# 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, April 13, 2010** | **6:00 PM** | **City Council Chambers**

## I. CALL TO ORDER

The Meeting was called to order on April 13, 2010 at the City Council Chambers, 1829 Sam Houston, Liberty,TX at 6:03 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

Mr. Kevin Ladd gave the Invocation.

## III. PLEDGE OF ALLEGIANCE

Officer Josh Cummins, Liberty Police Department, led the pledge to the American and Texas flags.

## 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. There were no comments from the audience.

Councilperson Beasley reported that he had recently learned a video had been filmed in Liberty last fall entitled The Living Trinity. This film was done by a public news outlet from Dallas, Tx. and will be aired April 25th at 5:00 p.m.

Mayor Pickett reported on the upcoming 2nd Annual Fire Department Muster and BBQ Lunch to be held on April 24th from 9 a.m. to 3 p.m. Local fire departments participate in various competitions.

City Manager Gary Broz commented that the demolition of the Power Plant building had taken place, that a special called council meeting would be held on Friday, April 16th to review bids received for the substation contractor, and that school buses, on Thursday only, would be operating out of the city's recently purchased facility on Main Street. Mr. Broz remarked that this was a trial run in anticipation of a proposed partenership with the Liberty Independent School District.

Councilperson Jordan reported that the recent Chamber of Commerce Business Expo was sold out, a huge success, and attended by hundreds. Mr. Jordan stated that this event provided an excellent representation of the local businesses.

# V. PRESENTATIONS / REPORTS

## A. Information Item (ID # 1631)

Proclamation Declaring April as Fair Housing Month

**COMMENTS - Current Meeting:**

City Secretary Dianne Tidwell reported on a proclamation declaring the City's support of April as Fair Housing Month.

**ATTACHMENTS:**

- Fair Housing Proclamation 2010 (DOC)

## B. Information Item (ID # 1637)

Employee Recognition - Reader’s Choice Awards

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported on The Vindicator's Reader's Choice Awards and passed out certificates to those individuals as follows:

Best Police Officer - Josh Cummins

Best City Employee - Dianne Tidwell

Best Custodial Person - Maria Olmos

Best Bookstore - Liberty Municipal Library

Best Park - Liberty Municipal Park

Best Place to Ride a Bike - Liberty Municipal Park

Best Picnic Spot - Liberty Municipal Park

Mayor Pickett thanked the employees for their hard work and efforts in making Liberty a great place to live.

## C. Information Item (ID # 1632)

Appointments to the Liberty Community Development Corporation - May 2010

**COMMENTS - Current Meeting:**

Mr. Broz reported that appointments to the Liberty Community Development Corporation would be made at the May Council Meeting. Those individuals whose terms expire are: Dennis Beasley, Louie Potetz, Billy Page, and Mike Van Etta.

## D. Information Item (ID # 1633)

Appointments to the Planning & Zoning Commission - May 2010

**COMMENTS - Current Meeting:**

Mr. Broz reported that appointments to the Planning & Zoning Commission would be made at the May Council Meeting.  Those individuals whose terms expire are: Larry Wagnon and alternates, Paul Damek and Mark Campbell.

### E. Information Item (ID # 1634)

City Manager's 6-Month Evaluation - May 2010

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported that his six-month evaluation will take place at the May council meeting.

### F. Information Item (ID # 1635)

City Manager's Budget Calendar

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported that he has completed a calendar of the upcoming budget process, to include Council work sessions and deadlines.

# VI. REGULAR AGENDA

## *A. Regular Session - Part 1*

### 1. Council Action 2010-33

Consider Approval of an Agreement for Bond Counsel Services, with McCall, Parkhurst & Horton L.L.P.

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported on a bond counsel services agreement with McCall, Parkhurst, & Horton L.L.P.  Mr. Broz stated that Mr. Tom Spurgeon from the San Antonio office of this firm was present and would be assisting in the proposed tax notes and sale of certificates of obligation.

Motion was made to accept the agreement for bond counsel services as presented.

**ATTACHMENTS:**

- Bond Counsel Agreement McCall, Parkhurst & Horton (PDF)

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

### 2. Ordinance 2010-10

Consider Adoption of an Ordinance Authorizing the Issuance of $1,000,000 in Principal Amount of City of Liberty, Texas Tax Notes, Taxable Series 2010; Securing the Payment Thereof by Authorizing the Levy of an Annual Ad Valorem Tax; and Approving and Authorizing the Execution of a Paying Agent/Registrar Agreement, a Purchase Contract and Investment Letter, and All Other Instruments and Procedures Related Thereto.

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported on a handout that was related to the repayment of the proposed tax note, to include maturity and interest rates, for materials related to construction of the Boomerang Tube Substation. The note is through Prosperity Bank, in the amount of $1,000,000, a maturity date of one year, and 5.5% interest. Discussion included this note being a tax pledge and surplus revenue pledge of the electric system; and as a self supporting debt, there is no obligation to levy a tax or to maintain a 2% interest and sinking fund. This note is due September 1, 2011.

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

"AN ORDINANCE AUTHORIZING THE ISSUANCE OF $1,000,000 IN PRINCIPAL AMOUNT OF CITY OF LIBERTY, TEXAS TAX NOTES, TAXABLE SERIES 2010; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND INVESTMENT LETTER, AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO."

Motion was made to adopt this ordinance.

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

### 3. Ordinance 2010-11

Consider Adoption of an Ordinance Authorizing the Issuance, Sale and Delivery of $2,565,000 in Aggregate Principal Amount of City of Liberty, Texas Combination Tax and Revenue Certificates of Obligation, Taxable Series 2010; Securing the Payment Thereof by Authorizing the Levy of an Annual Ad Valorem Tax and a Pledge of Certain Surplus Revenues of the City's Electric System; and Approving and Authorizing the Execution of a Paying Agent/Registrar Agreement, a Purchase Contract and Investment Letter, and All Other Instruments and Procedures Related Thereto.

**COMMENTS - Current Meeting:**

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

"AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF $2,565,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF LIBERTY, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, TAXABLE SERIES 2010; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S ELECTRIC SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND INVESTMENT LETTER, AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO."

Mayor Pickett reported that these funds are for construction costs of the Boomerang Substation and that revenues are projected to match the bond repayment requirements  Motion was made to adopt this ordinance.

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

### 4. Ordinance 2010-12

Consider Adoption of an Ordinance Approving a Change in Rates Requested in Entergy Texas Inc.'s Statement of Intent Filed with the City on March 25, 2010.

**COMMENTS - Current Meeting:**

Dan Syphrett, Entergy Customer Service Manager, was present to explain that the proposed ordinance reflects a Texas Rough Production Cost Equalization Payment.  Mr. Syphrett explained that this is a pay back to the rate payers of the State of Texas. FERC ruled that Entergy spread its productions costs so that the rate payers get the lowest cost across the board. Arkansas produces the majority of its electricity with coal, coal being the lowest cost producer.  Arkansas owes Texas $117 million to equalize production costs across a 4-state area.  This ordinance approves the change in rates, or payback to the customer.

This reduction amounts to:

| | |
|---|---|
| May | $28.46/per kw hr on a bill |
| June | $21.44/per kw |
| July | $15.56/per kw |
| Aug | $16.07/per kw |

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

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS (or "City") APPROVING THE CHANGE IN RATES REQUESTED IN ENTERGY TEXAS, INC.'s ("ETI" or "Company") STATEMENT OF INTENT FILED WITH THE CITY ON MARCH 25, 2010; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS CONSIDERED WAS OPEN TO THE PUBLIC AND IN ACCORDANCE WITH TEXAS LAW; DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

Motion was made to adopt this ordinance.

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

### 5. Council Action 2010-34

Consider Approval of a Change Order for Costs Associated with the Humphreys Cultural Center Expansion Project.

**COMMENTS - Current Meeting:**

Mr. Richard Edward, Architect for the Humphreys Cultural Center Expansion Project was present to update the Council on the status of the project and discuss the most recent change order. Mr. Edwards reported that the current change order presented is in the amount of $25,723.

Mr. Edwards reported that the project was 80% complete and change orders to date, including the one presented at this meeting, total $55,723.41. $12,800 of that amount was for the demolition of the bell tower which was not part of the original project. Removing the demolition cost, change orders total $42,923. From the $30,000 contingency fund, Mr. Edwards asked for a maximum of $15,000 for rerouting of existing ductwork, and other possible items that may come up due to tearing out for the elevator and roof work.

City Manager Gary Broz discussed with Council a handout on the total financing for the Cultural Center project. Mr. Broz reported that as of April 13th, a total of $2,602,402 had been spent. In review of funds borrowed against expenditures made, approximately $300,000 of the $950,000 borrowed will be paid back, as it will not be used.

Motion was made to approve the change order, in the amount of $25,723.41 with an additional $15,000 for a total of $41,000, subject to the city manager's approval of presented change orders in an amount not to exceed $15,000.

**ATTACHMENTS:**

- Change Order HCC Exp March 2010 (PDF)

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

# 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:** | Dennis Beasley, Councilperson |
| **AYES:** | Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan |

### *A. Minutes Approval*

**1.** Friday, March 05, 2010

**2.** Tuesday, March 09, 2010

**3.** Tuesday, March 16, 2010

**4.** Tuesday, March 23, 2010

**5.** Tuesday, March 30, 2010

# VIII. PUBLIC HEARINGS

### A. Public Hearing (ID # 1627)

Public Hearing Regarding the Adoption of an Ordinance Creating a Reinvestment Zone/Tax Abatement Zone Near U.S. Highway 90 and Layl Drive.

**COMMENTS - Current Meeting:**

At 6:50 p.m., Mayor Pickett opened the Public Hearing regarding the adoption of an ordinance creating a Reinvestment Zone/Tax Abatement Zone near U.S. Highway 90 and Layl Drive.

City Attorney Randy Gunter reported that notice of this public hearing was published seven days prior, to this meeting, in the newspaper and all taxing entities were notified. Mr. Gunter stated that city management and Council received information on plans for the location of a future Holiday Inn Express. It is the opinion of management that this would significantly enhance the value of all taxable real property in the zone. This ordinance outlines the property to become the hotel and parking lot, and believes it would be of general benefit to the City of Liberty and in the public's interest to pass the proposed ordinance. Mr. Gunter further stated that this is a contiguous area that would likely contribute to the retention or expansion of primary employment and attract major investment. None of this property is owned or leased by any member of the governing body.

There were no comments from the public/audience, for or against the reinvestment zone.

Mr. Gunter further stated that the reinvestment zone is a precursor to the tax abatement requested. The ordinance that creates the reinvestment zone does not grant a tax abatement. However, it is a prerequisite to adopting a tax abatement. Mr. Gunter reported that the proposed tax abatement to be considered at a later date is a three year abatement as follows:

Year 1 - 100%

Year 2 - 66%

Year 3 - 33%

The Public Hearing was closed at 6:54 p.m.

# IX. REGULAR AGENDA

### *A. Regular Session - Part 2*

**1. Ordinance 2010-13**

Consider Adoption of an Ordinance Creating a Reinvestment Zone/Tax Abatement Zone Near U.S. Highway 90 and Layl Drive.

**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, DESIGNATING A CERTAIN AREA AS A COMMERCIAL/INDUSTRIAL TAX ABATEMENT ZONE IN THE CITY OF LIBERTY, TEXAS; TO BE KNOWN AS REINVESTMENT ZONE NO. 2; ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

Motion was made that the Ordinance presented by the Mayor, to designate a certain area as a commercial/tax abatement zone to be known as Reinvestment Zone No. 2, be adopted.

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

**2. Council Action (ID # 1628)**

Consider a Request for Funds for Bullet Proof Vests for the Liberty Police Department

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported that the Police Department is in need of bullet proof vests and is requesting funds for this purchase. Mr. Broz stated that sales tax revenues are down which affect the General Fund, and recommends the request be denied.

Motion was made to reject the request for funds to purchase bullet proof vests.

| | |
|---|---|
| **RESULT:** | **DEFEATED [UNANIMOUS]** |
| **MOVER:** | Louie Potetz, Councilperson |
| **SECONDER:** | Dennis Beasley, Councilperson |
| **AYES:** | Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan |

**3. Council Action (ID # 1636)**

Consider Revision of the City's Telecommunications Access Line Rates.

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported that each year the Public Utility Commission puts out a Consumer Price Index adjustment for telecommunications access line rates. Mr. Broz recommended that the Council leave the rates at the 2009 rate, as it is a pass through to the customer.

Motion was made to leave the telecommunications access line rates at the 2009 rate.

**ATTACHMENTS:**

- PUC Access Line Rates March 2010 (PDF)

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

### 4. Council Action 2010-35

Consider Approval of the Final Plat of the Zarate Subdivision.

**COMMENTS - Current Meeting:**

Candy Motschman, Inspection Department, reported that the plat presented is in the short form process, as the property is in an existing subdivision. H & H Professional Land Services requests that the property in the Abshire Subdivision be subdivided to create a lot facing Canfield Street and enlarge the portion of the lot facing Sue Street.

Motion was made to approve the final plat of the Zarate Subdivision.

**ATTACHMENTS:**

- Zarate Subdivison (PDF)

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

### 5. Council Action 2010-36

Consider an Appointment, to Replace Mr. Charles McGuire, on the Texas Department of Rural Affairs Cummunity and Economic Development Assistance Fund, Regional Review Committee.

**COMMENTS - Current Meeting:**

Motion was made to appoint Frank Jordan to the Regional Review Committee (RRC), Houston-Galveston Area Council. Each Texas Council of Governments has its own RRC comprised of twelve members. The role of the committee is to determine priorities for projects funded through the Texas Department of Rural Affairs Community Development Fund.

Motion was made to appoint Frank Jordan to the Regional Review Committee.

**ATTACHMENTS:**

- Resig Reg Rev Board C. McGuire (PDF)

| | |
|---|---|
| **RESULT:** | **APPROVED [6 TO 0]** |
| **MOVER:** | Mike McCarty, Mayor Pro-Tem |
| **SECONDER:** | Dennis Beasley, Councilperson |
| **AYES:** | Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz |
| **ABSTAIN:** | Frank Jordan |

### 6. Council Action (ID # 1642)

Discussion, and Possible Action, on the Demolition of the Old Mercy Hospital Located at 521 Travis Street.

**COMMENTS - Current Meeting:**

City Manager Gary Broz reported that he had spoken with County Judge Phil Fitzgerald in regard to the future of the old Mercy Hospital. Mr. Broz further reported that the Judge agreed that the City let bids for the demolition of the building. When sealed bids have been received and opened a joint meeting of the City, County, and LISD will be held to discuss the costs and associated issues.

| | |
|---|---|
| **RESULT:** | **NO ACTION TAKEN** |

**7. Council Action (ID # 1640)**

Consider Authorizing the City Manager to Research Legal Options for the Historic Preservation of the Downtown Area.

**COMMENTS - Current Meeting:**

Mr. Broz reported that discussion had originally begun with the Liberty Community Development Corporation regarding the downtown area. Mr. Broz reported that professionals typically buy up the downtown area, renovate with modern architecture, and the historic value of the downtown area is lost. Mr. Broz stated that if it is Council's desire to retain the integrity of the old downtown charm, that options be considered for that purpose. City Attorney Randy Gunter reported that one way to achieve this goal is to zone a section of the City and create an Architecture Review Committee. Further discussion included strong support from the LCDC, the CDAB, other services clubs, commitment to the infrastructure, sidewalks, meetings with TxDOT, and other related issues. Mr. Broz will begin researching available options.

| | |
|---|---|
| **RESULT:** | **NO ACTION TAKEN** |

***B. Executive Session***

Deliberation Regarding Economic Development Negotiation. Gov. Code §551.087
Consultation With Attorney. Gov. Code 1551.071

1. Discussion of possible economic development prospect, Trinity Garden Apartments.

At 7:15 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized above.

***C. Reconvene into Regular Session***

At 7:46 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

**1. Council Action (ID # 1647)**

Consider Any Action, as Discussed in the Executive Session, Regarding the Trinity Garden Apartments.

| | |
|---|---|
| **RESULT:** | **NO ACTION TAKEN** |

## X. COUNCIL MEAL

Council shared an evening meal.

# XI. ADJOURNMENT

**A. Motion To:** Adjourn

**COMMENTS - Current Meeting:**

There being no further business before the Council, the meeting was adjourned at 7:47 p.m.

| | |
|---|---|
| **RESULT:** | **ADOPTED [UNANIMOUS]** |
| **MOVER:** | Louie Potetz, Councilperson |
| **SECONDER:** | Frank Jordan, Councilperson |
| **AYES:** | Pickett, Beasley, Huddleston, McCarty, Simonson, Potetz, Jordan |

______________________________
Carl Pickett, Mayor

ATTEST:

______________________________
Dianne Tidwell, City Secretary