

Duncanville City Council Meeting Minutes
Regular Meeting
Tuesday, September 7, 2021

CALL TO ORDER

A regular meeting of the Duncanville City Council was called to order on Tuesday, September 7, 2021, at 6:00 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT: Mayor Barry L. Gordon
Councilmember At-Large Patrick Harvey
Councilmember Don McBurnett
Councilmember Jeremy Koontz
Mayor Pro Tem Mark D. Cooks
Councilmember Greg Contreras

COUNCIL ABSENT: Councilmember Joe Veracruz

I. WORK SESSION / BRIEFING

I.1. DISCUSS AGENDA ITEMS

Mayor Gordon read the item into record, and City Manager Ferrell-Benavides reviewed each item. Mayor Pro Tem Patrick Harvey requested Item 4C and Item 4D be moved to Individual Consideration. Item 4A - to dispose of various tech equipment acquired due to a landlord lien foreclosure. EON Reality, Inc. entered into a lease agreement with the City of Duncanville to lease space at 103 E. Wheatland Road. EON Reality, Inc. defaulted on its lease agreement and vacated the building in 2019. Technology equipment was left in the building, and the City's would like to dispose of the technology equipment by donating it. Item 4B - a Resolution approving the terms and conditions of Amendment No. 4 to the Household Hazardous Waste (HHW) Interlocal Agreement with Dallas County to coordinate the planning and implementation of a Hazardous Waste Collection Program, from October 1, 2021, through September 30, 2022, for a cost not to exceed \$55,264.00. This action is to approve Amendment #4 to the City's Interlocal Agreement with Dallas County for a Household Hazardous Waste Program. The original Interlocal agreement was approved in 2017. The estimated cost of the HHW program in FY2022 is \$55,264.00. This agreement provides the following: annual local HHW collection event; scheduled for March 26, 2022. Our last HHW Event in March 2021 brought in over 600 cars. Item 4E - authorizing the receipt of a grant from the Edward Byrne Memorial Justice Assistance Grant Program (JAG), to be administered by the City of Dallas, to provide funding for the Police Department, to purchase a service agreement for three additional years for the five currently owned GPS trackers, police bicycles and other related equipment, with a total grant value of \$9,671.91. Edward Byrne Justice Grant was named after a NYPD officer who was murdered while protecting a witness in a drug case. Leading federal source of criminal justice funding to state and local jurisdictions Can be used for the following program areas: law enforcement, prosecution and court, planning, evaluation, and technology improvement, crime victim and witness initiatives, and mental health programs and related law enforcement and correction programs. Duncanville is part of a disparate jurisdiction and is part of a joint allocation pursuant to federal law. The award amount is based on a jurisdiction's 3-year weighted violent crime average.

I.2. BRIEFINGS / PRESENTATIONS

I.2.A. *Discuss Annual City Council Calendar.*
City Secretary Downs presented the item.

City Council concluded the following:

- Cancel – October 5th City Council Meeting
- City Council Retreat – November 11-13th

Councilmember McBurnett requested to schedule the City Manager evaluation at an upcoming City Council meeting.

Mayor Gordon requested City Departments work together when planning and scheduling events, so there isn't a conflict for City Council to attend.

I.2.B. Discussion of the outstanding bond debt for Duncanville.

Item requested by Mayor Gordon.

Interim Finance Director Atmore presented the item.

I.2.C. Presentation on the application and benefits of Small Area Plans and Special Zoning Districts for Land Use and Economic Development along with discussion on the “Ladd” Property.

Item requested by Councilmember Koontz.

Economic Development Manager Mansell and City Planner Thibodeaux presented the item. Discussion on area plans, special districts, Comprehensive Plan, and the Ladd Property took place.

Mayor Gordon requested easy language for citizens to understand and find on the City’s website easily.

Councilmember Cooks requested that a Special City Council meeting be held to provide an update on House Bill 2439.

City Manager Ferrell-Benavides suggested an update at the City Council Retreat.

Economic Development Director Gus presented the item.

Ladd Property History:

- Bob Ladd (previous owner) granted the property to the City on April 2nd, 1998, with restrictions.
- 21.21 Acres of the 42.419 must be used for Natural Trails, Botanical gardens, advancement of culture, and/or artistic/educational purposes.
- City currently maintains the property as an open space.
- Comprehensive plan identified the Property as an opportunity area in 2017.
- City advertised RFP for development in May of 2019.
- In June of 2021 Council instructed City Manager to instruct staff to identify highest and best uses of all city property.

Discussion continued on Deed restrictions, Deed language, appraisals, future land use, area plans, a Ladd Property Master Plan, and opportunity Greenbelt Plan.

Contreras requested more information and discussion take place at the City Council Retreat.

Councilmember Cooks requested a City Council Workshop.

Mayor Gordon stated Executive Session would be moved until after Staff and Board Reports.

Briefing Session was recessed at 6:57 p.m.

II. EXECUTIVE SESSION

II.1 “City Council shall convene into closed executive session pursuant to Section 551.071 (1) and (2) of Texas Gov’t Code to seek legal advice from the City Attorney concerning pending litigation and claim regarding the following matters:

1. **City of Duncanville v. Heirs and unknown Heirs of Property located adjacent and contiguous purported West Magnolia Street;**
2. **Code compliance and possible legal action for property located at 507 Longworth, Duncanville, Texas;**
3. **Code compliance and possible legal action for property located at 518 Trail Ridge, Duncanville, Texas;**
4. **Code compliance and possible legal action for property located at 338 W. Vineyard Rd. Duncanville, Texas; and**

5. *To seek legal advice concerning the provisions of Sections 2-2, 2-3 and 2-4 of the Duncanville Code of Ordinances."*

Executive Session was moved after Staff and Board reports.

III. **REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. or immediately following the 6:00 pm Work Session/Briefing)**

The City Council convened into Regular Session in the Council Chambers at 7:05 p.m. with Mayor Gordon presiding.

The Invocation was delivered by Chris Gutierrez, Arise Church.

The Pledge of Allegiance and Texas Pledge was led by Mayor Gordon.

III.1. **REPORTS**

III.1.A. ***Mayor's Report.***

Recognition of Champion of the City.

Mayor Gordon recognized Alex Hamby and congratulated him on all his hard work.

Mayor Gordon recognized Zul Hudani as a Champion of the City.

III.1.B. ***Councilmembers' Reports***

Mayor Pro Tem Harvey recognized staff for their work during the Budget process.

Councilmember Cooks and Councilmember Koontz recognized and thanked the Parks and Rec. and Public Works Department on the Bike Around Duncanville Event with over sixty bikers.

Councilmember Koontz thanked Interim Chief LiVigni and the Police Department for allowing him to join them on a ride-along.

III.1.C. ***City Manager's Report.***

City Manager Ferrell-Benavides spoke on Hispanic Heritage Month.

III.2. **PROCLAMATIONS AND PRESENTATIONS**

III.2.A. ***Recognition of Keep Duncanville Beautiful Fall 2021 Curb Appeal Residential Properties.***

Assistant Public Works Director Hamilton recognized the following properties.

District 1:
Larry & Lori Hutchison
1107 Green Hills Road

District 2:
Sharra Lankford
238 Van Rowe Avenue

District 3:
Jose Rodriguez
322 E Cherry Street

District 4:
Lonnie & Katherine Stilwell
814 Delphi Drive

District 5:
William Shelton
707 W. Camp Wisdom Road

III.3. CITIZENS' INPUT

“Pursuant to Section 551.007 of the Texas Gov’t Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law”

To address the Council, please submit a fully-completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting.

Mayor Gordon read the item into record. The following spoke during the Citizens Input Period:

Kimberly Spurlock, 307 Tanglewood Dr. - spoke on the Ladd property.

Erika Browning, 442 E. Cherry St. - spoke on the Ladd property

Grady Smithey, 1806 Cedar Hill Rd. - spoke on the completion of Danieldale Road.

Disair Duron, 114 W. Magnolia – spoke on the Commercial Properties blocking access to his property

Mark Graham, 410 Santa Fe Trail - spoke on the Ladd property.

Jen Cole – submitted a comment on the Ladd property.

Patricia Ebert, 115 South Greenstone Lane – submitted a comment on motor vehicle break-ins and motor vehicle thefts being down.

III.4. CONSENT AGENDA

Mayor Gordon requested that City Secretary Kristin Downs read the Consent Agenda Items.

III.4.A. *Consider a Resolution authorizing the City Manager to dispose of various tech equipment which was acquired as a result of a landlord lien foreclosure.*

III.4.B. *Consider a Resolution approving the terms and conditions of Amendment No. 4 to the Household Hazardous Waste (HHW) Interlocal Agreement with Dallas County to coordinate the planning and implementation of a Hazardous Waste Collection Program, from October 1, 2021 through September 30, 2022, for a cost not to exceed \$55,264.00.*

III.4.C. *Consider a Resolution approving the terms and conditions of an Interlocal Agreement between the State of Minnesota, providing for a Cooperative Purchasing Program for goods and services; designating the City Manager as the official representative of the City of Duncanville relating to the program.*

Item moved to Individual Consideration.

III.4.D. *Consider a Resolution authorizing an appropriation of \$658,196.22 for a contingency equaling ten (10) percent of the original contract price of IFB 21-0002, Reconstruction of East Danieldale Road and Subsurface Utility Improvements; authorizing the City Manager to negotiate a change order not to exceed \$90,000.00; and, providing for an effective date.*

Item moved to Individual Consideration.

III.4.E. *Consider a Resolution authorizing the receipt of a grant from the Edward Byrne Memorial Justice Assistance Grant Program (JAG), to be administered by the City of Dallas, to provide funding for the Police Department, to purchase a service agreement for three additional years for the five currently owned GPS trackers, police bicycles and other related equipment, with a total grant value of \$9,671.91.*

Councilmember Don McBurnett made a motion to approve the item as stated, Mayor Pro Tem Patrick Harvey seconded the motion. The vote was cast 6 for, 0 against, with Councilmember Joe Veracruz absent. Items passed.

III.5. ITEMS FOR INDIVIDUAL CONSIDERATION

- III.5.A. *Consider an Ordinance granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to construct, maintain, and operate pipelines and equipment in the City of Duncanville, Dallas County, Texas, for the transportation, delivery, sale, and distribution of gas in, out of, and through said city for all purposes; providing for the payment of a fee or charge for the use of the public rights-of-ways; and providing that such fee shall be in lieu of other fees and charges, excepting ad valorem taxes; and repealing all previous gas franchise ordinances.***

Mayor Gordon stated the adoption of the Ordinance would require two readings. The first reading of the Ordinance will occur tonight and does not require a vote or action to be taken by Council. The second reading of the Ordinance will occur on September 21, 2021, with action to be taken by Council.

Interim Finance Director Atmore presented the item. Atmos Representative Al Hernandez provided information to City Council.

- III.5.B. *Consider a Resolution nominating a candidate for Board of Directors of the Dallas Central Appraisal District (DCAD).***

City Secretary Downs presented the item.

Councilmember Cooks expressed his interest in serving.

Councilmember Contreras made a motion to nominate Councilmember Cooks, no second was made.

Mayor Pro Tem Mark D. Cooks made a motion to nominate Mr. Michael Hurtt to the Dallas Central Appraisal District Board of Directors, Councilmember Don McBurnett seconded the motion. The vote was cast 6 for, 0 against, with Councilmember Joe Veracruz absent. Item passed.

- III.5.C. *Consider a Resolution of appointing _____ as a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of _____ () years.***

Mayor Gordon stated former Councilmember Jameson has currently served on the board for over six years. The bylaws state there are no term limits. Ms. Jameson has expressed interest in continuing to serve.

Councilmember Jeremy Koontz made a motion to nominate Johnette Jameson to the North Central Texas Housing Finance Corporation Board, Councilmember Don McBurnett seconded the motion. The vote was cast 4 for, 2 against (Councilmember At-Large Patrick Harvey and Councilmember Greg Contreras), with Councilmember Joe Veracruz absent. Item passed.

- III.5.D. *Take any necessary action as a result of the Executive Session.***

Item moved to after Staff and Board Reports.

- III.4.C. *Consider a Resolution approving the terms and conditions of an Interlocal Agreement between the State of Minnesota, providing for a Cooperative Purchasing Program for goods and services; designating the City Manager as the official representative of the City of Duncanville relating to the program.***

City Manager Ferrell-Benavides spoke on the item. Local Government Code Section 271.102 provides for voluntary participation in cooperative purchasing programs with another local government or local cooperative. Cooperative purchasing is considered a “best practice” for government organizations as they deliver savings for purchases and staff time and resources.

Mayor Pro Tem Harvey questioned why the City would have a Cooperative Agreement that is not in the State of Texas.

IT Director Beekman stated that the Company VTI Security has local offices in Dallas and is headquartered in Minnesota. The City of Grand Prairie and the City of Forth Worth utilize the services of VTI Security.

Mayor Pro Tem Harvey requested the Resolution be rewritten with the purposes as to why we are using the Cooperative Agreement with specific language as to why we are doing work with this Corporation and the purposes of why.

City Attorney Hager stated it is very rare that we do have an agreement with a State outside of or with a Buyboard outside of the State of Texas, but the act does allow it and it is usually done in connection with a specific requisition by the City. City Attorney Hager will make the appropriate changes to the Resolution to reflect the change and hiring in order to facilitate the use of the security system.

Councilmember Don McBurnett made a motion to approve the item as stated, Councilmember At-Large Patrick Harvey seconded the motion. The vote was cast 6 for, 0 against, with Councilmember Joe Veracruz absent. Item passed.

III.4.D. Consider a Resolution authorizing an appropriation of \$658,196.22 for a contingency equaling ten (10) percent of the original contract price of IFB 21-0002, Reconstruction of East Daniieldale Road and Subsurface Utility Improvements; authorizing the City Manager to negotiate a change order not to exceed \$90,000.00; and, providing for an effective date.

Public Works Director Ramey presented the item. The Daniieldale Road Reconstruction project is valued at \$6,581,962.21 and was awarded by Council in December 2020. The action is to approve an approximately \$90K change order for additional sanitary sewer work due to conflict with the Dallas Water Utility (DWU) water main based on field identification in August 2021. The depth of the DWU water main was identified as lower than documented in As-Built drawings. As a result, the Staff has to go deeper than planned for the sewer line. The contractor needs to bore the sewer line in lieu of open-cut to minimize impact to residents of Sunset Village. Including the three previous change orders, the total value of change orders is \$112,577.52, representing 1.7% of the initial contract. This action also authorizes Staff to establish a \$658,196.22 contingency for any further change orders. This represents a 10% Contingency; Texas Law allows a construction project up to a 25% overage. A contingency fund authorization was not included in the original award Council approved previously. Funds will come from either the Utility CIP or Street Bond Funds as needed based on the required work. Staff will take any change orders valued over \$50,000.00 to Council for consideration. These funds represent a City reserve and are only added to the contract once a change order is approved. GIS software assists with the alignment of water and sewer mains; however, GIS doesn't show depth. As-Built drawings and on-site investigation determine that.

Mayor Pro Tem Harvey requested bond projects to have a contingency as part of the initial contract award for best practices.

Councilmember Don McBurnett made a motion to approve the item as stated, Councilmember Jeremy Koontz seconded the motion. The vote was cast 6 for, 0 against, with Councilmember Joe Veracruz absent. Item passed.

III.6. STAFF AND BOARD REPORTS

III.6.A. Receive the Monthly Financial Report as of July 31, 2021.

Interim Finance Director Atmore presented the item.

III.6.B. Receive the Library Quarterly Report.

Library Manager Olsen presented the item.

III.6.C. Receive the Public Works Department Quarterly Report.

Graduate Engineer MacLean presented the item.

Mayor Gordon recessed Regular Session at 9:08 p.m.

II. EXECUTIVE SESSION

II.1 “City Council shall convene into closed executive session pursuant to Section 551.071 (1) and (2) of Texas Gov’t Code to seek legal advice from the City Attorney concerning pending litigation and claim regarding the following matters:

- 1. City of Duncanville v. Heirs and unknown Heirs of Property located adjacent and contiguous purported West Magnolia Street;**
- 2. Code compliance and possible legal action for property located at 507 Longworth, Duncanville, Texas;**
- 3. Code compliance and possible legal action for property located at 518 Trail Ridge, Duncanville, Texas;**
- 4. Code compliance and possible legal action for property located at 338 W. Vineyard Rd. Duncanville, Texas; and**
- 5. To seek legal advice concerning the provisions of Sections 2-2, 2-3 and 2-4 of the Duncanville Code of Ordinances.”**

The Executive Session was called into session at 9:19 p.m. and City Attorney Hager read the item into record.

The Council closed the Executive Session at 10:04 p.m.

Mayor Gordon reconvened Regular Session at 10:06 p.m.

III.5.D. Take any necessary action as a result of the Executive Session.

- 1. City of Duncanville v. Heirs and unknown Heirs of Property located adjacent and contiguous purported West Magnolia Street;

No action taken.

- 2. Code compliance and possible legal action for property located at 507 Longworth, Duncanville, Texas;
- 3. Code compliance and possible legal action for property located at 518 Trail Ridge, Duncanville, Texas;
- 4. Code compliance and possible legal action for property located at 338 W. Vineyard Rd. Duncanville, Texas; and

*City Attorney Hager stated Items 2, 3 and 4:
Consider the following motion to authorize the City Attorney to file a Civil Action in Dallas County District Court for the enforcement of Zoning and Code violations pursuant to Chapter 54 of the Texas Local Government Code for properties located at 507 Longworth, 518 Trail Ridge, and 338 W. Vineyard all located in the City of Duncanville, Dallas County, Texas*

Councilmember Greg Contreras made a motion to approve the item as stated, Councilmember Mark D. Cooks seconded the motion. The vote was cast 6 for, 0 against, with Councilmember Joe Veracruz absent. Item passed.

- 5. To seek legal advice concerning the provisions of Sections 2-2, 2-3 and 2-4 of the Duncanville Code of Ordinances.”

*City Attorney Hager stated:
The City Attorney and City Manager work together to review and examine the appointment processes, absenteeism, and inconsistencies in the Boards and Commissions appointments considered annually by the City Council and then bring back the appropriate recommendations.*

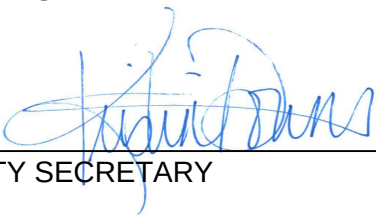
IV. ADJOURNMENT

The meeting was adjourned at 10:08 p.m.

APPROVED:


MAYOR

ATTEST:


CITY SECRETARY