



CITY OF MANSFIELD

1200 East. Broad St.
Mansfield, TX 76063
www.mansfield-tx.gov

Meeting Minutes - Final City Council

Monday, January 26, 2009

5:00 PM

Council Chambers

REGULAR MEETING

5:00 P.M. - CALL MEETING TO ORDER

Mayor Cook called the meeting to order at 5:00 p.m.

Absent 1 - Mike Leyman

Present 6 - David Cook; James Rudnicki; Greg Kunasek; Cory Hoffman; Larry Broseh and Darryl Haynes

RECESS INTO EXECUTIVE SESSION

In accordance with the Texas Government Code, Chapter 551, Mayor Cook recessed the City Council into executive session at 5:04 p.m. Mayor Cook called the executive session to order in the Council Conference Room at 5:06 p.m. Mayor Cook recessed the executive session at 6:55 p.m.

Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071

City Attorney Briefing on Lawsuit Cause No. 352-230106-06 Valerie Mantos vs. City of Mansfield

City Attorney Briefing on Lawsuit Cause No. 06-41026-3 Daniel Jay Massey

Attorney Briefing on Potential Litigation Concerning Mansfield National Golf Course Encroachment

Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072

Water Treatment Plant Easement and Property Acquisitions

Personnel Matters Pursuant to Section 551.074

Resignation of Planning and Zoning Commission Board Member (Addendum to Agenda)

Deliberation Regarding Negotiations of the Industrial Development Corporation of an Offer of a Financial or Other Incentives to a Business Prospect Pursuant to Section 551.087

7:00 P.M. – RECONVENE INTO REGULAR BUSINESS SESSION

Mayor Cook reconvened into regular business session at 7:07 p.m.

TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION

A motion was made by Council Member Hoffman to reject the resignation of Planning and Zoning Commission Board Member Chuck Jacobus and request that he be present at the following Planning and Zoning Commission Meeting. Seconded by Council Member Rudnicki. The motion CARRIED by the following vote:

Ayes: 4 - David Cook; Cory Hoffman; James Rudnicki and Larry Broseh

Nays: 2 - Darryl Haynes and Greg Kunasek

INVOCATION

Council Member Haynes led the Invocation.

PLEDGE OF ALLEGIANCE

Council Member Haynes led the Pledge of Allegiance.

TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State Under God; One and Indivisible"

Council Member Haynes led the Texas Pledge.

PRESENTATIONS

09-1312

Presentation to Mansfield High School Football Player Stepfan Taylor

Mayor Cook asked Stepfan Taylor to introduce his family and coach. Mayor Cook along with the City Council honored Stepfan Taylor for his talent as a football player, outstanding student and all his accomplishments. Mr. Taylor thanked everyone for their support.

09-1315

Presentation to Fran Nifong for her years of service on the Historic Mansfield Commission

Mayor Cook presented a plaque to Fran Nifong for her years of service on the Historic Landmark Commission.

North Central Texas Council of Governments Staff Member Regarding Resolution Supporting Regional Transportation Council Legislative Program for 81st Texas Legislative Including Rail North Texas

Representatives for North Central Texas Council of Governments Dan Lamers and Chad Edwards made a presentation on the resolution supporting Regional Transportation Council Legislative Program 81st and answered Council questions. Assistant City Manager Chris Burkett made comments and answered Council questions.

CITIZEN COMMENTS

Vidal L. Jones, II - 1 Circle Park Court - spoke about a noise complaint he had the past weekend on property located across the street from his property which is zoned commercial. He stated he has called the police several times and nothing has been done about his noise complaints.

COUNCIL ANNOUNCEMENTS

Council Member Kunasek had no announcements.

Council Member Haynes had no announcements.

Council Member Leyman was absent from the meeting.

Council Member Hoffman had no announcements.

Council Member Rudnicki reminded everyone of the Mansfield Cares Gala taking place on February 7, 2009.

Mayor Pro Tem Broseh had no announcements.

Mayor Cook had no announcements.

STAFF COMMENTS**City Manager Report or Authorized Representative**

Texas Recreation and Parks Society Award Announcements

City Manager Clayton Chandler advised the Council that the Parks Department will receive an award for the best park system in the State of Texas for cities between 50,000 and 100,000 as well as appointing volunteer Tom Cochran as the outstanding volunteer in the State of Texas.

Mr. Chandler advised the Council about the schedule of upcoming meetings they received in their packets. He updated the Council on the Broad Street and SH360 project and provided the Council with a handout outlining the change in the operating hours for the Mansfield Public Library.

Quarterly Reports - Planning and Zoning, Mansfield Park Facilities Development Corporation, Mansfield Economic Development Corporation, Public Works, Legal

Mr. Chandler stated there were going to be no comments from staff on the quarterly reports.

1st Quarter Budget Adjustment

Mr. Chandler gave a brief presentation on the information provided to the Council in the 1st Quarter Budget Adjustment.

Winter Walk, Saturday, January 31, 2009 at 10:00 a.m.

Recreation Superintendent Andy Binz invited the community to participate in Winter Walk.

Business Services Department**09-1311**

Presentation of Monthly Financial Report for the Period Ending December 31, 2008

Director of Business Services Peter Phillis had no comments.

PUBLIC HEARING AND FIRST READING**09-1308**

Ordinance - Public Hearing and First Reading of an Ordinance Approving an Amended Specific Use Permit for Gas Well Drilling and Production on Approximately 5.817 Acres, Generally Located East of Retta Road, Approximately 1,250 Feet North of West Broad Street, on Property at 491 Retta Road; Chesapeake Operating, Inc. (ZC#08-023)

Chesapeake Energy representative Norman Herrera, 100 Energy Way, Fort Worth, made a brief presentation and answered Council questions. Chesapeake Energy representative Jonathan Faughtenberry, 100 Energy Way, Fort Worth, was available to answer questions. Director of Public Works Steve Freeman answered Council questions. Mayor Cook opened the public hearing at 8:35 p.m. The following person spoke during the public hearing:

John Washington - 436 Drummond Street - Port Arthur - support

With no others wishing to speak, Mayor Cook continued the public hearing at 8:37 p.m.

A motion was made by Mayor Pro Tem Broseh to approve the first reading of "AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO GRANT AN AMENDED SPECIFIC USE PERMIT FOR GAS WELL DRILLING AND PRODUCTION ON THE HEREINAFTER DESCRIBED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE." Seconded by Council Member Kunasek. The motion CARRIED by the following vote:

Aye: 6 - David Cook; James Rudnicki; Greg Kunasek; Cory Hoffman; Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 0

Mayor Cook recessed the meeting at 8:41 p.m. for a break and reconvened at 8:52 p.m.

CONSENT AGENDA**08-1264**

Ordinance - Third and Final Reading of an Ordinance Approving a Specific Use Permit for Gas Well Drilling and Production on Approximately 7.03 Acres, Generally Located South of the Intersection of Newt Patterson Road and the Union Pacific Railroad Track, on Property Addressed at 1671 Newt Patterson Road; XTO Energy, Inc. (ZC#08-022)

City Secretary Vicki Collins read the caption into the record.

A motion was made by Council Member Hoffman to approve the following ordinance:

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO GRANT AN AMENDED SPECIFIC USE PERMIT FOR GAS WELL DRILLING AND PRODUCTION ON THE HEREINAFTER DESCRIBED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

Seconded by Mayor Pro Tem Broseh. The motion CARRIED with 6 ayes and 0 nays.

Enactment No: OR-1733-09

09-1310

Request for Special Event Permit; Prairie Man Half Iron Triathlon

A motion was made by Council Member Hoffman to approve the request for the special event permit. Seconded by Mayor Pro Tem Broseh. The motion CARRIED with 6 ayes and 0 nays.

09-1306

Approval of the January 12, 2009 Regular City Council Meeting Minutes

A motion was made by Council Member Hoffman to approve the January 12, 2009 regular meeting minutes as presented. Seconded by Mayor Pro Tem Broseh. The motion CARRIED with 6 ayes and 0 nays.

ITEMS TO BE REMOVED FROM THE CONSENT AGENDA**09-1313**

Resolution - A Resolution Supporting Resolution R08-08 Adopted by the Regional Transportation Council on October 9, 2008 Regarding the Legislative Program for the 81st Texas Legislature and Resolution R08-11 Adopted by the Regional Transportation Council on December 11, 2008 Regarding a Legislative Position on Rail North Texas A Primary Rail Legislative Program with Supplemental Roadway Improvements

Mayor Cook removed this item from the consent agenda.

A motion was made by Mayor Cook to table the following resolution and bring it back at the first meeting in February:

RESOLUTION SUPPORTING RESOLUTION R08-08 ADOPTED BY THE REGIONAL TRANSPORTATION COUNCIL ON OCTOBER 9, 2008 REGARDING THE LEGISLATIVE PROGRAM FOR THE 81ST TEXAS LEGISLATURE AND RESOLUTION R08-11 ADOPTED BY THE REGIONAL TRANSPORTATION COUNCIL ON DECEMBER 11, 2008 REGARDING A LEGISLATIVE POSITION ON RAIL NORTH TEXAS: A PRIMARY RAIL LEGISLATIVE PROGRAM WITH SUPPLEMENTAL ROADWAY IMPROVEMENTS.

Seconded by Council Member Hoffman. The motion CARRIED by the following vote:

Aye: 6 - David Cook; James Rudnicki; Greg Kunasek; Cory Hoffman; Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 0

END OF CONSENT AGENDA

PUBLIC HEARING CONTINUATION AND SECOND READING

08-1250

Ordinance- Public Hearing Continuation and Second Reading Regarding Amendments to the Current Smoking Ordinance

Director of Development Services Richard Wright made a brief presentation and answered Council questions. City Attorney Allen Taylor made comments regarding the changes staff was instructed to make to the ordinance at the previous meeting and answered Council questions. Mayor Cook continued the public hearing at 9:03 p.m. The following people spoke during the public hearing:

*Bruce Kimball - 5 Inverness Court - support
Polley Snelson - 703 Manchester Drive - support
Dan Russell - 1405 Clover Hill Drive - oppose
Joyce Williams - 1612 Meadow Crest Lane - oppose
Richard Williams - 1612 Meadow Crest Lane - oppose - stated he is a member of the Planning and Zoning Commission and his opinion reflects his personal opinion
Richard Littell - 2603 Woodbridge Trail - oppose
Jared Jepson - 3015 Saint Lynda Drive - support
Tommy D. Tabor - 614 Coal Creek - oppose
Gregg Wilkinson - 2851 Matlock Road - oppose
Benjamin Walsh - 409 Chimney Hill Circle - support
Jeannette Walsh - 409 Chimney Hill Circle - support
Sherri Russell - 1405 Clover Hill Drive - oppose*

Mayor Cook recognized the following non-speakers:

*Joyce Kimball - 5 Inverness Court - support
Carla Grena - 1606 Fairhaven Drive - support
Kristi Russell - 1505 Fairhaven Drive - support*

Mayor Cook closed the public hearing at 9:55 p.m.

A motion was made by Council Member Hoffman to approve the second reading of "AN ORDINANCE AMENDING CHAPTER IX. "HEALTH AND SANITATION" OF THE CODE OF THE CITY OF MANSFIELD BY AMENDING ARTICLE IV., REGULATION OF SMOKING IN ITS ENTIRETY FOR THE VIOLATION HEREOF; MAKING THIS ORDINANCE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND NAMING AN EFFECTIVE DATE" with clarity in section 9.69 (C) (2) stating the last sentence needs to be clarified regarding the signage related to the smoking area be placed only at the smoking area and not at the main entrance of the establishment; section 9.72 (A) (1) strike the last 3 words "for home occupations" in the paragraph as well as add a sentence at the end of section 9.69 (C) (2) to allow one set of bathrooms located in the non-smoking section of the facility and allow one kitchen area located in the non-smoking area. Seconded by Council Member Rudnicki. The motion CARRIED by the following vote:

Aye: 4 - David Cook; James Rudnicki; Cory Hoffman and Larry Broseh

Nay: 2 - Greg Kunasek and Darryl Haynes

Absent: 1 - Mike Leyman

Abstain: 0

A motion was made by Council Member Kunasek to continue the public hearing to the third reading. Seconded by Council Member Hoffman. The motion CARRIED by the following vote:

Ayes: 5 - David Cook; Greg Kunasek; Darryl Haynes; Cory Hoffman and James Rudnicki

Nays: 1 - Larry Broseh

Mayor Cook recessed the meeting at 10:50 p.m. for a break and reconvened at 11:02 p.m.

09-1280

Ordinance - Public Hearing Continuation and Second Reading of an Ordinance of the City of Mansfield, Texas Amending Chapter 51, Section 51.054 of the Code of Ordinances, City of Mansfield, Texas; so as to Revise and Change the Rates Charged for Sanitary Sewer Services Furnished by the City of Mansfield, Texas; Repealing Ordinance 1560 and other Ordinances in Conflict Herewith; Providing a Severability Clause; Providing for Publication and for an Effective Date

Director of Utility Operations Bud Ervin made a brief presentation. Mayor Cook continued the public hearing at 11:03 p.m. With no one wishing to speak, Mayor Cook closed the public hearing at 11:03 p.m.

A motion was made by Council Member Kunasek to approve the second reading of "AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING

CHAPTER 51, SECTION 51.054 OF THE CODE OF ORDINANCES, CITY OF MANSFIELD, TEXAS; SO AS TO REVISE AND CHANGE THE RATE STRUCTURE AND RATES TO BE CHARGED FOR SEWER SERVICE FURNISHED BY THE CITY; REPEALING ORDINANCE 1560 AND OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE PUBLICATION THEREOF AND AN EFFECTIVE DATE." Seconded by Council Member Rudnicki. The motion CARRIED by the following vote:

Aye: 6 - David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 0

09-1298

Ordinance - Public Hearing Continuation and Second Reading of an Ordinance of the City of Mansfield, Texas Amending Chapter 51, Section 51.052 of the Code of Ordinances, City of Mansfield, Texas; so as to Revise and Change the Rates Charged for Water Services Furnished by the City of Mansfield, Texas; Repealing Ordinance 1559 and Other Ordinances in Conflict Herewith; Providing a Severability Clause; Providing for Publication and for an Effective Date

Mayor Cook continued the public hearing at 11:04 p.m. With no one wishing to speak, Mayor Cook closed the public hearing at 11:04 p.m.

A motion was made by Council Member Rudnicki to approve the second reading of "AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING CHAPTER 51, SECTION 51.052 OF THE CODE OF ORDINANCES, CITY OF MANSFIELD, TEXAS; SO AS TO REVISE AND CHANGE THE RATE STRUCTURE AND RATES TO BE CHARGED FOR WATER SERVICE FURNISHED BY THE CITY; REPEALING ORDINANCE 1559 AND OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR THE PUBLICATION THEREOF AND AN EFFECTIVE DATE." Seconded by Council Member Hoffman. The motion CARRIED by the following vote:

Aye: 6 - David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 0

09-1296

Ordinance - Public Hearing Continuation and Second Reading of an Ordinance Approving an Amended Specific Use Permit for Gas Well Drilling and Production on Approximately 3.842 Acres, Generally Located North of East Debbie Lane and Approximately 2,300 Feet East of Matlock Road at 1700 and 1800 Mansfield Webb Road; Carrizo Oil & Gas, Inc. (ZC#08-018)

Jacobs Engineering representative Shea Kirkman, 777 Main St., Fort Worth, made a brief presentation and answered Council questions. Mayor Pro Tem Broseh stated he would be handling the public hearing on this agenda item since Mayor Cook would be abstaining from the vote. Mayor Pro Tem Broseh opened the public hearing. The following non-speakers were recognized:

Robert and Louise Ervin - 1624 Mansfield Webb Road - support
Faye D. Ervin - 1719 Mansfield Webb Road - support
Will Ervin and Louise McMillen - 1670 Mansfield Webb Road - support

With no one wishing to speak, Mayor Pro Tem Broseh closed the public hearing at 11:12 p.m.

A motion was made by Council Member Kunasek to approve the second reading of "AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MANSFIELD, AS HERETOFORE AMENDED, SO AS TO GRANT AN AMENDED SPECIFIC USE PERMIT FOR GAS WELL DRILLING AND PRODUCTION ON THE HEREINAFTER DESCRIBED PROPERTIES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE." Seconded by Council Member Haynes. The motion CARRIED by the following vote:

Aye: 5 - James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 1 - David Cook

NEW BUSINESS

09-1316

Discussion and Possible Action Regarding Proposed Debbie Lane Improvements at Ben Barber Career Tech Center

Steve Freeman made a brief presentation and answered Council questions. Mr. Chandler and Police Chief Gary Fowler made comments.

A motion was made by Council Member Rudnicki to direct staff to contract for the design of the signal as recommended by staff with a budget of \$25,000.00 for the contract. Seconded by Mayor Cook. The motion CARRIED with 6 ayes and 0 nays.

ADJOURN

A motion was made by Council Member Hoffman to adjourn the meeting at 11:54 p.m. Seconded by Council Member Kunasek. The motion CARRIED by the following vote:

Aye: 6 - David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Absent: 1 - Mike Leyman

Abstain: 0

(All comments on tape in City Secretary's Office)

_____ David L. Cook, Mayor

ATTEST:

_____ Vicki Collins, City Secretary