

MINUTES OF REGULAR BUSINESS MEETING
City of Stephenville - City Council
TUESDAY, MARCH 7, 2006– 5:30 P.M.

The City Council of the City of Stephenville, Texas, convened on March 7, 2006, 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 5:30 p.m. on Tuesday, March 7, 2006, by Mayor Rusty Jergins who declared a quorum present.

II. CITIZENS' GENERAL DISCUSSION

No one wished to address the council.

III. PLANNING AND ZONING COMMISSION PUBLIC HEARINGS

A. Consider Request to Rezone from B-2 "Secondary and Highway Business District" to R-3 "Multiple Family Residential District" Lot 1A, 17; Block 4; Park Place Addition, known as 759 West Tarleton Street.

Betty Chew reminded the council that the three rezoning requests which come before the council do so under the 1985 Zoning Ordinance, which was in effect when the applications to rezone were filed.

Chew reported that the first request comes from Planning and Zoning Commission with a favorable recommendation.

Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning: No one

Speaking in Opposition of Rezoning: No one

Mayor Jergins closed the public hearing.

B. Consider Adopting Ordinance No. 2006-04 Rezoning from B-2 "Secondary and Highway Business District" to R-3 "Multiple Family Residential District" Lot 1A, 17; Block 4; Park Place Addition, known as 759 West Tarleton Street.

MOTION by Mark Murphy, second by Nancy Hunter, to adopt Ordinance No. 2006-04. MOTION CARRIED by unanimous vote.

C. Consider Request to Rezone from B-3 "Central Business District" to B-4 "Private Club District" Lot C, Block 8, City Addition, known as 230 West College Street.

Betty Chew reported that the Planning and Zoning Commission recommends approval of this request. If rezoning is granted, the property owner plans to open a restaurant at this location.

In answer to questions concerning the distance between property zoned B-4 and church, school, or hospital property, Betty Chew replied that the Texas Alcoholic Beverage Commission administers distance factors as part of its licensing regulation.

Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning:

Dell Burdick, 1429 West Jones, Stephenville, Texas, owner of subject property, acknowledged council's concern that an undesirable business could possibly relocate to this location in the future. He assured council that he has no plans to sell this property. He added that he has purchased other properties in the downtown area and that he plans to keep them for a long time. He commented that the newly adopted B-5 zoning classification was not available when he filed his application. Burdick specified that he has leased this property to someone else.

Speaking in Opposition of Rezoning:

Christi Dittfurth asked the council to deny this request. She stated, “We don’t need another private club on the square.” She said that there are already two private club establishments on the square and a third would not be beneficial to our community. Also, she said it is only one block from the Stepping Stones Day Care at the First United Methodist Church.

Johnny Huffman, 1150 North Lillian, Stephenville, referred to the three times Café Trifles filed for B-4 rezoning. Once they were granted the B-4 zoning, it never opened as Café Trifles. Huffman said, “They sold it [Café Trifles] and now we have a bar and grill on the square.” A month or so later, he continued, another property on the square was rezoned to B-4 and no one spoke against it at either the Planning and Zoning Commission meeting or the council meeting. Huffman said that if he had known about it, he would have been here. He asked the council, “How much is enough?” Huffman said his main concern is that as the number of bars on the square grows, the more “undesirables” we will have. He said that crime will increase as well as our taxes.

Emil Becker, 1340 N. Lillian, Stephenville, retired Baptist preacher, said he was asked by a council member to appear and speak against this rezoning issue. He said that although his statements are repetitious, he wanted to emphasize that Erath County voted to be “dry”. Becker said that we already have 12 private clubs in our city. He said that we don’t want three private clubs on the square. He referred to the number of alcohol-related offenses in the jail log in the March 2, 2006 edition of the *Stephenville Empire-Tribune*—12 arrests for intoxication and a good number for driving while intoxicated. Becker said, “I just wonder where they get that liquor and I have a good idea that we supply that.”

Bill Chandler mentioned that he is a member of First United Methodist Church and is concerned about patrons of the subject restaurant using the church’s parking lot. He said he didn’t think there were enough parking spaces downtown to accommodate any more B-4 zoned businesses.

Elizabeth Zickefoose, 971 N. McCart, Stephenville, said that she wishes this property owner could find some other type business besides alcohol.

Charles Gamble, 1540 Sheila, Stephenville, said that he served on the zoning board when B-4 came into existence, which led to a “wet-dry” election. He said the people voted it down 4-1. He said that the people of Stephenville don’t want that much liquor in the city.

Mayor Jergins closed the public hearing.

Upon rebuttal, Burdick said that he has an interest in the activities of the churches in the downtown area and that first and foremost he intends to operate a restaurant.

Malcolm Cross said that he doesn't see how we can pick and choose which establishment meets the legal requirement, granting the rezoning to some and denying it to others. He said consistency requires us to grant the rezoning that is requested here. He also said that it is not the council's business to determine how many types of business that you can and can't have. It is the responsibility of the council to give everyone an equal opportunity under the law to compete—to succeed or to fail. He said it is up to the market and the consumers to decide whether or not businesses succeed.

Alan Nash complimented the council on tackling a tough issue and revamping the zoning classifications, specifically the B-5 classification. He said, "Now it's time to use it".

Mark Murphy read the following statement into the record of the meeting: "I believe the main reason we created B5 zoning for restaurants was to limit the number of private drinking establishments in town. We don't need any more bars or honky tonks in Stephenville. In my opinion, and in the interest of fairness to businesses, a legitimate restaurant that wants to serve alcohol and still maintain the required percentage of food sales under B5 zoning should be allowed to do so. I therefore move that we deny this B4 zoning application, but offer to waive the \$300 application fee for a period of 90 days should Mr. Burdick or his company wish to reapply under the B5 zoning section."

The motion received a second by Cyndi Godwin and passed by the following vote:

Ayes: Council members Godwin, Johnson, Nash, McEvoy, Murphy, and Mayor Jergins.

Noes: Council members Cross, Hunter, and Ratliff.

D. Consider Adopting Ordinance No. 2006-___ Rezoning from B-3 "Central Business District" to B-4 "Private Club District" Lot C, Block 8, City Addition, known as 230 West College Street.

E. Consider Request to Rezone from R-1 "Single Family Dwelling District" and R-3 "Multiple Family Dwelling District" to B-2 "Secondary and Highway Business District" 41.48 acres Wm. Motley Survey, Abstract 515, Erath County, Texas located in the 2800 block of the Northwest Loop (FM 988).

Betty Chew gave the staff report, stating that the Planning and Zoning Commission recommends approval of this rezoning request.

Mayor Jergins opened a public hearing.

Speaking in favor of rezoning:

Bill Bailey, 1321 Lockwood, Stephenville, stated that he is the realtor representing the owners of the property, and he looks forward to helping get this property developed.

Speaking in opposition of rezoning: No one.

Mayor Jergins closed the public hearing.

F. Consider Adopting Ordinance No. 2006-___ Rezoning from R-1 "Single Family Dwelling District" and R-3 "Multiple Family Dwelling District" to B-2 "Secondary and Highway Business District" 41.48 acres Wm. Motley Survey, Abstract 515, Erath County, Texas located in the 2800 block of the Northwest Loop (FM 988).

MOTION by Todd McEvoy, second by Andrew Johnson, to adopt Ordinance No. 2006-05. MOTION CARRIED by unanimous.

IV. PUBLIC HEARING ON THE PROPOSED ANNEXATION OF 12.01 ACRES, J. B. DUPUY SURVEY, ERATH COUNTY, TEXAS

Betty Chew gave a report on the matter stating that Betsill Brothers, Texas, LLC is requesting that the city annex this property which is adjacent to the city limits, south of the Lockwood Addition. Once the property is annexed, Betsill plans to develop the property with single-family residences. Chew said that this is the first of two required public hearings. She also reminded the council that the newly adopted Zoning Ordinance provides that all property comes in to the city with the classification of "unzoned".

Mayor Jergins opened a public hearing.

Speaking in favor of annexation: No one.

Speaking in opposition of annexation: No one.

Mayor Jergins closed the public hearing.

V. CONSIDER ADOPTING ORDINANCE NO. 2006-__ SETTING A SECOND PUBLIC HEARING ON ANNEXATION

MOTION by Alan Nash, second by Cyndi Godwin, to adopt Ordinance No. 2006-06. MOTION CARRIED by unanimous vote.

VI. CONSIDER ADOPTING ORDINANCE NO. 2006-__ AUTHORIZING THE ISSUANCE AND SALE OF THE CITY OF STEPHENVILLE COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2006 AND APPROVING OTHER MATTERS RELATING THERETO

Finance Director Don Ives reported that the city's financial adviser, First Southwest Company, has advertised for the issuance of bonds for a period of ten years. Ives introduced Jeff Robert with First Southwest Company who reported that Bank of America had the best interest rate with 3.77%; TIB, 4.00%; and Frost Bank, 4.38%. Robert commented that Bank of America's was a below-market rate and a very competitive bid.

City Administrator Mark Kaiser explained that this money will be used to provide infrastructure (water, sewer, streets) to the 500-acrea area which was annexed in 2003.

MOTION by Todd McEvoy, second by Andrew Johnson, to adopt Ordinance No. 2006-07. MOTION CARRIED by unanimous vote.

VII. NOMINATIONS COMMITTEE REPORT—Consider Appointment of Hennen Cummings to the Water Conservation Committee

MOTION by Malcolm Cross, second by Mark Murphy, to appoint Hennen Cummings to the Water Conservation Committee. MOTION CARRIED by unanimous vote.

VIII. CHAMBER OF COMMERCE TOURISM REPORT—Jeff Sandford, President, Stephenville Chamber of Commerce

Jeff Sandford gave this report, copy of which is attached to these minutes. Sandford said that he is very excited about the increase in tourism. He said Stephenville has become a destination place for events. Numbers are up 11% over last year and 30% over the last two years. He said that the Lone Star Arena has been very successful in recruiting events. Most recently, they hosted the National Reigned Cowboys'

Association World Championship event. The United States Calf Roping Association also holds as many as three events a year at the Lone Star Arena.

MOTION by Mark Murphy, second by Alan Nash, to accept the Chamber of Commerce Tourism Report and Budget. MOTION CARRIED by unanimous vote.

IX. STEPHENVILLE MUSEUM REPORT—William H. Oxford, Sr., President

William H. Oxford, Sr. is the Treasurer of the Board of Directors of the Stephenville Museum, and he presented the attached budget to the council.

MOTION by Cyndi Godwin, second by Alan Nash, to accept the report and approve the budget. MOTION CARRIED by unanimous vote.

X. PUBLIC WORKS COMMITTEE REPORT

A. Consider Renewal of Contract with OMI International, Inc. for Operation and Maintenance Services for the Wastewater Treatment Plant

Andrew Johnson, Chairman of this committee, introduced OMI Regional Business Manager, Oswaldo Garza, who presented the options as requested by the committee members.

MOTION by Mark Murphy, second by Cyndi Godwin, to “approve renewal of the contract with OMI as specified in the contract with the options listed for a period of five years.” Mayor Jergins restated the motion as follows: “To accept the contract as it is presented in the council agenda packet beginning on page 65, OMI for management of the wastewater treatment plant and to exercise Option 1 in the first year of the contract.” MOTION CARRIED by unanimous vote.

B. Phosphorous Removal Project

MOTION by Andrew Johnson, second by Todd McEvoy, to approve Resolution No. 2006-04 for closure to the project in compliance with the Texas Water Development Board \$1,540,000 grant and also to approve Change Order No. 2. MOTION CARRIED by unanimous vote.

C. Status Report on Water Systems and Monitoring Wells

Andrew Johnson reported that the committee reviewed the annual report and that no action is required. Todd McEvoy stated that staff will get back to this committee with reference to more frequent measuring of the wells. Mark Murphy added, “I believe that report will verify what Mr. Wolfe said that the water table hasn’t change significantly in one hundred years.”

D. Outside City Limits Utility Policy

Andrew Johnson reported that the committee reviewed the policy for utility service outside the city limits, and a possible rate adjustment will be discussed during budget fee schedule considerations.

XI. PLANNING AND DEVELOPMENT COMMITTEE REPORT

A. Interlocal Agreement With Erath County for Platting Within the Extraterritorial Jurisdiction

MOTION by Todd McEvoy, second by Nancy Hunter, to approve the agreement, which is attached hereto. MOTION CARRIED by unanimous vote.

B. Contract for Services to Negotiate Oil and Gas Leases

Todd McEvoy, Chairman, reported that the committee discussed hiring a professional firm to represent the city in future lease negotiations. This discussion will continue at future meetings.

Mark Murphy read the following statement into the record of the meeting: "Though I'm not a member of this committee, I'd still like to reiterate what I said in that meeting about having any negotiating firm contracted by the city also watch out for our interests in protecting our primary drinking water supply and natural resources. We now know that the Middle Trinity Groundwater Conservation District, by their own admission, are powerless in protecting groundwater use and potential abuse by oil and gas companies in our area. I look forward to seeing communications to our state legislators from the city that ask for help in this matter, which I know are forthcoming."

C. Airport Projects

1. Airport Project Participation Agreement with Texas Department of Transportation

MOTION by Todd McEvoy, second by Barry Ratliff, to approve the Airport Participation Agreement with Texas Department of Transportation, as attached hereto. MOTION CARRIED by unanimous vote.

2. Resolution No. 2006-03/Improvements to Runway, Taxiway, Aprons,

Access to Hangar Areas and Relocate Fuel Station

MOTION by Todd McEvoy, second by Barry Ratliff, to adopt Resolution No. 2006-05. MOTION CARRIED by unanimous vote.

3. Resolution No. 2006-04/Terminal Building and Parking Lot

MOTION by Todd McEvoy, second by Nancy Hunter, to adopt Resolution No. 2006-06. MOTION CARRIED by unanimous vote.

D. Statewide Transportation Enhancement Program

McEvoy reported that the committee received an update regarding the application for grant funds through the Statewide Transportation Enhancement Program.

E. Park Restroom

McEvoy reported that of the committee and council members present, there is a consensus for constructing a bathroom in the south portion of City Park near the Optimist Youth T-Ball Complex. Mayor Jergins took the privilege of reminding staff that the men's bathroom in the Rec Hall are not "user friendly" and hopes that this matter can be addressed in the near future.

F. Telecommunication Towers on City Property

McEvoy reported that the consensus of the committee was to not allow these towers on elevated storage tanks.

XII. CONSENT AGENDA

Mark Murphy requested Item A.1. and B. be removed. MOTION by Todd McEvoy, second by Barry Ratliff, to approve Item A.2. MOTION CARRIED by unanimous roll call vote.

MOTION by Mark Murphy, second by Alan Nash, to approve Item A.1. to reflect the Mark Murphy voted against the following motions as contained in the February 7, 2006 minutes:

"MOTION by Todd McEvoy, second by Alan Nash, 'that we enter into a contract with Infinity Oil and Gas for the following tracts: Tracts 1, 2, 3, 4, 5, 6, 7 as stated in our agenda packet.'" and

"MOTION by Todd McEvoy, second by Andrew Johnson, 'that we grant right of way and easement access to Infinity Oil and Gas on Tract 1 and Tract 2.'" MOTION CARRIED by unanimous roll call vote.

MOTION by Mark Murphy, second by Cyndi Godwin, to approve Item B. MOTION CARRIED by unanimous roll call vote.

A. Approval of Minutes

- 1. Regular Council Meeting on February 7, 2006**
- 2. Special Council Meeting on February 21, 2006**

B. Order Calling May 13, 2006 City General Election

XIII. COMMENTS BY CITY ADMINISTRATOR

Mark Kaiser announced that the deadline for filing to run in the City General Election is Monday, March 13, 2006, at 5:00 p.m.

He announced that the a dedication ceremony for the skate park in City Park will be held on Thursday, March 16, 2006, at 11:30 a.m.

XIV. COMMENTS BY COUNCIL MEMBERS

Alan Nash said that it is nice to have Elizabeth Zickefoose attending the council meetings again.

XV. ADJOURN

MOTION by Andrew Johnson, second by Todd McEvoy, to adjourn the meeting. MOTION CARRIED by unanimous vote at 8:04 p.m.

Russell E. Jergins, Mayor

ATTEST:

Cindy L. Stafford, City Secretary