

**LOCKHART CITY COUNCIL
REGULAR MEETING**

APRIL 20, 2010

6:30 P.M.

Council present:

Mayor Pro-Tem Frank Estrada
Councilmember Lew White
Councilmember Richard Banks

Mayor James Bertram
Councilmember Kenny Roland
Councilmember Richard Wieland

Council absent:

Councilmember Paul Gomez

Staff present:

Vance Rodgers, City Manager
Peter Gruning, City Attorney
Sandra Mauldin, Economic Dev. Coordinator
Dan Gibson, City Planner
Melanie Tucker, EMS Director

Connie Rodriguez, City Secretary
Jeff Hinson, Finance Director
M.L. Richards, Electric Superintendent
Lee Weatherford, Public Works Dir.

Citizens/Visitors Addressing the Council: Leticia Stivers of the Austin Humane Society; Sheila Smith of Rock Rock; Frances Winkler, member of Cause for Paws; Steven Golla, Veterinarian, and Rebecca Allen, Citizen.

Work Session 6:30 p.m.

Mayor Bertram opened the work session and advised the Council, staff and the audience that staff would provide information and explanations about the following items:

A. DISCUSS CITY COUNCIL MINUTES FOR THE APRIL 6, 2010 MEETING.

Mayor Bertram requested corrections to the City Council minutes for the April 6, 2010 meeting. There were none.

B. DISCUSS 2ND QUARTER FISCAL YEAR 2010 INVESTMENT REPORT.

Mr. Hinson stated that the Texas Public Investment Act requires local governments to review and accept a Quarterly Investment Report for each quarterly reporting period of the year. He provided information and there was brief discussion regarding the following:

- Investment Portfolio Summary
- Cash Accounts
- Marketable Securities Transaction Summary
- Certificates of Deposit Transaction Summary

C. DISCUSS CHANGE ORDER TO EXISTING CONTRACT WITH ASPHALT PAVING COMPANY, INC. OF AUSTIN, TEXAS, IN THE AMOUNT OF \$20,542.95 FOR ADDITIONAL CONCRETE AND ASPHALT WORK.

Mr. Rodgers stated that the change order increases full depth excavation of 8 inch HMAC Base, 1.5 inch paving, and removal of concrete quantities. The amount of the change order is \$20,542.95 and the amount of change orders to date would be an 8.6 percent increase, if approved. A twenty-five percent increase is allowed by law. Mr. Rodgers recommended approval.

D. DISCUSS ORDINANCE 2010-12 AMENDING CHAPTER 52 "SUBDIVISION REGULATIONS" OF THE LOCKHART CODE OF ORDINANCES, REVISING ARTICLE I "IN GENERAL", SECTION 52-2 "DEFINITIONS" WITH REGARD TO THE DEFINITION OF "SUBDIVISION", AND ARTICLE II "PROCEDURE", SECTION 52-36 "MINOR PLAT OR REPLAT PROCEDURE" WITH REGARD TO THE REFERRAL OF A MINOR PLAT OR REPLAT TO THE PLANNING AND ZONING COMMISSION WHEN ONE OR MORE VARIANCES ARE REQUESTED.

Mr. Gibson stated that a couple of issues have arisen in the normal course of enforcement of the subdivision regulations, so amendments are proposed to clarify the intent of the ordinance. Staff is frequently approached by owners of property wanting to buy a small portion of an adjacent property. The definition of ownership of land constitutes a subdivision, even if the parcel to be conveyed is vacant or is the subject of an inadvertent encroachment and has no development potential of its own. Therefore, even a minor boundary change between two properties requires a subdivision plat and the expense that comes with it. The alteration of the size or shape of a platted lot can be accomplished only through a replat, but there have been numerous occasions where the proposed conveyance does not involve previously platted lots. Therefore, staff is suggesting a change to the definition of "Subdivision" that would exempt certain specified circumstances from being considered a subdivision. This would eliminate the time and expense of platting for property owners, while also reducing the City's workload in processing plats that are not necessary for upholding the spirit of the ordinance. The other issue involves minor plats or replats that have accompanying variances. Section 52-36 is already clear that such plats cannot be administratively approved and must be forwarded to the Planning and Zoning Commission as would a normal final plat. However, the City's long-standing practice of charging final plat application fees which are \$400 plus \$20 per acre, instead of the minor plat application fee of only \$100, was challenged due to the wording of the last sentence of that section which uses the term "minor plat". It could be interpreted as implying that the application fee for minor plats would still be applicable even if a variance is requested and it has to be referred to the Commission. The application fees are higher for final plats simply because a lot more is involved in processing a plat through the Commission, such as making the case map, writing a staff report, adding it to the agenda, addressing it in the written minutes, etc. The fee is low for minor plats and replats because the approval requires only the signature of the city manager. Therefore, staff suggested a change to the last sentence that eliminates the term "minor" and makes it clear that if a plat requires a variance, which cannot be approved under any circumstances by staff, it must be referred to the Commission in accordance with the procedures for "final" plats.

Mr. Gibson stated that staff and the Planning and Zoning Commission recommended approval of the proposed amendments.

E. DISCUSS ORDINANCE 2010-13 AMENDING CHAPTER 31 "IMPACT FEES" OF THE LOCKHART CODE OF ORDINANCES, REVISING SECTION 31-19 "EXCEPTIONS" TO EXTEND OR MODIFY A TEMPORARY REDUCTION IN THE RATE CHARGED FOR ROAD IMPACT FEES.

Mr. Gibson stated that upon receipt of the September 2009 semi-annual report from the Impact Fee Advisory Committee, on October 7, 2009, the Council amended Chapter 31 "Impact Fees", Section 31-19 "Exceptions" to continue collecting road impact fees at 50 percent of the maximum allowable amount for all other uses, until April 20, 2010. That exception expires today, the day of Council meeting. The Council received the March 2010 semi-annual report from the Impact Fee Advisory Committee at the April 6 meeting, and at that time directed staff to prepare this ordinance once again extending for another six months the collection of road impact fees the same as has been provided in

Section 31-19(b) for the past couple of years, with the fees for commercial uses being 50 percent of the maximum allowed and the fees for all other uses being 25 percent of the maximum. The next Council meeting date six months from April 20 is October 19, 2010. Mr. Gibson stated that the Impact Fee Advisory Committee recommended in their March 2010 semi-annual report to the Council that road impact fees be charged at least 50 percent of the maximum allowable amount for all uses, which is different than the option selected by the Council that continues to charge only 25 percent of the maximum allowable amount for residential, office, industrial, and institutional uses.

F. DISCUSS RESOLUTION 2010-06 INCREASING AMBULANCE TRANSPORT CHARGE FOR EMERGENCY MEDICAL SERVICES (EMS).

Ms. Tucker stated that the Resolution provides an increase for ambulance transport fee consistent with the new regional ambulance fee survey findings. The fee would be increased from \$800 to \$925. No other fees are proposed to be increased or amended at this time. Ms. Tucker recommended approval.

There was discussion.

G. DISCUSS CITY OF LOCKHART EMERGENCY MEDICAL SERVICES DEPARTMENT TO UTILIZE INTERMEDICS FOR EMS BILLING.

Ms. Tucker stated that Requests for Proposals (RFPs) were advertised for EMS billing services. A committee was created to review the RFPs of which they unanimously determined Intermedics to be the most comprehensive, experienced and financially sound bidder to provide EMS Billing Services at a rate of nine percent of collections. There was discussion regarding the evaluation results and the process that the company would take to provide billing services. Ms. Tucker recommended approval.

H. DISCUSS AWARDING CONTRACT FOR 6-DIGITAL MULTI-FUNCTIONAL PRINTERS/COPIERS TO DAHILL.

Mr. Hinson requested that the item be pulled from the agenda. The Council previously awarded the contract to Toshiba. Issues with Toshiba caused staff to believe that the services of the contract might not be fulfilled. After the posting of the agenda, Toshiba has provided the services as agreed upon, therefore the Council's consideration to award the contract to Dahill is no longer necessary.

I. DISCUSS ORDINANCE 2010-14 LOWERING THE SPEED LIMIT FROM 60 MILES PER HOUR TO 55 MILES PER HOUR ON U.S. HIGHWAY 183 NORTH FOR SOUTH BOUND AND NORTH BOUND TRAFFIC FROM THE CURRENT LOCKHART CITY LIMIT TO 1.7 MILES SOUTH OF THE CURRENT CITY LIMIT.

Mr. Rodgers stated that the City has received notice from Central Texas Highway Constructors, Inc., that it has submitted a Construction Speed Zone request to the Texas Department of Transportation and received approval to lower the speed limit on U.S. Highway 183 North from 60 miles per hour to 55 miles per hour from 1.7 miles south of the current city limits for both north and south bound traffic lanes. The lower speed limit is requested for safety reasons. There was discussion about the process to take to change the speed limit back to 60 miles per hour after the construction of SH 130 is completed. Mr. Rodgers recommended approval.

J. DISCUSSION REGARDING DOMESTIC CATS AND FERAL CATS THAT BECOME NUISANCE COMPLAINTS AS FOUND IN CHAPTER 10, ANIMALS AND BEEKEEPING, AND REPORT ON CURRENT CITY POLICY REGARDING SUCH A NUISANCE COMPLAINTS.

Mr. Rodgers stated that City staff often receives complaints from citizens about cats that do not belong to them being on their property and causing all types of problems such as urinating in cars and laundry baskets, defecating in their yards, flower beds and in children's play sand boxes; exciting properly penned dogs so they bark constantly; attacking their on-leashed domestic cats; paw prints on detailed cars; occupying washrooms, lawn houses and carport areas; allergic reactions to cats and cat hair; etc. There are often conflicts between neighbors over cats and staff gets caught in the middle, but staff must enforce the ordinance and respond to citizens who do not want cats on their properties. Staff also received feedback from some people who passionately believe that cats are just part of nature like birds, bees, and mosquitoes, but again staff must address the nuisance complaints that are received.

Ms. Tucker provided information about the methods that staff utilizes to attempt to control domestic and feral cats and explained that the Animal Control Officers abide the Animal Ordinance to the best of their ability. She stated that complaints from citizens have recently increased in regards to cats being a nuisance. Staff also continues to attempt to control the diseased cat population to protect the public's health. There was discussion.

There was discussion regarding several types of complaints that staff receives in reference to cats.

Mayor Bertram announced there would be a recess at 7:30 p.m.

7:43 P.M. REGULAR MEETING

ITEM 1. CALL TO ORDER.

Mayor James Bertram called the regular meeting of the Lockhart City Council to order on this date at 7:43 p.m.

ITEM 2. INVOCATION, PLEDGE OF ALLEGIANCE.

Councilman Lew White gave the invocation and led the pledge of allegiance to the United States and Texas flags.

ITEM 3. CITIZENS/VISITORS COMMENTS.

Mayor Bertram requested citizens to address the Council. There were none.

ITEM 4-A. HOLD A PUBLIC HEARING ON A REQUEST BY CLIFTON JONES FOR A ZONING CHANGE AMENDING THE OFFICIAL ZONING MAP FROM IL INDUSTRIAL LIGHT DISTRICT TO CHB COMMERCIAL HEAVY BUSINESS DISTRICT ON 2.49 ACRES IN THE CORNELIUS CRENSHAW LEAGUE AND LABOR, ABSTRACT NO. 68, LOCATED AT 2000 WEST SAN ANTONIO STREET (SH 142). [ZC-10-03]

Mayor Bertram opened the public hearing at 7:47 p.m. and requested the staff background report.

Mr. Gibson stated that the current uses of the subject property are nonconforming in the IL district. The requested CHB zoning would not only better accommodate the typical mix of uses in this location, but would also be consistent with the property's future land use designation in the Lockhart 2020 Comprehensive Plan. Because City staff has to inspect commercial lease space every time the utilities are to be switched to a new tenant, staff frequently notes that the commercial center is nonconforming, but grandfathered. However, staff has encouraged the current owner to address the issue by applying for a zoning change so that a deficiency will no longer need to be mentioned. Also, should a disaster substantially destroy the buildings on the site, they could not be rebuilt unless it is rezoned to a commercial classification. The only other zoning classification that would allow the mix of uses that have typically occupied this established commercial center is CMB. However, CHB seems appropriate because it's a highway location where other uses such as a hotel or motel are allowed in the CHB district, but not in the CMB district, and might be possible, especially considering that about half of the subject property is vacant and available for development. The requested CHB zoning is consistent with the General-Heavy Commercial designation of the subject property on the Lockhart 2020 Future Land Use Plan map. There have been no objections expressed to this proposed zoning. Mr. Gibson stated that staff and the Planning and Zoning Commission recommended approval of the zoning change.

Mayor Bertram requested citizens to address the Council regarding the zoning change. There were none. He closed the public hearing at 7:52 p.m.

ITEM 4-B. CONSIDER ORDINANCE 2010-11 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LOCKHART, TEXAS, TO RECLASSIFY THE PROPERTY KNOWN AS 2.49 ACRES IN THE CORNELIUS CRENSHAW LEAGUE AND LABOR, ABSTRACT NO. 68, AND LOCATED AT 2000 WEST SAN ANTONIO STREET (SH 142), FROM IL INDUSTRIAL LIGHT DISTRICT TO CHB COMMERCIAL HEAVY BUSINESS DISTRICT. Councilmember White made a motion to approve Ordinance 2010-11, as presented. Councilmember Roland seconded. The motion carried by a vote of 6-0.

ITEM 5. CONSENT AGENDA.

Mayor Bertram announced that consent agenda item 5-H would be pulled from the agenda as requested by staff. *5H: Approve awarding contract for 6-digital multi-functional printers/copiers to Dahill would be pulled from the agenda.*

Councilmember Wieland made a motion to approve consent agenda items 5A, 5B, 5C, 5D, 5E, 5F, 5G, and 5I. Councilmember Roland seconded. The motion carried by a vote of 6-0.

The following are the consent agenda items that were approved:

- 5A: Approve City Council minutes for the April 6, 2010 meeting.
- 5B: Accept 2nd Quarter Fiscal Year 2010 Investment Report.
- 5C: Approve change order to existing contract with Asphalt Paving Company, Inc. of Austin, Texas, in the amount of \$20,542.95 for additional concrete and asphalt work.
- 5D: Approve Ordinance 2010-12 amending Chapter 52 "Subdivision Regulations" of the Lockhart Code of Ordinances, revising Article I "In General", Section 52-2 "Definitions" with regard to the definition of "Subdivision", and Article II "Procedure", Section 52-36 "Minor Plat or replat procedure" with regard to the referral of a minor plat or replat to the Planning and Zoning Commission when one or more variances are requested.

- 5E: Approve Ordinance 2010-13 amending Chapter 31 "Impact Fees" of the Lockhart Code of Ordinances, revising Section 31-19 "Exceptions" to extend or modify a temporary reduction in the rate charged for road impact fees.
- 5F: Approve Resolution 2010-06 increasing Ambulance Transport charge for Emergency Medical Services (EMS).
- 5G: Approve City of Lockhart Emergency Medical Services Department to utilize Intermedics for EMS billing.
- 5I: Approve Ordinance 2010-14 lowering the speed limit from 60 miles per hour to 55 miles per hour on U.S. Highway 183 North for south bound and north bound traffic from the current Lockhart City limit to 1.7 miles south of the current City limit.

ITEM 6-A. DISCUSSION/ACTION REGARDING DOMESTIC CATS AND FERAL CATS THAT BECOME NUISANCE COMPLAINTS AS FOUND IN CHAPTER 10, ANIMALS AND BEEKEEPING, AND REPORT ON CURRENT CITY POLICY REGARDING SUCH A NUISANCE COMPLAINTS.

Mayor Bertram clarified with staff that the Trap, Neuter and Release Programs would not be changed and that the intent was to inform Council about the nuisance complaints and to allow Council the ability to suggest an amendment to the Animal Ordinance, if necessary. He also stated that the Council fully understands the staff must respond to citizens complaints about unwanted cats on their properties.

Mayor Bertram requested the following to address the Council:

Leticia Stivers of the Austin Humane Society provided information and possible solutions and suggestions and explained the City of Austin's free spay and neuter program. Ms. Stivers stated that their services are not limited to residents of Austin.

Sheila Smith of Round Rock, President of Shadow Cats Rescue of Round Rock, provided information about the methods that they practice to save cats and kittens. She offered their services free of charge to spay and neuter cats and kittens in Lockhart.

There was discussion with staff regarding the current ordinances pertaining to Animals.

Frances Winkler of Cause for Paws spoke in favor of the Trap, Neuter and Release Program and suggested that the Council consider discussing and implementing methods to save cats and kittens. She also provided information about the methods that Cause for Paws was taking to reduce the population of cats.

Steven Golla, Veterinarian of Chisholm Trail Veterinary Clinic of Lockhart suggested that the City work with the local volunteers to possibly come up with a solution to control the cat population.

Rebecca Allen, 515 Wichita, provided suggestions about educating the community about how to care for and handle cats.

There was discussion regarding the current Animal ordinance and methods of handling complaints in reference to cats.

ITEM 6-B. APPOINTMENTS TO VARIOUS BOARDS, COMMISSIONS OR COMMITTEES.

Mayor Bertram requested appointments to various boards, commissions or committees.

Councilmember Banks stated that Terry Wright recently resigned as a member of the Planning and Zoning Commission and commended him for his service. Councilmember Banks made a motion to appoint Rick Womble to the Planning and Zoning Commission. Councilmember Roland seconded. The motion carried by a vote of 5-0, with Councilmember Wieland not voting since he stepped out of the meeting room.

ITEM 7. CITY MANAGER'S REPORT, PRESENTATION AND POSSIBLE DISCUSSION

- Annual Spring Clean Up continues with NE and SE areas left to be done on April 21 and April 28.
- Behind on brush chipping about 3 weeks due to the volumes.
- Residential Household Hazardous Waste Collections Event held Saturday, April 10.
- April 23-24, 2010 American Cancer Society Relay for Life event.
- Contract with AdviTech should be signed soon; presentation at Kiwanis on April 27.
- Fiesta Del Mariachi at the Library set for Friday, April 23 starting at 6:30 pm.
- Census 2010 – thanks to all who were involved with encouraging people to fill “it out and send it in”; special thanks to Councilmembers Estrada and Roland, City staff Dan Gibson, Sandra Mauldin, Erin Westmoreland, Connie Rodriguez , Julie Bowermon, Bertha Martinez & library staff, and Bernie Rangel.
- Library Advisory Board meeting last night regarding Clark building and annex layout.
- Lockhart Historical Preservation Commission meetings being held to discuss staff's recommended changes to the ordinance as presented to the Council.
- April 23 and 24, Relay for Life event at the High School.

ITEM 8. COUNCIL AND STAFF COMMENTS – ITEMS OF COMMUNITY INTEREST

Mayor Bertram requested comments from the Council or staff.

Mayor Bertram provided information regarding several upcoming events in the community.

ITEM 9. ADJOURNMENT.

Councilmember Roland made a motion to adjourn the meeting. Councilmember White seconded. The motion carried by a vote of 5-0. The meeting was adjourned at 9:09 p.m.

PASSED and APPROVED this the 4th day of May 2010.

CITY OF LOCKHART

James Bertram, Mayor

ATTEST:

Connie Rodriguez, TRMC, City Secretary