

MINUTES OF REGULAR BUSINESS MEETING
City of Stephenville - City Council
TUESDAY, NOVEMBER 1, 2005– 5:30 P.M.

The City Council of the City of Stephenville, Texas, convened on November 1, 2005, at 5:30 p.m., in the Council Chambers at City Hall, 298 West Washington Street, for the purpose of a Regular Business Meeting, with the meeting being open to the public and notice of said meeting, giving the date, time, place and subject thereof, having been posted as prescribed by Chapter 551, Government Code, Vernon's Texas Codes Annotated, with the following members present, to wit:

Mayor	:	Rusty Jergins
Mayor Pro-Tem	:	Todd McEvoy
Council members	:	Cyndi Godwin Malcolm L. Cross Nancy Hunter Andrew Johnson Alan Nash Mark Murphy Barry Ratliff
Others Attending	:	Mark A. Kaiser, City Administrator Randy Thomas, City Attorney Cindy L. Stafford, City Secretary

I. CALL TO ORDER

The meeting of the Stephenville City Council was called to order at 5:31 p.m. on Tuesday, November 1, 2005, by Mayor Rusty Jergins who declared a quorum present.

II. CITIZENS' GENERAL DISCUSSION

Doug Myers, editor of the *Stephenville Empire-Tribune*, made a public apology to Messrs. Griggs and Cole for errors contained in a news story referencing the property cited in Items A. and B. of the Planning and Zoning Commission Public Hearings below.

III. DELINQUENT TAX COLLECTION REPORT—Jeff Brown with Linebarger Goggan Blair & Sampson LLP

Jeff Brown, attorney, thanked the council for their continued business, having contracted with his firm since 1987. He reported that the firm has sent more than 8,781 warning notice letters to delinquent taxpayers. Twenty-seven lawsuits were filed seeking the collection of \$39,516.56 in delinquent taxes, penalties, and interest. Nineteen lawsuits were dismissed during this reporting period which involved in excess of \$13,295.50 in taxes, penalties, and interest. Courtroom judgments have

been taken in 17 lawsuits involving more than \$19,585.07. Brown summed up by saying, "By the use of all of our collection tools, including notice letters, specialized demand letters, and litigation, we have collected on your behalf just over \$113,767.91 in delinquent taxes, penalty, and interest from September 1, 2004 to August 31, 2005."

IV. PLANNING AND ZONING COMMISSION—PUBLIC HEARINGS

A. Request to Rezone from B-2 "Secondary & Highway Business District" to B-4 "Private Club District" 0.306 acre of Lot 8, Block 32, South Side Addition, located in the 700 Block of South Harbin Drive

Betty Chew, Director of Community Development, reported that the Planning and Zoning Commission is recommending that this property be rezoned. She stated that this is vacant property and will be utilized for parking.

Applicant Court Cole told the council that they purchased subject property because they needed additional parking spaces due to modifications that are being made to the restaurant building.

Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning:

Mayor Jergins asked that remarks made by Court Cole be reported as being in favor of this rezoning request.

Speaking in Opposition to Rezoning: No one

Mayor Jergins closed the public hearing.

B. Consider Ordinance No. 2005-22 Rezoning from B-2 "Secondary & Highway Business District" to B-4 "Private Club District" 0.306 acre of Lot 8, Block 32, South Side Addition, located in the 700 Block of South Harbin Drive

MOTION by Todd McEvoy, second by Nancy Hunter, to adopt Ordinance No. 2005-22. MOTION CARRIED by unanimous vote.

C. Request to Rezone from B-1" Neighborhood Business District" to R-3 "Multiple Family Residential District", Lot 4, Block 129, and Part of Lot 2, 3; Block 130; City Addition, known as 1133 West Washington Street

Betty Chew reported that The Court Yard Apartments—a 50-unit complex—is located on this property and that this rezoning was approved by the Planning and Zoning Commission.

Melvin Hammit, representing H-3 Enterprises, Inc. owner of the property, told the council that the apartment complex situated on this property was built prior to the current Zoning Ordinance. He is requesting this rezoning so that the property is more representative of the Multiple Family Residential use as set out in the ordinance. He explained that if there was damage to the complex, he would not be able to make improvements to the structure as an apartment if the present zoning were maintained. Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning:

Mayor Jergins asked that remarks made by Melvin Hammit be reported as being in favor of this rezoning request.

Speaking in Opposition to Rezoning: No one

Mayor Jergins closed the public hearing.

D. Consider Ordinance No. 2005-23 Rezoning from B-1" Neighborhood Business District" to R-3 "Multiple Family Residential District", Lot 4, Block 129, and part of Lots 2, 3; Block 130; City Addition, known as 1133 West Washington Street

MOTION by Mark Murphy, second by Alan Nash, to adopt Ordinance No. 2005-23. MOTION CARRIED by unanimous vote.

E. Request to Rezone from I "Industrial District" to R-3 "Multiple Family Residential District" Lots 1, 3, Block 9; and Lot 1, Block 10; South Side Addition, known as 301 South Lillian and 1380 and 1410 West Long Street

Betty Chew gave the staff report citing that the Planning and Zoning Commission recommends approval of this request. Chew noted that the Sands Apartments is a 39-unit complex situated at 301 South Lillian, and the property at 1380 West Long is vacant at this time.

Melvin Hammit is the owner of this property as well and told the council that this request is being made for the same reasons as his previous request. Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning:

Mayor Jergins asked that remarks made by Melvin Hammit be reported as being in favor of this rezoning request.

Speaking in Opposition to Rezoning: No one

Mayor Jergins closed the public hearing.

F. Consider Ordinance No. 2005-24 Rezoning from I "Industrial District" to R-3 "Multiple Family Residential District" Lots 1, 3, Block 9; and Lot 1, Block 10; South Side Addition, known as 301 South Lillian and 1380 and 1410 West Long Street

MOTION by Alan Nash, second by Andrew Johnson, to adopt Ordinance No. 2005-24. MOTION CARRIED by unanimous vote.

G. Consider Preliminary Plat of Stoneridge Estates Subdivision, being 26.21 acres of the J.B. Dupuy Survey, Abstract 196, Erath County, Texas

Betty Chew reported that the Planning and Zoning Commission recommends approval of this request on a 26.21 acre residential subdivision, located off FM 914 (Alexander Road). However, this approval is subject to TxDOT approval of the access on FM 914 and additional utility easements. The plat represents a 77-lot subdivision developed in three phases and containing standard single-family residential lots. She reminded the council that this property was annexed by petition of the owner in 2001. She also told the council that Melvin Hammit is the owner and developer of this property.

MOTION by Nancy Hunter, second by Todd McEvoy, to approve the preliminary plat of the Stoneridge Subdivision. MOTION CARRIED by unanimous vote.

H. Consider Preliminary Plat of FAI Subdivision, being 6.69 acres of the Wm. Motley Survey, Abstract 515, Erath County, Texas

Betty Chew gave the staff report stating that this plat represents four commercial lots located along West Washington Street and Lockhart Road. The Planning and Zoning Commission is recommending approval. Chew noted that Larry Hada representing Hada Engineering was in attendance at the meeting.

MOTION by Andrew Johnson, second by Todd McEvoy, to approve the preliminary plat of FAI Subdivision. MOTION CARRIED by unanimous vote.

V. CONSIDER ORDINANCE CONCERNING THE REQUEST OF ATMOS ENERGY CORP., MID-TEX DIVISION FOR AN ANNUAL GAS RELIABILITY INFRASTRUCTURE PROGRAM (GRIP) RATE INCREASE

MOTION by Andrew Johnson, second by Alan Nash, to adopt Ordinance No. 2005-25. MOTION CARRIED by unanimous vote.

VI. PUBLIC HEALTH AND SAFETY COMMITTEE REPORT

A. Consider the Application for Ambulance Permit filed by Guardian EMS

Barry Ratliff, chairman, reported that the committee voted 3—1 to recommend that council grant this permit, with the aggregate insurance level be lowered from \$2 million to \$1 million.

MOTION by Barry Ratliff, second by Nancy Hunter, to approve the application filed by Guardian EMS with a variance from \$2 to \$1 million on the aggregate insurance requirement. MOTION FAILED by the following roll call vote:

Ayes: Council members Godwin, Hunter, and Ratliff.

Noes: Council members Cross, Johnson, Nash, McEvoy, and Murphy.

MOTION by Mark Murphy, second by Todd McEvoy, to send this matter back to the committee for further review and study and waive the permit fee should the business make new application. MOTION CARRIED by unanimous vote.

B. Consider Ordinance No. 2005-25 Amending Chapter 90: “Animals” of the Code of Ordinances

MOTION by Barry Ratliff, second by Cyndi Godwin, to adopt Ordinance No. 2005-26. MOTION CARRIED by unanimous vote.

VII. PLANNING AND DEVELOPMENT COMMITTEE REPORT

A. Consider Setting a Date for Public Hearing on the 2030 Comprehensive Plan

MOTION by Todd McEvoy, second by Andrew Johnson, to set January 3, 2006 as the date for the public hearing on the 2030 Comprehensive Plan. MOTION CARRIED by unanimous vote.

B. Consider Authorizing the Issuance of Request for Qualifications for a Multi-Purpose Facility

MOTION by Todd McEvoy, second by Nancy Hunter, to authorize staff to issue a Request for Qualifications of interested individuals or firms capable or willing to submit proposals concerning the three uses of a library, recreation center, and citizen center. MOTION CARRIED by unanimous vote.

VIII. CONSENT AGENDA

Mark Murphy asked that Item A. be removed from the Consent Agenda.

MOTION Mark Murphy, second by Todd McEvoy to approve Items B. and C. of the Consent Agenda. MOTION CARRIED by unanimous roll call vote.

MOTION by Mark Murphy, second by Barry Ratliff, to approve Item A as corrected by adding the words, “as filed with the city secretary” to the motion accepting the Airport Advisory Board report. MOTION CARRIED by the following roll call vote:

Ayes: Council members Godwin, Cross, Hunter, McEvoy, Murphy, and Ratliff.

Noes: Council members Johnson and Nash.

- A. Approval of Minutes of Regular Council Meeting on October 4, 2005**
- B. Sale of Surplus Property**
- C. Approval of Bid Award for Janitorial Services**

IX. COMMENTS BY CITY ADMINISTRATOR

City Administrator Kaiser reported that the Phosphorous Removal Project at the Waste Water Treatment Plant has been completed. Also, the resurfacing of the parking area and roads at the Optimist Jaycee Park has been completed.

X. COMMENTS BY COUNCIL MEMBERS

Mark Murphy asked that the following comments be entered into the record:

“I want to express my concern about our R1 zoning. As I read the zoning ordinances, it would appear that we do not have a zone for single family residences in Stephenville, though R1 is named just that. I’m told that that part of the ordinance was set before I came and we can’t do anything about it now.

“R1 states that up to four unrelated persons can live together in a house zoned as a single family. Four college students renting a party house are not a family, and such a case the dwelling should not be zoned the same as a single family. We either need to change R1 to be a true Single Family Residence zone, or change the name to reflect what it really is, a Multi-Person Single Residence. We then won’t have a zone for true single families (unless one is created), but we don’t right now either.

“I’ve also heard that if we change R1 to a true single family residence zone, it cannot really be enforced. I understand that some other ordinances cannot be enforced in town. Why have ordinances that cannot be enforced? That is like buying a guard dog with 3 legs and no teeth.

“I’d like to ask the P&Z or P&D to revisit this issue of creating a true Single Family zoning and how it can be enforced. Several residents have expressed this concern to me, and I think it ought to be looked at again.”

Malcolm Cross expressed his agreement with Mark Murphy’s concern about R-1

zoning.

- XI. EXECUTIVE SESSION. At 7:02 p.m., Mayor Jergins recessed the open portion of the meeting, and council went into executive session in compliance with the provisions of the Texas Open Meetings Law, Subchapter D, Government Code, Vernon's Texas Codes, Annotated, in accordance with Sec. 551.072 Deliberations about Real Property.**

Grazing Rights to Landfill Property

Council reconvened in open session at 7:17 p.m.

- XII. ACTION TAKEN ON MATTERS DISCUSSED IN EXECUTIVE SESSION (if necessary)**

MOTION by Todd McEvoy, second by Cyndi Godwin, to authorize the execution of a lease (attached hereto) with Larry Esquell covering property at the Stephenville Landfill. MOTION CARRIED by unanimous vote.

- XIII. ADJOURN**

MOTION by Mark Murphy, second by Cyndi Godwin, to adjourn the meeting. MOTION CARRIED by unanimous vote at 7:18 p.m.

Russell E. Jergins, Mayor

ATTEST:

Cindy L. Stafford, City Secretary

