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, February 11, 2014 | **6:00 PM** | **City Council Chambers**

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Carl Pickett	Mayor	Present	
Diane Huddleston	Mayor Pro Tem	Present	
Dennis Beasley	Councilperson	Present	
Frank Jordan	Councilperson	Present	
Louie Potetz	Councilperson	Present	6:40 PM
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 Pastor Tim Gruver, Heights Baptist Church, Liberty.

III. PLEDGE OF ALLEGIANCE

The Pledge to the American and Texas flags was led by Liberty High School Seniors Sarah Herrington and Spencer Liles.

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.

Police Chief Billy Tidwell reported that previously new officers were sworn in at the Liberty Police Department, however, a swearing-in of two new officers will take place in the City Council Chambers on Friday, February 14th. This facility will become the permanent location for future swearing-in ceremonies. Municipal Court Judge Mike Little will issue the Oath of Office. Chief Tidwell stated that an officer's commitment to service should be honored with a more dignified and public ceremony, to include family, friends, and the community.

Mayor Pickett reported that a Special Called Meeting of the City Council will be held on Tuesday, February 25th and that the Annual Liberty Jubilee will take place on March 28th & 29th.

V. PRESENTATIONS / REPORTS

1. Information Item (ID # 2934)

Project Updates - City Mgr. G. Broz

COMMENTS - Current Meeting:

City Manager Gary Broz reported on a printed handout of current projects stating that the inclement weather had slowed down the progress of some projects, and reported on the following:

1) an individual was attempting to steal copper from a metal pole at the Beaumont Substation, but was apprehended as a result of a neighbor calling in the incident,

2) waiting on Boomerang Tube to schedule transfer of the last four circuits to the new substation, as Boomerang will have to shut completely down in order for the transfer to occur,

3) trusses being installed in the new Police Department facility,

4) Street Project is out for bid,

5) Layl Sewer Project upgrade, funded through a Community Development Block Grant, is complete,

6) working to find a location and true costs of proposed new water well, also working with the Texas Water Development Board for possible funding options,

7) Building Inspector Roy Gilliland will retire, effective February 28th, after 41 years of service with the City,

8) discussion of other City related projects.

VI. CONSENT AGENDA

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

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

A. Minutes Approval

1. Tuesday, January 14, 2014

2. Thursday, January 30, 2014

B. Resolution 2014-3

Consider a Resolution authorizing the City Manager to enter into an Agreement with the Texas Department of Transportation for the temporary closure of Main Street during the Liberty Jubilee.

ATTACHMENTS:

- TxDOT Temporary Rd. Closure Agreement 2014 (DOC)

VII. REGULAR AGENDA

A. Regular Session

1. Ordinance 2014-1

Consider adoption of an Ordinance ordering a General Election to be held in the City of Liberty on Saturday, May 10, 2014, authorizing a Joint Election Agreement and Election Services Agreement by and between the City of Liberty, Liberty Independent School District, Liberty County Hospital District No. 1, City of Devers, and the Liberty County Clerk's Office. Considere una aceptacion a la ordenanza que manda a una eleccion general que tendra lugar en la ciudad de liberty, el sabado 10 de mayor, 2014; que autoriza un Acuerdo de Elecciones Conjuntas y un Contrato de los Servicios de Eleccion pro y entre la Ciudad de Liberty, el Distrito Escolar Independiente de Liberty, el Hospital del Distrito No. 1 de la Ciudad de Liberty, la Ciudad de Devers, y la Oficina del Secretario del Condado de Liberty.

COMMENTS - Current Meeting:

Mayor Pickett read the caption of the Ordinance ordering the May 10, 2014 General Election as follows:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON THE 10TH DAY OF MAY, 2014 FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS; AUTHORIZING A JOINT ELECTION AGREEMENT AND ELECTION SERVICES CONTRACT BY AND BETWEEN THE CITY OF LIBERTY, LIBERTY INDEPENDENT SCHOOL DISTRICT, LIBERTY COUNTY HOSPITAL DISTRICT NO. 1, CITY OF DEVERS, AND THE LIBERTY COUNTY CLERK; PROVIDING FOR EARLY VOTING; PROVIDING FOR TWO TWELVE-HOUR DAYS OF EARLY VOTING; PROVIDING FOR PUBLICATION AND NOTICE OF ELECTION; ESTABLISHING OTHER PROCEDURES FOR CONDUCT OF THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

City Secretary Dianne Tidwell reported that those Council Members whose terms expire are Mayor Pickett and Council Members Jordan, Potetz and Arnold. Ms. Tidwell also stated that the City of Devers would like to be included in the May 10th Joint Election to be conducted by the Liberty County Clerk's Office. Ms. Tidwell stated that election costs are decreased as more entities participate in the joint election.

Motion was made to adopt the ordinance ordering the May 10, 2014 General Election.

ATTACHMENTS:

- 2014 Election Agrmnt Draft #2 (DOCX)

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

2. Ordinance 2014-2

Consider an Ordinance adopting a Franchise Agreement between the City of Liberty and Entergy Texas, Inc.

COMMENTS - Current Meeting:

City Attorney Randy Gunter explained that there are two ordinances that work in conjunction with each other in regard to the proposed Entergy Franchise Agreement. Mr. Gunter stated that he, the City Manager, and an Austin attorney that specializes in franchise agreements had worked alongside Entergy and feel that these documents reflect appropriate extensions of the franchise. Mr. Gunter continued by stating that the first ordinance authorizes use of the City's rights-of-way to run power and use of air space to run overhead lines. Mr. Gunter stated that the second ordinance actually adopts the franchise agreement.

Mayor Pickett read the caption of the first ordinance into the record as follows:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS, GRANTING TO ENTERGY TEXAS, INC., ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHT TO USE AND OCCUPY RIGHTS-OF-WAY WITHIN THE CITY OF LIBERTY FOR THE CONSTRUCTION AND OPERATION OF AN ELECTRICAL LIGHTING AND POWER SYSTEM; PRESCRIBING CONDITIONS GOVERNING THE USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR COMPENSATION TO THE CITY OF LIBERTY FOR ENTERGY TEXAS, INC.'S USE OF THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE; PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE; PROVIDING FOR CITY USE OF COMPANY FACILITIES; PROVIDING A RIGHT OF CITY TO AUDIT COMPANY BOOKS AND RECORDS; PROVIDING FOR AMENDMENT TO AND ASSIGNMENT OF THIS FRANCHISE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY; PROVIDING SAVING IF ANY PROVISIONS BECOME INVALID; AND REPEALING ALL PRIOR FRANCHISES BETWEEN THE CITY OF LIBERTY AND ENTERGY TEXAS, INC."

Discussion was held regarding the City receiving Entergy franchise fees in the amount of approximately $13,000 per year, the document providing for a 25 year franchise, and other related topics. A motion was made by Councilperson Beasley seconded by Councilperson Huddleston to adopt the Ordinance, on the first reading.

Mr. Ron Fletcher, the new Entergy representative for this area, introduced himself and stated that he would be pleased to obtain the answers to any questions that Council may have.

Mayor Pickett read the caption of the second ordinance into the record as follows:

'AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY ADOPTING THE FRANCHISE AGREEMENT BETWEEN THE CITY AND ENTERGY TEXAS, INC.: ADOPTING A NEW SURCHARGE TARIFF ALLOWING ENTERGY TEXAS INC. TO RECOVER INCREMENTAL FRANCHISE FRANCHISE RENTAL FEES THROUGH A SURCHARGE CALCULATED PURSUANT TO THE RATE SET FORTH IN SUBSECTION 11(A) OF THE FRANCHISE AGREEMENT; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS CONSIDERED WAS OPEN TO THE PUBLIC AND IN ACCORDANCE WITH TEXAS LAW."

Attorney Randy Gunter explained that Entergy requested that the City first give Entergy the franchise and subsequently address the ordinance adopting the franchise. A motion was made by Councilperson Huddleston, seconded by Councilperson Simonson to adopt the ordinance, on the first reading.

ATTACHMENTS:

- Entergy Apprving Franchise (DOC)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Dennis Beasley, Councilperson
SECONDER:	Diane Huddleston, Mayor Pro Tem
AYES:	Pickett, Huddleston, Beasley, Jordan, Simonson, Arnold
ABSENT:	Louie Potetz

3. Public Hearing (ID # 2938)

Public Hearing on the Annual Review and Update of the Community Development Capital Improvement Program.

COMMENTS - Current Meeting:

At 6:37 p.m., Mayor Pickett opened the Public Hearing on the Liberty Community Development Corporation, Community Development Capital Improvement Program. As General Manager of the Corporation, Mr. Broz reported that the Street Project has been the sole focus, and the major project, of the Corporation. Brief discussion was held regarding the status of the recent condemnation proceedings relative to the Street Project. This annual report is required by the LCDC Bylaws.

At 6:39 p.m., Mayor Pickett closed the Public Hearing.

4. Council Action 2014-6

Consider approval of a lease agreement with Sjolander Aviation, for property at the Liberty Municipal Airport.

COMMENTS - Current Meeting:

Mr. Broz reported the proposed lease agreement with Sjolander Aviation LLC, is for 9,360 square feet of land at the Liberty Municipal Airport, for the purpose of constructing a hangar and associated improvements on the premises. The lease stipulates a ground lease rental of fifteen cents ($.15) per square foot, for annual lease payments of $1404.00.

Councilperson Potetz arrives at 6:40 p.m.

Lengthy discussion was held regarding a possible abatement, hangar value of approximately $600,000, maintenance and depreciation, 30 year lease at which time the improvements on the property are transferred to City ownership, increased aviation activity at the Airport, and other related topics.

A motion was made to approve the Hangar Land Lease Agreement with Sjolander Aviation, LLC.

ATTACHMENTS:

- Sjolander Agreement Feb 2014 (PDF)

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

5. Council Action 2014-7

Consider acceptance of an Architectural Agreement for restroom facility renovation at the Liberty Municipal Park.

COMMENTS - Current Meeting:

Mr. Broz reported on the City's original intent to construct a single restroom at the Liberty Municipal Park, south of the Splash Park, for a cost of $170,000. After discussion with a representative of the Baseball Association, the Association is also in need of restrooms and are willing to partner in this project with a contribution of $60,000, to build a larger 4-stall facility on the north side of the Splash Park. Proposed budget for this project, with Architectural Alliance, Inc., Beaumont, Texas, is $241,146.00, which includes the architect's fee of $18,378.00 or 8.25% of the estimated project cost.

After lengthy discussion of the proposed project, the need to reconfirm the Baseball Board's commitment and other related issues, a motion was made to construct one large restroom at a cost of $241,146, contingent upon the Baseball Board's participation, to be approved prior to the City's funding; and if not forthcoming from the Baseball Board, to move forward with construction of the original restroom project, at a cost of $170,000.

ATTACHMENTS:

- Architectural-Park RR Renov (PDF)

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

6. Ordinance 2014-3

Consider adoption of an Ordinance expanding the City’s regulation of sex offenders subject to residence restrictions.

COMMENTS - Current Meeting:

Mayor Pickett read the caption of the proposed ordinance into the record as follows:

"AN ORDINANCE AMENDING THE CODE OF ORDINANCES, ARTICLE 8.04.001, AMENDING THE DEFINITION OF A SEX OFFENDER; 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."

City Attorney Randy Gunter explained that the current ordinance forbade sex offenders from living near schools and parks, but only if the offender had been convicted of an offense in which the victim was a child. The proposed revision of the ordinance, found under "Definitions" now makes the age of the victim no long a consideration.

A motion was made to adopt the Ordinance amending the definition of a sex offender.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Libby Simonson, Councilperson
SECONDER:	David Arnold, Councilperson
AYES:	Pickett, Huddleston, Beasley, Jordan, Potetz, Simonson, Arnold

7. Council Action (ID # 2942)

Discussion of possible annexation south along the Trinity River, and take any action deemed necessary.

COMMENTS - Current Meeting:

Lengthy discussion was led by Councilperson Jordan regarding an annexation plan to extend the City in a nine-phase plan. This plan includes annexing property to the south of the City, along the east bank of the Trinity River, extending 1000 feet eastward of the river. The ultimate goal of the proposed annexation process is to encompass property held by the various Moss Bluff Gas Storage Facilities. Discussed were survey and legal fees, and other annexation costs in the amount of approximately $60,000 - $107,000. Further discussion inlcuded an area service plan, City of Anahuac possibly being interested in annexing the same property, creation of a deep water port on the Trinity, nine one-mile annexations to reach the salt dome, property tax revenues, contacting the gas storage companies operating in the area to give them notice of the proposed annexation plan, and other related issues.

Councilperson Beasley made a motion to approve the first phase of the annexation, annexing the first 1000 feet along the bank of the river, and to contact the various gas storage companies. The motion died for lack of a second.

No formal action was taken, however, consensus of Council was that management contact the gas storage companies regarding possible annexation and to place this item on the agenda for the March Council Meeting.

8. Ordinance 2014-4

Consider adoption of an Ordinance regulating and establishing a Licensing and an Occupation Tax for Amusement Machines.

COMMENTS - Current Meeting:

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

"AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CREATING ARTICLE 4.11, FOUND IN CHAPTER 4, REGARDING AMUSEMENT MACHINES; PROVIDING FOR HOURS OF OPERATION; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING FOR AN OCCUPATIONAL TAX; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT THIS ORDINANCE BE READ ON TWO SEPARATE DAYS."

Mr. Broz stated that this ordinance will provide the City leverage in regulating electronic slot machines that, by State law, are not allowed to dispense prizes valued over $5, but which often operate as illegal gambling machines. The new ordinance requires the owner of such machines to obtain an annual $50 permit and to pay the City an amount equal to one-half of the state's occupation tax. These machines must be kept 300 feet from a residence or school.

A motion was made to adopt the ordinance regulating amusement machines in the City.

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

9. Ordinance 2014-5

Consider an amendment to the Master Fee Ordinance to include fees for permitting, Occupation Tax, and other fees related to amusement machines.

COMMENTS - Current Meeting:

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

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIBERTY, TEXAS PROVIDING FOR THE AMENDMENT OF MASTER FEE SCHEDULE FOR ALL RATES AND FEES CHARGED BY THE CITY OF LIBERTY; PROVIDING FOR AN OCCUPATION TAX ON COIN-OPERATED MACHINES AND A LICENSE FEE ON AMUSEMENT CENTERS; PROVIDING THAT ALL RATES OR SCHEDULES OF RATES CONFLICTING HEREWITH ARE AMENDED; PROVIDING FOR AN EFFECTIVE DATE; AND DISPENSING WITH THE REQUIREMENT OF SECTION 3.10 OF THE HOME RULE CHARTER THAT ALL ORDINANCES BE READ ON TWO SEPARATE DAYS."

City Attorney Randy Gunter explained that this ordinance sets the related fees for the amusement machines discussed in the previous agenda item.

A motion was made to adopt the ordinance.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	David Arnold, Councilperson
SECONDER:	Diane Huddleston, Mayor Pro Tem
AYES:	Pickett, Huddleston, Beasley, Jordan, Potetz, Simonson, Arnold

VIII. ADJOURNMENT

1. Motion To: Adjourn

COMMENTS - Current Meeting:

There being no further business before the Council, Mayor Pickett adjourned the meeting at 7:38 p.m.

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Carl Pickett, Mayor

ATTEST:

Dianne Tidwell, City Secretary