

MINUTES - CITY OF BEAUMONT

W.L. Pate, Jr., At-Large
Dr. Alan B. Coleman, Mayor Pro Tem
Audwin Samuel, Ward III
Tyrone E. Cooper, City Attorney

BECKY AMES, MAYOR
CITY COUNCIL MEETING
March 17, 2015
Kyle Hayes, City Manager

Gethrel Wright, At-Large
Michael D. Getz, Ward II
William R. Sam, Sr. Ward IV
Tina Broussard, City Clerk

The City Council of the City of Beaumont, Texas, met in a regular session on **March 17, 2015**, at the City Hall Council Chambers, 801 Main Street, Beaumont, Texas, at 1:30 p.m. to consider the following:

OPENING

- * Invocation Pledge of Allegiance Roll Call
- * Presentations and Recognition
- * Public Comment: Persons may speak on scheduled agenda items 2-7/Consent Agenda
- * Consent Agenda

Mayor Ames called the council meeting to order at 1:30 p.m.

Pastor Dwight Benoit of Magnolia Baptist Church gave the invocation. Mayor Ames led the Pledge of Allegiance. Roll call was made by Tina Broussard, City Clerk.

Present at the meeting were Mayor Ames, Councilmembers Getz, Wright, Pate, Samuel and Sam. Absent: Mayor Pro Tem Coleman. Also present were Kyle Hayes, City Manager; Tyrone Cooper, City Attorney; Tina Broussard, City Clerk.

Proclamations, Presentations, Recognitions

"Tobacco Coalition of Southeast Texas 'Lock up Tobacco' Day" - March 18, 2015 - Proclamation read by Mayor Ames; accepted by Norma Sampson, Holli Peterson along with volunteers and staff with the Gift of Life Program

Public Comment: Persons may speak on scheduled agenda items 2-7/Consent Agenda.

None

CONSENT AGENDA

- * Approval of minutes - **February 17, 2015**
- * Confirmation of committee appointments -

Ramona Hutchinson, County Historical Commission Representative, will fill the unexpired term of Jef Russell, III on the Historic Landmark Commission. The term will commence March 17, 2015 and expire January 15, 2016. (Mayor Becky Ames) – **Resolution 15 - 033**

Pastor Dwight Benoit would be reappointed to the Police Department Community Advisory Board. The current term would expire January 10, 2017. (Mayor Becky Ames) – **Resolution 15-034**

Jesus Abrego would be reappointed to the Police Department Community Advisory Board. The current term would expire January 10, 2017. (Mayor Becky Ames)

Dwaine K. Augustine would be reappointed to the Police Department Community Advisory Board. The current term would expire January 24, 2017. (Councilmember Bill Sam)

Dr. John Falgout, City Veterinarian, would be reappointed to the Animal Health Advisory Committee. The current term would expire December 13, 2016. (Mayor Becky Ames)

Frank Messina would be reappointed to the Convention and Tourism Advisory Board. The current term would expire February 10, 2017. (Mayor Becky Ames)

Ann Rothkamm would be reappointed to the Convention and Tourism Advisory Board. The current term would expire February 10, 2017. (Mayor Becky Ames)

Pat Anderson would be reappointed to the Community Development Advisory Committee. The current term would expire February 18, 2017. (Councilmember W.L. Pate)

Joey Hilliard would be reappointed to the Board of Adjustment (Zoning). The current term would expire February 17, 2017. (Mayor Becky Ames)

Sina Nejad-Engineer Representative, would be reappointed to the Construction Board of Appeals (Building). The current term would expire January 24, 2017. (Mayor Becky Ames)

- A) Approve a contract with Texas Liqua Tech Services for the installation of a new roof for Fire Station #8 located at 6297 Highway 105 – **Resolution 15-035**
- B) Approve the purchase of folding chairs from Virco Manufacturing Corporation of Conway, Arkansas for use by the Event Facilities Department – **Resolution 15-036**
- C) Authorize the City Manager to apply for and receive grant funds, and to enter into an agreement with the Texas A&M Forest Service-Texas Interstate Fire Mutual Aid System for a Type III Fire Apparatus – **Resolution 15-037**
- D) Approve the award of a primary contract for the publication of legal notices to The Examiner and a secondary contract to the Beaumont Enterprise – **Resolution 15-038**
- E) Approve a resolution accepting the donation of property for the Northwest Parkway Project – **Resolution 15-039**
- F) Authorize the City Manager to apply for and receive funding through the Ford Foundation for a library exhibit – **Resolution 15-040**
- G) Authorize the City Manager to submit an application to the Texas Department of Transportation for temporary use of State of Texas right-of-way for the Neches River

Festival Parade – **Resolution 15-041**

- H) Authorize the acceptance of a ten foot wide Exclusive Water Line Easement located at 3585 North Major Drive – **Resolution 15-042**
- I) Authorize the City Manager to execute a Lease Agreement with David Derharoutian (Landlord) to house EMS Unit No. 4 at 8155 Phelan – **Resolution 15-043**
- J) Authorize the City Manager to execute all documents necessary to accept additional funding from the Texas Department of State Health Services awarded to the Beaumont Public Health Department’s WIC Division – **Resolution 15-044**
- K) Authorize an agreement with Langley Productions related to the filming of the Beaumont Police Department for the television show COPS – **Resolution 15-045**

Councilmember Samuel moved to approve the Consent Agenda. Councilmember Pate seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

GENERAL BUSINESS

- 1. Consider a request for a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic) District at 2305, 2307, 2315 North Street and 637 7th Street.

Rebecca Bates Pitre, on behalf of NAI Wheeler, is requesting permission for uses such as, but not limited to, real estate, insurance, advertising agencies, legal, investment, engineering, and accounting. This property is located in the Oaks Historic District and has been occupied by such uses for over thirty (30) years. To avoid each office space needing a specific use permit every time a tenant leaves, Ms. Pitre hopes this request will encompass all uses similar to those listed.

At a Joint Public Hearing held February 16, 2015, the Planning Commission recommended 6:0 to approve a specific use permit to allow professional offices on property zoned RCR-H (Residential Conservation Revitalization - Historic) District at 2305, 2307, 2315 North Street and 637 7th Street, subject to the following condition:

- 1. The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

Approval of ordinance, subject to the following condition:

1. The parking lot be restriped and provide a one-way traffic circulation pattern from 7th Street and include handicapped parking.

Councilmember Getz moved to **ADOPT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW PROFESSIONAL OFFICES ON PROPERTY ZONED RCR-H (RESIDENTIAL CONSERVATION REVITALIZATION-HISTORIC) DISTRICT AT 2305, 2307, 2315 NORTH STREET AND 637 7TH STREET, WITH THE CONDITION IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.** Councilmember Wright seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Ordinance 15 - 004

2. Consider a resolution authorizing the execution of an Amended and Restated Feedstock Supply and Fuel Processing Agreement with Fair Energy Operations-Beaumont, LLC to purchase municipal solid waste from the City of Beaumont.

On December 18, 2012 the City Council authorized the execution of an Agreement with Fair Energy Operations-Beaumont, LLC to purchase and process municipal solid waste into diesel fuel and other recyclables. Since that time, Fair Energy has requested an amendment to the agreement to reflect certain changes in the processes and byproducts to be produced. The company anticipates that it will not only process the municipal solid waste into diesel fuel as originally indicated, but has also identified certain other recyclables such bio-oil, bio-char, plastics, syn-gas, aluminum, ferrous and non-ferrous metals, cardboard, and other related products. The other changes reflected are the expected quantities of Feedstock to be delivered to the company and the amount of the payment to be made to the City. The anticipated amount of Feedstock to be delivered to the company is reduced from 1,400 to 1,100 tons per week. As a result, the payment to the City is to be reduced from a bi-annual payment of \$200,000 to \$162,500 bi-annually.

Additionally, in order to secure financing of its operation, Fair Energy is requesting the City to grant consent to the terms of a Collateral Assignment of the Beaumont Supply Agreement as amended assigning a continuing security interest in all rights, title, interest and claims of Fair Energy in the Amended and Restated Feedstock Supply and Processing Agreement to Wilmington Trust, National Association, as trustee. Under this collateral assignment, Fair Energy will continue to be responsible for the exercise of all of the rights, benefits and privileges under the Supply Agreement so long as it is not in default under the terms of the assignment. In the event of a default, Wilmington

Trust would assume all responsibilities and obligations under the Amended and Restated Feedstock Supply Agreement with the City of Beaumont. By this action the Council is being asked to consider an amendment to the agreement and consent to its assignment as collateral.

Approval of resolution.

Councilmember Samuel moved to **APPROVE A RESOLUTION THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO EXECUTE A COLLATERAL ASSIGNMENT OF BEAUMONT SUPPLY CONTRACT BETWEEN A FAIR ENERGY OPERATIONS-BEAUMONT, LLC AND THE CITY OF BEAUMONT ASSIGNING A CONTINUING SECURITY INTEREST IN ALL RIGHTS, TITLE, INTEREST AND CLAIMS OF FAIR ENERGY IN THE AMENDED AND RESTATED FEEDSTOCK SUPPLY AND PROCESSING AGREEMENT TO WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE.** Councilmember Pate seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15 - 046

3. Consider a resolution authorizing the City Manager to execute Amendments No. 2, to the General Land Office (the "GLO") Round 2.1 Contract No. 12-214-000-5514 and Round 2.2 Contract No. 13-239-000-7429 related to the South Park Drainage Project and the Avenue A Project.

On December 4, 2011, the City of Beaumont was awarded funding through the 2008 Texas Community Development Block Grant Ike Disaster Recovery Fund for Round 2.1 for the South Park Drainage Improvement Project. In December 20, 2012, the City of Beaumont was also awarded funding by The General Land Office (the "GLO") for Round 2.2 for the Avenue A, Magnolia Avenue from E. Lucas to Gill Street, Fire Station No. 2 and the Beaumont Health Department Projects.

For the Round 2.1 Amendment No. 2, the City plans to reduce the scope of the South Park Drainage Improvement Project while asking that additional funds be made available for the project. The issues that have contributed to these changes are due to the rising cost of construction and changes to the project to avoid conflict with a 72" water line that was discovered under the Kansas City Southern Railway Company tracks. If approved, \$2,376,853.00 will be shifted from the Avenue A Project to the South Park Drainage Project. In addition, Round 2.2 Amendment No. 2, the City is reducing the scope of the Avenue A Project. The Reductions are necessary to pay for

the increased cost of the South Park project already under construction.

The General Land Office of the State of Texas and the Capital Program.

Approval of resolution.

Councilmember Pate moved to **APPROVE A RESOLUTION THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO EXECUTE AMENDMENT NO. 2 FOR GENERAL LAND OFFICE CONTRACT NO. 13-23-000-7429, COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM ROUND 2.2 NON-HOUSING GRANT AGREEMENT BETWEEN THE CITY OF BEAUMONT AND THE GENERAL LAND OFFICE TO REDUCE THE SCOPE OF THE AVENUE A PROJECT.** Councilmember Sam seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15 - 047

4. Consider a resolution authorizing the award of a contract to LD Construction of Beaumont for the Delaware Street Asphalt Resurfacing Project – Phase II from US 69 to Concord Road.

The section of Delaware Street from US 69 Frontage Roads to Concord Road is a heavily traveled, four (4) lane/two (2) lane roadway. The existing roadway has experienced numerous failures and after continual repair efforts now requires resurfacing to extend the life of the roadway. Phase II will provide a asphalt overlay from US 69 Frontage Roads to Concord Road.

On Thursday, February 26, 2015, bids were solicited for furnishing all labor, materials, equipment and supplies for the project.

A total of 90 calendar days are allocated for the completion of the project. LD Construction is a Certified MBE/HUB company.

Capital Program.

Approval of resolution.

Councilmember Samuel moved to **APPROVE A RESOLUTION THAT THE BID SUBMITTED BY LD CONSTRUCTION, OF BEAUMONT, TEXAS, IN THE AMOUNT OF \$342,414.02 FOR A CONTRACT FOR**

THE DELAWARE STREET ASPHALT RESURFACING PROJECT-PHASE II BE ACCEPTED BY THE CITY OF BEAUMONT. Councilmember Sam seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15 - 048

5. Consider a resolution authorizing the City Manager to submit an application for grant funding to the Texas Water Development Board for the Master Drainage Plan Project and accept the funds if awarded.

On November 12, 2014, by Resolution No. 14-244, City Council authorized the City Manager to execute an agreement with Lockwood, Andrews, Newnam, Inc. (LAN) of Houston, Texas in an amount not to exceed \$500,000 to fund the first phase of a Master Drainage Plan for the City of Beaumont.

The Texas Water Development Board (TWDB) is currently offering grants to political subdivisions of the State of Texas for the evaluation of structural and non-structural solutions to flooding issues. The City of Beaumont Master Drainage Plan project meets the qualifying project requirements. The City will apply for grant funds in the amount of \$250,000 which would be used to expand the scope of the Master Drainage Plan.

Approval of resolution.

Councilmember Getz moved to **APPROVE A RESOLUTION THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO APPLY FOR AND RECEIVE GRANT FUNDING FOR THE CITY OF BEAUMONT THROUGH THE TWDB IN THE AMOUNT OF \$250,000 FOR AN EXPANSION OF THE SCOPE OF THE FIRST YEAR OF A THREE (3) YEAR STUDY, WITHIN THE CITY'S LIMITS, OF ITS CURRENT DRAINAGE INFRASTRUCTURE AND AREAS PRONE TO FLOOD RISK.** Councilmember Pate seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15 -- 049

6. Consider a resolution awarding an annual contract to Martin Asphalt, Inc., of Houston, for the purchase of asphalt, road oil and emulsions utilized in the Streets and Drainage Division.

Bids were requested for an annual contract to provide asphalts, road oils and emulsions for use by the Streets and Drainage Division for repair and maintenance of city streets. In addition to repair, these materials are used in the Street Rehabilitation Program.

Although Cleveland Asphalt, Inc. was the low bid, it is recommended that the bid from Martin Asphalt, Inc. be accepted as the best value to the City.

The contract calls for City pickup of materials not vendor delivery. The Cleveland Asphalt plant is located north of Shepherd, Texas which is 160 miles, round trip, from Beaumont. The cost of sending City trucks and drivers on the three to four hour round trip is not economically justifiable. The Martin Asphalt facility is in Port Neches and has held this contract for several years.

Capital Program and General Fund-Public Works Department.

Approval of resolution.

Councilmember Wright moved to **APPROVE A RESOLUTION THAT THE BID SUBMITTED BY MARTIN ASPHALT, INC., OF HOUSTON, TEXAS, FOR A CONTRACT TO PURCHASE ASPHALT, ROAD OIL AND EMULSIONS FOR USE BY THE PUBLIC WORKS DEPARTMENT, STREETS AND DRAINAGE DIVISION IN THE AMOUNT OF \$140,400 BE ACCEPTED BY THE CITY OF BEAUMONT.** Councilmember Pate seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15 - 050

7. Consider a resolution approving a change order to the contract with Brystar Contracting, Inc., for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (from Amarillo St. to ML King Parkway).

On March 25, 2014, by Resolution No. 14-067, City Council awarded Brystar Contracting, Inc. the contract for the Washington Boulevard Pavement and Drainage Improvement Project Phase I (Amarillo St. to ML King Parkway) in the amount of \$16,478,838.95. The project consists of reconstructing the existing dilapidated asphalt roadway pavement, upgrading the storm water and sanitary sewer mains.

During the course of construction, it was determined that minor changes to the design were needed to better accommodate field conditions that would also provide a cost savings to the City. The change order will result in a net decrease of \$99,838.41.

Approval of resolution.

Councilmember Samuel moved to **APPROVE A RESOLUTION THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO EXECUTE CHANGE ORDER NO.1 FOR MINOR DESIGN CHANGES TO BETTER ACCOMMODATE FIELD CONDITIONS, IN THE AMOUNT OF (\$99,838.41), THEREBY DECREASING THE CONTRACT AMOUNT TO \$16,379,000.54 FOR THE WASHINGTON BOULEVARD PAVEMENT AND DRAINAGE IMPROVEMENT PROJECT-PHASE I (AMARILLO ST. TO ML KING PARKWAY).** Councilmember Sam seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM

NAYS: NONE

MOTION PASSED

Resolution 15-051

Mayor Ames read the announcement regarding Executive Session being held at the conclusion of the General Business portion of the meeting.

PUBLIC HEARING

- * Receive comments on the Public Services and Public Facilities and Improvements line items of the Consolidated Grant Program's 2015 Annual Action Plan

Open – 2:40 p.m.

None

Close – 2:40 p.m.

COUNCILMEMBER COMMENTS

COUNCILMEMBER SAM -

COMMENTED ON THE NATIONAL LEAGUE OF CITIES CONFERENCE THAT HE ATTENDED IN WASHINGTON D.C., ALSO STATED THAT THERE WAS A PRESENTATION AT THE NLC IN REGARDS TO CITIES IMPLEMENTING A POLICE ADVISORY COMMITTEE, THE OTHER CITIES WERE

SURPRISED THAT BEAUMONT HAD ONE IN PLACE ALREADY, FELT GOOD THAT BEAUMONT IS AHEAD OF A LOT OF OTHER CITIES

COUNCILMEMBER SAMUEL -

STATED THAT THERE WAS A LOT OF INFORMATION MADE AVAILABLE AT THE NLC CONFERENCE PARTICULARLY IN THE AREA OF PUBLIC SAFETY AND CRIME PREVENTION, VERY EXCITED ABOUT THE THINGS THAT WERE BROUGHT BACK THAT CAN BE IMPLEMENTED

COUNCILMEMBER PATE -

COMMENTED ON THE NLC CONFERENCE IN WASHINGTON, D.C., STATED THAT THERE WAS A PORTION OF THE CONFERENCE THAT TOUCHED BASIS ON HOMELESSNESS, THERE ARE RESIDENTIAL AS WELL AS COMMERCIAL BUILDINGS THAT NEED TO DEMOLISHED RIGHT AWAY, THE CITY HAS FINALLY GOTTEN THE AUTHORITY FROM THE COURTS TO MOVE FORWARD WITH DEMOLITION, THERE IS STILL A PROCESS THAT NEEDS TO BE FOLLOWED, ASKED CITIZENS TO BE PATIENT AS THEY MOVE FORWARD, GAVE CONDOLENCES TO THE FAMILY OF SAM DANA WHO OWNED QUALITY CAFÉ', ANNOUNCED THE MASQUERADE BALL FUNDRAISER SPONSORED BY THE BEAUMONT HERITAGE SOCIETY, THEY WILL BE RAISING MONEY FOR THE HERITAGE SOCIETY

COUNCILMEMBER WRIGHT -

THANKED REGINA ROGERS AND THE GIFT OF LIFE PROGRAM FOR WHAT THEY DO WITH THE CANCER SCREENING ETC., THIS IS DONE FOR CITIZENS WHO DON'T HAVE INSURANCE, THANKED THEM FOR THE BREAST SCREENING, PROSTATE SCREENING AND THE LOCK UP TOBACCO DAY, ALSO COMMENTED ON THE NLC CONFERENCE SHE ATTENDED IN WASHINGTON, D.C., WISHED EVERYONE A HAPPY ST. PATRICK'S DAY

COUNCILMEMBER GETZ -

ANNOUNCED THAT THE DOWLEN/WEST NEIGHBORHOOD ASSOCIATION IS HAVING A SPECIAL TOWN HALL MEETING, AT ROGERS PARK COMMUNITY CENTER, THURSDAY, MARCH 17, 2015, SOCIAL HOUR BEGINS AT 6:00 P.M., MEETING STARTS AT 7:00 P.M., THERE WILL BE DISCUSSION IN REGARDS TO THE POSSIBILITY OF AN AFFORDABLE LOW INCOME HOUSING DEVELOPMENT FOR SENIORS, THERE WILL BE A REPRESENTATIVE FROM NEW ROCK THAT WILL DISCUSS THE DEVELOPMENT AND ANSWER ANY QUESTIONS CITIZENS MAY HAVE

Allen Jaco III

2295 Magnolia Ave.

Beaumont TX

Stated that he is a professional boxing promoter, he will be bringing an entertainment sporting event to Beaumont on May 8 2015, the sporting event will be at the Montange Center at Lamar University, is looking for more local support from business as far as sponsors to make this event happen, would like to bring something different to the citizens and the City of Beaumont

Christopher Jones

1045 Doucette Ave

Beaumont TX

Stated that Council has only listened to half of the changes in the Water Department by the City Manager Kyle Hayes, commented on the consultant CM2MHill, stated the consultants used the wrong information provided directly by the City Manager and the information should not have been used to evaluate the employees, there were other comments regarding the Water Utilities Department, that were made mention

Open session of meeting recessed at 3:08 p.m.

EXECUTIVE SESSION

- * As authorized by Section 551.087 of the Government Code, to discuss and deliberate economic development negotiations regarding a business entity proposing a hotel and water park development at Ford Park
- * Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

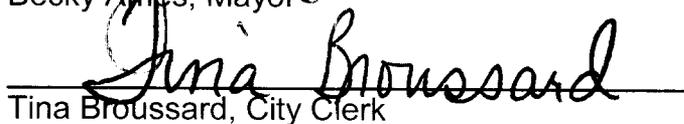
United States of America vs. City of Beaumont, Texas

There being no action taken in Executive Session, Council adjourned.

Audio available upon request in the City Clerk's Office.



Becky Ames, Mayor



Tina Broussard, City Clerk

