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 14, 2012 | **6:00 PM** | **City Council Chambers**

I. CALL TO ORDER

The Meeting was called to order on August 14, 2012 at the City Council Chambers, 1829 Sam Houston, Liberty,TX at 6:02 PM by Mayor Carl Pickett.

Attendee Name	Title	Status	Arrived
Carl Pickett	Mayor	Present	
Diane Huddleston	Councilperson	Present	
Dennis Beasley	Councilperson	Present	
Frank Jordan	Councilperson	Absent	
Louie Potetz	Councilperson	Absent	
Libby Simonson	Councilperson	Present	
David Arnold	Councilperson	Present	
Gary Broz	City Manager	Present	
Dianne Tidwell	City Secretary	Present	
Randy Gunter	City Attorney	Present	

II. INVOCATION

The Invocation was given by Liberty County District Attorney Mike Little.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American and Texas flags was led by Chip Fairchild, President Liberty County Project On Aging.

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. There were no comments.

V. PRESENTATIONS / REPORTS

A. Information Item (ID # 2461)

Various Project Updates - City Mgr. Gary Broz

COMMENTS - Current Meeting:

City Manager Gary Broz reported on the status of various City projects to include the new Police Station, SCADA installation, Downtown Task Force, TCDP grant award for sewer line rehabilitation in the Layl Subdivision, budget preparation, right-of-way for street extension, and the various Airport projects.

B. Information Item (ID # 2462)

SCADA Demonstration - City Eng./PWD Tom Warner

COMMENTS - Current Meeting:

Tom Warner, City Engineer/PWD, gave a powerpoint presentation to Council regarding the SCADA System (Supervisory Control and Data Acquisition). Mr. Warner explained that SCADA is a software application program used for process control which also gathers real time data from remote locations in monitoring the City's water plants and towers, and the wastewater treatment plant and lift stations. Discussion was held regarding the various components and functions, and type of information gathered.

VI. 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:	Dennis Beasley, Councilperson
SECONDER:	Libby Simonson, Councilperson
AYES:	Pickett, Huddleston, Beasley, Simonson, Arnold
ABSENT:	Frank Jordan, Louie Potetz

A. Minutes Approval

1. Tuesday, July 10, 2012

2. Wednesday, July 11, 2012

3. Thursday, July 12, 2012

4. Tuesday, July 24, 2012

VII. REGULAR AGENDA

A. Regular Session

1. Council Action 2012-71

Consider Setting the Date, Time and Location for a Public Hearing on the Proposed Budget.

COMMENTS - Current Meeting:

Motion was made that the public hearing on the proposed Fiscal Year 2012-2013 Budget be held on Tuesday, August 28 at 6:00 p.m. in the Council Chambers.

ATTACHMENTS:

- 2012 BUDGET AND TAX RATE SCHEDULE (DOC)

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

2. Council Action 2012-72

Consider Approval of the Proposed Tax Rate for Fiscal Year 2012-2013.

COMMENTS - Current Meeting:

Discussion was held regarding the effective tax rate of $0.5420, rollback tax rate of $0.5507, and the current and proposed tax rate of $0.5900. City Manager Gary Broz stated that reducing the tax rate one cent equates to $46,000 reduction in revenue for the City. Mr. Broz stated that the City is already operating on a lean budget, there are no capital items in the proposed budget, and that a balanced budget could not be provided should the tax rate be lowered. Management recommended the proposed rate of $.5900 in order not to eliminate any services provided to the citizens.

Motion was made to approve a tax rate not to exceed $0.5900.

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

3. Council Action 2012-73

Consider Setting the Date, Time and Location for Public Hearings on the Proposed Tax Rate for Fiscal Year 2012-2013.

COMMENTS - Current Meeting:

Motion was made that the public hearings on the proposed tax rate for Fiscal Year 2012-2013 be held on Tuesday, August 28 and Tuesday, Sept 4, 2012.

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

4. Council Action 2012-74

Consider Approval of the Preliminary Plat of the Edgewood East Subdivision, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Candice Motschman, Inspection Department, reported on the preliminary plat of the Edgewood East Subdivision. Ms. Motschman stated that Mr. Bob Lawrence is subdividing this property for future development. Mr. Lawrence will construct homes on some of the property, while also selling property for the purchaser to build a home. Further discussion included that drainage issues and deed restrictions.

Motion was made to approve the preliminary plat of the Edgewood East Subdivision.

ATTACHMENTS:

- Edgewood East Subdivision Checklist (PDF)
- Edgewood East Subdivision Plat (3) (PDF)

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

5. Council Action 2012-75

Discuss and Take Action Regarding Order of Local Option Election for Alcohol.

COMMENTS - Current Meeting:

City Attorney Randy Gunter reported that on July 16, 2012 a petition had been submitted to the City Secretary from citizens of the community wishing to legalize the sale of alcoholic beverages in the City of Liberty. Mr. Gunter stated that the number of valid signatures required on the petition was 695. The petition contained 787 signatures, however after verification only 447 signatures were valid. Mr. Gunter presented a Resolution stating that the petition failed to meet the requisite number of signatures needed to order the election.

Motion was made to approve the Resolution.

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

6. Council Action 2012-76

Consider Liberty County Project on Aging Update and Possible 90-Day Extension, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Chip Fairchild, Liberty County Project on Aging President, addressed Council regarding the strides the Project has made since receiving administrative assistance from the City. Mr. Fairchild stated that 700 meals were being delivered weekly, bills were being paid, and the new fiscal year budget is being prepared. Mr. Fairchild further stated that contracts were being drafted for the new fiscal year with H-GAC and other entities providing assistance to the project. The Board is also making plans to begin congregate services and transportation services starting October 1. Mr. Fairchild requested continued administrative services from the City for an additional 90 days. Mr. Fairchild expressed his appreciation for the City's efforts in keeping this worthwhile program from failing.

Motion was made to approve the requested 90-day extension for assistance from the City of Liberty.

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

7. Public Hearing (ID # 2467)

Public Hearing on the Condemnation of the Structure Located at 416 Lamar Street.

COMMENTS - Current Meeting:

At 7:02 p.m., Mayor Pickett opened the public hearing on the condemnation of the structure located at 416 Lamar. After review of the Power Point presentation regarding the condition of this structure, the City Attorney Randy Gunter directed questions to Code Enforcement Officer Robbie Hood regarding the structure being identified as a hazard/nuisance and being in a state of dilapidated/substandard condition. Mr. Hood reviewed the assessed value of the structure, the tax status, and through further questioning from the attorney, confirmed that the structure was a fire hazard and inadequately maintained. Mr. Hood further reported that the structure Is not in compliance with the City's Code and is a hazard to the health and/or safety of the general public. Mr. Davis also confirmed with Mr. Hood that the City had inspected the County real property records, and other applicable records, to assure that proper notice of the condemnation process had been provided to all parties involved. Mr. Hood recommended that the property owner be given 90 days to comply with the order of demolition, as the property owner has expressed intent to personally have the structure demolished. Mr. Hood stated that at such time that the demolition is not completed within the allotted time period, the City will move forward with demolition proceedings. After further discussion of the structure in question, Mayor Pickett closed the Public Hearing at 7:09 p.m.

ATTACHMENTS:

- PH 416 Lamar (PDF)

8. Council Action 2012-77

Consider an Order of Abatement for the Structure Located at 416 Lamar Street, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Motion was made to approve the Order of Abatement, as recommended, for the structure located at 416 Lamar, allowing the property owner a 90-day period to comply with the order, with the Council finding that this structure presents a public nuisance, and at such time that the demolition is not completed within the allotted time period, the City will move forward with demolition proceedings.

ATTACHMENTS:

- Order of Abatement 416 Lamar (DOC)

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

9. Public Hearing (ID # 2469)

Public Hearing on the Condemnation of the Structure Located at 611 Minglewood.

COMMENTS - Current Meeting:

At 7:10 p.m., Mayor Pickett opened the public hearing on the structure located at 611 Minglewood. After review of the Power Point presentation regarding the condition of this structure, City Attorney Randy Gunter directed questions to Code Enforcement Officer Robbie Hood regarding the structure being identified as a hazard/nuisance and being in a state of dilapidated/substandard condition. Mr. Hood reviewed the assessed value of the structure, the tax status, and through further questioning from the attorney, confirmed that the structure was a fire hazard and inadequately maintained, the roof had collapsed and was open to vandalism. Mr. Hood further reported that the structure Is not in compliance with the City's Code and is a hazard to the health and/or safety of the general public. Mr. Davis also confirmed with Mr. Hood that the City had inspected the County real property records, and other applicable records, to assure that proper notice of the condemnation process had been provided to all parties involved. Mr. Hood recommended that the property owner be given 30 days to comply with the order of demolition. Mr. Hood stated that at such time that the demolition is not completed within the allotted time period, the City will move forward with demolition proceedings. After further discussion of the structure in question, Mayor Pickett closed the Public Hearing at 7:15 p.m.

ATTACHMENTS:

- PH 611 Minglewood (PDF)

10. Council Action 2012-78

Consider an Order of Abatement for the Structure Located at 611 Minglewood, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Motion was made to approve the Order of Abatement, as recommended, for the structure located at 611 Minglewood, allowing the property owner a 30-day period to comply with the order, with the Council finding that this structure presents a public nuisance, and at such time that the demolition is not completed within the allotted time period, the City will move forward with demolition proceedings.

ATTACHMENTS:

- Order of Abatement 611 Minglewood (DOC)

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

11. Resolution 2012-9

Consider a Resolution Joining with Other Entergy Service Area Cities in Support of a Settlement Regarding the Transfer of Operation Control of Entergy's Transmission System to Midwest Independent Transmission System Operator.

COMMENTS - Current Meeting:

Mr. Broz explained that the proposed Resolution authorizes joining with other Entergy Service Area cities in support of the transfer of operational control of Entergy's Transmission System to Midwest Independent Transmission System Operator, Inc. (MISO). Mr. Broz stated that the application for transfer was filed with the Public Utility Commission in April, 2012, and that the transfer is projected to save Texas customers millions of dollars and will facilitate acquiring electricity and getting it to the customer.

Motion was made to approve the Resolution.

ATTACHMENTS:

- Entergy Transmission to MISO (PDF)

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

12. Resolution 2012-10

Consider Approval of a Resolution Electing to Participate in the Tax Abatement Program Under Texas Tax Code Chapter 312.

COMMENTS - Current Meeting:

City Manager Gary Broz stated that electing to participate in the Tax Abatement Program under Texas Tax Code Chapter 312 is the first part of a two step process in order to update the City's Guidelines and Criteria for Tax Abatements. Review and update of this process takes place every two years.

Motion was made to approve the Resolution.

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

13. Resolution 2012-11

Consider Approval of a Resolution Adopting Guidelines and Criteria for Tax Abatement.

COMMENTS - Current Meeting:

Mr. Broz reported to Council that the actual adoption of the Tax Abatement Guidelines and Criteria is the second step to the Tax Abatement process.

Motion was made to approve the Resolution adopting the City Guidelines and Criteria for Tax Abatement.

ATTACHMENTS:

- Tax Abatement Guidelines and Criteria 2010 (DOC)

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

14. Council Action 2012-79

Consider Award of Bid on Construction of Boomerang Electric Substation, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

This agenda item was passed on.

RESULT:	**NO ACTION TAKEN**

15. Council Action 2012-80

Consider Award of Bid for Fencing at the Humphreys Cultural Center, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Broz reported that there is approximately $10,000 of unused funds to be used for Cultural Center upgrades. Library Director Dana Abshier acquired three quotes for fencing 380 feet on the south side of the Cultural Center, with either 5 ft or 6 ft chain link or ornamental iron fencing. Ms. Abshier addressed Council stating that no barrier between the Cultural Center grounds and the railroad tracks is a safety issue due to the large number of children that frequent the area. Further discussion included extending the fencing on both the east and west sides of a portion of the grounds.

Motion was made to approve the quote from Greak Fence Company, Liberty, Texas ($9135) for construction of 380 feet of six foot ornamental fence along the south side of the Cultural Grounds, to include wing extensions of the fence on both the east and west sides to the north, for an expenditure of up to $10,000.

ATTACHMENTS:

- Bid Tab CC Fencing (PDF)
- Bids CC Fencing (PDF)

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

16. Council Action (ID # 2477)

Discuss Possible Refinancing of the 2004 Certificates of Obligation, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Broz reported that he requested information from City Financial Advisor Bob Henderson regarding refinancing of the City's 2004 Certificates of Obligation. Mr. Broz stated that interest rates are at an all time low and the refunding of these certificates would save the City a substantial amount of money over the term of the obligation. After brief discussion of the City's outstanding Certificates, the consensus of the Council was to move forward on this matter and have Mr. Henderson present at the Council Meeting of August 28.

ATTACHMENTS:

- Refinancing of 2004 COs (PDF)

17. Council Action 2012-83

Consider and Possible Action Regarding Boomerang Electricity Deposit.

COMMENTS - Current Meeting:

Mr. Broz explained that Boomerang Tube, LLC placed $2 million in an escrow account in October, 2010 to serve as a utility deposit. At each six-month period, Boomerang withdrew $500,000, with the current balance in the account now being $500,000. Discussion was held regarding the original contract calling for $500,000 to remain in escrow and Boomerang's request to reduce the escrow balance by half. Mr. Broz further explained that the facility charge will reduce on October 1 from $83,000 to $22,000, with the 2 mils ($.002 cents/kwh) adder fluctuating with Boomerang's electric usage. Both these items provide considerable monthly revenue to the City.

Mr. Broz stated that Boomerang has been a good corporate citizen to the community, and an excellent customer, with no late payments. Management recommended that Boomerang be allowed to withdraw half of the escrow balance, leaving $250,000 in the account to serve as the utility deposit for Boomerang Tube, LLC.

Motion was made to approve reducing the balance in the escrow account to $250,000.

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

18. Resolution 2012-12

Consider a Resolution Indicating Intent to Adopt the Amendment to the Electric Service and Rate Agreement with Boomerang Tube, LLC.

COMMENTS - Current Meeting:

Motion was made to approve the Resolution amending the Electric Rate and Service Agreement with Boomerang Tube, LLC, regarding the security deposit for utilities.

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

19. Council Action 2012-81

Consider Approval of Waste Management's Option to Increase Trash/Garbage Rates by 1.9%, Representing the Consumer Price Index as Reported by the Bureau of Labor Statistics, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Broz stating that the City had received a letter from Waste Management wishing to exercise their option, pursuant to the terms of their contract, to increase rates by 1.9% representing the increase in the Consumer Price Index, as reported by the Bureau of Labor Statistics. This percentage will increase the bill of a residential customer by $0.23, for a garbage collection charge of $15.86, to begin October 1, 2012.

Motion was made to approve the increase in the City's garbage and collection rates by 1.9% , as Waste Management has opted to do under their contract with the City of Liberty, and to pass the increase along to the customer.

ATTACHMENTS:

- Waste Mgmt. CPI Increase (PDF)
- CPI - Burerau of Labor Stat. (PDF)

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Carl Pickett, Mayor
SECONDER:	Dennis Beasley, Councilperson
AYES:	Pickett, Huddleston, Beasley, Simonson, Arnold
ABSENT:	Frank Jordan, Louie Potetz

B. Executive Session

Consultation with Attorney. Gov. Code §551.071
Deliberation Regarding Real Property. Gov. Code §551.072

1. Consider ownership of land under rail crossings.

Consultation with Attorney. Gov. Code §551.071
Personnel Matters Regarding Public Officer. Gov. Code §551.074

2. Discuss City personnel role in possible criminal investigation of outside party.

At 8:02 p.m., Mayor Pickett closed the open meeting and opened the Executive Session as authorized above.

C. Reconvene into Regular Session

At 9:02 p.m., Mayor Pickett closed the Executive Session and reconvened the open meeting.

1. Council Action 2012-82

Consider and Possible Action Regarding Ownership of Rail Crossings.

RESULT:	**NO ACTION TAKEN**

VIII. ADJOURNMENT

A. Motion To: Adjourn

COMMENTS - Current Meeting:

There being no further business before the Council, the meeting was adjourned at 9:03 p.m.

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Carl Pickett, Mayor

ATTEST:

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Dianne Tidwell, City Secretary