



# *CITY OF FULSHEAR*

30603 FM 1093, P. O. BOX 279, FULSHEAR, TEXAS 77441  
PHONE: 281-346-1796 FAX: 281-346-2556

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## **CITY COUNCIL MINUTES OCTOBER 20, 2015**

### **I. CALL TO ORDER**

*A Regular Meeting of the Fulshear City Council was called to order by Mayor Thomas C. Kuykendall, Jr., on Tuesday, October 20, 2015 at City Hall located at 30603 FM 1093 Road, Fulshear, Texas and all citizens were welcomed.*

*Members Present:*

*Thomas C. Kuykendall, Jr., Mayor  
Jeff Roberts, Mayor Pro Tem  
Tricia Krenek  
Tajana Mesic  
Ramona Ridge  
Erin Tristan*

*City Staff Present:*

*D. (Diana) Gordon Offord, City Secretary  
C. J. Snipes, City Administrator  
Toni Velie  
Regina Duckett  
Bobbi Martin  
Valerie Bryant  
Kenny Seymour  
J. Grady Randle, City Attorney*

*Others Present:*

*Shannon Purcell  
Mike Erwin  
Kim Stacy  
Robert L. Bernard  
Chris Oliver  
Laurie Szantay  
Karena Hauter  
Steve Littlefield  
Barbara Willy  
Kathy Ward  
Viola Randle*

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Continue – others present:  
*And 20 others who did not sign in*

II. **QUORUM**

*A quorum was present.*

III. **INVOCATION- REV. STEVE LITTLEFIELD, PASTOR of SIMONTON COMMUNITY CHURCH, SIMONTON, TX**

*Pastor Littlefield provided the prayer.*

IV. **PLEDGE OF ALLEGIANCE**

*Mayor Kuykendall led the audience in the Pledge of Allegiance to the flag.*

V. **CITIZEN COMMENTS – NO ACTION CAN BE TAKEN**

**Citizens who desire to address the City Council will be limited to three (3) minutes.**

*Robert Bernard of Weston Lakes cited an incident that happened with the Nebraska police department which later found the incident was taken to the Supreme Court last year. Mr. Bernard provided the Mayor with a copy of the findings and the Mayor stated he would distribute copies to the Council.*

*Chris Oliver, representative from CenterPoint Energy, stated he was in support of the proposed tree ordinances and suggest a few minor modifications which would allow them to continue to trim trees and promote safety for all residents.*

*Laurie Szantkay stated her concern is about the high cost of water bills in the Cross Creek area. She stated she has turned off her sprinkler system but continue to get bills above \$300 per month.*

*Mayor Kuykendall stated that the City is aware and has started an investigation.*

*Kathy Ward stated she lives on Lea Lane and that she heard about a circus in town last week and is very opposed to animals that are kept caged for long period of time. Ms. Ward stated there should be some type of ordinance to banned them or very strict guidelines.*

VI. **CONSENT AGENDA**

**Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this is rule is that a Council Members may request one or more items to be removed from the consent agenda for a separate discussion and action.**

- A. **CONSENT and APPROVAL of THE COMMONS in FULSHEAR/PRELIMINARY PLAT**
- B. **CONSENT and APPROVAL of CROSS CREEK COMMONS RETAIL SITE/ CCR/FINAL PLAT**
- C. **CONSENT and APPROVAL of BONTERRA at CROSS CREEK RANCH SECTION ONE FINAL PLAT**
- D. **CONSENT and APPROVAL ST. FAUSTINA CATHOLIC CHURCH SECTION TWO/CCR/ PRELIMINARY PLAT**
- E. **CONSENT and APPROVAL of FULBROOK on FULSHEAR CREEK SECTION TWELVE/FINAL PLAT**
- F. **CONSENT and APPROVAL of MINUTES from the SEPTEMBER 1, SEPTEMBER 8, SEPTEMBER 15, SEPTEMBER 19 and SEPTEMBER 22, 2015 MEETINGS**
- G. **CONSENT and APPROVAL of QUARTERLY INVESTMENT REPORT**

*A motion was made by Council Member Roberts to approve the Consent Agenda as presented. It was Seconded by Council Member Tristan. The motion was carried by the following vote:  
Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**VII. REPORTS**

Reports are presented to Council for informational purposes only and no action may be taken on any item contained in a report with a specific actionable item listed under Business Items

**A. REPORT from SEVERN TRENT WATER COMPANY (Repairs, New Installations, and reports to TCEQ)**

*Mark Yentzen presented the report to Council from Severn Trent Water Company. No action was taken.*

**B. REPORT from the POLICE DEPARTMENT (Traffic Citations, arrests, incidents, calls for service)**

*Chief Kenny Seymour presented the report to Council from the Police Department. No action was taken.*

**C. REPORT from the MUNICIPAL COURT CLERK (Fees and Fines)**

*Valerie Bryant presented the report to Council from the Municipal Court. No action was taken.*

**D. REPORT from the BUILDING SERVICE DEPARTMENT ( Permits issued, inspections)**

*C. J. Snipes, City Administrator, presented the report to Council from the Building Service Department. No action was taken.*

**VIII. BUSINESS**

**A. PRESENTATION of PROCLAMATION of MONARCH BUTTERFLY PLEDGE and PRESENTATION on MONARCH BUTTERFLY FLY WAY STATUS**

*Mayor Kuykendall recognized the members of the Park Commission who were present (Tajana Mesic and Ramona Ridge) and presented this group with a proclamation. Mayor Kuykendall introduced Barbara Wiley who works with Conversation Program who provided a short presentation to the Council on Monarch Butterfly. Mayor Kuykendall also invited the audience to visit the Irene Stern Park to view the additions to the park. He especially made note of the beautiful restrooms.*

**B. PRESENTATION by the TEXAS COURT CLERKS ASSOCIATION**

*Ms. Rhonda Kuehn of the Texas Clerks Association presented Valerie Bryant with a plaque as being the number 64 graduate of the program. The audience applauded.*

**C. CONSIDERATION of PRESENTATION by KYTHE, LLC on SALES TAX ANALYSIS SERVICES**

*Mayor Kuykendall introduced Mike Erwin to the Council. Mr. Erwin presented a 20-minute presentation to the Council regarding sales tax analysis services. The sales tax and economic data analysis tool allows a company to see and review information related to their community. This data is sent from the State Comptroller office and Kythe LLC puts it in an understandable method. This tool will look at your sales tax revenue by sector to identify which sectors are the major producers and spot any increases/decrease to the income stream. This would allow city staff to plan and prepare for any unforeseen economic changes. There was a short question and answer period among the Council Members. Motion was made by Council Member Mesic to postpone. See item D below for details.*

**D. CONSIDERATION and ACTION to APPROVE CONTRACT BETWEEN CITY of FULSHEAR and KYTHE LLC for SALES TAX ANALYSIS SERVICES**

*A motion was made by Council Member Mesic to postpone contract between City of Fulshear and Kythe, LLC for sales tax analysis services. It was seconded by Council Member Tristan. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**E. CONSIDERATION and POSSIBLE ACTION to APPROVE CHECKS PAID and PAYABLES from SEPTEMBER 21, 2015 to OCTOBER 19, 2015**

*A motion was made by Council Member Krenek to approve Checks Paid and Payables from September 21, 2015 to October 19, 2015. It was seconded by Council Member Roberts. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**F. CONSIDERATION and POSSIBLE ACTION to APPROVE RELEASE of REQUEST for QUALIFICATIONS for ARCHITECTURAL and FACILITIES PLANNING SERVICES**

*A motion was made by Council Member Mesic to approve release of Request for Qualifications for Architectural and Facilities Planning Services. It was seconded by Council Member Ridge. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**G. CONSIDERATION and POSSIBLE ACTION to APPROVE LETTER of INTENT BETWEEN the CITY of FULSHEAR and SIEMENS for PERFORMANCE CONTRACTING PROPOSAL RELATED to the TRANSITION of the CITY'S WATER METER INFRASTRUCTURE from MANUAL READ to AUTOMATED READ METERS**

*C. J. Snipes, City Administrator, explained to the Council the letter of intent for contracting proposed transition to the automated read meters instead of manual reads.*

*A motion was made by Council Member Krenek to approve letter of intent between the City of Fulshear and Siemens for Performance contracting proposal related to the transition of the City's water meter infrastructure from manual read to automated read meters. It was seconded by Council Member Tristan. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**H. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1197 an ORDINANCE of the CITY of FULSHEAR ALTERING the PRIMA FACIE SPEED LIMIT on FM 1093 WEST of LAKE HILL FARM WAY on REQUEST of the TEXAS DEPARTMENT of TRANSPORTATION FOLLOWING a SPEED ZONE STUDY**

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*A motion was made by Council Member Mesic to approve Ordinance No. 2015-1197 an ordinance of the City of Fulshear altering the Prima Facie Speed limit on FM 1093 west of Lake Hill Farm Way on request of the Texas Department of Transportation following a speed zone study. It was seconded by Council Member Roberts. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan*

*Nays: None*

**I. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1198 an ORDINANCE of the CITY of FULSHEAR AMENDING ORDINANCE NO. 2015-1194 to INCLUDE a CLARIFICATION on the DEFINITION of OUTDOOR LIGHTING and for REGULATION of OUTDOOR RECREATION FACILITIES**

*A motion was made by Council Member Mesic to approve Ordinance No. 2015-1198 an Ordinance of the City of Fulshear amending Ordinance No. 2015-1194 to include a clarification on the definition of outdoor lighting and for regulation of outdoor recreation facilities. It was seconded by Council Member Ridge.*

*Mayor Kuykendall asked if there was any discussion?*

*Council Member Krenek stated that there is some very technical information contained in the ordinance and she does not understand it. Council Member Krenek stated reference was made regarding a code. Council Member Mesic had some question too. There was a short debate among the Council and the City Attorney. Mayor Kuykendall suggested waiting until next month until the code could be researched.*

*Council Member Tristan asked for clarification regarding the motion. City Attorney, J. Grady Randle, stated the motion is to adopt the ordinance as is. The motion was carried as follows:*

*Council Member Mesic- yes; Council Member Ridge-yes; Council Member Tristan-nay; Council Member Roberts-nay; and Council Member Krenek-nay.*

*Mayor Kuykendall announced that the motion fails. J. Grady Randle asked if there are any other motions on the floor.*

*A motion was made by Council Member Krenek to postpone the ordinance until clarification can be obtained regarding the code. It was seconded by Council Member Roberts. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, and Roberts*

*Nays: Council Member Ridge and Tristan*

*Mayor Kuykendall stated that the "ayes" have it.*

**J. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1190 an ORDINANCE of the CITY of FULSHEAR REPEALING and REPLACING ORDINANCE NO. 82-573 an ORDINANCE of the CITY REGULATING FIREWORKS**

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*C. J. Snipes, City Administrator, stated that we have three different versions. It is staff recommendation that we go with "version 2".*

*J. Grady Randle, City Attorney, stated that in the City fireworks must be kept unopened in your trunk of your car but you can be ticketed and fined up to \$2000.00 but intent must be proven. There was a debate among the Council, Police Chief Seymour, and City Attorney for approximately ten minutes. Council Member Krenek had issues with transport of fireworks through the city.*

*A motion was made by Council Tristan to approve Ordinance No. 2015-1190 and ordinance of the City of Fulshear repealing and replacing Ordinance No. 82-573 an ordinance of the City regulating fireworks. Mayor Kuykendall asked if there was a second. Council was silent.*

*Mayor Kuykendall announced that the motion dies for lack of a second. Mayor Kuykendall asked if there are any motions. Council was silent.*

*Mayor Kuykendall announced there is no action on item J.*

**K. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1191 an ORDINANCE of the CITY of FULSHEAR REGULATING the USE of HANDHELD DIGITAL DEVICES for OPERATORS of MOTOR VEHICLES within the MUNICIPAL LIMITS of the CITY of FULSHEAR**

*C. J. Snipes, City Administrator, explained to Council that this is a new revised revision of proposed ordinance. J. Grady Randle, City Attorney, stated that Chief has issues with this proposed ordinance and he will let me speak. Mr. Randle gave an example to explain his position on this ordinance. Cell phone is being held in hand but not in use subject to violation. Council Member Krenek read Section 3 of the proposed ordinance to the audience. There was a short debate among the Council Members. Chief Seymour present his view to the Council. Issues discussed were not resolved.*

*Council Member Krenek stated we need to educate our citizens.*

*A motion was made by Council Member Roberts to not approve Ordinance No. 2015-1191 until the State of Texas approves a Law regarding the use of handheld digital devices for operators of motor vehicles. It was seconded by Council Member Krenek. The motion was carried by the following vote:*

*Ayes: Council Member Krenek and Roberts*

*Nays: Council Member Tristan*

*Abstain: Council Member Mesic and Ridge*

*Mayor Kuykendall announced that the "ayes" have it.*

**L. CONSIDERATION and POSSIBLE ACTION to APPROVE RESOLUTION NO. 2015-293 a RESOLUTION of the CITY of FULSHEAR CONSENTING to the CREATION of FORT BEND COUNTY LEVEE IMPROVEMENT DISTRICT NO. 21**

*C.J. Snipes, City Administrator, stated there are several land owners with property near the Brazos River would like to form a levee district. J. Grady Randle, City Attorney, stated this levee district was created to be on top of the muds. He stated that he and Angie (referring to other attorney) negotiated it to be this way.*

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*The attorney for the proposed levee stated there are five MUDs and this levee district would go on top of these muds and levee district has to be created by the County. This would create drainage and prevent flooding. They attorney stated that the only way this 5,583 acres tract can be developed is to have a levee district on top of it. The attorney stated we must have "consent" from the city to create and then it has to be approved by the County. Several members of Council had questions.*

*A motion was made by Council Member Mesic to postpone. There was no second. Motion dies for lack of a second.*

*A motion was made by Council Member Krenek to postpone until Council can get better educated regarding this levee process. It was seconded by Council Member Mesic.*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan*

*Nays: None*

**M. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1199 an ORDINANCE of the CITY of FULSHEAR ADDING a GENERAL PROVISION RELATING to CULPABLE MENTAL STATES for all CITY ORDINANCES**

*City Attorney, J. Grady Randle, explained the meaning of the "culpable mental state" to the Council. There was a short question and answer period among the members.*

*A motion was made by Council Member Krenek to not approve Ordinance No. 2015-1199 an ordinance of the City of Fulshear adding a general provision relating to culpable mental states for all city ordinances. It was seconded by Council Member Mesic. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan*

*Nays: None*

**N. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2015-1200 an ORDINANCE of the CITY of FULSHEAR REGULATING TREES**

*C. J. Snipes, City Administrator, explained the proposed ordinance to the Council. Chris Oliver, representative of CenterPoint, also made some comments regarding the proposed tree ordinance. Mr. Oliver had major concerns with Section 7 regarding "tree replacement" as they only remove as a situation of health and safety or at the owners request. Mr. Oliver stated all of their services are free.*

*A representative of Johnson Development, Todd Hamilton, stated to Council to postpone this proposed ordinance as they would like an opportunity to send comments.*

*Council Member Mesic asked what changes that would be suggested. Mr. Oliver stated he would like to see utility companies exempted from replacement.*

*A debate among the Council Members continued for several minutes.*

*A motion was made by Council Member Krenek to postpone Ordinance No. 2015-1200 an ordinance of the City of Fulshear regulating trees until next meeting. It was seconded by Council Member Roberts. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Roberts, and Mayor Kuykendall*

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*Nays: Council Member Mesic and Ridge  
Abstain: Council Member Tristan*

*Mayor Kuykendall voted to break the tie. He voted to postpone until next meeting.*

**O. CONSIDERATION and POSSIBLE ACTION to APPROVE ADDITION of VOLUNTARY 457 (b) RETIREMENT PLANNING PROGRAM for EMPLOYEE BENEFITS**

*A motion was made by Council Member Krenek to approve addition of voluntary 457(b) retirement planning program for employee benefits. It was seconded by Council Member Mesic. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**P. CONSIDERATION and POSSIBLE ACTION to APPROVE CONTRACT for JANITORIAL SERVICES for MUNICIPAL FACILITIES**

*Bobbi Martin of the Finance Department presented an overview to the Council regarding the new proposed agreement for janitorial service for municipal facilities. There was a short question and answer period among the Council and Ms. Martin. Council Member Krenek stated the contract was not included in the packet.*

*A motion was made by Council Member Mesic to postpone until the next meeting. It was seconded by Council Member Tristan. The motion was carried by the following vote:*

*Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None*

**IX. EXECUTIVE SESSION – CLOSED SESSION IN ACCORDANCE WITH THE GOVERNMENT CODE SECTION 551.071, CONSULTATION WITH ATTORNEY; SPECIFICALLY SUB-SECTIONS:**

**1) WHEN THE GOVERNMENTAL BODY SEEKS THE ADVICE OF ITS ATTORNEY ABOUT:**

**(A) PENDING OR CONTEMPLATED LITIGATION; OR**

**(B) A SETTLEMENT OFFER; OR**

**2) ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THIS CHAPTER**

**(A) INTEGRITY COLLISION AND BUENTELLO WRECKER SERVICE v. CITY OF FULSHEAR**

*Mayor Kuykendall announced that Council would enter into Executive Session at 9:35 p.m. and a quorum was present.*

X. RECONVENE AND TAKE ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF DEEMED APPROPRIATE

Mayor Kuykendall announced that Council would re-enter into regular session as 10:02 p.m. and a quorum was present.

Mayor Kuykendall requested that Council would consider a motion to authorize the Chief of Police to create a process for the selection of one or more town trucks to respond to police initiated incident management non-consent tows that will be in effective during the tendency of the lawsuit Civil Action H-14-2310, Integrity Collision Center and Buentello Wrecker Service vs. City of Fulshear in the United States District Court for the Southern District of Texas Houston Division, Honorable Lynn Hughes presiding.

1. Ensure that adequate resources are made available to Police Department to efficiently, expeditiously have clear roads in the City.
2. Minimize the administrative burden placed on the City's police force to ensure that competent and professional tow truck companies respond to request for non-consent tows.
3. Minimize disruption to citizens of the city , to drivers as well as to those whose vehicles that are towed.
4. While keeping the public safety as a priority.

Council Member Krenek responded – “so moved”. It was seconded by Council Member Mesic. The motion was carried by the following vote:

Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None

XI. ADJOURNMENT

A motion was made by Council Member Mesic to adjourn. It was seconded by Council Member Krenek. The motion was carried by the following vote:

Ayes: Council Member Krenek, Mesic, Ridge, Roberts, and Tristan  
Nays: None

  
\_\_\_\_\_  
Thomas C. Kuykendall, Jr., Mayor

Attest:

  
\_\_\_\_\_  
D. (Diana) Gordon Offord, City Secretary/TRMC