



The City of Liberty City Council

Regular Meeting

~ Agenda ~

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

Dianne Tidwell
City Secretary
(936) 336-3684

Tuesday, January 8, 2013

6:00 PM

City Council Chambers

THE City Council of Liberty, Texas reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551 of the Texas Government Code.

I. CALL TO ORDER

Attendee Name	Present	Absent	Late	Arrival
Mayor Carl Pickett	☐	☐	☐	
Councilperson Diane Huddleston	☐	☐	☐	
Councilperson Dennis Beasley	☐	☐	☐	
Councilperson Frank Jordan	☐	☐	☐	
Councilperson Louie Potetz	☐	☐	☐	
Councilperson Libby Simonson	☐	☐	☐	
Councilperson David Arnold	☐	☐	☐	

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

V. PRESENTATIONS / REPORTS

A. Information Item (ID # 2583)

Various Project Updates - City Manager - G. Broz

B. Information Item (ID # 2584)

Laurie Lomas, Trinity River Wildlife Refuge - Wildlife Trails

C. Information Item (ID # 2585)

November 2012 Financial Report - Finance Director N. Herrington

D. Information Item (ID # 2586)

Charter Review Commission

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.

A. Minutes Approval

1. Tuesday, December 11, 2012
2. Tuesday, December 18, 2012

B. Resolution (ID # 2587)

Consider a Resolution Authorizing Signators on State of Texas Contractual Documents and State of Texas Documents Requesting Funds, Relative to the CDBG 712191 (Layl Sewer Project), Disaster Recovery Project 13-195-000-7334 (Police Station), and CDBG 712054 (Planning Project), and Take Any Action Deemed Necessary.

VII. REGULAR AGENDA

A. Regular Session

1. Council Action (ID # 2588)

Consider Request by Drew Dugger to Conduct an Eagle Scout Project in the City by Placing Signage Warning of the Danger of Swimming in the Trinity River, and Take Any Action Deemed Necessary.

- Dugger Request for Agenda (PDF)

2. Public Hearing (ID # 2589)

Public Hearing on the Condemnation of the Structure Located at 1917 Jefferson Drive.

- PH 1917 Jefferson Dr (PDF)

3. Council Action (ID # 2590)

Consider an Order of Abatement for the Structure Located at 1917 Jefferson Drive, and Take Any Action Deemed Necessary.

- Order of Abatement 1917 Jefferson Dr (PDF)

4. Public Hearing (ID # 2591)

Public Hearing on the Condemnation of the Structure Located at 409 Kentucky Street.

- PH 409 Kentucky (PDF)

5. Council Action (ID # 2592)

Consider an Order of Abatement for the Structure Located at 409 Kentucky Street, and Take Any Action Deemed Necessary.

- Order of Abatement 409 Kentucky (PDF)

6. Ordinance (ID # 2593)

Consider Adoption of an Ordinance Amending the City's Code of Ordinances with the Addition of a New Article Regarding Oil and Gas Pipeline Standards to Include General Requirements, Permits, and Other Related Issues, and Take Any Action Deemed Necessary.

7. Council Action (ID # 2595)

Consider Award of Proposal for Engineering Services for the Community Development Block Grant Contract 712191, Layl Sewer Project, and Take Any Action Deemed Necessary.

8. Council Action (ID # 2594)

Consider a Joint Election with Various Entities and Contract with Liberty County for Conduct of the May 11, 2013 Election, and Take Any Action Deemed Necessary.

B. Executive Session

Personnel Matters. Gov. Code §551.074

Consultation with Attorney. Gov. Code §551.071

1. Consider resolution of personnel appeal.

Consultation with Attorney. Gov. Code §551.071

2. Litigation Update.

3. Humphreys Cultural Center Update.

C. Reconvene into Regular Session

1. Council Action (ID # 2596)

Consider and Take Action, If Any, on the Items as Discussed in the Executive Session.

VIII. ADJOURNMENT

A. Motion To: Adjourn

CERTIFICATION

I certify that the attached Notice of Meeting was posted on the bulletin board and in the Message Centers located on the east and west sides of the City Hall Administration Building, located at 1829 Sam Houston on the 4th day of January, 2013 at 4:00 p.m. This notice will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

Dianne Tidwell, City Secretary

NOTICE

In compliance with the Americans with Disabilities Act, the City of Liberty will provide reasonable accommodation for persons attending and/or participating in this Council Meeting. To better serve you, requests must be made at least 24 hours prior to the meeting. Contact the City at (936) 336-3684 or by Fax at (936) 336-9846. The building is wheelchair accessible, with parking available, on the west side of the building.

I certify that the attached Notice and Agenda of items to be considered by the City Council was removed by me from the bulletin board at the City Hall on the _____ day of _____, 2013.



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

5.A

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM (ID # 2583)

DOC ID: 2583



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

5.B

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Presentations

INFORMATION ITEM (ID # 2584)

DOC ID: 2584



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

5.C

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM (ID # 2585)

DOC ID: 2585



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

5.D

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Reports

INFORMATION ITEM (ID # 2586)

DOC ID: 2586

EXPLANATION:

City Charter requires that Council shall make appointments to the Charter Review Commission in January of each odd-numbered year. This Commission is comprised of five citizens from the City of Liberty. Term of office is six months; however, upon written request of a majority of the Commission members, the City Council may extend the commission's term of office for a period not to exceed 90 days.

FYI - 2011 Charter Review Members: Councilperson Jordan, Jamie Carter, Victor Barranco, Marsha LaFour, and Clarence Martin.



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, December 11, 2012

6:00 PM

City Council Chambers

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Carl Pickett	Mayor	Present	
Diane Huddleston	Councilperson	Present	
Dennis Beasley	Councilperson	Present	
Frank Jordan	Councilperson	Present	
Louie Potetz	Councilperson	Present	
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 Richard Ayers, Pastor St. John Baptist Church, Silsbee, Texas.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American and Texas flags was led by Allison Meche, Captain of the Liberty High School Girls Volleyball Team.

IV. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to those individuals wishing to address the Council. There were no comments from the audience.

Councilperson Jordan remarked on the proclamation by Liberty County proclaiming "John Hebert Day" and of the generosity and commitment to the community by this individual.

Mayor Pickett wished everyone a Merry Christmas and reminded Council of the Employee Appreciation Dinner to be held on Thursday, December 13th. Mayor Pickett also commented on two worthwhile programs conducted by City departments; 1) the Silver Santa Program, conducted by the Liberty Police Department, to assist disadvantaged senior citizens, and 2) the Angel Tree Program, conducted by the Liberty Fire Department to assist disadvantaged children.

Minutes Acceptance: Minutes of Dec 11, 2012 7:00 PM (Minutes Approval)

V. PRESENTATIONS / REPORTS

A. Information Item (ID # 2565)

Proclamation - LHS Girls Volleyball Team Day - Mayor Pickett

COMMENTS - Current Meeting:

Mayor Pickett read a proclamation proclaiming December 12, 2012 as Liberty High School Girls Volleyball Team Day. Mayor Pickett welcomed the students and congratulated them on their accomplishments.

B. Information Item (ID # 2566)

Various Project Updates - City Mgr. Gary Broz

COMMENTS - Current Meeting:

City Manager Gary Broz reported that the following:

- the Liberty Fire Department would be conducting the controlled burning of an old home, at Cos and Fannin, for training purposes at 9:00 a.m., on Saturday, December 15th,
- the City received two donations from the Daniel Foundation: 1) for rehabilitation of the playground equipment at the Liberty Municipal Park, in the amount of \$10,000, and 2) for the baseball association to rehabilitate their facilities at the Park, in the amount of \$25,000, and
- Municipal Court Judge Bobby Rader had submitted his resignation, to become effective January 1 2013, to assume the duties of Liberty County Sheriff.

Mr. Broz concluded by reviewing the status of other current projects in the City.

C. Information Item (ID # 2567)

Proposed Pipeline Ordinance - City Mgr. Gary Broz

COMMENTS - Current Meeting:

Mr. Broz reported that work is currently being completed on the City's drilling ordinance to also address pipelines that may route through the City. A copy of an ordinance from the City of Copperas Cove is being reviewed and a final document should be ready for Council approval at the next meeting.

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:	Diane Huddleston, Councilperson
SECONDER:	Libby Simonson, Councilperson
AYES:	Pickett, Huddleston, Beasley, Jordan, Potetz, Simonson, Arnold

A. Minutes Approval

1. Monday, November 12, 2012

VII. REGULAR AGENDA

A. Regular Session

1. Public Hearing (ID # 2569)

Public Hearing on the Condemnation of the Structure Located at 3506 N. Main Street.

COMMENTS - Current Meeting:

At 6:30 p.m., Mayor Pickett opened the Public Hearing on the condemnation of the structure located at 3506 N. Main Street. Robbie Hood, Neighborhood Services Director and City Attorney Randy Gunter spoke to the progress being made on this property and recommended that no action be taken due to the improvements taking place.

Mayor Pickett closed the Public Hearing at 6:31 p.m.

ATTACHMENTS:

- PH 3506 N. Main (PDF)

2. Council Action 2012-119

Consider an Order of Abatement for the Structure Located at 3506 N. Main Street.

ATTACHMENTS:

- Order of Abatement 3506 N. Main (2) (2) (DOC)

RESULT:	NO ACTION TAKEN
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3. Public Hearing (ID # 2571)

Public Hearing on the Condemnation of the Structure Located at 106 Carter Street.

COMMENTS - Current Meeting:

At 6:31 p.m., Mayor Pickett opened the public hearing on the condemnation of the structure located at 106 Carter Street. 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 inadequately maintained, in danger of collapse due to exposure to the elements, and a fire hazard. 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 6:37 p.m.

ATTACHMENTS:

- PH 106 Carter (PDF)

4. Council Action 2012-120

Consider an Order of Abatement for the Structure Located at 106 Carter Street.

COMMENTS - Current Meeting:

Motion was made to approve the Order of Abatement, as recommended, for the structure located at 106 Carter Street, 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 106 Carter (2) (2) (DOC)

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

5. Public Hearing (ID # 2573)

Public Hearing on the Condemnation of the Structure Located at 310 Carter Street.

COMMENTS - Current Meeting:

At 6:39 p.m., Mayor Pickett opened the Public Hearing on the structure located at 310 Carter Street. 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 inadequately maintained, in danger of collapse, and a fire hazard. 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 stated that the notifications had been unclaimed and he has not had any contact with the property owners. 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 6:50 p.m.

ATTACHMENTS:

- PH 310 Carter (PDF)

6. Council Action 2012-121

Consider an Order of Abatement for the Structure Located at 310 Carter Street.

COMMENTS - Current Meeting:

Motion was made to approve the Order of Abatement, as recommended, for the structure located at 310 Carter Street, 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 310 Carter (2) (2) (DOC)

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

7. Council Action 2012-122

Consider Award of Bid for Phase 3 of the Texas Water Development Board Water & Wastewater Improvement Project.

COMMENTS - Current Meeting:

Mr. Broz reported that there was \$1,127,911.32 remaining from the 2007 Water Development Board Loan funds for water and wastewater rehabilitation. Mr. Broz stated that a project was developed that included repairs to the clarifiers, chlorine building, storage racks, belt press, and other related renovations. Mr. Broz discussed with Council the specs for the base bid and alternate and the four bids received. Further discussion of related issues included the status of the wastewater plant, plant capacity, peak flow, effluent levels, and possible need for future expansion.

Motion was made to award the low bid to Placo, Ltd., Lumberton, Texas, for the base bid in the amount of \$932,680.26.

ATTACHMENTS:

- TWDB Phase 3 Ltr (PDF)
- TWDB Phase 3 Bid Tab (PDF)
- TWDB Project Summary (PDF)

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

8. Council Action 2012-123

Consider Acceptance of the Community Development Block Grant Disaster Recovery Grant, Round 2.2 for Police Station Construction.

COMMENTS - Current Meeting:

Mr. Broz reported on the CDBG Disaster Recovery Grant, 2.2 for construction of a new police station facility. Mr. Broz stated that this grant is through the Texas General Land Office which provides financial assistance with funds appropriated as a result of Hurricanes Dolly and Ike (September, 2008) to facilitate disaster recovery and restoration. Mr. Broz further stated that this is a no-match grant in the amount of \$1,214,790.00. Public Management, Inc. is to manage the grant for a fee of \$32,000 which will be paid for from these grant funds.

After further discussion of the grant agreement and the new facility, a motion was made to approve acceptance of the grant upon legal review by the City Attorney.

ATTACHMENTS:

- CDBG Rnd 2.2 Agreement Police (PDF)

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

9. Council Action 2012-124

Consider Acceptance of the TXDOT Routine Airport Maintenance Program Grant and Authorize the City Manager to Execute All Related Documents.

COMMENTS - Current Meeting:

Mr. Broz reported on the Texas Department of Transportation Grant for routine Airport maintenance, which is a 50/50 matching grant. The State's financial assistance will be for fifty percent of eligible projects costs or \$50,000 whichever is less. This grant may be used to contract for services and purchase of materials for routine maintenance and improvements of pavement, signage, drainage, herbicide, lighting systems, and any other maintenance related eligible projects.

Motion was made to approve acceptance of the TXDOT Routine Airport Maintenance Program Grant and authorize the City Manager to execute all related documents.

ATTACHMENTS:

- Ramp Grant Dec 2012 (PDF)

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

10. Council Action 2012-125

Consider Award of Bid for the Public Works Service Center Awning, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Tom Warner, City Engineer/Public Works Director reported that these project funds are from a previous issuance of certificates of obligation for construction of a vehicle awning at the Public Works Service Center. The City let bids and received two responses. The bid specs were for construction of eight, nine, or ten bays with a covered awning, or for eight, nine, or ten bays with a covered awning to include alternate number one, which is an 8 foot piece on the back side for weather protection.

Motion was made to award the bid to Arnold construction for eight stalls and awning, plus alternate number one, in the amount of \$38,456.00.

At the conclusion of this agenda item, Council took a five-minute break and reconvened at 7:30 p.m.

ATTACHMENTS:

- PW Awning Bid Tab (PDF)
- PW Awing Specs (PDF)

RESULT: **APPROVED [5 TO 0]**
MOVER: Frank Jordan, Councilperson
SECONDER: Dennis Beasley, Councilperson
AYES: Pickett, Beasley, Jordan, Potetz, Simonson
ABSTAIN: Diane Huddleston, David Arnold

11. Council Action 2012-126

Discuss Creating a Fixed Asset Replacement Fund, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Broz reported on funds received from the Sam Rayburn Municipal Power Agency as a result of bond refinancing, which he would like to use to create a fixed asset replacement fund, for vehicle replacement. This would assist in keeping the City's fleet up-to-date, without borrowing funds. Mr. Broz reviewed a Fixed Asset Replacement Plan, its process, and discussed various vehicles currently in need of replacement and their repair issues. Discussed were a fire truck, ambulance remount, two police vehicles, a small bucket truck and a digger truck.

Motion was made to establish a Fixed Asset Replacement Fund with a beginning balance of \$449,707.00 with funds received from the Sam Rayburn Municipal Power Agency.

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

12. Council Action 2012-127

Consider Approval of Expenditures from the Fixed Asset Replacement Fund, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Discussion was held regarding possible expenditures from the Fixed Asset Replacement Fund, with discussion centering on the need for a fire truck and issues relating to the Humphreys Cultural Center (HCC). Further discussion included the immediate need to update Fire Department vehicles and comments from City Attorney Randy Gunter regarding problems with the HCC that relate not only to the old structure, but also problems unique to the new structure that appear to be both design and construction issues, that may involve liability on the part of others.

Motion was made to allocate, from the Fixed Asset Replacement Fund, \$30,000 for professional investigative issues regarding the Humphreys Cultural Center, and \$80,000 for a commitment to the purchase of a fire truck, with the remaining \$320,000 cost of the fire truck to be determined by financing options.

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

13. Council Action 2012-128

Discuss the Master Fee Schedule, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Mr. Broz commented on a handout of the City's current Master Fee Schedule and proposed changes to the Liberty Center rental fees and charges. Mr. Broz stated that there had been numerous occasions where the Liberty Center, restrooms and hallways have been badly damaged. Mr. Broz proposed raising fees to hold individuals more accountable for their actions. Discussed were the current rates, costs incurred due to facility damage, and additional increases to the proposed rates. After lengthy discussion, the proposed new rates are as follows:

Room Rental w/o alcohol	\$500.00 Until 12:00 a.m.
Room Rental with alcohol	\$1000.00 until 12:00 a.m.
Local Non-Profit w/o alcohol	\$250.00 until 12:00 a.m.
Local Non-Profit with alcohol	\$500.00 until 12:00 a.m.
Extra time from 12:00 a.m. until 2:00 a.m.	100.00 per each half hour
Kitchen Rental	\$300.00
Damage Deposit	\$1000.00

Also included is an addition to the current damage deposit language - "All of the deposit will be kept if the Lease Agreement, rules and regulations are broken for any reason."

Other rates and fees on the current Master Fee Schedule were passed on and will be discussed at a later date.

Motion was made to approve the proposed new rates as listed above.

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

14. Council Action 2012-129

Discuss Health and Safety in the City of Liberty, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

Lengthy discussion was held, as a result of a visitor to a previous Council meeting, regarding questionable establishments in the City where illegal activity may be taking place. City Attorney Randy Gunter stated that he had been asked to investigate possible options under nuisance law. Mr. Gunter stated that Section 125 of the Texas Civil Practice and Remedy Code does provide some law enforcement authority, providing that certain illegal activity is taking place, and allows for locking down or closing the establishment for one year. Mr. Gunter explained that the law is very specific in defining those activities which include, but is not limited to: prostitution, obscenity, gambling, engaging in organized criminal activity, delivery, possession or manufacturing of a controlled substance, and numerous other illegal activities.

Mr. Gunter relayed that one way to address the issue is to converse with the business owner and tell him that it is understood that these particular activities are taking place, and gain his cooperation in abating the nuisance. If not, then the City may file suit and have a judge set a bond, which will ultimately end in the business being locked down for one year.

Police Chief Billy Tidwell spoke to this issue stating that he has previously been involved in the nuisance abatement process, which is a long and lengthy. Chief Tidwell explained, that as an option, there are other alternatives that would assist with these issues such as intensive patrols and the Areas of Responsibility Program.

RESULT: NO ACTION TAKEN

VIII. ADJOURNMENT**A. Motion To: Adjourn****COMMENTS - Current Meeting:**

At 8:45 p.m., Mayor Pickett adjourned the meeting.

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Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

Minutes Acceptance: Minutes of Dec 11, 2012 7:00 PM (Minutes Approval)



The City of Liberty City Council

Special Called Meeting

~ Minutes ~

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

Dianne Tidwell
City Secretary
(936) 336-3684

Tuesday, December 18, 2012

12:00 PM

City Council Chambers

I. CALL TO ORDER

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

II. ACKNOWLEDGEMENT OF GUESTS AND VISITORS / PUBLIC COMMENT

Public Comment is reserved for members of the public who would like to address the City Council regarding agenda and non-agenda items. Please be aware that, under Texas Law, the Council may not deliberate or take any action during Citizen's comments for items not on the agenda. In some situations, City Staff may be able to respond to the public comment with a factual statement or clarification. The City Council may have the item placed on a future agenda for action or refer the item to Management and Staff for study or conclusion.

Mayor Pickett welcomed guests and visitors, opening the floor for public comment to those individuals wishing to address the Council. There were no comments from the audience.

Mayor Pickett commented on the sadness of the school shooting in Newtown, Connecticut involving the death of twenty small children and six adults. Mayor Pickett offered a moment of silence in remembrance of those that lost their life in this unexplainable and horrific event.

III. REGULAR AGENDA

A. Regular Session

1. Council Action 2012-130

Discuss and Consider Financing Options for a New Fire Truck, and Take Any Action Deemed Necessary.

COMMENTS - Current Meeting:

City Manager Gary Broz reported that management had requested financing options from four lenders regarding the purchase of a 2011 E-One Typhoon Fire Truck. Mr. Broz reviewed the options of a five-year term compared to a 7-year term with interest rates and annual payments. Total cost of the fire truck is \$365,000 plus \$5000 for striping. \$80,000 will be used for the down payment, coming from the one-time Sam Rayburn Municipal Power Agency funds for bond

Minutes Acceptance: Minutes of Dec 18, 2012 1:00 PM (Minutes Approval)

refinancing, with the remainder to be financed. Staff recommendation, as well as that of the City's financial officer, Bob Henderson, was to choose the loan offered by Houston Community Bank for a seven year payout, with the lowest interest rate of 2.25%.

Motion was made to accept the loan offered by Houston Community Bank for a seven-year payout, with the interest rate of 2.25%.

RESULT:	APPROVED [3 TO 1]
MOVER:	Dennis Beasley, Councilperson
SECONDER:	David Arnold, Councilperson
AYES:	Carl Pickett, Dennis Beasley, David Arnold
NAYS:	Louie Potetz
ABSTAIN:	Diane Huddleston
ABSENT:	Frank Jordan, Libby Simonson

IV. ADJOURNMENT

Motion To: Adjourn

COMMENTS - Current Meeting:

There being no further business before the Council, the meeting was adjourned at 12:10 p.m.

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Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary

Minutes Acceptance: Minutes of Dec 18, 2012 1:00 PM (Minutes Approval)



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Grant Issues

6.B

RESOLUTION (ID # 2587)

DOC ID: 2587

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS
AUTHORIZING SIGNATORS ON STATE OF TEXAS CONTRACTUAL DOCUMENTS
AND STATE OF TEXAS DOCUMENTS FOR REQUESTING FUNDS**

WHEREAS, the City must execute contractual documents and request funds from the State of Texas Agencies on specified forms with signatures from person authorized to sign those forms, and these forms being related to the following projects:

CDBG 712191 (Layl Sewer Project); Disaster Recovery 13-195-000-7334 (Police Station); and CDBG 712054 (Planning Project);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS:

1. That the following persons are designated as signators for State of Texas Contractual Documents from State of Texas Agencies:

**Mayor
Mayor Pro Tem
City Manager
City Secretary**

2. That the following persons are designated as signators for State of Texas Documents requesting funds from State of Texas Agencies:

**Mayor
City Manager
Finance Director
City Secretary**

PASSED AND APPROVED this 8th day of January, 2013.

Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.1

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Misc.

COUNCIL ACTION (ID # 2588)

DOC ID: 2588



REQUEST FOR PLACEMENT OF AN ISSUE ON A CITY COUNCIL AGENDA

Regular called meetings of the City Council are held on the second Tuesday of each month at 6:00 p.m.

Special called meetings are normally held on the fourth Tuesday of each month at 6:00 p.m., or on other dates as time allows.

The deadline for an issue to be placed on the next council agenda is the Wednesday prior to the council meeting. This form must be turned in by 5:00 p.m. on this day.

Date of Submission of Request 12/31/12

Date of Council Meeting ~~1/5/13~~ 1/8/13

Name

Drew Glenn Dugger

Street Address

5005 Lakeside Drive

City

Liberty

State

Texas

Zip Code

77575

Telephone No.

(936) - 336-9441

Fax No.

Please list below the issue that you wish to be brought before the Council.

Approval for Eagle Scout Project. Eagle scout
project would be for signs to be placed near the
river warning the dangers of swimming in the river.

This request will be reviewed by the City Manager and the requestor will be notified regarding the above-mentioned topic being placed on an agenda.

For City Use Only

Date this form given to the City Manager 12/31/12

Date requestor was notified 1/2/13 - 3:45 p.m. - by EMAIL

Comments PLACED ON AGENDA FOR 1/8/13



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.2

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Condemnations

PUBLIC HEARING (ID # 2589)

DOC ID: 2589

Date: December 6, 2012

TO: Patsy Maxine Henley
618 San Jacinto St
Liberty, Texas 77575

RE: Public Nuisance-Proposed Order to Demolish

Dear Sir and/or Madam:

As the City of Neighborhood Services Administrator, it has come to my attention and I do hereby find the building or structure situated on the below described location is:

- ☒ unsafe,
- ☒ substandard,
- ☒ dangerous,
- ☒ a hazard,
- ☒ a public nuisance.

I have attached hereto a detailed list setting out the conditions which I find render the building or structure, or portion thereof, a nuisance. The subject building or structure and its location are described as follows:

Building/Structure: Dilapidated Structure
Street Address: 1917 Jefferson Dr
Legal Description: Rye Smith & Adams Tract, Lot 36 88

Attachment: PH 1917 Jefferson Dr (2589 : PH 1917 Jefferson Drive)

City of Liberty, Liberty County, Texas

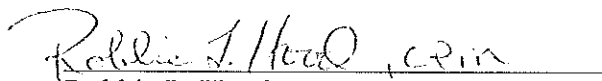
You are hereby given notice that a hearing will be held before the Liberty City Council at 6:00 o'clock p.m. on January 08, 2013, at the Liberty City Hall, 1829 Sam Houston Street, Liberty, Texas 77575 to determine if the building complies with the standards set out in Chapter 6 of the Liberty Code of Ordinances, or if the structure should be ordered repaired, vacated and repaired, or demolished.

All interested persons who desire to be heard or who oppose the proposed order to repair, vacate and repair, or demolish the above described structure, shall appear at the above mentioned City Council hearing and show cause, if any, why the building or structure, or any portion thereof, involved in these proceedings should not be ORDERED repaired, vacated and repaired, or demolished. Your failure to appear shall constitute a waiver of your right to oppose any ORDER of the City Council.

Proof and scope of work will be required to be presented at hearing if work cannot be completed within 30 days. Furthermore, IF an extension is granted by City Council, specific time schedules for the commencement and performance of the work shall be required.

Furthermore, the amount of cost of abating such nuisance or demolishing said building or structure, and all incidental expenses associated therewith, if undertaken by the City of Liberty, shall constitute special assessments against the property on which the structure is located and as such, shall constitute a lien on said property.

Sincerely,


Robbie L. Hood, CPM
Neighborhood Services Administrator
City of Liberty

Attachment: PH 1917 Jefferson Dr (2589 : PH 1917 Jefferson Drive)

Conditions Rendering Building/Structure Hazardous and/or Dangerous

Owners Name: Patsy Maxine Henley
 Mailing Address: 618 San Jacinto St; Liberty, Texas 77575
 Property Description: Rye Smith & Adams Tract, Lot 36 88
 Street Address: 1917 Jefferson Dr , Liberty, Texas 77575

UNSAFE BUILDINGS: All buildings or structures which are unsafe, unsanitary, or do not provide adequate egress, or which constitutes a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitutes a hazard to safety or health, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of Chapter 6 of the Liberty Code of Ordinances.

1. Lack of hot and cold water running to plumbing fixtures in bathroom and kitchen.
2. Improper sewage disposal system in bathroom and kitchen.
3. Lack of adequate heating facilities.
4. Lack of required ventilating equipment.
5. Lack of required electrical lighting.
6. Dampness of habitable rooms.
7. Infestation of insects, vermin and rodents.
8. General dilapidation and improper maintenance of all heating and plumbing facilities.
9. Lack of adequate garbage and rubbish storage and removal facilities.
10. Deteriorated and inadequate foundations.
11. Defective and deteriorated flooring and floor supports.
12. Members of walls, partitions and other vertical supports have split, lead, list and/or buckled due to defect and deterioration.
13. Members of ceilings, roofs, ceiling and roof supports and other horizontal members have sagged, split and/or buckled due to defect and deterioration.
14. Hazardous wiring which is not connected and can not be connected due to defective maintenance and deterioration.
15. Hazardous plumbing which is not connected and can not be connected due to defective maintenance and deterioration.
16. Faulty weather protection.
17. Serious fire hazard.
18. Hazardous and unsanitary premises with an accumulation of junk, debris and garbage which constitutes a fire, health and safety hazard.
19. The building structure or portion thereof as a result of decay, deterioration or dilapidation's has or is likely to fully or partially collapse.
20. The building structure or portion thereof is in such a condition that it constitutes a public nuisance.


 Robbie L. Hood, CPM
 Neighborhood Services Adm.

12-6-12

Date

Attachment: PH 1917 Jefferson Dr (2589 : PH 1917 Jefferson Drive)



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.3

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Abatements

COUNCIL ACTION (ID # 2590)

DOC ID: 2590

City of Liberty

Order of Abatement

The City Council of the City of Liberty ("Council"), at a duly noticed public hearing, does hereby adopt the following Order of Abatement:

WHEREAS, it has come to the attention of Council that a building or structure located at 1917 Jefferson Drive of the Town of Liberty with Liberty County Central Appraisal District Property ID # 138435 in the City of Liberty is reported to be or believed to be substandard under the terms of Chapter 6 of the Liberty Code of Ordinances; and

WHEREAS, Council has at a public hearing received and/or heard evidence that the structure(s) on the property described above have/has

- a. become substantially deteriorated through natural causes and/or from exposure to the elements (wind, hail, rain and storms), or
- b. become so structurally deteriorated and/or damaged that it/they are in danger of collapse, or
- c. become a fire hazard due to the substantial deterioration of the building or structure; or
- d. failed to be constructed in conformity with the City Building Code; or
- e. become a hazard to the health and/or safety of the general public, including all conditions conducive to the harboring of rats, mice, and other disease carrying animals and/or insects, including such conditions that may be hazardous to safety, such as inadequate bracing or the use of deteriorated materials.

WHEREAS, Council has received and/or heard evidence that the City has made a diligent effort to determine the identity and address of any owner, lienholder, or mortgagee by searching the following records:

- a. county real property records of Liberty County;
- b. appraisal district records of Liberty County;
- c. records of the secretary of state;
- d. assumed name records of Liberty County;
- e. tax records of the City of Liberty; and
- f. utility records of the City of Liberty.

and has given notice of the public hearing held on this day regarding the substandard structure.

WHEREAS, the Council, having the authority to order abatement of substandard structures pursuant to Chapter 6 of the Liberty Code of Ordinances and Chapter 214 of the Local Government Code.

NOW, THEREFORE, BE IT RESOLVED, THAT the City Council of the City of Liberty hereby

finds that this property is a public nuisance, and ORDERS the abatement of the condition of the identified property by removal of the structure(s) thereon, within 30 days of this ORDER. The City Council further authorizes the City Manager or other City officials to secure the demolition of the structure(s) on the identified property if the structures have not been removed within 30 days of this ORDER, and place a lien on the land for costs associated with such demolition and removal according to law ; and

Part 1: That the notice of this public hearing was made or attempted with the efforts outlined in Chapter 214 of the Local Government Code.

Part 2: That it is hereby determined that the identified structure is in fact a structure that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare.

Part 3: That public necessity requires the demolition and removal of the identified structure.

Part 4: That this resolution shall take effect immediately from and after its passage.

I certify that the foregoing is a true and correct copy of the resolution/order duly adopted by the City Council of the City of Liberty. This Order of Abatement shall be maintained with the official minutes of the City Council of the City of Liberty

In witness whereof, I have hereunto set my hand on this the 08th day of January, 2013.

By: _____
 Carl Pickett,
 Mayor,
 City of Liberty



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.4

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Condemnations

PUBLIC HEARING (ID # 2591)

DOC ID: 2591

Date: December 6, 2012

TO: Lisa Anne Best
1900 West View Blvd. Apt. 1418
Conroe, Texas 77304

RE: Public Nuisance-Proposed Order to Demolish

Dear Sir and/or Madam:

As the City of Neighborhood Services Administrator, it has come to my attention and I do hereby find the building or structure situated on the below described location is:

- ☒ unsafe,
- ☒ substandard,
- ☒ dangerous,
- ☒ a hazard,
- ☒ a public nuisance.

I have attached hereto a detailed list setting out the conditions which I find render the building or structure, or portion thereof, a nuisance. The subject building or structure and its location are described as follows:

Building/Structure: Dilapidated Structure
Street Address: 409 Kentucky
Legal Description: McGuire, Block 3, Lot 7 (N/2)

Attachment: PH 409 Kentucky (2591 : PH 409 Kentucky)

City of Liberty, Liberty County, Texas

You are hereby given notice that a hearing will be held before the Liberty City Council at 6:00 o'clock p.m. on January 08, 2013, at the Liberty City Hall, 1829 Sam Houston Street, Liberty, Texas 77575 to determine if the building complies with the standards set out in Chapter 6 of the Liberty Code of Ordinances, or if the structure should be ordered repaired, vacated and repaired, or demolished.

All interested persons who desire to be heard or who oppose the proposed order to repair, vacate and repair, or demolish the above described structure, shall appear at the above mentioned City Council hearing and show cause, if any, why the building or structure, or any portion thereof, involved in these proceedings should not be ORDERED repaired, vacated and repaired, or demolished. Your failure to appear shall constitute a waiver of your right to oppose any ORDER of the City Council.

Proof and scope of work will be required to be presented at hearing if work cannot be completed within 30 days. Furthermore, IF an extension is granted by City Council, specific time schedules for the commencement and performance of the work shall be required.

Furthermore, the amount of cost of abating such nuisance or demolishing said building or structure, and all incidental expenses associated therewith, if undertaken by the City of Liberty, shall constitute special assessments against the property on which the structure is located and as such, shall constitute a lien on said property.

Sincerely,



Robbie L. Hood, CPM
Neighborhood Services Administrator
City of Liberty

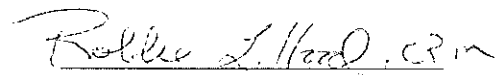
Attachment: PH 409 Kentucky (2591 : PH 409 Kentucky)

Conditions Rendering Building/Structure Hazardous and/or Dangerous

Owners Name: Lisa Anne Best
 Mailing Address: 1900 West View Blvd. Apt. 1418; Conroe, Texas 77304
 Property Description: McGuire, Block 3, Lot 7 (N/2)
 Street Address: 409 Kentucky, Liberty, Texas 77575

UNSAFE BUILDINGS: All buildings or structures which are unsafe, unsanitary, or do not provide adequate egress, or which constitutes a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitutes a hazard to safety or health, are considered unsafe buildings. All such unsafe buildings are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of Chapter 6 of the Liberty Code of Ordinances.

1. Lack of hot and cold water running to plumbing fixtures in bathroom and kitchen.
2. Improper sewage disposal system in bathroom and kitchen.
3. Lack of adequate heating facilities.
4. Lack of required ventilating equipment.
5. Lack of required electrical lighting.
6. Dampness of habitable rooms.
7. Infestation of insects, vermin and rodents.
8. General dilapidation and improper maintenance of all heating and plumbing facilities.
9. Lack of adequate garbage and rubbish storage and removal facilities.
10. Deteriorated and inadequate foundations.
11. Defective and deteriorated flooring and floor supports.
12. Members of walls, partitions and other vertical supports have split, lead, list and/or buckled due to defect and deterioration.
13. Members of ceilings, roofs, ceiling and roof supports and other horizontal members have sagged, split and/or buckled due to defect and deterioration.
14. Hazardous wiring which is not connected and can not be connected due to defective maintenance and deterioration.
15. Hazardous plumbing which is not connected and can not be connected due to defective maintenance and deterioration.
16. Faulty weather protection.
17. Serious fire hazard.
18. Hazardous and unsanitary premises with an accumulation of junk, debris and garbage which constitutes a fire, health and safety hazard.
19. The building structure or portion thereof as a result of decay, deterioration or dilapidation's has or is likely to fully or partially collapse.
20. The building structure or portion thereof is in such a condition that it constitutes a public nuisance.


 Robbie L. Hood, CPM
 Neighborhood Services Adm.

12-6-12

Date

Attachment: PH 409 Kentucky (2591 : PH 409 Kentucky)



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.5

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Abatements

COUNCIL ACTION (ID # 2592)

DOC ID: 2592

City of Liberty

Order of Abatement

The City Council of the City of Liberty ("Council"), at a duly noticed public hearing, does hereby adopt the following Order of Abatement:

WHEREAS, it has come to the attention of Council that a building or structure located at 409 Kentucky of the Town of Liberty with Liberty County Central Appraisal District Property ID # 59260 in the City of Liberty is reported to be or believed to be substandard under the terms of Chapter 6 of the Liberty Code of Ordinances; and

WHEREAS, Council has at a public hearing received and/or heard evidence that the structure(s) on the property described above have/has

- a. become substantially deteriorated through natural causes and/or from exposure to the elements (wind, hail, rain and storms), or
- b. become so structurally deteriorated and/or damaged that it/they are in danger of collapse, or
- c. become a fire hazard due to the substantial deterioration of the building or structure; or
- d. failed to be constructed in conformity with the City Building Code; or
- e. become a hazard to the health and/or safety of the general public, including all conditions conducive to the harboring of rats, mice, and other disease carrying animals and/or insects, including such conditions that may be hazardous to safety, such as inadequate bracing or the use of deteriorated materials.

WHEREAS, Council has received and/or heard evidence that the City has made a diligent effort to determine the identity and address of any owner, lienholder, or mortgagee by searching the following records:

- a. county real property records of Liberty County;
- b. appraisal district records of Liberty County;
- c. records of the secretary of state;
- d. assumed name records of Liberty County;
- e. tax records of the City of Liberty; and
- f. utility records of the City of Liberty.

and has given notice of the public hearing held on this day regarding the substandard structure.

WHEREAS, the Council, having the authority to order abatement of substandard structures pursuant to Chapter 6 of the Liberty Code of Ordinances and Chapter 214 of the Local Government Code.

NOW, THEREFORE, BE IT RESOLVED, THAT the City Council of the City of Liberty hereby

finds that this property is a public nuisance, and ORDERS the abatement of the condition of the identified property by removal of the structure(s) thereon, within 30 days of this ORDER. The City Council further authorizes the City Manager or other City officials to secure the demolition of the structure(s) on the identified property if the structures have not been removed within 30 days of this ORDER, and place a lien on the land for costs associated with such demolition and removal according to law ; and

Part 1: That the notice of this public hearing was made or attempted with the efforts outlined in Chapter 214 of the Local Government Code.

Part 2: That it is hereby determined that the identified structure is in fact a structure that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare.

Part 3: That public necessity requires the demolition and removal of the identified structure.

Part 4: That this resolution shall take effect immediately from and after its passage.

I certify that the foregoing is a true and correct copy of the resolution/order duly adopted by the City Council of the City of Liberty. This Order of Abatement shall be maintained with the official minutes of the City Council of the City of Liberty

In witness whereof, I have hereunto set my hand on this the 08th day of January, 2013.

By: _____
Carl Pickett,
Mayor,
City of Liberty



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Drilling Issues

7.A.6

ORDINANCE (ID # 2593)

DOC ID: 2593 A

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS AMENDING THE CITY OF LIBERTY CODE OF ORDINANCES BY SPECIFICALLY ADDING ARTICLE 4.10, ENTITLED "OIL AND GAS PIPELINE STANDARDS; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL REQUIREMENTS AND MINIMUM DESIGN STANDARDS; PROVIDING FOR NEW PERMITS; PROVIDING FOR PUBLIC EDUCATION; PROVIDING FOR PIPELINE INFORMATION REPORTING REQUIREMENTS; PROVIDING FOR PIPELINE MARKERS; PROVIDING FOR THE ONE CALL SYSTEM; PROVIDING FOR INACTIVE AND IDLED PIPELINES; PROVIDING FOR EMERGENCY RESPONSE PLANS AND EMERGENCY INCIDENT REPORTING; PROVIDING FOR PIPELINE REPAIRS AND MAINTENANCE; PROVIDING FOR STREET AND RIGHT-OF-WAY USE; PROVIDING A REQUIREMENT FOR BOND AND INSURANCE; PROVIDING FOR TERMINATION OF THE PERMIT; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OR FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; 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.

WHEREAS, the City of Liberty is a duly organized political subdivision of the State of Texas engaged in the provision of municipal government and related services for the benefit of the citizens of the City of Liberty; and

WHEREAS, the City of Liberty finds it necessary to create oil and gas pipeline standards to protect the health, safety and general welfare of the public; and

WHEREAS, the City of Liberty does further find and determine that providing new standards related to oil and gas pipelines, by adoption of this Ordinance, is in the best interests of the public health, safety and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS THAT:

Section 1

The following provisions are adopted as Article 4.10 of the City of Liberty Code of Ordinances:

“ARTICLE 4.10 OIL AND GAS PIPELINE STANDARDS

Division 1. Adoption; Penalty

Section 4.10.001 Adoption

The oil and gas pipeline standards as set forth below are hereby adopted by the City Council of the City of Liberty as the oil and gas pipeline standards for the City.

Section 4.10.002 Penalty

Any person, firm or corporation violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined, except as otherwise provided herein, a sum in accordance with the general penalty provision set forth in the Code of Ordinances for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 4.10.003 Definitions

The following words and terms, when used in the Article, shall have the following meanings, unless the context clearly indicates otherwise.

Applicant means any person applying to the City for a permit and/or certificate for an oil or gas pipeline permit.

Building includes, but is not limited to, all related site work and placement of construction materials on the site.

Building Official means the officer or other designated authority charged with the administration and enforcement of this article, or the building official's duly authorized representative.

City means the City of Liberty, Texas

Commercial Facility means any structure used for providing, distributing and selling goods or services in commerce including but not limited to hotels, restaurants, bars, rental operations, and rental properties.

Construction means causing or carrying out any building, bulk heading, filling, clearing, excavation, or substantial improvement to land or the size of any structure.

Dedication includes but is not limited to a permanent easement or a fee simple acquisition of land for a specific purpose.

Development Review Committee (“DRC”) means a committee composed of the City Manager, Fire Official, Police Chief, City Engineer, and Building Official. The Development Review Committee is charged with the responsibility of meeting with

applicants who are submitting applications or petitions for zoning, platting and other development or land use-related applications prior to the scheduling of a public hearing or City Council consideration of an application. Development review committee meetings are for the purpose of disclosing to an applicant(s) the technical issues pertaining to their respective application(s) and to direct the applicant to address technical deficiencies prior to a public hearing or City Council consideration.

Excavation includes, but is not limited to, scraping or grading a site.

Exempt Pipeline means a pipeline associated with exploration for, production and gathering of oil and gas, provided that the pipeline is located no farther than two (2) miles from the well being served.

FEMA means the United States Federal Emergency Management Agency, the federal agency that administers the National Flood Insurance Program and publishes the official flood insurance rate maps.

Filling includes, but is not limited to, disposal of excavated materials.

Habitable Structures means structures suitable for human habitation or occupation, including, but not limited to, single or multifamily residences, hotels, condominium buildings, buildings for commercial purposes and enclosed spaces in which individuals congregate for education, worship, amusement or similar purposes, or in which occupants are engaged at labor, and which is equipped with means of egress, light, and ventilation facilities. Each building for a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

Hazardous Liquid, shall mean petroleum or any petroleum product, and any substance or material which is in a liquid state, when transported by pipeline facilities and which has been determined by the United States Secretary of Transportation to pose an unreasonable risk of life or property when transported by pipeline facilities. The term shall be enlarged to include liquefied natural gas and anhydrous ammonia should such materials at any time be introduced into any pipeline subject to this Article. It shall also include carbon dioxide, defined at 49 CFR 192.2 as a fluid consisting of more than ninety percent (90%) carbon dioxide molecules compressed to a supercritical state.

Idled Pipeline means a pipeline that has been inactive for at least two (2) years even though there may be no specific plans to reactivate the pipeline.

Inactive Pipeline means a pipeline that has temporarily been taken out of service for a period of at least six (6) months for hazardous materials or hazardous liquids and one (1) year for natural gas with the exception that the pipeline may be reactivated within two (2) years even though there may be no specific plans to reactivate the pipeline.

Jurisdiction of the City of Liberty (or "City") shall mean the area within the corporate

boundaries of the City and its extraterritorial jurisdiction, as that term is defined in the Texas Local Government Code, to promote and protect the general health, safety and welfare of persons residing in the area adjacent to municipalities.

New Pipelines shall mean pipelines constructed after the effective date of this Article but shall not include (a) the replacement or repair of any existing pipeline; (b) the realignment of a portion of an existing pipeline to a position that is not greater than fifty (50) feet from its original position; or (c) surface appurtenances added to existing pipelines.

Nonexempt Pipelines shall mean pipelines other than those subject to state and federal regulations.

Owner or Operator shall mean any person owning, operating or responsible for operating an oil or gas pipeline for the purpose of transporting oil, gas, or other gasses, or liquids related to the production of oil, gas or other hydrocarbons.

Permittee shall mean any person authorized to act under permit or a certificate issued by the City.

Person shall mean an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, the United States government, a state, a municipality, commission, political subdivision or any international or interstate body or any other governmental entity.

Pipeline shall mean all parts of those physical facilities through which gas, hazardous liquids or chemicals move in transportation, including, but not limited to, pipe, valves and other appurtenance attached to pipe, compressor units, metering stations, pumping units, regulator stations, delivery stations, terminals, holders and fabricated assemblies and breakout tanks whether or not laid in public or private easements or public or private rights-of-way within the City or its extraterritorial jurisdiction.

Pipeline Emergency means a pipeline incident in which any of the following has occurred or is occurring:

- (1) Fire or explosion not initiated by the owner/operator as part of its operations (in accordance with accepted safety practices)
- (2) Release of gas, hazardous liquid or chemical that could adversely impact the environment or health of individuals, livestock and/or domestic animals, and wildlife, within the City or its extraterritorial jurisdiction.
- (3) Death of any person or individual directly attributable to the operations of the pipeline.
- (4) Bodily harm of any person that results in loss of consciousness, the need to assist a person from the scene of the incident or the necessity of medical treatment in excess of

first aid.

(5) Damage to private or public property not owned by the pipeline owner or operator in excess of five thousand dollars (\$5,000.00) in combined values.

(6) The rerouting of traffic or the evacuation of buildings.

Practicable In determining what is practicable, the City Council shall consider the effectiveness, scientific feasibility and commercial availability of the technology or technique. The City Council may also consider the cost of the technology or technique.

Production and Gathering Facilities means the equipment used to recover and move oil or gas from a well to a main pipeline, or other point of delivery such as a tank battery, and to place such oil or gas into a marketable condition. These facilities include, but are not limited to, pipelines used as gathering lines, pumps and tank batteries.

Street means the entire width between the boundary lines of the street right-of-way that is open to the use of the public for purposes of vehicular travel.

Street Right-of Way means that land dedicated by easement or by fee simple, or qualifies as a prescriptive easement, or prescriptive right-of-way, for the use and construction of a street or roadway.

Structure means, without limitation, any building, or combination of related components constructed on an ordered scheme that constitutes a work or improvement constructed on or affixed to land, included but not limited to partially enclosed structures, enclosed tanks, etc.

Unregulated Pipeline means those pipelines within the City or its extraterritorial jurisdiction that enjoy exemptions under federal and state rules that include such lines from construction standards, safety standards or reporting requirements of either or both federal and state governments.

Division 2. Standards

Section 4.10.004 General Requirements and Minimum Design Standards

(a) An oil and gas pipeline permit is required as follows:

(1) It shall be unlawful for any person, acting for himself or as an agent, employee, independent contractor or servant of any other person, to commence to construct, install, operate or reconstruct a pipeline or any section of a pipeline or to operate any pipeline or to assist in the construction, installation, operation or reconstruction of a pipeline if a lawful oil and gas pipeline permit has not been obtained.

(2) Any applications to construct, lay, rework, wrap or otherwise lower or replace existing pipelines or install monitoring or recovery wells shall be submitted to the City in

a form prescribed by the City.

(3) Each application for an oil and gas pipeline permit shall be accompanied by ten (10) sets of plans showing the dimensions and locations of the pipelines and related items or facilities within the subject right-of-way or easement, as well as all proposed lift stations, pumps or other service structures related to such pipeline and the locations, type and size of all existing utilities, drainage, right-of-way and roadway improvements.

(4) Within ten (10) days after the day of filing of said application and plans, the City shall send notice to the applicant as to whether the application will be accepted for processing and the total charge due. If the application is rejected, reasons for rejection of the application shall be provided in writing.

(b) No pipeline for transportation of gas, oil or hydrocarbons from wells to be drilled shall be constructed or laid except on rights-of-ways or easements owned by the owners or operators of wells or third party pipeline companies, or upon designated drilling tracts and upon rights-of-way or easements necessary to connect future well sites to present lines.

(c) In order to enable the holder of each permit to move gas, oil, water or other products to and from the location of a well, the holder of each permit shall apply to the City for an easement on, over, under, along, or across the City Streets, sidewalks, alleys and other City property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under any permit issued pursuant to this Article; provided, however, such permittee shall:

(1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such right-of-way;

(2) Furnish to the City Secretary a plat showing the location of such pipelines for the transport of gas, oil or hydrocarbons. Said plat shall conform to the City's standards for oil and gas well development plats.

(3) Construct such lines or cause same to be constructed out of new pipe.

(4) Grade, level and restore such property to the same surface condition, as nearly practicable, as existed before operations were first commenced.

(d) Pipeline trenches shall be backfilled and pipelines shall be constructed so as to maintain a minimum depth of thirty-six inches (36") below the finished grade except in public rights-of-way, where minimum cover to the top of the pipe shall be at least forty-eight inches (48") below the bottom of any adjacent roadside ditch. Public roads shall not be crossed by open cut.

(e) In all cases in which residential lots in a proposed subdivision are crossed or come by or come within one hundred feet (100') of any existing oil or gas pipeline or pipeline

easement, the subdivider shall, prior to and as a condition of the City approval of the subdivision, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law, and which shall thereafter be recorded in the appropriate deed or other permanent county records:

“(Subdivider Name), by and through its duly undersigned and authorized officer, does hereby state that it fully realizes that it is applying for a permit from the City of Liberty to build within one hundred feet (100’) of an existing oil or gas pipeline or pipeline easement, and that the City of Liberty considers building near such pipeline or pipeline easement to have certain inherent dangers, including, but not limited to, explosion and release of noxious, toxic and flammable substances. For the aforementioned reasons, (Subdivider Name) does hereby RELEASE and agrees to forever HOLD HARMLESS the City of Liberty, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the building, use or habitation of structure described in the said permit.”

(f) In all cases in which residential lots in a proposed subdivision are crossed or come by or come within one hundred feet (100’) of an existing oil or gas pipeline or pipeline easement, the subdivider shall provide a note on the face of the preliminary plat and final plat stating that the subdivision is crossed or is located within one hundred feet (100’) of an existing oil or gas pipeline.

(g) Construction, repair and/or maintenance of all pipelines, gathering lines, and production lines shall meet or exceed the minimum criteria established by the statutory or regulatory requirements of the state and federal governments for oil and gas pipelines.

(h) Transmission pipelines, gathering lines and production lines within the City limits or extraterritorial jurisdiction shall be constructed in accordance with the Ordinances and shall be designed and constructed to the latest standards mandated by the United States Department of Transportation (DOT) and Texas Railroad Commission for pipelines operating within a Class 3 location in accordance with 49 CFR 192.111.

(i) Pipelines subject to this Article shall be constructed with an automated pressure monitoring system that detects leaks and shuts off any line or any section of that line that develops a leak. In lieu of such system, the pipeline operator may have 24 hour pressure monitoring of the pipeline system which provides monitoring of the pipeline within the City limits and extraterritorial jurisdiction. Any monitoring system(s) shall be keyed to or required to notify the City’s emergency response providers in order to provide them with immediate notice of any leak.

(j) Construction of the pipeline must commence within six (6) months of approval by the City or otherwise the permit expires. A one-year extension of time may be granted if existing conditions are the same. Once construction has commenced, the permit shall continue (i) until the pipeline covered by the permit is completed and the site restored, or (ii) one year has elapsed since the approval date of the permit by the City Council, whichever occurs first.

Section 4.10.005 New Pipeline Permit Application

(a) At least forty-five (45) days prior to the scheduled commencement of the construction of a new pipeline the owner or operator shall submit an application and pay a fee, as established by the adopted fee schedule, for an oil and gas pipeline permit to the City pursuant to its intention to construct the pipeline and shall submit the following information in the application for a permit:

(1) The name, business address and telephone numbers of the pipeline owner or operator.

(2) The names, titles and telephone numbers of the following:

(A) The person submitting the application and petition for the pipeline construction;

(B) The person designated as the principal contact for the Submittal;

(C) The person designated as the twenty-four hour emergency contact; and

(D) The person or firm that will operate the pipeline.

(3) The origin point and the destination of the segment of the pipeline to be constructed.

(4) A text description of the general location of the planned pipeline.

(5) A description of the substance to be transported through the pipeline.

(6) A copy of the substance material safety data sheet (MSDS).

(7) The maximum allowable operating pressure on the pipeline, along with the Specified Minimum Yield Strength (SMYS) of the pipe, its pressure class, and design calculations in accordance with 49 CFR 192.105, assuming a Class 3 or better location.

(8) The normal operating pressure range of the pipeline, not to exceed the maximum allowable operating pressure as designated above.

(9) Engineering plans, drawings and/or maps with summarized specifications showing the horizontal pipeline location, pipeline covering depths, and location of shutoff valves (the location of shutoff valves must be known in order for emergency responders to clear area for access valves.) To the extent that information can be obtained, drawings shall show the location of other pipelines and utilities that will be crossed or paralleled within five (5) feet of the proposed pipeline.

(10) A description of the consideration given to matters of public safety and the avoidance, as far as practicable, of existing inhabited structures and congregated areas.

- (11) Detailed cross section drawings for all public street right-of-way and easement crossings.
- (12) Methods to be used to prevent both internal and external corrosion.
- (13) A binder or certificates of all bonds and insurance as required under this Article.

Section 4.10.006 Permit Approval

(a) The applicant shall submit an application as described in Section 4.10.005 and in accordance with a submittal schedule as provided by the City. Any application that is submitted that is determined to be administratively incomplete shall be returned to the applicant within ten (10) business days of the submittal date along with a letter documenting the deficiencies of the application, if any. The following is an example of a typical permit process:

- (1) Application submitted to the City.
 - (2) Within ten (10) business days the applicant will be notified of his/her appointment with the Development Review Committee (DRC) or rejection of the application for administrative incompleteness.
 - (3) DRC meets with the applicant to review the application.
 - (4) Public review period.
 - (5) DRC meets with the applicant to review public comments (if applicable).
 - (6) Applicant mails notices to property owners.
 - (7) Public Hearing is held before the City Council and the permit is considered for approval.
 - (8) Bonds and Insurance are submitted to the City by the applicant.
 - (9) Permit is issued.
 - (10) Pre-construction meeting is held at City and construction may begin thereafter.
 - (11) As-built plans are submitted to the City after completion of construction.
- (b) The City's Development review Committee (DRC) and pipeline owner or operator shall review the application and associated plans and documents for completeness and make technical comments. At that time, the DRC shall make comments relating to conditions or requirements of the City's right-of-way use ordinance and any proposed use of public property. The City may appoint one or more consultations to provide technical expertise in the construction, maintenance or operation of any pipeline.

(c) The City shall give notice that the information referenced in Section 4.10.005(a) is available to the public for comment and review. Notice to the public shall be made in the City's official newspaper or a daily newspaper of general circulation in the City, at the applicant's cost. Such notice shall be provided in the public notice section of a least two (2) issues and include the following information:

- (1) General description of the planned pipeline including, but not limited to, the proposed materials or product to be conveyed through the pipeline;
- (2) Proposed pipeline construction;
- (3) Type of material to be used for the pipeline;
- (4) Pipeline owner;
- (5) Pipeline operator;
- (6) General location of the pipeline(s);
- (7) The City's address to which written comments may be submitted; and
- (8) Scheduled location and time for the public hearings.

(d) Prior to the tenth (10th) day before the hearing date specified in subsection (c), above, the pipeline owner or operator shall provide written notice to each owner, as indicated on the most recently approved municipal tax roll, of real property within five hundred feet (500') of the centerline of the proposed pipeline site. The notice may be served by its deposit in the United States mail with notices being properly addressed and with postage paid. Said notice shall contain the same information specified in subsection (c), above. Copies of the notices must be submitted to the City prior to the first public hearing. The applicant is encouraged to send a draft notice to the City for review prior to mailing.

(e) The public may review the proposed pipeline information made available pursuant to subsection (c) for a period of ten (10) business days following the publication of the first public notice and submit written, signed comments within such period of the City. Copies will be provided to the pipeline owner or operator by the City as soon as practicable for review.

(f) Following the public review period the pipeline owner or operator shall have a second meeting with the City's Development Review Committee to review any public comments. Such meeting will not be required if no public comments are received and there are no substantive technical issues with regard to the application. The permit then shall be scheduled for public hearing before the City Council for approval or denial. In the event that all applicable federal, state, county, and local laws, standards, ordinances and regulations are met and any safety issues have been adequately resolved to the

satisfaction of the City Council, the City Council shall approve an oil and gas pipeline permit. If there are substantive, non-resolvable technical issues concerning matters that do not fall within the exclusive jurisdiction of the United States Department of Transportation, other applicable federal regulatory agency, or the Texas Railroad Commission, an administrative hearing shall be held as soon as practicable, as provided in subsection (g), below.

(g) An administrative hearing shall be conducted to seek resolution of any substantive, non-resolvable technical issues. The hearing, at which anyone with an interest or concern may offer comments, shall be conducted before the Pipeline Review Committee, which shall consist of the City Engineer, City Attorney and three (3) appointed technical experts recognized as competent. The costs associated with the technical consultants shall be borne by the applicant. A quorum of at least three (3) members must be present to conduct a hearing with at least one (1) of the members present at the hearing having emergency management expertise. The public hearing process before the City Council as specified in subsection (f), above, shall re-commence within thirty (30) calendar days of the date of such Administrative hearing. No additional public notice is required prior to any such public hearing except that mandated by the Texas Open Meetings Act, as amended.

(h) From time to time the City may need to obtain an independent study or analysis of an application or petition to construct a new pipeline. The City, upon approval by the City Council after recommendation by the Pipeline Review Committee, shall engage duly qualified independent consultant(s) or contractor(s) to conduct such special studies or analyses as required to fully evaluate and act upon an application for a new pipeline. Cost for said consultant or contractor shall be billed directly to the applicant for all direct expenses incurred by the City relative thereto. Failure to timely remit payment to the City shall result in the denial of an application.

(i) The pipeline owner or operator shall give notice forty-eight (48) hours prior to the commencement of pipeline construction to all residents and business establishments that are located within five hundred feet (500') of the proposed centerline of the pipeline.

(j) Upon completion of pipeline construction the pipeline owner or operator shall provide the City with as-built or record drawings of the pipelines within one hundred twenty (120) calendar days. Accuracy of the as-built or record drawings shall meet a survey level of one foot (1') to fifty thousand feet (50,000'). The drawings shall also be supplied in a DXF digital file format with the location tied to one (1) nearby GPS (global positioning system) City monument. If the new pipeline length exceeds one thousand feet (1,000') within the City or its extraterritorial jurisdiction, the pipeline shall be tied to at least two (2) GPS City monuments.

(k) Any change of service of a pipeline not previously addressed by this Article to gas, hazardous liquid or chemical service must be reviewed in accordance with the new pipeline review procedure outlined herein, as if it were new pipeline construction.

Section 4.10.007 Public Education

In keeping with the National Gas Pipeline Safety Act of 1968 and 49 CFR 192.614, “Damage Prevention Program,” 49 CFR 192.615, “Emergency Plans,” the Hazardous Liquids Safety Act of 1979, and 49 CFR 195.408, “Communications,” 49 CFR 195.440, “Public Awareness,” and the Community Right-to-Know Act, 40 CFR Parts 350-374:

(1) Each pipeline owner or operator shall maintain a public education program that is communicated to residents and business establishments within one thousand feet (1,000’) of the centerline of a pipeline.

(2) Pipeline information communicated per subsection (1) shall contain the following subjects:

- (A) Pipeline location;
- (B) Material transported within the pipeline;
- (C) Pipeline makers;
- (D) How to recognize a pipeline;
- (E) How to report a pipeline emergency;
- (F) Contact information regarding underground utility locations;
- (G) Additional requirements for excavations near a home or business; and
- (H) Response needs during a pipeline emergency, including instructions for sheltering in the event of an emergency.

(3) Public education information shall be communicated at least annually in both English and Spanish.

Section 4.10.008 Pipeline Information Reporting Requirements

(a) Each pipeline owner or operator shall provide to the City Secretary, the Fire Department, and the City’s law enforcement provider the names, mailing addresses and telephone numbers of at least two (2) primary persons, officers or contacts available on a twenty-four-hour basis and at least two (2) alternative persons, officers or contacts to be reached in the event that the primary contacts are unavailable who:

- (1) Can initiate appropriate actions to respond to an emergency;
- (2) Have access to information on the location of the closest shutoff valve to any specific point in the City or its jurisdiction; and
- (3) Can furnish the common name of the material then being carried by the pipeline.

Any change in the above information must be provided to the City by contacting the City Secretary prior to such change.

(b) Every owner or operator of a pipeline subject to this Article shall be required to present to the City a safety report and file with the City an annual verified safety report in letter form on or before June 30 of each year to cover a reporting period of June 1 through May 31. Said written safety report shall contain the following information and said information shall be presented to the City Council by every owner or operator of a pipeline subject to this Article:

(1) A statement that the pipeline has no outstanding safety violations as determined in an inspection or audit by either the Texas Railroad Commission and/or the U.S. Department of Transportation with regard to any pipeline operating within the City or its extraterritorial jurisdiction. Alternatively, if there are any safety violations as determined by the Texas Railroad Commission and/or the U.S. Department of Transportation that have not been corrected, these shall be described to the City with an action plan to correct the safety violations. Said action plan shall include a timeline for corrective action and the individual or firm responsible for each action.

(2) Evidence that the pipeline owner or operator had current liability insurance covering each respective pipeline in the minimum amount of five million dollars (\$5,000,000.00) or has a self-insured signed program, verified by an independent certified public accountant, which program and verification will be reviewed and judged to determine equivalency by the City. Insurance carriers must be licensed to conduct business in the state and possess at least an "A" rating by the A.M. Best Company.

(3) A statement that the pipeline information specified in subsection (a) is correct. Alternatively, in the event that the required information on file with the City is no longer correct, updated or corrected information shall be submitted within five (5) calendar days of the change and the updated information shall be submitted with the annual safety report.

(4) Owners or operators of any unregulated pipeline who have no reporting responsibility to the Texas Railroad Commission or the U.S. Department of Transportation and who may otherwise operate outside the safety regulations of either of these agencies shall additionally provide the following pertaining to the preceding reporting period of June 1 through May 31:

(A) Copies of internal reports of responses to pipeline emergencies, as pipeline emergency is defined in this Article;

(B) Current operations and maintenance logs; and

(C) Current emergency action plan.

(5) A log of all the maintenance and monitoring activities conducted on all lines

subject to this Article for the reporting period shall be made available upon request by the City.

(6) The designated owner or operator shall submit the annual safety report with respect to all pipelines subject to the ordinances of the City of Liberty, Texas. The safety report and verification shall be executed by an officer or a person who is authorized to sign such safety report letter and make verification. The prescribed form of verification on the safety report letter shall read:

Verification

I, NAME, TITLE, of OWNER/OPERATOR, am authorized to make and have made the foregoing annual safety report letter to the City for oil and gas pipelines. Any attachments made to this letter are true and correct copies of originals and the information provided in this letter is true and correct to the best of my knowledge and is information based on the standard of inquiry and investigation as would be made by a reasonably prudent owner or operator within the City of Liberty or within the City's jurisdiction.

Signature of Officer or Person Authorized to Sign Letter

STATE OF TEXAS §
COUNTY OF LIBERTY §

The foregoing annual safety report letter was sworn to and subscribed before me by (signatory of letter) on this ____ day of _____, 20____.

Notary Public for the State of Texas

Printed Name:_____

My Commission Expires:_____

(7) An annual fee in the amount of one hundred dollars (\$100.00) for administrative costs shall be remitted by each owner or operator for each pipeline on or before June 30 of each year with the annual safety report letter as required herein.

(8) A copy of all initial or follow-up reports provided to the U.S. Department of

Transportation or the Texas Railroad Commission on unsafe pipeline conditions, pipeline emergencies or pipeline incidents within the City's jurisdiction must be filed concurrently with the City. In addition, any initial or follow-up reports filed with state and federal environmental regulatory agencies pertaining to pipeline releases within the City's jurisdiction that threaten to impact the environment, public health or safety must be filed concurrently with the City.

(9) Upon written request, the pipeline owner or operator shall make available to the City during normal business hours and at the pipeline owner or operator's local office, other documents for review that are required for submittal to or to be maintained on file for the U.S. Department of Transportation and the Texas Railroad Commission such as:

(A) Operations and maintenance;

(B) Employee training;

(C) Annual inspection;

(D) Repair records;

(E) Operating records; and

(F) Insurance.

In case of unregulated pipelines, the City may request any such additional information that the City deems may be necessary to the best interests of the City and to be necessary to protect the public health, safety and welfare.

Section 4.10.009 Pipeline Markers

(a) In accordance with the U.S. Department of Regulation and the Texas Railroad Commission requirements, pipeline owners or operators shall place and maintain permanent line markers as close as practical over the pipeline(s) at each crossing of a public street, utility easement or railroad. Marker(s) shall also be maintained along each pipeline that is located above ground in an area accessible to the public. The markers shall be of permanent type construction and contain labeling identifying the:

(1) Pipeline owner or operator;

(2) Twenty-four-hour contact telephone number; and

(3) A general description of the product transported in the pipeline; i.e., natural gas, oil, petroleum.

(b) No person shall tamper with, deface, damage or remove any pipeline marker, except the pipeline owner or operator.

- (c) Upon specific reasonable request of the owner of a residential property, the pipeline owner or operator shall install temporary pipeline markers or flagging to reduce the possibility of pipeline damage or interference, in accordance with this Article.

Section 4.10.010 One Call System

- (a) The owner or operator of any pipeline that transports gas, oil, liquids or hydrocarbons that is located in the City's jurisdiction shall be a member in good standing with the One Call system or other approved excavation monitoring system as required by state law. The owner or operator of any pipeline that transports gas, oil, liquids or hydrocarbons subject to this section shall contract for service with the selected underground utility coordinating system for a minimum of five (5) years unless there is an agreement to change to an alternate system between the City and the pipeline owners or operators. Said services shall be maintained without interruption for the life of the oil and gas pipeline permit. The selected underground utility coordinating system may be different than the one used by the City for other underground utility services.
- (b) Prior to beginning any excavation, trenching or digging using powered equipment or hand tools that may damage a pipeline, any person in the City's jurisdiction shall be required to contact the One Call System and any other appropriate underground utility coordinating systems and determine if there are any pipelines or public utilities in the vicinity of the proposed activities.
- (c) If physical contact is made with a pipeline during any excavation, trenching or digging, the pipeline company must be notified by the person or agency making the physical contact with the pipeline for any necessary pipeline inspection or repair.

Section 4.10.011 Inactive and Idled Pipelines

- (a) Inactive pipelines
- (1) All reporting records specified in Section 4.10.008 shall be maintained and kept current on inactive pipelines.
- (2) Inactive pipelines shall be purged of gas, hazardous liquids and chemicals, and physically isolated if such action does not adversely affect the pipeline owner or operators rights-of-way easement and does not prevent the pipeline owner or operator from maintaining the physical integrity of the pipeline. These pipelines shall be maintained to prevent deterioration.
- (3) The means used to physically isolate, if such action is taken, the inactive pipeline shall be included in the information retained on file with the City for reporting as specified in Section 4.10.008.
- (b) Idled Pipelines
- (1) An entry shall be made to the required reporting records as required in Section

4.10.008 that the pipeline has been idled.

(2) Idled pipelines shall be purged, disconnected from all sources or supplies of gas, hazardous liquids and chemicals, and capped or sealed at the ends.

(3) Reactivation of idled pipelines shall require notification of the City pursuant to the standards and requirements specified in Section 4.10.008. Reactivation shall require pressure testing for integrity and compliance with Texas Railroad Commission and/or United States Department of Transportation regulations.

Section 4.10.012 Emergency Response Plans and Emergency Incident Reporting

(a) Each pipeline owner or operator shall maintain written procedures to minimize the hazards resulting from an emergency. These procedures shall at a minimum provide for:

(1) Prompt and effective response to emergencies:

(A) Leaks or releases that can impact public health, safety or welfare;

(B) Fire or explosions at or in the vicinity of a pipeline or pipeline easement; or

(C) Natural disasters;

(2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency;

(3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency;

(4) Measures to be taken to reduce public exposure to injury and probability of accidental death or dismemberment;

(5) Emergency shut down and pressure reduction of a pipeline;

(6) The safe restoration of service following an emergency or incident;

(7) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(b) Each pipeline owner or operator shall meet annually with representatives of the City to review emergency response plans. These reviews shall be in accord with U.S. Department of Transportation and Texas Railroad Commission requirements and the owner or operator will:

(1) Furnish or update a copy of the emergency response plan described in subsection (a);

- (2) Review the responsibilities of each governmental organization in response to an emergency or incident;
- (3) Review the capabilities of the pipeline owner or operator to respond to an emergency or incident;
- (4) Identify the types of emergencies or incidents that will result in or require contacting the City; and
- (5) Plan mutual activities that the City and the pipeline owner or operator can engage in to minimize risks associated with pipeline operation.

At this meeting, the City shall provide the pipeline owner or operator with a list of additional contacts that shall be made in the event of a pipeline emergency or incident. The City will inform the pipeline owner or operator of the emergency response groups that will be contacted through 911.

(c) Upon discovery of a pipeline emergency or incident, the following communications are to be initiated by the affected pipeline owners or operators:

- (1) A general description of the emergency or incident;
 - (2) The location of the emergency or incident;
 - (3) The name and telephone number of the person reporting the emergency or incident;
 - (4) The name of the pipeline owner or operator;
 - (5) Whether or not any hazardous material is involved and identification of the hazardous material so involved; and
 - (6) Any other information as requested by the emergency dispatcher or other such official at the time of reporting the emergency or incident.
- (d) The pipeline owner or operator shall contact any other emergency response groups that are necessary that may not be activated through the county 911 system.
- (e) Notwithstanding any provision in this Article, each pipeline, containing natural gas which contains hydrogen sulfide in concentrations of more than one hundred (100) parts per million, shall be constructed with an audible alarm system that will provide an alarm to the general public in the event of a leak from any pipeline, gathering or flow line subject to this Article. Said audible alarm system shall be of a type and design approved by the City.
- (f) Within two (2) years of the effective date of the pipeline permit and every two (2)

years thereafter, the pipeline owner or operator shall conduct an on-site, emergency drill that includes, but is not limited to, the personnel operating the pipeline, local law enforcement personnel, and officials of the City.

Section 4.10.013 Pipeline Repairs and Maintenance

(a) All repairs and maintenance are to be performed in accordance with U.S. Department of Transportation and Texas Railroad Commission mechanical integrity requirements. This requirement applies to all pipelines covered by this Article, unregulated as well as those operating under federal rules.

(b) If non-emergency repairs necessitate excavation of the pipeline, prior notification is required to occupants of business establishments and residential dwellings located within five hundred feet (500') from the centerline of the pipeline to be excavated.

(c) Above-ground non-emergency repairs that are not routine maintenance necessitate prior notification to occupants of business and residential dwellings located within five hundred feet (500') from the centerline of the pipeline section to be repaired.

(d) Without limitation of the methods of giving the notice required in subsections (b) and (c), the leaving of a written notice securely attached to the front door of a residence or business establishment or the posting of a written notice at the entry to any recreational area or place of public assembly to be noticed shall be deemed compliant with this section.

(e) An annual visual inspection of the interior of all pipelines subject to these standards shall be conducted. Said visual inspection shall be conducted via video camera commonly referred to as "pigging" or other such comparable process approved by the City that follows U.S. Department of Transportation and Texas Railroad Commission rules.

Section 4.10.014 No Grant of City Easement; No Assumption of Responsibility by City

(a) Nothing in this Article grants permission for the use of any street, right-of-way or property of the City and any such use shall be subject to the City at its sole discretion.

(b) Nothing in this Article shall be construed as an assumption by the City of any responsibility of an owner or operator of a pipeline not owned by the City, and no City officer, employee or agent shall have authority to relieve an owner or operator of a pipeline from their responsibility under this Article or by any other law, ordinance or resolution.

Section 4.10.015 Protection and Painting of Structures

All pipeline risers and all appurtenances related to pipeline construction and operations composed of materials generally protected or painted shall be protected and painted and

shall be repainted at sufficiently frequent intervals to maintain same in good condition. It shall be a violation of the Article for any pipeline rider and/or appurtenances related to pipeline construction and operation to be in a state of disrepair or to have chipped, peeling or unpainted portions thereof.

Section 4.10.016 Waiver/Hold Harmless Agreement Required for Issuance of Building Permit

Any person, firm or corporation wishing to obtain a building permit for the erection, construction, reconstruction or expansion of any structure, of which portion of such erection, construction, reconstruction or expansion would occur within one hundred feet (100') of an existing oil or gas pipeline or pipeline easement, shall prior to and as a condition of the issuance of such building permit, execute the following waiver and hold harmless agreement, which shall be duly acknowledged in the manner provided by law, and which shall thereafter be notarized and recorded in the appropriate deed or other permanent county records:

"I, Applicant's Name, do hereby state, on my oath, that I fully realize I am applying for a permit from the City of Liberty to build within one hundred feet (100') of an existing oil and gas pipeline easement; that I am fully aware of the dangers inherent in building near such pipeline or easement, including, but not limited to, explosion and release of noxious, toxic and flammable substances; and, further, that I so hereby RELEASE and agree to forever HOLD HARMLESS the City of Liberty, Texas, its officers, officials, employees, successors and assigns from all liability in any way arising from the building, use or habitation of the structure described in the said permit."

Section 4.10.017 Street and Right-of-Way Use

(a) In the event an oil or gas pipeline is placed within any public right-of-way under the jurisdiction of the City, the owner/operator shall comply with the right-of-way use regulations as provided in the City of Liberty Code of Ordinances and obtain an appropriate franchise for the use of such right-of-way.

(b) To the extent that the provisions of this Article conflict with the City's right-of-way use ordinance, this Article shall apply.

Section 4.10.018 Violations

(a) Any pipeline owner or operator subject to this Article, who shall have failed to comply with this Article, shall be deemed to maintain a nuisance and the City may take such measures to remedy such nuisance.

(b) It shall be a violation of this Article for a person to knowingly make a misrepresentation of any information to be reported pursuant to this Article. It shall also be a violation of this Article if the person makes such misrepresentation as a result of failure to exercise such due diligence of investigation or inquiry, as would a reasonably prudent pipeline owner or operator conducting business in the jurisdiction of the City.

(c) Each violation of any section, subsection or part of this Article shall be a separate offense. Each day of ongoing violation shall be a separate offense, and shall carry with it a fine of not less than one thousand dollars (\$1,000.00) per day nor more than two thousand dollars (\$2,000.00) per day.

(d) The City shall be entitled to injunctive relief or any other appropriate relief in a court of appropriate jurisdiction to prevent violation of or to compel compliance with this Article.

Section 4.10.019 Bond and Insurance Required

(a) In the event that a permit is issued for a pipeline or other operations under this Article, no actual operation shall be commenced until the permittee shall file with the City Secretary a bond and a certificate of insurance as follows:

(1) No person shall begin the construction or operation of any pipeline until he has filed with the City Secretary a duly executed bond executed by the applicant as principal with an AM Best "A" rated surety company that is acceptable to the City and is licensed to conduct business in the state as surety, payable to the City and the policy shall name the City as an additional insured and such surety company shall maintain an A.M. Best "A" rating for the policy period. Said bond shall include conditions that the applicant, its heirs, assigns and successors will do the following:

(A) Comply with the terms and conditions of the application and this Article in the construction, operation and maintenance of the pipeline and related structure(s).

(B) That all street and sidewalks and all other public places and all public utilities that may be injured or damaged in the operation will be restored to their former condition.

(C) That all litter, machinery, buildings, trash, and waste used, accumulated or allowed in the operation of any pipeline will be removed within thirty (30) days of the completion of said construction.

(D) That litter, machinery, buildings, trash and waste used, accumulated or allowed in the operation of any pipeline will be removed within thirty (30) days of the completion of said operations.

(E) Such bond shall be in the sum of \$1,000,000.00 and before the permit shall be issued, the bond shall be approved by the City and filed with the City Secretary. Such bond shall become effective upon the granting of the permit and shall remain in full force and effect until all work under the terms of such permit has been completed. Such bond may later be amended to include other pipelines, under provisions of other applications, or other permits.

(2) In addition to the bond required in subsection (a)(1) above, each person desiring to construct a pipeline or to conduct any other work under the provisions of this Article

shall be required to carry public liability insurance with a carrier rate “A” or better by A.M. Best in a minimum amount of \$1,000,000.00 for one person and \$5,000,000.00 for one accident and property damage insurance in the amount of \$10,000,000.00 for one accident, which shall remain in full force and effect and be carried so long as such pipeline is operated. A certificate of insurance shall be furnished annually by the permittee or the subsequent owner and operator of such pipeline showing that such insurance is and continues in effect.

(3) Permittee shall provide and maintain in full force and effect during the term of its permit insurance with the following minimum limits:

(A) Worker’s compensation at statutory limits;

(B) Employer’s liability, including bodily injury by accident and by disease, for \$500,000.00 combined single limit per occurrence and a twelve-month (12-month) aggregate policy limit of \$1,000,000.00;

(C) Commercial general liability coverage, including blanket contractual liability, products and completed operations, personal injury, bodily injury, broad form property damage, operations hazard, pollution, explosion, collapse and underground hazards for \$5,000,000.00 per occurrence and a twelve-month (12-month) aggregate policy limit of \$10,000,000.00; and

(D) Automobile liability insurance (for automobiles used by the permittee in the course of its performance under the permit, including employer’s non-ownership and hired auto coverage) for \$2,000,000.00 combined single limit per occurrence.

(b) The City shall adjust the above minimum liability limits every five (5) years during the term of the permit to compensate for the effects of inflation and with the objective to reestablish the value of coverage required as of the effective date of this Article.

(c) Each policy or an endorsement thereto, except those for worker’s compensation and employer’s liability, shall name the City and its officers, officials, employees, successors and assigns as additional insured parties, but limited to risks indemnified pursuant to this Article. If any such policy is written as “claims made” coverage and the City is required to be carried as an additional insured, then the permittee shall purchase policy period extensions so as to provide coverage to the City for a period of at least two (2) years after the last date that the permit is in effect. No deductible shall exceed ten percent (10%) of the minimum limits of liability or one percent (1%) of the consolidated net worth of the permittee and its permitted affiliates, whichever is greater.

(d) Permittee shall assume and bear any claims or losses to the extent of deductible amounts and waives any claim it may ever have for the same against the City and its officers, officials, employees, successors and assigns in respect of any covered event.

(e) All such policies and certificates shall contain an agreement that the insurer shall

notify the City in writing not less than thirty (30) days before any material change, reduction in coverage or cancellation of any policy. Permittee shall give written notice to the City within five (5) days of the date upon which total claims by any party against permittee reduce the aggregate amount of coverage below the amounts required by the oil and gas pipeline permit.

(f) Each policy must contain an endorsement to the effect that the insurer waives any claim or right in the nature of subrogation to recover against the City, its officers, officials, employees, successors and assigns.

(g) Each policy must contain an endorsement that such policy is primary insurance to any other insurance available to the City as an additional insured with respect to claims arising thereunder.

Section 4.10.020 Termination of Permit

Any violation of the provisions of any or all sections of this Article shall be grounds for the termination of any oil and gas pipeline permit. The termination of any oil and gas pipeline permit shall require the immediate cessation of all operations subject to the permit and shall require the pipeline owner or operator to reapply for a new oil and gas pipeline permit in full accordance with the provisions of this Article.”

SECTION 2

That all Ordinances of the City in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provision of this Ordinance shall remain in full force and effect.

SECTION 3

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of the Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 4

An offense committed before the effective date of this ordinance is governed by prior law and the Code of Ordinances of the City of Liberty, as previously amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances

of the City of Liberty, Texas, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6

That the requirement contained in Section 3.10 of the Home Rule Charter of the City of Liberty, Texas that all ordinances be read on two days is hereby dispensed with.

SECTION 7

This Ordinance shall be in full force and effect from and after the date of its passage.

Passed and approved this _____ day of _____, 20_____, by a majority vote of the Liberty City Council.

Carl Pickett, Mayor

Attest:

Dianne Tidwell, City Secretary



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.7

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Grant Related Issues

COUNCIL ACTION (ID # 2595)

DOC ID: 2595



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.A.8

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Election Issues

COUNCIL ACTION (ID # 2594)

DOC ID: 2594



The City of Liberty

City Council
1829 Sam Houston
Liberty, TX 77575

7.C.1

Meeting: 01/08/13 06:00 PM

Department: Administration
Category: Executive Session Items

COUNCIL ACTION (ID # 2596)

DOC ID: 2596