



# ***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**

August 20, 2013

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

*A Regular City Council Meeting was called to order by Mayor Thomas C. Kuykendall, Jr. at 7:04 p.m. at the Fulshear City Hall, 30603 FM 1093, Fulshear, Texas 77441 and all citizens were welcomed.*

*Members Present:*

*Thomas C. Kuykendall, Jr., Mayor  
Jeff Roberts  
J. B. Collins, Jr.  
Laverne Patterson  
Larry Beustring*

*Members Absent:*

*Stephen Gill*

*City Staff Present:*

*D. (Diana) Gordon Offord, City Secretary  
C. J. Snipes, City Administrator  
Elaine Brown, Court Administrator  
Kristina Brashear, Finance Director  
Kenny Seymour, Police Chief  
J. Grady Randle, City Attorney  
Tim Kirwin, Assistant City Attorney  
Michelle Morris, Building Inspector*

*Others Present:*

*Alan Mueller  
Steven Zapata  
Todd Fawcett  
Davy Daniel  
J. D. McCann  
Gwen Fox  
John LeBourhis  
And 12 others who did not sign in*

### **II. QUORUM**

*A quorum was present.*

- III. **INVOCATION - Reverend Mark Welshimer, Pastor of First United Methodist Church, Fulshear, Texas**  
*Mayor Kuykendall introduced the new pastor to the audience and welcomed him the community. Pastor Welshimer 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**  
*There were no Public Comments.*
- VI. **PUBLIC HEARINGS**  
A. **Public Hearing on Petitions for Voluntary Annexation**

The City Council of the City of Fulshear, Texas, has received a request from Land Owners (Kenneth G. McCann, Gerald Wayne McCann, and John Douglas McCann) to approve annexation into the City one tract of land consisting of 16.005 acres and another tract of land consisting of 63.438 acres out of the Churchill Fulshear League, Abstract 29, Fort Bend County, Texas. The described tracts of land which is vacant and without residents and hereby petition your honorable body, pursuant to Section 43.028, Texas Local Government Code, as amended, to extend the present municipal limits so as to include and annex as part of the City of Fulshear in Fort Bend County. For more information regarding the Annexations, please contact D. (Diana) Gordon Offord, City Secretary at Fulshear City Hall, 30603 FM 1093, Fulshear, Texas for the metes and bounds.

A Field Note Description of 16.005 Acres of land out of the Call Tract A.-125.55 Acre Tract (FBC 2005014002), in the Churchill Fulshear League, Abstract No. 29, Fort Bend County, Texas. For description of Metes and Bounds, please contact the City Secretary's office.

A Field Note Description of a 63.438 Acre Tract of Land out of the Kenneth G. McCann call 125.55 Acre Tract (FBC2005014002) in the Churchill Fulshear League, Abstract No. 29, Fort Bend County, Texas. For description of Metes and Bounds, please contact the City Secretary's office.

The City Council of the City of Fulshear hereby gives notice that a Public Hearing shall be held regarding request of annexation of 16.005 and 63.438 acres by Kenneth G. McCann, Gerald Wayne McCann, and John Douglas McCann invite the citizens of Fulshear to comment on the Request as follows:

Date: August 20, 2013

Date: August 20, 2013

Time: 7:10 p.m.

Time: 7:15 p.m.

Place: Fulshear City Hall

Place: Fulshear City Hall

The Public is encouraged to attend and provide comments to the City Council.

*The First Public Hearing was opened at 7:09p.m. Allen Mueller stated he was in favor of the Annexation. C.J. Snipes stated we need to develop a service plan. The First Public Hearing closed*

at 7:10 p.m.

Mayor Kuykendall stated he would continue on with other City Business and come back to Second Hearing later in the meeting.

Second Public Hearing was opened at 7:22 p.m. Mr. Mueller reiterated his approval for the annexation. Second Public Hearing was closed at 7:23p.m.

**VII. CONSENT AGENDA**

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

- A. CONSENT and APPROVAL of MINUTES from the JULY 16, 2013 AND JULY 30, 2013
- B. CONSENT and APPROVAL of QUARTERLY INVESTMENT REPORT
- C. CONSENT and APPROVAL of CREEK FALLS at CROSS CREEK RANCH SECTION 1 PRELIMINARY PLAT
- D. CONSENT and APPROVAL of CREEK FALLS at CROSS CREEK RANCH SECTION 2 PRELIMINARY PLAT
- E. CONSENT and APPROVAL of CREEK FALLS at CROSS CREEK RANCH SECTION 3 PRELIMINARY PLAT
- F. CONSENT and APPROVAL of CREEK FALLS at CROSS CREEK RANCH SECTION 4 PRELIMINARY PLAT
- G. CONSENT and APPROVAL of CROSS CREEK BEND LANE EXTENSION NO. 8 PRELIMINARY PLAT
- H. CONSENT and APPROVAL of CREEK COVE at CROSS CREEK RANCH SECTION 5 PRELIMINARY PLAT
- I. CONSENT and APPROVAL of CREEK COVE at CROSS CREEK RANCH SECTION 6 PRELIMINARY PLAT
- J. CONSENT and APPROVAL of AROUND the BEND PLAZA FINAL PLAT
- K. CONSENT and APPROVAL of CREEK BEND at CROSS CREEK RANCH/ SECTION 4/ FINAL PLAT
- L. CONSENT and APPROVAL of FIRETHORNE WEST/SECTION 16/ PRELIMINARY PLAT
- M. CONSENT and APPROVAL of STREET ACCEPTANCE for CREEK BEND at CROSS CREEK RANCH SECTION 5
- N. CONSENT and APPROVAL of STREET ACCEPTANCE for CREEK COVE at CROSS CREEK RANCH SECTION 2
- O. CONSENT and APPROVAL of UTILITY CONVEYANCE and SECURITY AGREEMENT for CREEK BEND at CROSS CREEK RANCH, SECTION 5
- P. CONSENT and APPROVAL of UTILITY CONVEYANCE and SECURITY AGREEMENT for CREEK COVE at CROSS CREEK RANCH SECTION 2
- Q. CONSENT and ACCEPTANCE of CERTIFICATION of 2013 TAX YEAR ANTICIPATED COLLECTION RATE PER PATSYSCHULTZ, TAX ASSESSOR COLLECTOR

A motion was made by Alderman Beustring to approve the Consent Agenda. It was seconded by Alderwoman Patterson.

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*Alderman Roberts asked whether the 15ft requirement was noted on Around the Bend Plat. Mr. Snipes, City Administrator, stated that this was discussed at Planning and Zoning Meeting and a fifteen foot requirement was set. Mayor Kuykendall asked if there were any other questions.*

*The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson*

*Nays: None*

*Absent: Alderman Gill*

*Second Public Hearing was held after the Consent Agenda. See details above.*

**VIII. 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.)**

*A report from Severn Trent Water Company was provided by Mark Yentzen. No action was taken.*

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

*A report from the Police Department was provided by Chief Kenny Seymour. No action was taken.*

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

*A report from the Municipal Court was provided by Elaine Brown, Court Administrator. No action was taken.*

**D. REPORT from the BUILDING PERMIT DEPARTMENT (Fees and Fines)**

*A report from the Building Permit Department was provided by Michelle Morris, Building Inspector.*

**IX. BUSINESS**

**A. DISCUSSION and PRELIMINARY VOTE to SET the FISCAL YEAR 2013-2014 AD VALOREM TAX RATE and SETTING PUBLIC HEARINGS on SAID TAX RATE for SEPTEMBER 3, 2013 and SEPTEMBER 10, 2013**

*C. J. Snipes, City Administrator, stated we do this every year. He stated last years' tax rate was \$0.203656 and he recommends setting the rate at the rollback rate of \$0.197125 which is still a reduction from last year's rate.*

*A motion was made by Alderman Beustring to approve preliminary vote to set the Fiscal Year 2013-2014 Ad Valorem Tax Rate at \$0.197125 and setting Public Hearings on said Tax Rate as September 3, 2013 and September 10, 2013. It was seconded by Alderman Collins.*

*Preliminary Vote:*

*Larry Beustring-ayes*

*J. B. Collins-ayes*

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*Continue Preliminary Vote:  
Stephen Gill- absent  
Laverne Patterson-ayes  
Jeff Roberts-ayes*

*The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**B. CONSIDERATION and POSSIBLE ACTION to APPROVE CHECKS PAID and LIST of PAYABLES from JULY 11, 2013 through AUGUST 14, 2013**

*A motion was made by Alderman Roberts to approve checks paid and list of payables from July 11, 2013 through August 14, 2013. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**C. CONSIDERATION and POSSIBLE ACTION to SET SPECIAL PUBLIC HEARING for SUBSTANDARD STATUS of STRUCTURE(S) LOCATED at 8214 WALLIS STREET**

*Michelle Morris presented to the Council an overview using a video regarding the substandard property at 8214 Wallis Street. Ms. Morris stated that we have received complaints from a resident. Ms. Morris stated a warrant was issued on July 31, 2013.*

*The property went up for auction on August 8, 2013 and the new owner started demolishing and now debris is flying to the neighbor's property. Ms. Morris stated she has sent notice to the new owner advising him to get permitted and to cover the property with an orange cover until removal of all debris has been cleared.*

*A motion was made by Alderman Collins to approve to set Special Public Hearing for Substandard Status of Structure(s) located at 8214 Wallis Street. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**D. CONSIDERATION and POSSIBLE ACTION to APPROVE APPLICATION for SOLICITATION/ ITINERANT VENDOR'S PERMIT SUBMITTED by PILGRIM CLEANERS for the PURPOSES of SOLICITATION of LAUNDRY and DRY CLEANING SERVICES**

*A motion was made by Alderwoman Patterson to approve application for solicitation/itinerant*

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*vendor's permit submitted by Pilgrim Cleaners for the purposes of solicitation of Laundry and Dry Cleaning Services. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson*

*Nays: None*

*Absent: Alderman Gill*

**E. CONSIDERATION and POSSIBLE ACTION to APPROVE RESOLUTION No. 2013-230 a RESOLUTION of the CITY of FULSHEAR SUPPORTING the NOVEMBER 2013 FORT BEND COUNTY MOBILITY BOND INITIATIVE**

*C. J. Snipes, City Administrator, stated that this bond will be to support County mobility bond initiative which total \$184.9 million dollars. He stated that this area will benefit significantly from those funds. The project includes Katy Fulshear north of Huggins road, Katy Fulshear to 359, F.M. 1463, and the Fulshear proper project. Mayor Kuykendall stated that the Commissioner Court projects this will not increase their tax rate and that the County can fund these projects. This will create a bypass from downtown and will help facilitate when we have downtown events schedule. Mayor Kuykendall stated that there are projects that will occur in other parts of the County as well as this is a Country wide initiative.*

*A motion was made by Alderman Beustring to approve Resolution No. 2013-230 a resolution of the City of Fulshear supporting the November 2013 Fort Bend County Mobility Bond initiative. It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson*

*Nays: None*

*Absent: Alderman Gill*

**F. CONSIDERATION and POSSIBLE ACTION to APPROVE AWARD of PROFESSIONAL SERVICES CONTRACT for AUDIT SERVICES**

*Kristina Brashear, Finance Director, shared with Council the comparison chart and stated that Whitley Penn experience greatly outweighed that of Brooks Carsdiel. Ms. Brashear stated she recommends Council award the contract to Whitley Penn.*

*A motion was made by Alderman Collins to approve award of Professional Services Contract for audit services to Whitley Penn for one year of services. It was seconded Alderman Roberts. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson*

*Nays: None*

*Absent: Alderman Gill*

**G. DESIGNATING a FRANCHISE HOLDER for both COMMERCIAL and RESIDENTIAL SOLID WASTE DISPOSAL SERVICES within the CITY LIMITS**

*C. J. Snipes, City Administrator, recommended that Council table this item as more information is needed from the vendors that responded to this bid process. Mr. Snipes stated that the City would like the pleasure of collecting. He stated that he wants Council to review the City's cost for collection versus the vendor charge for collection.*

*A motion was made by Alderman Beustring to table item G.(designating a franchise holder for both Commercial and Residential Solid Waste disposal services within the city limits). It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**H. CONSIDERATION and POSSIBLE ACTION to APPROVE CONTRACT for SOFTWARE INSTALLATION and MAINTENANCE between the CITY of FULSHEAR and MAINSTAR for the ENHANCEMENT of INFORMATION MANAGEMENT within the BUILDER SERVICES DEPARTMENT**

*A motion was made by Alderman Roberts to approve contract for Software installation and maintenance between the City of Fulshear and MainStar for the enhancement of information management within the Builder Services Department. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**I. CONSIDERATION and POSSIBLE ACTION to APPROVE CONTRACT for LEASE SPACE LOCATED at 29378 MCKINNON RD, SUITE A MCKINNON RD, between the CITY of FULSHEAR and STEFANO RADCLIFFE for USE as a CITY HALL ANNEX**

*A motion was made by Alderman Beustring to approve contract for Lease Space located at 29378 McKinnon Road, Suite A between the City of Fulshear and Stefano Radcliffe for use as a City Annex. It was seconded by Alderman Roberts. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**J. CONSIDERATION and POSSIBLE ACTION to APPROVE CONTRACT for SOFTWARE INSTALLATION and MAINTENANCE with TYLER TECHNOLOGIES and ETS for the PROVISION of ELECTRONIC PAYMENT SUBMITTALS**

*A motion was made by Alderman Roberts to approve contract for Software installation and maintenance with Tyler Technologies and ETS for the provision of Electronic Payment submittals. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

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*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**K. CONSIDERATION and POSSIBLE ACTION to APPROVE an INTERLOCAL AGREEMENT between the CITY, FULSHEAR MUD 1 and the COUNTY REGARDING the CONSTRUCTION of FULSHEAR TRACE and its CONNECTION to FM 1093**

*A motion was made by Alderman Beustring to approve an Interlocal Agreement between the City, Fulshear MUD 1 and the County regarding the construction of Fulshear Trace and its connection to FM 1093. It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**L. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2013-1108 an ORDINANCE of the CITY of FULSHEAR ADOPTING a CONVENIENCE FEE for the ACCEPTANCE of ONLINE PAYMENTS**

*Kristina Brashear, Finance Director, stated she had talked with several cities regarding "what they do about online payments". Ms. Brashear stated this is to be a pass-through fee for those who want the convenience of making an online payments.*

*A motion was made by Alderman Beustring to approve Ordinance No. 2013-1108 an ordinance of the City of Fulshear adopting a convenience fee for the acceptance of online payments. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**M. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2013-1109 an ORDINANCE of the CITY of FULSHEAR APPROVING a NON-EXCLUSIVE FRANCHISE AGREEMENT with SI ENERGY for the PROVISION of NATURAL GAS UTILITY SERVICES**

*A motion was made by Alderman Beustring to approve Ordinance No. 2013-1109 an ordinance of the City of Fulshear approving a non-exclusive Franchise Agreement with SI Energy for the provision of Natural Gas Utility Services. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**N. CONSIDERATION and POSSIBLE ACTION to APPROVE GENERAL PLAN and DEVELOPMENT AGREEMENT between the CITY and DR HORTON for the DEVELOPMENT of TAMARRON a MASTER PLANNED COMMUNITY**

*C.J. Snipes, City Administrator stated that we had narrowed our issues down from 16-2 then this afternoon it was one but now staff has asked that we table until all issues can be resolved. A motion was made by Alderman Beustring to table. It was seconded by Alderman Collins. The item was tabled by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**O. CONSENT AND APPROVAL REGARDING FORT BEND COUNTY MUD NO. 169 TERMS AND CONDITIONS PACKAGE AS PREPARED BY CENTERPOINT ENERGY'S MAJOR UNDERGROUND ENGINEERING**

*A motion was made by Alderman Beustring to approve Fort Bend County MUD 169 terms and conditions package as prepared by Centerpoint Energy's Major Underground Engineering. It was seconded by Alderman Collins. The motion was carried by the following vote:*

*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson  
Nays: None  
Absent: Alderman Gill*

**X. 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**

**DISCUSSION of POTENTIAL LITIGATION with SOUTHWEST WATER COMPANY**

*Mayor Kuykendall announced that the Council would enter into Executive Session at 8:46 p.m. and that a quorum was present.*

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

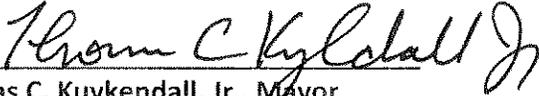
*Mayor Kuykendall announced that the Council would reconvene back into Regular Session at 9:17 p.m. Mayor Kuykendall asked if there was any action to be taken. Alderman Collins responded no action to be taken by the Council.*

**XII. ADJOURNMENT**

*A motion was made by Alderman Collins to adjourn at 9:18 p.m. It was seconded by Alderman Beustring. The motion was carried by the following vote:*

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*Ayes: Aldermen Beustring, Collins, Roberts, and Alderwoman Patterson*  
*Nays: None*  
*Absent: Alderman Gill*

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

**Attest:**

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