

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LIVE OAK
WILL BE HELD IN CITY HALL, 8001 SHIN OAK DRIVE,
TUESDAY, JANUARY 30, 2007, AT 7:00 P.M.

1. CALL TO ORDER

Mayor Edwards called the January 30, 2007 City Council Meeting to order at 7:00 p.m.

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

Lead By Live Oaks Newest Eagle Scout Henry Ray T. Conway III

4. ROLL CALL

Mayor Henry O. Edwards Jr.,
Councilmember Suzanne S. Hildebrand, Place 1
Councilmember Pat Kauts, Place 2
Councilmember Debbie McFarland, Place 3
Councilmember Anne Jorrie, Place 4
Councilmember Loretta Kusek, Place 5

5. ANNOUNCEMENT OF VIP/DV AND COMMENTS BY VIP/DV

Mayor Edwards acknowledged former Councilmembers Ed Miles and Al Hernandez. In addition he acknowledged Ms. Lisa Martin, American Cancer Society

6. SPECIAL CONSIDERATION

A. American Cancer Society 2007 Greater Randolph Area Relay For Life

1. Presentation By Lisa Martin

Mayor Edwards introduced Ms. Lisa Martin, and she thanked City Council and staff for the opportunity to talk about the 2007 Greater Randolph Relay for Life. She briefly spoke about the relay (April 27 and 28), 41 teams (currently) fund raising efforts, research, patient and family services, and two ceremonies. She asked that the City Council, staff and community get the word out and get involved; their cash goal is \$60,000.

7. CITIZENS TO BE HEARD

Bill Umphlett, 7501 Avery Road, Live Oak, TX – Mr. Umphlett came before the City Council to speak about City Council positive and negative actions toward City projects. In addition, he spoke about agenda item 8D and his disagreement with this resolution.

John Gallagher, 11621 Crooked Oak, Live Oak, TX – Mr. Gallagher came before City Council to speak about the need for a Traffic Light at Forest Bluff and O'Connor Road. His concern is to preclude injury and maintain safety for all.

John Heberling, 818 Desert Bluff, Universal City, TX – Mr. Heberling came before the City Council to speak about their negative behavior towards each other, and although not a resident, he felt it was important to be positive with each other.

Marguerite Bennett, 7517 Jonquill, Live Oak, TX – Ms. Bennett came before City Council to speak about agenda item 9C, Carport Structures. She was in support of these structures and as a disabled resident she would like the City Council to consider this issue.

David Earl 111 Soledad #111, San Antonio, TX – Mr. Earl (McCrary and Associates Attorney) came before the City Council to express his concern over agenda item 8C, and he believed this issue had been settled at the Special City Council Meeting on January 24, 2007.

8. CONSENT AGENDA

Consent Agenda was separated so that City Council could address item A and D as separate issues

A. Approval of Minutes

1. January 9, 2007 – Minutes were pulled and tabled for minor correction.

Items B and C were voted on together

B. A Resolution Authorizing Payment To Wagner Material And Construction In The Amount Of \$87,185.70 For Unpaid Services

C. Resolution Authorizing Payment To Don McCrary And Associates, Inc., In The Amount Of \$49,210.28 For Unpaid Services

Councilmember Kauts made a motion to approve items B and C; seconded by Councilmember Jorrie

Vote FOR: Councilmembers Kauts, Hildebrand, McFarland, Jorrie and Kusek – passes 5 - 0

D. Resolution Authorizing The City Council To Continue Services With Don McCrary And Associates, Inc., Under Strict Guidelines And Will Reassess The Contract And Performance In June 2007

There was a discussion among City Council concerning the need for a Resolution, the wording of the Resolution, contract, Resolution 1583, August 10, 2004, performing the work and the prior Special City Council Meeting (January 24, 2007). Ms. Goza, City Secretary indicated she provided City Council with an updated Resolution, as the Resolution that was included in their packets was in error; she had not had the opportunity to review the DVD of the meeting in its entirety, and apologized for any problems this had caused the City Council, staff and citizens.

Councilmember McFarland made a motion for approval; seconded by Councilmembers Hildebrand and Jorrie.

Vote FOR: Councilmembers Kauts, McFarland, Jorrie and Hildebrand

Vote AGAINST: Councilmember Kusek

9. NEW BUSINESS

A. Resolution To Authorize The City Manager To Order 500 Acre Feet Of Leased Edwards Aquifer Ground Water Rights – Mr. Smith and Mr. Wagster

Mr. Smith indicated during a prior City Council meeting the City Council authorized him to pursue a temporary one year lease for water for 2007. He explained that this issue is not unique, as every city in the region is working some type of water issue. Additionally the City had a permit (one year) for 1701 acre feet from the Edwards Aquifer Authority (E.A.A.), which had been reduced in 2005 to 1280; 50 acre feet of water the City purchases in previous years. A handout was provided to the City Council for their review and information. He discussed the 2007 water deadline to pursue the water rights verbally, and will get the contracts back to City Council for their review. He added that once the order is place through the Interlocal agreement the City is committed to the buying or leasing the water; specific verbiage written in the documents with the Regional Water Resources Development Group (RWRDG).

Other issues discussed:

- Purchasing emergency 2007 water at \$120.00 per acre foot
- E.A.A. fees and administration charges
- SAWS does not participate in RWRDG
- Normal process beginning February 1, 2007 with RWRDG to pursue water rights beginning in 2008 for a 5/10 year agreement (reduced rate) with established target prices
- Purchase price changes: was \$2,000 an acre foot , now \$5,200 acre foot
- Not to commit the City to purchase, but to lease water rights; more discussion is needed
- Possible fee repayment at the end of the fiscal year
- Costs for this project are unknown, but will keep City Council posted on any new information
- Investor owner groups
- Mr. Smith explained the hand out that was provided to City Council; pumpage issues, and water rights
- Attorney General opinion that E.A.A. had no authorization to release junior or senior rules; based on proposed plan upon what water rights that are based on the end of 07 and 08 cut. E.A.A. will have to address the issue
- Handout indicates current 1320 acre feet, (plus the 500 acre feet which is a separate issue) which could be cut to 1016 acre feet

- Two separate contracts (1) 2007 (2) 2008 (500 acre feet); gets the City through a Stage 3 water phase
- Future growth of the City of Live Oak
- Pending commercial development and how the City deals with the issue
- Budget revision (Utility Budget) to pay for the 2007 water – different funding areas to transfer
- Operations and Maintenance report – this report was not addressed at length or in its entirety
- Reports will be provided to City Council for their review

Mr. Wagster briefly spoke about excess water rights, and how the City can transfer rights to another entity; recoup costs for the City. Additionally Mr. Smith indicated this would be at no additional cost-non profit (Interlocal Agreement) to the City; any City

1. Questions From Councilmembers

No Questions from Councilmembers Kusek and Jorrie

Councilmember McFarland asked about the “switch out water”, would the administration fees be returned to the other City? Mr. Smith stated it would, but it would go through E.A.A; he explained tiered leases within City of Live Oak.

Councilmembers Kauts and Hildebrand had no questions.

Mayor Edwards spoke about Economic Development, and water issues (contracts) back in 2005 that fell through the cracks. Mr. Smith stated it was an important issue, and if not addressed economic development could not go forward without the water issues being addressed.

Mayor Edwards asked about Bexar Met Water. Mr. Smith spoke about the completion of construction of a water main, which ties into a Bexar Met water tank along Miller Road and close to the well site on Marigold Trace. Additionally this could be an option, it is currently a \$1.60 per 1,000 gallons; \$500 per acre foot, and has ground water in it (blended water); must be treated. He spoke about the treatment cost, and type of procedures used; he has ask staff to find out the costs of treatments. Other items address:

- San Antonio Water System
- Example of the City of San Marcos alternative water rights (expensive water rights)
- Costs of water rights; other options

Mayor Edwards mentioned pursuing 500 acre feet with Bexar Met Water (emergency situation) and Mr. Smith indicated we could not use Bexar Met Water.

Councilmember Jorrie made a motion for approval; seconded by Councilmember Hildebrand

Vote FOR: Councilmembers Jorrie, Kusek, McFarland, Kauts and Hildebrand – Passes 5 - 0

B. Discussion And Possible Action Concerning The Live Oak 4th Of July Parade – Mr. Wagster

Mr. Wagster asked for direction concerning the 4th of July Parade. He spoke about invitations, length of route, and time.

There was a discussion concerning hosting a Memorial Day Parade (supporting the Lions Club), participation of departments, Schertz Parade (competition), alternate days off for employees, route, traffic, invitees, advertisement ideas, and whether the parade should be continued. The consensus of City Council to go forward with the 4th of July Parade:

Consensus FOR: Councilmembers Hildebrand, Kauts, McFarland, Jorrie and Kusek – 5 - 0

C. Discussion Concerning Carport Structures – Mr. Wayman

Mayor Edwards asked the discussion be considered in two areas commercial and residential.

Mr. Smith explained there were two different issues to discuss and clarify: commercial and residential. Additionally he would provide some information on the background of the Zoning Ordinance. There are various structure use categories in the Zoning Ordinance: X (allowed use), S (Special Use Permit) and Blank (not allowed). Mr. Smith referred back to Mr. Wayman receiving a request for a permit for shade ports (hail prevention), which did not fall clearly under the Zoning Ordinance. Also he referred back to the City Attorney's opinion (in Council packet), which stated "they are prohibited because our zoning ordinance does not allow them" and "these portable car covers are buildings but there is no provision in the ordinance which permits such types of structures as an accessory building or use". Additionally contained in the Zoning Ordinance is area titled New and Unscheduled Uses, this area is confusing as the statutes indicate now this can now be classified, and there are procedures that need to be followed. This permit was requested by Gunn Auto Group, for the purpose of hail storms and insurance claims. However, this applies to more than just the Gunn Group, it will apply to everything; all permits will be reviewed individually. The concerns Mr. Smith have are as follows:

- What the shade will look like
- Make sure the City Ordinances are in line with the requests

Mr. Smith indicated if the Council wants staff to review this issue, add to the Zoning Ordinance, define the issue and ensure it has limits (no blanket approvals). Additional concerns would deal with access for the Fire Department and other emergency vehicles.

Mr. Smith recommended this issue be referred to the Planning and Zoning Commission and make their recommendation, and have it come back to the City Council for determination. Additionally this process could only be applied for through a Specific Use Permit; procedures of a Specific Use Permit were discussed.

Mr. Wayman introduced Mr. Kelly Collins and Mr. Don Messick, Gunn Auto Group to discuss and explain their request.

Don Messick, President Tri-Co USA Incorporated came before City Council to discuss and explain his request for canopy structures for the Gunn Dealership. Mr. Messick brought designs and spoke about the following items:

- Hail damage
- Increased insurance premiums
- The fabric of the canopy's – durability, color, 10-year life span and certified ASTM
- Accessibility of fire lanes; will comply with all procedures and guidelines

Mr. Collins, Chief Finance Officer for Gunn Auto Group, spoke about their 50 year history, and seven locations (1988) in the San Antonio. Additionally he spoke about the following items:

- Hail nets – for the comfort of the employees and customers
- Economic loss due to the hail storms totaling seven million dollars
- Increase insurance premiums

Mr. Smith explained there could be no action concerning this issue at this time. There would be approximately a 60 day period to finalize an ordinance amendment; Specific Use Permit process adding control to this issue.

Councilmember Hildebrand stated her business represents and has dealt with several dealerships concerning this issue, as it is industry wide. Councilmember Jorrie asked what percentage of car coverage were they looking for, and Mr. Collins said the insurance wanted 90% coverage. Councilmember Jorrie asked about the size, color if logos would be represented on the covers, and emergency vehicle access. Mr. Collins stated there are many sizes, each dealership has a represented color, some logos were factory mandated; 10½ feet at the highest point and they would comply with all emergency accesses.

Councilmember Hildebrand made a motion for a consensus of City Council to refer this issue to the Planning and Zoning Commission to make their recommendation, and in turn come back to the City Council for determination; expedite the issue.

Vote FOR: Councilmembers Kauts, McFarland, Jorrie, Kusek and Hildebrand – consensus 5 - 0

Residential

Mayor Edwards indicated the same principles apply to residential areas, and Mayor Edwards asked Mr. Smith to begin.

Currently carports are allowed outside of the front setback (25 foot), but they cannot extend into the front set back; set backs can vary and there is a 10 foot street right of way. He explained that past discussions on this issue centered on aesthetics, fit,

property lines, types of covers and materials used. The following is a list of items discussed:

- Existing garage and additional carport
- Past City Council approvals
- Emergency vehicle access
- Garage covers uses in resident backyards

Councilmember McFarland wanted a copy of the Ordinance that describes what can or cannot be put in a driveway; to be included in discussions.

Councilmember Kauts agreed about guidelines and limitation for the residential areas

Councilmember Hildebrand agreed it should go to the Planning and Zoning Commission for review and recommendation.

Mr. Smith clarified that carports are allowed, but it is the setbacks in question.

Mayor Edwards provided handout concerning carports, and spoke the following items:

- Setbacks
- Quality of the carports
- Protection of property
- Supporting and protecting the resident
- Converted garages in the City
- Proposition 13 and the tax rate

Councilmember Hildebrand made a motion for a consensus of City Council to refer this issue to the Planning and Zoning Commission to make their review to see what can be done to accommodate the citizen.

Consensus FOR: Councilmember Hildebrand, Kauts, McFarland, Jorrie and Kusek – Consensus 5 - 0

D. An Ordinance Authorizing The City Manager To Enter Into An Agreement With Soccer Association For Youth Of San Antonio (SAYSAT) For The Use Of Designated Areas Of The City Of Live Oak Park For Soccer Practice – Mr. Wagster

Mr. Wagster had discussed this issue with the Parks and Recreation Committee concerning this issue. Additionally he had attended a meeting with all the sport point of contracts and all agreed there should be no problem with allowing the SAYSAT use the fields, as long as there was no interference with other sporting events.

Councilmember McFarland made a motion for approval; seconded by Councilmember Hildebrand

Vote FOR: Councilmember McFarland, Kauts, Hildebrand, Jorrie and Kusek – passes 5 - 0

E. Discussion Concerning A Life Alert System And Senior Program – Councilmember Kusek

Councilmember Kusek discussed the information she had gathered concerning the Life Alert System Program. The following information was presented:

- Live Oak has approximately 13% of senior citizens over the age of 60 years old
- Information provided from Odessa (R-U-OK Program)
- Procedures: Computer generated telephone calls (daily)
- Red Cross has a program for seniors
- City Manager and Staff to look into the program and provide update to City Council – cost of personnel and software
- Committee of citizen involvement

Mayor Edwards asked about the Emergency Management telephone calls. Deputy Fire Chief Galindo explained the program called the Special Needs Program, which lists names of special needs citizens; however this is not the same as Life Alert. Councilmember McFarland asked about the cost to Midland/Odessa, and Councilmember Kusek indicated she did not know the cost.

Consensus of City Council; Councilmember McFarland asked that the consensus be amended to include costs and analysis from other cities. Additionally Mayor Edwards indicated this would have to be discussed at future budget meetings.

Consensus FOR: Councilmembers Hildebrand, Kauts, McFarland, Jorrie and Kusek – passes 5 - 0

Supplement Agenda:

9F. A Resolution Authorizing City Council To Approve The Submission Of A Community Development Block Grant Application For A Sewer Enhancement On IH-35 – Mr. Wayman

Mr. Wayman explained the CDBG grant process; third year applying for this grant and the procedure now includes a resolution process.

Councilmember Kauts made a motion for approval; seconded by Councilmember McFarland

Vote FOR: Councilmember Kauts, Hildebrand, McFarland, Jorrie and Kusek – passes 5 -0

10. GENERAL ANNOUNCEMENTS

A. Staff

1. Update Of Kids Trout Fishing Event – Mr. Wagster

Mr. Wagster indicated the fishing event was well received and there were approximately 85 participants. He added the participants from the age of 17 and up would require a fresh water fishing license.

11. ADJOURNMENT

There being no further business Mayor Edwards asked for a motion for adjournment. Councilmember Kauts made a motion; seconded by Councilmember McFarland. The meeting was adjourned at 9:15 p.m.

APPROVAL:

Henry O. Edwards, Jr., Mayor

ATTEST:

Deborah L. Goza, City Secretary