

MINUTES  
REGULAR MEETING OF THE CITY COUNCIL  
CITY OF LIVE OAK  
WILL BE HELD IN CITY HALL, 8001 SHIN OAK DRIVE,  
TUESDAY, FEBRUARY 27, 2007, AT 7:00 P.M.

1. CALL TO ORDER

Mayor Edwards called the February 27, 2007 Regular City Council Meeting to order at 7:00 p.m.

2. INVOCATION/PLEDGE OF ALLEGIANCE

Action completed

3. 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

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

Mayor Edwards recognized former Mayor Ray Hildebrand, former Councilmembers Roy Schaufele and Ed Miles

Mayor Edwards realigned the agenda to facilitate other individuals' commitments. However the Minutes will reflect the agenda as originally written.

5. CITIZENS TO BE HEARD

Georgia Wise, 7254 Rimwood Street, Live Oak, TX – came before the City Council to support an ordinance which would ban the chaining of any animal. Additionally she asked the City Council to support this type of ordinance.

6. SPECIAL CONSIDERATION

A. Proclamation For Severe Weather – Mr. Woppert

1. March 4 Through March 10, 2007

Mayor Edwards read the Proclamation for Severe Weather and presented the Proclamation to Mr. Woppert.

7. CONSENT AGENDA

A. Approval of Minutes

1. January 30, 2007

2. February 13, 2007

B. An Ordinance Amending Ordinance Number 456 of The Ordinances Of The City Of Live Oak, Texas, By Changing The Classification And Zoning Of A 166.76 Acre Tract Of Land For The Alamo Community College District Property Located On The South Side Of Loop 1604 Between Kitty Hawk And Palisades - Mr. Wayman

- C. An Ordinance Providing For A Variance To The City Ordinance Number 524, The Subdivision Ordinance For The City Of Live Oak, Allowing For The Development Of A Short Stub Street In Woodcrest Unit 19 At The Entrance Of The New Life Baptist Church – Mr. Wayman
- D. An Ordinance Providing For A Variance To The City Ordinance Number 456 Pertaining To The Depth Of A Lot Requirement Of 120 Feet In An R-1 Subdivision For One Lot (Lot 40) In The Woodcrest Unit 3A Subdivision – Mr. Wayman
- E. An Ordinance Providing For A Variance To The City Ordinance Number 524 Pertaining To The Placement of Residential Lots Backing Up To Public Right Of Way Or Streets In Woodcrest Unit 19, Backing Up To The Right Of Way On Miller Road– Mr. Wayman

Mayor Edwards explained the reason why all four ordinances were under the heading of Consent Agenda. Additionally all four ordinances had been discussed at a prior Joint City Council and Planning and Zoning Meeting on February 22, 2007. The Minutes (all) would be considered, with minor corrections.

Councilmember Kauts made a motion to approve the Consent Agenda, to include minor corrections in the Minutes; seconded by Councilmember Jorrie

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

## 8. NEW BUSINESS

### A. Presentation Of The Annual 2006 City Audit From Armstrong, Vaughn & Associates

#### 1. Presentation By Nancy Vaughn

Ms. Vaughn thanked City Council and staff for their assistance with the audit. She provided the following information:

- Comprehensive and unqualified opinion, which means in the opinion of Armstrong, Vaughn and Associates the City's report does have the required elements and conformance to the generally accepted principals, as they applied to government.
- Two Utility Funds: Water and Waste Water Utility and Development Replacement & Renewal - \$400,000 more than before
- Change in Net Assets adding \$401,000 to Reverse and Utility Fund
- General Fund: Revenue/Expenditures compared to the original, final and prior year budget: \$7,661,000 (total year revenues)
- Expenditures are by functions: each function ended the year favorable to the budget – total expenditures \$7,104,000
- Economic Development Corporation – Total revenue \$1,308,000 – expenditures \$1.5 million – ended the year \$1.3 million
- Statistical Section (new item) – mandated by the Governmental Accounting Standards Board
- Tax Revenue by source over the last three years – Property Tax went down from previous year; Sales, franchise and occupancy tax went up – Total Revenue \$6.7 million

- Tax collections – over the last 10 fiscal years – collection rate above 98%

Management Letters – two letters- Significant deficiencies and Internal Management Controls – new reporting requirement. Most deficiencies have either already been corrected or are in the process of being corrected.

- These letters are either internal controls item from last year or significant control that need more attention
- Capital Asset Inventory – software needed and recommended
- Purchasing Policy is being worked on by Mr. Homan; more defined policy
- End of Year - short on the deposit collateral at the bank, due to investments maturing – needs to be monitored
- Segregation of duties: payroll person performing incompatible duties – recommend a segregation (nothing improper); separate duties
- Management letter – has changed – Segregation of duties concerning the Finance Director and the check signers topic has been corrected
- Bank reconciliation process (problem) – Bank records were not reconciled to the General Ledger on a timely basis
- Dispatch fees for Selma – Last year contract was not signed, however this has been corrected
- Revenue tracking for building permits, park rentals, and court payments had been a problem, but recommendations have been implemented.
- Budget concerning vacation policy- some did not reconcile with the current adopted policy
- Official City Council Minutes – could not determine if they were official signed Minutes. This is possibly due to personnel turnover in the City.
- Public Funds Investment Act (compiled) required if City completed; City Council will need to review investment policy annually, as this was not done in FY 2005
- Trend analysis last five years – average monthly operating expenditure and revenue at the end of 2006 of \$4.6 million in unreserved fund balance in the General Fund; the average monthly expenditures \$556,000 an 11% increase from last year; an increase of 8.4 months in reserve

Good items identified/improvements

- Streaming of investments was noted last year. As investments were cumbersome to work with and took a lot of time and little gain.
- This year the City started using Texpool for most of your funds and streamlining those investments and I think it was a good thing. Not only do you gain in admin time but you are not losing anything in your investment returns.
- The developing of the purchase policy was a very good step forward.
- Cross training on various accounting functions is happening and will help your finance department.

- The reconciling of the bank records was a monumental task. The reconciling of your subsidiary records in your general ledger is now going on; but it was not before.

## 2. Questions And Comments By City Council

Councilmembers Kauts and Hildebrand thanked Ms. Vaughn, staff, Chief Jackley, Larry Homan and Kathy Schobinger for their hard work.

Councilmember Kauts indicated she had been in the audience during the last audit in 2005. She asked about the recommendations that were made and if the recommendations had been or had not been implemented. Ms. Vaughn sited the following:

- Significant turnovers
- Recommendations had been well received but it takes time
- Example of the fixed assets: needs software, and it is expensive and would take a lot of research to determine what the city could use
- Most serious problem was the bank reconciliation and this has been fixed
- City must prioritize items/problems that need to be addressed

Mayor Edwards emphasized the 8.4 months in reserve, total fund budget increase of \$5,677,930 - 13.59%; undesignated reserve increase \$800,610; reverse amount went down by 10% (98.5% went to the Asset Replacement Fund). Revenue this year will total \$288,000; next year is estimated at \$1,150,000 (plus) in the Asset replacement Fund.

### B. A Resolution Accepting The City Of Live Oak Comprehensive Annual Financial Report For The Fiscal Year Ended September 30, 2006 – Mr. Homan

Councilmember Kauts read the Resolution and there was no discussion.

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

Vote FOR: Councilmember Hildebrand, McFarland and Kusek

Vote AGAINST: Councilmember Kauts and Jorrie

Passes 3 – 2

### C. An Ordinance Providing For An Amendment To The City's Zoning Regulations, Ordinance Number 456 Pertaining To The Allowance Of The Category Car Shade Ports/Hail Nets Under The "Automobile And Related Service Uses" Portion Of The Schedule Of Uses, With An "S" Designating The Requirement Of A Specific Use Permit In The B-3 General Business District Zoning Category – Mr. Wayman

Mr. Smith explained this would amend the Zoning Ordinance which would allow a process for areas like an automobile type business and allow them to come in and ask for a Specific Use Permit for shade covers and is specifically to just automobile dealership uses; restricted use.

Scott Wayman, Assistant City Manager, thanked City Council and the Planning and Zoning Commission for their hard work during the last Joint City Council and Planning and Zoning Meeting.

Councilmember Kusek asked about a Board of Adjustment ruling concerning a variance on this same topic. Mr. Wayman indicated that to his knowledge no such ruling had been provided. Councilmember Kusek stated she had spoken with Chairman Hardwick and

she believed a variance had been done. Mr. Wayman explained that variance had been approved for the front setback of a business, but to his knowledge there had not been any approved for any other reason. Mr. Smith explained the process of carport/shade issue. Due to the amount of requests of this type of topic, this would change the process to a more defining request. Mayor Edwards believed this type of use would be looked at on a case by case basis.

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

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

Councilmember Hildebrand asked if Mr. Wayman or Mr. Smith could find out what the Board of Adjustment did rule on concerning variances and provide the information to her. Mr. Wayman provided a brief explanation concerning variances in general, but indicated he would provide her with an answer to her question.

D. Recommendation From The Planning And Zoning Commission Regarding The Construction Of Carports In The Front Set Back Of A R-1 Residential Zoning District – Mr. Wayman

Mr. Wayman indicated this item had been referred by to City Council and the question was asked could a resident put a carport in the front of their house. Currently there cannot be any structures in the front set back for example, 25 feet from the property line or 35 feet from the curb. Additionally, the Planning and Zoning had dealt with this question in September and he had gone before the Commission to ask if there were any ordinances they would like to bring back before the City Council to be reviewed or have revisited. The Planning and Zoning Commission was opposed to granting approval for carports and elected to have these items be looked at on a case by case basis.

Councilmember Kusek referred back to Marguerite Bennett, who came before the City Council, under the Citizen to be Heard portion of the January 30 meeting to ask City Council to reconsider carport issues, as her request had been disapproved. Scott had explained Ms. Bennett had come before the Board of Adjustment to request a carport variance, and the Board disapproved her request. Councilmembers McFarland, Jorrie, Kauts and Hildebrand all agreed this issue should be heard as a case by case request. Additionally it was identified the applicant can appeal to District Court within ten days of the disapproval process, and the applicant should be notified of the appeal process. Mayor Edwards indicated there was nothing in the Board of Adjustment Minutes concerning the feet (distance) and would like a report concerning this item. Mr. Wayman explained what had been discussed in the meeting concerning the rear setback. However it had been decided that they would look at each case individually. Mayor Edwards wanted a staff recommendation of why we could do this, not why we could not do this; not one has been approved in the City of Live Oak. Mayor Edwards wanted clarification concerning the measurements.

E. A Resolution Authorizing The Sharing Of Net Revenues From The January 2007 Auto Show With The Live Oak Police Reserve Association - Mr. Homan

Mr. Homan explained that during the January auto show at the Civic Center the net proceeds were split between the Police Officers Reserve Group and the Parks Special Fund. This year the fund was done away with and the event was budgeted in the General Fund with the underlying expenditures also budgeted. Additionally because of the

splitting of the proceeds, he wanted Council to be aware of the situation; consistent with previous year.

Councilmember Jorrie made a motion to approve; seconded by Councilmember Hildebrand

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

F. Discussion And Direction To Staff Concerning The Prohibiting Of Chaining Animals In The City Of Live Oak – problems date back for several years

1. Presentation By Richard Gould, Animal Control Supervisor

Richard Gould, Animal Control Supervisor began his presentation providing City Council and staff with handouts concerning the pros and cons of chaining or tethering animals in their yards or property. The following items were mentioned:

- Researched information and spoke to numerous people concerning the issue
- Handout from the Humane Society of the United States
- Definition of tethering and chaining
- Problems involved with tethering and chaining: aggressive behavior
- Dogs are naturally social and want interaction
- Psychological problems are created
- Harmful to the animal: entangled, deprived of food, water and shelter
- Dangerous to other animals in the surrounding area
- Ensuring the animals area is comfortable
- The animal is able to exercise properly
- Restrained for short periods of time
- Pulley and/or trolley systems

2. Questions By City Council

Councilmember Hildebrand stated it was a terrible problem and she considered it abuse. McFarland, Jorrie and Kusek agreed with her statements.

Councilmember Jorrie asked about other surrounding cities policies, and mentioned the news story of the dog that had been mistreated during the icy weather conditions in January. Mr. Gould stated he had not had an opportunity to call about other cities policies; however he understood the fines (\$50 to \$500) were considered a misdemeanor.

Mayor Edwards stated the item was a discussion item and deferred to Mark Wagster, Director of Public Works. Mr. Wagster said he felt the City Council sentiment was in favor of prohibiting the chaining of animals in Live Oak and that he would bring back an ordinance for City Council approval

Councilmember Hildebrand asked for a consensus of City Council; seconded by Councilmember Kusek

Vote FOR (Consensus) – Councilmembers Hildebrand, Kauts, McFarland, Jorrie and Kusek – passes 5 – 0

G. An Ordinance Authorizing The City Manager To Execute A Contract With Architects Wiginton Hooker Jeffry, PC, For The Rendition Of Landscape Architectural Services And For Consulting Services With Macina, Bose, Copeland, And Associates, Inc. – Civil Engineers – Chief Jackley

The following items were discussed concerning the Ordinance:

- Memo extending the bid date to March 16, 2007 at 2 p.m.
- Allows for services to be paid/reimbursed that were not identified in original contract; civil engineering and landscaping
- City Manager would review the agreement and Mr. Galindo, City Attorney would review the agreement for legal sufficiency

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

Mayor Edwards called the question, however after Councilmember Hildebrand voted for the Ordinance Councilmember Kauts asked if the architects would be speaking about the issue. Councilmember Hildebrand withdrew her vote and Mr. Hooker and Mr. Britton came up to the podium to answer questions City Council had concerning the ordinance/contract.

Councilmember Kauts ask what items were not in the contract. Mr. Hooker indicated they had failed to give written notice concerning supplemental services. Mayor Edwards stated this was indicated on the contract the City Council had authorized him to sign. Councilmember Kauts stated she had not seen the contract, and had nothing to compare the contract with.

Councilmember Hildebrand made a motion to approve; seconded by Councilmember McFarland

Vote FOR: Councilmember Hildebrand and Councilmember McFarland

Vote AGAINST: Councilmember Kauts, Jorrie and Kusek

Failed: 3 to 2

Mayor Edwards ask the City Manager to provide copies of the original contract for City Council to review and added this topic had been addressed in the contract. Mr. Smith indicated this agenda item would be on the next City Council Agenda (March 13, 2007). Mayor Edwards indicated it might be a subject of a Special City Council Meeting as an Executive Session item.

H. An Ordinance Authorizing The City Manager To Execute An Agreement With The Firm Of Catalano And Plache, Attorneys And Counselors At Law Of Washington, D.C. To Provide Legal Representation In Negotiating and Carrying Out The Reconfiguration Of The City's Police Dispatching Communication Services – Chief Jackley

Chief Jackley explained the re-banding of the 800 EDACS system and the litigation of the FCC and Nextel. The following was mentioned:

- Identified frequencies/airwaves
- Identified law firms that deal with this type of topic
- Identified programs and jurisdictions of the effected areas

- Mr. Galindo, City Attorney has recommended Catalano and Plache

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

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

- I. A Resolution Amending Resolution Number 1696A By The City Council Of The City Of Live Oak, Appointing One Member To The Live Oak Ethics Review Board Due To The Resignation Of One Committee Member – Mr. Wayman

Mayor Edwards asked if City Council needed more time to discuss this item, however Councilmember Jorrie had her nomination ready for City Council approval.

Councilmember Jorrie nominated Richard Lamothe for the vacated position on the Ethics Review Committee; seconded by Councilmember Kauts

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

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

## 9. GENERAL ANNOUNCEMENTS

### A. Staff

1. Announcement of Police Department Uniform Change- Chief Jackley

Chief Jackley explained the need for the change in Police Department uniform change. The following was identified:

- Difficulty in replacement of uniform (French Blue-Black color)
- Due to the different vendors the colors do not match
- Survey of the officers concerning the uniform
- Will be using the same badge, and patches
- Using the forfeiture funds (\$22,000) spread through various accounts
- Asking City Manager to authorize an internal transfer into one uniform account (11-532.301)
- Will not come from the General Fund
- Uniformity

Councilmember Kauts asked about state laws about using forfeiture funds. Chief Jackley explained the forfeiture account is used for enhancements and City management cannot dictate where to spend the funds; cannot be used as a supplemental fund for budget items and the uniqueness of forfeiture funds. Councilmember Kauts asked if we could do a budget revision on this item. Mr. Homan stated City Council would need to approve the transfer, but this is a realignment of the existing budget expenditures and the City Manager has the authority to move the money around in the same department. Councilmember Kauts asked how long would this take to get this approved with a budget revision; Mr. Homan said two weeks (next City Council Meeting). Mr. Smith explained about the transfer, and he did not have a problem with the approval. However due to the uniqueness of the forfeiture fund City Council will

probably see this item at a future council meeting. Additionally he spoke about advertisement of the new uniform through the local paper and newsletter. Councilmember Hildebrand indicated she was familiar with forfeiture funds and felt City Council could follow through with this request.

2. Affidavit For A Recall Petition Presented To The City Secretary On February 20, 2007 To Recall The Mayor – Ms. Goza

The following was explained to the City Council; Ms. Goza, City Secretary: David Earl delivered the Affidavit for Recall Petition on February 20, 2007. Within 5 working days (not calendar days) the City Secretary must provide blank petition forms to the petitioners or representative, this date would be no later than February 27, 2007. The petitioners must have 10% of the total number of qualified voters registered at the last regular city election. Total registered voters are: 7,128; 10% would be 713 signatures. April 13, 2007 will be the deadline for the petitioners to bring back the signatures. City Secretary has a deadline of 20 days, May 3, 2007 to verify all signatures. The deadline to place this item on the ballot is March 12, 2007.

3. Announcement Of Candidate Night On March 14, 2007 At The Live Oak Clubhouse At 6:30 P.M. – Ms. Goza

Ms. Goza made an announcement concerning Candidates Night. However the date was changed from March 14 to March 20, 2007 due to spring break.

B. City Council

No Announcements by City Council

10. ADJOURNMENT

As there was no further business, the February 13, 2007 City Council Meeting was adjourned at 8:47 p.m.

APPROVED:

---

Henry O. Edwards Jr., Mayor

ATTEST:

---

Deborah L. Goza, City Secretary