

MINUTES OF REGULAR CITY COUNCIL MEETING

Call to Order

The City Council of the City of Katy, Texas, convened in regular session on Monday, June 13, 2011, at 6:30 p.m. at Katy Municipal Complex, 910 Avenue C, Katy, Texas. The following City officials were present:

Don Elder Jr., Mayor
 Hank Schmidt, Mayor Pro Tem
 Carol Adams, Councilmember
 Larry Gore, Councilmember
 Fabol R. Hughes, Councilmember
 Bill Lawton, Councilmember
 Art Pertile, City Attorney
 Linda Vourazeris, Assistant City Secretary
 Johnny Nelson, City Administrator
 David Leyendecker, City Engineer

The following City officials were absent:

Missy Bunch, City Secretary

Comments from the Audience

All were given the opportunity to be heard and there were no comments from the audience.

Consent Agenda

Motion was made by Councilmember Lawton, seconded by Councilmember Gore, approving the Consent Agenda as presented:

- 5) Consider Events
 - A) 19th Annual Jeff & Brede's Intergalactic Triathlon, Sunday, 07-10-2011, Presented by Houston Racing Triathlon Club (*start/finish Mary Jo Peckham Park*)
 - B) Northwest Cycling Club, Katy Flatland Century Bike Tour, Sunday, 07-17-2011 (*begin/end Rhodes Stadium*)
 - C) WoodCreek Reserve Block Party Street Closure at the Intersection of Cottage Oak Lane and Wooded Hollow Lane, Saturday, 06-25-2011, 5:00 p.m. to 11:00 p.m. – Judy Brannon, 1235 Cottage Oak Lane
- 6) Approve State of Texas Cooperative Purchasing Program Annual Membership Renewal Fee in the Amount of \$100.00

All voted Aye, and the motion carried.

Consider Award Bid for 2011 Waterline Replacement to JSL Construction, LLC, Brenham, Texas, in the Amount of \$133,472.00, with a Total Project Cost of \$161,500.00

Motion was made by Councilmember Schmidt, seconded by Councilmember Adams, awarding the bid for the 2011 Waterline Replacement to JSL Construction, Brenham, Texas, in the amount of \$133,472.00, with a total project cost of \$161,500.00. In answer to Councilmember Hughes' question about the location of the project, City Engineer Leyendecker said the project covers the entire city. He said valves that are currently missing are being installed so water does not have to be cut off and water service lines are being added in the Katy Fort Bend Road area where the new water line was installed last year, but not all residents were tied into the line. All voted Aye, and the motion carried.

Consider Award Bid for 2011 Sanitary Sewer Rehabilitation to Scohil Construction, Houston, Texas, in the Amount of \$47,400.00, with a Total Project Cost of \$59,599.00

Motion was made by Councilmember Gore, seconded by Councilmember Hughes, awarding the bid for the 2011 Sanitary Sewer Rehabilitation to Scohil Construction, Houston, Texas, in the amount of \$47,400.00, with a total project cost of \$59,599.00. In answer to Councilmember Hughes' inquiry about the location of the project, City Engineer Leyendecker said an existing sanitary sewer lift station in service since about 1980 on Magnolia Street has been a problem for residents in that area. He said when Pine Lakes Subdivision was built out, a gravity sewer line was installed that is deep enough to service the area and which allows the City to do away with the lift station. All voted Aye, and the motion carried.

Resolution No. 458 Setting Rates for Non-Consent Tows of Vehicles

Motion was made by Councilmember Schmidt, seconded by Councilmember Lawton, approving as printed and presented a Resolution (No. 458) Setting Rates for Non-Consent Tows of Vehicles within the City. All voted Aye, and the motion carried.

Request from Katy Elks Lodge No. 2868 to Connect to City Sewer System at 1050 Katy-Fort Bend County Road (request for Agenda placement by Councilmember Gore)

Motion was made by Councilmember Gore, seconded by Councilmember Hughes, approving the request from Katy Elks Lodge No. 2868 to connect to City sewer system at 1050 Katy-Fort Bend County Road. Councilmember Gore, a member of Elks Lodge No. 2868, said the Lodge was previously located inside the City, but moved to a new building outside the City limits in the late 1980's. Gore said the Elks approached Council in January 1989 for a variance to Katy City Code for water service outside City limits and Council authorized the sale of water to the new Lodge building located on the east side of Katy-Fort Bend County Road in the City of Houston's extraterritorial jurisdiction (ETJ). Council also provided for charges for consumption equal to three times the commercial rate for minimum usage and two times the commercial rate for over the minimum usage, and established a security deposit. In September 1989, the Elks Lodge approached Council for a variance to Katy City Code to provide sanitary sewer service outside City limits to the new building. Council denied the request for various reasons, but indicated the request would be reconsidered if the City of Houston released the property from its ETJ. Gore said he understands State law prevents the City from unilaterally providing water or sewer outside City limits without setting precedence. Gore said City Administrator Nelson suggested, as Council did in 1989, that Katy Elks Lodge No. 2868 approach the City of Houston to be released from its ETJ and, if granted, to petition the City of Katy for annexation in order to receive City services. Councilmembers Gore and Hughes agreed to withdraw the motion to approve the request from Katy Elks Lodge No. 2868 to connect to City sewer system.

Ordinance No. 2502 Appointing Dan D. Burris, Hal V. Cardiff, David Frishman, and Frank Tucker as Regular Members and Kenneth A. Berger as Alternate Member to the City Planning and Zoning Commission

Motion was made by Councilmember Schmidt, seconded by Councilmember Hughes, to approve as printed and read (*caption*) an Ordinance (No. 2502) appointing Dan D. Burris, Hal V. Cardiff, David Frishman, and Frank Tucker as Regular Members and Kenneth A. Berger as Alternate Member to the City Planning and Zoning Commission for terms to expire in 2013. All voted Aye, and the motion carried.

Ordinance No. 2501 Amending Katy Code of Ordinances Article 11.900 Drought Contingency Plan by Repealing Article 11.900 Drought Contingency Plan and Adopting a New Drought Article 11.900 Drought Contingency Plan

Motion was made by Councilmember Lawton, seconded by Councilmember Hughes, to approve as printed and read (*caption*) an Ordinance (*No. 2501*) Amending Katy Code of Ordinances Article 11.900 Drought Contingency Plan by Repealing Article 11.900 Drought Contingency Plan and Adopting a new Drought Article 11.900 Drought Contingency Plan. Mayor Elder said this ordinance simplifies and updates the current Drought Contingency Plan. Councilmember Adams asked if the current ordinance allows water to be turned off to customers after three violations. City Administrator Nelson said the ordinance, when enforced, allows for water service termination but said the City is currently under voluntary rationing and residents are largely complying. Adams asked if water would be turned off after three violations when the City moves to mandatory restrictions and Nelson replied yes. Councilmember Hughes asked about the City's water situation and Nelson said the wells are running well mechanically and water levels are stable. Councilmember Adams said she is not comfortable with turning off water, a basic necessity, for usage violations. Public Works Director Lutringer explained violators are first given a warning and asked to comply. If the violator does not comply, second and third warnings are given and citations are issued. Lutringer said the fourth offense results in water service being disconnected. Mayor Elder said the City tries to work with individuals if there is hardship, but the ordinance has to be enforced when there is complete disregard for warnings and no effort is made to comply. Councilmember Gore asked about over-usage and City Attorney Pertile said the ordinance addresses over-usage primarily for commercial accounts. He said residential violations will result from landscape watering, such as watering on restricted days and times or for water runoff, not for ordinary household usage. Votes were cast as follow: Ayes – Gore, Hughes, Lawton, Schmidt; Noes – Adams. The motion carried.

Ordinance No. 2503 Amending Katy Code of Ordinances Section 10.304 by Adding New Stop Sign Locations to the Traffic Control Device Inventory Schedule III, and Placing Stop Signs on Town Park Boulevard at its Intersection with Clemson, and on Town Park Boulevard at its Intersection with Georgetown When Constructed

Motion was made by Councilmember Schmidt, seconded by Councilmember Gore, to approve as printed and read (*caption*) an Ordinance (*No. 2503*) Amending Katy Code of Ordinances Section 10.304 by Adding New Stop Sign Locations to the Traffic Control Device Inventory Schedule III, and Placing Stop Signs on Town Park Boulevard at its Intersection with Clemson, and on Town Park Boulevard at its Intersection with Georgetown when Constructed. Councilmember Gore said he had checked on the requested stop sign locations and inquired about *Children at Play* signs. City Administrator Nelson said the subdivision homeowners' association is responsible for that type of sign. Gore asked about re-evaluating the stop sign locations when the new road is constructed. City Engineer Leyendecker said construction of the road started today, June 13, 2011, and should be finished by the start of the school year in September 2011.

Robert Williams, a 12-year resident of Town Park subdivision, spoke in favor of the stop signs and said the City of Katy has always stood for faith, family and friends. In addition to the stop signs being considered, Williams asked the City to consider installing a stop sign at Town Park Boulevard at its intersection with Dartmouth. He addressed several accidents that have occurred on Town Park Boulevard in the past due to excessive speeds. All voted Aye, and the motion carried.

Discussion of Reserve Funds (requested by Councilmembers Gore and Hughes)

Councilmember Gore said a discussion on reserve funds would help clarify questions about the use of reserve funds and would give new Councilmember Lawton insight as to where the City is headed with reserve funds. Gore said the City collects numerous types of taxes, such as property taxes, franchise taxes, sales taxes. Gore said utility companies providing services in the City are charging a City of Katy tax on account statements. City Attorney Pertile said that what shows up on a statement as a City of Katy tax is not a tax per se, but rather a fee passed to consumers by a utility company for the cost of doing business in the City. He said utility companies pay fees to the City for use of rights-of-way and streets, and they reimburse themselves by passing the fees to customers and calling it a municipal franchise tax. Pertile said this makes consumers believe the City is charging a tax as opposed to the utility companies saying this is a fee they charge consumers to recoup the cost of doing business in the City.

Gore said revenue that exceeds the City's budgetary requirements can be put into the reserve account to be used for capital expenditure projects. Gore inquired as to how much of the budget needs to be kept in reserves and Finance Director Byron Hebert said the City is required by ordinance to set aside 50% of its budget in reserve funds. Gore used the 2010-2011 budget of \$15 million as an example, of which 50%, or \$7.5 million, should be held as reserve funds. Gore said Council has the discretion of deciding how much over the required 50% should be kept in reserves or can opt to approve the use of these funds for financing approved expenditures. Hebert said that even if funds are kept in reserves, in order for the money to be spent expenditures must benefit the taxpayer and all expenditures must be approved by Council. Gore said the recycling project that has been discussed in the past is considered by many as a luxury item, not a necessity, and discussion about funding the project with reserve funds has caused controversy. Hebert said reserve funds in the past have been used for capital assets—hard assets that are put on the books. He said past Councils have taken operational costs out of the budget. If there is need for a large capital item, Council can go to reserves for funding. Hebert said ongoing concerns, such as monthly or yearly costs, have not been addressed by Councils in previous years. He said Council can use reserve funds however it sees fit. Hebert cited the example of the Senior Citizens Center by saying that instead of going out and bonding the project, the City's financial advisors recommended to Council that the project be funded with reserve funds instead of burdening the taxpayers and City with a 20-year note.

Gore said the City's budget in 1991 was \$2.5 million and the reserve fund was \$1.8 million; the City in 2010-2011 has a \$15 million budget and a reserve fund of \$13.4 million. Gore asked if the Enterprise Fund was ever a part of the fund balance. Hebert explained that the Enterprise Fund is a water and sewer account, and is considered a business unit. He said the General Fund helped start the Enterprise Fund, but the water and sewer account needs to be a business unit. The Enterprise Fund needs to function like a business and be able to put assets on the ground, and it has a reserve balance. Hebert said Enterprise reserve funds were used when the City needed a new water well because it was an immediate need. City Attorney Pertile explained that the difference between the Enterprise Fund and its reserve and the City's reserve fund is that the General Fund can put money into the Enterprise Fund, but the Enterprise Fund cannot put money into the General Fund.

Gore said in the years 1991-2000 the fund balance was 64% of the budget compared to the last ten years where the fund balance is 81% of the budget. He said he is of the opinion that the excess is taxpayer money, and is reason enough to have discussions on projects that can be funded out of reserve funds for taxpayers benefit. Councilmember Hughes asked at what point did the City consider having enough in reserves to extend relief to its taxpayers by lowering

Discussion of Reserve Funds (requested by Councilmembers Gore and Hughes)

taxes or service fees. Hebert said in these economic times many cities would appreciate having a healthy reserve balance instead of being underfunded and facing downfall. Mayor Elder said strong fund balances and strong reserves are a necessity in case the City should have to deal with catastrophic events. He said the City gave back to the citizens after Hurricane Ike by handling cleanup in a timely manner. Reserve funds in the amount of \$400,000 were spent for cleanup immediately after Hurricane Ike and before receiving FEMA reimbursement. Mayor Elder said financial stability and strong direction has enabled the City to maintain its workforce without layoffs at a time when many cities are cutting staff. He said 55% of the City's dollars go toward public safety and citizens consider that a wise use of City funds. Mayor Elder said a strong fund balance is needed for the City to operate in a responsible manner. He said Council must use common sense and spend wisely. Councilmember Lawton said he sees a progression in growth and citizens can rest assured that the City's fiscal condition is stable.

Councilmember Reports

Council thanked the Boy Scouts for the opening flag ceremony and Katy Elks Lodge No. 2868 and Town Park Subdivision residents for their attendance.

Mayor's Reports

Mayor Elder thanked the Boy Scouts and all those in attendance, and wished Councilmember Adams a Happy Birthday.

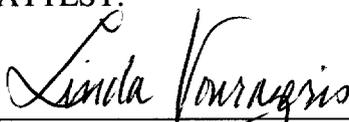
Adjourn

Motion was made by Councilmember Schmidt, seconded by Councilmember Hughes, to adjourn the meeting. All voted Aye, and the meeting adjourned at 7:30 p.m.



 Mayor

ATTEST:



 Assistant City Secretary