

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

The City Council of the City of Stephenville, Texas, convened on September 5, 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 5:31 p.m. on Tuesday, September 5, 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

A. PUBLIC HEARING to consider request to rezone from B-1 "Neighborhood Business District" to R-3 "Multiple Family Residential District" Lot 2B, 2H, Block 135; City Addition, known as 261 and 281 South McIlhane Street

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

Zana Gill, co-owner of the property with her husband, Thomas Woody Gill, Jr., told the council that they want to help Stephenville become a more beautiful community. They plan to remove the deteriorated structures on the property and build a multi-family complex.

Mayor Jergins opened the public hearing.

Speaking in Favor of Rezoning: Mayor Jergins asked that the comments of Zana Gill be recorded as being in favor of the rezoning request.

Speaking in Opposition of Rezoning: No one.

B. Consider Ordinance No. 2006-25 Rezoning from B-1 “Neighborhood Business District” to R-3 “Multiple Family Residential District” Lot 2B, 2H, Block 135; City Addition, known as 261 and 281 South McIlhaney Street

MOTION by Mark Murphy, second by Alan Nash, to adopt Ordinance No. 2006-25. MOTION CARRIED by the following vote:

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

Noes: None

Abstentions: Council member Hunter, having filed a conflict of interest affidavit with the city secretary.

C. Consider Final Plat of Excels Subdivision, being 19.634 acres Henry Pearson Survey, Abstract 196, Erath County, Texas

Betty Chew gave the staff report stating that the owners propose to subdivide this property into two lots—one will be an 8 acre tract located in the 500 block of County Road 257 and an 11.5 acre tract with frontage to the 3100 block of West Washington Street and the 400 block of County Road 257. Erath Excels Academy is the owner of the 8 acre tract and proposes to develop the land with a private charter school facility. The Planning and Zoning Commission recommends approval of this final plat. The commission also requests that the city consider improvements to CR 257 right of way as a high priority in its street reconstruction program.

Chew further stated that subject property was annexed in April 2003, and was given the permanent zoning subsequent to that annexation.

Mayor Jergins opened a public hearing.

Speaking in Favor of the Final Plat:

Charlotte Alston, 122 Heritage Way, Stephenville, Texas, said that she wants to address education. She said that this public charter school is only asking that the council approve this final plat so that they may build a school to teach teenagers. She said that this type of school offers an education to teenagers who do not perform well in the mainstream. Alston quoted middle school nurse, Joan Pope, who said, "Erath Excels Academy does a great job."

Weldon Huston, 877 CR 375, Dublin, Texas, Chairman of the Board of Directors of Erath Excels, gave a history of the school, stating that it began in 1999. The school has always had to lease property. He said that school founder, Debra Miller, has operated the school with funds from the state and various grants, and has had to "skimp" by on what little money she receives. The school was able to purchase this property in July 2005. Since the school's inception, 288 students have graduated and 30% of those have gone to college.

Josh Allen, 181 South Graham Street, Stephenville, Texas, attorney for Erath Excels, addressed the issue of approval of the final plat, which is the only issue before the council. He stated that approval of this plat to this point is not discretionary—it's administrative. The use of the land is not an issue, and that council should not hear comments to that effect. Allen said that comments concerning the students' behavior has no bearing on whether or not the final plat is approved. Also, he added that the condition of the road is not an issue. Allen stated that a final plat must meet state regulations and the city subdivision ordinance, and that his client's final plat does meet these regulations. Allen read from a handout containing language from state statute, as follows: "The municipal authority responsible for approving plats must approve a plat or replat that is required to be prepared under this subchapter and that satisfies all applicable regulations." He asked the council to focus on the issue before them, which is, "Does the plat meet the requirements?" If so, it must be approved.

Mark Murphy confirmed with City Attorney Randy Thomas, that the council's charge tonight is to determine that the final plat as presented meets all necessary requirements.

Debra Miller, 6532 S US 377, Stephenville, Texas, Director of Erath Excels, referred to a letter to the editor that appeared this day in the *Stephenville Empire-Tribune*. She stated that many of the statements made in the letter were incorrect and misrepresented. Miller said she understands how neighbors in the area might feel. She has invited concerned people to come to the school and observe the students at work. She clarified that hers is not a private school, but a public institution with open enrollment. She said that

students are not sent to Erath Excels, but enroll voluntarily. However, she said that some of the students are led by society to believe they have no alternative but to attend a school such as Erath Excels. Students at Erath Excels come from 14 surrounding counties and come from as far away as Hamilton, Eastland, and Comanche. They will operate under the existing charter until 2013.

Ruth Ann Stephens, 270 South Dale Street, Stephenville, Texas, said that she wants Erath Excels to have the support it deserves. She said that she understands how the neighbors of this school feel about living in the country and wanting to enjoy all the freedoms that entails. In reply, Stephens said, "Welcome to our world, folks!" Stephens said that she has had grandchildren attend this school, and they have made tremendous progress. The small student-teacher ratio is one of the success factors.

Speaking in Opposition of the Final Plat:

Donnie Bramlett, 1292 CR 498, Stephenville, Texas, co-owner of Bramlett Implement Company, located near subject property. Bramlett expressed concerns over traffic safety in the area. He said that with the council's approval of the final plat, they are creating one of the most dangerous roads in Erath County. He said that the neighbors in the area have a civil engineer studying traffic flow, road safety, and entrances. He asked the council to table or postpone its decision until the engineer can forward to them the results of this engineering study.

Roy Graham, 1423 CR 257, Stephenville, Texas, referred to signs situated at the city limits that read, "City of Champions". Graham said, "This school is no champion." He said the Erath Excels school would like to "come down this road to hide". He went on to say that the school has "bad heritage, bad publicity, and it's hidin' from the truth." Graham told the council to "Put it in somebody else's backyard." Graham agreed with Bramlett in that the road is extremely narrow. It has a major milk trucking company that uses the road and a John Deere dealership that adds a lot of traffic to the road.

Carolyn Maupin, 1179 CR 257, Stephenville, Texas, said that she and her husband have lived on this county road for fourteen years. She said, "These kids deserve a place to go to school and we as taxpayers need to see that they have a place to go to school, but you people don't realize, unless you come out there and see it firsthand just how dangerous highway 257 is. No one has mentioned that this is a dead end road. Those of us who live past where the school proposes to be built must come in front of the school to get to 377. My husband has a major heart condition. You're dealing with a one lane road, people. I walk this road every day, and if I meet somebody or if somebody is coming up behind me, I have to get into what little ditch there is on one side

of the road or the other. If you don't deal with the issue of the road first, you're gonna get somebody killed out there."

Marty Bramlett, 1483 CR 257, Stephenville, Texas, said that she is not opposed to development, but doesn't think this is a good location for a school for all the reasons previously stated. She also expressed concern about being trapped on their property in the event emergency vehicles block the road when responding to a fire, traffic accident, or medical emergency.

Marena McCoy, 1069 CR 257, Stephenville, Texas, said that she and her husband have spent fourteen years building up their property and adding on to their house so that their children could have a safe area to live in. She said that her children ride their bicycles up and down the road often. It is her concern that increased traffic on the road will put her children at risk.

Barbie Graham, 1423 CR 257, Stephenville, Texas, owns and operates a daycare at this location. Because of the traffic of this road, she is concerned about the safety of the children she keeps.

Rebuttal in Favor of the Final Plat:

Josh Allen again reminded the council that the applicants have met the requirements needed for this final plat.

Mayor Jergins closed the public hearing, and the council deliberated this matter.

MOTION by Malcolm Cross, second by Cyndi Godwin, to approve the final plat. MOTION CARRIED by the following vote:

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

Noes: Council member Ratliff.

IV. CROSS TIMBERS FINE ARTS COUNCIL ANNUAL REPORT AND PRESENTATION OF BUDGET

Sherri Jewel, Interim Director of the Cross Timbers Fine Arts Council, submitted the report as attached. Jewel said that it is their privilege to bring to the area the arts, concerts, exhibits, and children's theatre.

MOTION by Todd McEvoy, second by Mark Murphy, to accept the report and approve the budget. MOTION CARRIED by unanimous vote.

V. PUBLIC HEARING ON THE TAX RATE FOR 2006

City Administrator Mark Kaiser explained that this is the first of two public hearings required to be held on the proposed tax rate. The proposed tax rate is \$0.4650. Last year's tax rate was \$0.4750, and the effective tax rate is \$0.4264. Alan Nash clarified that "any tax rate that we set above \$0.4264 will result in additional revenue for the city to utilize".

Mayor Jergins opened the public hearing on the tax rate.

Billy Mobley, 113 Sandra Palmer, Stephenville, Texas, said that \$100,000 equates to about one cent on the tax rate. He said that there are people on the Meals on Wheels route that can't even pay for their electricity, but the city is going up on taxes by 8% this year, and the council is still throwing away \$100,000 towards planning for a facility [engineering design for multi-purpose facility].

Alan Nash set forth a proposal of a "5.5% increase in the effective tax rate, which would give us an increase in revenue more comparable to the rate of inflation, and that rate is \$0.4500."

Mayor Jergins closed the public hearing.

VI. CONSIDER ORDINANCE NO. 2006-26 ADOPTING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2006, AND ENDING SEPTEMBER 30, 2007

Mark Kaiser announced that the total budget being proposed is \$27,611,493 in expenditures. Of that amount, \$8,971,520 is recommended to be spent from reserves. The total budgeted revenue is \$19,124,973.

James Gresham was given the opportunity to speak on behalf of the Stephenville Police Officers' Association. Gresham said that as a police officer, he has opportunities every day to solve problems and to look at short-term and long-term solutions. He referenced comments made at the August 15th council meeting and stated that the intentions of the SPOA were not meant to be adversarial to the council. Gresham said that SPOA's intention is to be part of the process and to find solutions for the long-term problems. He told the council that they were not to blame for the shortcomings of the current police compensation package. He asked that the police be a part of the solution-making process concerning compensation. Gresham added that Police Chief Halsell has been working on a preliminary salary survey comparing other cities to the department. Gresham said, "Those results don't paint Stephenville in a very good light." Gresham stated that he did not have the complete results of the survey at this time.

Alan Nash presented a proposal for amending the budget that has been proposed as follows:

Reduce technology enhancements from \$242,000 to \$142,000.

Reduce facilities study from \$100,000 to \$60,000.

Reduce number of additional public safety personnel from four to three; specifically, two police officers and one fire inspector.

Reduce street improvements from \$500,000 to \$450,000.

Nash stated that the above modifications from the proposed budget will net the city approximately \$235,000. From that, Nash proposes to allocate \$108,000 to the tax rate, and that would leave \$127,000 to put back into reserves or into other programs.

MOTION by Alan Nash to adopt the 2006-2007 budget with the following amendments:

Allocate \$142,000 for technology enhancements;

Allocate \$60,000 for facilities study;

Allocate \$450,000 for street improvements;

Allocate funds to make permanent two additional police officers and allocate funding for a fire inspector.

Allocate funds for three vehicles for the police department.

Propose that the funds left over from those savings, \$127,000 to reserves, subject to setting a tax rate on September 19.

MOTION DIED for lack of a second.

MOTION by Mark Murphy, second by Nancy Hunter, to approve the budget as presented in the agenda packet.

MOTION by Andrew Johnson, second by Alan Nash, to amend the motion by reducing the amount for technology by \$50,000; reduce the number of vehicles for the police department by one; and reduce the number of additional police officers by one. MOTION to amend FAILED by the following vote:

Ayes: Council members Godwin, Johnson, Nash, and Ratliff

Noes: Council members Cross, Hunter, McEvoy, Murphy, and Mayor Jergins.

MOTION by Alan Nash, second by Mark Murphy, to amend the motion by budgeting the street improvements at \$450,000; reduce the technology budget by \$25,000; and reduce the number of vehicles for the police department by one for a combined savings of \$125,000.

MOTION to amend FAILED by the following vote:

Ayes: Council members Godwin, Nash, and Murphy.

Noes: Councilmembers Cross, Hunter, Johnson, McEvoy, Ratliff, and Mayor Jergins.

MOTION by Mark Murphy, second by Nancy Hunter, to call the question. MOTION CARRIED.

MOTION CARRIED to approve the budget as presented in the agenda packet by the following vote:

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

Noes: Council members Johnson, Nash, and Ratliff.

MOTION by Andrew Johnson, second by Barry Ratliff, to amend the 2006-2007 budget decrease technology by \$25,000; to decrease the number of patrol cars by one for a combined savings of \$50,000.

Mark Murphy questioned the order of Andrew Johnson's motion. Murphy stated that it is not on the agenda; the agenda provides for adopting the budget, "which we have done". Mayor Jergins deferred to the city attorney for a ruling. City Attorney Randy Thomas stated that the council has passed the budget and the motion to amend is not in order.

VII. CONSIDER ORDINANCE NO. 2006-27 ADOPTING THE FEE SCHEDULE

MOTION by Todd McEvoy, second by Mark Murphy, to adopt Ordinance No. 2006-27 as amended. MOTION CARRIED.

VIII. PLANNING AND DEVELOPMENT COMMITTEE REPORT

A. Consider Approval of Contract with Stephenville Aviation, Inc.

MOTION by Todd McEvoy, second by Barry Ratliff, to approve the contract with Stephenville Aviation, Inc. MOTION CARRIED by unanimous vote.

B. Consider Approval of Airport Hangar Project

McEvoy explained that the current airport development project at Clark Field Municipal Airport is nearing completion, and the city is anticipated to have approximately \$80,000 in grant and sponsor funds remaining. These funds may be applied toward the construction of an additional, large hangar similar to our current commercial hangar.

MOTION by Todd McEvoy, second by Nancy Hunter, to direct staff to pursue this project opportunity. MOTION CARRIED by unanimous vote.

C. Multi-Purpose Facility Architect

McEvoy reported that the committee tabled this matter to a future meeting; therefore, no action is recommended.

D. Consider Initiation of Brick Street Restoration Program

McEvoy informed the council that two contractors—Jay Mills Contracting and Peachtree Construction—have been contacted to participate in the brick street restoration project. An “end-result-construct” method will be used, and the city will evaluate the best process. Fifty thousand dollars has been budgeted for this program.

IX. PUBLIC WORKS COMMITTEE REPORT

A. Consider Approval of Contract for Inspection Services on the 2003 Annexed Area Water and Sewer Improvements

MOTION by Todd McEvoy, second by Mark Murphy, to approve contract with Danny R. Johnson for inspection services, with the total contract consideration not to exceed \$40,000. MOTION CARRIED by the following vote:

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

Noes: Council member Nash.

B. Dublin/ULRMWD Contract

Andrew Johnson reported that this contract is still in the draft stages and requires no action at this time.

X. APPROVE APPLICATION FOR COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM GRANT

CEDAP provides smaller communities and rural areas with technology and quipment together with training and technical assistance, to help enhance first responder capabilities throughout the nation. Stephenville PD intends to apply for the grant to receive a handheld Thermoimaging or infrared device that would allow first responders to look for missing persons, help at fire scenes, provide surveillance and any other number of uses that would require looking for warm bodies. The specific piece of equipment is the Thermo Vision Scout ZX by FLIR.

MOTION by Mark Murphy, second by Nancy Hunter, to approve the application for this grant. MOTION CARRIED by unanimous vote.

XI. CONSENT AGENDA

Nancy Hunter asked that Item C be removed; Mark Murphy, Item A; and Todd McEvoy, Items B and G. MOTION by Andrew Johnson, second by Alan Nash, to approve Consent Agenda Items D, E, and F. MOTION CARRIED by unanimous roll call vote.

Following questions and discussions concerning items removed from the consent agenda, MOTION by Todd McEvoy, second by Andrew Johnson, to approve Item A as amended and Items B, C, and G. MOTION CARRIED by unanimous roll call vote.

A. Approval of Minutes—

- i. Regular Council Meeting on August 1, 2006**
- ii. Regular Council Meeting on August 15, 2006**
- iii. Special Council Meeting on August 22, 2006**

B. Election of Trustees to TML Intergovernmental Risk Pool

C. Approval of Ordinance No. 2006-28 Adopting the 2000 International Fire Code with Amendments

D. Approval of Airport Project Participation Agreement, Amendment No. 3

E. Approval of Contract Renewal for Office Supplies

F. Approval of Contract Renewal for Janitorial Services

G. Bid Awards—Street Repair Materials

XII. COMMENTS BY CITY ADMINISTRATOR

- 2006 Street Reconstruction Program has been completed
- Construction on airport hangar and apron has been completed
- Council meeting and committee work session on September 12
- Council meeting and joint work session with Planning and Zoning Commission on September 19

XIII. COMMENTS BY COUNCIL MEMBERS

Todd McEvoy thanked city staff for their efforts recently to clean up the community.

XIV. EXECUTIVE SESSION. At 8:56 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.

A. Sanitary Sewer easement across Lot 4, Pecan Hill Estates Addition

B. Sanitary Sewer easement across Lot 5, Pecan Hill Estates Addition, and 0.845 acre tract of land in the Wm. Motley Survey, Abstract 515, Erath County, Texas

C. Sanitary Sewer easement across a 13.034 acre tract of land in the Wm. Motley Survey, Abstract 515, Erath County, Texas

Council reconvened in open session at 8:58 p.m.

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

MOTION by Todd McEvoy, second by Cyndi Godwin, to approve easements on the properties above set out. MOTION CARRIED by unanimous vote.

XVI. ADJOURN

MOTION by Todd McEvoy, second by Mark Murphy, to adjourn the meeting. MOTION CARRIED by unanimous vote at 9:00 p.m.

Russell E. Jergins, Mayor

ATTEST:

Cindy L. Stafford, City Secretary