

**MINUTES  
CITY OF GAINESVILLE  
CITY COUNCIL MEETING  
200 South Rusk  
Gainesville, Texas 76240  
September 16, 2008**

The City Council of the City of Gainesville, Texas met in regular session on September 16, 2008 at 6:30 p.m. with the following persons in attendance:

**MEMBERS PRESENT:** Mayor Glenn Loch  
Council Members Charles Draper, Jim Goldsworthy, Carolyn Hendricks, Ray Nichols, Vince Rippey, Beverly Snuggs

**STAFF PRESENT:** Barry Sullivan, City Manager; Kay Lunnon, City Secretary; Bill Harris, City Attorney; Dan Parker, Finance Director; Steve Fleming, Police Chief; Kent Sharp, GEDC Executive Director

**OTHERS PRESENT:** Jim Goodwin, Jason Beck, Carolyn Bennett, Pam Robinson, Stephen Monahans, Natalia Jones, C. J. Evans

**CALL TO ORDER**

Mayor Loch called the meeting to order at 6:30 p.m. with a quorum of members present.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Reverend Jim Goodwin, Whaley United Methodist Church, gave the invocation. Mayor Loch led the pledge to the flag.

**CONSENT AGENDA**

Council reviewed the Minutes of the Regular City Council Meeting of September 2, 2008 and approved them as written.

**RESOLUTION NO. 09-16-2008 – APPOINTMENT TO GREATER TEXOMA UTILITY AUTHORITY BOARD OF DIRECTORS**

Clyde Yeatts was appointed to the GTUA Board of Directors, to a term expiring December 2010 and to complete the unexpired term of Ray Nichols.

Councilmember Goldsworthy **moved to approve the Consent Agenda**, was seconded by Councilmember Nichols. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**ORDINANCE NO. 1210-09-2008 - ADOPTING BUDGET APPROPRIATIONS FOR FY 2008-2009**

AN ORDINANCE ESTABLISHING APPROPRIATIONS FOR THE SUPPORT, MAINTENANCE, BUILDINGS AND IMPROVEMENTS FOR THE CITY OF GAINESVILLE, TEXAS, FOR THE FISCAL YEAR FROM OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009 AND REVISING THE BUDGET FOR OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING; AND PROVIDING FOR RATIFICATION OF THE PROPERTY TAX INCREASE REFLECTED IN THE FISCAL YEAR 2008-2009 OPERATING BUDGET BY SEPARATE VOTE.

The Fiscal Year 2008-2009 Budget for the City of Gainesville was adopted, and the property tax revenue increase reflected in the operating budget was ratified by separate vote.

Councilmember Draper **moved to Suspend the Charter requirement of three readings**, seconded by Councilmember Snuggs, the motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

Councilmember Snuggs **moved to adopt the ordinance**. The motion was seconded by Councilmember Draper and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

In accordance with State Law, Councilmember Snuggs **moved to ratify the increase in property tax revenue as reflected in the FY 2008-2009 budget**, and was seconded by Councilmember Goldsworthy. The motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**ORDINANCE NO. 1211-09-2008 - ASSESSING TAX LEVY FOR FY 2008-2009**

AN ORDINANCE LEVYING, ASSESSING AND FIXING THE AD VALOREM TAX RATE FOR THE CITY OF GAINESVILLE, TEXAS GENERAL FUND AND INTEREST AND SINKING FUND FOR THE FISCAL YEAR FROM OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009; APPROPRIATING EACH LEVY FOR THE SPECIFIC PURPOSE; PROVIDING FOR THE ASSESSMENT OF ALL ANNUAL OCCUPATIONAL TAXES PROVIDED BY LAW; REQUIRING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING.

The ad valorem tax rate for Fiscal Year 2008-2009 was set at \$0.647000 per \$100 valuation. The Mayor and City Manager clarified that the tax rate is not an increase but revenues from property tax will increase due to property valuations.

Councilmember Nichols **moved to Suspend the Charter requirement of three readings**. The motion was seconded by Councilmember Draper and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

Councilmember Draper **moved that property taxes be increased by the adoption of a tax rate of \$0.64700 of which \$0.382200 is for the General Fund and \$0.264800 is for the Interest and Sinking Fund**. The motion was seconded by Councilmember Nichols and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**RESOLUTION NO. 09-16-2008 A - APPROVING AGENCY HOTEL MOTEL AGREEMENTS FOR FY 2008-2009**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH EACH OF THE AGENCIES RECEIVING HOTEL/MOTEL OCCUPANCY TAX PURSUANT TO CHAPTER 351 OF THE PROPERTY TAX CODE; APPROPRIATING CERTAIN AMOUNTS FROM SAID HOTEL/MOTEL FUND; AND AUTHORIZING PAYMENT ON THE TERMS AND CONDITIONS CONTAINED THEREIN.

Tourism and promotion contracts were approved for each of the agencies to receive Hotel/Motel Occupancy Tax revenue appropriations in the 2008-2009 Budget. The agencies approved for hotel motel revenue funding are Cooke County Arts Council, Cooke County Heritage Society, Chamber of Commerce, and Morton Museum / Santa Fe Depot Museum.

Councilmember Snuggs **moved to approve the Resolution**, was seconded by Councilmember Goldsworthy. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**RESOLUTION NO. 09-16-2008 B – ESTABLISHING GOALS FOR RESERVES IN GENERAL FUND AND WATER & SEWER UTILITY FUND**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE ESTABLISHING GOALS FOR GENERAL FUND AND WATER & SEWER UTILITY FUND RESERVES.

City Manager, Barry Sullivan recommended establishment of budgetary goals for contingency reserves of sixty (60) days for the General Fund and Water & Sewer Utility Fund by the end of Fiscal Year 2011, and ninety (90) days for these funds by the end of Fiscal Year 2013. He said contingency reserves help to mitigate City dependence on volatile revenue sources such as sales tax and water sales and supports the City's bond rating.

Councilmember Rippy **moved to approve the Resolution**, was seconded by Councilmember Goldsworthy. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**RESOLUTION NO. 09-16-2008 C – PARTIAL ASSIGNMENT OF TAX ABATEMENT BY ALLIED PRODUCTION SOLUTIONS TO B-29 PROPERTIES AND TITAN TANK AND VESSELS**

A RESOLUTION APPROVING PARTIAL ASSIGNMENT OF TAX ABATEMENT PURSUANT TO AN AGREEMENT BY AND BETWEEN THE CITY OF GAINESVILLE, TEXAS, NORTH CENTRAL TEXAS COLLEGE, NORTH TEXAS MEDICAL CENTER, THE COUNTY OF COOKE, AND ALLIED PRODUCTION SOLUTIONS, LP, PROVIDING FOR AD VALOREM TAX ABATEMENT TO B-29 PROPERTIES LLC AND TITAN PROPERTIES LLC WITHIN THE ESTABLISHED ENTERPRISE AND REINVESTMENT ZONES 13 AND 14 OF THE CITY OF GAINESVILLE; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS ON BEHALF OF THE CITY FOR THE CONSIDERATION AND ON THE TERMS AND CONDITIONS STATED THEREIN; AND PROVIDING AN EFFECTIVE DATE.

Partial assignment was approved of the tax abatement agreement between Allied Production Solutions, LP, with the City of Gainesville, North Central Texas College, North Texas Medical Center, and Cooke County. The assignment designates both real property and tangible personal property to B-29 Properties LLC and Titan Tank and Vessels, LLC within the established enterprise and reinvestment zones 13 and 14. B-29 Properties and Titan Tank and Vessels are affiliates of Allied Production Solutions. B-29 leases the land and buildings to Allied and Titan to conduct the operations described in the tax abatement. The partial assignment clarifies ownership of the property and does not have any effect on the compliance requirements and performance criteria set forth in the original tax abatement agreement with Allied Production Solutions.

Councilmember Nichols **moved to approve the Resolution**, was seconded by Councilmember Goldsworthy. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**FIRST READING OF RESOLUTION REGARDING GEDC INFRASTRUCTURE ASSISTANCE FOR NEW APARTMENT PROJECT FM 3092 AND FM 678**

FIRST READING OF A RESOLUTION APPROVING ACTIONS OF THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION WHICH VOTED TO APPROVE INFRASTRUCTURE ASSISTANCE FOR A NEW APARTMENT PROJECT TO BE LOCATED AT THE NE CORNER OF FM 3092 AND FM 678.

Council completed first reading of a Resolution regarding the Gainesville Economic Development Corporation approval of infrastructure assistance for a new apartment project to be located at the NE corner of FM 3092 and FM 678. Kent Sharp, Executive Director of the GEDC, said the EDC approved financial incentive up to \$500,000 for the project, which will include an assisted living complex, and an apartment complex of approximately 225 units, to be

constructed in phases, and water and sewer line improvements. Sullivan said the project will create a loop in the City's water system, thus improving the City's water infrastructure for the entire area, and allowing for additional growth. Second reading of the resolution is scheduled for October 7.

**RESOLUTION NO. 09-16-2008 D – APPROVE GEDC LAND AND BUILDING LEASE AT 2600 AIRPORT DRIVE TO SELECT ENERGY**

A RESOLUTION APPROVING ACTIONS OF THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF GAINESVILLE WHICH VOTED TO APPROVE THE LEASE OF THE LAND AND BUILDING LOCATED AT 2600 AIRPORT DRIVE, GAINESVILLE, TEXAS TO SELECT ENERGY.

Council approved the Gainesville Economic Development Corporation lease to Select Energy for the land and building located at 2600 & 2601 Airport Drive. EDC Executive Director, Kent Sharp stated the lease is temporary; is \$10,000 per month; and will allow Select Energy the office and land space they need to coordinate and gather heavy oil field equipment for an auction they are planning. Currently this acreage and buildings are leased by the GEDC to Bell Aero, which has notified the GEDC of their intent to terminate the lease and leave the city no later than October 31, 2008.

Councilmember Draper **moved to approve the Resolution**, was seconded by Councilmember Snuggs. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**FIRST READING OF RESOLUTION REGARDING GEDC REVENUE SHARE AGREEMENT WITH SELECT ENERGY**

FIRST READING OF A RESOLUTION OF THE CITY COUNCIL APPROVING ACTIONS OF THE GAINESVILLE ECONOMIC DEVELOPMENT CORPORATION, WHICH VOTED TO APPROVE A REVENUE SHARE AGREEMENT BETWEEN THE GAINESVILLE EDC AND SELECT ENERGY.

First reading was completed on a Resolution for the Gainesville Economic Development Corporation approval of a revenue share agreement between the Gainesville EDC and Select Energy. The agreement is for GEDC and Select Energy to share 50% of the 4B local economic development sales tax (.25%) generated by Select Energy Services' proposed location of its permanent procurement and sales function in Gainesville. The rebate period will be for qualifying sales between October 1, 2008 and September 30, 2017. Council's second reading of this GEDC expenditure is scheduled for October 7.

**RESOLUTION NO. 09-16-2008 E – CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT FOR REVENUE SHARING BETWEEN CITY AND SELECT ENERGY**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE AUTHORIZING THE MAYOR TO EXECUTE A CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT FOR A REVENUE SHARING ARRANGEMENT WITH SELECT ENERGY SERVICES, LLC.

Sullivan recommended approval of a Chapter 380 Economic Development agreement for a revenue sharing arrangement with Select Energy Services, LLC. The revenue sharing agreement would allow Select Energy to receive 0.50% and the City of Gainesville to retain 0.75% of the 1.25% City sales taxes generated by a telephone sales office located in Gainesville. Select Energy is reorganizing operations for their retail sales at Bell Supply on E. Hwy 82 to continue functioning in its current capacity, while a second division involves a telephone sales office that would "source" its local sales tax to Gainesville. Select Energy has requested that the City of Gainesville execute a revenue sharing agreement for sales tax revenues generated by the telephone sales office division in return for locating the "office" in Gainesville. The City

Manager called it a huge economic benefit for the City with anticipated sales tax revenue for the City in the next year at \$450,000 and over \$7 Million in the next ten years.

Councilmember Snuggs **moved to approve the Resolution**, was seconded by Councilmember Nichols. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**RESOLUTION NO. 09-16-2008 F - AUTHORIZING AN OFFER TO PURCHASE REAL ESTATE PROPERTY AT 711 EAST PECAN STREET AS PART OF PECAN CREEK PROJECT**

A RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE AN OFFER TO PURCHASE REAL ESTATE PROPERTY AT 711 EAST PECAN STREET AS PART OF THE PECAN CREEK LOCAL FLOOD DAMAGE REDUCTION PROJECT.

The City Manager was authorized to make an offer of \$8200 for the purchase of real estate property at 711 East Pecan Street as part of the Pecan Creek Local Flood Damage Reduction Project. The U.S. Army Corps of Engineers has reviewed the acquisition documents for the property, including the appraisal, and has authorized the City to proceed with the offer to acquire the property in accordance with Public Law. Sullivan said the property owner has agreed that delinquent taxes owed on the property will be deducted from the agreed purchase amount. The agreed purchase amount, less the delinquent tax amount, will be paid to the property owner.

Nichols praised Carolyn Bennett, Greater Texoma Utility Authority, for her work as right of way coordinator for the Pecan Creek Project.

Councilmember Nichols **moved to approve the Resolution**, was seconded by Councilmember Draper. Motion carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**ORDINANCE NO. 1212-09-2008 – GRANTING A THREE-YEAR SPECIFIC USE PERMIT FOR REPLACEMENT OF A MOBILE HOME BY ROY LEE FUHRMANN LOCATED AT 1278 FM 1201**

AN ORDINANCE AMENDING ORDINANCE NO. 25-2-71; 154-12-79; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS, AUTHORIZING THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, TO GRANT A SPECIFIC USE PERMIT, AS REQUESTED BY MR. ROY LEE FUHRMANN FOR THE REPLACEMENT OF A MOBILE HOME TO BE USED AS A SINGLE FAMILY RESIDENCE LOCATED AT 1278 FM 1201 FOR A PERIOD OF TIME TO BE DETERMINED BY CITY COUNCIL OR UNTIL THE PROPERTY CHANGES OWNERSHIP, AND/OR PRIMARY USE; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE; AND MAKING AN OPEN MEETING FINDING.

The ordinance was adopted on second reading to grant a specific use permit for a three-year period to Mr. Roy Lee Fuhrmann for the replacement of a mobile home to be used as a single family residence located at 1278 FM 1201. City staff recommended approval of the SUP in the rural setting as the best current use of the property. The Planning and Zoning Commission met in special called session on August 29 with four members present, and voted 2-2 on a motion to grant a three-year permit. Councilman Draper said he didn't have a problem with approving the permit, but does have a problem with not receiving a recommendation from the Planning and Zoning Commission, adding that the location for this permit is an example of putting two pieces of rental property on a single family lot. Councilwoman Snuggs expressed concern with the mobile home being a rental property, not an owner occupied residence.

Councilmember Nichols **moved to suspend approve Suspend the Charter requirement of three readings.** The motion was seconded by Councilmember Goldsworthy and carried by vote of 5 Ayes, 2 Nays (Draper, Snuggs), 0 Abstentions, and 0 Absent.

Councilmember Nichols **moved to adopt the ordinance.** The motion was seconded by Councilmember Goldsworthy and carried by vote of 5 Ayes, 2 Nays (Snuggs, Rippy), 0 Abstentions, and 0 Absent.

Councilmember Nichols **moved to approve it as a three-year permit.** The motion was seconded by Councilmember Rippy and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**ORDINANCE NO. 1213-09-2008 - REZONING 35.694 ACRES IN ACC BAILY SURVEY FROM AGRICULTURE (A) TO MULTIPLE FAMILY 2 (MF-2)**

AN ORDINANCE AMENDING ORDINANCE 25-2-71; 101A-8-76; 154-12-79; THE ZONING ORDINANCE OF THE CITY OF GAINESVILLE, TEXAS AUTHORIZING THE REZONING OF 35.695 ACRES IN THE A.C.C BAILEY SURVEY, ABSTRACT 44, COOKE COUNTY, TEXAS, FROM AGRICULTURE (A) TO MULTIPLE-FAMILY 2 (MF-2); PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF GAINESVILLE; PROVIDING FOR STIPULATIONS; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A SEVERABILITY CLAUSE AND MAKING AN OPEN MEETING FINDING.

The Ordinance was adopted on second reading to rezone 35.694 acres from agriculture (A) to multiple family (MF-2) as requested by Northfork Creek, LTD to build an assisted living facility and apartment housing. The property is located on the Northeast corner of FM 3092 (Radio Hill Road) and FM 678 (Woodbine Road). The City Manager recommended suspension of charter and adoption.

Councilmember Goldsworthy **moved to suspend approve Suspend the Charter requirement of three readings.** The motion was seconded by Councilmember Nichols and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

Councilmember Draper **moved to adopt the ordinance.** The motion was seconded by Councilmember Nichols and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**ORDINANCE NO. 1214-09-2008 - ANNUAL FEE SCHEDULES FOR CITY SERVICES**

AN ORDINANCE AMENDING THE CITY OF GAINESVILLE CODE OF ORDINANCES, CHAPTER 2 ADMINISTRATION, ARTICLE 1 IN GENERAL; ADDING SECTION 2-3(H)(10) FEE SCHEDULE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND MAKING AN OPEN MEETING FINDING.

Council adopted the ordinance requiring updated fee schedules for city services to be submitted annually by the budget officer. The fee schedule attached to the ordinance lists all city services, with the proposed increases as included in the proposed budget for the new fiscal year. In the adopted budget for 2008-2009, fees are increased, effective October, 6% for water service, 7% for sewer service, and 5% for solid waste service. The ordinance requires future fee schedules to be submitted annually for Council approval in the form of a resolution.

Councilmember Snuggs **moved to adopt the ordinance.** The motion was seconded by Councilmember Draper and carried by vote of 7 Ayes, 0 Nays, 0 Abstentions, and 0 Absent.

**DISCUSSION REGARDING LONG-TERM POWER PURCHASE AGREEMENT**

DISCUSS LONG-TERM POWER PURCHASE AGREEMENT BETWEEN BIG BROWN POWER COMPANY, LLC; OAK GROVE MANAGEMENT COMPANY, LLC; LUMINANT GENERATION COMPANY, LLC; AND CITIES AGGREGATION POWER PROJECT, INC. (CAPP).

The City Manager explained electric deregulation, and then Council members viewed a video presentation by CAPP Attorney Geoffrey Gay discussing the benefits and the risks involved with the City's participation with the Cities Aggregation Power Project (CAPP) in a long-term agreement for purchase of electric energy.

The proposed purchase agreement is between Big Brown Power Company, LLC; Oak Grove Management Company, LLC; Luminant Generation Company, LLC; and Cities Aggregation Power Project, Inc. (CAPP) for long-term purchase of electric energy. The City of Gainesville is a member city of CAPP. The CAPP Board approved proceeding with an agreement with Luminant that will supply a portion of participating CAPP member's power needs for 24 years beginning January 1, 2009. The City Manager said the agreement would save the City of Gainesville \$130,867 in the coming year based on our current usage and price. Without the long-term contract, the City will see an 18% or higher increase in electric expenditures over the next year.

No action was taken by Council at this meeting. The twenty-minute video will be included in its entirety during the Council meeting broadcast this week on government access channel 2. Each Council Member received a two-hour video on the proposed agreement for their review prior to next regular Council meeting. Council will consider and take action on participation in the agreement at their next meeting on October 7.

### **EXECUTIVE SESSION**

The City Council did not convene into executive session.

### **CITY MANAGERS COMMENTS**

The City Manager informed Council the City has received a grant of \$1,000 from the Department of Agriculture Bootstrap Bucks Program and is to be used for advertising of Depot Days. Lynette Pettigrew was congratulated for her efforts in preparing and submitting the paperwork for the grant, and for receiving the funding.

### **ADJOURN**

With no further business to come before the City Council, the meeting adjourned at 8:04 p.m.

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/S/

**Glenn Loch, Mayor**

Attest:

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/S/

**Kay Lunnon, City Secretary**