The City of Liberty

City Council

Regular Meeting

~ Minutes ~

1829 Sam Houston
Liberty, TX 77575
www.cityofliberty.org

Dianne Tidwell
City Secretary
(936) 336-3684

Tuesday, October 13, 2009 | **6:00 PM** | **City Council Chambers**

I. CALL TO ORDER

The Meeting was called to order on October 13, 2009 at the City Council Chambers, 1829 Sam Houston, Liberty,TX at 6:07 PM by Mayor Carl Pickett.

Attendee Name	Present	Absent	Late	Arrived
Carl Pickett	þ	¨	¨	
Dennis Beasley	þ	¨	¨	
Diane Huddleston	þ	¨	¨	
Mike McCarty	þ	¨	¨	
Al Simonson	þ	¨	¨	
Louie Potetz	þ	¨	¨	
Frank Jordan	¨	¨	þ	

II. INVOCATION

The Invocation was given by Ms. Trang Tran, Liberty High School senior.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American and Texas flags was led by Ms. Kaci Earp, Liberty High School senior.

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to those individuals wishing to address the Council, regarding non-agenda items.

Ms. Martrell Fregia addressed the Council requesting permission to cut and bale hay at the Liberty Municipal Airport.

V. ITEMS OF INTEREST

A. Information Item 2009-61

TVE Opening Day Parade

COMMENTS - Current Meeting:

City Secretary Dianne Tidwell reported on information from the TVE Board of Directors regarding participation in the Opening Day Parade.

ATTACHMENTS:

- TVE Parade Info 2009 (PDF)

B. Information Item 2009-62

Comcast Cable

COMMENTS - Current Meeting:

City Secretary Dianne Tidwell reported on information from Comcast Cable regarding the "Comcast Customer Guarantee". This guarantee is an effort on Comcast's part to make their customers aware of what is to be expected from Comcast, and outlines the customer's rights if Comcast does not live up to the customer expectation.

ATTACHMENTS:

- Comcast Info Sept. 09 (PDF)

VI. PRESENTATIONS / REPORTS

A. Information Item 2009-63

Texas Water Development Board/ Other Current City Projects - Steve Jordan, Schaumburg & Polk

COMMENTS - Current Meeting:

Mr. Steve Jordan, Schaumburg & Polk, Inc. was present to address the Council with a project status report. Mr. Jordan reported on the following:

- Texas Water Development Board Projects -

1. Wastewater Treatment Plant Improvements - design of the treatment facility improvements are complete. Waiting on TWDB permission to begin the bidding process.

2. Modified Sanitary Sewer Evaluation Study (SSES) - the study is complete.

3. Collection System Improvements - proposed improvements include the gravity system along Avenue G, along SH 146 near Ridgewood, Washington Street Lift Station and force main, and Wallisville Road Lift Station and force main. Environmental documentation and topographic surveying for design is all nearly complete.

Mr. Jordan also reported on the ORCA Community Development Block Grant, Hardin-Ames Wastewater Contract Audit, Water System Study, Boomerang Tube LLC Plan Review, and TDRA Disaster Recovery Projects Round 1 and 2.

B. Information Item 2009-64

Financial Report/ Sept 2009 - N. Herrington

COMMENTS - Current Meeting:

Finance Director Naomi Herrington reported on sales tax revenues, stating revenues are down by $90,000, approximately 34%; previous month's sales tax down by 32%. Ms. Herrington reported, however, that the year closed out with sales tax revenues being slightly over by 6%. In regard to closing out the year, Ms. Herrington stated that the auditor should be on-site to conduct the city's audit within 30-60 days. Ms. Herrington presented Council with a bound copy of the new budget for Fiscal Year 2009-2010. Ms. Herrington reported the monthly financial report would be ready the following day.

C. Information Item 2009-65

Humphreys Cultural Center Expansion - Project Worksheet - N. Herrington

COMMENTS - Current Meeting:

Finance Director Naomi Herrington reported on a project spreadsheet for the Humphreys Cultural Center Expansion Project. Ms. Herrington reported that in regard to payment applications, the City is at 49% of construction costs, and that the numbers are taken directly from the payment application documents submitted by the contractor. Ms. Herrington stated that she will update the spreadsheet monthly to reflect the status of the project.

Interim City Manager Larry Shaw reported there had been two change orders since the spreadsheet was sent to Council. One is the relocation of an electrical panel as a result of the abatement, that was somehow not planned for. The other is that the plans did not call for a telephone in the elevator.

Ms. Herrington stated that there is $30,000 budgeted for change orders, plus a 10% contingency for construction costs.

ATTACHMENTS:

- Library Construction thru Aug09 (XLSX)

D. Information Item 2009-66

Recycling Report - Councilperson Huddleston

COMMENTS - Current Meeting:

Councilperson Huddleston reported that she is currently working to schedule a "Shred-It Day" for the shredding of sensitive, private documents. Ms. Huddleston stated that this will be a three hour event, held on a Saturday, within the next 30-45 days. News releases will be sent out to advertise the event.

E. Information Item 2009-67

Proposed Permit Fee Schedule- Candice Parker

COMMENTS - Current Meeting:

Ms. Candy Parker, Inspection Department, reported on a proposed permit fee schedule; stating that the fees had not been increased in at least eight years. Ms. Parker stated that the Inspection Department would like to see permit fees increased by at least $20-$25. Lengthy discussion was held regarding the various permit fees, types of permits, and comparisons between the City's fees and those of the City of Cleveland. Ms. Parker also reported that the Inspection Department had experienced a huge increase in single family dwelling permits, in the last eighteen months.

After further discussion of current and proposed fees, Interim City Manager Larry Shaw recommended that Council may want to consider taking a smaller step, possibly a $10-$15 increase, with a non-binding commitment to make a similar step the following year. Ms. Parker was directed, by Council, to obtain figures for comparison with the City of Dayton relative to water and sewer taps. A new proposed fee schedule will be brought before Council at a later date.

ATTACHMENTS:

- Fee Schedules and Example Permits (PDF)

VII. CONSENT AGENDA

All consent items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests, and if such a request is made, the item will be removed from the Consent Agenda and considered in a normal sequence on the agenda.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mike McCarty, Mayor Pro-Tem
SECONDER:	Diane Huddleston, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz
ABSENT:	Frank Jordan

A. Minutes Approval

1. Tuesday, September 08, 2009

2. Wednesday, September 23, 2009

3. Tuesday, September 29, 2009

B. Council Action 2009-87

Consider Approval of an Interlocal Agreement with National Joint Powers Alliance for Cooperative Purchasing.

COMMENTS - Current Meeting:

The National Joint Powers Alliance (NJPA) is a national level purchasing cooperative. The execution of this agreement will allow the city to make purchases through the Alliance; the first purchase being furnishings for the new expanded library.

C. Council Action 2009-88

Consider Ratification of an Expenditure for Purchase of a New Ambulance.

COMMENTS - Current Meeting:

This item ratifies the purchase of an ambulance budgeted in the new FY 09-10 budget. This ambulance was actually ordered prior to the 09-10 budget year due to the hospital closing and the increased number of out-of-town transfers. Delivery of the ambulance should take place in February, 2010.

D. Council Action 2009-89

Consider Approval of the New City Manager’s Employment Contract.

COMMENTS - Current Meeting:

This contract is for the employment of new City Manager, Gary Broz.

E. Council Action 2009-90

Consider Approval of Some or All of the Proposed Charter Amendments, as Recommended by the 2009 Charter Review Commission.

COMMENTS - Current Meeting:

The final report of the 2009 Charter Review Commission was presented to Council on September 23, 2009. Council approved of all the submitted amendments to the City's Home Rule Charter.

Proposed changes are to the following sections:

Section 1.03 - Change of Boundaries and Residents' Rights

Section 3.06 - Powers of the City Council

Section 3.08 - Meetings and of the City Council

Section 3.13 - Audit and Examination of City Books and Accounts

Section 4.04 - Municipal Court

Section 6.03 - Form of Recall Petition

Section 9.12 - Contingent Appropriation

ATTACHMENTS:

- Charter Rev Comm Final Report 2009 (DOC)

F. Resolution 2009-17

Consider and Approve a Resolution for Reimbursement of Expenditures for Facility Costs.

COMMENTS - Current Meeting:

This Resolution is relative to the Certificates of Obligation Series 2010 to be issued for various city projects. Those projects include the following:

1) design, construction and equipping of new police station,

2) design, construction, renovation, equipping of expanded library,

3) construction of sidewalks around local schools,

4) design, construction and renovation of Liberty Bell Tower, and

5) design, construction and equipping of City Garage Office Building.

VIII. REGULAR AGENDA

A. Regular Session

1. Ordinance 2009-19

Consider an Ordinance Adopting Liberty Municipal Airport Hazard Zoning Regulations.

COMMENTS - Current Meeting:

Mayor Pickett read the caption of the Ordinance into the record as follows:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE LIBERTY MUNICIPAL AIRPORT, LIBERTY, TEXAS, BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR RESTRICTIONS OF SUCH ZONES AND THE ENFORCEMENT OF SUCH RESTRICTIONS; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE LIBERTY MUNICIPAL AIRPORT HAZARD ZONING MAP PREPARED BY THE TXDOT AVIATION DIVISION, DATED AUGUST 3, 2009, WHICH IS INCORPORATED IN AND MADE A PART OF THESE REGULATIONS; PROVIDING FOR A BOARD OF ADJUSTMENT; PROVIDING FOR PENALTIES, AND DISPENSING OF THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

These rules and regulations were adopted by the Liberty Municipal Airport Hazard Zoning Board on September 22, 2009; to follow with adoption by the City Council.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Diane Huddleston, Councilperson
SECONDER:	Al Simonson, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

2. Ordinance 2009-20

Consider Adoption of an Ordinance Regarding the Discharge of Firearms in the City of Liberty.

COMMENTS - Current Meeting:

Mayor Pickett read the caption of the Ordinance into the records as follows:

"AN ORDINANCE OF THE CITY OF LIBERTY, TEXAS REGULATING THE DISCHARGE OF FIREARMS, PELLET GUNS, BB GUNS, AND BOWS AND ARROWS WITHIN THE CITY LIMITS OF LIBERTY AND ITS EXTRA TERRITORIAL JURISDICTION, AND PROVIDING PENALTIES; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

The following changes were made to the proposed document:

1) Section I - Use and Discharge of Center Fire or Rim Fire Rifles or Pistols: "or within ~~300~~ 1000 feet of a residence or occupied building",

2) Section II - Use and Discharge of Shotguns: - Deletion of "or its Extra Territorial Jurisdiction", and

3) Section III - Air Rifle or Pistol, BB Gun, or Bow and Arrow: - Deletion of "licensed to carry a concealaed handgun under the provisions of Article 4413(29ee and 29bb), Title 70, Revised Statutes.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mike McCarty, Mayor Pro-Tem
SECONDER:	Dennis Beasley, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

3. Council Action 2009-91

Consider Approval of a Contract with PGAL Architects for Architecturer and Design Services for a New Police Department Facility.

COMMENTS - Current Meeting:

Motion was made to approve, and execute a contract, identifying PGAL Architects as the architectural firm that will provide design services for the new Police Department facility.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Mike McCarty, Mayor Pro-Tem
SECONDER:	Frank Jordan, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

4. Council Action 2009-92

Consider Approval of a Change Order for Construction of a New Bell Tower and Associated Expenses.

COMMENTS - Current Meeting:

Interim City Manager Larry Shaw reported on the proposal that was negotiated with the Humphreys Cultural Expansion Project contractor to rebuild the bell tower, and previous debate regarding placement of this structure. Mr. Shaw stated that should Council desire to approve the change order placing the tower in its original location, that they should also consider the additional parking and adjacent walk, from the west, for a total of $225,800. City Attorney Randy Gunter reported that the heirs to the Woods Family have expressed a desire that the bell tower be placed in a prominent and attractive location. Mr. Gunter stated that the Woods Family heirs have no issue with leaving the tower where it was or moving it to a more prominent site; and have signed a document to that effect.

Mr. Gunter reported that after review of the original gift document, the only contingency was that construction begin within 120 days of execution of the document. As that contingency was met, this structure belongs to the citizens of Liberty who speak through the Council. Mr. Gunter further stated that after consideration of opinions and concerns of the citizens, it is Council's decision, with their being no restrictions on the placement of this structure.

After further discussion, and concerns voiced by several citizens, a motion was made to approve management's recommendation and place the new bell tower near its original location on the south side of the Cultural Center, by use of a change order in the amount of $225,800.

ATTACHMENTS:

- Bell Tower Letter R. Edwards (PDF)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Mike McCarty, Mayor Pro-Tem
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

5. Ordinance 2009-21

Consider Adoption of an Ordinance Regulating the Operation of EMS Services Operating in the City of Liberty.

COMMENTS - Current Meeting:

Mayor Pickett read the caption of the Ordinance into the record as follows:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS REGULATING THE OPERATION OF EMS SERVICES OPERATING IN THE CITY OF LIBERTY; PROVIDING REQUIREMENTS FOR PERMITS, PROCEDURES FOR HEARINGS AND INSPECTIONS; AND REGULATIONS FOR MEDICAL EMERGENCIES, MUTUAL AID, AND MEDICAL CARE FOR SPECIAL EVENTS; AND DISPENSING OF THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

Fire Chief Fred Collins reported to Council that due to the recent hospital closing, he brought the EMS ordinance to the City Attorney's attention for review. Chief Collins was concerned that some changes were necessary to protect the City's interest in Emergency Medical Services. Chief Collins further explained that City Attorney Randy Gunter had changed several definitions, included additional definitions, and reworded the verbage to strengthen the ordinance.

Motion was made to adopt Ordinance No. 2009-21.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Diane Huddleston, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

6. Council Action 2009-93

Consider and Approve a Nomination(S) to the Central Appraisal District, Appraisal Review Board.

COMMENTS - Current Meeting:

No action was taken on this agenda item.

ATTACHMENTS:

- CAD ARB Nominations 2009 (PDF)

B. Executive Session

Deliberation Regarding Economic Development Negotiation.
Gov. Code §551.087
Deliberation Regarding Real Property. Gov. Code §551.072
Consultation With Attorney. Gov. Code §551.071

1. Discussion of real property acquisition for economic development purposes.
2. Discussion of real property acquisition for Fire Department purposes.

Consultation With Attorney. Gov. Code §551.071

3. Consultation with attorney regarding litigation to collect delinquent taxes and utilities from the Liberty-Dayton Community Hospital and/or its owners.

At 8:09 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized above.

C. Reconvene into Regular Session

At 9:40 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

1. Council Action 2009-94

Consider Acquisition of Real Property for Economic Development And/Or Fire Department Purposes.

COMMENTS - Current Meeting:

There was no action taken on this agenda item.

2. Council Action 2009-95

Consider Possible Action Regarding Litigation with the Liberty-Dayton Community Hospital And/Or Its Owners Regarding Monies Owed to the City of Liberty.

COMMENTS - Current Meeting:

There was no action taken on this agenda item.

IX. COUNCIL MEAL

Council shared an evening meal.

X. ADJOURNMENT

A. Motion To: Adjourn

COMMENTS - Current Meeting:

There being no further business before the Council, the meeting was adjourned at 9:40 p.m.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Frank Jordan, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan

Carl Pickett, Mayor

ATTEST:

____
Dianne Tidwell, City Secretary