



CITY OF Incorporated 1977

# FULSHEAR

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30603 FM 1093

P.O. Box 279

Fulshear, Texas 77441

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## FULSHEAR CITY COUNCIL MINUTES

November 17, 2009

### **ITEM 1. CALL TO ORDER**

A regular meeting of the Fulshear City Council was called to order by Mayor, James W. Roberts at 7:00 p.m. Tuesday, November 17, 2009 in the Fulshear City Hall, 30603 FM 1093, Fulshear, Texas and all citizens were welcomed. A quorum was present.

#### **MEMBERS PRESENT**

James W. Roberts, Mayor  
Stephen Gill  
Dennis Clack  
J. B. Collins  
Laverne Patterson  
Derek Einkauf

#### **STAFF PRESENT**

D. Gordon Offord, City Secretary

#### **MEMBERS ABSENT**

None

#### **OTHERS PRESENT**

John Cannon  
Carl G. Utley  
Leonard Roberts  
Bill Woodham  
John Crowe  
Viola Randle  
Bill Archer  
Collins Pier  
Tommy Kuykendall  
Christie Power  
Jeff Roberts  
John LeBourhis

### **ITEM 2. INVOCATION**

A prayer was given by Pastor Noland Donald of Word Serve United Methodist Church, Fulshear, Texas.

### **ITEM 3. PUBLIC COMMENT(s)**

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Carl Utley stated that he wishes to report a miss carriage of justice; the selective enforcement of the sign ordinance is going to get someone in serious trouble. He stated he was called to taken down his "open" sign and around town there was seven others with their open sign-not being applied to all business owners uniformly. He stated to leave me along or ask other business owners to do the same. He stated the agreement to hire a City Attorney should be reviewed carefully because in one part it states \$750.00 per month and another it shows \$185.00 per hour. He stated the last City Attorney was paid \$13, 035.00 from Oct' 2008 to Oct'2009. Council should exercise caution when spending tax payers' money. Mayor Roberts interrupted Mr. Utley to remind about time limit. Bill Woodham and Leonard Roberts donate their voice time to Carl Utley. Also, changing the name from a City Administrator to a City Manager is no different. According to the law a City Manager has to be voted on in an election and the population of the City has to be over 5,000. Therefore you cannot change the name to City Manager as that is not going to fly. Remember the sign ordinance need to be applied uniformly. Because you on Council does not give you the right to violate the rules.

Bill Archer commended the Council for doing an outstanding job.

**ITEM 4. APPROVAL OF MINUTES**  
**SPECIAL MEETING- OCTOBER 13, 2009**  
**REGULAR MEETING-OCTOBER 27, 2009**

A motion was made by Alderman Einkauf to approve minutes of October 13, 2009 and October 27, 2009 were approved as presented. It was seconded by Alderman Collins. Alderman Clack stated he voted "yes" on item number 12 page 4. Alderman Einkauf revised his motion to include the correction stated by Alderman Clack and seconded by Alderman Collins.

The minutes were adopted by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson  
Nays: None

**ITEM 5. CONSIDER AND TAKE ACTION ON LIST OF PAYABLES AND CHECKS PAID**

A motion was made by Alderman Einkauf to approve list of payables and checks paid. It was second by Alderman Clack. Alderman Gill stated that the amount for sludge hauling should be excluded. Also, it has a clerical error which shows a payment to Rebecca Vacek for \$664.08 which needs to be excluded also.

Both Alderman Einkauf and Clack amended their motion.

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A motion was made by Alderman Einkauf to approve list of payables and checks paid with exceptions to payment for sludge hauling and Rebecca Vacek. It was seconded by Alderman Clack. The motion was carried by the following vote.

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

**ITEM 6. REPORT FROM FULSHEAR MUNICIPAL COURT**

Court Clerk, Elaine Brown, presented her report to the City Council.

A copy was provided to each Council Member.

**ITEM 7. CONSIDER AND TAKE ACTION TO AUTHORIZE MAYOR TO SIGN AGREEMENT BETWEEN LINEBARGER GOGGAN BLAIR & SAMPSON, LLP AND THE CITY OF FULSHEAR TO COLLECT DELINQUENT FINES FOR FULSHEAR MUNICIPAL COURT**

A motion was made by Alderman Einkauf to authorize Mayor to sign Agreement between Linebarger Goggan Blair & Sampson, LLP and the City of Fulshear to collect delinquent fines for Fulshear Municipal Court. It was seconded by Alderman Gill.

The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

**8. CONSIDER AND TAKE ACTION TO ADOPT RESOLUTION NO. 09-154  
CAPTION: RESOLUTION AUTHORIZING COLLECTION FEE IN THE  
AMOUNT OF 30% OF DEBTS AND ACCOUNTS RECEIVABLE SUCH AS  
UNPAID FINES, FEES, COURT COSTS, FORFEITED BONDS, AND  
RESITUATION ORDERED PAID BY A MUNICIPAL COURT SERVING THE  
CITY, AND AMOUNTS IN CASES IN WHICH THE ACCUSED HAS FAILED  
TO APPEAR.**

A motion was made by Alderman Einkauf to adopt Resolution No. 09-154 subject to resolution made to reflect City of Fulshear instead of Spring Valley. It was seconded by Alderman Collins. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

**ITEM 9. CONSIDER AND TAKE ACTION TO ADOPT ORDINANCE NO.09-995**

**Caption: An ordinance creating traffic regulations for operation of large trucks on city streets, of the code of ordinances of the City of Fulshear, Texas; providing a penalty not to exceed \$200.00 for each offense; providing a severability clause; providing for publication; providing an effective date.**

Mayor Roberts made a request to table this item until it can be reviewed by the City Attorney. All Council Members agreed.

**ITEM 10. REPORT FROM FULSHEAR POLICE DEPARTMENT**

Police Chief Head presented to the Council the Fulshear Police Report for the month of October, 2009.

**ITEM 11. CONSIDER AND TAKE ACTION ON REQUEST FROM FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 1: (CAPTION: UTILITY CONVEYANCE AND SECURITY AGREEMENT EXECUTED BY THE BOARD OF DIRECTORS OF FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 1 “THE DISTRICT” PURSANT TO 2.09 OF THE UTILITY AGREEMENT BETWEEN THE DISTRICT AND THE CITY OF FULSHEAR, TEXAS “THE CITY”).**

Mayor Roberts requested to table this item as a letter from the City Engineer needs to be obtained. There was no objection by the Council.

**ITEM 12. CONSIDER AND TAKE ACTION TO NOMINATE 5 (FIVE) CANDIDATES FOR DIRECTORS.**

**CAPTION: SECTION 6.03 OF THE TEXAS PROPERTY TAX CODE REQUIRES FIVE DIRECTORS TO BE APPOINTED BY THE TAXING UNITS THAT PARTICIPATE IN THE DISTRICT AS PROVIDED BY THIS SECTION. MEMBERS OF THE BOARD OF DIRECTORS OTHER THAN A COUNTY ASSESSOR –COLLECTOR SERVING AS A NONVOTING DIRECTOR SERVE TWO YEAR TERMS BEGINNING ON JANUARY 1 OF EVEN-NUMBERED YEARS.**

No action was taken. Council requested that the City Secretary attempt to get a biography on the candidates. City Secretary, D. Offord, informed Council that the information available on the candidates was already in their packets. Council instructed City Secretary to try to get more information.

**ITEM 13. CONSIDER AND TAKE ACTION ON REQUEST FROM BROWN & GAY ENGINEERS REGARDING TRENDMAKER HOMES INC.” REQUEST A**

**TWELVE MONTH EXTENSION OF THE FINAL PLAT FOR LEGACY AT CROSS CREEK RANCH/SECTION 3**

A motion was made by Alderman Einkauf to approve request from Brown & Gay Engineers regarding Trendmaker Homes Inc., request a twelve month extension of the final plat for Legacy at Cross Creek Ranch/ Section 3. It was seconded by Alderman Collins. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson  
Nays: None

**ITEM 14. CONSIDER AND TAKE ACTION ON REQUEST FROM KERRY GILBERT & ASSOCIATES, INC. REGARDING TRENDMAKER HOMES INC.: REQUEST A TWELVE MONTH EXTENSION OF THE PRELIMINARY PLAT APPROVAL OF LAKES AT CROSS CREEK RANCH/SECTION 1 AND LAKES AT CROSS CREEK RANCH/SECTION 3**

A motion was made by Alderman Einkauf to approve request from Kerry Gilbert & Associates, Inc. regarding Trendmaker Homes, Inc., request a twelve month extension of the Preliminary Plat approval of Lakes at Cross Creek Ranch/Section 1 and Lakes at Cross Creek Ranch/Section 3. It was seconded by Alderman Gill. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson  
Nays: None

**ITEM 15. CONSIDER AND TAKE ACTION TO AUTHORIZE MAYOR TO SIGN AGREEMENT FOR THE PROPOSED LEASE TO INCREASE THE PARKING AREA AT THE IRENE STERN COMMUNITY CENTER**

Mayor Roberts requested that this item be tabled. He stated he would rather try for a purchase than a lease as this lease is for a very short term. All Council Members agreed.

**ITEM 16. CONSIDER AND TAKE ACTION ON SIGN PERMIT VARIANCE REQUEST: RIVER BEND BAPTIST CHURCH/ 27600 FM 1093**

Reverend John Crowe made his request to the Council. He stated it was a sign donated to the church and they have removed the computer element and is requesting a variance as the sign is 1-foot and 3/8 inches wider than the ordinance allows.

There were some discussions among the Council Members. Alderman Einkauf stated each time a variance is given that causes the ordinance to be changed and everyone else expects the same. Alderman Collins stated he might have a different opinion if Mr.

Utley had not made his spill about the sign ordinance. He requested that it be looked at again and maybe it can be brought into compliance. Request for variance died for lack of motion.

No action was taken.

**ITEM 17. DISCUSSION AND POSSIBLE ACTION REGARDING CITY OF FULSHEAR 'S CURRENT FORM OF GOVERNMENT**

Alderman Einkauf took the lead on this discussion and stated that we need an ordinance defining duties of the Mayor.

Alderman Einkauf stated he was not at the last meeting but did hear that we need to define the type of government we are operating under before hiring a City Attorney. Alderman Einkauf stated that he did some research and a General Law City does not have a charter and there needs to be an ordinance defining the duties of the Mayor.

Alderman Gill introduced a Resolution that he says need to be passed changing the City from a General Law City Type B to a General Law City Type A.

A motion was made by Alderman Gill to adopt the Resolution changing the City of Fulshear to a General Law City Type A. It was seconded by Alderman Einkauf. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

**ITEM 18. DISCUSSION REGARDING THE NEED FOR A CITY ADMINISTRATOR**

Alderman Einkauf stated that according to the Texas Municipal Code a General Law City is allowed to have a City Administrator and this is what we want to move toward. Current Mayor spends a lot of time handling day to day operation and this luxury may not occur in the future. The next Mayor will still be the Chief Executive Officer but may not have the time to also be the Chief Operating Officer. The position of City Administrator must be discussed in open session according the law. He stated that he can provide the rules regarding hiring of a City Administrator and he knows the Council Members has a copy as it is outlined in the TML (Texas Municipal League)handbook.

Alderman Gill stated that we have reached a point where management in the City is needed.

Alderman Einkauf stated that this position would still report to the Mayor.

**ITEM19. CONSIDER AND TAKE ACTION ON REQUEST FROM BROWN & GAY ENGINEERS REGARDING TRENDMAKER HOMES INC.: REQUEST A TWELVE MONTH EXTENSION OF THE FINAL PLAT FOR CROSS CREEK RANCH/CROSS CREEK BEND LANE EXTENSION NO.1**

A motion was made by Alderman Einkauf to approve request from Brown & Gay Engineers regarding trendmaker homes inc.: request a twelve month extension of the final plat for cross creek ranch/cross creek bend lane extension no.1

It was seconded by Alderman Clack. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson  
Nays: None

**ITEM 20. CONSIDER AND TAKE ACTION TO AUTHORIZE MAYOR ROBERTS TO SIGN A RESOLUTION NO. 09-156 IN SUPPORT OF \$3.2 BILLION MANUFACTURING CONTRACT TO REMAIN WITH BAE SYSTEMS IN SEALY, TEXAS**

A motion was made by Alderman Gill to authorize Mayor Roberts to sign a Resolution No. 09-156. It was seconded by Alderman Einkauf. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson  
Nays: None

**ITEM 21. EXECUTIVE SESSION**

**551.071 For the purpose of a private consultation with the City's attorney on any or all**

**subjects matters authorized by law.**

**1. Update on litigation, claims against the City.**

**551.072 For the purpose of discussing the purchase, exchange, lease, or value of real**

**property.**

**551.074 For the purpose of considering the appointment, employment, evaluation, reassignment duties, discipline, or dismissal of a public officer or employee.**

**1.Consider hiring and accepting resignations of professional and non-professional personnel.**

\*\*\*\*Discussion hiring City Attorney

\*\*\*\*Discussion hiring Public Works Director

Mayor Roberts announced that Council would recess into Executive Session at 8:17 pm and a quorum was present .

**ITEM 22. RECONVENE INTO REGULAR SESSION**

The Council reconvened in regular session at 8:52 p.m.

**ITEM 23. CONSIDER AND TAKE ACTION TO APPOINT GRADY RANDLE OF RANDLE LAW FIRM AS CITY ATTORNEY**

A motion was made by Alderman Gill to appoint Grady Randle of Randle Law Firm as City Attorney. It was seconded by Alderman Einkauf. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

Mayor asked for adjournment. Alderman Gill stated we still have another action-item 24.

**ITEM 24. CONSIDER AND TAKE ACTION TO ADOPT ORDINANCE NO. 2009-997 Caption: An ordinance appointing Randle Law Office LTD.,LLP as City Attorney for the City of Fulshear, Texas and providing for compensation and providing that said appointment shall continue for additional time thereafter unless other appointments shall be made by ordinance duly adopted by the City Council which shall be in conflict herewith and providing for the powers, duties and authority of the said City Attorney**

A motion was made by Alderman Gill to adopt Ordinance No. 2009-997. It was seconded by Alderman Einkauf. The motion was carried by the following vote:

Ayes: Aldermen Clack, Collins, Einkauf, Gill, and Alderwoman Patterson

Nays: None

**ITEM25. REVIEW AND APPROVE THE POSTING OF THE JOB DESCRIPTION FOR DIRECTOR OF PUBLIC WORKS**

No action was taken.

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**ITEM 26. ADJOURN**

Motion to adjourn by Alderman Einkauf. Seconded by Alderman Gill.  
Mayor announced that the Council is now adjourned.

Approved: \_\_\_\_\_  
Mayor, James W. Roberts

Attest: \_\_\_\_\_  
City Secretary, D. Gordon Offord