

**CITY OF SULPHUR SPRINGS, TEXAS**

**REGULAR MEETING OF THE  
CITY COUNCIL**

**NOVEMBER 1, 2011**

**7:00 p.m.**

Mayor Craig Johnson called the regular meeting of the Sulphur Springs City Council to order at 6:32 p.m. Councilman Spraggins moved to adjourn to executive session in accordance with Texas Government Code 551.072, deliberations regarding real property. Councilwoman Price seconded the motion. There was no one present to speak to the issue. The vote was unanimous. The following council members and staff were present:

Mayor Craig Johnson  
Mayor Pro Tem Freddie Taylor  
Councilman Clay Walker  
Councilman Gary Spraggins  
Councilwoman Kayla Price  
Councilman John Sellers

Absent: Councilman Oscar Aguilar

Staff: Marc Maxwell, City Manager  
Gale Roberts, City Secretary  
Jim McLeroy, City Attorney  
Shane Shepard, Community Development Director  
Peter Karstens, Director of Finance – 7P  
Gordon Frazier, Director of Human Resources – 7P  
Joey Baker, Director of Tourism/Airport – 7P  
Phyllis Rogers, Municipal Court Judge

**OPEN SESSION**

Mayor Johnson reconvened the meeting in open session at 7:04 p.m.

**PLEDGE AND INVOCATION**

Mayor Johnson led in the pledge of allegiance and Mayor Pro Tem Taylor led in the invocation.

## **PROCLAMATION FOR MUNICIPAL COURT WEEK NOVEMBER 7<sup>TH</sup> – 11<sup>TH</sup>**

Mayor Johnson read the proclamation declaring the week of November 7 – 11, 2011 as Municipal Court Week in the City of Sulphur Springs, Texas. The Mayor then presented the proclamation to Municipal Court Judge Phyllis Rogers, Warrant Officer Lt. Ben Dickson, and Municipal Court Clerk Shawanda Eaton. They received a standing ovation and were very appreciative.

## **MANAGER'S REPORT**

**JEFFERSON STREET DIAGONAL** – We should be opening this street on Friday and moving on the North Gilmer Street at the same time.

**SUMMER PAVING PROGRAM** – Yet another delay. Well, we got a few streets paved by our Contractor, R.K. Hall in October. The following streets were milled and repaved; Davis Street from Hinnant to Kyle, Park Street, Carter Street from MLK to Fuller, and Jackson, from College to MLK. The following streets remain: Brinker from Lee to Industrial, Fisher from Spence to Kyle, Lamar Street from Beckham to Whitworth, Georgia from Lee to concrete section, Clayton, Dena, Elizabeth, Seventh and Gladys Alexander Drive.

**CLAIMS** – We had 2 liability claims in October. In both cases drivers seek damages incurred when they struck a broken curb (with exposed rebar) at TJ Alley and Main Street. Both claims have been submitted to TML for consideration. We have removed the exposed rebar and placed cones at the site until we can repair the curb.

We also had 2 minor workers compensation injuries.

**REVENUES AND EXPENDITURES** – Finance Director, Peter Karstens will present a very preliminary summary of FY2010/2011 revenues and expenditures. Expect an audit report soon.

**MISCELLANEOUS** – Elsewhere around the City, employees:

- Re-installed a bar-screen at the wastewater treatment plant which had been recently rebuilt at a cost of \$45,000 rather than buying a new one...net savings - \$265,000.
- Responded to 135 fire/rescue calls.
- Made 52 fire inspections.
- Performed preventative maintenance on 12 fire hydrants.
- Seized 3 pounds of marijuana.
- Made 4 felony arrests in the special crimes unit.
- Recovered 7,000 marijuana plants.

- Responded to 370 animal control calls and achieved a 64% adoption rate on animals not returned to their owners.
- Responded to 36 accidents, made 82 arrests, wrote 727 traffic citations and recorded 54 offenses.
- Sold 2,308 gallons of AvGas and 10,209 gallons of JetA.
- Repaired 62 water main ruptures.
- Installed 4 water taps and replaced 16 water meters.
- Unstopped 11 sewer mains and repaired 4.
- Washed out Coleman water tower.
- Flushed out 37 dead-end water mains.
- Switched courthouse over to underground power.
- Made extensive repairs to wastewater treatment filters.
- Replaced pump at Cantex wastewater lift station (behind the hospital).
- Made repaired to wastewater sludge press.
- Hauled 870 cubic yards of sludge to the landfill.
- Achieved a daily average total suspended solids reading of 4.40 mg/L for October, well within limits.
- Checked out 2,335 materials from the library.
- Processed 751 citations through municipal court.

### **CONSENT AGENDA**

The following items on the Consent Agenda were reviewed: Consider for approval the regular City Council meeting minutes of October 4, 2011; Special City Council meeting minutes of September 27, 2011; Planning and Zoning Commission meeting minutes of October 17, 2011; Zoning Board of Adjustments and Appeals meeting minutes of October 18, 2011; and the Economic Development Corporation meeting minutes of September 26, 2011. There was no one to speak to the issue. Councilman Sellers moved to approve the consent agenda as presented. Councilman Spraggins seconded the motion and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON SECOND AND FINAL READING OF ORDINANCE NO. 2604 PROVIDING FOR THE ISSUANCE OF CITY OF SULPHUR SPRINGS, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011; BEARING INTEREST AT THE RATES HEREINAFTER SET FORTH; TO SECURE FUNDS FOR THE PURPOSE OF PAYING CONTRACTUAL OBLIGATIONS INCURRED FOR ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE CITY'S WATERWORKS AND SEWER SYSTEM, ACQUISITION OF EQUIPMENT AND VEHICLES FOR THE**

**WATERWORKS AND SEWER DEPARTMENT; AND FOR PAYING LEGAL, FISCAL AND ENGINEERING FEES IN CONNECTION WITH SUCH PROJECTS; PRESCRIBING THE FORM OF CERTIFICATES OF OBLIGATION; LEVYING AD VALOREM TAXES AND PLEDGING SURPLUS NET REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE CERTIFICATES OF OBLIGATION; MAKING CERTAIN OTHER COVENANTS OF THE CITY IN REFERENCE TO THE CERTIFICATES OF OBLIGATION AND THE FUNDS FROM WHICH SAID CERTIFICATES OF OBLIGATION ARE TO BE PAID; APPROVING AN OFFICIAL STATEMENT AND AWARDED SALE OF SAID CERTIFICATES OF OBLIGATION; PROVIDING AN EFFECTIVE DATE; AND ENACTING OTHER PROVISIONS RELATING THERETO**

Finance Director Peter Karstens presented the staff report. This ordinance authorizes new Certificates of Obligation to fund the capital projects work as noted in the Enterprise Fund in the FY 2012 budget. The total amount of the issue will be \$4.8 million. Dan Almon of Southwest Securities, Inc. presented the results of the bids for the Certificates of Obligation. Eight bids were received and the recommended low bid was from SAMCO Capital Markets at a True Interest Cost (TIC) of 2.998%. There was no one else to speak to the issue. Councilman Spraggins moved to adopt the ordinance on the second and final reading. Mayor Pro Tem Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON PUBLIC HEARING FOR SECOND AND FINAL READING OF ORDINANCE NO. 2605 ADOPTING THE 2012 INTERNATIONAL EXISTING BUILDING CODE**

At the regular City Council meeting conducted September 6, 2011, Rita Edwards and Perry Altenbaumer asked the Council to consider adopting the 2012 IEBC. The code regulates and governs the repair, alteration, change of occupancy, addition and relocation of existing buildings including historic buildings. This ordinance was approved on the first reading and, if adopted, would pertain to all structures built prior to September 3, 2002. There was no one to speak to the issue. Councilman Sellers moved to adopt the ordinance on the second and final reading. Councilwoman Price seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2606, A REQUEST BY OWNERS RICHARD POGUE AND PAT GERALD TO REZONE PROPERTY LOCATED AT 1797 AND 1689 WEST INDUSTRIAL DRIVE, BEING FURTHER DESCRIBED AS LOTS 5 AND 6 OF BLOCK 608, FROM**

**LIGHT INDUSTRIAL (LI) AND HEAVY COMMERCIAL (HC) TO ALL HEAVY COMMERCIAL (HC)**

The property fronting West Industrial Drive is zoned Heavy Commercial (HC) and the owners would like to rezone the back portion of the lots to Heavy Commercial (HC) from Light Industrial (LI) to match the front. There was no one else to speak to the issue. Councilman Walker moved to approve the ordinance on first reading. Councilwoman Price seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON FIRST READING OF ORDINANCE NO. 2603 AMENDING SECTION 23-34 OF THE SULPHUR SPRINGS CODE OF ORDINANCES REGARDING HOTEL OCCUPANCY TAX**

This item was previously tabled with a motion pending.

Councilman Spraggins moved to remove the item from the table. Councilman Sellers seconded and the vote to remove the item from the table was unanimous.

**The motion carried.**

The original motion pending from the October 4, 2011 to approve the ordinance was made by Mayor Johnson and seconded by Mayor Pro Tem Taylor.

Councilman Spraggins made an amendment to the original motion to reduce the Hotel Occupancy Tax from 6% to 3%.

**The motion failed due to lack of second.**

Councilman Sellers made an amendment to the motion to distribute the usual 3% and keep 2% in reserve for a total Hotel Occupancy Tax of 5% and to change Section 23-34 (b) (4) to Historical Community instead of Society. Councilman Walker seconded the motion and the vote was as follows for this amendment to the original motion:

Ayes: Sellers, Walker, Taylor, Spraggins, Price  
Nays: Johnson  
Abstain: None

**The motion carried.**

Charles Oxford addressed the City Council and suggested they find out exactly whether the customer is an industry, travelers just passing through, etc.

Councilwoman Price moved to amend the change to also include changing 23- 34 (b) (5) to be a member of the Downtown Business Alliance but then withdrew her motion.

Wayne Davenport suggested putting all the money in one “pot” to promote tourism in our community.

The original motion to approve the ordinance made by Mayor Johnson and seconded by Mayor Pro Tem Taylor, with the amendments voted for and approved by the City Council to change the Hotel Occupancy Tax from 6% to 5% and amend Section 23-34 (b) (4) to state Historical “Community” instead of “Society” was put to a vote as there was no one else to speak to the issue. The vote was unanimous.

**The motion carried.**

**CONDUCT A PUBLIC HEARING FOR PUBLIC COMMENT REGARDING APPROVAL OF TAXATION OF GOODS-IN-TRANSIT THAT WOULD OTHERWISE BE EXEMPTED FROM TAXATION BY THE PROPERTY TAX CODE AS FOR IN SENATE BILL 1**

Mayor Johnson opened the public hearing. There was no one to speak to the issue. Mayor Johnson closed the public hearing.

**DISCUSSION/ACTION ON ORDINANCE NO. 2607 RELATING TO THE APPROVAL OF TAXATION OF GOODS-IN-TRANSIT THAT WOULD OTHERWISE BE EXEMPTED FROM TAXATION BY THE PROPERTY TAX CODE AS FOR IN SENATE BILL 1**

In the 2007 session, the Texas Legislature passed Tax Code Section 11.253 or the “Goods-in-Transit” exemption as it is more commonly known. This legislation implemented a constitutional amendment that was passed several years before. This legislation was very similar to the “Freeport exemption” passed many years ago, but it had a potentially larger impact as time passed. At that time most cities acted to protect their ability to tax goods-in-transit; we did also.

During the 2011 special session, the legislature acted to significantly limit the applicability of section 11.253. This exemption now applies only to goods that are stored in a public warehouse owned by someone other than the owner of the goods. The law no longer exempts goods that are in a location for assembly, manufacturing, fabrication or processing, as was the case under the law passed in 2007. The legislature revised and narrowed the law to address the author’s issue: competition between Texas and New Mexico warehouse facilities. New Mexico does not tax such goods at all, so New Mexico warehouse owners had a competitive advantage.

This update to the law requires that we act within a narrow window of time if we want to continue to tax these goods for 2012. The update provides that we must take action after

October 1, 2011 but before December 31, 2011, if we want to continue to tax such goods in 2012.

There was no one else to speak to the issue. Councilman Spraggins moved to approve the ordinance on the first reading. Councilman Sellers seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON BIDS AND AWARD OF CONTRACT FOR ADMINISTRATIVE SERVICES TO ADMINISTER THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS HOME RESERVATION PROGRAM GRANT**

The City has been approved to participate in the HOME Reservation Program. The HOME Reservation Program is a different program than the HOME program we are currently engaged. This new program requires its own distinct administrative services contract, thus this Request For Proposals (RFP) process. The only proposal received was from Resource Management & Consulting Company which is the same firm that is our current administrator for the HOME program. The proposal contains cost estimates per structure.

Under the current HOME grant program the City must apply first for grant funding. If approved for funding, we must find qualified applicants to receive the funding until we run out of grant funding for that year. Once the funds are spent our program is over until we are approved for funding in subsequent years. There is no guarantee that the City will be approved for funding in any year, and each year requires a new application.

The reservation system is different. Once we are in the program there is no need for re-application. Funds are simply reserved for the City, and we can access those funds (when and if they are available) when we have a qualified homeowner. This will substantially simplify the process.

Charles Edwards, Resource Management and Consulting Company, was available to answer any questions. There was no one else to speak to the issue. Councilman Spraggins moved to approve the bid and award the contract to Resource Management and Consulting Company. Mayor Pro Tem Taylor seconded and the vote unanimous.

**The motion carried.**

**DISCUSSION ON CHARITABLE DONATION POLICY FOR WATER BILLS**

This item was a discussion item only. Finance Director Peter Karstens will do some research and report back to the City Council.

**DISCUSSION/ACTION ON BIDS AND AWARD OF CONTRACT FOR THREE POLICE PACKAGE INTERCEPTOR VEHICLES**

On October 5, 2011, staff conducted a public bid opening for police patrol vehicles. The bid opening was for three (3) vehicles. The following is the bid that was placed.

**Brian Toliver Ford-Lincoln-Mercury**

|   |             |
|---|-------------|
| 2011 Ford Crown Victoria Police Interceptor | \$22,888.40 |
|---|-------------|

|                             |                    |
|-----------------------------|--------------------|
| <b>Total for 5 vehicles</b> | <b>\$68,665.20</b> |
|-----------------------------|--------------------|

There was only one bid received. Oscar Strain with Brian Toliver Ford was present to address the City Council and answer any questions. There was no one else to speak to the issue. Councilman Spraggins moved to approve the bid and award the contract to Brian Toliver Ford. Mayor Pro Tem Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON PROPOSALS FOR CONSTRUCTION MANAGER AT RISK FOR OLD POST OFFICE/OLD LIBRARY**

Finance Director Peter Karstens presented the staff report. The construction manager at risk will provide pre construction services and, at the appropriate time, organize the construction team through the bid process under their contractual umbrella and set contractually with the city as owner the Guaranteed Maximum Price. The contractor is responsible for all cost above that price (thus the “at risk”). We received proposals from Harrison Harper and Walker, KBL Restoration, and Nedderman & Associates. Interviews and evaluations of all three prospective companies were conducted by the Evaluation Committee consisting of Councilman Clay Walker, City Manager Maxwell, Finance Director Karstens, and David Chase from Architexas. The committee selected KBL restoration. Most of the cost structure of the contract is variable and based on the time and budget of construction. They are itemized in Attachment 1. There was a general discussion. There was no one else to speak to the issue. Councilman Sellers moved to award the Construction Manager at Risk to KBL Restoration, LLC, per the cost structure as itemized in Attachment 1. Councilman Spraggins seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON BIDS AND AWARD OF CONTRACT FOR CHEMICALS AT THE WATER TREATMENT PLANT**

The City advertised for bids on Liquid Alum, Liquid Alum/Copper Sulfate Blend, and Liquid Caustic Soda to be used at the Water Plant. Bids were submitted on October 21, 2011 by the following companies:



|                                      |                         |          | New Price                      | Old Price                      |
|--------------------------------------|-------------------------|----------|--------------------------------|--------------------------------|
| Liquid Alum                          | General Chemicals       |          | \$199.60/dry ton               | \$262/dry ton                  |
| Liquid Alum/<br>Copper Sulfate Blend | Chameleon<br>Industries | 1%<br>2% | \$260/dry ton<br>\$285/dry ton | \$290/dry ton<br>\$300/dry ton |
| Liquid Caustic Soda                  | Altivia                 |          | \$664/dry ton                  | \$315.52/dry<br>Ton            |

The chemicals were bid for an 18 month contract. The staff recommendation is to accept the low bids on Alum and Alum/Copper Sulfate Blend and reject all bids for Caustic and re-bid it for a 12 month contract to get more bids and better pricing. There was no one else to speak to the issue. Mayor Pro Tem Freddie Taylor moved to accept the low bids on Alum and Alum/Copper Sulfate Blend and reject all bids for Liquid Caustic Soda and re-bid it for a 12 month contract to get more bids and better pricing. Councilwoman Price seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON APPOINTMENT OF CHAIRMAN TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE #1 BOARD OF DIRECTORS**

Councilwoman Kayla Price currently serves as Chairperson of this board. It is the responsibility of the City Council to appoint a Chairman on an annual basis. The person appointed at this meeting will serve as Chairman for 2012. There was no one else to speak to this issue. Councilman Sellers moved to approve the nomination of Councilwoman Price to serve as Chairperson of this board. Mayor Pro Tem Taylor seconded and the vote was unanimous.

**The motion carried.**

**DISCUSSION/ACTION ON EXECUTIVE SESSION ITEM REGARDING REAL PROPERTY**

There was no action taken on this item.

**VISITORS/PUBLIC FORUM**

None.

**ADJOURN**

With all business complete the meeting was adjourned at 8:25 p.m.