in the floodway, which this Program could potentially fund, would become City property.

Therefore, it should be known in advance that the City might be responsible for maintaining these properties and may not exercise control over which specific properties are selected for "buyouts." It should be noted, the buyout component of the Program would apply only to properties in the floodway, whereas the elevation aspect applies to both the floodway and floodplain.

It is staff's understanding that the City must accept the Fort Bend County Elevation and Buyout Hazard Mitigation Grant Program (HMGP) Program Design in order for the City to participate and for Rosenberg residents to potentially receive the funding to elevate their properties. Therefore staff recommends approval of Resolution No. R-2229 accepting the Program design.

KEY DISCUSSION POINTS

- Travis Tanner read the Executive Summary.
- Councilor Euton asked for clarification that the only responsibility the City has in this program is the maintenance of a property buyout, but not the funding for the actual buyout.
- Travis Tanner said that was correct. The City is participating in this Federal program.
- Councilor Benton asked if the City has applications for the program.
- Travis Tanner said citizens have to apply through the County, but the City will reach out internally to notify citizens.
- Scott Tschirhart asked if these changes in property elevation would cause a change in City flood plain maps.
- Travis Tanner said it cannot affect the flood plain maps.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2229, a Resolution accepting the Fort Bend County Elevation and Buyout Hazard Mitigation Grant Program (HMGP) Program Design Summary.

VOTE: 6 - 0 Carried - Unanimously

3. **Consideration of and action on Resolution No. R-2226, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Change Order No. 1 to the Contract by and between the City and Texas Pride Utilities, LLC, for the Miscellaneous Water and Sanitary Sewer Line Improvements Project in an amount not to exceed \$119,000.00.**

EXECUTIVE SUMMARY

City Council previously approved Resolution No. R-2140 on June 07, 2016, which awarded Bid No. 2016-09 to Texas Pride Utilities, LLC, for construction of the Miscellaneous Water and Sanitary Sewer Improvements Project.

Since that time, staff has identified a need for water line replacement along Mulcahy Street, as shown on the attached location map. The additional work would include the installation of an eight-inch (8") water line along Mulcahy Street from Walger Avenue to Avenue M. Resolution No. R-2226 would authorize Change Order No. 1 to the Contract with Texas Pride Utilities, LLC, to include the additional scope of work in an amount not to exceed \$119,000.00. Change Order No. 1 has been included as Exhibit "A" to Resolution No. R-2226.

Staff recommends approval of Resolution No. R-2226 as presented.

KEY DISCUSSION POINTS

- John Maresh read the Executive Summary.
- Councilor Euton asked if this project was budgeted or funding available from the General Fund.
- Joyce Vasut said they are still looking into the funding of the additional costs to the project and may have to come back to Council with a budget adjustment.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 2 Susan Euton to approve Resolution No. R-2226, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Change Order No. 1 to the Contract by and between the City and Texas Pride Utilities, LLC, for the Miscellaneous Water and Sanitary Sewer Line Improvements project in an amount not to exceed \$119,000.00.

VOTE: 6 - 0 Carried - Unanimously

4. **Consideration of and action on Resolution No. R-2227, a Resolution directing the Interim City Manager or the Interim City Manager's designee to execute all documents to institute eminent domain proceedings for the acquisition of a 0.0769 of an acre tract of land being out of a certain tract of land conveyed to James Michael Waller, as recorded in Volume 2698, Page 1016 of the Fort Bend County Deed Records (F.B.C.D.R.), located in the Eugene Wheat Survey, Abstract No. 396, City of Rosenberg, Fort Bend County, Texas; property owned and claimed by James Michael Waller; and directing the City Attorney to initiate condemnation proceedings.**

EXECUTIVE SUMMARY

Resolution No. R-2227 will authorize eminent domain proceedings for Parcel 15 as part of the Bryan Road and Spacek Road Widening and Expansion Project.

Staff recommends approval of Resolution No. R-2227 as presented.

KEY DISCUSSION POINTS

- John Maresh read the Executive Summary.
- Councilor Jozwiak clarified this is not the City's first choice, but staff has worked diligently to settle this issue without the eminent domain procedure.
- Scott Tschirhart clarified this particular property has a title problem and the City cannot proceed without the process of eminent domain.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2227, a Resolution directing the Interim City Manager or the Interim City Manager's designee to execute all documents to institute eminent domain proceedings for the acquisition of a 0.0769 of an acre tract of land being out of a certain tract of land conveyed to James Michael Waller, as recorded in Volume 2698, Page 1016 of the Fort Bend County Deed Records (F.B.C.D.R.), located in the Eugene Wheat Survey, Abstract No. 396, City of Rosenberg, Fort Bend County, Texas; property owned and claimed by James Michael Waller; and directing the City Attorney to initiate condemnation proceedings.

VOTE: 6 - 0 Carried - Unanimously

5. **Consideration of and action on Resolution No. R-2228, a Resolution awarding a bid for the purchase of a mini-excavator; and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same.**

EXECUTIVE SUMMARY

The recently approved FY 2017 Budget includes funding for the purchase of one (1) mini-excavator for the Utilities Department. Staff has received pricing using the Houston-Galveston Area Council Cooperative Purchasing Program (HGACBuy). The total cost of the mini-excavator with attachments is \$50,888.56. Should City Council award the purchase for the mini-excavator, the proposal from Kubota Tractor Corporation will be added to Resolution No. R-2228 to serve as Exhibit "A". The unit would then purchased from a Kubota equipment dealer located in our area.

Staff recommends approval of Resolution No. R- 2228 as presented.

KEY DISCUSSION POINTS

- John Maresh read the Executive Summary.
- Councilor Benton asked for clarification for the use of this piece of equipment.
- John Maresh explained it would be used daily for repairs to excavate water leaks, install taps, and has a hydraulic attachment.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 3 Alice Jozwiak to approve Resolution No. R-2228, a Resolution awarding the purchase of a mini-excavator with attachments for \$50,888.56 from Kubota Tractor Corporation (via H-GAC Buy) from a local Kubota equipment dealer in our area; and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same.

VOTE: 6 - 0 Carried - Unanimously

6. **Consideration of and action on Resolution No. R-2220, a Resolution authorizing the Interim City Manager to write-off certain uncollectible accounts receivable in the amount of \$51,372.86.**

EXECUTIVE SUMMARY

Accounts receivable should be reviewed on a regular basis to determine the status and/or collectability of outstanding balances. City staff has determined that there are several areas in which outstanding accounts receivable balances should be removed from the City's General Ledger. There are several factors to consider when determining whether an outstanding balance shall be written-off, including laws governing tax sales, the age of the receivable, customer type and customer status. The recommended write-offs totaling \$51,372.86 include:

- Demolitions and mowing of weedy lots – The City's accounts reflect that \$36,730.89 of receivables for demolitions and mowing are no longer collectable by law. When someone purchases a property in a tax suit/sale, the new owner purchases the property free and clear of all liens.
- False alarms receivables - These amounts are conveyed to a collection agency and the agency works the accounts according to policy. Staff recommends writing off false alarm calls dated prior to December 31, 2014, and those in which the business has closed or relocated. The false alarm write-offs are recommended in the amount of \$10,325.00.
- Miscellaneous invoices - Outstanding miscellaneous invoices include invoices for damages to City property, solid waste invoices for annexed areas, and retirees/COBRA health insurance invoices. The recommended write-off for miscellaneous receivables totals \$4,316.97.

A listing of the accounts recommended for write-off will be provided under separate cover. Staff recommends approval of Resolution No. R-2220 as presented.

KEY DISCUSSION POINTS

- Joyce Vasut read the Executive Summary.
- Councilor Jozwiak asked about filing liens on these property owners.
- Joyce Vasut explained that liens are filed, but some do not sell for enough profit to collect the lien filed.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 1 Jimmie J. Pena to approve Resolution No. R-2220, a Resolution authorizing the Interim City Manager to write-off certain uncollectible accounts receivable in the amount of \$51,372.86.

VOTE: 5 - 1 Carried

No: Councilor at Large, Position 2 Amanda J. Barta

7. **Consideration of and action on Resolution No. R-2225, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Budget Amendment 16-13 in the amount of \$20,629.28 for write-off of certain uncollectable accounts receivable.**

EXECUTIVE SUMMARY

In the previous Agenda item, City Council considered approval of Resolution No. R-2220, which authorizes the Interim City Manager to write-off certain accounts receivable in the amount of \$51,372.86. Of that amount, \$35,629.28 had previously been recorded as revenues prior to a change in accounting for such receivables. Therefore, this amount must now be recorded as an expense.

The City budgeted \$15,000.00 for Bad Debt Expense in Fiscal Year 2016. Budget Amendment 16-13 allows for the allocation of additional funds needed to cover the write-off expense. The Budget Amendment 16-13, attached to Resolution No. R-2225 as Exhibit "A", is for the difference between the receivable that were recorded as revenue and is no longer collectable (\$35,629.28) and the amount budgeted (\$15,000.00) for a total adjustment in the amount of \$20,629.28.

Staff recommends approval of Resolution No. R-2225 as presented.

KEY DISCUSSION POINTS

- Joyce Vasut read the Executive Summary.
- Councilor Jozwiak asked about hazardous buildings being written off as well.
- Joyce Vasut explained that the City invoices the property owner and then files a lien, and the City would set monthly payment plans if property owners preferred to make those payments on their debt.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 3 Alice Jozwiak to approve Resolution No. R-2225, a Resolution authorizing the Interim City Manager to execute, for and on behalf of the City, Budget Amendment 16-13 in the amount of \$20,629.28 for write-off of certain uncollectible accounts receivable.

VOTE: 6 - 0 Carried - Unanimously

8. **Hold Executive Session to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Texas Government Code Section 551.072; and, to hear and evaluate a complaint against employee(s) pursuant to Texas Government Code Section 551.074(a)(2), and to receive legal advice regarding said complaint pursuant to Section 551.071 of the Texas Government Code.**

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor, District 2 Susan Euton to adjourn to Executive Session.

VOTE: 6 - 0 Carried - Unanimously

9. **Adjourn Executive Session, reconvene Regular Session, and take action as necessary as a result of Executive Session.**

Mayor McConathy reconvened Regular Session at 9:00 p.m.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 2 Amanda J. Barta to authorize the Interim City Manager to negotiate and execute documents, for and on behalf of the City of Rosenberg, for the purchase of certain real property associated with the Bryan Road Realignment and Expansion Project, more particularly described as Parcel #7, a certain 0.0422 acre tract of land being out of a certain tract of land conveyed to James J. Stanford and wife, Rosario F. Stanford, as recorded in File No. 2002033697 of the Official Public Records of Real Property of Fort Bend County, Tx (O.P.R.R.P.F.B.C., TX), located in the Robert E. Handy Survey, Abstract No. 187, City of Rosenberg, Fort Bend County, Texas.

VOTE: 6 - 0 Carried - Unanimously

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 1 William Benton to authorize the Interim City Manager to negotiate and execute documents, for and on behalf of the City of Rosenberg, for the acquisition of certain real property associated with the Bryan Road Realignment and Expansion Project, more particularly described as parcel #27, a certain 1.0972 acre tract of land being all of Lot 1, Block 1, Parkplace Southwest Section 1 Subdivision, as recorded in Slide No. 1263B, Fort Bend County Plat Records (F.B.C.P.R.) and also being all of a certain tract of land conveyed to Apolinar A. Ramon, as recorded in File No. 2008131434 of the Official Public Records of Real Property of Fort Bend County, TX (O.P.R.R.P.F.B.C., TX), located in the Eugene Wheat Survey, Abstract No. 396, City of Rosenberg, Fort Bend County, Texas.

VOTE: 6 - 0 Carried - Unanimously

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor at Large, Position 1 William Benton to authorize the Interim City Manager to negotiate and execute documents, for and on behalf of the City of Rosenberg, to provide relocation assistance to Mr. Apolinar A. Ramon, as may be required by law.

VOTE: 6 - 0 Carried - Unanimously

10.

Adjournment.

There being no further business, Mayor McConathy adjourned the Regular City Council Meeting at 9:03 p.m.


Linda Cernosek, TRMC, City Secretary