



**MINUTES  
OF THE  
MEETING OF THE  
BENBROOK CITY COUNCIL  
THURSDAY, MAY 2, 2019**

The regular meeting of the Benbrook City Council was held on Thursday May 2, 2019 at 7:30 p. m. in the Council Chambers at 911 Winscott Road with the following Council members present:

Jerry Dittrich, Mayor  
Renee Franklin  
Larry Marshall  
Dustin Phillips  
Jim Wilson  
Laura Mackey  
Ron Sauma

Also Present:

Andy Wayman, City Manager  
Joanna King, City Secretary  
Jim Hinderaker, Assistant City Manager  
Rick Overgaard, Finance Director  
Hillary Cromer, EDC Management Analyst

Others Present:

Bill Smith  
Linda Stuck  
Elisa Harris  
Karissa Simons  
Sabrina Fantroy-Stevens  
Shelby L. Grissett  
Keith Fitzgerald  
Jack Cimo, Boy Scout Troop 720  
Michael Cimo  
Tom Struhs  
and approximately 25 other citizens

**I. CALL TO ORDER**

Meeting called to order at 7:30 p. m. by Mayor Jerry Dittrich.

**II. INVOCATION/PLEDGE OF ALLEGIANCE**

Invocation given by Councilmember Dustin Phillips.  
The Pledge of Allegiance was recited.

**III. MINUTES**

**1. Minutes of the regular meeting held April 18, 2019**

Motion by Mr. Sauma, seconded by Ms. Mackey to approve the minutes of the regular meeting held April 18, 2019.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Dittrich, Mr. Wilson, Ms. Mackey, Mr. Sauma

Noes: None

Motion carries unanimously.

**IV. PROCLAMATION/AWARD/RECOGNITION**

**1. Proclamation – Teachers of the Year for schools serving Benbrook students**

Mayor Dittrich presented Proclamations and recognized the Teachers of the Year for schools serving Benbrook students. Those teachers are:

Linda Stuck	Benbrook Elementary
Sabrina Fantroy-Stevens	Benbrook Middle High School
Stuart Sumner	Leonard Middle School
Elisa Harris	Waverly Park Elementary
Karissa Simons	Westpark Elementary
Shelby L. Grissett	Western Hills High School

**V. CITIZEN PRESENTATION**

**1. Discuss personal property tax – Keith Fitzgerald**

Mr. Fitzgerald requested City Council illuminate the provision for collecting personal property tax on leased vehicles.

Mayor Dittrich advised City Council would make that consideration at a later date.

**VI. PRESENTATION BY MAYOR AND MEMBERS OF CITY COUNCIL**

**CC-2019-02 North Central Texas Council of Governments Executive Board Nomination**

Motion by Dr. Marshall, seconded by Mr. Phillips to nominate Councilmember Jim Wilson to the North Central Texas Council of Governments Executive Board.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Dittrich, Mr. Wilson, Ms. Mackey, Mr. Sauma

Noes: None

Motion carries unanimously.

**VII. PRESENTATION BY BENBROOK ECONOMIC DEVELOPMENT CORPORATION**

**EDC-2019-02 Approve Budget Adjustment and Economic Development and Performance Agreement between the Benbrook Economic Development Corporation and CJ Real Estate 1031 ETA, LLC**

Hillary Cromer gave the following report: Benbrook Plaza, 9441 Benbrook Boulevard, was developed in the early 1970's, anchored by a Winn Dixie grocery store and an Eckerd drug store. The original development was constructed and developed by Hadyn Cutler of Fort Worth, as general partner. The property was sold in the mid-1970's. The Winn Dixie store eventually closed and the big box space became a Brookshire's grocery. The Brookshire's has also closed, more than a decade ago.

The property has stagnated for many years, as it was owned by a passive investor in California, who purchased the property in the mid-1990's. That owner showed little interest in capital improvements. Subsequent property liens, auctions, and probates discouraged other investors/developers who may have had an interest in purchasing and improving the center.

The center has seen few improvements since its original construction, and though it is well positioned in the city, and on the main retail corridor, it has and continues to experience significant vacancy.

When the courts freed the property for sale, CJ Real Estate (CJ), an entity controlled by Hadyn Cutler and Matt Jameson, repurchased the center in January 2018.

The Benbrook Economic Development Corporation (BEDC) has closely followed the status of the center, with an eye toward incentivizing improvements that revitalize the center, improve accessibility and aesthetics, and encourage desirable tenants and full occupancy.

Since CJ Real Estate purchased the center last year, BEDC has had numerous meetings and conversations with CJ regarding the types of improvements and tenants desired for the center. Also, the center owners and BEDC staff have had, and continue to be in contact with, quality prospective tenants. Both parties are working to determine the operational preferences and requirements of those businesses.

Based on discussion with BEDC and city staff, CJ finalized façade improvement plans, and obtained a building permit for those improvements. In addition to the façade improvements, BEDC requested that CJ include parking lot and landscape improvements, as well as demolition of the structure (s) located at the Westpark Drive signal (former Radio Shack and Marc's Automotive buildings).

CJ proposes cost-sharing, at approximately 30% of estimated costs, for improvements to the center to include a completely new and refreshed exterior façade including significant cultured stone, wood, and metal accents, and architectural awnings. Also, the plan includes demolition of the above-mentioned structures, landscaping to include islands within the parking area, parking lot improvements, and planters along the building footprint. In addition, plans include new lighting to include wall sconces and LED lighting under canopies to enhance the customer experience along the walkways of the center.

At their April 15 regular meeting, the BEDC board approved an Economic Development and Performance Agreement with CJ to outline the performance expectations of the board, and a BEDC financial incentive not-to-exceed \$400,000, in the form of reimbursement at the completion of the project.

Per the agreement, CJ agrees to design and substantially complete the improvements no later than December 31, 2020; to coordinate with the BEDC and use good faith efforts to bring quality retailers as tenants to the center; to provide satisfactory documentation of costs; to own, operate, and maintain the center for at least one year after the project is complete; and to comply with all subdivision regulations, building codes, and other ordinances of the City of Benbrook.

Attorneys for both parties have reviewed, edited, and approved the attached Economic Development and Performance Agreement. The agreement includes exhibits that provide renderings and draft site plans reflecting the improvements to the center.

As aligned with the BEDC strategic plan, this project meets the board's vision to make strategic and visible investments in projects that support business enterprise, help create jobs, and enhance quality of life.

Motion by Mr. Wilson, seconded by Ms. Franklin to approve BEDC budget adjustment of \$400,000 and to direct the BEDC board president to execute the Economic Development and Performance Agreement between the Benbrook Economic Development Corporation and CJ Real Estate 1031 EAT, LLC, to incentivize improvements to Benbrook Plaza.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Dittrich, Mr. Wilson, Ms. Mackey, Mr. Sauma

Noes: None

Motion carries unanimously.

## **VIII. PRESENTATION BY PLANNING AND ZONING COMMISSION**

**PZ-2019-02                      Z-19-01**

**Adopt an ordinance rezoning 10.7 acres out of Francis M. (Dec'd) Sur Wales Survey, Abstract No. 1637 and the John Wesley Smith Survey, Abstract No. 1406, currently zoned "B" One-Family District and "SD" Suburban District, to be entirely zoned "SD" Suburban District. The property is addressed as 8600 Team Ranch Road and is generally located northwest of the intersection of Cook Ranch Road and Benbrook Blvd. (Highway 377)**

Jim Hinderaker gave the following report: On April 11, 2019, the City administratively approved the La Paloma final plat that combined three separate tracts of land into a single 10.7-acre parcel. Unfortunately, one of the three tracts is zoned "B" One-Family District and the remainder of the land is zoned "SD" Suburban District, which when combined into a single lot results in a "split-zoned" parcel. To correct this problem, the James family seeks to rezone their entire property to "SD" Suburban District.

The applicant is platting three tracts of land into one residential lot totaling 10.7 acres. Approximately 0.7 acres of land is zoned "B" One-Family District with the remainder zoned "SD" Suburban District.

This request is consistent with the City's Comprehensive Plan.

The Planning and Zoning Commission recommends the property be rezoned to achieve one zoning designation.

Mayor Dittrich opened the public hearing at 8:12 p.m.

Tom Struhs, representative of the property owner spoke in support. No other citizens spoke.

Mayor Dittrich closed the public hearing at 8:13 p.m.

Motion by Ms. Franklin, seconded by Mr. Sauma to adopt Ordinance No. 1441 rezoning Lot 1, Block 1 of the La Paloma Addition from "B" One-Family District and "SD" Suburban District to "SD" Suburban District.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Dittrich, Mr. Wilson, Ms. Mackey, Mr. Sauma

Noes: None

Motion carries unanimously.

Ordinance No. 1441 being: **"AN ORDINANCE AMENDING TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY CHANGING THE ZONING CLASSIFICATION OF 10.7 ACRES OF LAND OUT OF THE FRANCIS M. (DEC'D) SUR WALES SURVEY, ABSTRACT NO. 1637 AND THE JOHN WESLEY SMITH SURVEY, ABSTRACT NO. 1406, LEGALLY DESCRIBED AS LOT 1, BLOCK 1, LA PALOMA ADDITION, TARRANT COUNTY, BENBROOK, TEXAS, FROM "B" ONE-FAMILY DISTRICT AND "SD" SUBURBAN DISTRICT TO "SD" SUBURBAN DISTRICT, AND BY AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CHANGE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN PAMPHLET FORM; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE."**

## **SECTION 6 PENALTY CLAUSE**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, including dumping of refuse, and shall be fined not more than Five Hundred Dollars

(\$500.00) for all other violations of this ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

## **SECTION 11 EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and it is so ordained

### **IX. REPORTS FROM CITY MANAGER**

#### **A. GENERAL**

#### **G-2407 Adopt Resolution denying Oncor Distribution Cost Recovery Factor filing**

Rick Overgaard gave the following report: On April 8, 2019, Oncor Electric Delivery Company LLC (“Oncor” or “Company”) filed an Application for Approval to Amend its Distribution Cost Recover Factor (“DCRF”) to Increase Distribution Rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$29,433,804.

The proposed resolution authorizes the City to join with the Steering Committee of Cities Served by Oncor (“OCSC”) to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The purpose of the Resolution is to deny the DCRF application proposed by Oncor.

Motion by Dr. Marshall, seconded by Mr. Phillips to adopt 2019-03 denying the Distribution Cost Recover Factor application proposed by Oncor.

Vote on the Motion:

Ayes: Ms. Franklin, Dr. Marshall, Mr. Phillips, Mayor Dittrich, Mr. Wilson, Ms. Mackey, Mr. Sauma

Noes: None

Motion carries unanimously.

**RESOLUTION NO. 1441 BEING “RESOLUTION NO. 2019-03 A RESOLUTION OF THE CITY OF BENBROOK, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC’S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR PURSUANT TO 16 TEX. ADMIN. CODE § 25.243 TO INCREASE DISTRIBUTION RATES WITHIN THE CITY**

**SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.**

**X. INFORMAL CITIZEN COMMENTS**

**XI. COUNCIL MEMBER AND STAFF COMMENTS**

Councilmember Renee Franklin reminded citizens of upcoming events in the City. Councilmember Dustin Phillips thanked the Relay for Life Committee, Benbrook employees and citizens for a successful event.

**XII. ADJOURNMENT**

Meeting adjourned at 8:18 p.m.

**APPROVED:**

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**Jerry B. Dittrich, Mayor**

**ATTEST:**

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**Joanna King, City Secretary**