



**MINUTES
OF THE
MEETING OF THE
BENBROOK CITY COUNCIL
THURSDAY, FEBRUARY 16, 2023**

The regular meeting of the Benbrook City Council was held on February 16, 2023 at 7:30 p.m. in the Council Chambers with the following Council members present:

Jason Ward, Mayor
Renee Franklin
Larry Marshall
Dustin Phillips
Gary Addison
Laura Mackey
Keith Tiner

Also Present:

Andy Wayman, City Manager
Jim Hinderaker, Assistant City Manager
Joanna King, City Secretary
Beth Fischer, Deputy City Secretary
Bennett Howell, Public Services Director

Others:

Reverend Fr. Kenneth M. Bolin
Danna Addison
Bill Smith
Josh Harville
Michael Barber
Tyler Garcia
Josh Garcia
Terry Roach
Lydia Hutson

I. CALL TO ORDER

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

II. INVOCATION/PLEDGE OF ALEGIANCE

Invocation was given by Reverend Fr. Kenneth M. Bolin with St. Thomas Becket Catholic Church.

The Pledge of Allegiance was recited.

III. CITIZEN COMMENTS ON ANY AGENDA ITEM

IV. MINUTES

1. Approve minutes of the regular meeting held January 19, 2023

Motion by Dr. Marshall, seconded by Mr. Phillips to approve the minutes of the regular meeting held January 19, 2023.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Dustin Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

V. PRESENTATION BY PLANNING AND ZONING COMMISSION

PZ-2023-01

ZTA-23-01 Adopt Ordinance amending Title 17 – Zoning of the Benbrook Municipal Code by amending Chapters 17.08 – Definitions, 17.20 – Districts, District Boundaries and District Uses; 17.28 – “SD” Suburban District; 17.32 – “RE” Residential Estate District; 17.36 – “A” One-Family District; 17.40 – “B” One-Family District; 17.44 – “BR” One-Family Reduced District; 17.48 – “CR” Multiple-Family Restricted District; 17.52 – “C” Multiple-Family District; 17.54 – “D” Multiple-Family District; 17.78 – “NAS” Overlay District; 17.79 – Benbrook Boulevard Corridor Overlay District; 17.84 – Supplementary District Regulations; 17.88 – Parking and Vehicular Circulation Regulations; 17.96 – Fence Regulations; 17.98 – Landscape and Buffer Requirements; and 17.100 – Non-Conforming Uses

Jim Hinderaker gave the following report: The proposed ordinance amends various sections of Title 17 – Zoning of the Benbrook Municipal Code (BMC) as follows:

- **Chapter 17.20.070 –Table of Uses:**
 - “Accessory Use as a Primary Use, Residential” use category
 - Currently, standalone residential accessory uses (e.g. the construction and use of a pool, storage building, or detached garage) are permitted by right, without the establishment of a principal use (dwelling unit), on any lot located in the single-family “RE” zoning district and by conditional use permit in the single-family “A”, “B”, and “BR” zoning districts.
 - The text amendment prohibits all standalone accessory uses in all residential zoning districts.
 - “Day Care” use category

- Existing BMC regulations allow standalone day care facilities (12 children or less) to operate by right within any single-family zoning district and by conditional use permit in the multi-family and community facilities zoning districts. Day care facilities for more than 12 children are not currently allowed in any zoning district.
 - The proposed text amendment: 1) prohibits “Day Care” uses as a principal use by right in any single-family zoning district and by conditional use in the multi-family zoning districts, 2) permits “Day Care” uses as a principal use right in the commercial and more intense zoning districts and by conditional use permit within the community facilities zoning district, and 3) establishes a “Day Care” use (6 children or less) as a permitted accessory use by right in all single-family residential zoning districts, which is consistent with state law allowing childcare in residential homes without the need for special licensing.
 - “Office, Temporary Residential Sales” use category
 - Existing BMC regulations allow for the placement of a temporary residential sales office trailer (portable building) within its related subdivision.
 - The text amendment allows for a temporary residential sales office inside a model home only within its related subdivision.
- **Chapters 17.28.030.H – 17.48.030.I (as applicable):**
 - Existing BMC regulations require a minimum garage door setback of twenty (20) feet from the front property line, but the BMC is silent regarding minimum setbacks from a garage door and all other property lines. While this has not been an issue with traditional front entry style garage doors, many new dwelling units are being constructed with a side entry or J-swing style garage doors.
 - The text amendment establishes a minimum setback of twenty (20) feet between a garage door over six (6) feet wide and any property line the garage door faces.
- **Chapter 17.78 – “NAS” Overlay District:**
 - As part of the City’s efforts to support the ongoing viability of the Fort Worth Naval Air Station Joint Reserve Base, the City previously adopted Chapter 17.78 – “NAS” Overlay District that limits or restricts certain land uses deemed incompatible with the long-term viability of base operations and further sets sound attenuation standards for permitted uses.
 - The text amendment establishes sound attenuation standards (minimum of 25dB reduction) for the following permitted uses within the “NAS” Overlay District:
 - Health care facilities
 - Day cares
 - Government installations
 - Safety services
 - Indoor components of outdoor recreational uses, which receive the public, such as offices

- **Chapter 17.79 – Benbrook Corridor Overlay District:**
 - Section 17.79.060.B.2.e of the BMC, regarding the placement of temporary banner signs, erroneously references Section 17.92.050.E.5 of the BMC.
 - The text amendment provides the correct code section reference as Section 17.79.050.F of the BMC.

- **Chapter 17.84 – Supplementary District Regulations:**
 - S.B. 398, of the 87th Legislative Session, no longer allows municipalities to prohibit or restrict the installation of a solar energy device (solar panel) by a residential or small commercial customer.
 - To be consistent with state law, the text amendment removes the existing conditional use permit requirement for the installation of a solar energy device (solar panel) by a residential or small commercial customer that exceed 1,000 square feet in surface area.

- **Chapter 17.88 – Parking and Vehicular Circulation Regulations:**
 - Section 17.88.020.Q of the BMC, regarding auxiliary parking, erroneously references the requirements “under paragraph A above”.
 - The text amendment provides the correct code reference section as the requirements “listed within Table 17.88.010” of the BMC.
 - Section 17.88.023 of the BMC, regarding a parking facility or paved area lighting, contained the following typographical error ...“to the maximum ~~extend~~ extent feasible” ...
 - The text amendment corrects this error as shown above.
 - Section 17.88.050 of the BMC a contains a typographical error, “Section ~~17.88.50~~ 17.88.050.”
 - The text amendment corrects this error as shown above.

- **Chapter 17.96 – Fence Regulations:**
 - Section 17.96.020.B of the BMC, regarding fencing dimensions, limits the maximum height of most fences (exceptions include fencing backstops for tennis, basketball and other sports activities) to eight (8) feet. However, other sections of the BMC require the minimum height of a fence be at least eight (8) feet. Due to property elevation changes, it is often impossible to maintain both a minimum and maximum fence height of eight (8) feet.
 - The text amendment allows the height of a required minimum eight-foot non-residential fence to range between eight (8) feet and ten (10) feet providing for flexibility to account for natural topographical changes.

- **Chapter 17.98 Landscape and Buffer Requirements:**
 - The opening applicability statement of Section 17.98.060 of the BMC erroneously omits the requirement of landscape and tree canopy requirements for non-residential development within the municipal boundaries of the City.

- The text amendment corrects this discrepancy as follows: “The following requirements shall apply to all ~~lots within residential~~ developments within City limits”.
- The bufferyard graphics and required planting standards contained within Figure 17.98.030.I of the BMC contain standards that are inconsistent with Table 17.98.030-A of the BMC.
- The text amendment corrects these inconsistencies.
- **Chapter 17.100 – Non-conforming Uses:**
 - Section 17.100.070 of the BMC, regarding non-conforming uses, contains the following typographical error “...to conform to provisions of this ~~titlw~~ title. In the ...”
 - The text amendment corrects this error as shown above.

The Planning and Zoning Commission recommend that the City Council move to adopt the zoning ordinance text amendment, as presented.

Mayor Ward opened the public hearing at 7:47 p.m. No one spoke to the item.

Mayor Ward closed the public hearing at 7:47 p.m.

Motion by Dr. Marshall, seconded by Mr. Addison to adopt Ordinance No. 1487 amending Title 17-Zoning of the Benbrook Municipal Code by amending Chapters 17.08 – Definitions, 17.20 – Districts, District Boundaries and District Uses; 17.28 – “SD” Suburban District; 17.32 – “RE” Residential Estate District; 17.36 – “A” One-Family District; 17.40 – “B” One-Family District; 17.44 – “BR” One-Family Reduced District; 17.48 – “CR” Multiple-Family Restricted District; 17.52 – “C” Multiple-Family District; 17.54 – “D” Multiple-Family District; 17.78 – “NAS” Overlay District; 17.79 – Benbrook Boulevard Corridor Overlay District; 17.84 – Supplementary District Regulations; 17.88 – Parking and Vehicular Circulation Regulations; 17.96 – Fence Regulations; 17.98 – Landscape and Buffer Requirements; and 17.100 – Non-Conforming Uses.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Dustin Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

Ordinance No. 1487 being **“AN ORDINANCE AMENDING VARIOUS CHAPTERS OF TITLE 17 - ZONING OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, PROVIDING FOR TYPOGRAPHICAL CORRECTIONS AND OTHER AMENDMENTS REGARDING PERMITTED AND NON-CONFORMING USES; FENCE, SIGN, PARKING AREA, AND LANDSCAPE REGULATIONS; 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 25
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 30
EFFECTIVE DATE**

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

VI. REPORTS FROM CITY MANAGER

A. GENERAL

G-2600 Adopt Ordinance amending Section 10.40.010.A of Chapter 10.40 of Title 10-Vehicles and Traffic of the Benbrook Municipal Code (1985) by establishing a no parking, standing or stopping zone at any time on a portion of Bellaire Drive

Jim Hinderaker gave the following report: Limited sight visibility exists for motorists at the stop sign located on the northbound lane of Crosslands Road at the intersection of Bellaire Drive. To improve the visibility of oncoming vehicles traveling eastbound on Bellaire Drive and overall public safety, staff recommends that the south side of Bellaire Drive, beginning at the southwest corner of the intersection of Bellaire Drive and Crosslands Road and extending in a westerly direction approximately 225-feet along the southern curb-line of Bellaire Drive to the southeast corner of the intersection of Bellaire Drive and Fox Trail be designated as a no parking, standing or stopping zone at any time.

Staff has been in contact with the Trinity Oaks management team, the operators of the abutting apartment complex located on Bellaire Drive. The team is supportive of the City's proposed no parking area on Bellaire Drive to improve the overall safety of their tenants and other motorists turning onto Bellaire Drive from Crosslands Road. They also said that the reduced on-street parking should not be a problem for their tenants as there is sufficient on-site parking available for them and their guest.

Motion by Mr. Tiner, seconded by Ms. Franklin to adopt Ordinance No. 1488 amending Section 10.40.010.A of the Benbrook Municipal Code by adding

paragraph 18 designating the south side of Bellaire Drive between Crosslands Road and Fox Trail as a no parking, standing or stopping zone at any time.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Dustin Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

Ordinance No. 1488 being "AN ORDINANCE OF THE CITY OF BENBROOK AMENDING SECTION 10.40.010.A, CHAPTER 10.40 – PARKING RESTRICTIONS, TITLE 10 - VEHICLES AND TRAFFIC OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, BY ADDING PARAGRAPH 18 TO ESTABLISH A NO PARKING, STANDING OR STOPPING ZONE AT ANYTIME ON A PORTION OF BELLAIRE DRIVE; 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. Nothing herein shall affect any minimum fine prescribed by any ordinance of the city and any such minimum fine shall remain unchanged.

SECTION 11 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law.

B. CONTRACT

C-360 Award Westpark Drive and Timbercreek Road Reclaim Contract to Texas Bit

Bennett Howell gave the following report: On January 28, 2021, Tarrant County issued a Call for Projects to municipalities located within its jurisdiction to partially fund (50% cost share) transportation-related projects for a new Transportation Bond Program (Program) that the voters approved in the November 2021 election.

Using an existing Interlocal Agreement with Ellis County, the City is able to contract with Texas Bit to complete the Program for \$1,240,928. The Westpark Drive portion of the street reclamation project will extend from RM 2871 to Lakeway Drive. The Timbercreek Road portion extends from immediately east of the bridge on Timbercreek Road to Timberline Drive.

Texas Bit satisfactorily completed the City's 2021 and 2022 Overlay Programs and was also awarded the contract for the City's 2023 Overlay Program.

Tarrant County requires a local funding match of at least fifty percent of the total project cost. The City is responsible for all cost overruns. The City's existing fund balances, coupled with Federal stimulus moneys, are sufficient to cover the City's cost share. The City's estimated cost share is \$620,464.

Motion by Ms. Mackey, seconded by Mr. Addison to award the reclaim contract for Westpark Drive and Timbercreek Road to Texas Bit for \$1,240,928.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Dustin Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

C-361 Award Milling Contract to TexOp Construction, LP

Bennett Howell gave the following report: On December 15, 2022, the City Council approved an Interlocal Agreement (ILA) with Tarrant County to complete a portion of the City's FY2022-23 Asphalt Overlay Program. Per the terms of the ILA, the City pays for the asphalt and Tarrant County provides the equipment and labor needed to complete the program, except for the street milling, at no charge to the City.

Through a separate purchasing ILA with Tarrant County, the City is able to contract with TexOp Construction, LP to complete the street milling portion of the program for \$80,170. The City has worked successfully with TexOp Construction, LP on previous projects.

The street milling contract is funded from the Public Works operating budget as authorized by the City Council in the FY2022-23 annual budget.

Motion by Dr. Marshall, seconded by Mr. Phillips to approve the milling contract with TexOp Construction, LP for \$80,170.

Vote on the Motion

Ayes: Ms. Franklin, Dr. Marshall, Dustin Phillips, Mayor Ward, Mr. Addison, Ms. Mackey, Mr. Tiner

Noes: None

Motion carries unanimously.

VII. INFORMAL CITIZEN COMMENTS

Tyler Garcia, Terry Roach and Lydia Hutson addressed City Council.

VIII. COUNCIL MEMBER AND STAFF COMMENTS

Councilmember Renee Franklin announced upcoming events in the City.

IX. ADJOURNMENT

Meeting adjourned at 8:08 p.m.

APPROVED:

Jason Ward, Mayor

ATTEST:

Joanna King, City Secretary