



CITY OF MANSFIELD

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

Meeting Minutes City Council

Monday, July 27, 2009

4:30 PM

Council Chambers

REGULAR MEETING AMENDED AGENDA

4:30 P.M. - CALL MEETING TO ORDER

Mayor Cook called the meeting to order at 4:34 p.m.

Mayor Cook announced that the Council would be recessing executive session at 5:30 p.m. to attend the visitation services for the Retired MISD Superintendent Vernon Newsom. Mayor Cook announced the Council would reconvene into regular business session at 7:30 p.m.

Absent 1 - Greg Kunasek

Present 6 - Mike Leyman; David Cook; James Rudnicki; Cory Hoffman; Larry Broseh and Darryl Haynes

RECESS INTO EXECUTIVE SESSION

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In accordance with Texas Government Code, Chapter 551, Mayor Cook recessed the City Council into executive session at 4:36 p.m. Mayor Cook called the executive session to order in the Council Conference Room at 4:39 p.m. Mayor Cook recessed the executive session at 5:36 p.m.

Council and staff attended visitation services for Retired MISD Superintendent Vernon Newsom.

Mayor Cook reconvened back into executive session in the Council Conference Room at 6:43 p.m. Council Member Kunasek arrived at 7:15 p.m. Mayor Cook recessed the executive session at 7:31 p.m.

Present 7 - Mike Leyman; 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

Exchange of Property to the Fort Worth Area Habitat for Humanity Inc.

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

Exchange of Property to the Fort Worth Area Habitat for Humanity Inc.

Personnel Matters Pursuant to Section 551.074

Board Appointments; Planning & Zoning Commission

Board Appointments; Mansfield Park Facilities Development Corporation

Board Appointments; Mansfield Economic Development Corporation

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

Update on MEDC Project 09-03

Update on Forest City Development Incentives

7:30 P.M. – RECONVENE INTO REGULAR BUSINESS SESSION

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Mayor Cook reconvened into regular business session at 7:37 p.m.

MOMENT OF SILENCE IN MEMORY OF VERNON NEWSOM

TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION

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No action was taken by the Council.

INVOCATION

[play video](#)

Council Member Leyman led the Invocation.

PLEDGE OF ALLEGIANCE

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Mayor Pro Tem Hoffman led the Pledge of Allegiance.

TEXAS PLEDGE

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

Council Member Rudnicki led the Texas Pledge.

CITIZEN COMMENTS

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There were no citizen comments.

COUNCIL ANNOUNCEMENTS

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Council Member Broseh had no announcements.

Council Member Rudnicki had no announcements.

Mayor Pro Tem Hoffman had no announcements.

Council Member Leyman had no announcements.

Council Member Haynes had no announcements.

Council Member Kunasek had no announcements.

Mayor Cook advised everyone of the funeral arrangements for the late MISD Superintendent Vernon Newsom.

STAFF COMMENTS

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City Manager Report or Authorized Representative

FY 2009-2010 Proposed Budget - Clayton Chandler, City Manager

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City Manager Clayton Chandler made a power point presentation and answered Council questions. Director of Business Services Peter Phillis and Fire Chief Barry Bondurant answered Council questions.

Current/Future Agenda Items

No staff comments.

OLD BUSINESS

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09-1530

Discussion and Possible Action on a Request to Allow Revisions to the Approved Development Plan for the Planned Development for the Dalton Best Maid Pickle Plant Located at 1101 W. Debbie Lane; Dalton Best Maid Product Inc. (ZC#96-021A)

[play video](#)

Director of Planning Felix Wong answered Council questions. George Christi, representative for Dalton Best Maid Product Inc., answered Council questions.

A motion was made by Mayor Pro Tem Hoffman to approved the request to allow revisions to the approved PD for Dalton Best Maid Pickle with the requirements that they begin construction of the wall around the facility on or before October 1, 2009 and have it completed by December 1, 2009; and allow them to have a gate to allow lawn mower access on Debbie Lane; allow a wrought iron fence section over the drainage channel that is currently on the east side of the property; and to require them to raise the height of the stone structure wall they requested to 8 feet to provide additional screening; and to have the irrigation, trees and landscaping installed by the end of the year. Seconded by Council Member Haynes. The motion CARRIED by the following vote:

Aye: 7 - Mike Leyman;David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Abstain: 0

[09-1471](#)

Ordinance - Third and Final 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)

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City Secretary Vicki Collins read the caption into the record. Jacobs Engineering representative Aric Head made a brief presentation and asked that the Council allow them to install the screening after the first well is drilled. Mike Fann & Associates representative Mike Fann and XTO Energy representative Bob Manthei answered Council questions. Felix Wong 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 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: that the sound abatement that was received tonight be approved; require trees to be evergreen varieties left up to the city staff, container grown, 5" caliper, 25 foot on center placed around the west, south and east sides; the masonry wall, plants, trees and irrigation to be completed within 90 days after drilling of first well is complete; that the SUP grant only one well for the period of 5 years.

During discussion of the motion, Mayor Cook called the question.

Seconded by Mayor Pro Tem Hoffman. The motion CARRIED by the following vote:

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

Nay: 1 - Greg Kunasek

Abstain: 0

Enactment No: OR-1746-09

PUBLIC HEARING AND RESOLUTION

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09-1521

Resolution - Public Hearing and Resolution Adopting the City of Mansfield Mitigation Plan

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Half Associates representative John Ivey made a power point presentation and answered Council questions.

Mayor Cook opened the public hearing at 9:52 p.m. With no one wishing to speak, Mayor Cook closed the public hearing at 9:52 p.m.

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

A RESOLUTION APPROVING THE CITY OF MANSFIELD MITIGATION PLAN

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

Aye: 7 - Mike Leyman;David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Abstain: 0

Enactment No: RE-2536-09

Mayor Cook recessed the meeting at 9:52 p.m. for a break. Mayor Cook reconvened the meeting at 10:07 p.m.

PUBLIC HEARING AND FIRST READING

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09-1515

Ordinance - Public Hearing and First Reading of an Ordinance Approving Amendments to an Approved PD for Multi-Family Apartments on Approximately 16.678 Acres, Generally Located to the East of State Highway 360 and Approximately 3,000 Feet North of Heritage Parkway South by Wier & Associates, Inc. (ZC#09-006)

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Vicki Collins read the caption into the record. Schaumburg Architects representative Ken Schaumburg made a brief presentation. Mayor Cook opened the public hearing at 10:10 p.m. With no one wishing to speak, Mayor Cook continued the public hearing at 10:11 p.m. Ken Schaumburg answered Council questions. Mayor Pro Tem Hoffman asked for the applicant to provide pictures and actual material of the roofing at the next meeting. Schaumburg Architects representative Erik France and Dolce Living Development representative Russ Krivor answered Council questions. Peter Phillis and City Attorney Allen Taylor answered Council questions. Council

Member Kunasek asked the applicant to bring back at the next reading what the best return on an investment would be, either a garage or an apartment.

A motion was made by Mayor Pro Tem Hoffman to suspend the rules for discussion. Seconded by Council Member Rudnicki. The motion CARRIED with 7 ayes and 0 nays.

A motion was made by Council Member Kunasek 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 CHANGE THE ZONING ON THE HEREINAFTER DESCRIBED PROPERTIES TO A PD, PLANNED DEVELOPMENT DISTRICT FOR MULTI-FAMILY APARTMENTS, 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 understanding that the applicant will bring back the discussed modifications to both the interior finish out details and covered parking options at the next reading. Seconded by Council Member Broseh. The motion CARRIED by the following vote:

Aye: 4 - Mike Leyman;Greg Kunasek;Larry Broseh and Darryl Haynes

Nay: 3 - David Cook;James Rudnicki and Cory Hoffman

Abstain: 0

09-1519

Ordinance - Public Hearing and First Reading of an Ordinance for a Zoning Change from C-2, Community Business to PD for all C-2 Uses Plus a Car Wash on Approximately 2.27 Acres, Located at 701 W. Debbie Lane by Unkuk, Inc. (ZC#09-005)

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Vicki Collins read the caption into the record. Jett Express Carwash representative John Unangst made a power point presentation and answered Council questions. EOG Architects representative Vincent Jarrard answered Council questions. Property Broker Johnny Williams made comments. Felix Wong answered Council questions. Mayor Cook opened the public hearing at 11:39 p.m. With no one wishing to speak, Mayor Cook continued the public hearing at 11:39 p.m.

A motion was made by Council Member Leyman 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 CHANGE THE ZONING ON THE HEREINAFTER DESCRIBED PROPERTIES TO A PD, PLANNED DEVELOPMENT DISTRICT FOR C-2 USES PLUS A CAR WASH, 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 understanding that there be changes to lowering the tower, increasing masonry and changes to articulation. Seconded by Council Member Kunasek. The motion CARRIED by the following vote:

Aye: 5 - Mike Leyman;David Cook;James Rudnicki;Greg Kunasek and Larry Broseh

Nay: 2 - Cory Hoffman and Darryl Haynes

Abstain: 0

CONSENT AGENDA

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NO ITEMS WERE REMOVED FROM THE CONSENT AGENDA**09-1516**

Ordinance - Second 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

A motion was made by Council Member Kunasek to approve the second reading of the following ordinance:

AN ORDINANCE OF THE CITY 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 Leyman. The motion CARRIED with 7 ayes and 0 nays.

09-1520

Resolution - Resolution Awarding a Contract for the Construction of Parking and Security Fencing at the City of Mansfield Law Enforcement Center for an Amount Not to Exceed \$466,375.00 (Building Construction Fund)

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

A RESOLUTION AWARDING A CONTRACT FOR THE CONSTRUCTION OF PARKING AND SECURITY FENCING AT THE CITY OF MANSFIELD LAW ENFORCEMENT CENTER

Seconded by Council Member Leyman. The motion CARRIED with 7 ayes and 0 nays.

Enactment No: RE-2537-09

09-1523

Resolution - A Resolution of the City of Mansfield Approving a Negotiated Settlement Between the Atmos Cities Steering Committee and Atmos Energy Corp; and Authorizing an Increase in the Rate Adjustment

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING

EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETING ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL

Seconded by Council Member Leyman. The motion CARRIED with 7 ayes and 0 nays.

Enactment No: RE-2538-09

[09-1528](#)

Resolution - A Resolution Recognizing that the City Council of the City of Mansfield, Texas is Proposing to Adopt a Tax Rate on a Future Agenda

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

A RESOLUTION RECOGNIZING THAT THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS IS PROPOSING TO ADOPT A TAX RATE ON A FUTURE AGENDA, THE PROPOSED TAX RATE ON THE FUTURE AGENDA IS CURRENTLY EXPECTED TO BE 71 CENTS PER ONE HUNDRED DOLLARS (\$100) OF ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY AS OF JANUARY 1, 2009. THE CITY COUNCIL WILL HAVE PUBLIC HEARINGS ON THE EXPECTED TAX RATE OF 71 CENTS PER ONE HUNDRED DOLLARS OF ASSESSED VALUATION AT THE NEXT REGULARLY SCHEDULED MEETINGS AND WILL ADOPT A BUDGET BEFORE THE ADOPTION OF A TAX RATE

Seconded by Council Member Leyman. The motion CARRIED with 7 ayes and 0 nays.

Enactment No: RE-2539-09

END OF CONSENT AGENDA

NEW BUSINESS

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[09-1496](#)

Resolution - A Resolution Approving an Interlocal Agreement Between the City of Mansfield and Mansfield Independent School District for a Joint Project to Establish a Tree Farm (OA#09-004)

[play video](#)

Allen Taylor answered Council questions.

A motion was made by Mayor Pro Tem Hoffman to approve the following resolution:

A RESOLUTION AUTHORIZING THE CITY OF MANSFIELD TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE MANSFIELD INDEPENDENT SCHOOL DISTRICT FOR THE ESTABLISHMENT, OPERATION AND MAINTENANCE OF A TREE FARM AT THE MANSFIELD INDEPENDENT SCHOOL DISTRICT OPERATIONS COMPLEX

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

Aye: 7 - Mike Leyman;David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Abstain: 0

Enactment No: RE-2540-09

[09-1526](#)

Approval of the July 13, 2009 Regular City Council Meeting Minutes

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Council Member Broseh stated he would be abstaining from the vote.

A motion was made by Council Member Kunasek to approve the July 13, 2009 Regular Meeting Minutes as presented. Seconded by Council Member Leyman. The motion CARRIED by the following vote:

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

Nay: 0

Abstain: 1 - Larry Broseh

[09-1527](#)

Discussion and Possible Action Regarding Amending the Comprehensive Zoning Ordinance to Require Property Owners to Notify Renters or Leasors of a Gas Well

[play video](#)

This agenda item and agenda item 09-1529 were discussed jointly. There was discussion amongst the Council. Mayor Cook directed staff to set up changes and go through the ordinance all at once. Allen Taylor made comments regarding the notification procedures and answered Council questions. Felix Wong made comments. Mayor Cook directed staff to have a complete change list available for a work session at the first meeting in August.

[09-1529](#)

Discussion and Possible Action on Potential Amendments to the City's Gas Well Drilling and Production Regulations Requiring Property Owners to Notify Renters or Leasors of a Proposed Gas Well and Imposing Other Safety, Operation and Aesthetic Requirements on Gas Well and Pipeline Activities (OA#09-005)

[play video](#)

This agenda item and agenda item 09-1527 were discussed jointly.

ADJOURN

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A motion was made by Mayor Pro Tem Hoffman to adjourn the meeting at 11:57 p.m. Seconded by Council Member Leyman. The motion CARRIED by the following vote:

Aye: 7 - Mike Leyman;David Cook;James Rudnicki;Greg Kunasek;Cory Hoffman;Larry Broseh and Darryl Haynes

Nay: 0

Abstain: 0

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

_____ David L. Cook, Mayor

ATTEST:

_____ Vicki Collins, City Secretary