

Julie Masters, Mayor
Charles Suderman
Mary Dunbaugh
Walter Wilson

MINUTES
City of Dickinson
CITY COUNCIL
REGULAR MEETING

Kerry Neves
Louis Decker
William H. King III, Mayor Pro Tem
Julie M. Johnston, City
Administrator

SEPTEMBER 8, 2009

The Dickinson City Council met in a duly called and announced **REGULAR MEETING** on **TUESDAY, SEPTEMBER 8, 2009**. The meeting was held in the City Council Chambers located at 4403 Highway 3, Dickinson, Galveston County, Texas, and was held for the purpose of considering the following items:

ITEM 1.) CALL TO ORDER AND CERTIFICATION OF A QUORUM

Invocation and Pledge of Allegiance

Mayor Julie Masters called the meeting to order at 7:10 p.m. J. T. Floyd gave the Invocation and Councilman Charles Suderman led the Pledge of Allegiance. City Secretary Carol McLemore called roll and certified a quorum. Council Members present were as follows: Mayor Julie Masters, Mayor Pro Tem William King and Council Members Charles Suderman, Mary Dunbaugh, Walter Wilson, Kerry Neves, and Louis Decker. Also present were City Attorney, Loren Smith, City Administrator Julie Johnston, Police Chief Ron Morales, Fire Marshal Norman Hicks, Finance Director Mary Young, Director of Public Works Kellis George, Court Administrator Irma Rivera, Library Director Vicki McCallister, Building Official Kevin Byal, Community Development Coordinator, Samson Babalola, and Code Enforcement Officer Cynthia Smith.

ITEM 2.) PROCLAMATIONS AND COUNCIL COMMENTS:

Council commented on the following topics:

- Welcome to everyone present and thanks for coming.
- President Barack Obama's address to school children
- Tutoring for TAKS test at Dickinson High School on Tuesdays from 6:00 to 8:00 p.m.
- Dickinson High School football game and band performance
- Request by H-GAC Hurricane Ike Committee request for ORCA to re-evaluate the distribution of funds
- First anniversary of Hurricane Ike
- Upcoming Labor Day Holiday
- Compliments on new exterior signs on City Hall/Library facilities
- Thanks for getting lights on flags at City Hall working
- Friends of the Library Book Sale on Saturday from 10:00 a.m. to 1:30 p.m.
- Festival of Lights activities beginning

- Activities for National Public Lands Day on September 26 from 8:30 a.m. to 1:00 p.m.

ITEM 3.) PUBLIC COMMENTS:

Bertie Simmons, 2804 Salvato, asked City Council to consider an ordinance to regulate owners of dogs who allow their dogs to defecate in other people's yards. Mayor Masters referred Ms. Simmons to the Code Enforcement Officer.

ITEM 4.) CONSENT AGENDA: CONSIDERATION AND POSSIBLE ACTION:

The following items are considered routine by the City Council and were enacted by one motion. There was not a separate discussion on these items.

- A. Approval of Minutes of Special Council Workshop Meeting of August 25, 2009
- B. Approval of Minutes of Regular Council Meeting of August 25, 2009.
- C. Approval of Resolution Number 1061-2009 – **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DICKINSON, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF DICKINSON, TEXAS AND AMBUSH DEMOLITION, AS CONTRACTOR FOR DEMOLITION AND CLEARING SERVICES FOR 2213 AVENUE H AND 4915 EAST 29TH STREET; AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE SUCH AGREEMENT; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE.**
- D. Approval of Resolution Number 1062-2009 - **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DICKINSON, TEXAS, DESIGNATING GALVESTON DAILY NEWS AS THE OFFICIAL NEWSPAPER FOR THE CITY OF DICKINSON FOR FISCAL YEAR 2009-2010; REQUIRING THAT ALL NOTICES REQUIRED BY LAW TO BE GIVEN TO THE PUBLIC BE PUBLISHED THEREIN; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING A CUMULATIVE REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

Councilman Wilson made a motion to approve the Consent Agenda. Councilwoman Dunbaugh seconded the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)
0 NAYS

MOTION PASSED.

OLD BUSINESS

ITEM 5.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: City Hall/Library Project including the following items:

A. Update on Signage

Norman Hicks gave a brief update on the progress of the signage, balancing of the HVAC system and ID card entry into the building. There was also a discussion concerning the automatic doors being used at the Library and the impact to energy use. Staff was directed to investigate whether disconnection of one of the doors would comply with ADA regulations.

ITEM 6.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Public Works Construction Projects.

- A. Oleander Bridge Project
- B. Sunset Drive Construction Project
- C. County Clearing of Dickinson Bayou – NRCS Grant/Hurricane Ike

Kellis George gave a brief update on the Public Works construction projects.

ITEM 7.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number 679-2009 – **AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, AMENDING THE CITY OF DICKINSON PERSONNEL POLICY (2005) BY ADDING A NEW CHAPTER 19, FRAUD, WASTE, AND ABUSE POLICY; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE** (Second of three readings).

Mayor Masters read the ordinance by caption only. Councilman Suderman made a motion to adopt Ordinance Number 679-2009 on second and final reading, suspending the third reading. Mayor Pro Tem King seconded the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)
0 NAYS

MOTION PASSED.

NEW BUSINESS

ITEM 8.) PUBLIC HEARING ON BUDGET AND TAX RATE: Convene a Public Hearing Regarding the Recommended Fiscal Year 2009-2010 Budget and Proposed Tax Rate.

Mayor Masters opened the Public Hearing at 7:32 p.m.

- A. Presentation of Recommended Budget and Proposed Tax Rate.
City Administrator Julie Johnston noted that the recommended budget was balanced and included all items and revisions as requested by Council at the previous budget workshops. She stated that the proposed tax rate remained the same as the current tax rate of \$.4086/\$100.00 valuation.
- B. Those In Favor.
No one spoke in favor of the budget.
- C. Those Against.
No one spoke against the budget, but Brenda Boyce, 4719 East 38th Street, asked questions concerning several expenditures. The City Administrator explained each of the expenditures.
- D. Adjourn Public Hearing.
Mayor Masters adjourned the public hearing at 7:36 p.m.

ITEM 9.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number 683-2009 - **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DICKINSON, TEXAS, APPROVING AND ADOPTING A BUDGET FOR THE CITY OF DICKINSON, TEXAS, FOR FISCAL YEAR 2009-2010; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH FISCAL YEAR AS REFLECTED IN SAID BUDGET; PROVIDING FOR THE INCORPORATION OF PREAMBLE; MAKING CERTAIN FINDINGS AND CONTAINING CERTAIN PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE** (First and only reading).

Mayor Masters read the ordinance by caption only. Councilwoman Dunbaugh made a motion to adopt Ordinance Number 683-2009 on first and only reading. Councilman Suderman seconded the motion.

VOTE:

5 AYES (Suderman, Dunbaugh, Wilson, Neves and King)

1 NAY (Decker)

MOTION PASSED.

ITEM 10.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number 684-2009 - **AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, APPROVING THE 2009-2010 AD VALOREM TAX (DEBT) RATE AND LEVY OF \$0.082954 PER HUNDRED DOLLARS OF ASSESSED VALUATION OF ALL TAXABLE PROPERTY WITHIN THE CORPORATE**

LIMITS OF THE CITY AND APPROVING THE 2009-2010 AD VALOREM TAX (MAINTENANCE AND OPERATION) RATE AND LEVY OF \$0.325646 PER HUNDRED DOLLARS OF ASSESSED VALUATION OF ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY; PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF AD VALOREM TAXES OF THE CITY OF DICKINSON, TEXAS, FOR THE YEAR 2009 AND FOR EACH YEAR THEREAFTER UNTIL OTHERWISE PROVIDED; PROVIDING THE DATE ON WHICH SUCH TAXES SHALL BE DUE AND PAYABLE; PROVIDING FOR PENALTY AND INTEREST ON ALL TAXES NOT TIMELY PAID; AUTHORIZING EXEMPTIONS; AND PROVIDING A REPEALER CLAUSE AND AN EFFECTIVE DATE (First and only reading).

Mayor Masters read the ordinance by caption only. Councilman Suderman made a motion to adopt Ordinance Number 684-2009 on first and only reading. Mayor Pro Tem King seconded the motion.

VOTE:

5 AYES (Suderman, Dunbaugh, Wilson, Neves and King)
1 NAY (Decker)

MOTION PASSED.

ITEM 11.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ratification of Increased Property Tax Revenues Reflected in the FY 2009-2010 Budget Adopted Pursuant to Ordinance Number 683-2009.

Councilman Neves made a motion to ratify the increased property tax revenues reflected in the FY 2009-2010 Budget adopted pursuant to Ordinance Number 683-2009. Councilman Wilson made the second.

VOTE:

5 AYES (Suderman, Dunbaugh, Wilson, Neves and King)
1 NAY (Decker)

MOTION PASSED.

ITEM 12.) PUBLIC HEARING: Regarding Zoning Change from Conventional Residential (CR) to General Commercial (GC) for property owned by Catharine Perry and described as ±3.576 acres of land representing Part of Tract 13 of the E. P. Epperson and P. G. Merritt Survey, located on the Southeast Corner of FM 517 East and Golf Road, in the City of Dickinson, Texas.

Mayor Masters opened the public hearing at 7:48 p.m.

A. Applicant's Statement

Property owner Catharine Perry and her son Ben Perry gave a power point presentation to City Council explaining their request to re-zone

property at the corner of FM 517 East and Golf Road from Conventional Residential to General Commercial. Ms. Perry explained that they were trying to create a LEED certified community and needed to change the zoning to allow businesses such as restaurants that would be able to serve alcoholic beverages.

B. Those in Favor

No one spoke in favor of granting the zoning change.

C. Those Opposed

Chris Tucker of the Planning and Zoning Commission explained that the Commission had voted against granting the zoning change. He said that granting a zoning change of General Commercial would open the property up to all kinds of businesses that would not be favorable in a residential area. He also noted that a zoning change of Neighborhood Commercial would be better suited for the property.

Rick Johnson, 4404 Golf Road asked that a change of zoning not be granted until such time as it was determined exactly what type of businesses would be built on the property.

Brenda Boyce, 4719 East 38th Street, noted that Council should make sure that the property is used for the highest and best use and that a zoning change should not be granted without knowing the exact use of the property.

D. Applicant's Rebuttal

Catharine Perry spoke again to City Council and noted that she needed the zoning change in order to proceed with the LEED certification.

E. Adjourn

Mayor Masters adjourned the public hearing at 8:05 p.m.

ITEM 13.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number XXX-2009 – AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NUMBER 420-2001, AS HERETOFORE AMENDED, SO AS TO REZONE ±3.576 ACRES OF LAND REPRESENTING PART OF TRACT 13 OF THE E P EPPERSON & P G MERRITT SURVEY, ABSTRACT 60, LOCATED ON THE SOUTHEAST CORNER OF FM 517 EAST AND GOLF ROAD IN THE CITY OF DICKINSON, GALVESTON COUNTY, TEXAS, FROM CONVENTIONAL RESIDENTIAL TO GENERAL COMMERCIAL; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING A

REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE (First of three readings).

Mayor Masters read the ordinance by caption only. Councilman Neves made a motion to suspend the rules. Councilman Wilson seconded the motion and the motion passed by unanimous vote. Discussion followed on LEED certification and what it took to create the certification. Mayor Masters asked Ms. Perry to meet with the City Administrator to see what things could be worked out to allow the development without creating a zoning change to General Commercial. Councilman Decker made a motion to deny the request for zoning change from Conventional Residential to General Commercial. Councilman Suderman seconded the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)
0 NAYS

MOTION PASSED.

ITEM 14.) PUBLIC HEARING: Regarding a Specific Use Permit to Allow the Additional Use of Used Automotive Sales at Excel Lube and Tune on property described as Lots 18 and 19, Nicolini Subdivision, located at 2902 FM 517 East in the City of Dickinson, Texas.

Mayor Masters opened the Public Hearing at 8:18 p.m.

A. Applicant's Statement

Rogelio Perez appeared before Council and explained his request to sell used vehicles at his business at 2902 FM 517 East. He noted that he repairs cars that are given to him and would like to be able to sell them and expand his business to sell cars.

B. Those in Favor

No one spoke in favor of the request.

C. Those Opposed

No one spoke in opposition to the request.

D. Applicant's Rebuttal

There was no rebuttal.

E. Adjourn

Mayor Masters adjourned the Public Hearing at 8:19 p.m.

ITEM 15.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number 685-2009 – **AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NUMBER 420-2001, AS HERETOFORE**

AMENDED, TO GRANT A SPECIFIC USE PERMIT (SUP) SO AS TO ALLOW THE ADDITIONAL USE OF USED AUTOMOTIVE SALES ±0.340 ACRES OF LAND ON LOTS 18 AND 19, NICOLINI S-D 201 OF DICKINSON ADDITION "D", A SUBDIVISION IN THE CITY OF DICKINSON, GALVESTON COUNTY, TEXAS ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 6, PAGE 44.1 MORE COMMONLY KNOWN AS 2902 FM 517 EAST (EXCEL LUBE & TUNE), AND GENERALLY LOCATED ON THE SOUTH SIDE OF FM 517 EAST, BETWEEN ST. GOAR STREET AND NICOLINI STREET, IN THE CITY OF DICKINSON, GALVESTON COUNTY, TEXAS, PRESENTLY ZONED GENERAL COMMERCIAL; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE (First of three readings).

Mayor Masters read the ordinance by caption only. Mayor Pro Tem King made a motion to approve Ordinance Number 685-2009 on first reading. Councilwoman Dunbaugh seconded the motion. Mayor Masters noted that she was against allowing any more variances for sale of automobiles. She stated that there were already enough car lots in Dickinson and that the City did not receive any sales tax from them. Discussion followed on how many cars for sale Mr. Perez should be allowed to have on his property without diminishing his parking. After some discussion, Mayor Pro Tem King amended his motion to approve the SUP with the number of vehicles for sale to be limited to no more than 6. The second, Councilwoman Dunbaugh agreed to the amendment to the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)
0 NAYS

MOTION PASSED.

ITEM 16.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Appeal of Building Standards Commission's Order to Demolish Structure at 3608 Oak by Phillip Barbaria.

Herman Gana, Chair of the Building Standards Commission appeared before Council and gave a brief history leading up to the condemnation of the property. Appellant Phillip Barbaria was not present. Councilman Wilson made a motion to uphold the decision of the Building Standards Commission that the property be declared substandard and demolished. Councilman Suderman seconded the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)

0 NAYS
MOTION PASSED.

ITEM 17.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Ordinance Number XXX-2009 – **AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS DELETING SECTION 12, AUTHORITY OF THE VILLAGE BUILDING INSPECTOR, OF APPENDIX “A”, SUBDIVISIONS, OF THE CODE OF ORDINANCES; ADOPTING A NEW SECTION 12, TO BE ENTITLED “AUTHORITY OF THE BUILDING OFFICIAL”, ADDING SUBSECTION A, LOT CONSOLIDATION AND LOT LINE ADJUSTMENT AND ADDING SECTION B, STANDARDS AND SPECIFICATIONS; BOTH TO THE NEW SECTION 12, AUTHORITY OF THE BUILDING OFFICIAL, OF APPENDIX “A”, SUBDIVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF DICKINSON, TEXAS; PROVIDING FOR THE INCORPORATION OF PREAMBLE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY CLAUSE, AND AN EFFECTIVE DATE (First of three readings.)**

Council took no action in this matter because the posting of the heading of the ordinance was not correct.

ITEM 18.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Appointments to Library Advisory Board

Councilman Neves made a motion to suspend the rules. Councilman Decker seconded the motion and it was approved by unanimous vote.

Councilman Neves nominated Jim Richards
Councilman Wilson nominated Margaret Carney
Mayor Pro Tem King nominated Winnie Allen
Councilwoman Dunbaugh nominated George Pulliam
Councilman Decker nominated Matt Falco
Councilman Suderman nominated Tom Rodriguez
Councilman Decker nominated Ellie Childs

Councilman Wilson made a motion to appoint Jim Richards, Margaret Carney, Winnie Allen, George Pulliam, Matt Falco, Tom Rodriguez, and Ellie Childs to the Library Advisory Board. Councilwoman Dunbaugh seconded the motion.

VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)

0 NAYS

MOTION PASSED.

ITEM 19.) EXECUTIVE SESSION: The City Council held a closed executive meeting pursuant to the provision of Chapter 551, Government Code, Vernon's Texas Codes annotated, in accordance with the authority contained in:

- A. Section 551.071 – Consultation with Attorney regarding potential or contemplated litigation or a matter in which the duty of the City Attorney requires to be discussed in closed meeting.
1. Status of eminent domain proceedings for acquisition of drainage easement at 2001 Oleander Drive.
 2. Status of personnel grievance and appeal.
 3. Status of Negotiations with Dickinson Volunteer Fire Department.

Mayor Masters recessed the meeting into Executive Session at 8:45 p.m.

ITEM 20.) RECONVENE

Mayor Masters reconvened the meeting at 9:43 p.m.

ITEM 21.) CONSIDERATION AND POSSIBLE ACTION CONCERNING: Matters discussed in Executive Session.

Mayor Masters reported that no action was taken and that a final draft of the contract with the Dickinson Volunteer Fire Department would be forwarded to the Department for their review and would be considered at the September 22 Council Meeting.

ITEM 22.) ADJOURN

Councilman Wilson made a motion to adjourn the meeting at 9:44 p.m. Mayor Pro Tem King seconded the motion.


VOTE:

6 AYES (Suderman, Dunbaugh, Wilson, Neves, Decker and King)

0 NAYS

MOTION PASSED.

PASSED, APPROVED AND ADOPTED this the 22nd day of September, 2009.



Julie Masters, Mayor

ATTEST:

Carol L. McLemore
Carol L. McLemore, City Secretary

