

CITY OF FULSHEAR



FULSHEAR CITY COUNCIL MINUTES April 20, 2010

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, April 20, 2010 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
Dennis Clack
J. B. Collins
Laverne Patterson
Derek Einkauf
Stephen Gill*

STAFF

*J. Grady Randle, City Attorney
Kristina Brashear, Finance Dir.
D. Gordon Offord, City Secretary
Cheryl Stalinsky, Comm. Development
Jeremy Young, Permit Officer*

MEMBERS ABSENT

None

OTHERS PRESENT

*Larry Beustrsing
Shannon Purcell
Jeff Roberts
Randy & Ali Emery
John LeBourhis
John D. McCann
Doug Konopka
Carl Utley
And 10-14 others who did not sign in*

ITEM 2. INVOCATION

A prayer was given by Pastor Alicia Coltzer, First United Methodist Church, Fulshear, Texas Mayor Roberts requested prayer for Stephen Gill's father as he is quite ill.

ITEM 3. PUBLIC COMMENT(s)

Larry Beustring stated that it was important to get water and sewer down FM 1093 east. He stated that the current water and wastewater system need to be reviewed to determine whether it will be meeting the needs and should we look at re-locating the system elsewhere. Mr. Beustring stated that we know that FM 1093 will be widening lanes in the near future and this is very near our current water system. Mr. Beustring stated that the subdivision of Fulbrook has 480 homes that might want to come into the City/ He does not know. That would be a great tax basis addition to the City and possibility of tie-in into their water facility. Mr. Beustring talked about extending the water system further west and the possibility of making an agreement with Fulshear Creek Crossing Development concerning exchange of property but no formal communication has been established to this effect. Mr. Beustring stated he would like to see a lot of possibilities explored before too much growth comes.

ITEM 4. APPROVAL OF MINUTES

Special Meeting, March 8, 2010

Regular Meeting, March 16, 2010

Alderman Einkauf suggested that each council member review the tape with regard to the minutes of March 8, 2010 since it was such a controversial meeting regarding placement of political sign and who has the authority to remove the signs before any action is taken on this item. Council agreed.

A motion was made by Alderman Collins to approve the minutes of March 16, 2010 as presented. 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 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 with the exception of bills to Bono Brothers for sludge hauling. 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 6. REPORT FROM THE COURT CLERK (FEES AND FINES)

Elaine Brown, Court Clerk, presented her report to the Council. There were no comments from the Council.

ITEM 7. PRESENTATION: DAVID LEYENDECKER, CITY ENGINEER /FUTURE WATER AND WASTE WATER SERVICE FOR THE CITY OF FULSHEAR WHICH INCLUDES EXPANDING CURRENT PLANT AND EXTENSION OF WATER AND SEWER DOWN FM 1093

David Leyendecker, City Engineer, presented to the Council an update on getting water down FM 1093 east. Mr. Leyendecker presented a drawing to the Council showing how the lines would be constructed. He stated the project would cost approximately \$1.3 million dollars. He agrees with Larry Beustring that somewhere down the road we would need a large plant. David Leyendecker stated that we are committed to putting in the water and sewer lines up to where the schools will be located. Mr. Leyendecker stated he has a plan to secure easement so if and when TxDot expands FM 1093, the City of Fulshear will not have to worry about moving the line. He stated we should have secured bids by July'2010. He stated that the school district has pushed back its timeline on the building of the schools for at least a year but is moving forward on the transportation building. He stated he is willing to help out any way he can and asked if anyone had any questions.

Alderman Einkauf stated that he requested for Mr. Leyendecker to come and talk about the project for water and sewer down FM 1093 as he thought we would be going out for bids over two (2) months ago. Alderman Einkauf stated he has received several phone calls and did not realize there were any more hold ups. Alderman Einkauf stated he contacted the City Attorney, Grady Randle, and informed that he has not been instructed to move forward on the contract. Alderman Einkauf stated this is the major project for the City and he would like for it to move forward. Alderman Einkauf stated until last week he had been informed that the City Attorney had not been authorize to move forward.

ITEM 8. CONSIDER AND TAKE ACTION TO APPROVE THE 2008/2009 CITY OF FULSHEAR AUDIT COMPLETED BY BELT HARRIS AND ASSOCIATES, LLLP.

A motion was made by Alderman Einkauf to approve the 2008/2009 City of Fulshear audit completed by Belt Harris and Associates as presented. 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 9. CONSIDER AND TAKE ACTION TO APPROVE ENGAGING BELT HARRIS AND ASSOCIATES TO AUDIT CITY OF FULSHEAR FINANCIAL STATEMENTS FOR YEARS ENDED SEPTEMBER 2010, 2011, AND 2012 AND AUTHORIZE MAYOR TO SIGN ENGAGEMENT LETTER.

A motion was made by Alderman Einkauf to approve engaging Belt Harris and Associates to audit City of Fulshear Financial statements for years ended September 2010, 2011, and 2012 and authorize Mayor to sign engagement letter. 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 10. CONSIDER AND TAKE ACTION ON REQUEST FROM BROWN AND GAY REGARDING TRENDMAKER HOMES/CROSS CREEK RANCH REQUEST FOR THE ACCEPTANCE OF CREEKSIDE AT CROSS CREEK RANCH, SECTION 4.

Caption: A punch list was generated as a result of unsatisfactory or deficient items encountered during the inspection. To date, all of the items on the punch list have been completed and verified by our office.

A motion was made by Alderman Einkauf to approve the request from Brown and Gay regarding Trendmaker Homes/ Cross Creek Ranch request for the acceptance of Creekside at Cross Creek Ranch Section 4. It was seconded by Alderman Gill.

David Leyendecker stated that all the items identified on the punch list had been corrected and is now satisfactory.

The motion was carried by the following vote:

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

ITEM 11. Consider and take action to adopt local tax exemptions for the 2010 Tax Year
Caption: Ordinance No. 2010-1001 – An ordinance of the City of Fulshear providing for a homestead, providing for an exemption for the elderly and disabled, establishing an effective date, providing for the making of applications for exemption, limitation of exemptions and determinative date for exemption and providing a repealed clause.

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A motion was made by Alderman Gill to adopt local tax exemptions for the 2010 Tax Year. 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 12. Consider and take action to appoint Parker Knapp to the (4B Corporation) Fulshear Development Corporation.

A motion was made by Alderman Einkauf to appoint Parker Knapp to the (4B Corporation) Fulshear Development Corporation. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:

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

ITEM 13. CONSIDER AND TAKE ACTION ON REVISED FINAL PLAT- CREEKSIDE AT CROSS CREEK RANCH- SECTION 3

A motion was made by Alderman Einkauf to approve revised final plat-Creekside 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

Mayor Roberts requested to vote on items 14 through item 18 if there were no objections.

ITEM 14. CONSIDER AND TAKE ACTION ON FINAL PLAT- FIRETHORNE WEST-SECTION 1

ITEM 15. CONSIDER AND TAKE ACTION ON FINAL PLAT-FIRETHORNE WEST-SECTION 2

ITEM 16. CONSIDER AND TAKE ACTION ON FINAL PLAT-FIRETHORNE WEST-SECTION 3

ITEM 17. CONSIDER AND TAKE ACTION ON FINAL PLAT-FIRETHORNE -SECTION 19

ITEM 18. CONSIDER AND TAKE ACTION ON FINAL PLAT-FIRETHORNE -SECTION 20

A motion was made by Alderman Gill to approve final plats on Firethorne West Sections 1, 2, 3, 19, and 20. 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 19. Consider and take action on request from Deden Services, LLC regarding Fulshear Creek Crossing Section 1 & 2 Road Acceptance

A motion was made by Alderman Einkauf to approve request from Deden Services regarding Fulshear Creek Crossing Section 1 and 2 road acceptance. 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 20. Consider and take action to appoint Jim Gammil as a nominee for Fort Bend Central Appraisal District Board of Directors

A motion was made by Alderman Collins to appoint Jim Gammil as a nominee for Fort Bend Central Appraisal District Board of Directors. 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. Consider and take action to distribute the net proceeds from the 2009 Bike for Mike event in the amount of \$19, 994.74 to the Michael T. McCann Foundation

A motion was made by Alderman Gill to approve the net proceeds from the 2009 Bike for Mike event for the purpose of keeping Fulshear beautiful in the amount of \$19,994.74 to the Michael T. McCann Foundation. 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 22. CONSIDER AND TAKE ACTION TO AUTHORIZE THE MAYOR TO SIGN REVISED AGREEMENT PERMITTING THE CITY TO ENCROACH UPON SAID

PROPERTY ABUTTING THE RIGHT(S) OF WAY FOR THE PURPOSE OF PLACING WAY FINDING SIGNS. OWNER AGREES TO THE GRANT OF A PRIVATE LICENSE TO ENCROACHMENT BY THE PLACEMENT OF A WAY FINDING SIGN SUBJECT TO CERTAIN CONDITIONS.

Doug Konopka stated that this information was not available and request it be postponed for a later agenda. No action was taken on this item.

ITEM 23. CONSIDER AND TAKE ACTION TO APPROVE ORDINANCE NO. 10-939B

Caption: An ordinance of the City of Fulshear, Texas amending Ordinance 06-939A, adopted the 19th of September 2006, which established rules and maintenance and use of signs with the corporate limits of the city by repealing section 6, subsection L entitled "non-commercial signs" and replacing it with a new section 6, subsection L entitled "political signs" and repealing all ordinances or parts of ordinances inconsistent with or in conflict herewith.

There was a lot of discussion among Council members regarding the sign ordinance.

Alderman Clack stated there appears to be a discrepancy between political signs and non-commercial signs especially if we are changing item L in the sign ordinance to now reflect political signs. Aldermen Clack stated we now need a definition for political signs so that people will not get confused.

Mayor Roberts suggested that Council schedule a workshop to further discuss the sign ordinance.

A motion was made by Alderman Clack to table this item. It was seconded by Alderman Collins.

Alderman Einkauf stated that the sign ordinance should align with state law requirement.

Further discussion continued among Council members with regards to the sign ordinance and the proposed change to the ordinance.

City Attorney, Grady Randle, stated that the purpose of this ordinance was to clarify where political signs could be placed and to correct the part of the ordinance that was in violation of state requirement.

Alderman Einkauf suggested that Alderman Clack amend his motion and adopt ordinance reflecting the change as presented in ordinance no. 10-939B.

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A motion was made by Alderman Einkauf to adopt Ordinance No. 10-939B. 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 24. CONSIDER AND TAKE ACTION REGARDING THE PURCHASE OF A TRACTOR FOR THE MAINTENANCE DEPARTMENT

A motion was made by Alderman Gill to table this item. It was seconded by Alderman Einkauf.

Alderman Clack asked whether the City could borrow another tractor from the County. No one had an answer to the question. Council instructed that the maintenance department investigate this option.

Mayor Roberts called for a vote. The motion was carried by the following vote:

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

25. CONSIDER AND TAKE ACTION TO ACCEPT DONATION FROM TRENDMAKER DEVELOPMENT COMPANY - CAPTION: EXECUTED SPECIAL WARRANTY DEED FOR .8756 ACRES OF LAND ADJACENT TO THE IRENE STERN COMMUNITY CENTER FOR PARKING.

A motion was made by Alderman Collins to accept donation from Trendmaker Development Company warranty deed for .8756 acres of land adjacent to the Irene Stern community Center for Parking. It was seconded by Alderwoman Patterson.

Alderman Gill asked if the land could be used for burning. Mayor Roberts stated the City continues to look for a burning space for old trees limbs, etc.

The motion was carried by the following vote:

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

Mayor Roberts suggested taking item 26 and 27 at same time if there were no objections.

26. CONSIDER AND TAKE ACTION ON SIGN PERMIT: MARTIN MORTGAGE/8525 FM 359-Ste#201

27. CONSIDER AND TAKE ACTION ON SIGN PERMIT: DAVID KAE CUSTOM HOMES LLC/8525 FM359 –STE# 200

A motion was made by Alderman Einkauf to approve sign permits for Martin Mortgage/ 8525 FM 359 Suite #201 and David Kae Custom Homes/ 8525 FM 359 Suite #200. It was seconded by Alderwoman Patterson. The motion was carried by the following vote:

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

Nays: None

Abstain: Alderman Clack

28. DISCUSSION AND POSSIBLE ACTION TO ADJUST THE MAYOR'S COMPENSATION

Alderman Einkauf stated he requested this item to be placed on the agenda as it is a housecleaning issue that needs to be resolved. ~~At current time, the Mayor's expense is \$800.00 per month.~~ Alderman Gill requested that the Mayor's compensation expense to reflect \$200.00 per month.

City Attorney stated that because only \$200.00 is in the current budget, it cannot exceed this figure unless it is done at this time before the new budget occurs.

Alderman Einkauf asked if an ordinance was passed to this effect and the attorney stated it cannot exceed the budget ordinance. Alderman Einkauf stated it should remain at \$200.00 if that is the amount in the budget.

Alderman Clack made a motion to increase the Mayor's compensation to \$800.00 per month. It was seconded by Alderman Collins.

Alderman Gill stated the budget only allows for \$200.00 and if a city administrator will be hired, why increase the mayor's compensation.

The motion failed by the following vote:

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Ayes: Aldermen Clack and Collins

Nays: Aldermen Einkauf and Gill and Alderwoman Patterson

Jeff Roberts requested to speak regarding item number 29. He stated that Council chose Randle law firm which charges more than what the previous attorney charged. The Mayor should have the right to ask the City Attorney for answers when there is no clear understanding. He hopes that the Mayor is not being targeted.

29. DISCUSSION REGARDING SPECIAL PROJECTS UNDERTAKEN BY CITY ATTORNEY AT THE REQUEST OF THE MAYOR RELATING TO REIMBURSEMENT OF ATTORNEY'S FEES TO AN ELECTED CITY OFFICIAL AND POLITICAL SIGN ISSUES, AS DETAILED IN THE APRIL 2010 INVOICE # 2401

Alderman Gill stated that he requested this item to be placed on the agenda because the Council felt that the magnitude of the charges were too high wanted to bring to the attention of Council the significant time spent by the City Attorney on Political Signs. He stated that the attorney should be paid for his work but not in agreement with monies spent on political sign issues and reimbursement of attorney's fees regarding an elected city official.

Mayor Roberts stated that the Mayor should have the right to request clarification on any issue regarding City business. He stated that he needs the attorney to inform city staff that no one has the right to remove political signs from private property unless they have the owner's permission. He stated that he knows political signs were removed from private property without the owner's permission. He stated that city's sign ordinance needed to be revised as part of it is violating the law.

Much discussion continued on this item among the Council members.

Alderman Einkauf stated that the focus of this agenda item was due to the fact that Council felt monies (\$3,089.50 for employee discipline and \$2,064.60 reimbursement of legal fees) were spent on items that had already been resolved by this Council and the project on FM 1093 was pushed aside for 3 months.

Mayor Roberts responded by stating the holdup was due to Council firing the previous attorney and it took time to hire a new city attorney. The previous attorney was only paid \$600 per month while the new firm is being paid

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\$750.00 per month plus \$185.00 per hour for any additional work. He stated that the holdup on the project FM 1093 should not be blamed solely on the Mayor.

No action was taken on this item.

ITEM 30. REPORT FROM THE POLICE DEPARTMENT (TRAFFIC CITATIONS, ARREST, INCIDENTS, CALLS FOR SERVICE)

Police Chief Scott Head presented to the Council the Fulshear Police Report for month of March, 2010. There were no comments.

ITEM 31. CONSIDER AND TAKE ACTION TO REIMBURSE FULSHEAR K.U., LTD IN THE AMOUNT OF \$44,709.42 PURSUANT TO ECONOMIC DEVELOPMENT AGREEMENT SIGNED JANUARY 11, 2006 FOR PUBLIC INFRASTRUCTURE.

A motion was made by Alderman Einkauf to reimburse Fulshear K.U. LTD in the amount of \$44, 709.42 pursuant to Economic Development Agreement signed January 11, 2006 for public infrastructure. 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*

Public Comment from Doug Konopka. He stated that he commends Larry Beustring for his proactive approach regarding the Water and Wastewater Treat Plant. He stated there is no agreement in place. Mr. Konopka thanked the Council for all of their service and for the Economic Development agreement regarding the public infrastructure.

32. ADJOURN

A motion to adjourn was made by Alderman Einkauf. All Council agreed that meeting was adjourned. Mayor Roberts announced that meeting is now adjourned at 9:06 p.m.

Mayor - James W. Roberts

ATTEST:

City Secretary - D. (Diana) Gordon Offord