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, August 10, 2010 | **6:00 PM** | **City Council Chambers**

I. CALL TO ORDER

The Meeting was called to order on August 10, 2010 at the City Council Chambers, 1829 Sam Houston, Liberty,TX at 6:05 PM by Mayor Carl Pickett.

Attendee Name	Title	Status	Arrived
Carl Pickett	Mayor	Present	
Dennis Beasley	Councilperson	Present	
Diane Huddleston	Councilperson	Present	
Mike McCarty	Mayor Pro-Tem	Present	
Al Simonson	Councilperson	Present	
Louie Potetz	Councilperson	Present	
Frank Jordan	Councilperson	Present	

II. INVOCATION

The Invocation was given by Father Sebastian, Immaculate Conception Catholic Church.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American and Texas flags was led by Father Sebastian, Immaculate Conception Catholic Church.

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.

1) Ms. Kristen Gunderson, Vocational Adjustment Coordinator and Special Education Teacher, Liberty County Coop, presented a Thank You Ward for the City's participation in the Vocational Adjustment Program. Ms. Gunderson explained the program assists students in seeking, obtaining and retaining employment. Community Services Director, Avon Moore supported this program by providing employment for a student in the Maintenance Department.

2) Councilperson Huddleston reported that there would be a community "Shred-It" Event on September 11th from 9 am until Noon.

3) Ms. Huddleston also reported that the Liberty Rotary Club is sponsoring, in partnership with the City of Liberty and Liberty Independent School District, a community garden. Ms. Huddleston thanked Community Services Director Avon Moore who was present on a recent work day to operate a tractor and assist with dirt work.

4) Councilperson Jordan reminded everyone of the Liberty-Dayton Area Chamber of Commerce Annual Fundraiser to be held at the Dayton Community Center on Friday, August

13.

5) Mr. Jordan also reported that the Chamber of Commerce monthly luncheon would be held on Wednesday, August 18, with Congressman Ted Poe as speaker.

6) Mayor Pickett reported on the re-dedication of the Humphreys Cultural Center on Wednesday, August 25th, 4-6 p.m.

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

A. Minutes Approval

1. Tuesday, June 22, 2010

2. Monday, July 12, 2010

3. Tuesday, July 13, 2010

4. Wednesday, July 14, 2010

5. Tuesday, July 27, 2010

B. Council Action 2010-80

Consider Approval of Amendment No. 7 to the Agreement Between Brazos Transit District and the City of Liberty.

ATTACHMENTS:

- Brazos Transit Amendment 2010 (PDF)

C. Resolution 2010-15

Consider a Resolution Approving Participation in the Region 4 Education Service Center Cooperative Purchasing Network and Appointing an Official Representative to Act for the City in All Matters Relating to the Network.

ATTACHMENTS:

- Region 4 Interlocal Agreement (PDF)

D. Council Action 2010-81

Declare Miscellaneous City Equipment as Surplus Property.

ATTACHMENTS:

- Surplus Property (PDF)

E. Council Action 2010-82

Consider Approval of an Auctioneer Online Agreement for Sale of Surplus Property.

ATTACHMENTS:

- Online Auction Agreement (PDF)

VI. REGULAR AGENDA

A. Regular Session

1. Council Action 2010-83

Consider Ratifying the Liberty Community Development Corporation's Action to Fund a Downtown Analysis and Strategy Program.

COMMENTS - Current Meeting:

City Manager Gary Broz reported that after previous discussion by City Council and LCDC that the City locate someone to put together a plan for the future of the downtown area.

Mr. Broz stated that Retail Coach LLC, who has worked with the City on retail recruitment, presented a proposal, in the amount of $14,000, to compile a plan for improvements to this area that would be aesthetically pleasing, and provide a downtown that the community would be proud of. This plan would include working with merchants, local government, and provide guidelines for exterior facades and future growth.

After brief discussion of possible grants, Main Street Program, and possible postponement of the program due to economic times, a motion was made to ratify the LCDC's action to fund a Downtown Analysis and Strategy Program.

ATTACHMENTS:

- Downtown Analysis & Strategy (PDF)

RESULT:	**APPROVED [5 TO 2]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Diane Huddleston, Councilperson
AYES:	Pickett, Beasley, Huddleston, McCarty, Jordan
NAYS:	Al Simonson, Louie Potetz

2. Ordinance 2010-17

Consider Adoption of an Ordinance Authorizing the Issuance, Sale and Delivery of "City of Liberty, Texas General Obligation Refunding Bonds, 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, a Deposit Agreement, an Official Statement 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 $3,115,000 IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF LIBERTY, TEXAS GENERAL OBLIGATION REFUNDING BONDS, 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, A DEPOSIT AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO."

Mr. Bob Henderson, RBC, was present to report that in regard to the City's long term plan of finance, there have been changes to the way in which the City handles it public debt offerings. Mr. Henderson reported that the City has changed from Moodys Investment Services, as a bond rating agency, to Standard & Poors. This change has provided the City with an increase to a new full "A" bond rating.

Discussion was held regarding the new bond rating and purchase of bond insurance allowing the debt to be marketed at a AAA rating, pricing with Southwest Securities as sole underwriter on the transaction, lowering the interest rate from 4.76% to 2.53%, a savings of approximately 2.25%. This allows the debt to be stretched out an additional two years, allows the I & S tax rate to remain the same as the previous year, and saves the City $145,000 over the life of the loan.

After additional discussion of related issues, a motion was made to approve the ordinance authorizing the issuance, sale and delivery of City of Liberty, Texas General Obligation Refunding Bonds, Series 2010, in the amount of $3,115,000.

The vote in favor of the adoption of this ordinance took place at 6:42 p.m.

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

3. Ordinance 2010-18

Consider Adoption of an Ordinance Authorizing the Issuance, Sale and Delivery of "City of Liberty, Texas Combination Tax and Revenue Certificates of Obligation, Series 2010A"; 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 Waterworks and Sewer System; and Approving and Authorizing the Execution of a Paying Agent/Registrar Agreement, a Purchase Contract, an Official Statement 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 $4,705,000 IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF LIBERTY, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2010A"; 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 WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO."

Mr. Henderson reported that both the refunding debt and the certificates of obligation are similarly secured by a pledge of ad valorem property tax, both transactions were marketed at the same time, with the same bond rating and insurance applications as discussed.

Mr. Henderson remarked that this debt, in accordance with the City's written plan of finance goes out twenty years to finance projects previously approved by Council. Interest rate on this financing is slightly less than 4%, at 3.99%. The anticipated I & S tax rate of both transactions combined is $.2575.

After additional discussion of related issues, a motion was made to approve the ordinance authorizing the issuance, sale and delivery of City of Liberty, Texas Combination Tax and Revenue Certificates of Obligation, Series 2010A, in the amount of $4,705,000.

The vote in favor of the adoption of this ordinance took place at 6:46 p.m.

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

4. Ordinance 2010-19

Consider Adoption of an Ordinance Repealing and Replacing Ordinance Nos. 964, 965, and 978 Establishing Fees for Security Deposits, Returned Checks, Delinquent Bills, Suspension of Service, and Service Upgrades Charged by the Light & Power Department, Water & Wastewater Department and Solid Waste Department, Creating Procedures for Online Bill Payment Services, Procedures for the Return of Utility Security Deposits, and Establishing an Exemption from Late Fees for the Disabled and Those 65 Years of Age, and Other Utility Issues Related Thereto.

COMMENTS - Current Meeting:

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

"AN ORDINANCE TO REPEAL AND REPLACE ORDINANCE NUMBERS 964, 965, AND 978 OF THE CITY OF LIBERTY, TEXAS; ESTABLISHING CERTAIN FEES PERTAINING TO SECURITY DEPOSITS, RETURNED CHECKS, DELINQUENT BILLS, SUSPENSION OF SERVICE, AND UPGRADE OF SERVICE TO BE CHARGED BY THE LIGHT AND POWER DEPARTMENT, WATER AND WASTEWATER DEPARTMENT AND SOLID WASTE DEPARTMENT AND CREATING PROCEDURES FOR THE RETURN OF UTILITY SERVICE SECURITY DEPOSITS; ESTABLISHING CERTAIN FEES PERTAINING TO GROSS MONTHLY BILLS, UPGRADE OF ELECTRICAL SERVICE, AND THE PAYMENT OF UTILITY BILLS USING ON-LINE INTERNET BILL PAYING SERVICES TO BE CHARGED BY THE LIGHT AND POWER DEPARTMENT, WATER AND WASTEWATER DEPARTMENT AND

SOLID WASTE DEPARTMENT, AND ESTABLISHING AN EXEMPTION FOR CERTAIN CUSTOMERS REGARDING LATE FEES ON GROSS MONTHLY BILLS; PROVIDING AN EXEMPTION FROM THE LATE PAYMENT FEE ON UTILITY BILLS OF INDIVIDUALS WHO ARE DISABLED; PROVIDING A DEFINITION FOR "DISABLED" AS THE TERM IS USED HEREIN; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

Discussion was held regarding security deposits, the term "disabled" as it relates to a utility account holder or family member, case by case basis for those not deemed disabled by the Social Security Administration, but deserving and qualified for assistance, exemption from late fees for those 65 years of age, and providing evidence of identification.

City Attorney Randy Gunter confirmed that he would change the ordinance to reflect the case by case basis of those deserving assistance and the requirement that a government issued photo ID be presented as proof of age for the exemption relating to late fees.

Motion was made to adopt the Ordinance with the changes as presented by City Attorney Randy Gunter.

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

5. Council Action 2010-84

Consider and Approve a Proposal for Solid Waste Collection and Disposal Services.

COMMENTS - Current Meeting:

City Manager Gary Broz reported that the City had received proposals for solid waste and collection services from three vendors, reviewing the tabulation sheet with Council. Lengthy discussion included base bids, roll off containers and removal of the exclusive right to provide, proof of insurance, recycling, rates, and additional programs submitted with Waste Management's proposal. Those programs include a recycling kiosk, $1000 recycling grant, $500 scholarship to a local student, roll offs and port-o-lets for events at no charge, annual $1000 sponsorship for a beautification project, and other benefits.

Base collection services include:

Twice per week collection service for residential accounts,

Once per week heavy trash collection, and

Vendor to bill for commercial accounts.

Motion was made to authorize the City Manager to negotiate a contract with Waste Management and return to Council with the final costs and related documents, to include a permitting process for open market roll off containers.

ATTACHMENTS:

- Solid Waste Proposals (PDF)

RESULT:	**APPROVED [4 TO 3]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Diane Huddleston, Councilperson
AYES:	Carl Pickett, Dennis Beasley, Diane Huddleston, Al Simonson
NAYS:	Mike McCarty, Louie Potetz, Frank Jordan

6. Council Action 2010-85

Consider Ratifying the Liberty Community Development Corporation’s Action to Fund Airport Improvements.

COMMENTS - Current Meeting:

City Manager Gary Broz reported on the proposed changes to the Liberty Municipal Airport to be funded by the Liberty Community Development Corporation.

LCDC funds will be used to set up a terminal building, relocate the fuel farm, construct a terminal parking lot, and build a 10 bay T-hangar with aprons on both sides. Total cost of these improvements is $896,500. The City has $448,424 of its own money and will be requesting $450,000 from LCDC. If the City builds the hangar, TXDOT will complete the paving, possibly providing enough funds for the City to construct two hangars.

Motion was made to ratify the Liberty Community Development Corporation's action of funding the airport improvements.

ATTACHMENTS:

- Airport Improvements 2010 (PDF)

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

7. Council Action 2010-86

Consider Award of Bid for Round 1 Disaster Fund Materials.

COMMENTS - Current Meeting:

Mr. Broz reported that the City received three proposals relative to the Texas Department of Rural Affairs Round 1 Disaster Funds. These funds represent a 100% no-match grant in the amount of $23,132.81 for utility pole and hardware replacement, to enhance the City's electric system. The City will purchase the supplies and a contractor will install the poles. Management recommends the purchase of the supplies from Texas Electric Coop, in the amount of $23,132.81.

Motion was made to purchase these materials from Texas Electric Co-op, in the amount of $23,132.81.

ATTACHMENTS:

- Round 1 Disaster Fund info (PDF)

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

8. Council Action 2010-87

Consider and Approve Change Order No. 16 for the Humphreys Cultural Center Expansion Project.

COMMENTS - Current Meeting:

City Manager Broz reported on Change Order No. 16 for elevator shaft work and other miscellaneous items in the amount of $3632.75.

Finance Director Naomi Herrington reviewed the Cultural Center Expansion financing to date, including projected revenue sources, projected expenditures, and additional expenses.

Motion was made to approve the change order up to the specified amount, and authorizing the City Manager to negotiate with the architect and the contractor for a reduction of this expense.

ATTACHMENTS:

- HCC Change Order No. 16 (PDF)

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

9. Council Action 2010-88

Consider an Appointment to the Liberty Community Development Corporation Board of Directors.

COMMENTS - Current Meeting:

This agenda item was passed on.

RESULT:	**NO ACTION TAKEN**

10. Resolution 2010-16

Consider a Resolution Supporting the Transfer of Liberty County from the BeaumontTXDOT District to the Houston TXDOT District.

COMMENTS - Current Meeting:

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

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS SUPPORTING THE TRANSFER OF LIBERTY COUNTY FROM THE BEAUMONT TEXAS DEPARTMENT OF TRANSPORTATION DISTRICT TO THE HOUSTON TEXAS DEPARTMENT OF TRANSPORTATION DISTRICT."

Motion was made to approve the Resolution.

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

11. Resolution (ID # 1780)

Consider Approval of a Resolution Approving an Electrical Services Agreement with Boomerang Tube, LLC.

COMMENTS - Current Meeting:

This agenda item was passed on.

RESULT:	**NO ACTION TAKEN**

12. Ordinance (ID # 1781)

Consider Approval of an Ordinance Setting a Nominated Resource Industrial Customer Rate.

COMMENTS - Current Meeting:

This agenda item was passed on.

RESULT:	**NO ACTION TAKEN**

B. Executive Session

Deliberation Regarding Economic Development Negotiation. Gov. Code §551.087
Consultation With Attorney. Gov. Code §551.071
Meeting Concerning Municipally Owned Utility. Gov. Code §551.086
Deliberation Regarding Real Property. Gov. Code §551.072

1. Discussion of industrial electric rate ordinance and electric service agreement with Boomerang Tube, LLC.

2. Discussion of spur.

At 8:25 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized above.

C. Reconvene into Regular Session

At 9:04 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

1. Ordinance 2010-16

Considerapproval of an Ordinance Setting a Nominated Resource Industrial Customer Rate.

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 NOMINATED RESOURCE RATE; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE SECTION 3.10 OF THE HOME RULE CHARTER THAT ORDINANCES BE READ ON TWO SEPARATE DAYS."

Motion was made to adopt the Ordinance setting a Nominated Resource Industrial Customer Rate.

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

2. Resolution 2010-14

Consider Approval of a Resolution Approving an Electrical Services Agreement with Boomerang Tube, LLC.

COMMENTS - Current Meeting:

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

"A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, INDICATING ITS INTENT TO ADOPT THE ELECTRIC SERVICE AND RATE AGREEMENT WITH BOOMERANG TUBE, LLC"

Motion was made to approve the Resolution approving an Electrical Services and Rate Agreement with Boomerang Tube, LLC.

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

VII. COUNCIL MEAL

Council shared an evening meal.

VIII. ADJOURNMENT

A. Motion To: Adjourn

COMMENTS - Current Meeting:

There being no further business before the Council, the meeting was adjourned at 9:06 p.m.

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

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary