



# *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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## *Fulshear City Council Minutes August 21, 2012*

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

*A Regular Meeting of the Fulshear City Council was called to order by Mayor, Thomas C. Kuykendall, Jr. at 7:04 p.m., Tuesday, August 21, 2012 at 30603 FM 1093, Fulshear, Texas and all citizens were welcomed.*

### **II. QUORUM**

*A quorum was present.*

#### *Members Present:*

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

#### *Members Absent:*

*Stephen Gill, Mayor Pro Tem*

#### *City Staff Present:*

*D. (Diana) Gordon Offord, City Secretary  
C. J. Snipes, City Administrator  
David Leyendecker, Contracted City Engineer  
Michelle Kirchner, Building Inspector  
Kristina Brashear, Finance Director  
Tim Kirwin, Assistant Attorney*

#### *Others Present:*

*Russ Cosbey  
Ramona Ridge  
Stephanie Harris  
Viola Randle*

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*David Walker*

*Mark Yentzen*

*Geoff Freeman*

*Mike Roller*

*Gwen Fox*

*And seven (7) others who did not sign in*

**III. INVOCATION - Reverend John Crowe, Pastor of RiverBend Baptist Church, Fulshear, Texas**

*Pastor Crowe gave the Invocation.*

**IV. PLEDGE OF ALLEGIANCE**

*The Pledge of Allegiance was led by Mayor Thomas C. Kuykendall, Jr.*

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

*Ramona Ridge of the Bois D' Arc area spoke her objection to Item 9J (Ordinance No. 2012-1078 an ordinance of the City of Fulshear requiring the installation of a stop sign on North and South Bois D' Arc Lane at the intersection of Red Bird Lane) as she stated there was not enough traffic to warrant a stop sign at the intersection of Red Bird Lane and Bois D' Arc Lane. (this intersection would be three way stop instead of one way stop)*

*No other comments were received.*

**VI. PUBLIC HEARINGS**

**A. The City of Fulshear, Texas, proposes to institute annexation proceedings to enlarge and extend the boundary limits of the City to include the following described territory, to-wit:**

**Being a tract of land containing an approximate 33.61 acre tract being out of a part of restricted reserve "A" (100.930 acres) and restricted reserve "E" (7.165 acres) along with all of reserve "C" (9.959 acres) and all of reserve "D" (4.518 acres). As shown on the plat of Lamar C.I.S.D. High School No.5 Complex, said plat is recorded under County Clerk's File Number 20110054, of the plat records of Fort Bend County, Texas and is located in the Enoch Latham Survey, Abstract 50, Fort Bend County, Texas.**

**Notice is hereby given to all interested persons that the City Council of the City of Fulshear, Texas will conduct a First Public Hearing on Tuesday, August 21, 2012, at 7:00 p.m. in the Fulshear City Council Chambers, Fulshear City Hall, 30603 F.M. 1093, Fulshear, Texas 77441.**

**Notice is hereby given to all interested persons that the City Council of the City of Fulshear, Texas will conduct a Second Public Hearing on Tuesday, August 21, 2012, at 7:15 p.m. in the Fulshear City Council Chambers, Fulshear City Hall, 30603 F.M. 1093, Fulshear, Texas 77441.**

**The purpose of the Public Hearings is to receive input from the public on a proposal for the City of Fulshear to annex the above identified tracts of land. At said times and places all persons shall have the right to appear and be heard.**

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*First Public Hearing on Annexation opened at 7:08 p.m. No objections. Closed at 7:09 p.m.*

*Second Public Hearing on Annexation opened 7:15 p.m. Closed 7:16p.m. No objections received.*

- B. Notice is hereby given that a public hearing shall be held by the City Council of the City of Fulshear, Texas, at its Regular Meeting to be held Tuesday, August 21, 2012 at 7:00 PM, in the Fulshear City Hall located at 30603 FM 1093 West, Fulshear, Texas 77441.**

**The purpose of the hearing is to receive comments from interested individuals regarding the revision of the City's Subdivision Ordinance.**

*Mayor Kuykendall announced that no action would be taken on Public Hearing Item B.*

- C. Notice is hereby given that a public hearing shall be held by the Fulshear City Council at its meeting Tuesday, August 21, 2012 at 7:00 PM, in the Fulshear City Hall, Council Chambers located at 30603 FM 1093 West, Fulshear, Texas 77441. The purpose of the hearing is to receive comments from interested individuals regarding revisions to the City's Zoning Ordinance and for a Special Use Permit Application. Specifically the addition of provisions including:**

- 1) A prohibition on the location of Retail Liquor Sales Establishments within the C Commercial District.**
- 2) A revision of the Notice requirements for matters affecting zoning.**
- 3) The Establishment of Masonry Construction Requirements for the C Commercial, I Industrial, R-2 Residential Districts in addition to the creation of a Masonry Requirement Overlay District for Commercial Properties fronting on FM 359 (Main Street) and FM 1093 located within the DD-Downtown District; and**
- 4) Special Use Permit Application for a change in use from Residential to Commercial Office for a property located at 8418 Harris Street, Fulshear, Texas 77441.**

**Copies of the proposed Zoning Ordinance Amendments and Special Use Permit Application are available in the office of the City Secretary, City Hall, 30603 FM 1093 West, Fulshear, Texas 77441.**

*Mayor Kuykendall announced that no action would be taken on Public Hearing Item C1, Item C2, and Item C3.*

*Public Hearing for Item C4 was opened at 7:11 p.m. and closed at 7:12 p.m. No objections were received. Mayor Kuykendall announced that the use of special permits would be voted on under item 9D.*

**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 July 2, 2012; July 10, 2012; and July 17, 2012 MEETINGS
- B. CONSENT and APPROVAL of VARIANCE REQUEST from CROSS CREEK RANCH regarding the FOLLOWING: "CROSS CREEK RANCH WATER PLANT NO. 2 and LIFT STATION NO. 4: FOR a RESERVE to TAKE ACCESS from an ACCESS EASEMENT rather than having FRONTAGE on a PUBLIC STREET (see notice for more specific detail).
- C. CONSENT and APPROVAL of CROSS CREEK RANCH: CROSS CREEK RANCH WATER PLANT NO. 2 and LIFT STATION NO. 4/PRELIMINARY PLAT
- D. CONSENT and APPROVAL of CROSS CREEK RANCH: CREEK BEND at CROSS CREEK RANCH SECTION 5/PRELIMINARY PLAT

*A motion was made by Alderman Beustring to approve the Consent Agenda. 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*

#### 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 COMPANY (Repairs, New installations, and reports to TCEQ.)  
*A report from Severn Trent Water Company was provided by Mark Yentzen.*
- 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.*
- C. REPORT from the MUNICIPAL COURT CLERK (Fees and Fines)  
*A report from the Municipal Court Clerk office was provided by Elaine Brown.*
- D. REPORT from the BUILDING PERMIT OFFICE (Permits, fees, etc.)  
*A report from the Building Permit Office was provided by Michelle Kirchner.*

#### IX. BUSINESS

- A. DISCUSSION and PRELIMINARY VOTE to SET the FISCAL YEAR 2012-2013 AD VALOREM TAX RATE and SETTING PUBLIC HEARINGS on SAID TAX RATE for SEPTEMBER 4, 2012 and SEPTEMBER 11, 2012

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*There was approximately a ten minute discussion among the Council Members regarding the tax rate. It was stated that the current tax rate is 0.205921 and the proposed tax rate will be 0.203656.*

*Also, two letters were received from Patsy Schultz , Tax Assessor Collector for the City of Fulshear. One which states the 2012 Certified Appraisal Roll for review as follows:  
Taxable Value of New Property is \$54,503.011  
Appraised Value of All Property is \$456,757,142  
Taxable Value of All Properties is \$324,710,478*

*And the other letter stated, "certify that the anticipated tax collection rate for 2012 tax year for City of Fulshear is estimated at 100%."*

*A motion was made by Alderman Beustring to accept to set the Fiscal Year 2012 -2013 Ad Valorem tax rate and setting Public Hearings on said tax rate for September 4, 2012 and September 11, 2012. It was seconded by Alderman Roberts. An individual poll was taken as follows:*

*Alderman Beustring.....yes  
Alderman Collins.....yes  
Alderman Patterson.....yes  
Alderman Roberts.....yes  
Alderman Gill.....absent  
There were no "nays" .*

**B. PRESENTATION on TEXAS POLICE CHIEF'S ASSOCIATION BEST PRACTICES RECOGNITION INITIATIVE**

*Chief Seymour presented a video to Council on "Texas Best Practice Recognition Program" sponsored by Texas Police Chief's Association (TPCA). He explained that it involves a very intense review of the police department's operating policies. He suggests that a Policy Review Committee be established and this Committee consist of police officers, business owners and citizens. Chief Seymour also provided a list of potential volunteers to Council as follows:*

*Mike Murname  
Scott Evans  
Bill Heedy  
Laverne Patterson  
Officer Lindsay Miller  
Chief Kenny Seymour  
Clint Stockton*

*There was a question and answer period and all were satisfied. No action was taken.*

**C. CONSIDERATION and POSSIBLE ACTION to APPROVE APPOINTMENT of VOLUNTEERS to POLICE BEST PRACTICES ADVISORY COMMITTEE**

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**(Potential Volunteers: Mike Murname, Scott Evans, Bill Heedy, Laverne Patterson, Officer Lindsay Miller, Chief Kenny Seymour, and Clint Stockton)**

*A motion was made by Alderman Beustring to approve appointment of volunteers to Police Best Practices Advisory Committee that were recommended by Chief Seymour. 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*

**D. CONSIDERATION and POSSIBLE ACTION to APPROVE SPECIAL USE PERMIT APPLICATION for a CHANGE in USE from RESIDENTIAL to COMMERCIAL OFFICE for a PROPERTY LOCATED at 8418 HARRIS STREET, FULSHEAR, TEXAS 77441**

*C.J. Snipes, City Administrator, stated that the owner would like to change the use of property located on Harris Street and that the Planning and Zoning Commission has approved changing the use of the property from residential to commercial. Mr. Snipes asked Michelle if she had anything to add.*

*Michelle Kirchner, City's Building Inspector, stated that the McCann Family has requested the use of the structure at 8418 Wallis be changed from residential to commercial office use. They plan to do a small remodel of the interior of the building to conform to handicap accessibility and change the garage into an office space. She stated that once the building has been leased to capacity, they will be asking for permission to increase the parking lot and signage. Ms. Kirchner stated she has only had one call regarding as to what was going to happen with the property and has received no objections to the change in use. There were some questions from the Council Members and the responses from Ms. Kirchner were sufficient.*

*A motion was made by Alderman Roberts to approve request (special use permit application) for a change in use from residential to commercial office for a property located at 8418 Harris Street, Fulshear, Texas 77441. 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*

**E. CONSIDERATION and POSSIBLE ACTION to APPROVE LIST of PAYABLES from JULY 14, 2012 through AUGUST 17, 2012**

*Mayor Kuykendall asked if there were still charges from Southwest Water included on the list of payables. Kristina Brashear, Finance Director, stated "Yes" and that they are being held until discrepancies can be cleared. Ms. Brashear stated that Council might want to exempt Southwest Water until final resolutions have been reached.*

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*Alderman Roberts asked about the payment for Bryan Middleton. Ms. Brashear stated he was the associate prosecutor for the City. He sits in when Tim Kirwin is unavailable.*

*A motion was made by Alderman Collins to approve list of payables with the exception of Southwest Water Company. 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*

**F. CONSIDERATION and POSSIBLE ACTION to APPROVE CONTRACT RENEWAL for CITY WIDE NOTIFICATIONS SERVICE with BLACKBOARD CONNECT**

*A motion was made by Alderman Collins to approve contract renewal for the City wide notifications service with Blackboard Connect. 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*

**G. CONSIDERATION and POSSIBLE ACTION to APPROVE and ACCEPT the FINDINGS REGARDING the 2010/2011 CITY of FULSHEAR AUDIT COMPLETED by BELT HARRIS and ASSOCIATES, LLP**

*Stephanie Harris of Belt Harris and Associates, LLP reviewed the findings of the 2010/2011 City of Fulshear audit. Ms. Harris stated that a copy of the audit is on hand with the City Secretary's office. No exceptions were noted. Mayor Kuykendall thanked Ms. Harris for the report.*

*A motion was made by Alderman Beustring to approve and accept the findings regarding the 2010/2011 City of Fulshear Audit completed by Belt Harris and Associates, LLP. 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 SELECTION of AUDIT FIRM for FISCAL YEAR 2012**

*Mayor Kuykendall announced that we have a current engagement with Belt Harris for this year as well and he recommends that no action be taken on this item. There were no objections.*

I. **CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2012-1077 an ORDINANCE of the CITY of FULSHEAR AMENDING and REVISING ORDINANCE NO. 2012-1073 SECTION 3, PARAGRAPH (B) CLARIFYING THE DIFFERENCE BETWEEN THE FEE FOR INITIAL ISSUANCE AND RENEWAL OF PERMITS**

*Tim Kirwin, Assistant City Attorney, noted that there were two typographical errors in the ordinance. A motion was made by Alderman Beustring to approve Ordinance No. 2012-1077 with noted corrections cited by Attorney Kirwin an ordinance of the City of Fulshear amending and revising Ordinance No. 2012-1073 Section 3 paragraph (B) clarifying the difference between the fee for initial issuance and renewal of permits. 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*

J. **CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2012-1078 an ORDINANCE of the CITY of FULSHEAR REQUIRING the INSTALLATION of a STOP SIGN on NORTH and SOUTH BOIS D'ARC LANE at the INTERSECTION of RED BIRD LANE**

*C. J. Snipes, City Administrator, stated there used to be a stop sign at this intersection but it was knocked down and never replaced. He stated it is needed for safety reasons. (One resident, Ms. Ridge made a plea during public comment that the sign is not needed). There was approximately a 15-minute discussion among the Council Members. Officer Seymour and others identified line of sight as an issue at the intersection and also motorist tend to travel down Bois D' Arc at a high rate of speed.*

*A motion was made by Alderman Roberts to disapprove Ordinance No. 2012-1078 an ordinance of the City of Fulshear requiring the installation of a stop sign on North and South Bois D' Arc Lane at the intersection of Red Bird Lane. It was seconded by Alderwoman Patterson. The motion voted on as follows:*

*Ayes: Alderwoman Patterson and Alderman Roberts*

*Nays: Alderman Beustring and Alderman Collins*

*This motion resulted in a tie-vote (2 For and 2 opposed) Mayor Kuykendall broke the tie as he voted to not approve Ordinance No. 1078 until additional investigation can be done.*

K. **CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2012-1079 an ORDINANCE of the CITY of FULSHEAR AMENDING and REVISING ORDINANCE NO. 2008-982 to INCLUDE the IDENTIFICATION of FM 359 as BEING SYNONYMOUS with FM 1093**

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*A motion was made by Alderman Roberts to approve Ordinance No. 2012-1079 an Ordinance of the City of Fulshear amending and revising Ordinance No. 2008-982 to include the identification of FM 359 as being synonymous with FM 1093. 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*

**L. CONSIDERATION and POSSIBLE ACTION to APPROVE ORDINANCE NO. 2012-1080 an ORDINANCE CREATING TRAFFIC REGULATIONS on CITY STREETS for LARGE TRUCKS**

*A motion was made by Alderman Beustring to approve Ordinance No. 2012-1080 an Ordinance creating traffic regulations on City Streets for large trucks. 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*

**M. CONSIDERATION and POSSIBLE ACTION to APPROVE the STREET ACCEPTANCE for FLEWELLEN OAKS LANE from SOUTH FRY ROAD to FM 1463**

*A motion was made by Alderman Roberts to approve the Street Acceptance for Flewellen Oaks Lane from South Fry Road to FM 1463. 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 UTILITY CONVEYANCE and SECURITY AGREEMENT for FLEWELLEN OAKS LANE NORTH**

*A motion was made by Alderman Roberts to approve Utility Conveyance and Security Agreement for Flewellen Oaks Lane North. 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*

X. EXECUTIVE SESSION-CLOSED SESSION IN ACCORDANCE WITH THE GOVERNMENT CODE

SECTION 551.072. DELIBERATION REGARDING REAL PROPERTY:

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A GOVERNMENTAL BODY MAY CONDUCT a CLOSED MEETING to DELIBERATE the PURCHASE, EXCHANGE, LEASE, or VALUE of REAL PROPERTY if DELIBERATION in an OPEN MEETING WOULD HAVE a DETRIMENTAL EFFECT on the POSITION of the GOVERNMENTAL BODY in NEGOTIATIONS with a THIRD PERSON.

POTENTIAL PURCHASE of REAL PROPERTY

SECTION 551.074, PERSONNEL MATTERS, to DELIBERATE on the APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, or DISMISSAL of a PUBLIC OFFICER.

ANNUAL REVIEW of CITY ADMINISTRATOR

*Mayor Kuykendall announced that Council entered Executive Session at 8:35 p.m. and a quorum was present.*

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

*Mayor Kuykendall announced that Council reconvene back into Regular Session at 9:43 p.m. and a quorum was present. Mayor Kuykendall asked if there was any action that needed to be taken as a result Council's Executive Session.*

*A motion was made by Alderman Roberts to authorize C.J. Snipes, City Administrator, to being Phase 1 on the purchase of land and an analysis study. 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*

*Mayor Kuykendall asked if there was any other action to be taken. There was no response from Council. He asked for a motion to adjourn.*

XII. ADJOURN

*A motion was made by Alderman Collins to adjourn at 10:10 p.m. 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*

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*Thomas C. Kuykendall, Jr.* - *Mayor*  
*Attest:*

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*D. (Diana) Gordon Offord* - *City Secretary*