



CITY OF MANSFIELD

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

Meeting Minutes - Final City Council

Monday, June 8, 2009

5:00 PM

Council Chambers

REGULAR MEETING

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

Mayor Pro Tem Hoffman called the meeting to order at 5:03 p.m.

Absent 2 - Mike Leyman and David Cook

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

RECESS INTO EXECUTIVE SESSION

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In accordance with the Texas Government Code, Chapter 551, Mayor Pro Tem Hoffman recessed the City Council into executive session at 5:05 p.m. Mayor Pro Tem Hoffman called the executive session to order in the Council Conference Room at 5:08 p.m. Mayor Cook arrived at 5:17 p.m. Mayor Pro Tem Hoffman turned the executive session over to Mayor Cook at 5:28 p.m. Mayor Cook recessed the executive session at 7:09 p.m.

Absent 1 - Mike Leyman

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

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

City Attorney Briefing Regarding Sewer Line Assessment Fees

City Attorney Briefing Regarding ZC#09-001

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

City Attorney Briefing Regarding Ward vs. City of Mansfield Lawsuit Cause No. 352-228421-08

Enforcement of Gas Well Specific Use Permits

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

Personnel Matters Pursuant to Section 551.074

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

MEDC Project(s) Update

Discussion of Project 09-03

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

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Mayor Cook reconvened into regular business session at 7:20 p.m.

TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION

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Council to Consider Directions to the Staff to Address Gas Well Site Specific Use Permit Non-Compliance by Range Resources

No action taken by the Council.

INVOCATION

[play video](#)

Council Member Broseh led the Invocation.

PLEDGE OF ALLEGIANCE

[play video](#)

Council Member Kunasek led the Pledge of Allegiance.

TEXAS PLEDGE

[play video](#)

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

Mayor Pro Tem Hoffman led the Texas Pledge.

CITIZEN COMMENTS

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Chantella Willis - 4208 Nicklaus Avenue - spoke on behalf of the residents in Mansfield National regarding quiet zones. She mentioned it has been tough living in a community where the train has been a nuisance. Ms. Willis stated there are a lot of vacant houses in their neighborhood mentioning she believes they are not selling because of the train. She mentioned she has spoken to people in Austin regarding this issue. She stated they would like resolution and wished for the citizens not to be forgotten. She stated she spoke to Democratic Senator Wendy Davis about this issue and asked the Council for their help.

La Marilys Doering - 370 Cagle Crow Road - spoke on behalf of the Mansfield Farmers Market. She stated the market was growing and has become very successful year after year. She mentioned there was only one problem they had not had in the past years, the restrooms. Ms. Doering stated in the past they were able to use the city facility on the corner of Main St. and Broad St. for the restroom and this year it was not approved. She asked that the Council help with providing that service to them again.

Tom Eastman - 704 Shady Creek - Kennedale - spoke on behalf of Historic Mansfield. He stated there had been a festival on Sycamore and Depot Street the past weekend that turned out to be very successful. He mentioned there were an estimated 3,000 people in attendance stating all the artists who were in attendance asked to come back next year. Mr. Eastman pointed out there were kids everywhere having a good time. He thanked the Council for all of their support and notified them about the upcoming festival in October that they expect to be bigger than this one.

Mayor Cook acknowledged the following non-speakers in support of quiet zones:

*Hal Morton - 4206 Nicklaus Avenue
Sandy Morton - 4206 Nicklaus Avenue
Stoney Short - 5 Calloway Court
Julie Short - 5 Calloway Court
Tanisha Tablada - 4309 Eagle Drive
Terron Newman - 4309 Eagle Drive
Rudy Martinez - 200 Trevino Court
Charles Roberts - 4108 Nicklaus Avenue
Margaret A. Averett - 4210 Nicklaus Avenue*

COUNCIL ANNOUNCEMENTS

[play video](#)

Council Member Broseh had no announcements.

Council Member Rudnicki had no announcements.

Mayor Pro Tem Hoffman made comments regarding the Arts Festival stating it was a phenomenal event and encouraged everyone to attend the festival in October.

Council Member Haynes had no announcements.

Council Member Kunasek had no announcements.

Mayor Cook had no announcements.

STAFF COMMENTS

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City Manager Report or Authorized Representative

Current/Future Agenda Items

City Manager Clayton Chandler reminded the Council that at the upcoming Regular City Council Meeting on June 22, 2009 there will be a work session with the Planning and Zoning Commission to discuss impact fees. He advised the Council that the rail initiative failed in the Legislative Session. Mr. Chandler gave an update on the budget, mentioning the Business Services Department was working with every department to prepare for the budget. He stated there was a bill approved in the Legislative Session regarding more Council commentary during the meetings. He gave an update on the issue brought up by the Farmers Market restroom facility usage.

Business Services Department

[09-1482](#)

Presentation of Monthly Financial Report for the Period Ending April 30, 2009

This matter was presented with no action being taken by the Council.

OLD BUSINESS

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[09-1466](#)

Authorization to Settle Lawsuit Cause No. 06-41026-3 Daniel Jay Massey

[play video](#)

A motion was made by Mayor Pro Tem Hoffman to table this agenda item. 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

[09-1472](#)

Staff Briefing on Quiet Zones and Traffic Signals

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Director of Public Works Steve Freeman made a presentation on quiet zones and traffic signals and answered Council questions. Council provided feedback to Steve regarding both issues. Council Member Rudnicki requested an updated GIS search on priority as to where the quiet zones would go if the city were to put them in. Mayor Cook stated he was interested in going forward with at least a design. Council directed staff to conduct a population study to prioritize quiet zone areas as well as bring back cost estimates. This item will be brought back at the June 22, 2009 Regular City Council Meeting.

09-1439

Ordinance - Third and Final Reading of an Ordinance Approving an Amended Specific Use Permit for Gas Well Drilling and Production on Approximately 5.772 Acres Located at 839 S. Mitchell Road; XTO Energy, Inc. (ZC#09-002)

[play video](#)

City Secretary Vicki Collins read the caption into the record. XTO Energy Representative Walter Dueease made a brief presentation and answered Council questions. Director of Planning Felix Wong and City Attorney Bryn Meredith answered Council questions.

A motion was made by Council Member Rudnicki to approve the third and final reading of 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 ORDINANCE 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, with modifications to follow staffs recommendations that brick, stone or similar masonry wall products be used on all four sides of the property to be phased in with immediate phase in implementation of an 8 foot masonry wall on the West side within the next 3 to 6 months as determined feasible by staff along with irrigation and masonry the North, East and South sides then follow the earlier of 3.5 years from date of issuance of the specific use permit or acceptance of an adjacent development by the city, those walls will include 8 feet masonry walls as specified along with the trees, leaving the size of the caliper and facing on center to be determined by the city's Landscape Administrator, with his personal preference being a 5 inch caliper; to include the front gate to be green coated chain link; and only a lift compressor on site and no in-line compression. Seconded by Mayor Pro Tem Hoffman. Mayor Cook called the question.

The motion CARRIED by the following vote:

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

Nay: 1 - David Cook

Absent: 1 - Mike Leyman

Abstain: 0

Enactment No: OR-1743-09

CONSENT AGENDA

[play video](#)

09-1440

Ordinance - Third and Final Reading of an Ordinance Approving a Zoning Change from PR, Pre-Development to C-2, Community Business on Approximately 3.391 Acres Located at 1675 N. Main Street; Valdar Properties No. 4 L.L.C. (ZC#09-003)

Vicki Collins read the caption into the record.

A motion was made by Council Member Rudnicki 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 CHANGE THE ZONING ON THE HEREINAFTER DESCRIBED PROPERTIES TO C-2, COMMUNITY BUSINESS DISTRICT CLASSIFICATION, 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 Broseh. The motion CARRIED with 6 ayes and 0 nays.

Enactment No: OR-1744-09

09-1451

Resolution - A Resolution to Approve the Design Concept for the Parks Field Operations Facility Submitted by AUI Contractors

A motion was made by Council Member Rudnicki to approve the following resolution:

A RESOLUTION TO APPROVE THE DESIGN CONCEPT FOR THE PARKS FIELD OPERATIONS FACILITY SUBMITTED BY ARCHITECTURAL UTILITIES, INC. (AUI CONTRACTORS).

Seconded by Council Member Broseh. The motion CARRIED with 6 ayes and 0 nays.

Enactment No: RE-2527-09

09-1452

Resolution - A Resolution to Award Part II of the Design/Build Contract to AUI Contractors for Construction of the Parks Field Operations Facility at 405 Industrial Boulevard for a Guaranteed Maximum Price of \$513,252

A motion was made by Council Member Rudnicki to approve the following resolution:

A RESOLUTION TO AWARD PART TWO OF THE DESIGN/BUILD CONTRACT TO ARCHITECTURAL UTILITIES, INC. (AUI CONTRACTORS) FOR CONSTRUCTION OF THE PARKS FIELD OPERATIONS FACILITY AT 405 INDUSTRIAL BOULEVARD FOR A GUARANTEED MAXIMUM PRICE OF

\$513,252.

Seconded by Council Member Broseh. The motion CARRIED with 6 ayes and 0 nays.

Enactment No: RE-2528-09

[09-1470](#)

Approval of the May 19, 2009 Special Council Meeting Minutes

A motion was made by Council Member Rudnicki to approve the May 19, 2009 Special City Council Meeting Minutes as presented. Seconded by Council Member Broseh. The motion CARRIED with 6 ayes and 0 nays.

[09-1468](#)

Approval of the May 26, 2009 Regular City Council Meeting Minutes

A motion was made by Council Member Rudnicki to approve the May 26, 2009 Regular City Council Meeting Minutes as presented. Seconded by Council Member Broseh. The motion CARRIED with 6 ayes and 0 nays.

ITEMS TO BE REMOVED FROM THE CONSENT AGENDA

[09-1447](#)

Ordinance - Third and Final Reading of an Ordinance Authorizing the City Manager to Execute a Contract of Sale to the Fort Worth Area Habitat for Humanity, Inc. to Construct New Affordable Single Family Housing

[play video](#)

Vicki Collins read the caption into the record. Council Member Kunasek removed this item from the consent agenda. Assistant City Manager Chris Burkett and Bryn Meredith answered Council questions.

A motion was made by Council Member Kunasek to approve the third and final reading of the following ordinance with the necessary modifications to the contract:

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT OF SALE TO FORT WORTH AREA HABITAT FOR HUMANITY, INC. TO CONSTRUCT NEW AFFORDABLE SINGLE FAMILY HOUSING IN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING 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

Enactment No: OR-1745-09

END OF CONSENT AGENDA

PUBLIC HEARING AND FIRST READING

[play video](#)

[09-1471](#)

Ordinance - Public Hearing and First Reading of an Ordinance Approving a Specific Use Permit for Gas Well Drilling and Production on Approximately 4.64 Acres, Located on Property at 1650 N. Main Street and 1151 W. Debbie Lane; XTO Energy, Inc. (ZC#09-004)

[play video](#)

Vicki Collins read the caption into the record. XTO Energy representative Walter Dueease made a brief presentation and answered Council questions. Mayor Cook pointed out to the Council that the Planning and Zoning Commission first discussed this matter on May 18, 2009 and they tabled it to look at the traffic routes; they revisited it on June 1, 2009 and approved it that day 7-0 with the following conditions: that the vehicular traffic route be changed to travel South on Main Street to the drill site and travel North on Main Street to exit the drill site and that sound barriers be provided for the city drilling regulations and that trees subject to mitigation must be replaced on the property as approved by the Landscape Administrator. Mayor Cook opened the public hearing at 9:25 p.m. The following person spoke during the public hearing:

Bill Visage - 4086 Water Park Circle - Oppose

With no others wishing to speak, Mayor Cook continued the public hearing at 9:29 p.m. Felix Wong answered Council questions and was instructed to contact the gas gatherer and discuss the pipeline route and report back to the Council at the second reading. Council Member Rudnicki respectfully requested for XTO Energy to bring back a pre-construction specific noise abatement plan by the third and final reading. Bryn Meredith answered Council questions.

A motion was made by Council Member Rudnicki 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 A 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," with the following amendments: to require an 8 foot masonry wall on the West, South and East sides with the North side being a coated chain link fence, with landscaping for the West and South sides to be at staffs discretion roughly 25 foot on center, 3 1/2 to 5 inch live oaks with fill in shrubbery to be determined by the Landscape Administrator, with irrigation; and with the requirement that the improvements be made prior to drilling of the first well. Seconded by Mayor Pro Tem 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

ADJOURN

[play video](#)

A motion was made by Mayor Pro Tem Hoffman to adjourn the meeting at 9:58 p.m. Seconded by Council Member Broseh. 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