

THE CITY OF
BALCH SPRINGS
GROWING COMMUNITY

**REGULAR CITY COUNCIL MEETING
CITY OF BALCH SPRINGS
APRIL 22, 2019
7:00 PM**

MINUTES

Identification of a quorum.

Present: Councilmember Moon
Councilmember Shelby
Councilmember Segroves
Councilmember Rushing
Councilmember Tucker
Mayor Pro Tem Hill
Mayor Gorwood

A quorum was present and Mayor Gorwood called the meeting to order at 7:00PM.

Staff: Mark Morris, Assistant City Manager
Cindy Gross, City Secretary
Jon Haber, Police Chief
Randy Smith, Fire Chief
Bianca Redmon, Chief Financial Officer
Chris Dyser, Planning & Zoning
William Freeman, Public Works Director
Mark Horak, Code Enforcement
Monte Akers, City Attorney

Invocation was given by Sammy Moon, City Councilmember.

Pledge to the US Flag and the Texas Flag was led by Monte Akers, City Attorney.

Presentation(s):

Proclamation - Motorcycle Safety and Awareness Month

Mayor Gorwood and City Council presented a proclamation for Motorcycle Safety and Awareness Month to the Highway Masters R.C.

Items of Community Interest - City Secretary:

April 27th – Coffee with a Cop: 8:00am-10:00am, at 12100 Lake June Road.

May 9th – Balch Springs Chamber of Commerce Education Scholarship Luncheon: 11:30am-1:00pm at the Civic Center (12400 Elam Rd.).

May 27th – Memorial Day: All city offices will be closed in observance of the holiday.

Next City Council meeting will be moved to May 28th, due to the holiday.

Announcement the 2019 Mayors Scholarship Award to begin on March 1 - April 30, 2019.

The City's General Election is scheduled for Saturday, May 4, 2019; Early Voting by Personal Appearance will begin on April 22 - April 30, 2019, at the Balch Springs Civic Center, 12400 Elam Road, for the purpose of electing the following positions: Mayor (At-Large), Place 3, Place 5 and Place 7.

Citizen Comments.

Speaker: Jimmy Lipton, 3520 Keri Lane, Balch Springs, TX. 75180
Subject: Spoke to City Council in regards to concerns with city employees.

Speaker: David Stone, 11710 Manon Dr., Balch Springs, TX. 75180
Subject: Spoke to City Council in regards to code enforcement issues.

Speaker: Gwendolyn Gardner, 13125 Valley Forge, Balch Springs, TX. 75180
Subject: Spoke to City Council in regards to "Love one other".

Speaker: Angela Singletary, 3216 Balch Springs Rd., #203, Balch Springs, TX. 75180
Subject: Spoke to City Council in regards to a new police facility.

Speaker: Laualee Alsup, 11413 Slater Dr., Balch Springs, TX. 75180
Subject: Spoke to City Council in regards to streets, additional street lighting and additional bus routes.

Speaker: Wanda Adams, 2721 Cumberland Trail, Balch Springs, TX. 75181
Subject: Spoke to City Council in regards to agenda item #3 - Tax Abatement Agreement with Commerce 635, Inc.

Mayor Gorwood closed citizen's comments.

CONSENT AGENDA:

A. APPROVAL OF MINUTES:

1. April 8, 2019 - Regular Meeting

Councilmember Moon moved to approve the consent agenda. Mayor Pro Tem Hill seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

REPORTS/UPDATES:

1. Report by the Executive Staff regarding any significant event that has occurred since the last regular Council meeting.

Monte Akers, City Attorney explained that his firm will be merging with Messer, Rockefeller, Fort the Municipal Law Firm at the end of April, 2019, and Charles Anderson would be assisting him and they would be rotating City Council Meetings each month.

Mark Morris, Assistant City Manager, informed the City Council that Ms. Cluse will be returning on Thursday.

INDIVIDUAL ITEMS:

1. Discussion regarding Sidewalk Priorities.

Mark Horak, Planning Department, presented the sidewalk priority map and estimated construction costs to the City Council:

- Priority One – Timothy Lane from Pioneer Road (W.O. Gray Elementary) to Quail Dr. - \$398,211.00.
- Priority Two – Quail Dr. to Hickory Tree Rd., from Deepwell to Walter Floyd Elementary - \$294,544.80.
- Priority Three – Springs Oaks from Arborcrest to Beltline Rd., (AC New Elementary) - \$56,427.42.
- Priority Four – Shepherd Ln., from Elam Rd., to Spring oaks Apartments - \$436,959.60.
- Priority Five – Quail Dr., from Timothy Ln., to Balch Springs Rd., to Opal Smith Food Pantry - \$552,281.40.

Mr. Horak recommends that the City Council wait until Dunaway and Associates have completed the TxDOT Safe Routes to School Application.

City Council and staff held discussions regarding sidewalk priority map, cost and the grant for safe routes to school. **No action taken.**

2. Consideration and action to award the 2018 Street Improvement Project to FNH Construction LLC and approve a services agreement with FNH Construction LLC for the construction of the 2018 Street Improvements Project not to exceed \$2,006,682.50.

William Freeman, Public Works, is requesting approval of the 2018 Street Improvement Project to FNH Construction LLC, and approve a services agreement with FNH Construction LLC for the construction of the 2018 Street Improvements Project, not to exceed \$2,006,682.50.

Councilmember Rushing moved to approve the 2018 Street Improvement Project to FNH Construction LLC, and approve a services agreement with FNH Construction LLC for the construction of the 2018 Street Improvements Project, not to exceed \$2,006,682.50. Councilmember Shelby seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

3. Consideration and action on adoption of a resolution to enter into a Tax Abatement Agreement with Commerce 635, Inc.

Chris Dyser - Good evening Mayor Gorwood and members of the Council. As you know, in your packet there's a resolution proposal, for to enter into tax abatement agreement with Commerce 635 Incorporated, also known as Hillwood. This is the final approval process regarding the project, and in your packet you have a copy of the tax abatement agreement,

and what it entails is a tax abatement that would be awarded to Hillwood or Commerce 635, at 75% of city property tax, and meaning the city over seven years, would collect 25% of property tax and Hillwood would be abated 75% of that. It's for the four parcels in questioned subject of the approved rezoning plan development and development agreement, at your April 8th City Council Meeting, and also within your packet is proposed revisions to the existing tax abatement agreement, prior to, after the packet going out. Hillwood has requested a stipulation to be revised, basically a stipulation regarding 1.1 regarding granting consent, should the property is sold to a new party or an additional party. No matter if the property is sold to a third party, whomever is owner of the project, still has to adhere to the standards, the development agreement, the project time line, if not the tax abatement agreement would not be valid. So, in your packet, I believe you have a copy of a memo of the discussion summarized by Mr. Akers and he can go into more detail of that, and also you have a red line version of the proposed changes, any questions? But we are recommending approval of the revised improvements and stipulations.

Mayor Gorwood - Mr. Akers...

Monte Akers - Yes sir...and we have one of Hillwood's attorneys with us this evening, that hopefully between the two of us we can answer your questions. You did receive a memo from me today that zeroed in on one particle issue, that being whether or not city's consent is required in the event Hillwood desires to assign some portion of this project to a third party. But before we address that...are there any questions about the project otherwise, separate and apart from the consent issue?

Mayor Gorwood - Anyone on Council...seeing none proceed...

Monte Akers- Okay....

Mayor Gorwood-Mr. Moon...

Councilmember Moon - I would like to know why the change was done without the consent of the Council?

Monte Akers - It's on the table tonight for Council consent, backup...as of week...as of Friday two weeks ago, whatever day that was, we were facing a deadline needing to get the final version of the proposed tax agreement in place, so that we could mail it out to the taxing authorities in order to meet the statutory deadlines, in order for you to act on it tonight. We did not have a copy of the final, for lack of a better term, agreement until Friday morning, shared it with the Mayor, he had 4,5,6 question. We address each of those to his satisfaction, except for one and that was the consent issue. I called Misty and explained that to her....and her very... I think reasonable response was... well change the language to the way Mayor would like it to read and will utilize that for the purpose of meeting the deadline, to get it out to the other taxing units, then we'll get it on the agenda for the 22nd, so the Council could decide the final. At that point and time....I don't think either one of us, whether the consent issue was a big deal to Hillwood or not. It turns out that it was...on Wednesday the 17th the same day your agenda packets went out....Melissa Lindelow the attorney that you met before with Hillwood...sent some purposed comprised language to try to get it to a point where it should be, a win..win situation for both of us...and that's what we are here for tonight to talk about. But anyway, the Mayor really didn't have the option

to call a special meeting or at least in my opinion he didn't. But, it's on the agenda tonight for full discussion and decision making.

Mayor Gorwood - Ms. Hill....

Mayor Pro Tem Hill - Even though it's on the agenda tonight...this was just presented to us in order to vote on it. I would like at least twenty minutes to read over this packet that was just put here before us.

Mr. Akers - Fine with me or I can try to explain it...

Mayor Pro Tem Hill - for your understanding afterwards, after I read this, because I haven't had time to read this, that you'll have made change to, without us knowing as a council, and you let the Mayor do it, that is unacceptable.

Mayor Gorwood - If the Council wants twenty-minute recess, we can do so...

Mayor Pro Tem Hill - Request a twenty-minute recess.

Mayor Gorwood - Is there second...

Councilmember Moon - Second...

Mayor Gorwood - We have a second by Mr. Moon. Call for the vote...

City Secretary - Councilmember Moon?

Councilmember Moon – Yes

City Secretary - Councilmember Shelby?

Councilmember Shelby– Yes

City Secretary - Councilmember Segroves?

Councilmember Segroves – Yes

City Secretary - Councilmember Rushing?

Councilmember Rushing – No

City Secretary - Councilmember Tucker?

Councilmember Tucker – Yes

City Secretary - Mayor Pro Tem Hill?

Mayor Pro-Tem Hill – Yes!

City Secretary - Motion has passed.

Mr. Moon - Would also like to make another motion that, every comment that's made verbatim be put in the minutes of the meeting.

Mayor Pro Tem Hill – Second

Mayor Gorwood - I have a motion from Mr. Moon and I have a second from Ms. Hill.... Do I have a ugh...call for the vote?

City Secretary - Councilmember Moon?

Councilmember Moon – Yes

City Secretary - Councilmember Shelby?

Councilmember Shelby– Yes

City Secretary - Councilmember Segroves?

Councilmember Segroves – Yes

City Secretary - Councilmember Rushing?

Councilmember Rushing – Yes

City Secretary - Councilmember Tucker?

Councilmember Tucker – Yes

City Secretary - Mayor Pro Tem Hill?

Mayor Pro-Tem Hill – Yes

City Secretary - Motion has passed.

City Secretary - Motion has passed.

Mayor Gorwood - Okay we will reconvene at 8:25pm...We are currently in recess... We are reconvening into open session...okay. Mr. Akers...Mr. Akers has the floor at the moment!

Monte Akers - Are there any question that I can address?

Mayor Gorwood - Okay...Council?

Monte Akers - Do you have questions for Misty?? We certainly want you to feel like you are fully informed about this project as much as possible.

Mayor Pro Tem Hill - Miss Misty is it?

Misty - Yes ma'am...

Mayor Pro Tem Hill - Are you okay with the terms that are drawn out before us tonight?

Misty - Yes, ma'am, we support staff's recommendation.

Mayor Pro Tem Hill - Okay, thank you.

Misty - Thank you.

Monte Akers - Let me make one last suggested change, unless you all don't like it...

Councilmember Moon - and/or?

Mr. Akers - Changing "and" to an "or", turn to article seven...that should all be included...article three...three point one. One, two, three, four, five, six lines down, you'll see that the assignee, the entity which Hillwood or Commerce 365, may assign portion of the project to...is either going to be entity that is controlled by, and under the common control of Commerce 365, and it says "and" any entity that is unrelated to them that will become an owner of the completed facility...You can read that two way, but to me that "and" should be an "or", so that two type of entities...one that's is such an affiliate or subsidiary to Hillwood or Perot that is going to be owner of the property or one that is already an owner, but not an affiliate or subsidiary, and is already the owner of a completed facility, one of the four buildings. That narrows the crowd of potential assignees down considerably.... any questions about that?

Mayor Gorwood - Oh, and by the way, that does address my concerns...

Mr. Akers - Okay.

Mayor Gorwood - Council? Miss Rushing...

Councilmember Rushing - Does that satisfy Hillwood?

Misty - Yes ma'am.

Councilmember Rushing - Okay, then I would, at this time, I'd like to make a motion that we approve the changes as recommended by staff, with the exception of changing the "and" to an "or".

Mayor Gorwood - I have a motion from Miss Rushing, do I have a second?

Councilmember Shelby - Second...

Mayor Gorwood - I have a second by Miss Shelby. Anyone care to speak to the motion?

Mayor Pro Tem Hill - I'd like to make a comment.

Mayor Gorwood - Miss Hill...

Mayor Pro Tem Hill – I understand that we are voting on this, but it wasn't presented to us. I just feel like the next time, it should have been an email or an emergency meeting to notify us, but I do know notice that certain members didn't read theirs, so that means you'll must have spoken about it prior to this meeting, which is unacceptable as well. So, I need for the walking quorums to stop, because this is getting ridiculous...when it's dealing with city business.

Mayor Pro Tem Hill - I heard what "you" said, but I see two people that didn't read their packets, is what I'm saying I noticed tonight.

Councilmember Rushing - Excuses me...

Mayor Gorwood- Miss Rushing...

Councilmember Rushing - I was here at 4'oclock and these packets were on our desk at 5, so I read my packet and there was no walking quorum. I'm...

Mayor Pro Tem Hill - I said what I needed to say...

Councilmember Moon - Call the vote please...

Mayor Gorwood – Okay, then call for the vote...

City Secretary - Councilmember Moon?

Councilmember Moon – Yes

City Secretary - Councilmember Shelby?

Councilmember Shelby– Yes

City Secretary - Councilmember Segroves?

Councilmember Segroves – Yes

City Secretary - Councilmember Rushing?

Councilmember Rushing – Yes

City Secretary - Councilmember Tucker?

Councilmember Tucker – Yes

City Secretary - Mayor Pro Tem Hill?

Mayor Pro-Tem Hill – Yes

City Secretary - Motion has passed.

Chris Dyser - Thank you Mayor and Council.

4. Consideration and action regarding approval of a resolution declaring the policy for the use of Hotel Occupancy Funds and establishing procedures.

Effie Donaldson, Economic Development, spoke in regards to Hotel Occupancy Funds resolution. Ms. Donaldson explained that the City Council and staff held a workshop in October, 2018 with the Hotel and Lodging Association. Ms. Donaldson stated that staff reviewed the current HOT funds resolution, and is recommending changes to City policies and state guidelines; and add the following: historical restoration and preservation, advertising and civic center maintenance, and upgrades.

City Council and staff held discussion regarding HOT Funds resolution and the additional changes.

Councilmember Moon moved to approve a resolution 836-19, declaring the policy for the use of Hotel Occupancy Funds and establishing procedures. Mayor Pro Tem Hill seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

5. Consideration and action regarding approval of an ordinance amending the annual budget for Fiscal year ending October 1, 2018 through September 30, 2019.

Bianca Redmon, Chief Financial Officer, explained that this is routine which is done each fiscal year. It reflects the changes that have been made to operations. Ms. Redmon stated that there are two types of adjustments to the budget that we're presenting tonight. There are budget transfers; (bottom line does not change and reallocation of funds from one-line item to another); and budget amendments; (the bottom line does not change, Lake June Monument/Type A and parks maintenance expenditures & ball field reservation revenue).

Councilmember Rushing moved to approve an ordinance amending the annual budget for Fiscal year ending October 1, 2018 through September 30, 2019 (Ord. 3190-19). Councilmember Moon seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

6. Consideration and action for City Council to review and possible rewrite of the code enforcement letter(s).

Councilmember Rushing addressed concerns with the code enforcement letters being sent out to citizens. Councilmember Rushing explained that she would like to request the letters be rewritten in order to make it more customer friendly for the citizens.

City Council, City Staff and City Attorney held discussions regarding a rewrite of the letters, compliance and current ordinances regarding code enforcement.

Councilmember Rushing moved to direct the City Attorney to draft a less abrupt letter and bring back to the City Council at a later date. Councilmember Tucker seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

7. Consideration and action regarding approval to replace the City's Warning Siren System and to purchase (27) new emergency radios.

Brad Harris, Emergency Management, explained that after several attempts and limited access to update and repair the City existing system. Mr. Harris explained that after speaking with the City Manager, Police, Fire and Emergency Management they needed to replace the city's outdated warning system with a new modern system. The warning systems is vital to the safety of the citizens and community. Mr. Harris is request approval to replace existing warning systems with (27) radios from Stolz Telecom, at cost not exceed \$200,000.00, from the City's line of credit with Prosperity Bank.

Councilmember Rushing moved to approve new City's Warning Siren System and to purchase (27) new emergency radios at cost not to exceed \$200,000.00 from Stolz Telecom with the City's line of credit with Prosperity Bank. Councilmember Moon seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

8. Consideration and action regarding approval of an ordinance adopting the 2019 Drought Contingency Plan.

William Freeman, Public Works, explained that every 5 years the City's Drought Contingency Plan has to be revised and submitted to Texas Commission on Environmental Quality. He stated that the last one was 2014 and the changes to 2019 plan, City of Dallas changed from 4 triggers (stages) to 3. We're changing our triggers to mirror City of Dallas, since all the City's water is supplied by City of Dallas (DWU).

Councilmember Moon moved to approve an ordinance adopting the 2019 Drought Contingency Plan (Ord. 3191-19). Councilmember Segroves seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing, Councilmember Tucker and Mayor Pro Tem Hill. **Motion passed. (6-0)**

9. Consideration and action regarding approval to purchase a 2019 Sewer Jet Truck from CLS Equipment at a cost of \$158,621.00 for the Wastewater Collections Department.

William Freeman, Public Works, explained that this piece of equipment is used for unclogging residential and commercial sewer lines within the City.

Councilmember Rushing moved to postpone this agenda item until next meeting. **Motion died for lack of second.**

Councilmember Moon moved to approve the purchase of a 2019 Sewer Jet Truck from CLS Equipment at a cost of \$158,621.00 for the Wastewater Collections Department. Mayor Pro Tem Hill seconds the motion. Voting for this motion were Councilmember Moon, Councilmember Shelby, Councilmember Segroves and Mayor Pro Tem Hill. Voting in opposition were Councilmember Rushing and Councilmember Tucker.
Motion passed. (4-2)

10. Consideration and action regarding approval to modify the City Council Code of Conduct to restrict cell phone usage during Council meetings.

Mayor Gorwood presented this item to City Council in regards to complaints from various individuals and that the Texas Open Meeting Act requires the governing body to deliberate in an open meeting. Mayor Gorwood would request that Mr. Akers prepare a revision to the City Council Rules and Procedures to clarify that City Council Members cannot be texting on their cell phones.

Councilmember Rushing moved to modify the City Council Code of Conduct to restrict cell phone usage during Council meetings and also restrict cell usage in executive session. Councilmember Tucker seconds the motion. Councilmember Rushing moved to amend her motion to instruct the City Attorney to bring back some suggested language in regards the City Council Code of Conduct regarding cell phone usage during the meetings. Councilmember Tucker accepts the amendment. Voting for this motion were Councilmember Tucker. Voting in opposition were Councilmember Moon, Councilmember Shelby, Councilmember Segroves, Councilmember Rushing and Mayor Pro Tem Hill.
Motion failed. (1-5)

11. Announcements, requests for information, and/or new business to be placed on future agendas.

Mayor Gorwood – Items for the next City Council Meeting:

- Consideration and action that all required publications are listed on website for archiving.
- Consideration and action regarding approval to change bulk pick up from 48 hours to the previous next weekend.

12. Closing prayer.

Mayor Gorwood gave the closing prayer.

13. Adjourn.

Mayor Gorwood adjourned the meeting at 10:07pm.

PASSED AND APPROVED AT A REGULAR MEETING HELD ON MAY 13, 2019.