

CITY OF LAKE WORTH
Minutes for
City Council Regular Meeting
Tuesday, November 11, 2008
3801 Adam Grubb • Lake Worth, Texas
6:30 P.M. – Council Chambers

1. Call to Order.

Mayor Walter Bowen called the meeting to order at 6:30 p.m.

2. Invocation, Pledge of Allegiance, and Acknowledgement of Veteran's Day.

Dr. Jerry Locke gave invocation. Mark Ramsey played a short video in honor of Veteran's Day and attendees recited the pledge of allegiance at the end of it. Mayor Bowen acknowledged those present at the meeting who had served, or are still serving, in the military. Those present and acknowledged were: Earl Fowlkes, Mark Ramsey, Estel Burns, Mike Voochries, Dave Tatsak, Eugene Brooks, Perry Lunsford, and Clint Narmore.

3. Roll Call.

Council members present were Mayor Walter Bowen, Eugene Brooks, Myrt Fowlkes, Perry Lunsford, Dona Stuard, Pat O. Hill, Geoffrey White, and Clint Narmore.

Staff present were Brett McGuire, Interim City Manager, Linda Rhodes, City Secretary; Dave Tatsak, Police Captain; Mike Voochries, EMC, Jami Woodall, EDC Coordinator; Suzanne Meason, Planning and Zoning Administrator; Jamye Sexton, Public Works Director; Barry Barber, Building Official; Joe Dickens, Building Inspector; Sean Densmore, Water Superintendent; Lara Strother, Library Director; Mark Ramsey, IT Manager; Debbie Whitley, Senior Accountant; Natacha Schwarz, Municipal Court Coordinator; Cheryl Vess, Community Activities Director; and Danielle Hackbusch, HR/Risk Management. City Attorney Wayne Olson and City Engineers Aaron Rader, Jeff James, and Misty Christian were present.

4. Consent Agenda:

- a. Approval of minutes for the City Council Special Meeting on October 9, 2008.**
- b. Approval of minutes for the Joint City Council/Planning and Zoning Commission Public Hearing/Regular Meeting on October 14, 2008.**
- c. Approval of minutes for the City Council Special Meeting on October 21, 2008.**
- d. Approval of minutes for the City Council Special Meeting on October 27, 2008.**
- e. Approval of Finance Reports for the month of October 2008.**

Dona Stuard made a motion, seconded by Eugene Brooks, to approve the Consent Agenda. Motion passed with all in favor and none opposed.

Mayor Bowen closed the open session of the meeting at 6:42 p.m. to meet on executive session items pursuant to Section 551.074, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee. The executive session was closed at 7:00 p.m. and open session was reconvened.

Dona Stuard made a motion, seconded by Clint Narmore, to appoint Brett McGuire as City Manager effective November 10, 2008, as discussed in Executive Session. Motion passed with all in favor and none opposed.

Eugene Brooks made a motion, seconded by Pat O. Hill, to appoint Dave Tatsak as Interim Chief of Police effective November 10, 2008, until a permanent Chief of Police is appointed by City Council. Motion passed with all in favor and none opposed.

5. Presentations:

- a. Proclamations/Awards/Presentations.**
- b. Citizen/Visitor Comments.**

A citizen/visitor request to make a presentation on a specific matter of special public interest must be posted 72 hours prior to the City Council meeting. If it is not posted, no deliberation between council members may occur. The council may only respond with specific factual information or recite existing policy. Any deliberation of or decision about the subject of the inquiry is limited to placing the subject on the agenda for a future meeting.

There were no Presentation/Visitor Comments Items.

6. Public Hearing/Action Items.

There were no Public Hearing/Action Items.

7. Ordinances and Resolutions.

a. Ordinance #897- Approval of a Memorandum of Agreement and Plan for Idling Vehicles.

Brett McGuire explained that this ordinance, drafted by the City Attorney's office, is in response to the Regional Transportation Committee's (RTC) request for cities to enter into an agreement with Texas Commission on Environmental Quality (TCEQ) to help limit the amount of emissions from vehicle idling. Wayne Olson noted that, although not mandatory, according to RTC, whether or not a city enters into an agreement with TCEQ might be taken into consideration for future funding decisions. While being difficult to enforce, it is a start in trying to limit emissions.

Geoffrey White made a motion, seconded by Eugene Brooks, to approve Ordinance #897 for a memorandum of agreement and plan for idling vehicles. Motion passed with all in favor and none opposed.

b. Resolution #891- Advising Legislation of Concern in Shortage of TXDOT funding for Texas Highways.

Brett McGuire explained that David Dorman, Mayor of the City of Melissa, sent a letter to Texas cities requesting they approve a resolution advising legislation of the concern about the shortage of TXDOT funding for Texas Highways. Some monies from the Highway Fund (Fund 6) have been used for non-highway related expenses. Approving this resolution is a way for cities to join together to ask the 2009/2010 legislation to restore highway funding back.

Perry Lunsford made a motion, seconded by Geoffrey White, to approve Resolution #891, advising legislation of the concern in shortage of TXDOT funding for Texas Highways. Motion passed with all in favor and none opposed.

8. Contracts and Agreements.

a. Consideration of approving an Interlocal Agreement for the use and maintenance of Fueling Equipment between the Lake Worth Independent School District and the City of Lake Worth.

Jamye Sexton and Wayne Olson explained that the LWISD attorney added some language to the agreement that limited ISD responsibility, but not city responsibility. Wayne's office in turn has added language to limit city responsibility. Even though the language is not ideal, it is fine to leave in. Basically, that paragraph could actually be left out, but since the ISD wants it added, the city attorney is okay with it as long as the same language is added for the city side of it.

Myrt Fowlkes made a motion, seconded by Pat Hill, to approve the Interlocal Agreement for use and maintenance of fueling equipment between the LWISD and the city, with the added language limiting city responsibility and to authorize the City Manager to execute the necessary document(s). Voting in favor of the motion were Myrt Fowlkes, Pat Hill, Eugene Brooks, Perry Lunsford, Dona Stuard, and Geoffrey White. Voting against the motion was Clint Narmore. Motion passed with a 6-1 vote.

b. Consideration of approval of Architectural Fee Proposal Agreement with Quorum Architects, Inc. for City of Lake Worth Animal Shelter.

Brett McGuire noted that, after conversation with the city attorney, staff needs clear direction from Council as to contracting for architecture services on the Animal Shelter. Wayne Olson raised concerns with the contract as far as clear Council direction on the building design process. Council consensus was to table this item until the November 25, 2008 Special Council meeting in order for staff to gather more information. Dave Duman, with Quorum Architects, Inc. was present and answered a few questions Council had regarding the size of the animal shelter.

c. Consideration of approval of Architectural Fee Proposal Agreement with Quorum Architects, Inc. for City of Lake Worth Multi-Use Facilities.

Brett McGuire and Wayne Olson indicated the same concerns for this agenda item as the one prior. Council consensus was to table this item as well until the November 25, 2008 Special Council meeting in order for staff to gather more information.

9. Bids, Proposals, and Specifications.

There were no Bids, Proposals, and Specifications.

10. Discussion/Action Items.

a. Consideration of approving Hotel/Motel Tax Funds requested by Holiday Inn Express and Best Western.

Brett McGuire explained that the Holiday Inn Express and Best Western are requesting funding from the City Hotel/Motel Tax Fund. The fund is currently budgeted at \$29,478; however, it could support the additional \$28,362.83 as requested if Council desires. Even though neither hotel requested funding at budget time, they were not contacted and given a reminder either. Mitzi Martinez, representative with Holiday Inn Express, addressed Council regarding their request of \$37,800. Due to questions being raised concerning legality in funding for a dedicated sales person (one of the itemized requests), it was Council consensus to table this item until the regular December Council meeting. This will allow time for the City Attorney to research the statute as well as to check on other allowable reimbursements from the hotel/motel fund. Mr. Anil Patel with Best Western was also present in support of his request for \$20,040.83.

b. Consideration of using the employees' floating holiday for FY 2008/2009 on Friday, December 26, 2008.

Brett McGuire explained that it had been brought to him whether or not the FY 2008/2009 floating holiday could be used on Friday, December 26, 2008 instead of Good Friday as it has been for the past several years. He noted that there should not be a significant impact on citizens desiring city services on that day; however, for Council to keep in mind that, if granted, the City offices would be closed for three (3) business days in a row.

Eugene Brooks made a motion, seconded by Geoffrey White, to approve designating the employee floating holiday for FY 2008/2009 as Friday, December 26, 2008. Motion passed with all in favor and none opposed.

11. Mayor and Council Items.

a. Update on Tarrant County Mayor's Council by Mayor Bowen.

Mayor Bowen noted that the Mayors' Council of Tarrant County annual banquet is scheduled on Monday, December 1, 2008 at the Ashton Depot Hotel in Fort Worth. Interested Council Members should RSVP to Linda Rhodes.

b. Update on Foster House Project and Lake Worth Area Historical Society items by Council Member Fowlkes.

Council Member Fowlkes thanked the EDC and Council for approving the move of the Foster house and thanked the Public Works, Fire Department, and Police Department for all of their help with the actual move of it. She mentioned there had been a \$400 donation made to the LWAHS. Engraved bricks are being sold as well as a fund raiser sale this coming Saturday at the Lake Worth Boat and Ski Club to help raise money for the LWAHS.

12. Interim City Manager and Staff Reports:

a. Interim City Manager Reports.

1. Report on Temporary Accountant Services.

Brett McGuire reported that Carolyn Marshall, CPA, will be hired temporary, part-time to help Debbie Whitley, Interim Director of Finance, during the transition period.

2. Update on City Facilities Projects.

3. Update on XTO.

Brett McGuire noted that he spoke with Wes Milam a couple of weeks ago and, at that time, projects were on hold and nothing further had occurred regarding park donations.

4. Upcoming Special Council meeting dates.

Upcoming meetings are Thursday, November 13, 2008 (to canvass the election) and Tuesday, November 25, 2008 (to discuss employee insurance and agreements with Quorum Architect, Inc.)

b. Staff Reports.

1. City Secretary Department:

i. Update on Election Results and Canvass.

Linda Rhodes stated a meeting is scheduled on Thursday, November 13, 2008 at 5:30 p.m. for the Council and CCPD to canvass the election results. Only two (2) members are required to attend for each board to canvass; no quorum is necessary. All propositions passed with a record turn out.

2. Public Works/EDC Departments:

i. Update on Foster House Project.

Jami Woodall reiterated what Council Member Fowlkes had stated earlier about her thanks to the various city departments in their help with the move of the Foster house.

3. Public Works Department:

i. Update on Dakota (Dog) Park.

Jamye Sexton stated there will be two items on the December Council agenda regarding the Dakota (Dog) Park. One will be to

name the park and the other is to announce the opening date. Jamye mentioned due to the city installing the agility equipment there themselves, the city saved a lot of money.

ii. Update on management status of LWYA Contract.

Sean Densmore stated the management had been going okay, with only a few minor things to work through. He indicated that Council had been misinformed by the LWYA at the last meeting regarding the usage of electricity. LWYA had indeed been using the lights. Also, the initial agreement was for LWYA to take care of the electric bill and for the city to take care of the maintenance. Mayor Bowen noted that the Council committee (Perry Lunsford, Eugene Brooks, and Walter Bowen) would need to meet with the LWYA soon.

iii. Report on Storm Water Process.

Jamye Sexton noted that the TCEQ annual report had been turned in today.

4. Police Department:

i. Update on RUSH Academy.

Dave Tatsak reported that the Residents United for Safer Homes (RUSH) Academy was scheduled to start this Thursday.

ii. Report on National Night Out.

Dave Tatsak reported that National Night Out went well. Ray Moody had prepared a DVD on the event and copies were available for the Mayor and each Council Member.

iii. Update on Citizens Police Academy.

Dave Tatsak stated the Citizens Police Academy will begin on Thursday, January 22, 2009.

iv. Report on Newly Sworn Officer(s).

Dave Tatsak noted that Officer Wesley Lynch had been sworn in.

5. Fire Department:

i. Update on Fire Tanker.

Mike Voohries reported that approval for the Fire Tanker is scheduled for December, with a nine (9) month delivery time.

6. Permits/Building Department:

i. Update on Substandard Properties.

Barry Barber reported that all pending substandard property files had been completed.

7. Community Activities Director:

i. Upcoming Senior Citizen's Thanksgiving Dinner.

Cheryl Vess indicated the fifth annual Senior Citizen's Thanksgiving Dinner is scheduled for Wednesday, November 26, 2008 from 11:00 a.m. to 2:00 p.m. Left over food is donated to the Tarrant County Shelter.

ii. Upcoming Annual Christmas Tree Lighting Event.

Cheryl Vess reported that the tentative date for the annual Christmas tree lighting is Thursday, December 4, 2008 from 6:00 p.m. to 8:00 p.m. at City Hall.

iii. Upcoming Annual Employee Christmas Party.

Cheryl Vess stated the annual employee Christmas party is scheduled for Saturday, December 20, 2008 beginning at 6:00 p.m. at National Hall.

8. Library Department.

i. Report on Annual United Way Campaign.

Lara Strother reported that the annual United Way Campaign this year will be from November 12, 2008 through November 21, 2008.

Mayor Bowen closed the open session of the meeting at 8:22 p.m. and opened the Executive Session to discuss items listed pursuant to Section 551.071 and Section 551.072.

13. Executive Session:

Pursuant to the Texas Open Meeting Act, Chapter 551, Texas Government Code, the City Council reserves the right to convene in executive session as necessary during this meeting to discuss the following:

a. Pursuant to Section 551.071- Consultation with attorney with regard to any item posted on the agenda or pending or contemplated litigation.

- 1. *Atkins Brothers Equipment Company, Inc. vs. Tarrant County, Texas (Cause No. 348-231566-08).***
- 2. *Dennis Dumke v. City of Lake Worth, et al.***
- 3. *Amicus briefs in City of Mesquite vs. PKG Contracting, Inc. and State vs. Chacon.***

b. Pursuant to Section 551.072- Deliberations about the purchase, exchange, lease, or value of real property.

- 1. **Property/ROW land acquisition(s) relating to the Comanche Creek Project.****

c. Pursuant to Section 551.074- Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

- 1. **Appointment of City Manager.****
- 2. **Appointment of an Interim Chief of Police.****

Mayor Bowen closed the Executive Session and reconvened into Open Session at 9:03 p.m.

14. Reconvene into Regular Session:**a. Take any action necessary pursuant to Executive Session Items as listed above.**

Geoffrey White made a motion, seconded by Clint Narmore, to authorize the City Attorney to move forward on the Amicus briefing with funding up to \$200.00, as discussed in Executive Session. Motion passed with all in favor and none opposed.

Eugene Brooks made a motion, seconded by Dona Stuard, to authorize the City Attorney to make preparations in name only and no funding for the Amicus briefing as discussed in Executive Session. Motion passed with all in favor and none opposed.

Geoffrey White made a motion, seconded by Pat O. Hill, to authorize final closure of the *Atkins Brother Equipment Company, Inc. vs. Tarrant County, Texas (Cause No. 348-231566-08)* as discussed in Executive Session. Motion passed with all in favor and none opposed.

15. Adjournment.

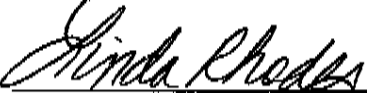
There being no further business, Mayor Walter Bowen closed the City Council meeting at 9:07 p.m.

APPROVED:



Walter Bowen, Mayor

ATTEST:



Linda Rhodes, TRMC/CMC
City Secretary