

MINUTES - CITY OF BEAUMONT

W.L. Pate, Jr., At-Large
Claude F. Guidroz, Ward I
Audwin Samuel, Ward III
Tyrone E. Cooper, City Attorney

BECKY AMES, MAYOR
CITY COUNCIL MEETING
August 25, 2015
Kyle Hayes, City Manager

Gethrel Wright, At-Large
Michael D. Getz, Mayor Pro Tem
Robin Mouton, Ward IV
Tina Broussard, City Clerk

The City Council of the City of Beaumont, Texas, met in a regular session on **August 25, 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 4-6/Consent Agenda
- * Consent Agenda

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

Chaplain Kevin D. Trinkle of Baptist Hospital of Southeast Texas 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, Mayor Pro Tem Getz, Councilmembers Guidroz, Pate, Samuel and Mouton. Absent: Councilmember Wright. Also present were Kyle Hayes, City Manager; Tyrone Cooper, City Attorney; Tina Broussard, City Clerk.

Councilmember Wright was absent due to illness.

Proclamations, Presentations, Recognitions

"20th Anniversary of Operation One Vote and Commemoration of 50th Anniversary of the 1965 Voting Rights Act" - August 29, 2015 - Proclamation read by Mayor Ames; accepted by Rosetta Coffman on behalf of Bobbie Patterson

Public Comment: Persons may speak on scheduled agenda items 2-3/Consent Agenda.

None

CONSENT AGENDA

- * Approval of minutes – **August 18, 2015**
- * Confirmation of committee appointments – **Resolution 15 – 176**

Jake Tortorice would be appointed to the Convention and Tourism Advisory Board. The term would commence August 25, 2015 and expire August 24, 2017. (Councilmember W. L. Pate, Jr.)

- A) Authorize the execution of a License to Encroach Agreement with Tiffany Hardy related to a structure located at 5260 Fairmont Drive – **Resolution 15 - 177**
- B) Approve a resolution accepting maintenance of the street, storm sewer, water and sanitary sewer improvements in West Chase Village, Section Twelve Subdivision – **Resolution 15 - 178**
- C) Authorize the settlement of the lawsuit styled Jay Brocato and wife Valerie Brocato, Individually and As Next Friends of Macy Brocato, A Minor vs. The City of Beaumont, Texas; Cause No. D-183,620 – **Resolution 15 - 179**
- D) Authorize the City Manager to execute all documents necessary to accept grant funds from the Texas Department of Transportation related to traffic safety (State and Community Highway Safety Grant Program) – **Resolution 15 - 180**

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

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: NONE

MOTION PASSED

GENERAL BUSINESS

- 1. Consider a request to rezone a piece of property to be used as a driveway from GC-MD (General Commercial-Multiple Family Dwelling) to RM-H (Residential Multiple Family Dwelling-Highest Density) located at 7110 Highway 105.

Dylan Blackshear submitted a minor plat to divide the property located at 7110 Highway 105 into four (4) pieces. The property will consist of three (3) lots along the highway as well as one large lot in the rear. Although the rear lot is zoned RM-H (Residential Multiple Family Dwelling-Highest Density), the driveway, or "flag", of the rear lot is currently zoned GC-MD (General Commercial Multiple Family Dwelling). City of Beaumont subdivision regulations state:

"All lots shall abut a public or private street and shall abut the street no less than the required lot width for that lot..."

Minimum lot width in GC-MD Districts is 75 feet, which would force the "flag pole" (or portion that extends to the roadway) to be 75 feet wide. Mr. Blackshear is asking to rezone the driveway, or "flag pole", from GC-MD to RM-H, matching the rear lot. Minimum lot width for RM-H is 50 feet. A 50 foot wide driveway should meet all requirements for traffic accessing the rear lot with the same zoning district.

At a Joint Public Hearing held August 17, 2015, the Planning Commission recommended 7:0 to approve a request to consider to rezone a piece of property to be used as a driveway from GC-MD (General Commercial-Multiple Family Dwelling) to RM-H (Residential Multiple Family Dwelling-Highest Density) located at 7110 Highway 105.

Approval of ordinance.

Councilmember Guidroz moved to ADOPT AN ORDINANCE ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONING GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT TO RM-H (RESIDENTIAL MULTIPLE FAMILY DWELLING-HIGHEST DENSITY) DISTRICT FOR PROPERTY LOCATED AT 7110 HIGHWAY 105, BEAUMONT, JEFFERSON COUNTY, TEXAS. Councilmember Samuel seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: NONE

MOTION PASSED

Ordinance 15 - 028

2. Consider a request to rezone property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) or a more restrictive zoning district at 1030 West Cardinal Drive.

Patrick Gibbs requested a rezoning from RS (Residential Single Family Dwelling) to GC-MD (General Commercial- Multiple Family Dwelling) district for his property located along Cardinal Drive.

One of the primary concerns for this request is spot zoning. The reasons being:

1. The request is not in compliance with the comprehensive plan. The subject property is designated as a stable area indicating the zoning is adequate.
2. The request is not consistent with the zoning or land use of the surrounding area, existing uses surrounding the property are either residential or institutional. Thirteen developed/occupied residential lots about the property.
3. Rezoning would not serve a public purpose furthering public health, safety, morals or general welfare.

While most properties along Cardinal Drive are commercial, this particular area is largely zoned and developed as single-family. As such, should this rezoning be approved, it would be surrounded on the north, east and south by property zoned as R-S. One possible alternative would be to join with the adjacent church and apply for RM-H (Residential Multiple Family Dwelling-Highest Density) zoning. This would allow for residential uses

and possibly allow for more limited commercial uses that would be more compatible with the surrounding land uses.

At a Joint Public Hearing held August 17, 2015, the Planning Commission recommended 5:2 to deny a request to consider a request to rezone property from RS (Residential Single Family Dwelling) to GC-MD (General Commercial-Multiple Family Dwelling) or a more restrictive zoning district located along Cardinal Drive.

Denial of ordinance.

Councilmember Guidroz moved to DENY AN ORDINANCE ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED RS (RESIDENTIAL SINGLE FAMILY DWELLING) DISTRICT TO GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT FOR PROPERTY LOCATED AT 1030 WEST CARDINAL DRIVE, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY. Councilmember Pate seconded the motion.

AYES: MAYOR AMES, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: MAYOR PRO TEM GETZ

MOTION DENIED

3. Consider a request for a Specific Use Permit for a law office in an RCR-H (Residential Conservation Revitalization-Historic) District at 2636 McFaddin Avenue.

Audwin Samuel would like to operate a law office located at 2636 McFaddin Avenue. The 1816 sq. ft. structure will have three (3) people working in the office on a daily basis and normally, no more than two (2) scheduled clients visiting at the same time. Office hours will be 8:00 a.m. to 5:00 p.m., Monday through Friday. Nine (9) parking spaces will be provided for employees and clients on the .01722 acre lot. Several other commercial uses exist in this block.

At a Joint Public Hearing held August 17, 2015, the Planning Commission recommended 7:0 to approve a request to allow a Specific Use Permit for a law office in an RCR-H (Residential Conservation Revitalization-Historic) District, subject to the following condition:

1. One ADA compliant parking space must be provided on the subject property.

Approval of ordinance, subject to the following condition:

1. One ADA compliant parking space must be provided on the subject property.

Councilmember Mouton moved to ADOPT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A LAW OFFICE IN AN RCR-H (RESIDENTIAL CONSERVATION REVITALIZATION-HISTORIC) DISTRICT AT 2636 MCFADDIN AVENUE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS. Councilmember Pate seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE AND MOUTON

NAYS: NONE

ABSTAIN: COUNCILMEMBER SAMUEL

MOTION PASSED

Ordinance 15 – 029

4. Consider a resolution approving the award of a contract to LD Construction, Inc., of Beaumont for asphaltic concrete pavement work.

Bids were requested for a one (1) year contract for the placement of hot mix asphaltic concrete (HMAC) pavement. HMAC is used for repairs to large street sections in the Street Rehabilitation Program.

The vendor will provide the equipment and manpower to lay the asphaltic concrete according to City specifications with the materials being supplied by the City.

Five (5) vendors were notified, with two (2) bids being submitted. Low valid bid was received from LD Construction, Inc., of Beaumont, the current holder of this contract. The bid submitted by CMM Constructions, Inc., was rejected as the contractor failed to provide the five percent (5%) bid bond which was a requirement of the solicitation. The bid price represents an increase of approximately \$207,750 (24%) over the current contract.

Approval of resolution.

Councilmember Pate moved to APPROVE A RESOLUTION THAT THE BID SUBMITTED BY LD CONSTRUCTION, INC., OF BEAUMONT, TEXAS, FOR A ONE (1) YEAR CONTRACT FOR THE PLACEMENT OF HOT MIX ASPHALTIC CONCRETE (HMAC) PAVEMENT FOR REPAIRS TO LARGE STREET SECTIONS IN THE STREET REHABILITATION PROGRAM IN THE ESTIMATED AMOUNT OF \$1,063,500 BE ACCEPTED BY THE CITY OF BEAUMONT; AND, THAT THE CITY MANAGER BE AND HE IS HEREBY AUTHORIZED TO EXECUTE A CONTRACT WITH LD CONSTRUCTION, INC., OF BEAUMONT, TEXAS, FOR THE PURPOSES DESCRIBED HEREIN. Councilmember Getz seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: NONE

MOTION PASSED

Resolution 15 – 181

5. Consider an ordinance granting a new solid waste franchise agreement with Piney Woods Sanitation Inc.

According to City Ordinance 22.05.101, no person shall engage in the business of collecting, hauling or transporting, in the city, any garbage, waste or refuse, without first having obtained a franchise from the City. Seven (7) entities currently have nonexclusive franchise agreements with the City and are doing business in this area. Piney Woods Sanitation Inc. has requested that the City Council grant the company such franchise agreement. Piney Woods Sanitation serves southeast Texas with its corporate office located at 517 Hwy 69 North in Huntington, Texas.

The requested franchise is generally the same as those previously approved by City Council. It provides for a term of one year from its effective date and a franchise fee of seven percent (7%) of gross revenues received for service. It also requires the entity to indemnify the City of Beaumont and provide insurance which names the City of Beaumont as a named insured.

According to City Charter, franchise ordinances require readings at three (3) separate Council meetings, with the third not less than thirty (30) days from the first reading. The ordinance does not take effect until sixty (60) days after its adoption on the third and final reading. After passage, the ordinance must be published for four (4) consecutive weeks in a newspaper of general circulation in the city. All publication costs are paid by the franchisee. Attached is a copy of the franchise agreement for your review.

This is the first reading.

A franchise fee of seven percent (7%) of gross receipts will be paid to the City.

Approval of ordinance.

Councilmember Guidroz moved to **ADOPT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING A FRANCHISE FOR SOLID WASTE COLLECTION AND TRANSPORTATION SERVICES TO PINEY WOODS SANITATION, INC.** Councilmember Pate seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: NONE

MOTION PASSED

Ordinance 15 – 030

6. Consider amending Section 2.02.241 of the Code of Ordinances related to the Animal Health Advisory Committee.

State law stipulates that the Animal Advisory Committee must be composed of certain classifications of members. The current wording in the Code of Ordinances is outdated and does not reflect the proper department, which is the Police Department that is

responsible for the Animal Services Division. Also, the Chief of Police is recommending that the number of committee members be increased from six to eight, which would include three residents-at-large. The current ordinance would be amended as shown below:

Section 2.02.241 Established

- (a) There is hereby established an animal health advisory committee of the city to act in an advisory capacity to the City Council and to the department of health **Police Department** concerning rules and regulations pertaining to the operations of the animal shelter and to make recommendations to the director of health **Chief of Police** concerning animal control by the city.
- (b) Such committee shall consist of six (6) **eight (8)** members composed of the city veterinarian, the director of health, the animal control supervisor, a representative from the city police department, and two (2) individuals from the Humane Society **one (1) representative from an animal welfare organization, and three (3) residents-at-large as recommended by the Chief of Police**, all of whom shall be appointed for two-year terms.
- (c) The advisory committee shall meet as needed **at least three times a year**.

Approval of the amended ordinance.

Councilmember Mouton moved to ADOPT AN ORDINANCE ENTITLED AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION AND PERSONNEL, ARTICLE 2.02, ANIMAL HEALTH ADVISORY COMMITTEE, SECTION 2.02.241(A) AND (B), OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, TO ALLOW THE ANIMAL HEALTH ADVISORY COMMITTEE TO ACT IN AN ADVISORY CAPACITY TO THE POLICE DEPARTMENT AND TO MAKE RECOMMENDATIONS TO THE CHIEF OF POLICE CONCERNING ANIMAL CONTROL; TO INCREASE THE NUMBER OF ANIMAL HEALTH ADVISORY COMMITTEE MEMBERS; AND TO CHANGE THE FREQUENCY IN WHICH THE ADVISORY COMMITTEE SHALL MEET; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR REPEAL. Councilmember Samuel seconded the motion.

AYES: MAYOR AMES, MAYOR PRO TEM GETZ, COUNCILMEMBERS GUIDROZ, PATE, SAMUEL AND MOUTON

NAYS: NONE

MOTION PASSED

Ordinance 15 - 031

WORKSESSION

- * Review and discuss the proposed FY 2016 Budget and the proposed 2016 Capital Program

City Manager, Kyle Hayes discussed the FY 2016 Budget and the proposed FY 2016 Capital Program. The Manager first discussed the overview of the FY 2016 Budget of all funds that totaled \$254.3 million, 20 positions were eliminated in 2015, \$1.6 million was saved across the entire budget; \$1.0 million was in the General Fund and with vacant buildings and underutilized properties being sold there was \$1.3 million deposited in the Capital Reserve Fund. The civilian employees will receive a wage increase of 2.5%, the contractual wage increase for Police Department will be 2%, the proposed wage increase for the Fire Department will be 2.5% and the health insurance premiums will increase 5% for employees and retirees. The tax rate of \$0.69/per \$100 valuation will remain the same. The General Fund rate will be \$0.48 and the Debt Service Fund rate will be \$0.21. Water and sewer rates will not increase for the first time in more than 10 years. A new landfill cell is needed, the cost will be \$1.9 million, there will be a need to increase garbage collection rates from \$16.00 to \$17.00 this increase will result in \$425,000 additional revenue this is needed to repay debt associated with the new cell.

The General Fund revenue is \$117,319,300, the General Fund expenditures is \$118,538,300, the deficit is (\$1,219,000), with an estimated beginning fund balance of \$27,928,699 and an estimated ending fund balance of \$26,709,699, with a 22.5% of expenditures. The General Fund has the largest revenue source, the sales and use taxes are at 34% which is projected to increase to 1.75%, property taxes are at 28% appraised values which will increase less than 1%, industrial payments are at 15% with a projected increase of 2% which is a 76% minimal growth. The proposed revenues in the General Fund are projected to increase 1.9% in FY 2016 over FY 2015 estimates.

The General Fund expenditures for the Police Officers with a contractual obligation at a 2% increase will cost the City \$525,000, the expenditures for the Firefighters with a 2.5% wage increase, that contract is currently being renegotiated with an estimated cost of \$535,000 and civilian employees will receive a wage increase of 2.5% with an estimated cost of \$705,000. The General Fund will transfer \$2.55 million to the Transit Fund which will cover approximately 45% of operating expenses. The fund balance rainy day account was discussed from FY 2002 through FY 2016. The Debt Service Fund statement of revenues and expenditures were discussed as well as the Water Utilities Fund, Solid Waste Fund and medical rates.

The City Manager also discussed the Proposed FY 2016 Capital Program. The Public Works projects construction phases which included Avenue A – Washing to Elgie Street, Concord Road – Phase IV – East Lucas to Hwy. 105, Magnolia Overlay – Fannin to Gill, Northwest Parkway, Old Dowlen – Dowlen to Hwy. 105, South Park Relief, Street Rehabilitation Program and Washington – IH-10 to ML King. The design phases for Pointe Parkway North and Storm Water Master Plan were discussed as well as the General Improvement Projects which includes Airport Improvement Project, Fire Station No. 1 Relocation, Landfill Cell Construction, Riverfront Development and the Best Years Center.

PUBLIC HEARING

- * Receive comments on the proposed FY 2016 Budget and the proposed 2016 Capital Program

Open – 2:47 p.m.

Eric Bender

2770 Interstate 10 E

Beaumont TX

Spoke regarding bicycle lanes and bicycling in the city, asked that if and when they discuss the feasibility study of the buses, asked that Council consider removing some seats on the bus and putting in bike racks and using the bus as part of an intermodal system, this would be the least expensive conversion, also made comments on the new cell construction at the landfill

Close – 2:49 p.m.

COUNCILMEMBER COMMENTS

COUNCILMEMBER GUIDROZ -

WISHED EVERYONE ANOTHER GOOD WEEK IN BEAUMONT

MAYOR PRO TEM GETZ -

STATED THAT THERE IS A GOOD POLKA BAND BOOKED FOR THE OCTOBERFEST, STATED THAT WHEN HE PUT IT ON HIS FACEBOOK PAGE IT HAD BEEN SHARED WITHIN 48 HOURS WITH OVER 600 CITIZENS COMMENTING, WHICH TELLS HIM THAT PEOPLE IN BEAUMONT ARE READY FOR THIS EVENT AND CAN EXPECT A HUGE TURNOUT ON OCTOBER 17, 2015

COUNCILMEMBER PATE -

COMMENTED ON THE COPS AND KIDS FESTIVAL THAT TOOK PLACE OVER THE WEEKEND, CONGRATULATED JEFF McNEAL WHO RETIRED FROM THE FIRE DEPARTMENT WITH 37 YEARS OF SERVICE, COMMENTED ON THE KICK OFF BANQUET FOR LAMAR UNIVERSITY, THE SPEAKER WAS FORMER HEAD COACH BOBBY BOWDEN

COUNCILMEMBER SAMUEL -

NONE

COUNCILMEMBER MOUTON -

CONGRATULATED BOBBIE PATTERSON ON TWENTY YEARS OF OPERATION ONE VOTE, ANNOUNCED THAT ON SATURDAY, AUGUST 29, 2015, SHE WILL BE HOSTING A GUMBO AT THE HOLIDAY INN FROM 12:00 P.M., TO 5:00 P.M., THANKED EVERYONE FOR COMING OUT AND IT'S A PLEASURE TO SERVE

COUNCILMEMBER WRIGHT -

ABSENT

CITY ATTORNEY COOPER -

NONE

CITY MANAGER HAYES -

NONE

MAYOR AMES -

THANKED THE POLICE DEPARTMENT AND CINDY BLOODSWORTH FOR THE COPS AND KIDS FESTIVAL AT THE BEAUMONT CIVIC CENTER ON SATURDAY, THE FESTIVAL WAS MAGNIFICENT

Public Comments (Persons are limited to three minutes)

Eric Bender

2770 Interstate 10 E

Beaumont TX

Stated that on January 20, 2015, Secretary Fox of the U.S. Department of Transportation challenged city leaders to raise the bar for bicycle pedestrian safety by initiating a yearlong Mayors challenge, the challenge is "Safer People, Safer Streets" he also spoke about the transportation system which does not refer to buses or vehicles, but refers to the roads, the paths, rails, waterways and the system that pedestrians use, as well as a modern transportation system

Landry Rountree

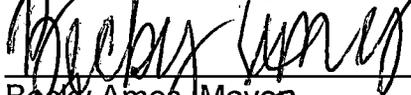
1565 S. Major

Beaumont TX

Discussed a letter he received from City Attorney Tyrone Cooper, in the letter it stated that according to City Ordinance an appeals hearing is a final decision, stated that this is different information that Mr. Cooper provided to Council previously, doesn't understand what the discrepancy is, submitted a letter requesting another rehearing to the City Clerk

There being no Executive Session Council adjourned at 3:00 p.m.

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



Becky Ames, Mayor



Tina Broussard, City Clerk



ABSTENTION AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF JEFFERSON §

I, Audwin Samuel, as a member of the City Council (City Council, Commission, or Board) make this affidavit and hereby on oath state the following: I, and/or a person or persons related to me, have a substantial interest in a business entity that would be peculiarly affected by a vote or decision of the City Council (City Council, Commission, or Board) as those terms are defined in V.T.C.A., Local Government Code, § 171.002.

The business entity is: The Law Firm of Samuel & Son - Item #3
(Name)

2636 McFaddin, Beaumont, Texas 77702
(Address)

("I," or name of relative and relationship) Audwin Samuel have/has a substantial interest in this business entity for the following reasons: (check all of which are applicable.)

- Ownership of 10 percent or more of the voting stock or shares of the business entity.
- Ownership of either 10 percent or more or \$15,000 or more of the fair market value of the business entity.
- Funds received from the business entity exceed 10 percent of (my, her, his) His gross income for the previous year.
- Real property is involved, and (I, he, she) _____ have an interest which is an equitable or legal ownership with a fair market value of at least \$2,500.
- A relative of mine, within the first or second degree by blood or marriage, has a substantial interest in the business entity or property that would be affected by a decision of the public body of which I am a member.

Upon filing of this affidavit with the City Clerk, I affirm that I will abstain from voting on any decision involving this business entity and from any further participation on this matter whatsoever.

Signed this the 25th day of August, 2015.

Audwin Samuel
Signature of Official

Councilman
Title

BEFORE ME, the undersigned authority, on this day personally appeared Audwin Samuel and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

SWORN to and subscribed before me on this the 25th day of August, 2015.

Tina G. Broussard
Notary Public in and for the State of Texas

